

HOUSE BILL REPORT

HB 1095

As Passed House:

March 10, 1999

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 Cairnes, O'Brien, Koster, D. Schmidt, Thomas, Lovick, Schoesler, Dunn, Lambert and Delvin.

Brief History:

Committee Activity:

Judiciary: 1/26/99, 2/22/99 [DP].

Floor Activity:

Passed House: 3/10/99, 97-0.

Brief Summary of Bill

- Requires the court to review police internal affairs files for relevancy before the files can be put before a jury in a civil or criminal case.
- Provides an exception when the records pertain to an officer who is a party to the legal action.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

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. For instance, the court may allow introduction only of "relevant" evidence, which is evidence that has any tendency to make a fact or 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. 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.

Some law enforcement agencies have expressed concern that attempts are sometimes made in trials to get agency internal affairs or personnel records before the jury when the records have no relevance to the issue at trial.

Summary of Bill:

In a civil or criminal action where a party offers as evidence the personnel records or internal affairs files of a law enforcement agency, the judge may not allow introduction of the records or files without first inspecting them "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.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Some attorneys routinely try to get personnel file information before a jury to discredit an officer as a witness, even when the information is not relevant to the case.

Testimony Against: None.

Testified: Mike Patrick, Washington Council of Police and Sheriffs.