

SENATE BILL REPORT

SB 5572

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 6, 1992

Brief Description: Prohibiting administrative search warrants for private residences.

SPONSORS: Senators Nelson, Rasmussen, Matson, Thorsness and Stratton.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5572 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, M. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Ben Barnes (786-7465)

Hearing Dates: February 21, 1991; February 5, 1992; February 6, 1992

BACKGROUND:

The Fourth Amendment protects people against unreasonable searches and seizures. To be reasonable the search or seizure must be based upon probable cause and supported by a search warrant. There are exceptions to the warrant requirement, including certain searches conducted by administrative agencies. Administrative searches usually involve inspections for health and safety code violations.

An administrative agency is required to obtain a search warrant for a code-enforcement inspection of a private residence. An inspector is not required to request entry from the occupant prior to obtaining a search warrant if there is probable cause for the inspection.

It is suggested that search warrants should be prohibited for noncriminal administrative searches of residences and that a search should only be conducted with the informed consent of the occupant.

SUMMARY:

Noncriminal administrative search warrants are prohibited for private residences. An administrative search may only be conducted with the written consent of the occupant. The occupant must be fully informed of his or her right to refuse the search.

Residence is defined to include separate, multi-unit, and cooperative dwellings and the land on which the dwelling stands.

EFFECT OF PROPOSED SUBSTITUTE:

Probable cause of a specific violation in a specific residence is required before a search warrant can be issued by a court. The owner or occupant of a residence is also entitled to notice of the application for a warrant and a hearing. Without a warrant, an administrative search of a residence may only be conducted with the written consent of the occupant.

Appropriation: none

Revenue: none

Fiscal Note: requested January 29, 1992

TESTIMONY FOR:

In order to protect citizens from an invasion of their privacy, administrative search warrants should only be issued by a court where probable cause of a specific violation at a specific residence exists.

TESTIMONY AGAINST:

Administrative search warrants allow local jurisdictions to insure compliance with local health and safety regulations.

TESTIFIED: Jeanette Burrage, Northwest Legal Foundation (pro); Peggy Ganson, Washington Apt. Assn. (pro); Gary Phillips, Apt. Assn. Seattle-King Co. (pro); Nancy Wray, Tenant-Landlord Coalition (pro); Ovid Thompson, Seattle Dept. of Const./Land Use (con)