

SENATE BILL REPORT

SB 5039

As of January 22, 2009

Title: An act relating to membership of the Washington state forensic investigations council.

Brief Description: Changing the membership of the Washington state forensic investigations council.

Sponsors: Senators Jarrett and Kohl-Welles.

Brief History:

Committee Activity: Judiciary: 1/14/09.

SENATE COMMITTEE ON JUDICIARY

Staff: Brandon Roché (786-7405)

Background: The Washington State Forensics Investigations Council was established in initial form in 1983 and expanded from nine to 12 members in 1995. The council oversees the Bureau of Forensic Laboratory Services and is responsible for the oversight of any state forensic pathology programs. The composition of the council is drawn from nominations submitted to the Governor by organizations representing the professions required for appointment to the council.

Currently, a coroner and medical examiner are appointed from nominations made by the Washington Association of County Officials; two members of a county legislative authority from nominations made by the Washington State Association of Counties; two members of a city legislative authority drawn from nominations made by the Association of Washington Cities; a county prosecutor who serves as ex officio county coroner and a county prosecutor from nominations made by the Washington Association of Prosecuting Attorneys; a county sheriff position and a chief of police from nominees of the Washington Association of Sheriffs and Police Chiefs; and a private pathologist nominated by the Washington Association of Pathologists.

Summary of Bill: Three additional members are added to the Washington State Forensics Investigations Council. Two of the members are primarily criminal defense attorneys appointed from nominations made by the Washington Association of Criminal Defense Lawyers and the Washington Defender Association. The third new member must have a doctorate degree in a physical science and be a tenured faculty member at an established

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university in the state of Washington. This member is appointed from nominations made by the president of the university where that person is on faculty.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Forensic Investigations Council serves a vital role and this bill broadens the makeup of the council and will help it better perform its function. The focus of the council in recent years has been on obtaining convictions. Expanding the council would produce good science that leads to convictions instead of producing convictions. The bill does this by creating more openness on the council and adding a neutral scientist.

CON: It's not about getting convictions, it's about being fair. Our adversarial system provides a balance between prosecutors and defenders and there is no need to try to balance the council by adding defense attorneys. We are not entirely opposed to the scientist but this bill creates a conflict for defense attorneys within our adversarial system. The appropriate role of defense counsel is to advocate for the client, not the system; prosecutors have an obligation to the defendant as well as the justice system.

Persons Testifying: PRO: Kennet Phillipson, Bob Cooper, Washington Association of Criminal Defense Lawyers; Shankar Narayan, American Civil Liberties Union.

CON: Tom McBride, Washington Association of Prosecuting Attorneys; Don Pierce, Washington Association of Sheriffs and Police Chiefs.