

SENATE BILL REPORT

SB 6076

As of March 25, 2015

Title: An act relating to garnishing public pensions to pay for the costs of incarceration of a public employee convicted of a felony for misconduct associated with such person's service as a public employee.

Brief Description: Garnishing public pensions to pay for the costs of incarceration of a public employee convicted of a felony for misconduct associated with such person's service as a public employee.

Sponsors: Senators Bailey, Litzow, Benton, Baumgartner, Sheldon, Becker, Schoesler, Angel, Miloscia, Honeyford, Braun and Fain.

Brief History:

Committee Activity: Ways & Means: 3/24/15.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Steve Jones (786-7440)

Background: The state Department of Retirement Systems administers several state retirement plans that provide retirement benefits to a variety of state and local government employees. Among those plans are the following:

- the Public Employees' Retirement System;
- the Teachers' Retirement System;
- the Law Enforcement Officers' and Firefighters' Retirement System;
- the Washington State Patrol Retirement System;
- the School Employees' Retirement System; and
- the Public Safety Employees' Retirement System.

By statute, the benefits received under these retirement plans cannot be legally assigned to another person and are exempt from legal attachment or execution, wage garnishment, and bankruptcy actions. However, these benefits can be assigned to another person as a result of a child support order, a judicial dissolution order, or federal law.

Summary of Bill: For felonies committed after July 1, 2015, if the felony was the result of misconduct associated with the person's service as a public employee, up to 50 percent of the

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monthly retirement benefit can be garnished for the costs of incarceration, probation, parole, or restitution resulting from the crime.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 15, 2015.

Staff Summary of Public Testimony: PRO: It is shocking that teachers have been convicted of drug or sex crimes involving children, and are sitting in prison while receiving taxpayer-funded pensions. More than \$2 million is being spent every year on these benefits. In the military, you lose your benefits for dishonorable service. This bill is prospective only, not retroactive. The innocent spouse and dependents are protected under this bill.

CON: This bill does not protect the victims of crime because the assets of the criminal could be depleted, making it more difficult for the victims to access these assets. This bill is contrary to the strong public policy of the Sentencing Reform Act because it treats persons differently based on the source of the person's income. The property rights of the innocent spouse are not adequately protected.

OTHER: There are several potential ambiguities and conflicts with existing garnishment and criminal statutes. These issues need closer examination by the Joint Select Committee on Public Pension Policy and the LEOFF Plan 2 Retirement Board.

Persons Testifying: PRO: Senator Bailey, prime sponsor; Scott Roberts, Freedom Foundation.

CON: Rebecca Johnson, WA Coalition of Sexual Assault Programs; Bob Cooper, WA Defender Assn.

OTHER: Steve Nelson, LEOFF Plan 2 Retirement Board.

Persons Signed in to Testify But Not Testifying: No one.