

HOUSE BILL REPORT

SSB 6138

As Reported By House Committee On:
Judiciary

Title: An act relating to obstructing a law enforcement officer.

Brief Description: Changing obstructing a public servant to obstructing a law enforcement officer.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson).

Brief History:

Reported by House Committee on:
Judiciary, February 25, 1994, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 16 members: Representatives Appelwick, Chair; Johanson, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; J. Kohl; Long; Morris; H. Myers; Riley; Schmidt; Scott; Tate and Wineberry.

Minority Report: Do not pass. Signed by 1 member: Representative Eide.

Staff: Pat Shelledy (786-7149).

Background: The crime of obstructing a public servant is a misdemeanor. A person can violate the statute in one of three ways, as follows:

- (1) Without lawful excuse, refuse or knowingly fail to make a statement lawfully required of him or her to a public servant;
- (2) Make a knowingly false statement to a public servant;
or
- (3) Knowingly hinder, delay, or obstruct any public servant in the discharge of official duties.

The Washington State Supreme Court has held that subsections (1) and (2) of the statute are unconstitutionally vague.

The court has also held that a public servant may not be permitted to "lawfully require" statements of its citizens under the statute.

Summary of Amended Bill: A person is guilty of obstructing a law enforcement officer if the person:

- (a) Willfully makes a false or misleading statement to a law enforcement officer who has detained the person during the course of a lawful investigation or lawful arrest; or
- (b) Willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official duties.

"Law enforcement officer" is defined to include a variety of officers who apprehend persons committing infractions and crimes. The crime of obstructing a law enforcement officer is raised to a gross misdemeanor.

Amended Bill Compared to Substitute Bill: The bill is stricken and rewritten to address issues of the constitutional validity of the statute that the underlying bill did not resolve; to delete a provision which provided that a person could be charged with obstructing if the person made an "exaggerated" statement to a law enforcement officer; to correct a grammatical error which had a substantive impact; to redefine "law enforcement officer" to include a broader variety of law enforcement officers, including reserve officers; and to increase the crime from a misdemeanor to a gross misdemeanor.

Fiscal Note: Not requested.

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

Testimony For: The law needs to be changed, because the Supreme Court has held that most of the current law is unconstitutional.

Testimony Against: The bill as drafted is still unconstitutional and is too broad in scope.

Witnesses: Tim Erickson Washington State Patrol (pro); and Jerry Sheehan, American Civil Liberties Union (con).