

HOUSE BILL REPORT

ESHB 2769

As Passed House:

February 16, 1998

Title: An act relating to reporting felonies committed by state employees.

Brief Description: Establishing procedure for reporting felonies by state employees.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Clements, Sheahan, Zellinsky, Wensman, McMorris, Honeyford, Lisk, Sterk, Lambert and Mulliken).

Brief History:

Committee Activity:

Law & Justice: 2/4/98, 2/6/98 [DPS].

Floor Activity:

Passed House: 2/16/98, 94-4.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz and Mulliken.

Minority Report: Do not pass. Signed by 2 members: Representatives Robertson and Sherstad.

Staff: Trudes Hutcheson (786-7384).

Background: With the exception of certain reporting requirements pertaining to child abuse, there is generally no statute requiring a person who suspects that a crime has been committed to report the alleged crime to a law enforcement agency.

The office of crime victims advocacy (OCVA) was established by the Legislature as part of the department of community, trade, and economic development. The OCVA assists communities in implementing services for crime victims and advocates on behalf of victims in obtaining needed services and resources. The OCVA also administers grant programs for sexual assault treatment and prevention services.

The Sentencing Reform Act contains recommended prosecuting standards for charging and plea dispositions. The recommended standards classify crimes into two categories: crimes against person and crimes against property. Among the list of crimes against persons are various degrees of murder, assault, rape, robbery, and burglary.

The attorney general's office has an administrative policy that establishes procedures to follow when the attorney general receives a report that a state employee has engaged in criminal misconduct related to the employee's job.

Summary of Bill: Every state agency and institution of higher education must develop a policy requiring the agency or institution to report to the office of crime victims advocacy (OCVA) when there is reasonable cause to believe, based on a internal agency report or any investigation, that a state employee has committed a crime against a person and the crime involves conduct occurring in, or related to, the workplace. If the crime is not a crime against a person, the policy must require that a report be made to the attorney general. The policy must establish procedures for when an agency or institution may report directly to law enforcement or the local prosecutor. "Crimes against persons" are those crimes listed in the recommended prosecuting standards.

The attorney general must develop a policy that establishes procedures for investigating, reporting, and resolving incidents that agencies and institutions report to the attorney general. The attorney general's policy must require the attorney general to act in a manner that protects the victim, the citizens of the state, and the state. The attorney general's policy must also require the attorney general to report to law enforcement or the prosecutor all instances of crimes that are not crimes against persons.

The attorney general must submit a report annually, and the OCVA must submit a report quarterly, to the Legislature on the types of crimes reported, the costs incurred by the agency for investigating and adjudicating the crimes, and other various information.

The agencies, institutions of higher learning, and attorney general must develop their policies by September 1, 1998. The bill contains a null and void clause.

Appropriation: None.

Fiscal Note: Requested January 30, 1998.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

Testimony For: Victims often are too afraid or confused to report the crime, especially when the offender is a co-worker. Other state employees should have the duty to notify law enforcement when they believe a crime has been committed.

Testimony Against: The victim must have some power to make the decision as to whether or not to go forward and report a crime. The bill requires untrained individuals to make the determination of whether there is reasonable cause to believe a felony has been committed. Although the attorney general is allowed to not report the crime if the victim signs a hold harmless agreement, the state may still be liable for future crimes the offender commits against others.

Testified: Representative Clements, prime sponsor; Robin White, citizen (pro); Bob Evans, citizen (pro); Suzanne Brown, Washington Coalition of Sexual Assault Programs (concerns); Scott Blonien and Shirley Bottom, Office of the Attorney General (concerns); Bev Hermanson, Washington Federation of State Employees (serious concerns); and Ellie Menzies (serious concerns).