
HOUSE BILL 2368

State of Washington 52nd Legislature 1992 Regular Session

By Representatives Padden, Riley, Mielke and Paris

Read first time 01/15/92. Referred to Committee on Judiciary.

1 AN ACT Relating to the practice of law by deputy sheriffs; and
2 amending RCW 2.48.200 and 36.28.110.

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

4 **Sec. 1.** RCW 2.48.200 and 1975 1st ex.s. c 19 s 3 are each amended
5 to read as follows:

6 (1) Except as provided in subsection (2) of this section, no person
7 shall practice law who holds a commission as judge in any court of
8 record, or as sheriff, coroner, or deputy sheriff; nor shall the clerk
9 of the supreme court, the court of appeals, or of the superior court or
10 any deputy thereof practice in the court of which he or she is clerk or
11 deputy clerk: PROVIDED, It shall be unlawful for a deputy prosecuting
12 attorney, or for the employee, partner, or agent of a prosecuting
13 attorney, or for an attorney occupying offices with a prosecuting
14 attorney, to appear for an adverse interest in any proceeding in which

1 a prosecuting attorney is appearing, or to appear in any suit, action
2 or proceeding in which a prosecuting attorney is prohibited by law from
3 appearing, but nothing herein shall prohibit a prosecuting attorney or
4 a deputy prosecuting attorney from appearing in any action or
5 proceeding for an interest divergent from that represented in the same
6 action or proceeding by another attorney or special attorney in or for
7 the same office, so long as such appearances are pursuant to the duties
8 of prosecuting attorneys as set out in RCW 36.27.020 and such
9 appearances are consistent with the code of professional responsibility
10 or other code of ethics adopted by the Washington state supreme court,
11 but nothing herein shall preclude a judge or justice of a court of this
12 state from finishing any business (~~((by him))~~) undertaken in a court of
13 the United States prior to (~~((his))~~) him or her becoming a judge or
14 justice.

15 (2)(a) A deputy sheriff may practice law if in the normal course of
16 duty the deputy sheriff: (i) Engages in duties that are of a general
17 law enforcement nature and are not normally closely related to the
18 function of the court; (ii) limits his or her law practice to those
19 areas not in conflict with the deputy sheriff's duties; (iii) does not
20 serve civil process; and (iv) does not attend sessions of the superior
21 court.

22 (b) If the normal course of the deputy sheriff's duties change so
23 that the deputy sheriff engages in duties proscribed under (a) of this
24 subsection, and the change in duties creates a recurring or permanent
25 conflict between the practice of law and the deputy sheriff's duties,
26 the deputy sheriff shall immediately cease either the law practice in
27 full compliance with the rules of professional conduct or cease
28 employment as a deputy sheriff until the conflict no longer exists. If
29 the deputy sheriff elects to discontinue the practice of law, he or she
30 may finish any pending legal matters to avoid causing hardship to a

1 client if finishing those legal matters does not create a conflict with
2 the deputy sheriff's duties or with the rules of professional conduct.

3 (c) Prior to beginning the practice of law, a deputy sheriff shall
4 file an affidavit with the clerk of the court in the county where the
5 deputy sheriff is employed and intends to practice law. The affidavit
6 shall state that the deputy sheriff shall comply with the requirements
7 of subsection (2) (a) and (b) of this section.

8 **Sec. 2.** RCW 36.28.110 and 1963 c 4 s 36.28.110 are each amended to
9 read as follows:

10 No sheriff ((~~or deputy sheriff~~)) shall appear or practice as
11 attorney in any court, except in their own defense. Deputy sheriffs
12 may practice law subject to the limitations of RCW 2.48.200(2).