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**SUBSTITUTE SENATE BILL 6230**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators O'Ban and Padden)

AN ACT Relating to the school warrantless search exception; amending RCW 28A.600.230 and 28A.600.240; adding a new section to chapter 28A.600 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature recognizes that both the federal and state Constitutions contain certain sacred protections against warrantless searches by law enforcement. Federal and state courts have recognized certain reasonable exceptions to the warrant requirement consistent with common sense and public safety. The supreme court of the United States recognized the "school search exception" to the warrant requirement in the due process clause of the fourth amendment of the United States Constitution in the case *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S. Ct. 733, 83 L. Ed. 2d 720 (1985). The school search exception provides that reasonable suspicion standard shall apply when school officials, including teachers, teachers' aides, school administrators, school police officers, and local police school liaison officers, conduct a search acting on their own authority of a student on school grounds. The Washington state supreme court also recognized the school search exception as valid in Washington state under Article I, section 7 of the state Constitution. *York v. Wahkiakum Sch. Dist. No. 200*, 163 Wn.2d 297, 303, 178 P.3d 995 (2008) *State v. McKinnon*, 88 Wn.2d 75, 558 P.2d 781 (1977). In a recent opinion, the Washington state supreme court overruled previous case law and determined that a school resource officer could no longer conduct searches of students for drugs or weapons under the school search exception. *Washington v. Meneese*, Case No. 86203–6, August 2, 2012. The court's analysis raised the issue of whether school resource officers were clearly authorized as school officials to conduct searches to enforce school rules. It is the intent of the legislature to allow for the school search exception to the warrant requirement by providing clear authorization for school police officers and school resource officers to conduct searches of students on school grounds to enforce school rules and create a safe learning environment for students and school employees.

**Sec.**  RCW 28A.600.230 and 1999 c 167 s 3 are each amended to read as follows:

(1) A school principal, vice principal, or principal's designee may search a student, the student's possessions, and the student's locker, if the principal, vice principal, or principal's designee has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules. A search is mandatory if there are reasonable grounds to suspect a student has illegally possessed a firearm in violation of RCW 9.41.280.

(2) Except as provided in subsection (3) of this section, the scope of the search is proper if the search is conducted as follows:

(a) The methods used are reasonably related to the objectives of the search; and

(b) Is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

(3) A principal or vice principal or anyone acting under their direction may not subject a student to a strip search or body cavity search as those terms are defined in RCW 10.79.070.

(4) For the purposes of this section, "principal's designee" includes, but is not limited to, a school resource officer or local police school liaison officer.

**Sec.**  RCW 28A.600.240 and 1990 c 33 s 504 are each amended to read as follows:

(1) In addition to the provisions in RCW 28A.600.230, the school principal, vice principal, or principal's designee may search all student lockers at any time without prior notice and without a reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule.

(2) If the school principal, vice principal, or principal's designee, as a result of the search, develops a reasonable suspicion that a certain container or containers in any student locker contain evidence of a student's violation of the law or school rule, the principal, vice principal, or principal's designee may search the container or containers according to the provisions of RCW 28A.600.230(2).

(3) For the purposes of this section, "principal's designee" includes, but is not limited to, a school resource officer or local police school liaison officer.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.600 RCW to read as follows:

(1) When a school resource officer is acting to preserve the school's authority to maintain a safe and effective learning environment, the school search exception under the federal and state Constitutions applies.

(2) If a school resource officer is acting to enforce criminal law, general constitutional requirements for search warrants apply.

NEW SECTION. **Sec.**  This act takes effect July 1, 2016.

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