

SENATE BILL REPORT

SB 5404

As Reported By Senate Committee On:
Judiciary, February 22, 2005

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: Senators Kline, Oke, Fairley, Swecker, Pridemore, Esser and Delvin.

Brief History:

Committee Activity: Judiciary: 2/2/05, 2/22/05 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5404 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, McCaslin, Rasmussen and Thibaudeau.

Staff: Lilah Amos (786-7429)

Background: An officer, employee, or volunteer of a local governmental entity who is sued for damages arising from acts or omissions while performing official duties can request that the governmental entity bear the cost of defending the action. The request must be granted if the local governmental entity finds that the person was acting, or purporting to act, within the scope of his or her official duties. If the court subsequently finds that the officer, employee, or volunteer was acting within the scope of his or her official duties, the local governmental entity must pay only the judgment for nonpunitive damages. It may, pursuant to ordinance or resolution, agree to pay a judgment for punitive damages.

Summary of Substitute Bill: When a law enforcement officer makes a request that an action for damages be defended, the employing governmental entity has 120 days to determine whether the officer was acting within the scope of the officer's official duties and is therefore entitled to payment of defense costs. If it later appears that the acts or omissions were not within the scope of the official duties, the granting of the request for defense can be revoked or rescinded.

Meetings, proceedings, and deliberations regarding the officer's request for defense are confidential and are not subject to public disclosure laws. The final action of the legislative authority accepting or denying the request for defense, and any revocation of a previous decision regarding defense, must be done in public session.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Requested on February 25, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For: Police officers and their families suffer significant emotional distress when lawsuits name them personally, even if they have done nothing wrong. Lawsuits against officers and their employers are increasing in number. Counties and cities need to take care of their officers by making a decision on payment of costs of legal representation in a timely manner.

Testimony Against: Cities need a reasonable time to make a decision about whether an officer was acting within the scope of his or her employment, and sixty days is too short. Allowing an officer to appeal a denial of defense costs to superior court will necessarily involve a significant delay, and would be better handled by an administrative appeal system. This issue would be better addressed in collective bargaining between individual governmental authorities and police officers.

Who Testified: PRO: Senator Adam Kline, prime sponsor; Bill Hanson, Washington Association of Police and Sheriffs.

CON: Tammy Fellin, Association of Washington Cities; Heidi Wachter, Association of Washington Cities.