

SENATE BILL REPORT

SB 6316

As Reported By Senate Committee On:
Law & Justice, February 5, 1998

Title: An act relating to discovery in actions or proceedings against the state.

Brief Description: Revising procedures for discovery in actions or proceedings for damages against the state.

Sponsors: Senators Zarelli and Kline.

Brief History:

Committee Activity: Law & Justice: 2/2/98, 2/5/98 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6316 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Kline, Long, McCaslin and Zarelli.

Staff: Aldo Melchiori (786-7439)

Background: By court rule, parties to a civil suit may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action. Discovery is obtained using depositions, interrogatories, requests for production, and inspections or examinations. Discovery occurs between the parties without court intervention unless problems arise that cannot be resolved. In some types of cases or at some times in the progress of a case, discovery is further restricted by local court rules. When written interrogatories or requests for the production of documents are served, the responding party has 30 days after service to respond, except that 40 days are allowed after the service of the summons and complaint. Court rules governing discovery are fairly detailed when disputes occur.

Concern has been expressed that some parties bringing civil suits against the state are hobbled by the costs of lengthy discovery. Many of these parties cannot afford the services of an attorney and are acting on their own behalf with a rudimentary understanding of court rules and procedures.

Summary of Substitute Bill: If the state objects to a discovery request, the reasons for the objection must be stated along with instructions on how to legally overcome those based on confidentiality or privilege.

The scope of the bill is limited to pro se parties.

Substitute Bill Compared to Original Bill: Only pro se parties are entitled to instructions regarding how to overcome discovery objections made by the state.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Pro se plaintiffs do not always understand the discovery rules. Citizens should have their expectations of straight answers from the government fulfilled.

Testimony Against: Most plaintiffs have attorneys. The bill makes the playing field uneven for the parties, giving plaintiffs an unfair advantage. The unintended consequence may be to encourage litigation by inmates.

Testified: Senator Zarelli, prime sponsor (pro); Mike Tardiff, Washington State Attorney General (con).