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SENATE BILL 5618

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State of Washington                      63rd Legislature                      2013 Regular Session

By Senators Carrell, Padden, Pearson, Harper, and Darneille

Read first time 02/05/13. Referred to Committee on Law & Justice.

1            AN ACT Relating to the school warrantless search exception;  
2 amending RCW 28A.600.230 and 28A.600.240; creating a new section; and  
3 providing an effective date.

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

5            NEW SECTION.    **Sec. 1.** The legislature recognizes that both the  
6 federal and state Constitutions contain certain sacred protections  
7 against warrantless searches by law enforcement. Federal and state  
8 courts have recognized certain reasonable exceptions to the warrant  
9 requirement consistent with common sense and public safety. The  
10 supreme court of the United States recognized the "school search  
11 exception" to the warrant requirement in the due process clause of the  
12 fourth amendment of the United States Constitution in the case *New*  
13 *Jersey v. T.L.O.*, 469 U.S. 325, 105 S. Ct. 733, 83 L. Ed. 2d 720  
14 (1985). The school search exception provides that reasonable suspicion  
15 standard shall apply when school officials, including teachers,  
16 teachers' aides, school administrators, school police officers and  
17 local police school liaison officers, conduct a search acting on their  
18 own authority of a student on school grounds. The Washington state  
19 supreme court also recognized the school search exception as valid in

1 Washington state under Article I, section 7 of the state Constitution.  
2 *York v. Wahkiakum Sch. Dist. No. 200*, 163 Wn.2d 297, 303, 178 P.3d 995  
3 (2008) *State v. McKinnon*, 88 Wn.2d 75, 558 P.2d 781 (1977). In a  
4 recent opinion, the Washington state supreme court overruled previous  
5 case law and determined that a school resource officer could no longer  
6 conduct searches of students for drugs or weapons under the school  
7 search exception. *Washington v. Meneese*, Case No. 86203-6, August 2,  
8 2012. The court's analysis raised the issue of whether school resource  
9 officers were clearly authorized as school officials to conduct  
10 searches to enforce school rules. It is the intent of the legislature  
11 to allow for the school search exception to the warrant requirement by  
12 providing clear authorization for school police officers and school  
13 resource officers to conduct searches of students on school grounds to  
14 enforce school rules and create a safe learning environment for  
15 students and school employees.

16 **Sec. 2.** RCW 28A.600.230 and 1999 c 167 s 3 are each amended to  
17 read as follows:

18 (1) A school resource officer, local police school liaison officer,  
19 principal, vice principal, or principal's designee may search a  
20 student, the student's possessions, and the student's locker, if the  
21 resource officer, local police school liaison officer, principal, vice  
22 principal, or principal's designee has reasonable grounds to suspect  
23 that the search will yield evidence of the student's violation of the  
24 law or school rules. A search is mandatory if there are reasonable  
25 grounds to suspect a student has illegally possessed a firearm in  
26 violation of RCW 9.41.280.

27 (2) Except as provided in subsection (3) of this section, the scope  
28 of the search is proper if the search is conducted as follows:

29 (a) The methods used are reasonably related to the objectives of  
30 the search; and

31 (b) Is not excessively intrusive in light of the age and sex of the  
32 student and the nature of the suspected infraction.

33 (3) A school resource officer, local police school liaison officer,  
34 principal, or vice principal or anyone acting under their direction may  
35 not subject a student to a strip search or body cavity search as those  
36 terms are defined in RCW 10.79.070.

1           **Sec. 3.** RCW 28A.600.240 and 1990 c 33 s 504 are each amended to  
2 read as follows:

3           (1) In addition to the provisions in RCW 28A.600.230, the school  
4 resource officer, local police school liaison officer, principal, vice  
5 principal, or principal's designee may search all student lockers at  
6 any time without prior notice and without a reasonable suspicion that  
7 the search will yield evidence of any particular student's violation of  
8 the law or school rule.

9           (2) If the school resource officer, local police school liaison  
10 officer, principal, vice principal, or principal's designee, as a  
11 result of the search, develops a reasonable suspicion that a certain  
12 container or containers in any student locker contain evidence of a  
13 student's violation of the law or school rule, the resource officer,  
14 local police school liaison officer, principal, vice principal, or  
15 principal's designee may search the container or containers according  
16 to the provisions of RCW 28A.600.230(2).

17           NEW SECTION. **Sec. 4.** This act takes effect August 1, 2013.

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