

SENATE BILL REPORT

SB 6230

As Reported by Senate Committee On:
Law & Justice, January 14, 2016

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 Padden.

Brief History:

Committee Activity: Law & Justice: 1/14/16 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6230 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 Pedersen, Ranking Minority Member; Darneille.

Minority Report: That it be referred without recommendation.

Signed by Senator Frockt.

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 circumstances, the school official has reasonable suspicion of a violation of school rules or laws. 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 will be found.

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.

In 2012, the Washington 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 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 school liaison officers are defined as "principal's designee" and no search warrant is required when a school resource officer is acting to maintain a safe and effective school environment. A search warrant is required if an officer is enforcing criminal law.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): School resource officers and local police school liaison officers are defined as "principal's designee" rather than adding them to the list of people independently authorized to conduct the searches. It is clarified that when a school resource officer is acting to maintain a safe and effective school environment, the search warrant exception applies, but the search warrant requirements apply when the officer is enforcing criminal law.

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: The time for this change is overdue. We must provide for the safety and protection of children while they are going to school and getting an education.

CON: A distinction must be maintained between uniformed law enforcement officers in a school and resource officers who are focused solely on enforcing school rules.

OTHER: The court will look closely at the intent of the officer. With some language to clarify the purpose of the school resource officer, the Washington Association of Prosecuting Attorneys supports this idea. The resource officers should be identified as the principal's designee to reflect the derivative nature of their authority.

Persons Testifying on Original Bill: PRO: Senator O'Ban, prime sponsor.

CON: Bob Cooper, WACDL and WDA.

OTHER: Tom McBride, WAPA.

Persons Signed In To Testify But Not Testifying on Original Bill: No one.