

SENATE BILL REPORT

SSB 6590

As Amended by House, February 28, 2010

Title: An act relating to law enforcement officer conduct.

Brief Description: Stating the policy that law enforcement personnel be truthful and honest in the conduct of official business.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Delvin, Brandland and Hargrove).

Brief History:

Committee Activity: Judiciary: 1/26/10, 2/05/10 [DPS].

Passed Senate: 2/16/10, 46-0.

Passed House: 2/28/10, 94-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6590 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell, Gordon, Hargrove, Kohl-Welles and Roach.

Staff: Karen Campbell (786-7448)

Background: Kitsap County (County) terminated Kitsap County Sheriff Deputy Brian LaFrance for numerous acts of misconduct including being untruthful. The case went to arbitration and the arbitrator found that the County had failed to show the degree of discipline administered was reasonably related to the seriousness of the proven offenses. The arbitrator determined that Deputy LaFrance's mental disability was apparent from his behavior and that the County should have referred him for counseling and fitness for duty exams. The arbitrator denied Deputy LaFrance's request for back pay.

Both parties appealed the arbitrator's decision and the matter eventually was decided by the Washington State Supreme Court in the case of *Kitsap County Deputy Sheriff's Guild v. Kitsap County*, 167 Wn. 2d 428 (2009). The court found that an arbitration decision arising out of a collective bargaining agreement could be vacated if it violated explicit, well defined, and dominant public policy. The court reviewed Washington law and found that there was

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no explicit, well defined, and dominate public policy requiring termination of an officer found to have been untruthful.

Summary of Substitute Bill: A new public policy is created which states that all commissioned, appointed, and elected law enforcement personnel be truthful and honest in the conduct of their official duties.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: It is paramount that officers be honest and truthful in the exercise of their duties. Honesty is the foundation of an officer's authority. This standard should be upheld by sheriffs or police chiefs, not by a private arbitrator who has no public accountability. Search warrants and arrests are based on an officer's sworn testimony. Officers must testify in court and are often the prosecutor's chief witness. An officer who has engaged in dishonesty could jeopardize successful prosecutions of those accused of committing crimes. A clear statement must be sent to the public that officers are expected to be honest and truthful while carrying out their official duties.

CON: The public should have an expectation that police officers be honest. However, the bill may supersede and impede the collective bargaining agreement, thus calling into question its legality. It is important to preserve the contractual obligation, agreed to by both line officers and management, that disputed disciplinary actions be decided by an arbitrator. This bill mandates a certain disciplinary outcome which weakens the arbitrator's power to decide issues arising under a collective bargaining agreement. Sheriffs and police chiefs should be held to the same standards of honesty and truthfulness as line officers.

Persons Testifying: PRO: Don Pierce, Washington Association of Sheriffs and Police Chiefs (WASPC); Sheriff Mike Harum, Chelan County Sheriff, WASPC, Washington Association of County Officials; Anne Kirkpatrick, Chief of Police, Spokane Police Department; Sheriff Sue Rahr, King County Sheriff.

CON: Rick Jensen, Tom Pillow, Washington State Patrol Troopers Association; Bill Hanson, Washington State Fraternal Order of Police; Anna Jancewicz, Teamsters Union, Local 117.

House Amendment(s): The House amendment changes the language of the public policy as follows: It is the policy of the state of Washington that all commissioned, appointed, and elected law enforcement personnel comply with their oath of office and agency policies regarding the duty to be truthful and honest in the conduct of their official business.