

SENATE BILL REPORT

SB 5691

As Passed Senate, March 8, 2005

Title: An act relating to jury source lists in counties with more than one superior court facility.

Brief Description: Authorizing jury source lists to be divided by jury assignment area.

Sponsors: Senators Esser, Kline, Johnson, Thibaudeau, Roach, Keiser and Fairley.

Brief History:

Committee Activity: Judiciary: 2/10/05, 2/16/05 [DP].

Passed Senate: 3/8/05, 47-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Cindy Fazio (786-7405)

Background: Jury source lists are created from lists of registered voters, driver's license holders, and identicard holders. Each county's clerk and auditor provide the voter information used; the Department of Information Services provides the driver's license and identicard holder information. The lists are merged, and identifying information is used to ensure, to the extent possible, that a person is listed only once on the list.

The master list is then certified by the superior court and filed with the county clerk, replacing all previously filed lists. The list may be updated periodically to reflect changes to the individual lists.

Summary of Bill: The legislature finds that in counties with more than one superior court facility, jurors are being asked to travel excessively long distances to attend court proceedings. Consideration of a juror's proximity to a particular court facility can be accommodated while continuing to provide proportionate jury source list representation from a random jury pool.

In counties with more than one superior court facility, and a separate case assignment area for each facility, the jury source list may be divided into jury assignment areas. The jury assignment area boundaries may be designated and adjusted by the administrative office of the courts based on the most current United States census data.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: During the debate over this bill last year, a Constitutional question was raised, based on very old case law. Very recent studies have shown that a divided jury pool would not lack diversity. Jurors' travel time could be drastically reduced and King County could save money in mileage payments to jurors. King County is committed to proving there would not be a diversity problem by either starting a declaratory judgment action over this issue or setting up a trial of the proposal. In that case, we would split the jury pool into assignment areas based on the superior court facilities, run the program, put the jury pool back into one pool, let the appeals from the split pool run their course, and when the program passes muster in the courts, then split the pool again and run the program. Finally, there is a direct relationship between the distance a juror must travel to perform jury duty and that jurors' likelihood of showing up to perform the jury duty.

Testimony Against: By dividing the jury pool into smaller units, diversity would be reduced. Cases tried at one location would never be decided by jurors living in another area. Additionally, this program would lead to forum shopping by lawyers to get the case moved to the location with the pool of jurors most favorable to their side of the case. Additionally, the Washington Constitution provides for a jury "of the county." Not a jury from one part of the county. Finally, a similar program was developed in the early 1900's and was struck down as unconstitutional. If that were to happen today, criminal convictions under the split jury pool may be reversed.

Who Testified: PRO: Ronald Kessler, King County Superior Court.

CON: Jon Ostlund, Washington Association of Criminal Defense Lawyers, Washington Defender Association.