

HOUSE BILL REPORT

SSB 6171

As Passed House - Amended:

March 4, 2004

Title: An act relating to misconduct investigations conducted by the superintendent of public instruction.

Brief Description: Regarding misconduct investigations conducted by the superintendent of public instruction.

Sponsors: By Senate Committee on Education (originally sponsored by Senators Benton, Kohl-Welles, Carlson, Stevens, Johnson, Esser, T. Sheldon and Pflug).

Brief History:

Committee Activity:

Education: 2/23/04, 2/26/04 [DPA];

Appropriations: 2/28/04, 3/1/04 [DPA(ED)].

Floor Activity:

Passed House - Amended: 3/4/04, 95-0.

Brief Summary of Substitute Bill (As Amended by House)

- Establishes minimum timelines for completion of investigations by the Office of the Superintendent of Public Instruction (OSPI) concerning sexual misconduct by certificated employees.
- Permits a parent of other person to file a complaint to the OSPI alleging physical abuse or sexual misconduct by a certificated school employee.
- Permits the OSPI to investigate written complaints alleging physical abuse or sexual misconduct filed by parents or other persons.
- Requires that complaints regarding sexual or physical abuse be reported to law enforcement or the Department of Social and Health Services prior to the OSPI initiating an investigation.
- Requires completion of all investigations initiated and a written finding of actions taken.

- Establishes a monetary civil penalty for failure to complete an investigation on time.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 11 members: Representatives Quall, Chair; McDermott, Vice Chair; Talcott, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Anderson, Cox, Haigh, Hunter, McMahan, Rockefeller and Santos.

Staff: Sydney Forrester (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Education. Signed by 27 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Schual-Berke, Sump and Talcott.

Staff: Denise Graham (786-7137).

Background:

The Superintendent of Public Instruction (SPI) is authorized to investigate alleged violations of, or noncompliance with, teacher certification laws and rules. For the purpose of conducting investigations, the SPI is authorized to gather evidence, administer oaths and affirmations, subpoena witnesses, and compel testimony. The SPI's investigative powers are administrative and are in addition to criminal investigative authority granted to law enforcement agencies.

Summary of Amended Bill:

The SPI is expressly authorized to investigate a written complaint from a parent or another person regarding alleged teacher misconduct. Complaints must be written, must state the factual basis upon which the complainant believes an investigation should be conducted, and must first be filed with the Educational Service District superintendent (ESD superintendent). If the ESD superintendent finds the complaint does not warrant further investigation and does not forward the complaint to the SPI, the parent or community member may file the complaint with the SPI.

The SPI may investigate complaints of sexual or physical abuse only if a report of the alleged incident or incidents has been filed with law enforcement or the Department of Social and Health Services as required under the child abuse reporting statute. Investigations of alleged sexual misconduct must be complete within one year of the initiation of the investigation if there is no corresponding investigation underway by law enforcement or child protective services. If law enforcement or child protective services is conducting a criminal investigation

of the same complaint, the SPI must complete the investigation within 30 days after the completion of proceedings, including court proceedings, of the criminal investigation. Every investigation initiated by the SPI must be completed regardless of whether the individual being investigated resigns, surrenders his or her teaching certificate, or allows the certificate to lapse. Written findings of actions taken, including the reason for dismissal of a case, must be provided to each complainant.

The SPI may, for reasonable cause, take additional time to complete an investigation but must inform the victim, the individual being investigated, and the school district in writing of the reasons additional time is needed. Failure to complete an investigation of sexual misconduct within the prescribed time is remedied solely by a civil penalty of \$50 per additional day.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Education) These types of investigations have taken up to two years, and some are never completed because the certificate is surrendered or the employee moves out-of-state. Everyone has the right to see the investigation completed in an expedient manner, including the accused, the victim, and the school system.

Parents should be allowed to file complaints to the SPI when school districts are not responsive to parents' concerns or reports of sexual harassment or sexual misconduct. If a person has a complaint against a healthcare professional or against an attorney, the person can file a complaint directly with the entity that licenses them. The same standard should apply for a teacher.

The vast majority of schools want to do what's right, but occasionally that isn't the case. Some districts want to keep the incidents within their local control and will refuse to file a complaint with the SPI.

(In support with concerns) Adequate funding will be necessary to allow the SPI to meet the deadlines in completing the investigations.

Testimony For: (Appropriations) This is one of three important bills going through the legislative process dealing with curtailing the actions of coaches and teachers who prey on students. It would be OK to narrow the provisions to sexual misconduct in order to bring down the cost of the bill.

Testimony Against: (Education) Investigation of these incidents should not be left at the local level. School boards should be held accountable for these acts.

Testimony Against: (Appropriations) None.

Persons Testifying: (Education) (In support) Senator Benton, prime sponsor; Senator Kohl-Welles, sponsor; Leslie Jones, citizen/parent; Ben Anderson; Abby Rice; and Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.

(In support with concerns) M. Jeanell Malone, self/kids/teachers; and Lucinda Young, Washington Education Association.

(Opposed) Michael B. Fuller, Association Against Homelessness in America.

Persons Testifying: (Appropriations) (In support) Greg Williamson, OSPI; and Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: (Education) (In support) Rainer Houser, Association of Washington School Principals; and Greg Williamson and Charlie Schreck, Office of the Superintendent of Public Instruction.

(In support with concerns) Barbara Mertens, Washington Association of School Administrators.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.