

SENATE BILL REPORT

SB 6171

As Reported By Senate Committee On:
Education, February 3, 2004

Title: An act relating to investigations of complaints against school employees.

Brief Description: Regarding investigations of complaints against school employees.

Sponsors: Senators Benton, Kohl-Welles, Carlson, Stevens, Johnson, Esser, T. Sheldon and Pflug.

Brief History:

Committee Activity: Education: 1/20/04, 2/3/04 [DPS-WM].

SENATE COMMITTEE ON EDUCATION

Majority Report: That Substitute Senate Bill No. 6171 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Johnson, Chair; Finkbeiner, Vice Chair; Carlson, Eide, McAuliffe, Pflug, Rasmussen and Schmidt.

Staff: Heather Lewis-Lechner (786-7448)

Background: Under current law, the Office of the Superintendent of Public Instruction (OSPI) has the authority to initiate and conduct investigations of misconduct of certificated school employees. For the purposes of completing the investigation, OSPI is given the authority to subpoena witnesses, compel testimony, gather evidence and administer oaths and affirmations. If an individual fails to obey a subpoena or give evidence to OSPI, a court may issue an order requiring the individual to appear before the court and show cause why he or she has not complied.

Summary of Substitute Bill: OSPI must complete an investigation of a certificated employee for sexual misconduct towards a child within one year of the initiation of the investigation unless there is an ongoing law enforcement investigation. In that case, OSPI has 30 days from the completion of the other investigation, including court proceedings. OSPI may take additional time for reasonable cause but must notify the parties as listed in the bill. If OSPI does not complete the investigation within the allowed time, OSPI is subject to a civil penalty of \$50 per day for each day beyond the allowed time.

Parents and community members are authorized to file complaints directly with OSPI and OSPI is given the authority to initiate an investigation based solely on the complaint from a parent or community member.

Prior to conducting an investigation, OSPI must verify that the incident has been reported to the proper law enforcement agency as required by the mandatory child abuse reporting laws.

Substitute Bill Compared to Original Bill: The section authorizing OSPI to conduct investigations of non-certificated staff is removed. Parents and community members are authorized to file complaints directly with OSPI and language is added clarifying that OSPI has the authority to initiate an investigation based solely on the complaint from a parent or community member. OSPI is allowed to wait until an ongoing law enforcement investigation or child protective services investigation is completed, including court proceedings, before the requirement to complete their own investigation takes affect. If there is such an investigation, then OSPI has 30 days after the completion of such an investigation to complete their own. OSPI is no longer required to gain consent in order to take more than the allowed time to complete the investigation if there is reasonable cause. Instead, OSPI must notify all the parties to the investigation that they may need to take more time and why. However, the penalty provisions remain for taking more than the allowed time. Prior to conducting an investigation, OSPI must verify that the incident has been reported to the proper law enforcement agency as required by the mandatory child abuse reporting laws.

Appropriation: None.

Fiscal Note: Requested on January 14, 2004.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: There are loopholes in current law that allow students to continue to be victimized. While it is recognized by everyone that the majority of our teachers are dedicated to providing our state's children with a safe learning environment, there are a select few that take advantage of the trust and confidence given them and abuse our children. These few must be sent a strong message that they cannot hide and continue to prey.

There is a gross failure by schools to report abuse and conduct investigations. Coaches and employees must be held responsible for their actions in a timely and honest manner so that they will not be allowed to continue to abuse. Coaches hold an authoritative mentor role and are highly trusted by parents and players. As individuals in powerful positions, coaches hold a great deal of influence and the impact of their abuse is permanent.

As parents of a child that was subjected to sexual misconduct, our life experiences prove that this bill is necessary. The current laws are inadequate and communication with parents is lacking. Parents are being ignored. There are problems with the fact that OSPI and schools are investigating and protecting their own rather than protecting the children.

Washington's children deserve to be protected and accused teachers deserve a swift resolution of accusations. We need to keep in mind that this is not an employment issue; yes, employee fairness should be kept in mind but we must remember that we are talking about child abuse. There is a double standard right now in the system. If a school employee suspects child abuse by a parent, then they report it to law enforcement or Child Protective Services as the law requires but when it's another school employee suspected, the report is only made to the principal and sometimes it stops there.

The newspaper articles do not accurately represent WEA's dedication to protecting Washington's children. WEA has a dual responsibility to both the student's safety and duty to protect unjustly accused teachers.

OSPI's current practice is to keep investigations open even after a certificate lapses and supports putting this requirement in statute.

Testimony Against: There is a concern about the cost of implementing this bill. There are also concerns about the issue of having two investigations occurring at the same time, a law enforcement investigation and an OSPI investigation.

Testified: PRO: Senator Benton, prime sponsor; Senator Kohl-Welles, sponsor; Abby Rice, citizen; Ed and Dianne Lundberg, citizens; Roland Thompson, Allied Daily Newspapers of WA; Michele L. Earl-Hubbard, citizen; PRO WITH CONCERNS: Barbara Mertens, WASA; Greg Williamson, OSPI; Dan Steele, WSSDA; CON: David Westberg, Stationary Engineers; Lucinda Young, WEA.

Signed In/Did Not Testify: PRO w/concerns: Randy Hathaway, WA School Personnel Assoc.