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**SUBSTITUTE SENATE BILL 5552**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Early Learning, K-12 & Higher Education  
(originally sponsored by Senators Kohl-Welles, McAuliffe, Benton,  
Johnson, Shin, Carrell, Rasmussen, Mulliken and Roach)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to information required for school district  
2 employment applicants; and amending RCW 28A.400.301.

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

4 **Sec. 1.** RCW 28A.400.301 and 2004 c 29 s 2 are each amended to read  
5 as follows:

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

8 (a) "Applicant" means an applicant for employment in a certificated  
9 or classified position who is currently or was previously employed by  
10 a school district.

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

12 (2) Before hiring an applicant, a school district shall request the  
13 applicant to sign a statement:

14 (a) Authorizing the applicant's current and past employers,  
15 including employers outside of Washington state, to disclose to the  
16 hiring school district sexual misconduct, if any, by the applicant and  
17 making available to the hiring school district copies of all documents  
18 in the previous employer's personnel, investigative, or other files  
19 relating to sexual misconduct by the applicant; and

1 (b) Releasing the applicant's current and past employers, and  
2 employees acting on behalf of that employer, from any liability for  
3 providing information described in (a) of this subsection, as provided  
4 in subsection (4) of this section.

5 (3) Before hiring an applicant, a school district shall request in  
6 writing, electronic or otherwise, the applicant's current and past  
7 employers, including out-of-state employers, to provide the information  
8 described in subsection (2)(a) of this section, if any. The request  
9 shall include a copy of the statement signed by the applicant under  
10 subsection (2) of this section.

11 (4) Not later than twenty business days after receiving a request  
12 under subsection (3) of this section, a school district shall provide  
13 the information requested and make available to the requesting school  
14 district copies of all documents in the applicant's personnel record  
15 relating to the sexual misconduct. The school district, or an employee  
16 acting on behalf of the school district, who in good faith discloses  
17 information under this section is immune from civil liability for the  
18 disclosure.

19 (5) A hiring district shall request from the office of the  
20 superintendent of public instruction verification of certification  
21 status, including information relating to sexual misconduct as  
22 established by the provisions of subsection (11) of this section, if  
23 any, for applicants for certificated employment.

24 (6) A school district shall not hire an applicant who does not sign  
25 the statement described in subsection (2) of this section.

26 (7) School districts may employ applicants on a conditional basis  
27 pending the district's review of information obtained under this  
28 section. When requests are sent to out-of-state employers under  
29 subsection (3) of this section, an applicant who has signed the  
30 statement described in subsection (2) of this section, shall not be  
31 prevented from gaining employment in Washington public schools if the  
32 laws or policies of that other state prevent documents from being made  
33 available to Washington state school districts or if the out-of-state  
34 school district fails or refuses to cooperate with the request.

35 (8) Information received under this section shall be used by a  
36 school district only for the purpose of evaluating an applicant's  
37 qualifications for employment in the position for which he or she has  
38 applied. Except as otherwise provided by law, a board member or

1 employee of a school district shall not disclose the information to any  
2 person, other than the applicant, who is not directly involved in the  
3 process of evaluating the applicant's qualifications for employment.  
4 A person who violates this subsection is guilty of a misdemeanor.

5 (9) Beginning September 1, 2004, the board or an official of a  
6 school district shall not enter into a collective bargaining agreement,  
7 individual employment contract, resignation agreement, severance  
8 agreement, or any other contract or agreement that has the effect of  
9 suppressing information about verbal or physical abuse or sexual  
10 misconduct by a present or former employee or of expunging information  
11 about that abuse or sexual misconduct from any documents in the  
12 previous employer's personnel, investigative, or other files relating  
13 to verbal or physical abuse or sexual misconduct by the applicant. Any  
14 provision of a contract or agreement that is contrary to this  
15 subsection is void and unenforceable, and may not be withheld from  
16 disclosure by the entry of any administrative or court order. This  
17 subsection does not restrict the expungement from a personnel file of  
18 information about alleged verbal or physical abuse or sexual misconduct  
19 that has not been substantiated.

20 (10) This section does not prevent a school district from  
21 requesting or requiring an applicant to provide information other than  
22 that described in this section.

23 (11) By September 1, 2004, the state board of education has the  
24 authority to and shall adopt rules defining "verbal abuse," "physical  
25 abuse," and "sexual misconduct" as used in this section for application  
26 to all classified and certificated employees. The definitions of  
27 verbal and physical abuse and sexual misconduct adopted by the state  
28 board of education must include the requirement that the school  
29 district has made a determination that there is sufficient information  
30 to conclude that the abuse or misconduct occurred and that the abuse or  
31 misconduct resulted in the employee's leaving his or her position at  
32 the school district.

33 (12) Except as limited by chapter 49.12 RCW, at the conclusion of  
34 a school district's investigation, a school employee has the right to  
35 review his or her entire personnel file, investigative file, or other  
36 file maintained by the school district relating to sexual misconduct as  
37 addressed in this section and to attach rebuttals to any documents as  
38 the employee deems necessary. Rebuttal documents shall be disclosed in

1 the same manner as the documents to which they are attached. The  
2 provisions of this subsection do not supercede the protections provided  
3 individuals under the state whistleblower laws in chapter 42.41 RCW.

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