

HOUSE BILL REPORT

HB 2326

As Reported By House Committee On:

Law & Justice

Title: An act relating to law enforcement personnel records and internal affairs files.

Brief Description: Limiting access to law enforcement personnel records and internal affairs files.

Sponsors: Representatives Sterk, Bush, Van Luven, Dunn and Sheahan.

Brief History:

Committee Activity:

Law & Justice: 1/16/98, 1/23/98 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Staff: Bill Perry (786-7123).

Background: Various statutes and court rules govern the procedures and conduct of a court action. Rules of evidence govern the kind of evidence that is admissible in a case, how the evidence must be introduced, and the restrictions that apply to the use of particular evidence that is admitted in the action. The court may only allow introduction of "relevant" evidence, which is evidence that has any tendency to make a fact of consequence in the case more or less probable than it would be without the evidence.

Documents or records that contain information that is relevant to the action may also contain irrelevant information that is highly sensitive or prejudicial. For example, relevant documents may contain "trade secrets" that a party has a right to protect from disclosure at the trial. The party seeking to prevent disclosure of sensitive material contained in relevant documents may petition the court to review the documents "in camera" and strike out any portions that are not relevant to the trial. "In camera" review of documents by a judge means that the judge reviews the records in his or her chambers or outside the presence of the jurors and spectators.

Summary of Substitute Bill: A judge in a civil or criminal action where a party offers as evidence the personnel record or internal affairs files of a law enforcement agency may not allow introduction of the record or file without inspecting the records or files in camera to determine the material's relevance. This requirement does not apply to a record or file that relates to a law enforcement officer who is a party to the action.

Substitute Bill Compared to Original Bill: The original bill provided an exemption from the disclosure requirements of the Public Disclosure Act for the personnel records and internal affairs files of law enforcement personnel. The original bill prohibited law enforcement agencies from releasing these records or files to parties to a civil or criminal legal action without the consent of the law enforcement personnel, or a court order.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Defense attorneys frequently request the personnel and internal affairs files relating to a law enforcement officer to discredit the officer at trial. Law enforcement officers should not have their personal information and information about their family released in a criminal trial. The law should allow relevant information into trial but should not allow defense attorneys to go on fishing expeditions. Often, information from the officer's personnel file or an internal affairs file is introduced, and it has no relevance to the case before the court. There are other mechanisms besides public access to these files to protect the public's interest in the conduct of law enforcement agencies.

Testimony Against: None.

Testified: Representative Sterk, prime sponsor; Mike Patrick, Washington State Council of Police Officers (pro); Larry Erickson, Washington Association of Sheriffs and Police Chiefs (pro); Tom McBride, Washington Association of Prosecuting Attorneys (pro); and Debbie Wilke, Washington State Association of County Clerks (pro).