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**SUBSTITUTE HOUSE BILL 2392**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Lantz, Darneille, Carrell, O'Brien, Romero, Lovick, Kenney, Flannigan, Upthegrove, Kagi, Hunt, Rockefeller, McCoy, Dickerson, Haigh, McMahan, Morrell, Bush, Clibborn, Delvin, Campbell, Simpson, G., Ruderman, Jarrett, Chase, Schual-Berke, Hudgins, Kessler, Woods, Moeller, Talcott and McDonald)

READ FIRST TIME 01/29/04.

1 AN ACT Relating to general authority Washington law enforcement  
2 agencies adopting policies addressing domestic violence committed or  
3 allegedly committed by general authority Washington peace officers;  
4 amending RCW 10.99.020; adding a new section to chapter 10.99 RCW; and  
5 creating new sections.

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

7 NEW SECTION. **Sec. 1.** The legislature reaffirms its determination  
8 to reduce the incident rate of domestic violence. The legislature  
9 finds it is appropriate to help reduce the incident rate of domestic  
10 violence by addressing the need for improved coordination and  
11 accountability among general authority Washington law enforcement  
12 agencies and general authority Washington peace officers when reports  
13 of domestic violence are made and the alleged perpetrator is a general  
14 authority Washington peace officer. The legislature finds that  
15 coordination and accountability will be improved if general authority  
16 Washington law enforcement agencies adopt policies that meet statewide  
17 minimum requirements for training, reporting, interagency cooperation,  
18 investigation, and collaboration with groups serving victims of  
19 domestic violence. The legislature intends to provide maximum

1 flexibility to general authority Washington law enforcement agencies,  
2 consistent with the purposes of this act, in their efforts to improve  
3 coordination and accountability when incidents of domestic violence  
4 committed or allegedly committed by general authority Washington peace  
5 officers are reported.

6 **Sec. 2.** RCW 10.99.020 and 2000 c 119 s 5 are each amended to read  
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10 (1) "Agency" means a general authority Washington law enforcement  
11 agency as defined in RCW 10.93.020.

12 (2) "Association" means the Washington association of sheriffs and  
13 police chiefs.

14 (3) "Family or household members" means spouses, former spouses,  
15 persons who have a child in common regardless of whether they have been  
16 married or have lived together at any time, adult persons related by  
17 blood or marriage, adult persons who are presently residing together or  
18 who have resided together in the past, persons sixteen years of age or  
19 older who are presently residing together or who have resided together  
20 in the past and who have or have had a dating relationship, persons  
21 sixteen years of age or older with whom a person sixteen years of age  
22 or older has or has had a dating relationship, and persons who have a  
23 biological or legal parent-child relationship, including stepparents  
24 and stepchildren and grandparents and grandchildren.

25 ~~((+2))~~ (4) "Dating relationship" has the same meaning as in RCW  
26 26.50.010.

27 ~~((+3))~~ (5) "Domestic violence" includes but is not limited to any  
28 of the following crimes when committed by one family or household  
29 member against another:

- 30 (a) Assault in the first degree (RCW 9A.36.011);
- 31 (b) Assault in the second degree (RCW 9A.36.021);
- 32 (c) Assault in the third degree (RCW 9A.36.031);
- 33 (d) Assault in the fourth degree (RCW 9A.36.041);
- 34 (e) Drive-by shooting (RCW 9A.36.045);
- 35 (f) Reckless endangerment (RCW 9A.36.050);
- 36 (g) Coercion (RCW 9A.36.070);
- 37 (h) Burglary in the first degree (RCW 9A.52.020);

- 1 (i) Burglary in the second degree (RCW 9A.52.030);  
2 (j) Criminal trespass in the first degree (RCW 9A.52.070);  
3 (k) Criminal trespass in the second degree (RCW 9A.52.080);  
4 (l) Malicious mischief in the first degree (RCW 9A.48.070);  
5 (m) Malicious mischief in the second degree (RCW 9A.48.080);  
6 (n) Malicious mischief in the third degree (RCW 9A.48.090);  
7 (o) Kidnapping in the first degree (RCW 9A.40.020);  
8 (p) Kidnapping in the second degree (RCW 9A.40.030);  
9 (q) Unlawful imprisonment (RCW 9A.40.040);  
10 (r) Violation of the provisions of a restraining order, no-contact  
11 order, or protection order restraining or enjoining the person or  
12 restraining the person from going onto the grounds of or entering a  
13 residence, workplace, school, or day care, or prohibiting the person  
14 from knowingly coming within, or knowingly remaining within, a  
15 specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300,  
16 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060, 26.50.070,  
17 26.50.130, 26.52.070, or 74.34.145);  
18 (s) Rape in the first degree (RCW 9A.44.040);  
19 (t) Rape in the second degree (RCW 9A.44.050);  
20 (u) Residential burglary (RCW 9A.52.025);  
21 (v) Stalking (RCW 9A.46.110); and  
22 (w) Interference with the reporting of domestic violence (RCW  
23 9A.36.150).  
24 ~~((4))~~ (6) "Employee" means any person currently employed with an  
25 agency.  
26 (7) "Sworn employee" means a general authority Washington peace  
27 officer as defined in RCW 10.93.020, any person appointed under RCW  
28 35.21.333, and any person appointed or elected to carry out the duties  
29 of the sheriff under chapter 36.28 RCW.  
30 (8) "Victim" means a family or household member who has been  
31 subjected to domestic violence.

32 NEW SECTION. Sec. 3. A new section is added to chapter 10.99 RCW  
33 to read as follows:

34 (1) By December 1, 2004, the association shall develop a written  
35 model policy on domestic violence committed or allegedly committed by  
36 sworn employees of agencies. In developing the policy, the association

1 shall convene a work group consisting of representatives from the  
2 following entities and professions:

3 (a) Statewide organizations representing state and local  
4 enforcement officers;

5 (b) A statewide organization providing training and education for  
6 agencies having the primary responsibility of serving victims of  
7 domestic violence with emergency shelter and other services; and

8 (c) Any other organization or profession the association determines  
9 to be appropriate.

10 (2) Members of the work group shall serve without compensation.

11 (3) The model policy shall provide due process for employees and,  
12 at a minimum, meet the following standards:

13 (a) Provide prehire screening procedures reasonably calculated to  
14 disclose whether an applicant for a sworn employee position:

15 (i) Has committed or, based on credible sources, has been accused  
16 of committing an act of domestic violence;

17 (ii) Is currently being investigated for an allegation of child  
18 abuse or neglect or has previously been investigated for founded  
19 allegations of child abuse or neglect; or

20 (iii) Is currently or has previously been subject to any order  
21 under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any  
22 equivalent order issued by another state or tribal court;

23 (b) Provide for the mandatory, immediate response to acts or  
24 allegations of domestic violence committed or allegedly committed by a  
25 sworn employee of an agency;

26 (c) Provide to a sworn employee, upon the request of the sworn  
27 employee or when the sworn employee has been alleged to have committed  
28 an act of domestic violence, information on programs under RCW  
29 26.50.150;

30 (d) Provide for the mandatory, immediate reporting by employees  
31 when an employee becomes aware of an allegation of domestic violence  
32 committed or allegedly committed by a sworn employee of the agency  
33 employing the sworn employee;

34 (e) Provide procedures to address reporting by an employee who is  
35 the victim of domestic violence committed or allegedly committed by a  
36 sworn employee of an agency;

37 (f) Provide for the mandatory, immediate self-reporting by a sworn  
38 employee to his or her employing agency when an agency in any

1 jurisdiction has responded to a domestic violence call in which the  
2 sworn employee committed or allegedly committed an act of domestic  
3 violence;

4 (g) Provide for the mandatory, immediate self-reporting by a sworn  
5 employee to his or her employing agency if the employee is currently  
6 being investigated for an allegation of child abuse or neglect or has  
7 previously been investigated for founded allegations of child abuse or  
8 neglect, or is currently or has previously been subject to any order  
9 under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any  
10 equivalent order issued by another state or tribal court;

11 (h) Provide for the performance of prompt separate and impartial  
12 administrative and criminal investigations of acts or allegations of  
13 domestic violence committed or allegedly committed by a sworn employee  
14 of an agency;

15 (i) Provide for appropriate action to be taken during an  
16 administrative or criminal investigation of acts or allegations of  
17 domestic violence committed or allegedly committed by a sworn employee  
18 of an agency. The policy shall provide procedures to address, in a  
19 manner consistent with applicable law and the agency's ability to  
20 maintain public safety within its jurisdiction, whether to relieve the  
21 sworn employee of agency-issued weapons and other agency-issued  
22 property and whether to suspend the sworn employee's power of arrest or  
23 other police powers pending resolution of any investigation;

24 (j) Provide for prompt and appropriate discipline or sanctions  
25 when, after an agency investigation, it is determined that a sworn  
26 employee has committed an act of domestic violence;

27 (k) Provide that, when there has been an allegation of domestic  
28 violence committed or allegedly committed by a sworn employee, the  
29 agency immediately make available to the alleged victim the following  
30 information:

31 (i) The agency's written policy on domestic violence committed or  
32 allegedly committed by sworn employees;

33 (ii) Information, including but not limited to contact information,  
34 about public and private nonprofit domestic violence advocates and  
35 services; and

36 (iii) Information regarding relevant confidentiality policies  
37 related to the victim's information;

1 (l) Provide procedures for the timely response, consistent with  
2 chapters 42.17 and 10.97 RCW, to an alleged victim's inquiries into the  
3 status of the administrative investigation and the procedures the  
4 agency will follow in an investigation of domestic violence committed  
5 or allegedly committed by a sworn employee;

6 (m) Provide procedures requiring an agency to immediately notify  
7 the employing agency of a sworn employee when the notifying agency  
8 becomes aware of acts or allegations of domestic violence committed or  
9 allegedly committed by the sworn employee within the jurisdiction of  
10 the notifying agency; and

11 (n) Provide procedures for agencies to access and share domestic  
12 violence training within their jurisdiction and with other  
13 jurisdictions.

14 (4) By June 1, 2005, every agency shall adopt and implement a  
15 written policy on domestic violence committed or allegedly committed by  
16 sworn employees of the agency that meet the minimum standards specified  
17 in this section. In lieu of developing its own policy, the agency may  
18 adopt the model policy developed by the association under this section.  
19 In developing its own policy, or before adopting the model policy, the  
20 agency shall consult public and private nonprofit domestic violence  
21 advocates and any other organizations and professions the agency finds  
22 appropriate.

23 (5)(a) Except as provided in this section, not later than June 30,  
24 2006, every sworn employee of an agency shall be trained by the agency  
25 on the agency's policy required under this section.

26 (b) Sworn employees hired by an agency on or after March 1, 2006,  
27 shall, within six months of beginning employment, be trained by the  
28 agency on the agency's policy required under this section.

29 (6)(a) By June 1, 2005, every agency shall provide a copy of its  
30 policy developed under this section to the association and shall  
31 provide a statement notifying the association of whether the agency has  
32 complied with the training required under this section. The copy and  
33 statement shall be provided in electronic format unless the agency is  
34 unable to do so. The agency shall provide the association with any  
35 revisions to the policy upon adoption.

36 (b) The association shall maintain a copy of each agency's policy  
37 and shall provide to the governor and legislature not later than

1 January 1, 2006, a list of those agencies that have not developed and  
2 submitted policies and those agencies that have not stated their  
3 compliance with the training required under this section.

4 (c) The association shall, upon request and within its resources,  
5 provide technical assistance to agencies in developing their policies.

6 NEW SECTION. **Sec. 4.** The code reviser shall correct any cross-  
7 references to RCW 10.99.020 that are changed by this act.

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