

HOUSE BILL REPORT

SSB 5791

As Reported by House Committee On:
Judiciary

Title: An act relating to actions and proceedings for damages brought against law enforcement officers.

Brief Description: Paying for certain actions and proceedings for damages brought against law enforcement officers.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Sheahan, Patterson, McCaslin, Constantine, Johnson, Costa, Kohl-Welles, Deccio, Roach and Winsley).

Brief History:

Committee Activity:

Judiciary: 2/21/02, 2/22/02 [DP].

Brief Summary of Substitute Bill

- Allows a local government to revoke the granting of a request to defend an officer, employee, or volunteer in a civil action arising out of the person's performance of official duties.
- Requires a local governmental entity to make the final determination of whether or not to defend an officer, employee, or volunteer in public session.
- Makes the proceedings and deliberations with regard to a request for defense confidential and all proceedings, reports, or written records exempt from the public disclosure act.
- Requires a local governmental entity to make the determination of whether or not to defend a law enforcement officer in a civil action within 60 days of the request for defense.
- Requires a local governmental entity to pay all damages, not just non-punitive damages, awarded against a law enforcement officer if the court determines the officer was acting within the scope of his or her official duties.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Lantz, Chair; Hurst, Vice Chair; Dickerson, Esser, Jarrett, Lovick and Lysen.

Minority Report: Do not pass. Signed by 2 members: Representatives Carrell, Ranking Minority Member; and Boldt.

Staff: Edie Adams (786-7180).

Background:

An officer, employee, or volunteer of a local government may request the local government to defend the person in a suit that arises out of the officer's, employee's, or volunteer's official duties. The local government must grant the request if it finds that the person's acts or omissions that gave rise to the suit were within the scope of the person's official duties, or in good faith purported to be within the scope of official duties. The decision to grant or deny a request must be made by the legislative authority of the local government, or by the local government using a procedure created by ordinance or resolution.

If the local government grants a request, it must pay the expenses of defending the action. Any judgment entered against the officer, employee, or volunteer must be paid on approval of the legislative authority or by a procedure established by ordinance or resolution.

In cases where an officer, employee, or volunteer has been represented by the local government, the judgment for non-punitive damages may only be enforced against the local government. The local government may, pursuant to ordinance or resolution, agree to pay a judgment for punitive damages.

Summary of Substitute Bill:

The legislative authority of a local government is authorized to revoke or rescind the granting of a request to defend an officer, employee, or volunteer in a civil action if it finds that the acts or omissions that gave rise to the suit were not, or in good faith did not purport to be, within the scope of the person's official duties.

A proceeding conducted to determine whether or not an officer's, employee's, or volunteer's acts were within the scope of official duties may be conducted in executive session in accordance with the Open Public Meetings Act. The proceedings and deliberations with regard to a request for defense are confidential and all proceedings, reports, or written records are exempt from the public disclosure act. However, the final determination of whether or not to defend an officer, employee, or volunteer must be made by the local government in public session.

When a law enforcement officer makes a request for defense to a local government, the determination of whether the officer's acts or omissions were, or in good faith purported to be, within the scope of his or her official duties must be made within 60 days. If the request for defense is granted, the local government must pay all expenses of defending the action. If the court determines that the law enforcement officer was acting within the scope of his or her official duties, any monetary judgment, not just non-punitive damages, shall be paid by the local government.

"Law enforcement officer" is defined as any general authority peace officer or specially commissioned peace officer, or a limited authority peace officer who is authorized to carry a concealed pistol.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill allows police officers to request indemnification for defense costs and judgments incurred as part of a civil action if the officer was acting in his or her employment capacity. The bill first came about because of the Wenatchee sex ring investigation. Cities and counties were not informing the officers in a timely manner whether or not the local government would represent them. It is in the interests of cities to make the decision on whether or not they will defend the officer early on because cities want to have both the officer and the city on the same side when both are sued.

Testimony Against: None.

Testified: Senator Kline, prime sponsor; Bill Hanson, Washington Council of Police and Sheriffs; and Kathy Gerke, Association of Washington Cities.