

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6171

Chapter 134, Laws of 2004

58th Legislature
2004 Regular Session

MISCONDUCT INVESTIGATIONS BY SPI

EFFECTIVE DATE: 6/10/04

Passed by the Senate March 8, 2004
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 4, 2004
YEAS 95 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 6171 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

Approved March 26, 2004.

FILED

March 26, 2004 - 3:05 p.m.

GARY F. LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6171

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senate Committee on Education (originally sponsored by Senators Benton, Kohl-Welles, Carlson, Stevens, Johnson, Esser, T. Sheldon and Pflug)

READ FIRST TIME 02/05/04.

1 AN ACT Relating to misconduct investigations conducted by the
2 superintendent of public instruction; amending RCW 28A.410.095 and
3 28A.410.090; and prescribing penalties.

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

5 **Sec. 1.** RCW 28A.410.095 and 1992 c 159 s 5 are each amended to
6 read as follows:

7 (1) The superintendent of public instruction may initiate and
8 conduct investigations as may be reasonably necessary to establish the
9 existence of any alleged violations of or noncompliance with this
10 chapter or any rules adopted under it. For the purpose of any
11 investigation or proceeding under this chapter, the superintendent or
12 any officer designated by the superintendent may administer oaths and
13 affirmations, subpoena witnesses and compel their attendance, take
14 evidence, and require the production of any books, papers,
15 correspondence, memoranda, agreements, or other documents or records
16 that the superintendent deems relevant and material to the inquiry.

17 (2) Investigations conducted by the superintendent of public
18 instruction concerning alleged sexual misconduct towards a child shall
19 be completed within one year of the initiation of the investigation or

1 within thirty days of the completion of all proceedings, including
2 court proceedings, resulting from an investigation conducted by law
3 enforcement or child protective services if there is such an
4 investigation. The superintendent of public instruction may take, for
5 reasonable cause, additional time for completion of the investigation
6 after informing the victim, the individual being investigated, and the
7 school district that employs the individual being investigated of the
8 reasons additional time is needed and the amount of additional time
9 needed. Written notification must be provided to each of the parties
10 who must be informed. The sole remedy for a failure to complete an
11 investigation of sexual misconduct within the time allowed by this
12 subsection is a civil penalty of fifty dollars per day for each day
13 beyond the allowed time.

14 (3) If any person fails to obey a subpoena or obeys a subpoena but
15 refuses to give evidence, any court of competent jurisdiction, upon
16 application by the superintendent, may issue to that person an order
17 requiring him or her to appear before the court and to show cause why
18 he or she should not be compelled to obey the subpoena, and give
19 evidence material to the matter under investigation. The failure to
20 obey an order of the court may be punishable as contempt.

21 (4) Once an investigation has been initiated by the superintendent
22 of public instruction, the investigation shall be completed regardless
23 of whether the individual being investigated has resigned his or her
24 position or allowed his or her teaching certificate to lapse. The
25 superintendent shall make a written finding regarding each
26 investigation indicating the actions taken, including a statement of
27 the reasons why a complaint was dismissed or did not warrant further
28 investigation or action by the superintendent, and shall provide such
29 notice to each person who filed the complaint. Written findings under
30 this section are subject to public disclosure under chapter 42.17 RCW.

31 (5) An investigation into sexual or physical abuse of a student by
32 a school employee shall only be initiated by the superintendent of
33 public instruction after the superintendent of public instruction
34 verifies that the incident has been reported to the proper law
35 enforcement agency or the department of social and health services as
36 required under RCW 26.44.030.

1 **Sec. 2.** RCW 28A.410.090 and 1996 c 126 s 2 are each amended to
2 read as follows:

3 (1) Any certificate or permit authorized under the provisions of
4 this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may
5 be revoked or suspended by the authority authorized to grant the same
6 based upon a criminal records report authorized by law, or upon the
7 complaint of any school district superintendent, educational service
8 district superintendent, or private school administrator for
9 immorality, violation of written contract, unprofessional conduct,
10 intemperance, or crime against the law of the state.

11 If the superintendent of public instruction has reasonable cause to
12 believe that an alleged violation of this chapter or rules adopted
13 under it has occurred based on a written complaint alleging physical
14 abuse or sexual misconduct by a certificated school employee filed by
15 a parent or another person, but no complaint has been (~~filed pursuant~~
16 ~~to this chapter~~) forwarded to the superintendent by a school district
17 superintendent, educational service district superintendent, or private
18 school administrator, and that a school district superintendent,
19 educational service district superintendent, or private school
20 administrator has sufficient notice of the alleged violation and
21 opportunity to file a complaint, the superintendent of public
22 instruction may cause an investigation to be made of the alleged
23 violation, together with such other matters that may be disclosed in
24 the course of the investigation related to certificated personnel.

25 (2) A parent or another person may file a written complaint with
26 the superintendent of public instruction alleging physical abuse or
27 sexual misconduct by a certificated school employee if:

28 (a) The parent or other person has already filed a written
29 complaint with the educational service district superintendent
30 concerning that employee;

31 (b) The educational service district superintendent has not caused
32 an investigation of the allegations and has not forwarded the complaint
33 to the superintendent of public instruction for investigation; and

34 (c) The written complaint states the grounds and factual basis upon
35 which the parent or other person believes an investigation should be
36 conducted.

37 (3) Any such certificate or permit authorized under this chapter or
38 chapter 28A.405 RCW shall be revoked by the authority authorized to

1 grant the certificate upon a guilty plea or the conviction of any
2 felony crime involving the physical neglect of a child under chapter
3 9A.42 RCW, the physical injury or death of a child under chapter 9A.32
4 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61
5 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual
6 offenses under chapter 9A.44 RCW where a minor is the victim, promoting
7 prostitution of a minor under chapter 9A.88 RCW, the sale or purchase
8 of a minor child under RCW 9A.64.030, or violation of similar laws of
9 another jurisdiction. The person whose certificate is in question
10 shall be given an opportunity to be heard. Mandatory permanent
11 revocation upon a guilty plea or the conviction of felony crimes
12 specified under this subsection shall apply to such convictions or
13 guilty pleas which occur after July 23, 1989. Revocation of any
14 certificate or permit authorized under this chapter or chapter 28A.405
15 RCW for a guilty plea or criminal conviction occurring prior to July
16 23, 1989, shall be subject to the provisions of subsection (1) of this
17 section.

Passed by the Senate March 8, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 26, 2004.

Filed in Office of Secretary of State March 26, 2004.