

SENATE BILL REPORT

SB 6023

As Reported by Senate Committee On:
Law & Justice, February 3, 2014

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 O'Ban and Roach.

Brief History:

Committee Activity: Law & Justice: 1/17/14, 2/03/14 [DPS, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6023 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Pedersen.

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 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 who was not authorized to discipline students. The Court recognized that the decision was contrary to some from other

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jurisdictions, but noted that these decisions were based on the Fourth Amendment to the United States Constitution and that article I, section 7 of the Washington State Constitution provides greater privacy protections.

Summary of Bill (Recommended Substitute): 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.

At the point that a school resource officer makes an actual arrest, that officer is no longer acting under school authority to enforce violations of school rules.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): It is clarified that at the point a school resource officer makes an actual arrest, that officer is no longer acting under school authority to enforce school rules.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2014.

Staff Summary of Public Testimony on Original Bill: PRO: Even a janitor can do these types of searches now, but a school resource officer with specific expertise cannot. This does not make sense. Students and parents want and deserve a safe learning environment. These officers could conduct searches before this decision so this is just reinstating the status quo. These officers have specific expertise and knowledge of the school environment. They are not regular law enforcement officers.

CON: Increased presence of law enforcement officers in the learning environment adversely effects the students' ability to learn. Warrants are required for these searches outside of the school environment, so a warrant should be required inside the school as well. Students are traumatized when they see classmates in handcuffs. Our society is increasingly criminalizing student misbehavior.

Persons Testifying: PRO: Senator O'Ban, prime sponsor; Don Pierce, WA Assn. of Sheriffs and Police Chiefs.

CON: Shankar Narayan, American Civil Liberties Union.