
SUBSTITUTE SENATE BILL 6443

State of Washington

60th Legislature

2008 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Kohl-Welles, McAuliffe, Weinstein, Kauffman, Brandland, McDermott, Shin, Rasmussen, and Carrell)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to disciplinary actions for education employees
2 committing sexual offenses; and amending RCW 28A.400.320, 28A.400.330,
3 28A.405.470, 28A.410.090, and 28A.410.110.

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:

11 (a) Any felony crime involving the physical neglect of a child
12 under chapter 9A.42 RCW, the physical injury or death of a child under
13 chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under
14 chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A
15 RCW, sexual offenses under chapter 9A.44 RCW (~~where a minor is the~~
16 ~~victim~~)), promoting prostitution of a minor under chapter 9A.88 RCW,
17 the sale or purchase of a minor child under RCW 9A.64.030, or violation
18 of similar laws of another jurisdiction; or

1 (b) Sexual misconduct with a minor in the second degree under RCW
2 9A.44.096 or custodial sexual misconduct in the second degree under RCW
3 9A.44.170.

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

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

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

15 (a) Any felony crime involving the physical neglect of a child
16 under chapter 9A.42 RCW, the physical injury or death of a child under
17 chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under
18 chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A
19 RCW, sexual offenses under chapter 9A.44 RCW (~~where a minor is the~~
20 ~~victim~~)), promoting prostitution of a minor under chapter 9A.88 RCW,
21 the sale or purchase of a minor child under RCW 9A.64.030, or violation
22 of similar laws of another jurisdiction; or

23 (b) Sexual misconduct with a minor in the second degree under RCW
24 9A.44.096 or custodial sexual misconduct in the second degree under RCW
25 9A.44.170.

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

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

31 (1) The school district shall immediately terminate the employment
32 of any person whose certificate or permit authorized under chapter
33 28A.405 or 28A.410 RCW is subject to revocation under RCW
34 28A.410.090(~~(+2)~~) (3) upon a guilty plea or conviction of:

35 (a) Any felony crime involving the physical neglect of a child
36 under chapter 9A.42 RCW, the physical injury or death of a child under

1 chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under
2 chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A
3 RCW, sexual offenses under chapter 9A.44 RCW (~~where a minor is the~~
4 ~~victim~~)), promoting prostitution of a minor under chapter 9A.88 RCW,
5 the sale or purchase of a minor child under RCW 9A.64.030, or violation
6 of similar laws of another jurisdiction; or

7 (b) Sexual misconduct with a minor in the second degree under RCW
8 9A.44.096 or custodial sexual misconduct in the second degree under RCW
9 9A.44.170.

10 (2) Employment shall remain terminated unless the employee
11 successfully prevails on appeal.

12 (3) This section shall only apply to employees holding a
13 certificate or permit who have contact with children during the course
14 of their employment.

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

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

25 If the superintendent of public instruction has reasonable cause to
26 believe that an alleged violation of this chapter or rules adopted
27 under it has occurred based on a written complaint alleging physical
28 abuse or sexual misconduct by a certificated school employee filed by
29 a parent or another person, but no complaint has been forwarded to the
30 superintendent by a school district superintendent, educational service
31 district superintendent, or private school administrator, and that a
32 school district superintendent, educational service district
33 superintendent, or private school administrator has sufficient notice
34 of the alleged violation and opportunity to file a complaint, the
35 superintendent of public instruction may cause an investigation to be
36 made of the alleged violation, together with such other matters that

1 may be disclosed in the course of the investigation related to
2 certificated personnel.

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

6 (a) The parent or other person has already filed a written
7 complaint with the educational service district superintendent
8 concerning that employee;

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

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

15 (3)(a) Any such certificate or permit authorized under this chapter
16 or chapter 28A.405 RCW shall be revoked by the authority authorized to
17 grant the certificate upon a guilty plea or the conviction of:

18 (i) Any felony crime involving the physical neglect of a child
19 under chapter 9A.42 RCW, the physical injury or death of a child under
20 chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under
21 chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A
22 RCW, sexual offenses under chapter 9A.44 RCW (~~where a minor is the~~
23 ~~victim~~)), promoting prostitution of a minor under chapter 9A.88 RCW,
24 the sale or purchase of a minor child under RCW 9A.64.030, or violation
25 of similar laws of another jurisdiction; or

26 (ii) Sexual misconduct with a minor in the second degree under RCW
27 9A.44.096 or custodial sexual misconduct in the second degree under RCW
28 9A.44.170.

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

31 (c) Mandatory permanent revocation upon a guilty plea or the
32 conviction of felony crimes specified under this subsection shall apply
33 to such convictions or guilty pleas which occur after July 23, 1989.
34 Revocation of any certificate or permit authorized under this chapter
35 or chapter 28A.405 RCW for a guilty plea or criminal conviction
36 occurring prior to July 23, 1989, shall be subject to the provisions of
37 subsection (1) of this section.

1 (4)(a) Any such certificate or permit authorized under this chapter
2 or chapter 28A.405 RCW shall be suspended or revoked, according to the
3 provisions of this subsection, by the authority authorized to grant the
4 certificate upon a finding that an employee has engaged in an
5 unauthorized use of school equipment to intentionally access material
6 depicting sexually explicit conduct or has intentionally possessed on
7 school grounds any material depicting sexually explicit conduct; except
8 for material used in conjunction with established curriculum. A first
9 time violation of this subsection shall result in either suspension or
10 revocation of the employee's certificate or permit as determined by the
11 office of the superintendent of public instruction. A second violation
12 shall result in a mandatory revocation of the certificate or permit.

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

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

22 In case any certificate or permit authorized under this chapter or
23 chapter 28A.405 RCW is revoked, the holder shall not be eligible to
24 receive another certificate or permit for a period of twelve months
25 after the date of revocation. However, ~~((if the))~~ a certificate or
26 permit authorized under this chapter or chapter 28A.405 RCW shall not
27 be reinstated if it was revoked because of a guilty plea or the
28 conviction of:

29 (1) A felony crime involving the physical neglect of a child under
30 chapter 9A.42 RCW, the physical injury or death of a child under
31 chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under
32 chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A
33 RCW, sexual offenses under chapter 9A.44 RCW ~~((where a minor is the~~
34 ~~victim))~~, promoting prostitution of a minor under chapter 9A.88 RCW,
35 the sale or purchase of a minor child under RCW 9A.64.030, or violation
36 of similar laws of another jurisdiction~~((, the certificate or permit~~
37 ~~shall not be reinstated))~~; or

1 (2) Sexual misconduct with a minor in the second degree under RCW
2 9A.44.096 or custodial sexual misconduct in the second degree under RCW
3 9A.44.170.

--- END ---