

HOUSE BILL REPORT

HB 2769

As Reported By House Committee On:

Law & Justice

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

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

Sponsors: 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].

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: Generally, there is no statute requiring a person who suspects that a crime has been committed to report the alleged crime to law enforcement. A person who witnesses the actual commission of a violent offense, a sexual offense against a child or an attempt to commit such an offense, or an assault of a child that appears reasonably likely to cause substantial bodily harm, must notify the prosecuting attorney, law enforcement agency, medical assistance, or other public official as soon as reasonably possible. Failure to report is a gross misdemeanor. A person is not required to report where the person has a reasonable belief that making a report would place the person or another in danger of immediate physical harm.

The attorney general's administrative policy provides that when the attorney general receives a report that a state employee has engaged in criminal misconduct related to the

employee's job, the attorney general must notify the head of the public agency where the employee works. The division chief of the criminal division in the Office of the Attorney General will contact the appropriate public attorney responsible for prosecuting crimes in the jurisdiction. The attorney general has discretion in determining how and when the steps in its administrative policy may be taken.

Summary of Substitute Bill: Every state agency and institution of higher education must develop and make available to its employees a policy that: (a) establishes a protocol for reporting felonies involving state employees and related to the workplace; (b) requires that the agency forward information about the incident to the Office of Crime Victims Advocacy; (c) requires that the agency forward information to the Office of Crime Victims Advocacy if the agency conducts an investigation; and (d) informs employees of the services available to victims.

The Office of Crime Victims Advocacy must provide technical assistance to agencies in developing their policies. The office must report to the Legislature annually regarding the number of reports received from state agencies, the types of crimes, the services offered, the results of any investigations, and whether the crimes were reported to law enforcement.

Substitute Bill Compared to Original Bill: The original bill required that a state employee who, after an investigation, had reasonable cause to believe that another state employee committed a felony must report the incident to law enforcement or the prosecutor. The employee must report the incident to the attorney general if the victim objected to a report being made to law enforcement. The attorney general could either report the incident to law enforcement or not report, depending upon the circumstances. The original bill made it a gross misdemeanor if a state employee failed to report the incident.

Appropriation: None.

Fiscal Note: Requested January 30, 1998.

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

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).