

SENATE BILL REPORT

SHB 2817

As of February 21, 2018

Title: An act relating to limiting overtime for correctional officers.

Brief Description: Concerning overtime for correctional officers.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Frame, Irwin, Sells, Appleton, Pollet and Stanford).

Brief History: Passed House: 2/13/18, 80-18.

Committee Activity: Labor & Commerce: 2/21/18.

Brief Summary of Bill

- Requires the Employment Security Department to collect data from counties regarding the use of mandatory overtime in jails.
- Mandates that the data collected must be provided to the Legislature by December 1, 2019.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: Counties are authorized to build and operate jails. They may also enter into inter-local agreements for the provision of jail services.

Under the Minimum Wage Act, overtime must be paid at a rate at least one and one-half times the worker's regular hourly rate for hours worked in excess of 40 in a work week. State law does not prohibit mandatory overtime except for certain registered nurses and licensed practical nurses who are involved in direct patient care activities or clinical services and receive an hourly wage.

For these nurses, attempts to compel or force them to work overtime are contrary to public policy, and any such requirement contained in a contract, agreement, or understanding is void. The acceptance of overtime is strictly voluntary, and the refusal to accept overtime work is not grounds for discrimination, dismissal, discharge, or any other penalty, threat of

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reports for discipline, or employment decision adverse to the employee. These provisions do not apply to overtime work that occurs:

- because of any unforeseeable emergent circumstance;
- because of prescheduled on-call time;
- when the employer documents that the employer has used reasonable efforts to obtain staffing, not including using overtime work to fill vacancies resulting from chronic staff shortages; or
- when a nurse is required to work overtime to complete a patient care procedure already in progress where the nurse's absence could have an adverse effect on the patient.

Unforeseeable emergent circumstance means (1) any unforeseen declared national, state, or municipal emergency; (2) when a health care facility disaster plan is activated; or (3) any unforeseen disaster or other catastrophic event which substantially affects or increases the need for health care services.

Summary of Bill: The Employment Security Department (ESD) must collect data from each of the counties in the state regarding use of mandatory overtime in jails in the most recent five years for which data is available, including at least the following:

- the number of correctional officers employed by the county;
- the number of hours of mandatory overtime;
- the shift on which the mandatory overtime was worked; and
- whether an unforeseeable emergent circumstance was the reason for the overtime.

Terms are defined. Unforeseeable emergent circumstance means:

- a riot or other organized body acting together by force or similar emergency in which a need arises to detain a significant number of persons;
- an unforeseen emergency requiring additional staffing occurs in the jail; or
- any other unforeseen disaster or other catastrophic event that affects staffing in the jail.

A county must cooperate in providing the data.

ESD must provide the data collected to the appropriate committees of the Legislature by December 1, 2019.

Legislative findings are made. This act expires January 1, 2020.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Correctional officers are being mandated to work overtime because of chronic understaffing. A study is good because we don't know

how far and wide the problem reaches. One criticism is that it is an unfunded mandate. It is hard for these people to work all the time. It impacts their ability to pick up their children and spend time with family. I have been in corrections for 30 years. Overtime started with an actual need, like a gun in the facility. Then they started cutting staff and wanting overtime. Constant overtime is not safe. Staff can fall asleep or be unable to pay attention. They miss out on a lot of things in life. One week I had mandatory overtime four out of five days. I had overtime 62 times in a year. I became physically and mentally exhausted. Inmates know this and take advantage of it. I missed family events and couldn't make plans with friends. I see no end to mandatory overtime. It has been a decision to understaff certain positions.

Persons Testifying: PRO: Representative Noel Frame, Prime Sponsor; Lucy Kemp, Correction Officer, King County; Linda Holloway, King County; Chris Vance, King County Corrections Guild.

Persons Signed In To Testify But Not Testifying: No one.