
HOUSE BILL 2769

State of Washington

55th Legislature

1998 Regular Session

By Representatives Clements, Sheahan, Zellinsky, Wensman, McMorris, Honeyford, Lisk, Sterk, Lambert and Mulliken

Read first time 01/20/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to reporting felonies committed by state employees;
2 adding new sections to chapter 43.01 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.01 RCW
5 to read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Malice" or "maliciously" imports an evil intent, wish, or
9 design to vex, annoy, or injure another person. Malice may be inferred
10 from an act done in willful disregard of the rights of another, or an
11 act wrongfully done without just cause or excuse, or an act or omission
12 of duty betraying a willful disregard of social duty.

13 (2) "State employee" means a member of the civil service or an
14 exempt person under chapter 41.06 RCW, or higher education personnel
15 under chapter 28B.16 RCW employed half-time or more.

16 (3) "Victim" means any person who has sustained emotional,
17 psychological, physical, or financial injury as a direct result of a
18 crime.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.01 RCW
2 to read as follows:

3 (1)(a) A state employee who, based on the findings of any
4 investigation conducted by or at the request of a state employee, has
5 reasonable cause to believe that another state employee has committed
6 a felony, shall report the incident, or shall cause a report of it to
7 be made, to the proper law enforcement agency or local prosecutor,
8 unless (i) the felony is a crime against persons as listed in RCW
9 9.94A.440(2), (ii) the state employee knows of the victim's identity,
10 and (iii) on inquiry, the victim objects to a report being made. A
11 report required by this subsection must be made no later than seventy-
12 two hours after there is reasonable cause to believe that a felony has
13 occurred.

14 (b) A state employee who, based on the findings of any
15 investigation conducted by or at the request of a state employee, has
16 reasonable cause to believe that another state employee has committed
17 a felony classified in RCW 9.94A.440(2) as a crime against persons, but
18 who learns that the victim objects to a report being made, shall report
19 the incident, or cause a report to be made, to the office of the
20 attorney general. The report required by this subsection must include
21 the victim's name and phone number, if known. The report must also be
22 made no later than seventy-two hours after there is reasonable cause to
23 believe a felony has occurred.

24 (c) Upon receiving a report required by (b) of this subsection, the
25 attorney general shall inform the victim (i) that the report will
26 remain confidential and that the attorney general will not make a
27 report to the appropriate law enforcement agency or prosecutor for
28 seventy-two hours, (ii) of the consequences of reporting the crime to
29 a law enforcement agency, (iii) of the legal, counseling, and support
30 services available to the victim, and (iv) of the attorney general's
31 responsibilities under (d) of this subsection if the victim does not
32 report the crime to a local law enforcement agency or local prosecutor.

33 (d) If, more than seventy-two hours after there is reason to
34 believe a crime has occurred, the victim remains unwilling to report
35 the crime, the attorney general shall report the crime to a local law
36 enforcement agency or prosecutor unless (i) the victim agrees in
37 writing to hold the state harmless for any action arising out of the
38 state's failure to report the crime, (ii) the circumstances meet the

1 standard described in RCW 9.94A.440(1), and (iii) failing to report the
2 crime would not jeopardize the safety of society.

3 (e) After failing to report the crime to a local law enforcement
4 agency or prosecutor pursuant to (d) of this subsection, the attorney
5 general shall notify the victim, the state employee who reported the
6 crime, the speaker of the house of representatives, and the majority
7 leader of the senate of the decision and the reasons for it. The
8 attorney general shall ensure that the identity of the state employee
9 who reported the crime and of the victim remain confidential.

10 (2) A person who intentionally fails to make a report required by
11 subsection (1) of this section is guilty of a misdemeanor.

12 (3) Any employee making a report in good faith under this section
13 is immune from any liability arising out of such reporting. An
14 employee who maliciously makes a false report is not immune from
15 liability. The public employer of an employee who under this chapter
16 makes a report in good faith and without gross negligence shall provide
17 for the legal defense of the employee in any action based on the
18 employee's report.

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