

# SENATE BILL REPORT

## SHB 2456

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As of February 19, 2004

**Title:** An act relating to the hiring of school district employees.

**Brief Description:** Modifying school district employee hiring requirements.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives McDonald, Lantz, Carrell, Bush, Pearson, Ahern, Haigh, Armstrong, Talcott, Shabro, Holmquist, Kristiansen, Anderson, Chase, Moeller, Morrell and Woods).

**Brief History:**

**Committee Activity:** Education: 2/25/04.

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### SENATE COMMITTEE ON EDUCATION

**Staff:** Heather Lewis-Lechner (786-7448)

**Background:** Under current law, a school district must perform a fingerprint-record check when hiring a staff person who will have regularly scheduled unsupervised access to children. All classroom teachers must have a fingerprint record check when they apply for their teaching certificate.

Under the Public Disclosure Act, public records maintained by an agency concerning its own employees are available for public inspection unless a specific provision of the law exempts the record from disclosure. The act applies to personnel files held by school districts and permits a hiring school district to request records from another school district that was the prior employer of an applicant. The act does not require one school district to request any records. The act contains an extensive list of statutory exemptions to disclosure that includes an exemption for personal information of public employees to the extent that disclosure would violate that employee's "right to privacy" and an exemption for the residential addresses and phone numbers of the employee.

A person's "right to privacy" is violated only if disclosure of the information about the person: (1) would be highly offensive to a reasonable person, and (2) is not a legitimate concern to the public.

**Summary of Bill:** Classified school district employees who apply to another school district must sign a release authorizing the disclosure of any sexual misconduct information, including any related documents in their personnel files. Hiring school districts must request from a classified applicant's current, or immediately previous, school district employer any information about that employee's sexual misconduct including related documents. The information must be provided within 20 days of receiving the request.

School districts that provide the required information are provided immunity when the information is provided in good faith. Sexual misconduct information is only used to evaluate

the applicant's qualifications for the position for which he or she has applied and the information is not disclosed to anyone not directly involved in the evaluation process. A person who wrongfully discloses information is guilty of a misdemeanor.

School districts that are considering applicants for certificated positions must electronically request verification of the applicant's certification status from the Office of the Superintendent of Public Instruction (OSPI). If the results indicate an open investigation or closed investigation that resulted in action being taken, then the district shall request any sexual misconduct information in the applicant's files from OSPI.

Applicants may be employed on a conditional basis pending review of any sexual misconduct information. School districts may not hire a classified applicant who refuses to sign the release.

Starting on September 1, 2004, school districts are prohibited from entering into employment contracts or severance agreements which call for sealing records of sexual misconduct. This prohibition does not apply to existing contracts or agreements.

The State Board of Education defines "sexual misconduct" for application to both classified and certificated employees for purposes of this bill. The definition adopted by the board must include a requirement that the school district make a determination that there is sufficient information to conclude that the abuse or misconduct occurred and that the employee is leaving due to that misconduct.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.