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**SUBSTITUTE HOUSE BILL 2456**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives McDonald, Lantz, Carrell, Bush, Pearson, Ahern, Haigh, Armstrong, Talcott, Shabro, Holmquist, Kristiansen, Anderson, Chase, Moeller, Morrell and Woods)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to the hiring of school district employees; adding  
2 a new section to chapter 28A.400 RCW; creating a new section; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature recognizes that state law  
6 requires criminal background checks of applicants for school district  
7 employment. However, the legislature finds that, because they  
8 generally are limited to criminal conviction histories, results of  
9 background checks are more complete when supplemented by an applicant's  
10 history of past sexual misconduct. Therefore, the legislature finds  
11 that additional safeguards are necessary in the hiring of school  
12 district employees to ensure the safety of Washington's school  
13 children. In order to provide the safest educational environment for  
14 children, school districts must provide known information regarding  
15 employees' sexual misconduct when those employees attempt to transfer  
16 to different school districts.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.400  
18 RCW to read as follows:

1 (1) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Applicant" means a person applying for employment in a  
4 certificated or classified position who is currently or was previously  
5 employed by a school district.

6 (b) "Employer" means a school district employer.

7 (2) Before hiring a classified applicant, (a) a school district  
8 shall request the applicant to sign a statement:

9 (i) Authorizing the applicant's current employer, or, if the  
10 applicant is not currently employed by a school district, the  
11 applicant's immediately previous employer, to disclose to the hiring  
12 school district sexual misconduct, if any, by the applicant and making  
13 available to the hiring school district copies of all documents in the  
14 applicant's personnel record maintained by that employer relating to  
15 that sexual misconduct; and

16 (ii) Releasing the applicant's current employer or, if the  
17 applicant is not currently employed by a school district, the  
18 applicant's immediately previous employer, and employees acting on  
19 behalf of that employer, from any liability for providing information  
20 described in (a)(i) of this subsection, as provided in subsection (3)  
21 of this section; and

22 (b) A school district shall request in writing, electronic or  
23 otherwise, at least the applicant's current employer or, if the  
24 applicant is not currently employed by a school district, the  
25 applicant's immediately previous employer, to provide the information  
26 described in (a)(i) of this subsection, if any. The request shall  
27 include a copy of the statement signed by the applicant under this  
28 subsection.

29 (3) Not later than twenty business days after receiving a request  
30 under subsection (2)(b) of this section, a school district shall  
31 provide the information requested and make available to the requesting  
32 school district copies of all documents in the applicant's personnel  
33 record relating to sexual misconduct. The school district, or an  
34 employee acting on behalf of the school district, who in good faith  
35 discloses information under this section is immune from civil liability  
36 for the disclosure.

37 (4) A hiring district shall electronically request from the office  
38 of the superintendent of public instruction verification of

1 certification status for applicants for certificated employment. When  
2 the results of the electronic request regarding an applicant indicate  
3 a complaint or investigation, including an open investigation or a  
4 closed investigation that resulted in action being taken, the hiring  
5 district shall request from the office of the superintendent of public  
6 instruction information relating to the complaint and investigation of  
7 sexual misconduct as described in subsection (10) of this section, if  
8 any.

9 (5) A school district shall not hire an applicant who does not sign  
10 the statement described in subsection (2) of this section.

11 (6) School districts may employ applicants on a conditional basis  
12 pending the district's review of information obtained under this  
13 section.

14 (7) Information received under this section shall be used by a  
15 school district only for the purpose of evaluating an applicant's  
16 qualifications for employment in the position for which he or she has  
17 applied. Except as otherwise provided by law, a board member or  
18 employee of a school district shall not disclose the information to any  
19 person, other than the applicant, who is not directly involved in the  
20 process of evaluating the applicant's qualifications for employment.  
21 A person who violates this subsection is guilty of a misdemeanor.

22 (8) Beginning September 1, 2004, the board or an official of a  
23 school district shall not enter into a collective bargaining agreement,  
24 individual employment contract, resignation agreement, severance  
25 agreement, or any other contract or agreement that has the effect of  
26 suppressing information about sexual misconduct of a present or former  
27 employee or of expunging information about that sexual misconduct from  
28 personnel records. Any provision of a contract or agreement that is  
29 contrary to this subsection is void and unenforceable and may not be  
30 withheld from disclosure by the entry of any administrative or court  
31 order. This subsection does not restrict the expungement from a  
32 personnel file information about alleged sexual misconduct that has not  
33 been substantiated.

34 (9) This section does not prevent a school district from requesting  
35 or requiring an applicant to provide information other than that  
36 described in this section.

37 (10) By September 1, 2004, the state board of education shall adopt  
38 rules defining "sexual misconduct" as used in this section for

1 application to all classified and certificated employees. The  
2 definition of sexual misconduct adopted by the state board of education  
3 must include the requirement that the school district has made a  
4 determination that there is sufficient information to conclude that the  
5 sexual misconduct occurred and that the sexual misconduct resulted in  
6 the employee's leaving his or her position at the school district.

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