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**SUBSTITUTE SENATE BILL 6272**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Education (originally sponsored by Senators McAuliffe, Long, Fairley, Winsley, Fraser, Kohl, Drew, Smith, Thibaudeau, Prentice, Wojahn, Snyder, Sheldon, Loveland, Bauer, Franklin, Rinehart, Haugen, Rasmussen, Owen, Heavey, Quigley, Oke, Schow and Roach)

Read first time 1/25/96.

1 AN ACT Relating to record checks of educational employees; amending  
2 RCW 28A.410.090; adding new sections to chapter 28A.400 RCW; creating  
3 new sections; making an appropriation; providing expiration dates; and  
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) By June 30, 1997, school districts,  
7 educational service districts, and their contractors shall require that  
8 all employees who have regularly scheduled unsupervised access to  
9 children and were hired before June 11, 1992, undergo a record check  
10 through the Washington state patrol criminal identification system  
11 under RCW 43.43.830 through 43.43.838, 10.97.030, and 10.97.050 and  
12 through the federal bureau of investigation. The record check shall  
13 include a fingerprint check using a complete Washington state criminal  
14 identification fingerprint card. The superintendent of public  
15 instruction shall provide a copy of the record report to the employee.  
16 Once an employee has a record check as required under this section,  
17 additional record checks shall not be required of the employee unless  
18 required by other provisions of law.

1 (2) Employees, school districts, and educational service districts  
2 shall not be required by the state patrol or superintendent of public  
3 instruction to pay for the record check required in subsection (1) of  
4 this section.

5 (3) The state patrol and superintendent of public instruction shall  
6 initiate the process for the record checks required in this section no  
7 later than June 30, 1997.

8 (4) This section expires June 30, 1997.

9 **Sec. 2.** RCW 28A.410.090 and 1992 c 159 s 4 are each amended to  
10 read as follows:

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

20 If the superintendent of public instruction has reasonable cause to  
21 believe that an alleged violation of this chapter or rules adopted  
22 under it has occurred, but no complaint has been filed pursuant to this  
23 chapter, and that a school district superintendent, educational service  
24 district superintendent, or private school administrator has sufficient  
25 notice of the alleged violation and opportunity to file a complaint,  
26 the superintendent of public instruction may cause an investigation to  
27 be made of the alleged violation, together with such other matters that  
28 may be disclosed in the course of the investigation related to  
29 certificated personnel.

30 (2) Any such certificate or permit authorized under this chapter or  
31 chapter 28A.405 RCW shall be revoked by the authority authorized to  
32 grant the certificate upon a guilty plea or the conviction of any  
33 felony crime involving the physical neglect of a child under chapter  
34 9A.42 RCW, the physical injury or death of a child under chapter 9A.32  
35 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61  
36 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual  
37 offenses under chapter 9A.44 RCW where a minor is the victim, promoting  
38 prostitution of a minor under chapter 9A.88 RCW, the sale or purchase

1 of a minor child under RCW 9A.64.030, or violation of similar laws of  
2 another jurisdiction. The person whose certificate is in question  
3 shall be given an opportunity to be heard. Mandatory permanent  
4 revocation upon a guilty plea or the conviction of felony crimes  
5 specified under this subsection shall apply to such convictions or  
6 guilty pleas which occur after July 23, 1989. Revocation of any  
7 certificate or permit authorized under this chapter or chapter 28A.405  
8 RCW for a guilty plea or criminal conviction occurring prior to July  
9 23, 1989, shall be subject to the provisions of subsection (1) of this  
10 section.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.400  
12 RCW to read as follows:

13 (1) When a record check required under section 1 of this act  
14 indicates that a classified employee has been convicted of a crime, the  
15 employer shall consider the following when making employment decisions  
16 pertaining to the individual:

17 (a) The age and maturity of the individual at the time the crime  
18 was committed;

19 (b) The seriousness of the crime and any mitigating factors;

20 (c) The likelihood that the crime will be repeated;

21 (d) The proximity in time of the crime;

22 (e) Evidence that would support good moral character and personal  
23 fitness; and

24 (f) Other appropriate factors.

25 (2) This section expires June 30, 1997.

26 NEW SECTION. **Sec. 4.** (1) Any classified employee or certificated  
27 employee dismissed or otherwise adversely affected as a result of a  
28 conviction identified in the record check required under section 1 of  
29 this act shall be allowed to appeal under the appropriate statutes,  
30 including, but not limited to, RCW 28A.400.320 and 28A.400.340 and  
31 chapters 28A.645 and 28A.405 RCW.

32 (2) This section expires June 30, 1997.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.400  
34 RCW to read as follows:

1       The superintendent of public instruction shall adopt rules as  
2 necessary under chapter 34.05 RCW on record check information. The  
3 rules shall include, but not be limited to the following:

4       (1) Written procedures providing a school district employee or  
5 applicant for certification or employment access to and review of  
6 information obtained based on the record check required under RCW  
7 28A.400.303 and section 1 of this act; and

8       (2) Written procedures limiting access to the superintendent of  
9 public instruction record check data base to only those individuals  
10 processing record check information at the office of the superintendent  
11 of public instruction, the appropriate school district or districts,  
12 and the appropriate educational service district or districts.

13       NEW SECTION.   **Sec. 6.** The sum of two million dollars, or as much  
14 thereof as may be necessary, is appropriated for the biennium ending  
15 June 30, 1997, from the general fund to the superintendent of public  
16 instruction for the purposes of section 1 of this act.

17       NEW SECTION.   **Sec. 7.** This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of the  
19 state government and its existing public institutions, and shall take  
20 effect immediately.

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