
HOUSE BILL 2772

State of Washington 60th Legislature 2008 Regular Session

By Representatives Barlow, Sequist, Wood, O'Brien, Ormsby, Warnick, Schual-Berke, Quall, Moeller, Roberts, Morrell, and Kelley

Read first time 01/16/08. Referred to Committee on Education.

1 AN ACT Relating to dismissal or certificate revocation for school
2 employees; and amending RCW 28A.400.320, 28A.400.330, 28A.405.470,
3 28A.410.090, 28A.410.110, and 9.96A.020.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 28A.400.320 and 1990 c 33 s 383 are each amended to
6 read as follows:

7 (1) The school district board of directors shall immediately
8 terminate the employment of any classified employee who has contact
9 with children during the course of his or her employment upon a guilty
10 plea or conviction of any of the following felony crimes:

11 (a) Any felony crime involving the physical neglect of a child
12 under chapter 9A.42 RCW((τ))*i*

13 (b) The physical injury or death of a child under chapter 9A.32 or
14 9A.36 RCW (except motor vehicle violations under chapter 46.61
15 RCW)((τ))*i*

16 (c) Sexual exploitation of a child under chapter 9.68A RCW((τ))*i*

17 (d) Sexual offenses under chapter 9A.44 RCW where a minor is the
18 victim((τ))*i*

19 (e) Promoting prostitution of a minor under chapter 9A.88 RCW((τ))*i*

1 (f) The sale or purchase of a minor child under RCW 9A.64.030((~~7~~));
2 (g) For guilty pleas or convictions that occur after the effective
3 date of this section, felony indecent exposure under RCW 9A.88.010; or
4 (h) Violation of similar laws of another jurisdiction.

5 (2) The employee shall have a right of appeal under chapter 28A.645
6 RCW including any right of appeal under a collective bargaining
7 agreement.

8 **Sec. 2.** RCW 28A.400.330 and 1989 c 320 s 4 are each amended to
9 read as follows:

10 (1) The school district board of directors shall include in any
11 contract for services with an entity or individual other than an
12 employee of the school district a provision requiring the contractor to
13 prohibit any employee of the contractor from working at a public school
14 who has contact with children at a public school during the course of
15 his or her employment and who has pled guilty to or been convicted of
16 any of the following felony crimes:

17 (a) Any felony crime involving the physical neglect of a child
18 under chapter 9A.42 RCW((~~7~~));

19 (b) The physical injury or death of a child under chapter 9A.32 or
20 9A.36 RCW (except motor vehicle violations under chapter 46.61
21 RCW)((~~7~~));

22 (c) Sexual exploitation of a child under chapter 9.68A RCW((~~7~~));

23 (d) Sexual offenses under chapter 9A.44 RCW where a minor is the
24 victim((~~7~~));

25 (e) Promoting prostitution of a minor under chapter 9A.88 RCW((~~7~~));

26 (f) The sale or purchase of a minor child under RCW 9A.64.030((~~7~~));

27 (g) Felony indecent exposure under RCW 9A.88.010; or

28 (h) Violation of similar laws of another jurisdiction.

29 (2) The contract shall also contain a provision that any failure to
30 comply with this section shall be grounds for the school district
31 immediately terminating the contract.

32 **Sec. 3.** RCW 28A.405.470 and 1990 c 33 s 405 are each amended to
33 read as follows:

34 (1) The school district shall immediately terminate the employment
35 of any person whose certificate or permit authorized under chapter

1 28A.405 or 28A.410 RCW is subject to revocation under RCW
2 28A.410.090(~~(+2)~~) (3) upon a guilty plea or conviction of any of the
3 following felony crimes:

4 (a) Any felony crime involving the physical neglect of a child
5 under chapter 9A.42 RCW(~~(7)~~);

6 (b) The physical injury or death of a child under chapter 9A.32 or
7 9A.36 RCW (except motor vehicle violations under chapter 46.61
8 RCW)(~~(7)~~);

9 (c) Sexual exploitation of a child under chapter 9.68A RCW(~~(7)~~);

10 (d) Sexual offenses under chapter 9A.44 RCW where a minor is the
11 victim(~~(7)~~);

12 (e) Promoting prostitution of a minor under chapter 9A.88 RCW(~~(7)~~);

13 (f) The sale or purchase of a minor child under RCW 9A.64.030(~~(7)~~);

14 (g) For guilty pleas or convictions that occur after the effective
15 date of this section, felony indecent exposure under RCW 9A.88.010; or

16 (h) Violation of similar laws of another jurisdiction.

17 (2) Employment shall remain terminated unless the employee
18 successfully prevails on appeal. This section shall only apply to
19 employees holding a certificate or permit who have contact with
20 children during the course of their employment.

21 **Sec. 4.** RCW 28A.410.090 and 2005 c 461 s 2 are each amended to
22 read as follows:

23 (1) Any certificate or permit authorized under the provisions of
24 this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may
25 be revoked or suspended by the authority authorized to grant the same
26 based upon a criminal records report authorized by law, or upon the
27 complaint of any school district superintendent, educational service
28 district superintendent, or private school administrator for
29 immorality, violation of written contract, unprofessional conduct,
30 intemperance, or crime against the law of the state.

31 If the superintendent of public instruction has reasonable cause to
32 believe that an alleged violation of this chapter or rules adopted
33 under it has occurred based on a written complaint alleging physical
34 abuse or sexual misconduct by a certificated school employee filed by
35 a parent or another person, but no complaint has been forwarded to the
36 superintendent by a school district superintendent, educational service
37 district superintendent, or private school administrator, and that a

1 school district superintendent, educational service district
2 superintendent, or private school administrator has sufficient notice
3 of the alleged violation and opportunity to file a complaint, the
4 superintendent of public instruction may cause an investigation to be
5 made of the alleged violation, together with such other matters that
6 may be disclosed in the course of the investigation related to
7 certificated personnel.

8 (2) A parent or another person may file a written complaint with
9 the superintendent of public instruction alleging physical abuse or
10 sexual misconduct by a certificated school employee if:

11 (a) The parent or other person has already filed a written
12 complaint with the educational service district superintendent
13 concerning that employee;

14 (b) The educational service district superintendent has not caused
15 an investigation of the allegations and has not forwarded the complaint
16 to the superintendent of public instruction for investigation; and

17 (c) The written complaint states the grounds and factual basis upon
18 which the parent or other person believes an investigation should be
19 conducted.

20 (3)(a) Any such certificate or permit authorized under this chapter
21 or chapter 28A.405 RCW shall be revoked by the authority authorized to
22 grant the certificate upon a guilty plea or the conviction of any of
23 the following felony crimes:

24 (i) Any felony crime involving the physical neglect of a child
25 under chapter 9A.42 RCW((~~τ~~));

26 (ii) The physical injury or death of a child under chapter 9A.32 or
27 9A.36 RCW (excepting motor vehicle violations under chapter 46.61
28 RCW)((~~τ~~));

29 (iii) Sexual exploitation of a child under chapter 9.68A RCW((~~τ~~));

30 (iv) Sexual offenses under chapter 9A.44 RCW where a minor is the
31 victim((~~τ~~));

32 (v) Promoting prostitution of a minor under chapter 9A.88 RCW((~~τ~~));

33 (vi) The sale or purchase of a minor child under RCW
34 9A.64.030((~~τ~~));

35 (vii) Felony indecent exposure under RCW 9A.88.010; or

36 (viii) Violation of similar laws of another jurisdiction.

37 (b) The person whose certificate is in question shall be given an
38 opportunity to be heard.

1 (c) Mandatory permanent revocation upon a guilty plea or the
2 conviction of felony crimes specified under (a)(i) through (a)(vi) of
3 this subsection or similar laws in another jurisdiction shall apply to
4 such convictions or guilty pleas which occur after July 23, 1989.
5 Revocation of any certificate or permit authorized under this chapter
6 or chapter 28A.405 RCW for a guilty plea or criminal conviction of a
7 crime subject to this subsection (3)(c) occurring prior to July 23,
8 1989, shall be subject to the provisions of subsection (1) of this
9 section.

10 (d) Mandatory permanent revocation upon a guilty plea or the
11 conviction of felony crimes specified under (a)(vii) of this subsection
12 or similar laws in another jurisdiction shall apply to such convictions
13 or guilty pleas that occur after the effective date of this section.
14 Revocation of any certificate or permit authorized under this chapter
15 or chapter 28A.405 RCW for a guilty plea or criminal conviction of a
16 crime under this subsection (3)(d) occurring before the effective date
17 of this section, is subject to the provisions of subsection (1) of this
18 section.

19 (4)(a) Any such certificate or permit authorized under this chapter
20 or chapter 28A.405 RCW shall be suspended or revoked, according to the
21 provisions of this subsection, by the authority authorized to grant the
22 certificate upon a finding that an employee has engaged in an
23 unauthorized use of school equipment to intentionally access material
24 depicting sexually explicit conduct or has intentionally possessed on
25 school grounds any material depicting sexually explicit conduct; except
26 for material used in conjunction with established curriculum. A first
27 time violation of this subsection shall result in either suspension or
28 revocation of the employee's certificate or permit as determined by the
29 office of the superintendent of public instruction. A second violation
30 shall result in a mandatory revocation of the certificate or permit.

31 (b) In all cases under this subsection (4), the person whose
32 certificate is in question shall be given an opportunity to be heard
33 and has the right to appeal as established in RCW 28A.410.100.
34 Certificates or permits shall be suspended or revoked under this
35 subsection only if findings are made on or after July 24, 2005. For
36 the purposes of this subsection, "sexually explicit conduct" has the
37 same definition as provided in RCW 9.68A.011.

1 **Sec. 5.** RCW 28A.410.110 and 1990 c 33 s 410 are each amended to
2 read as follows:

3 In case any certificate or permit authorized under this chapter or
4 chapter 28A.405 RCW is revoked, the holder shall not be eligible to
5 receive another certificate or permit for a period of twelve months
6 after the date of revocation. However, if the certificate or permit
7 authorized under this chapter or chapter 28A.405 RCW was revoked
8 because of a guilty plea or the conviction of any of the following
9 felony crimes, the certificate or permit shall not be reinstated:

10 (1) A felony crime involving the physical neglect of a child under
11 chapter 9A.42 RCW((τ))i

12 (2) The physical injury or death of a child under chapter 9A.32 or
13 9A.36 RCW (except motor vehicle violations under chapter 46.61
14 RCW)((τ))i

15 (3) Sexual exploitation of a child under chapter 9.68A RCW((τ))i

16 (4) Sexual offenses under chapter 9A.44 RCW where a minor is the
17 victim((τ))i

18 (5) Promoting prostitution of a minor under chapter 9A.88 RCW((τ))i

19 (6) The sale or purchase of a minor child under RCW 9A.64.030((τ))i

20 (7) For guilty pleas or convictions that occur after the effective
21 date of this section, felony indecent exposure under RCW 9A.88.010; or

22 (8) Violation of similar laws of another jurisdiction, the
23 certificate or permit shall not be reinstated.

24 **Sec. 6.** RCW 9.96A.020 and 1999 c 16 s 1 are each amended to read
25 as follows:

26 (1) Subject to the exceptions in subsections (3) and (4) of this
27 section, and unless there is another provision of law to the contrary,
28 a person is not disqualified from employment by the state of Washington
29 or any of its counties, cities, towns, municipal corporations, or
30 quasi-municipal corporations, nor is a person disqualified to practice,
31 pursue or engage in any occupation, trade, vocation, or business for
32 which a license, permit, certificate or registration is required to be
33 issued by the state of Washington or any of its counties, cities,
34 towns, municipal corporations, or quasi-municipal corporations solely
35 because of a prior conviction of a felony. However, this section does
36 not preclude the fact of any prior conviction of a crime from being
37 considered.

1 (2) A person may be denied employment by the state of Washington or
2 any of its counties, cities, towns, municipal corporations, or quasi-
3 municipal corporations, or a person may be denied a license, permit,
4 certificate or registration to pursue, practice or engage in an
5 occupation, trade, vocation, or business by reason of the prior
6 conviction of a felony if the felony for which he or she was convicted
7 directly relates to the position of employment sought or to the
8 specific occupation, trade, vocation, or business for which the
9 license, permit, certificate or registration is sought, and the time
10 elapsed since the conviction is less than ten years. However, for
11 positions in the county treasurer's office, a person may be
12 disqualified from employment because of a prior guilty plea or
13 conviction of a felony involving embezzlement or theft, even if the
14 time elapsed since the guilty plea or conviction is ten years or more.

15 (3) A person is disqualified for any certificate required or
16 authorized under chapters 28A.405 or 28A.410 RCW, because of a prior
17 guilty plea or the conviction of (~~a felony involving sexual~~
18 ~~exploitation of a child under chapter 9.68A RCW, sexual offenses under~~
19 ~~chapter 9A.44 RCW where a minor is the victim, promoting prostitution~~
20 ~~of a minor under chapter 9A.88 RCW, or a violation of similar laws of~~
21 ~~another jurisdiction)) any felony crime under subsection (5) of this
22 section, even if the time elapsed since the guilty plea or conviction
23 is ten years or more.~~

24 (4) A person is disqualified from employment by school districts,
25 educational service districts, and their contractors hiring employees
26 who will have regularly scheduled unsupervised access to children,
27 because of a prior guilty plea or conviction of (~~a felony involving~~
28 ~~sexual exploitation of a child under chapter 9.68A RCW, sexual offenses~~
29 ~~under chapter 9A.44 RCW where a minor is the victim, promoting~~
30 ~~prostitution of a minor under chapter 9A.88 RCW, or a violation of~~
31 ~~similar laws of another jurisdiction)) any felony crime under
32 subsection (5) of this section, even if the time elapsed since the
33 guilty plea or conviction is ten years or more.~~

34 (5) As provided in subsection (6) of this section, subsections (3)
35 and (4) of this section apply to the following felony crimes:

36 (a) Any felony crime involving the physical neglect of a child
37 under chapter 9A.42 RCW;

1 (b) The physical injury or death of a child under chapter 9A.32 or
2 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW);
3 (c) Sexual exploitation of a child under chapter 9.68A RCW;
4 (d) Sexual offenses under chapter 9A.44 RCW where a minor is the
5 victim;
6 (e) Promoting prostitution of a minor under chapter 9A.88 RCW;
7 (f) The sale or purchase of a minor child under RCW 9A.64.030;
8 (g) Felony indecent exposure under RCW 9A.88.010; or
9 (h) Violation of similar laws of another jurisdiction.
10 (6) Subsections (3) and (4) of this section as they pertain to
11 felony crimes specified under subsection (5)(a) through (f) of this
12 section or similar laws of another jurisdiction only apply to a person
13 applying for a certificate or for employment on or after July 25, 1993.
14 Subsections (3) and (4) of this section as they pertain to felony
15 crimes specified under subsection (5)(g) of this section or similar
16 laws of another jurisdiction apply to a person applying for a
17 certificate or for employment after the effective date of this section.

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