

HOUSE BILL REPORT

SSB 5654

As Reported by House Committee On:
Judiciary

Title: An act relating to the privacy of personal information of criminal justice officials.

Brief Description: Protecting the privacy of personal information of criminal justice officials.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Prentice, Esser, Oke and Kohl-Welles).

Brief History:

Committee Activity:

Judiciary: 2/22/06 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House Committee)**

- Creates a civil cause of action against a person who publishes personal information on the world wide web about criminal justice system personnel or their families;
- Prohibits publication only of information that poses a serious and imminent threat to such personnel or their families;
- Provides exceptions for information published in good faith by auditors and assessors.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby, Serben, Springer and Wood.

Staff: Bill Perry (786-7123).

Background:

A federal district court struck down a statute that prohibited publishing personal information about law enforcement, corrections and court personnel if the publication was done with the intent to harm or intimidate the person about whom the information was published. The statute prohibited publication of:

- residential address;

- residential telephone number;
- birth date; or
- Social Security Number.

A person harmed by such an unauthorized publication was allowed to recover actual damages plus court costs.

In *Sheehan v. Gregoire*, the Federal District Court (Court) held that this statute was unconstitutionally over broad and vague in that it prohibited the publication of truthful and lawfully obtained information, and it was unclear as to what "speech" was being prohibited. The court found that the statute was content based, and it lacked reference to any objective standards. The statute was not narrowly constructed to address only a form of unprotected speech such as speech that amounts to a "true threat." In order to constitute a "true threat," and therefore be subject to regulation, speech must be likely in the eyes of a reasonable person to produce or incite imminent lawless action. The court held that the statute violated the First and Fourteenth Amendments to the Federal Constitution because it prohibited pure speech based solely on the speaker's subjective intent.

Summary of Amended Bill:

Knowingly making certain personal information available on the world wide web is prohibited if the information poses an imminent and serious threat to the person concerned and that threat is reasonably apparent to the person making the information available.

This prohibition applies to personal information about the following persons or their families:

- peace officers;
- corrections persons;
- judges and court commissioners;
- public defenders; and
- prosecutors.

The prohibition applies to the following types of information:

- home address;
- home telephone number;
- pager number;
- Social Security Number;
- home email address;
- directions to the person's home; and
- photographs of the person's home or vehicle.

Good faith publication of information by a county auditor or assessor in the ordinary course of business is not prohibited.

A person who is harmed by publication of information prohibited by this provision may recover actual damages, reasonable attorneys' fees and costs, plus damages of up to \$1,000 per day of violation.

Amended Bill Compared to Substitute Bill:

The amendment changes the remedies provision by replacing punitive damages of up to \$10,000 with damages of up to \$1,000 per day of violation.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The bill appropriately narrows the statute in response to the district court's ruling and increases the chances that the law will be upheld. This bill is about protecting police officers and criminal justice officials, and most importantly about protecting their families.

Testimony Against: The bill tries to prohibit publishing public information. If a government agency published this kind of information it would be permitted, but if an individual publishes the same lawful public information on the world wide web, the individual has violated the law.

Persons Testifying: (In support) Michael Transue, Seattle Police Officers, King County Police Officers, and Port of Seattle Police Officers.

(Opposed) Jennifer Shaw, American Civil Liberties Union of Washington.

Persons Signed In To Testify But Not Testifying: None.