

# HOUSE BILL REPORT

## ESSB 5861

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### As Passed House - Amended:

March 2, 2004

**Title:** An act relating to criminal impersonation of a veteran of the armed forces.

**Brief Description:** Making it a crime to impersonate a veteran of the armed forces.

**Sponsors:** By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Rasmussen, T. Sheldon, Finkbeiner, Kohl-Welles, Oke, Schmidt and Shin).

### Brief History:

#### Committee Activity:

State Government: 2/19/04, 2/20/04 [DPA].

#### Floor Activity:

Passed House - Amended: 3/2/04, 94-0.

### Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Creates a new method of committing criminal impersonation in the second degree by falsely assuming the identity of a veteran or active duty member of the armed forces with intent to defraud for the purpose of personal gain or to facilitate any unlawful activity.

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## HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

**Staff:** Katie Blinn (786-7114).

### Background:

A person is guilty of criminal impersonation in the *first* degree, a gross misdemeanor, if the person:

- assumes a false identity and does something in the assumed character with the intent

- to defraud another or for any other unlawful purpose; or
- pretends to be a public servant or a representative of a person or organization and does something in the assumed character with the intent to defraud another or for any other unlawful purpose.

The maximum penalty for a gross misdemeanor is one year in jail and a \$5,000 fine.

A person is guilty of criminal impersonation in the *second* degree, a simple misdemeanor, if the person:

- claims to be a law enforcement officer or creates an impression that he or she is a law enforcement officer; and
- under circumstances not amounting to criminal impersonation in the first degree, does something with intent to convey the impression of acting in an official capacity that would lead a reasonable person to believe he or she is a law enforcement officer.

The maximum penalty for a simple misdemeanor is 90 days in jail and a \$1,000 fine.

Caselaw has established some guidelines on prosecutorial discretion when it comes to charging decisions. The Washington Supreme Court has consistently held that, when both a general crime and a specific crime encompass identical conduct under identical circumstances, the prosecutor has no discretion and must charge the specific crime.

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### **Summary of Amended Bill:**

An additional method of committing criminal impersonation in the second degree is established. A person may be guilty of criminal impersonation in the second degree if the person:

- falsely assumes the identity of a veteran or active duty member of the United States armed forces with the intent to defraud for the purpose of personal gain or to facilitate any unlawful activity.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended Bill:** The bill takes effect on July 1, 2004.

**Testimony For:** This bill is brought by a number of veterans groups who are aware of incidents of fraud occurring. It is difficult to place this as first degree impersonation because that would exceed impersonation of a law enforcement officer. This is a serious issue in the veterans community. One victim was defrauded \$10,000 by someone who pretended to be a veteran. People are showing up at veterans events pretending to be veterans. We need a way to deal with these people civilly. The only thing we can do now is make a scene at a public event, but we cannot go after these people. A computer

program is being sold on EBay that provides blank discharge papers, and Medal of Honor medals are being sold over the internet. This problem is a blight on the veterans community. The Veterans Legislative Coalition and the Paralyzed Veterans of America support the bill.

**Testimony Against:** None.

**Persons Testifying:** Senator Roach, prime sponsor; Chuck Lawrence, Vietnam Veterans of America; Don Smith and Doris Gross, Veterans Legislative Coalition; Skip Dreps, Paralyzed Veterans of America; and Tony Woods, Veterans of Foreign Wars.

**Persons Signed In To Testify But Not Testifying:** None.