

SENATE BILL REPORT

SB 5618

As Passed Senate, March 4, 2013

Title: An act relating to the school warrantless search exception.

Brief Description: Including searches by school resource officers and local police school liaison officers within the warrantless school search exception.

Sponsors: Senators Carrell, Padden, Pearson and Harper.

Brief History:

Committee Activity: Law & Justice: 2/11/13, 2/18/13 [DP, DNP].

Passed Senate: 3/04/13, 30-19.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Kohl-Welles.

Staff: Aldo Melchiori (786-7439)

Background: The United States Supreme Court has recognized a school search exception to the search warrant requirements of the Fourth Amendment to the United States Constitution. The Washington State Supreme Court has also recognized the school search exception under article I, section 7 of the of the Washington State Constitution. This exception allows school officials to search a student's person if, under all the circumstances, the school official has reasonable suspicion. This exception applies to school officials because their primary duty is to maintain order and discipline at the school. Currently, principals, vice principals, or anyone acting at their direction may search students and students' possessions, containers, and lockers if they have reasonable grounds to suspect evidence of a violation of school rules or laws.

In 2012, the Washington State Supreme Court held that the school search exception did not apply to a police officer working as a school resource officer, but who was not authorized to discipline students. The Court recognized that the decision was contrary to some from other jurisdictions, but noted that these decisions were based on the Fourth Amendment to the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

United States Constitution and that article I, section 7 of the Washington State Constitution provides greater privacy protections.

Summary of Bill: School resource officers and local police liaison officers are added as persons who may search students and students' possessions, containers, and lockers if they have reasonable grounds to suspect evidence of a violation of school rules or laws.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on August 1, 2013.

Staff Summary of Public Testimony: PRO: The bill simply adds school resource officers and local police liaison officers to the list of school personnel authorized to conduct these searches to ensure the safety of our schools. Principals and vice-principals are often unavailable and in that case there should be a trained professional to conduct these searches rather than a teacher. Teachers are not typically trained to serve this function. This does not change the school officials' ability to conduct a search, it just identifies who is authorized and trained to do so.

CON: Security staff at schools operate in a layered approach and this bill combines those layers. This is bad policy. Law enforcement should not be brought in at the ground level. Students do not leave their constitutional rights at the schoolhouse door. Principals and vice-principals are conducting these searches now and the system is functioning.

Persons Testifying: PRO: Senator Carrell, prime sponsor.

CON: David Westberg, Stationary Engineer IUOE; Gregory Link, WA Defenders Assn., Assn. of Criminal Defense Lawyers; Arthur West, citizen.