
SUBSTITUTE SENATE BILL 5918

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on State & Local Government (originally sponsored by Senators Kline, Winsley and Rasmussen)

Read first time 03/03/1999.

1 AN ACT Relating to whistleblowers; adding a new section to chapter
2 42.40 RCW; and making appropriations.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.40 RCW
5 to read as follows:

6 (1) The director of the department of personnel shall establish a
7 rotational registry system to appoint and monitor advocates for those
8 whistleblowers who allege retaliation under RCW 42.40.050.

9 (2) Advocates shall be limited to representation of the
10 whistleblower under RCW 49.60.230 and 49.60.240, including the
11 conference and conciliation stage under RCW 49.60.240. The advocate
12 shall provide the commission all documents and records, and shall
13 cooperate with the commission in its function as representative of the
14 whistleblower. If the parties proceed under RCW 49.60.250, the
15 whistleblower may retain independent counsel at his or her expense.
16 The whistleblower retaliation advocate shall not accept private
17 employment by the whistleblower under RCW 49.60.250.

1 (3) The advocate's appointment by the department of personnel shall
2 be pursuant to a contract of employment awarded and administered by the
3 department of personnel.

4 (4) To be eligible for placement in the registry, a person must:

5 (a) Be admitted to the practice of law in the state of Washington;

6 (b) Be engaged in private practice;

7 (c) Not have provided legal representation for the alleged
8 retaliating agency for the five years previous to the date on which his
9 or her appointment to the case would occur; and

10 (d) Be able to demonstrate that he or she has completed training in
11 arbitration or mediation.

12 The director may establish additional criteria.

13 (5) Eligibility for a whistleblower to receive appointment of an
14 advocate on his or her behalf shall be determined by the department of
15 personnel and shall be limited to those whistleblowers whose income is
16 less than two hundred percent of the federal poverty level for a person
17 whose family size is the same as the whistleblower.

18 Whistleblowers who are unemployed at the time they request
19 appointment of an advocate under this chapter are eligible to receive
20 appointment of an advocate until such time as they obtain employment at
21 a level of compensation that would disqualify them from eligibility
22 under this section.

23 (6) The rotational registry system shall list advocates in the
24 order in which they are established as being qualified by the
25 department of personnel for listing on the registry. A whistleblower
26 who wishes to be represented by an advocate shall apply to the
27 department. The first three names on the list shall be given to the
28 whistleblower and the whistleblower shall select his or her
29 representative from among those three, however, if none of the first
30 three choices is acceptable to the whistleblower then the next three
31 names shall be given to the whistleblower from which to make his or her
32 choice. If the whistleblower rejects the names from the second list,
33 he or she shall accept the next name on the list or seek alternative
34 representation at his or her own expense. The name of any advocate who
35 either serves or is rejected is placed, in order, on the bottom of the
36 list.

37 (7) The amount of compensation for the advocate shall be calculated
38 at the rate of one hundred dollars per hour. The maximum compensation
39 for an advocate shall not exceed five thousand dollars for each case to

1 which the advocate is assigned. The whistleblower shall pay twenty
2 percent of this compensation. This shall constitute the sole and
3 entire compensation of the advocate. Costs for all office, clerical,
4 and other support services required by the advocate shall be borne by
5 the advocate.

6 The department of personnel shall monitor compliance with the terms
7 and conditions of the contract. The department of personnel shall
8 terminate any contract when the department determines that the advocate
9 has failed substantially to comply with the terms and conditions of the
10 contract. The whistleblower may terminate the services of the advocate
11 at any time for any cause. If the whistleblower terminates the
12 services of the advocate, the whistleblower shall accept the next name
13 on the list at the time of the termination or seek alternative
14 representation at his or her own expense. The secretary shall review
15 all terminations at the end of each year to determine whether an
16 advocate has failed substantially to comply with terms of his or her
17 contracts. Any advocate who is found to have failed substantially to
18 comply shall be removed from the registry by the director.

19 (8) The registry is established January 1, 2000, and may be used
20 for any case open at the time of its creation. The director of
21 personnel shall adopt rules as necessary to implement this section.

22 (9) The department of personnel shall report to the governor, the
23 legislature, and the human rights commission in January of every odd-
24 numbered year. This report shall include but not be limited to
25 statistics on the use of the registry, costs to the state, results of
26 cases that received appointment of an advocate, time expended between
27 the filing of a complaint with the human rights commission and the
28 conclusion of the complaint, and any other matter of interest or use to
29 the governor or legislature.

30 NEW SECTION. **Sec. 2.** (1) The sum of dollars, or as much
31 thereof as may be necessary, is appropriated for the fiscal year ending
32 June 30, 2000, from the general fund to the department of personnel for
33 the purposes of section 1 of this act.

34 (2) The sum of dollars, or as much thereof as may be
35 necessary, is appropriated for the fiscal year ending June 30, 2001,

1 from the general fund to the department of personnel for the purposes
2 of section 1 of this act.

--- END ---