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HOUSE JOINT RESOLUTION 4209

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives O'Ban and Hayes

Read first time 02/15/13. Referred to Committee on Judiciary.

1            BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE  
2 STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

3            WHEREAS, Both the federal and state Constitutions contain certain  
4 sacred protections against warrantless searches by law enforcement;

5            WHEREAS, Federal and state courts have recognized certain  
6 reasonable exceptions to the warrant requirement consistent with common  
7 sense and public safety;

8            WHEREAS, The supreme court of the United States recognized the  
9 "school search exception" to the warrant requirement in the due process  
10 clause of the fourth amendment of the United States Constitution in the  
11 case *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S. Ct. 733, 83 L. Ed. 2d  
12 720 (1985). The school search exception provides that reasonable  
13 suspicion standard shall apply when school officials, including  
14 teachers, teachers' aides, school administrators, school police  
15 officers, and local police school liaison officers, conduct a search  
16 acting on their own authority of a student on school grounds;

17            WHEREAS, The Washington state supreme court also recognized the  
18 school search exception as valid in Washington state under Article I,  
19 section 7 of the state Constitution. *York v. Wahkiakum Sch. Dist. No.*

1 200, 163 Wn.2d 297, 303, 178 P.3d 995 (2008) *State v. McKinnon*, 88  
2 Wn.2d 75, 558 P.2d 781 (1977);

3 WHEREAS, In a recent opinion, the Washington state supreme court  
4 overruled previous case law and determined that a school resource  
5 officer could no longer conduct searches of students for drugs or  
6 weapons under the school search exception. *Washington v. Meneese*, Case  
7 No. 86203-6, August 2, 2012;

8 WHEREAS, The dissenting justices in *Meneese* noted that the  
9 "decision will place school personnel at greater risk of harm because  
10 it will 'encourage teachers and school officials, who generally are  
11 untrained in proper pat down procedures or in neutralizing dangerous  
12 weapons, to conduct a search of a student suspected of carrying a  
13 dangerous weapon on school grounds without the assistance of a school  
14 liaison officer.' Schools will now be dissuaded from using SROs to  
15 detect and intercept violations of school rules or the law. Instead,  
16 teachers and other school administrators who have reasonable suspicion,  
17 but lack probable cause, must conduct such searches themselves. The  
18 constitution does not demand such foolhardiness, nor is it necessarily  
19 conducive to respect for student privacy."

20 THAT, At the next general election to be held in this state the  
21 secretary of state shall submit to the qualified voters of the state  
22 for their approval and ratification, or rejection, an amendment to  
23 Article I, section 7 of the Constitution of the state of Washington to  
24 read as follows:

25 Article I, section 7. No person shall be disturbed in his private  
26 affairs, or his home invaded, without authority of law. Given the  
27 great importance of protecting the physical safety of students,  
28 teachers, and school personnel, a reasonable suspicion standard shall  
29 apply when school officials, including teachers, teachers' aides,  
30 school administrators, school police officers and local police school  
31 liaison officers, conduct a search acting on their own authority of a  
32 student on school grounds for the purposes of enforcing school rules  
33 and the school search exception to the warrant requirement is  
34 authorized.

35 BE IT FURTHER RESOLVED, That the secretary of state shall cause  
36 notice of this constitutional amendment to be published at least four

1 times during the four weeks next preceding the election in every legal  
2 newspaper in the state.

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