

HOUSE BILL REPORT

ESB 5135

As Passed House:

April 9, 2021

Title: An act relating to unlawfully summoning a police officer.

Brief Description: Concerning unlawfully summoning a police officer.

Sponsors: Senators Das, Hasegawa, Nguyen, Stanford and Wilson, C..

Brief History:

Committee Activity:

Civil Rights & Judiciary: 3/23/21, 3/26/21 [DP].

Floor Activity:

Passed House: 4/9/21, 58-40.

Brief Summary of Engrossed Bill

- Establishes a civil cause of action for damages against a person who knowingly causes law enforcement to contact another person with any of the specified improper purposes.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Hansen, Chair; Simmons, Vice Chair; Davis, Entenman, Goodman, Kirby, Orwall, Peterson, Thai, Valdez and Walen.

Minority Report: Do not pass. Signed by 6 members: Representatives Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Klippert and Ybarra.

Staff: Edie Adams (786-7180).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

In 2020 legislation was enacted to modify the criminal offense of false reporting to include false reports that would likely cause an emergency response and to increase the seriousness level and penalty for incidents of false reporting that lead to an emergency response and a person is injured or killed as a result of the emergency response. In addition, the legislation established civil liability for any person who commits a false reporting offense.

Crime of False Reporting.

A person commits False Reporting if the person:

- initiated or circulated a false report or warning of an alleged occurrence or impeding occurrence;
- knew that the information reported, circulated, or conveyed was false; and
- knew that the false report was likely to cause: evacuation of a building, place of assembly, or transportation facility; public inconvenience or alarm; or an emergency response.

A person is guilty of False Reporting in the first degree if the report caused an emergency response, the report was made with reckless disregard for the safety of others, and death was sustained by any person as a proximate result of the emergency response. The first-degree offense is a class B felony.

A person is guilty of False Reporting in the second degree if the report caused an emergency response, was made with reckless disregard for the safety of others, and substantial bodily harm was sustained by any person as a proximate result of the emergency response. The second-degree offense is a class C felony.

A person is guilty of False Reporting in the third degree, a gross misdemeanor, if he or she committed false reporting under circumstances not constituting False Reporting in the first or second degree.

"Emergency response" means any action to protect life, health, or property by: a peace officer or law enforcement agency; or a government agency or private not-for-profit organization that provides fire, rescue, or emergency medical services.

Civil Liability for False Reporting.

An individual who is a victim of False Reporting may bring a civil action against the person who committed the offense or against any person who knowingly benefits, financially or by receiving anything of value, from participation in a venture that the person knew, or should have known, has engaged in False Reporting. The individual may recover damages and any other appropriate relief, including reasonable attorneys' fees.

A person convicted of False Reporting where the false report led to an emergency response may be liable to a public agency for the reasonable costs of the emergency response by, and

at the discretion of, the public agency that incurred the costs.

Summary of Bill:

A person may bring a civil action for damages against a person who knowingly causes a law enforcement officer to arrive at a location to contact another person with the intent to:

- infringe on the other person's rights under the Washington or United States Constitution;
- unlawfully discriminate against the other person;
- cause the other person to feel harassed, humiliated, or embarrassed;
- cause the other person to be expelled from a place in which the other person is lawfully located; or
- damage the other person's reputation or standing in the community or financial, economic, consumer, or business prospects or interests.

A person shall not be held liable if the person acted in good faith in causing a law enforcement officer to arrive.

A prevailing plaintiff may recover the greater of compensatory damages or \$250 against each liable defendant as well as punitive damages. The court may award to a prevailing plaintiff reasonable attorneys' fees and costs.

The action may be brought in a court of limited jurisdiction if the total damages claimed do not exceed the statutory limit for damages that the court of limited jurisdiction may award.

The act does not affect a right or remedy available under any other law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There have been numerous videos of police officers being called to intervene in situations where there is no actual danger present and the call is fueled by bias or discrimination. There was a recent incident in Tacoma where the sheriff, who is tasked with protecting people, initiated a law enforcement response where many officers showed up to terrify and traumatize an innocent black man who was doing his job of delivering newspapers. This is shameful behavior and unfortunately, it is not rare. These types of incidents deeply and negatively affect our communities. The bill will provide accountability outside of the criminal justice system and direct law enforcement resources

back to public safety purposes.

(Opposed) None.

Persons Testifying: Senator Mona Das, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.