

HOUSE BILL REPORT

HB 1506

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to a bill of rights for peace officers.

Brief Description: Creating a bill of rights for peace officers.

Sponsors: Representatives Robertson, O'Brien, Delvin, Hatfield, McDonald, Morris, Bush, Sterk, Smith, K. Schmidt, Hickel, Zellinsky, Scott, Conway, Regala, Sullivan, Chandler, Cooper, Costa, Linville, Mitchell, Schoesler, Thompson, Anderson, Carrell and Dunn.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/21/97, 2/26/97 [DPS].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; O'Brien, Assistant Ranking Minority Member; Blalock; Cairnes; Delvin; Dickerson; Hickel; Mitchell; Robertson and Sullivan.

Staff: Yvonne Walker (786-7841).

Background: The rights of police officers who are being investigated are protected in several ways. In Washington, if a police force is unionized then generally a bill of rights— is worked out by agreement between the union and the department. Some municipalities or counties may also have passed ordinances defining these rights. Further, police officers in general have certain constitutional rights based on the Fifth Amendment to the United States Constitution. The United States Supreme Court has held that a public employer may discharge an employee for refusing to answer specific questions relating to his or her official duties, but only after advising that employee that failure to answer may result in dismissal and that any answers that are obtained from the employee cannot be used against him or her in criminal proceedings.

Summary of Substitute Bill: Labor Training Program. Effective December 31, 1997, the Criminal Justice Training Commission, along with the Washington

Association of Sheriffs and Police Chiefs (WASPC), and the Washington Council of Police Officers, must implement a labor training program, and by January 1998 it must be incorporated as part of the basic training course. The curriculum must include classes on the following:

- due process case law requirements;
- civil service, state labor law and contracts;
- Miranda requirements;
- polygraph requirements;
- retaining and expunging personnel files;
- providing reasonable notice; and
- responding to threats, promises & rewards.

The commission must develop a labor law training guide for distribution to all law enforcement officers.

Law enforcement agencies must implement disciplinary and grievance procedures in order to receive their accreditation from WASPC.

Internal Investigations. During an internal investigation, prior to any questioning all officers must be advised in writing as to whether they are suspected of conduct that could be grounds for termination, suspension or other disciplinary action, and whether they are a witness or suspect. Officers under investigation must be advised of their right to representation by an attorney, as well as to have a labor representative present during questioning. All interviews must be mechanically recorded and take place within a reasonable time.

An officers may take intermissions as he or she may reasonably request. Throughout the interview an officer cannot be threatened with dismissal or other disciplinary punishment in an attempt to obtain his or her resignation, nor may he or she be subjected to any offensive language or intimidation in any other manner. Promises and rewards cannot be made as an inducement for the accused officer to answer questions.

Records. Internal investigation files that do not result in specific findings of misconduct must not be included in that officer's personnel file, be considered a public record, or form the basis of peace officer discipline. Statements from witness officers must be sealed from public viewing.

Upon an officer's request, all written reprimands must be deleted from that officer's personnel files after a minimum period of five years in all cases if there is no recurrence of similar misconduct for which the officer was disciplined during that period.

Employers are not required to destroy any employment records necessary to an employer's case if they are engaged in litigation that is in any way related to that officer's employment at the time those records would otherwise be destroyed.

Complaints. A person who slanders a police officer in a complaint is not immune from civil damages that result from that complaint.

Bill of Rights. By July 31, 2000, all police departments must include in their collective bargaining agreements a peace officer bill of rights. Those agencies that do not adopt a bill of rights within that time frame will be governed by this entire bill .

Substitute Bill Compared to Original Bill: Clarifies the due process procedures for all peace officers who become the subject of only noncriminal police investigations instead of both criminal and noncriminal police investigations as stated in the underlying bill.

Labor Training Program. Effective December 31, 1997, the Criminal Justice Training Commission, along with the WASPC, and the Washington Council of Police Officers, must implement a labor training program, and by January, 1998 it must be incorporated as part of the basic training course.

The commission must develop a labor law training guide for distribution to all law enforcement officers.

Law enforcement agencies must implement disciplinary and grievance procedures in order to receive their accreditation from WASPC.

Internal Investigations. All interviews must be mechanically recorded.

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Appropriation: None.

Fiscal Note: Requested on February 4, 1997.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed. However, section 7 contains an emergency clause and takes effect on July 1, 1997.

Testimony For: Police officers will now not only be judged on the basis of their conduct, but also on the basis of their due process rights. This bill will help to reduce the amount of police corruption from the top down and is not intended to act as an impediment to ongoing criminal investigations. The proper implementation of disciplinary actions will ensure that law enforcement officers have a right to a process within their agency that affords the protection of state law and labor regulations.

Testimony Against: This bill is not needed since most local law enforcement agencies already have and implement certain procedures on handling internal investigations. This bill will only create another cumbersome procedure that local law enforcement agencies will now have to follow. This is just another level of bureaucracy that law enforcement agencies will be mandated to implement.

Testified: Representative Eric Robertson, prime sponsor (pro); Mike Patrick, Washington State Council of Police Officers (pro); Chris Vick, Washington State Council of Police Officers (pro); Steve Eggert, Washington State Council of Police Officers (pro); Rick Jensen, Trooper's Association (pro); Frank Kampsev, Seattle Police Guild (pro); Randy Hamilton, Washington Association of Sheriffs and Police Chiefs (con); Annette Sandberg, Washington State Patrol (con); Rowan Hinds, Association of Washington Cities (con); Otto Klein, Association of Washington Cities (con); and Will Aitchinson, Washington State Council of Police Officers (pro).