

SENATE BILL REPORT

SB 5629

As Reported By Senate Committee On:
Judiciary, March 3, 1999

Title: An act relating to the civil rights act of 1999.

Brief Description: Creating the civil rights act of 1999.

Sponsors: Senators Roach, Heavey and Kline.

Brief History:

Committee Activity: Judiciary: 2/17/99, 3/3/99 [DPS, DNPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5629 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Goings, Hargrove, Johnson, Roach and Zarelli.

Minority Report: Do not pass substitute.

Signed by Senators Haugen, McCaslin and Thibaudeau.

Staff: Harry Steinmetz (786-7421)

Background: The federal Civil Rights Act of 1871, 42 U.S.C. 1983, provides redress for deprivations, under color of law, of any rights, privileges and immunities secured by the Constitution and laws of the United States. There is no comparable state statute. Attorneys' fees are available under 42 U.S.C.1988 to successful plaintiffs, and, under limited circumstances, successful defendants as well. The state itself cannot be sued in the federal courts under the 11th Amendment, but that provision does not protect local governments, nor state officers or agents acting in their individual capacity, but under color of law. Several categories of officials are immune from suit, such as judges and prosecutors, under federal case law.

Summary of Substitute Bill: The Washington State Civil Rights Act of 1997 is enacted. The bill substantially parallels the Federal Civil Rights Act. A governmental entity or person who under any statute, ordinance, regulation, custom, or usage deprives any person of any right, privilege, or immunity secured by the State Constitution is liable to the injured person. All damages and remedies available under the federal Civil Rights Act are available under this bill.

In an action or proceeding to enforce this act, no court may impose or levy as a remedy a general or special tax, assessment, fee, toll, charge, or other monetary obligation on the citizens of the state.

The act is to be construed liberally in order to effectuate its purposes of redressing injuries and deterring future violations of the State Constitution.

Reasonable attorneys' fees and the cost of the suit must be awarded to a successful plaintiff in the same manner as the state anti-discrimination statute.

The act applies to causes of action arising after the effective date of the act.

Substitute Bill Compared to Original Bill: The attorneys' fee clause is added. A definition of person is added and is limited to natural persons.

Appropriation: None.

Fiscal Note: Requested on February 16, 1999.

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

Testimony For: Washington law has no mechanism for enforcement of state constitutional rights. It's an old axiom that for every right there should be a remedy, yet Washingtonians do not have a remedy when their constitutional rights are violated by public officials. This bill will hold public officials accountable to the rule of law. The State Constitution is broader than the federal Constitution and this bill will allow for enforcement of these rights. It is truly a bill that will help the little man.

Testimony Against: While we all favor civil rights, this bill will result in a huge number of lawsuits. It is vague. It may allow for private criminal prosecutions and courts may be restricted from appropriate remedies such as the imposition of fees. This bill is poorly drafted and needs to be much more specific in addressing the problems it attempts to solve.

Testified: PRO: James Klaser; Jeff Needle; Larry Shannon, WSTLA; Joe Waldron, GOAL and CCRKBA; CON: Daniel B. Heid, Lakewood City Attorney; Tom McBride, WAPA.