
Civil Rights & Judiciary Committee

HB 1445

Brief Description: Concerning law enforcement and local corrections agency misconduct through investigations and legal actions.

Sponsors: Representatives Hansen, Simmons, Reed, Thai, Pollet and Macri.

Brief Summary of Bill

- Authorizes the Attorney General to investigate and bring actions against law enforcement and corrections agencies for violations of the Washington Constitution or state law.
- Requires the Attorney General to confer with the United States Department of Justice and avoid conflicts.
- Requires the Attorney General to develop and publish model policies.

Hearing Date: 1/25/23

Staff: John Burzynski (786-7133).

Background:

Federal Law Governing Investigations of Unlawful Patterns or Practices.

Federal law prohibits government authorities from engaging in a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities secured or protected by the United States Constitution or federal law.

When the United States Attorney General has reasonable cause to believe a government authority has engaged in an unlawful pattern or practice, the Attorney General is authorized to bring a civil action to seek equitable and declaratory relief to eliminate the pattern or practice.

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

Washington Law Governing the Attorney General's Duties and Powers.

Washington law requires the Attorney General to appear for and represent the state before the Supreme Court or the Court of Appeals in all cases in which the state is interested. The Washington Supreme Court has interpreted this statutory requirement as granting the Attorney General discretionary authority to act in any court, state or federal, trial or appellate, on a matter of public concern, provided that there is a cognizable common law or statutory cause of action.

Summary of Bill:

Investigations and Actions.

The Attorney General is authorized to investigate and bring an action against a law enforcement agency of any county, city, town, or political subdivision of the state, or against a local corrections agency for any county, city, or local agency, for a violation of the state Constitution or state law.

Specifically, the Attorney General may:

- investigate violations of the state Constitution and state law, on its own initiative or in response to investigations or reports from independent oversight bodies;
- issue written civil investigation demands for documents, oral testimony, and answers to written interrogatories; and
- institute civil actions in the courts for injunctive or declaratory relief, damages, costs, and reasonable attorney's fees.

Conflicts with Federal Investigations.

Before beginning any formal investigative steps, the Attorney General must confer with the United States Department of Justice (DOJ) to ensure law enforcement resources are being used efficiently and that there are no conflicts with any independent investigations by the DOJ. If a local agency is subject to a DOJ investigation, the Attorney General is prohibited from seeking relief or remedies in conflict with the federal action.

Model Policies.

By July 1, 2024, the Attorney General must develop and publish model policies for law enforcement and local correction agency accountability systems, specifying model practices for receiving complaints of serious misconduct, conducting investigations, imposing discipline, and addressing disciplinary appeals.

Other Provisions.

The provisions of this act authorizing the Attorney General to investigate and bring actions against certain law enforcement and corrections agencies must be liberally construed.

Appropriation: None.

Fiscal Note: Requested on January 18, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.