

SENATE BILL REPORT

ESSB 5925

As Passed Senate, February 11, 2026

Title: An act relating to the general powers and duties of the attorney general's office.

Brief Description: Concerning the general powers and duties of the attorney general's office.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Hansen, Lovick, Dhingra, Hasegawa, Nobles, Pedersen and Stanford; by request of Attorney General).

Brief History:

Committee Activity: Law & Justice: 1/20/26, 2/03/26 [DPS, DNP].

Floor Activity: Passed Senate: 2/11/26, 30-19.

Brief Summary of Engrossed First Substitute Bill

- Allows the attorney general to issue civil investigative demands to produce documents and answer questions when investigating possible violations of the United States Constitution; the Washington State Constitution; law enforcement Keep Washington Working Act requirements; wages laws; the Washington Law Against Discrimination; and the City and County Jails Act.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5925 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Lovick, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators Holy, Ranking Member; Fortunato, Torres and Wagoner.

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.

Staff: Ryan Giannini (786-7285)

Background: Civil Investigative Demands. A civil investigative demand (CID) is an investigative tool that allows the Office of the Attorney General (AGO) to compel companies and individuals to produce documents and answer questions before filing a lawsuit. The AGO can issue CIDs when investigating suspected violations of the Consumer Protection Act, state and federal Medicaid fraud violations, rent stabilization and other state statutes.

The AGO may issue a CID to a person who the attorney general believes may be in possession of information or documents relevant to the investigation. The CID requires the person to produce documents, answer written questions, or give oral testimony. This type of pre-suit discovery allows the AGO to determine whether legal action is warranted.

Information obtained through a CID may not be used in criminal prosecutions. Information produced in response to a CID may be disclosed only to authorized employees of the AGO, unless the person who produced the information consents to disclosure to third parties. Disclosure of information produced in response to a CID to certain state, federal, or other state's officials may occur without a person's consent if certain assurances are provided.

Summary of Engrossed First Substitute Bill: Civil Investigative Demands. The AGO may issue written CIDs for documents, oral testimony, and answers to written questions if an assistant attorney general of the division conducting the investigation reviews and approves of the CID and facts and circumstances exist that would reasonably lead to possible violations of:

- the United States Constitution;
- the Washington State Constitution;
- law enforcement Keep Washington Working Act (KWW Act) requirements;
- wages laws;
- the Washington Law Against Discrimination; and
- the City and County Jails Act.

Prior to instituting a civil proceeding, the AGO may issue a written CID upon a person or entity requiring such person or entity to produce documentary material and permit inspection and copying during normal business hours at such person's or entity's principal office or place of business or at other times and places as agreed, to answer written questions in writing, to give oral testimony, or a combination of such demands related to such documentary material or information, if the AGO believes that any person or entity:

- may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording which the AGO believes to be relevant to an investigation of possible violations of state or federal law listed above; or
- may have knowledge of any information which the AGO believes relevant to the

subject matter of such an investigation.

The AGO issuance of CIDs is not applicable to criminal investigations or prosecutions.

Each CID shall:

- state the statute, the alleged violation under investigation, and the general subject matter of the investigation;
- describe the class or classes of documentary material to be produced with reasonable specificity if the CID is for documentary material;
- prescribe a return date within which documentary material or written questions are to be produced, or a date, time, and place for oral testimony; and
- identify the relevant AGO staff.

No CID shall contain any requirement which would be unreasonable or improper if issued by a state court, require the disclosure of privileged information, or which would not be required by a subpoena duces tecum issued by a state court.

A CID may be served directly on a person or any officer or managing agent of an entity, delivered to the principal place of business in this state, or by registered or certified mail to the person's address or entity's principal office or place of business.

Procedures for written questions and oral testimony are provided.

If, after prior court approval, a CID specifically prohibits disclosure of the existence or content of the demand, it is a misdemeanor for any person or entity, except for a bank, trust company, mutual savings bank, credit union, or savings and loan association to disclose to any other person or entity the existence or content of a CID, except for disclosure to the recipient's counsel, by order of a superior court for good cause shown, or unless required by law.

No documentary material, answers to written questions, or transcripts of oral testimony produced pursuant to a CID shall be inspected, copied, or disclosed to anyone other than an authorized employee of the AGO without the consent of the person or entity, unless by order of a superior court for good cause shown and except to the following:

- the person or entity; or
- an official of the state, federal government, or other state charged with the enforcement of federal or state laws if the receiving official agrees to not disclose to anyone other than that official or the official's authorized employees. Such material may not be introduced as evidence in a criminal proceeding.

Consistent with the KWW Act state agency restrictions, the AGO may use copies of documentary material, answers to written questions, or transcripts of oral testimony as necessary in the enforcement of federal or state law, including presentations before any court. Any such material that contains trade secrets shall not be presented without court

approval and notice to the person or entity.

A person or entity may petition the Thurston County Superior Court or the court where the person or entity resides to extend the return date or to set aside a CID any time before the return date specified in the CID or within 30 days after the CID has been served, whichever period is shorter.

The AGO may petition the superior court to compel compliance with a CID if a person or entity fails to comply with a CID or when satisfactory copying or reproduction of material cannot be done and the person or entity refuses to surrender such material. The superior court may impose sanctions as provided in the civil rules with respect to discovery motions.

This act does not supersede or displace the authority of the AGO to issue CIDs under other state laws.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The Attorney General (AGO) has authority to issue civil investigative demands (CIDs) before lawsuits in certain cases, but not for violations of the Washington State Constitution or labor laws. One of the core functions of the AGO is enforcing civil laws passed by the Legislature, especially laws against discrimination. This bill does not give the AGO more power, just more tools. This bill will give the same tools the AGO has in other contexts to investigate false businesses, sexual harassment by employers, and wage theft. These investigations can take much longer and be more costly, and this bill would speed up such investigations. Members of the recent immigrant community, people of color, and female-identifying workers have little ways to vindicate their rights outside of government enforcement. Lawsuits are costly and exposes workers to real risks and retaliation as named plaintiffs.

CON: This bill represents an unnecessary and intrusive process. This bill authorizes the AGO to roam the state with investigative subpoena demands without meeting any burden of proof or without taking the first steps to open a suit. The AGO already has considerable power to demand discovery and subpoenas as part of an ordinary civil process. This is the correct balance to avoid frivolous and burdensome demands. The bill includes significant language that is likely unconstitutional. We are troubled by the provisions of this bill that do not require any AGO version of reasonable suspicion or any inquiry whatsoever. There is no base threshold for these CIDs. There are no provisions in the bill that require the AGO to

work with law enforcement agencies if there is good reason to believe that law enforcement agencies did something wrong. This bill will make the AGO the watchdog of Washington law enforcement.

OTHER: This bill will have a transformative effect on the institution of the AGO by conferring new investigative powers and extend such powers to all future attorney generals. This would give future attorney generals the power to investigate local public safety agencies over policing policies, resources, and operations, and not just patterns of behavior or reported violations or instances. Complying with investigations would potentially involve massive amounts of staff time and local resources. We are uncertain about the guardrails and the exposure to counties. This bill could be construed as giving the AGO power to phish for possible violations instead of following current guidelines of going to court. The amount of documents potentially subject to CIDs under this law would be greatly expanded. Small business owners may not always have an attorney and may need more time to understand their constitutional right.

Persons Testifying: PRO: Senator Drew Hansen, Prime Sponsor; Patricio Marquez, Attorney General's Office; Samantha Grad, Teamsters 117; Jeremiah Miller, Fair Work Center & Working Washington.

CON: Ryan Lufkin, WACOPS - Washington Council of Police and Sheriffs; James McMahan, WA Assoc Sheriffs & Police Chiefs.

OTHER: Derrick Nunnally, Association of Washington Cities; Brad Banks, Washington State Association of Counties (WSAC); Rose Gundersen, WA Retail Association.

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