
Education Committee

E2SSB 5533

Brief Description: Providing increased access to information on disciplinary actions taken against school employees.

Sponsors: Senate Committee on Education (originally sponsored by Senators Kohl-Welles, Johnson, McAuliffe, Carlson, Keiser, Rasmussen and Kline).

Brief Summary of Engrossed Second Substitute Bill

- Requires school districts to exchange information regarding sexual misconduct by current and former employees.
- Requires school districts to request from the Office of the Superintendent of Public Instruction (OSPI) verification of the certification status and information about sexual misconduct, if any, for applicants for certificated employment.
- Prohibits school districts from hiring applicants who do not authorize a release of records.
- Limits disclosure of information obtained under an authorized release.
- Establishes a misdemeanor for the misuse of information obtained under a release.
- Directs the State Board of Education (SBE) to adopt definitions for "sexual misconduct," "verbal abuse," and "physical abuse".
- Requires the OSPI to report disciplinary actions taken against certificated employees to a national database.
- Requires school districts to inform parents annually regarding their rights to school employee information under the Public Disclosure Act.

Hearing Date: 2/23/04

Staff: Sydney Forrester (786-7120).

Background:

School districts are required to conduct a criminal background check on school employees. School districts are not, however, required to contact an applicant's current or former employer to

obtain reference information. Some forms of school employee misconduct may not necessarily result in criminal prosecution or conviction, due to severance agreements, resignation agreements, or other agreements, and information about the misconduct may not be detected through a criminal background check.

The Public Disclosure Act requires disclosure of public records maintained by school districts regarding school district employees unless a specific exemption provides for nondisclosure. Residential addresses and phone numbers are exempt from disclosure. Other personal information about public employees is exempt to the extent disclosure would violate an employee's right to privacy. An employee's right to privacy is violated only if disclosure would be highly offensive to a reasonable person, and is not of legitimate concern to the public.

Summary of Bill:

Prior to hiring an applicant for a certificated or classified position, a school district must obtain the applicant's written authorization for release of the applicant's records regarding sexual misconduct, if any, from the applicant's former or current school district employer.

A school district must submit the authorization with a request for the records, if any, to the appropriate school district or districts. An applicant who refuses to provide the authorization may not be offered employment with the district.

A school district receiving such a request for records must, within 20 days, provide the hiring district with information in the applicant's personnel file regarding sexual misconduct, if any. A school district may offer conditional employment pending its review of information obtained from another school district.

School districts and their employees who, in good faith, release the information requested are immune from civil liability. Information received by the hiring district may be disclosed only to those directly involved in the hiring decision. Misuse of the information constitutes a misdemeanor.

For all applicants for certificated employment, school districts must request from the Superintendent of Public Instruction verification of certification status and information regarding sexual misconduct, if any. School districts also must annually inform parents of their rights under the Public Disclosure Act to obtain information regarding school employees.

Beginning September 1, 2004, no school district may enter into an agreement to suppress or expunge from personnel files, investigative files, or other files information about sexual misconduct, verbal abuse, or physical abuse by a school employee. Information about alleged misconduct, not substantiated, may be expunged from an employee's personnel file.

The State Board of Education is directed to define "sexual misconduct," "verbal abuse," and "physical abuse" for application to the employment records of certificated and classified employees. The definition must include a requirement that the school district has determined there is sufficient information to conclude the conduct occurred and that it resulted in the employee's departure from employment with the school district.

Appropriation: None.

Fiscal Note: Requested on February 20, 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.