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SENATE BILL 5921

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State of Washington                      55th Legislature                      1997 Regular Session

By Senators Roach, Zarelli, Stevens and Oke

Read first time 02/19/97. Referred to Committee on Law & Justice.

1            AN ACT Relating to malfeasance by government officials; amending  
2 RCW 10.27.020, 10.27.030, and 9A.80.010; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 10.27.020 and 1988 c 188 s 16 are each amended to read  
5 as follows:

6            For the purposes of this chapter:

7            (1) (~~The term~~) "Court" (~~shall~~) means any superior court in the  
8 state of Washington.

9            (2) (~~The term~~) "Public attorney" (~~shall~~) means the prosecuting  
10 attorney of the county in which a grand jury or special grand jury is  
11 impaneled; the attorney general of the state of Washington when acting  
12 pursuant to RCW 10.27.070(9) and, the special prosecutor appointed by  
13 the governor, pursuant to RCW 10.27.070(10), and their deputies or  
14 special deputies.

15            (3) (~~The term~~) "Indictment" (~~shall~~) means a written accusation  
16 found by a grand jury.

17            (4) (~~The term~~) "Principal" (~~shall~~) means any person whose  
18 conduct is being investigated by a grand jury or special inquiry judge.

1 (5) (~~The term~~) "Witness" (~~shall~~) means any person summoned to  
2 appear before a grand jury or special inquiry judge to answer questions  
3 or produce evidence.

4 (6) "Government malfeasance" means an act of a public servant that  
5 constitutes tampering with a witness as defined in RCW 9A.72.120,  
6 tampering with physical evidence as defined in RCW 9A.72.150, or  
7 official misconduct as defined in RCW 9A.80.010.

8 (7) A "grand jury" consists of twelve persons, is impaneled by a  
9 superior court and constitutes a part of such court. The functions of  
10 a grand jury are to hear, examine, and investigate evidence concerning  
11 criminal activity and corruption and to take action with respect to  
12 such evidence. The grand jury shall operate as a whole and not by  
13 committee.

14 (~~(7)~~) (8) A "special inquiry judge" is a superior court judge  
15 designated by a majority of the superior court judges of a county to  
16 hear and receive evidence of crime and corruption.

17 **Sec. 2.** RCW 10.27.030 and 1971 ex.s. c 67 s 3 are each amended to  
18 read as follows:

19 No grand jury shall be summoned to attend at the superior court of  
20 any county except upon an order signed by a majority of the judges  
21 thereof. A grand jury shall be summoned by the court, where the public  
22 interest so demands, whenever in its opinion there is sufficient  
23 evidence of criminal activity or corruption within the county or  
24 whenever so requested by a public attorney, corporation counsel, or  
25 city attorney upon showing of good cause.

26 Upon sufficient evidence of government malfeasance, a county  
27 prosecuting attorney may request or a citizen may petition the court  
28 within the county where the government malfeasance is alleged to have  
29 occurred or the court within Thurston county to summon a grand jury.  
30 The court shall summon a grand jury upon a request from a county  
31 prosecuting attorney unless the court finds the request to be  
32 frivolous. The court shall summon a grand jury upon a petition from a  
33 citizen if the petition is verified by affidavit and the presiding  
34 judge of the court finds that the petition alleges sufficient facts  
35 that, if proven, would constitute prima facie evidence of government  
36 malfeasance and finds that the time, content, and circumstances of the  
37 petition provide sufficient indicia of reliability.

1       **Sec. 3.** RCW 9A.80.010 and 1975-'76 2nd ex.s. c 38 s 17 are each  
2 amended to read as follows:

3       (1) A public servant is guilty of official misconduct if, with  
4 intent to obtain a benefit or to deprive another person of a lawful  
5 right or privilege:

6       (a) He or she intentionally commits an unauthorized act under color  
7 of law; or

8       (b) He or she intentionally refrains from performing a duty imposed  
9 upon him or her by law.

10       (2) Official misconduct is a (~~gross misdemeanor~~) class C felony.

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