

HOUSE BILL REPORT

HB 3103

As Reported by House Committee On:
Education

Title: An act relating to crimes that require dismissal or certificate revocation for school employees.

Brief Description: Expanding the list of crimes that require dismissal or certificate revocation for school employees.

Sponsors: Representative Darneille.

Brief History:

Committee Activity:

Education: 2/1/08, 2/5/08 [DPS].

Brief Summary of Substitute Bill

- Adds many additional crimes to the list of crimes which result in mandatory termination of certificated and classified school employees, mandatory permanent certificate revocation, and the barring of contractor's employees from school grounds.
- Requires mandatory revocation when the certificate was obtained through fraudulent means.
- Requires the Office of the Superintendent of Public Instruction (OSPI) to review, on a quarterly basis, information provided by the Washington State Patrol regarding convictions and guilty pleas.
- Requires school districts to notify the OSPI of terminations.
- Allows superintendents and administrators to file complaints with the OSPI regarding certificated individuals, regardless of whether the individual is employed by the complainant.

HOUSE COMMITTEE ON EDUCATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Quall, Chair; Barlow, Vice Chair; Priest, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Haigh, Liias, Roach, Santos and Sullivan.

Staff: Cece Clynch (786-7195).

Background:

Mandatory Termination for Certain Crimes. A school district must immediately terminate the employment of any certificated or classified employee upon conviction or a guilty plea to certain specified crimes against children, such as physical injury or death of a child and promoting prostitution of a child. The employee remains terminated unless he or she prevails on appeal.

Discharge for Probable Cause. School districts may discharge certificated school employees for probable cause. Examples of conduct for which an employee could be discharged for probable cause include immorality, sexual misconduct with children, supplying alcohol to minors, abusive behavior toward children, and insubordination. Employees discharged for probable cause have a right to a hearing.

Revocation of Certificate. A certificate must be permanently revoked by the Office of the Superintendent of Public Instruction (OSPI) upon a guilty plea or the conviction of any of the same crimes against children for which an employee must be terminated. This permanent mandatory revocation provision applies to pleas or convictions after July 23, 1989. A person whose certificate has been permanently revoked has a right of appeal.

In addition, upon a finding that an employee has engaged in an unauthorized use of school equipment to intentionally access material depicting sexually explicit conduct or has intentionally possessed on school grounds any material depicting sexually explicit conduct, the certificate must be suspended or revoked. A first time violation results in either suspension or revocation, as determined by the OSPI. A second violation results in mandatory revocation.

Certificates may also be revoked for immorality, violation of written contract, unprofessional conduct, intemperance, or crimes against the law of the state. A due process hearing is available.

Contractor's Employees Barred From School. Additionally, any contract for services entered into by a school district must provide that any of the contractor's employees convicted or pleading guilty to these same specified crimes must be prohibited from working at a public school.

Upon a person's conviction or plea of guilty for any of the specified crimes which result in mandatory termination and revocation, a prosecuting attorney must notify the Washington State Patrol (WSP). The WSP, in turn, is required to notify the OSPI. The OSPI is required to review the information provided by the WSP to determine whether the person holds a

certificate issued by the OSPI. If so, the OSPI must provide this information to the Professional Educator Standards Board and the employing school district.

Summary of Substitute Bill:

The list of crimes, for which convictions or pleas of guilty result in mandatory termination, is expanded to include crimes such as any felony with sexual motivation, felony indecent exposure, incest, kidnaping, and robbery. The victim of the crime need not be a child or minor. Attempts, conspiracies, or solicitations to commit any of the crimes on the list are also cause for mandatory termination. The new provisions apply to convictions or pleas of guilty which occur on or after the effective date.

Certificates must be revoked upon a guilty plea or conviction for any of the crimes on the expanded list. Contractor's employees who have been convicted of any of these crimes are prohibited from the school.

Mandatory revocation must also occur upon a finding that the certificate holder obtained the certificate through fraudulent means, including misrepresentation of required academic credentials or prior criminal record.

The list of crimes which must be reported to the OSPI, are similarly expanded to include the new crimes as well as the crimes against children already specified in law. The OSPI must review the information provided by the WSP on at least a quarterly basis.

School districts are required to notify the OSPI regarding terminations. School districts are prohibited from reaching agreements which are in conflict with the termination and notice provisions in the bill.

Substitute Bill Compared to Original Bill:

Assault 3 is included on the list for which mandatory termination and revocation result, but only if the victim is under the age of 18.

Additional provisions require:

- mandatory termination and revocation upon conviction or a plea of guilty to felony indecent exposure;
- mandatory revocation when the certificate was obtained by fraudulent means; and
- the OSPI to review, on a quarterly basis, criminal information provided by the WSP.

The substitute bill explicitly states that employment contracts with classified and certificated staff must be in accord with the mandatory termination provisions. A provision is also added to specifically allow school superintendents and administrators to file complaints with the OSPI regarding certificated individuals regardless of whether the individuals are employed by the complaining superintendent or administrator.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Recent egregious incidents have heightened awareness that there are some school employees with criminal backgrounds who should not be allowed to work in the schools. While current law provides for mandatory termination and revocation with respect to some crimes against children, it is time to update the law to include other crimes and remove the limitation with respect to the age of the victim. These additions will allow districts to immediately remove these persons from employment positions. School administrators should also be allowed to file complaints with the OSPI regardless of whether the certificated staff is employed in the administrator's district or another district. Care should be taken to make sure that a barroom brawl does not result in mandatory termination or revocation. Felony convictions on the part of teachers and staff are not good modeling for the students. Good moral character on the part of the adults in the schools is important. Teachers and staff do not have to fear these severe consequences might be based on false accusations.

(Opposed) None.

Persons Testifying: Representative Darneille, prime sponsor; Representative McDonald; Representative Barlow; Art Jarvis and Lorraine Wilson, Tacoma Public Schools; Lucinda Young, Washington Education Association; Charles Schreck, Office of the Superintendent of Public Instruction; and Jerry Bender, Association of Washington School Principals.

Persons Signed In To Testify But Not Testifying: None.