
HOUSE BILL 2518

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Peery, Vance, Brumsickle, D. Sommers, Winsley, Van Luven, Bowman, Broback, Wood, Wynne, Mitchell and H. Myers; by request of Superintendent of Public Instruction and Board of Education

Read first time 01/20/92. Referred to Committee on Education.

1 AN ACT Relating to educational employees; amending RCW 28A.410.090;
2 reenacting and amending RCW 28A.410.010; adding a new section to
3 chapter 28A.400 RCW; adding a new section to chapter 28A.410 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that safeguards
7 are necessary to ensure that school districts and their contractors are
8 informed of the existence of any criminal records of all prospective
9 employees and school volunteers with unsupervised access to children.
10 The legislature further finds that the results from state patrol
11 background checks are more complete when fingerprints of individuals
12 are provided, and that information from the federal bureau of
13 investigation also is necessary to obtain information on out-of-state
14 criminal records. The legislature further finds that confidentiality

1 safeguards in state law are in place to ensure that the rights of
2 applicants for certification or jobs and newly hired employees are
3 protected.

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

6 School districts, educational service districts, and their
7 contractors shall require a criminal record check through the
8 Washington state patrol criminal identification system under RCW
9 43.43.830 through 43.43.834 and through the federal bureau of
10 investigation before hiring an employee. The criminal record check
11 shall include a fingerprint check. Upon request of the applicant, the
12 requesting entity shall provide a copy of the criminal record report to
13 the applicant. When necessary, applicants may be employed on a
14 conditional basis pending completion of the investigation. The school
15 district or educational service district shall require criminal record
16 checks of all volunteers with unsupervised access to children under the
17 age of sixteen. If the applicant has had a criminal record check
18 within the previous two years, the district or contractor may waive the
19 requirement. The district or contractor hiring the employee or using
20 volunteers shall determine who shall pay costs associated with the
21 criminal record check.

22 **Sec. 3.** RCW 28A.410.010 and 1988 c 172 s 3 and 1988 c 97 s 1 are
23 each reenacted and amended to read as follows:

24 The state board of education shall establish, publish, and enforce
25 rules and regulations determining eligibility for and certification of
26 personnel employed in the common schools of this state, including
27 certification for emergency or temporary, substitute or provisional
28 duty and under such certificates or permits as the board shall deem

1 proper or as otherwise prescribed by law. Except for applicants who
2 are applying for certificates which restrict the holder of the
3 certificate to the teaching of students who are sixteen years of age or
4 older, the rules shall require that the initial application for
5 certification shall require a (~~background~~) criminal record check of
6 the applicant through the Washington state patrol criminal
7 identification system and through the federal bureau of investigation
8 at the applicant's expense. The criminal record check shall include a
9 fingerprint check. The superintendent of public instruction may waive
10 the criminal record check for any applicant who has had a criminal
11 record check within the two years before application.

12 In establishing rules pertaining to the qualifications of
13 instructors of sign language the state board shall consult with the
14 national association of the deaf, "sign instructors guidance network"
15 (s.i.g.n.), and the Washington state association of the deaf for
16 evaluation and certification of sign language instructors.

17 The superintendent of public instruction shall act as the
18 administrator of any such rules and regulations and have the power to
19 issue any certificates or permits and revoke the same in accordance
20 with board rules and regulations.

21 **Sec. 4.** RCW 28A.410.090 and 1990 c 33 s 408 are each amended to
22 read as follows:

23 (1) Any certificate or permit authorized under the provisions of
24 this chapter, chapter 28A.405 RCW, or rules and regulations promulgated
25 thereunder may be revoked or suspended by the authority authorized to
26 grant the same upon complaint of any school district superintendent
27 (~~or~~) educational service district superintendent, or private school
28 administrator for immorality, violation of written contract,

1 unprofessional conduct, intemperance, or crime against the law of the
2 state.

3 If the superintendent of public instruction has reasonable cause to
4 believe that an alleged violation of this chapter or rules adopted
5 under it has occurred, but no complaint has been filed pursuant to this
6 chapter, and that sufficient notice of the alleged violation and
7 opportunity to file a complaint exists, the superintendent of public
8 instruction may cause an investigation to be made of the alleged
9 violation, together with such other matters that may be disclosed in
10 the course of the investigation related to certificated personnel.

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

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.410
2 RCW to read as follows:

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

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