

SENATE BILL REPORT

SB 5227

As Reported by Senate Committee On:
Judiciary, January 21, 2009

Title: An act relating to materially false statements.

Brief Description: Revising the definition of "materially false statements."

Sponsors: Senators Kline, Rockefeller and Hargrove.

Brief History:

Committee Activity: Judiciary: 1/14/09, 1/21/09 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell, Roach and Tom.

Staff: Juliana Roe (786-7438)

Background: In *State v. Abrams*, Mr. Abrams was charged with first degree perjury under RCW 9A.72.010. An element of this crime is the materiality of the statements which forms the basis of the case. The Supreme Court held that RCW 9A.72.010(1) is unconstitutional as it requires judges to determine the materiality of false statements as a matter of law. The Court stated that "[t]here is no set of circumstances under which a judge can constitutionally apply a statute that requires a judge alone to determine the materiality of a false statement as a matter of law. Such a procedure would violate the defendant's right to a jury trial on every element of the crime with which he is charged, a right that our constitution has specifically declared to be 'inviolable.'" *Abrams*, 163 Wn.2d at 285. The Court upheld the remainder of the statute by severing and striking the offending language as directed by RCW 9A.04.010 (4).

Summary of Bill: RCW 9A.72.010 is amended to comply with the Supreme Court decision by removing the language deemed unconstitutional. In so doing, the issue of materiality should be determined by a jury.

Appropriation: None.

Fiscal Note: Not requested.

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

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: This bill would conform the perjury statute to the state of the law. We view it as a clean-up of the statute.

Persons Testifying: PRO: Tom McBride, Washington Association of Prosecuting Attorneys.