
SENATE BILL 6443

State of Washington

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2008 Regular Session

By Senators Kohl-Welles, McAuliffe, Weinstein, Kauffman, Brandland, McDermott, Shin, Rasmussen, and Carrell

Read first time 01/16/08. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to disciplinary actions for education employees
2 committing sexual offenses; and amending RCW 28A.400.320, 28A.400.330,
3 28A.405.470, 28A.410.090, and 28A.410.110.

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

5 **Sec. 1.** RCW 28A.400.320 and 1990 c 33 s 383 are each amended to
6 read as follows:

7 (1) The school district board of directors shall immediately
8 terminate the employment of any classified employee who has contact
9 with children during the course of his or her employment upon a guilty
10 plea or conviction of any felony crime involving the physical neglect
11 of a child under chapter 9A.42 RCW, the physical injury or death of a
12 child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations
13 under chapter 46.61 RCW), sexual exploitation of a child under chapter
14 9.68A RCW, sexual offenses under chapter 9A.44 RCW (~~where a minor is~~
15 ~~the victim~~), promoting prostitution of a minor under chapter 9A.88
16 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or
17 violation of similar laws of another jurisdiction.

18 (2) The employee shall have a right of appeal under chapter 28A.645

1 RCW including any right of appeal under a collective bargaining
2 agreement.

3 **Sec. 2.** RCW 28A.400.330 and 1989 c 320 s 4 are each amended to
4 read as follows:

5 The school district board of directors shall include in any
6 contract for services with an entity or individual other than an
7 employee of the school district a provision requiring the contractor to
8 prohibit any employee of the contractor from working at a public school
9 who has contact with children at a public school during the course of
10 his or her employment and who has pled guilty to or been convicted of
11 any felony crime involving the physical neglect of a child under
12 chapter 9A.42 RCW, the physical injury or death of a child under
13 chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under
14 chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A
15 RCW, sexual offenses under chapter 9A.44 RCW (~~where a minor is the~~
16 ~~victim~~)), promoting prostitution of a minor under chapter 9A.88 RCW,
17 the sale or purchase of a minor child under RCW 9A.64.030, or violation
18 of similar laws of another jurisdiction. The contract shall also
19 contain a provision that any failure to comply with this section shall
20 be grounds for the school district immediately terminating the
21 contract.

22 **Sec. 3.** RCW 28A.405.470 and 1990 c 33 s 405 are each amended to
23 read as follows:

24 The school district shall immediately terminate the employment of
25 any person whose certificate or permit authorized under chapter 28A.405
26 or 28A.410 RCW is subject to revocation under RCW 28A.410.090(~~(+2)~~)
27 (3) upon a guilty plea or conviction of any felony crime involving the
28 physical neglect of a child under chapter 9A.42 RCW, the physical
29 injury or death of a child under chapter 9A.32 or 9A.36 RCW (except
30 motor vehicle violations under chapter 46.61 RCW), sexual exploitation
31 of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44
32 RCW (~~where a minor is the~~
33 ~~victim~~)), promoting prostitution of a minor
34 under chapter 9A.88 RCW, the sale or purchase of a minor child under
35 RCW 9A.64.030, or violation of similar laws of another jurisdiction.
Employment shall remain terminated unless the employee successfully

1 prevails on appeal. This section shall only apply to employees holding
2 a certificate or permit who have contact with children during the
3 course of their employment.

4 **Sec. 4.** RCW 28A.410.090 and 2005 c 461 s 2 are each amended to
5 read as follows:

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

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

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

31 (a) The parent or other person has already filed a written
32 complaint with the educational service district superintendent
33 concerning that employee;

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

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

4 (3) Any such certificate or permit authorized under this chapter or
5 chapter 28A.405 RCW shall be revoked by the authority authorized to
6 grant the certificate upon a guilty plea or the conviction of any
7 felony crime involving the physical neglect of a child under chapter
8 9A.42 RCW, the physical injury or death of a child under chapter 9A.32
9 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61
10 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual
11 offenses under chapter 9A.44 RCW (~~where a minor is the victim~~),
12 promoting prostitution of a minor under chapter 9A.88 RCW, the sale or
13 purchase of a minor child under RCW 9A.64.030, or violation of similar
14 laws of another jurisdiction. The person whose certificate is in
15 question shall be given an opportunity to be heard. Mandatory
16 permanent revocation upon a guilty plea or the conviction of felony
17 crimes specified under this subsection shall apply to such convictions
18 or guilty pleas which occur after July 23, 1989. Revocation of any
19 certificate or permit authorized under this chapter or chapter 28A.405
20 RCW for a guilty plea or criminal conviction occurring prior to July
21 23, 1989, shall be subject to the provisions of subsection (1) of this
22 section.

23 (4)(a) Any such certificate or permit authorized under this chapter
24 or chapter 28A.405 RCW shall be suspended or revoked, according to the
25 provisions of this subsection, by the authority authorized to grant the
26 certificate upon a finding that an employee has engaged in an
27 unauthorized use of school equipment to intentionally access material
28 depicting sexually explicit conduct or has intentionally possessed on
29 school grounds any material depicting sexually explicit conduct; except
30 for material used in conjunction with established curriculum. A first
31 time violation of this subsection shall result in either suspension or
32 revocation of the employee's certificate or permit as determined by the
33 office of the superintendent of public instruction. A second violation
34 shall result in a mandatory revocation of the certificate or permit.

35 (b) In all cases under this subsection (4), the person whose
36 certificate is in question shall be given an opportunity to be heard
37 and has the right to appeal as established in RCW 28A.410.100.
38 Certificates or permits shall be suspended or revoked under this

1 subsection only if findings are made on or after July 24, 2005. For
2 the purposes of this subsection, "sexually explicit conduct" has the
3 same definition as provided in RCW 9.68A.011.

4 **Sec. 5.** RCW 28A.410.110 and 1990 c 33 s 410 are each amended to
5 read as follows:

6 In case any certificate or permit authorized under this chapter or
7 chapter 28A.405 RCW is revoked, the holder shall not be eligible to
8 receive another certificate or permit for a period of twelve months
9 after the date of revocation. However, if the certificate or permit
10 authorized under this chapter or chapter 28A.405 RCW was revoked
11 because of a guilty plea or the conviction of a felony crime involving
12 the physical neglect of a child under chapter 9A.42 RCW, the physical
13 injury or death of a child under chapter 9A.32 or 9A.36 RCW (except
14 motor vehicle violations under chapter 46.61 RCW), sexual exploitation
15 of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44
16 RCW (~~where a minor is the victim~~), promoting prostitution of a minor
17 under chapter 9A.88 RCW, the sale or purchase of a minor child under
18 RCW 9A.64.030, or violation of similar laws of another jurisdiction,
19 the certificate or permit shall not be reinstated.

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