

E2SSB 5533 - H COMM AMD
By Committee on Education

ADOPTED 03/04/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes that state law
4 requires criminal background checks of applicants for school district
5 employment. However, the legislature finds that, because they
6 generally are limited to criminal conviction histories, results of
7 background checks are more complete when supplemented by an applicant's
8 history of past sexual misconduct. Therefore, the legislature finds
9 that additional safeguards are necessary in the hiring of school
10 district employees to ensure the safety of Washington's school
11 children. In order to provide the safest educational environment for
12 children, school districts must provide known information regarding
13 employees' sexual misconduct when those employees attempt to transfer
14 to different school districts.

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

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

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

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

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

25 (a) Authorizing the applicant's current and past employers to
26 disclose to the hiring school district sexual misconduct, if any, by
27 the applicant and making available to the hiring school district copies
28 of all documents in the previous employer's personnel, investigative,
29 or other files 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 to provide the information described in subsection (2)(a) of
8 this section, if any. The request shall include a copy of the
9 statement signed by the applicant under subsection (2) of this section.

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

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

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

25 (7) School districts may employ applicants on a conditional basis
26 pending the district's review of information obtained under this
27 section.

28 (8) Information received under this section shall be used by a
29 school district only for the purpose of evaluating an applicant's
30 qualifications for employment in the position for which he or she has
31 applied. Except as otherwise provided by law, a board member or
32 employee of a school district shall not disclose the information to any
33 person, other than the applicant, who is not directly involved in the
34 process of evaluating the applicant's qualifications for employment.
35 A person who violates this subsection is guilty of a misdemeanor.

36 (9) Beginning September 1, 2004, the board or an official of a
37 school district shall not enter into a collective bargaining agreement,

1 individual employment contract, resignation agreement, severance
2 agreement, or any other contract or agreement that has the effect of
3 suppressing information about verbal or physical abuse or sexual
4 misconduct by a present or former employee or of expunging information
5 about that abuse or sexual misconduct from any documents in the
6 previous employer's personnel, investigative, or other files relating
7 to verbal or physical abuse or sexual misconduct by the applicant. Any
8 provision of a contract or agreement that is contrary to this
9 subsection is void and unenforceable, and may not be withheld from
10 disclosure by the entry of any administrative or court order. This
11 subsection does not restrict the expungement from a personnel file of
12 information about alleged verbal or physical abuse or sexual misconduct
13 that has not been substantiated.

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

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

27 (12) Except as limited by chapter 49.12 RCW, at the conclusion of
28 a school district's investigation, a school employee has the right to
29 review his or her entire personnel file, investigative file, or other
30 file maintained by the school district relating to sexual misconduct as
31 addressed in this section and to attach rebuttals to any documents as
32 the employee deems necessary. Rebuttal documents shall be disclosed in
33 the same manner as the documents to which they are attached. The
34 provisions of this subsection do not supercede the protections provided
35 individuals under the state whistleblower laws in chapter 42.41 RCW.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.320
2 RCW to read as follows:

3 School districts must, at the first opportunity but in all cases
4 within forty-eight hours of receiving a report alleging sexual
5 misconduct by a school employee, notify the parents of a student
6 alleged to be the victim, target, or recipient of the misconduct.
7 School districts shall provide parents with information regarding their
8 rights under the Washington public disclosure act, chapter 42.17 RCW,
9 to request the public records regarding school employee discipline.
10 This information shall be provided to all parents on an annual basis.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.410
12 RCW to read as follows:

13 For the purposes of reporting disciplinary actions taken against
14 certificated staff to other states via a national data base used by the
15 office of the superintendent of public instruction, the following
16 actions shall be reported: Suspension, surrender, revocation, denial,
17 stayed suspension, reinstatement, and any written reprimand related to
18 abuse and sexual misconduct. These actions will only be reported to
19 the extent that they are accepted by the national clearinghouse, but if
20 there are categories not included, the office of the superintendent of
21 public instruction shall seek modification to the national
22 clearinghouse format."

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23 On page 1, line 2 of the title, after "employees;" strike the
24 remainder of the title and insert "adding a new section to chapter
25 28A.400 RCW; adding a new section to chapter 28A.320 RCW; adding a new
26 section to chapter 28A.410 RCW; creating a new section; and prescribing
27 penalties."

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