

HOUSE BILL REPORT

SHB 2405

As Passed Legislature

Title: An act relating to the role of parties in cases related to certain notices and records.

Brief Description: Concerning the role of parties in cases related to certain notices and records.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Muri, Kilduff and Jinkins).

Brief History:

Committee Activity:

Judiciary: 1/27/16, 2/4/16 [DPS].

Floor Activity:

Passed House: 2/11/16, 94-2.

Passed Senate: 3/1/16, 47-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires the petitioner in a criminal case, or an involuntary mental health commitment case, that results in loss of firearms rights to provide the court with certain identifying information of the convicted or committed person.
- Provides that when multiple involuntary mental health commitments are entered under the same cause number, the court need only send one notification of the committed person's identifying information to the Department of Licensing and the National Criminal Instant Background Check System.
- Amends laws governing juvenile records to broaden the definition of "official juvenile court file."
- Amends statutes relating to a number of different court proceedings to provide that a party in the case, rather than the clerk of the court, must provide certain notices or issue summons in the proceedings.

HOUSE COMMITTEE ON JUDICIARY

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

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Hansen, Kirby, Klippert, Kuderer, Muri, Orwall and Stokesbary.

Staff: Edie Adams (786-7180).

Background:

Court Notification of a Conviction or Commitment Resulting in Loss of Firearms Rights.

Certain persons are prohibited from possessing firearms, including persons who have been convicted of felony crimes or certain misdemeanor crimes of domestic violence, and persons who have been involuntarily committed for mental health treatment under the civil or forensic mental health laws. At the time a person is convicted of a crime or involuntarily committed, and the conviction or commitment results in the loss of firearms rights, the convicting or committing court must forward the person's driver's license or comparable information to the Department of Licensing (DOL) and the National Instant Criminal Background Check System (NICS).

Juvenile Records.

Laws governing juvenile records held by juvenile justice or care agencies generally protect the confidentiality of juvenile records. Juvenile justice or care agencies include a broad group of entities that may be involved in juvenile matters, including police, diversion units, courts, prosecuting attorneys and defense attorneys, the Department of Social & Health Services (DSHS), and schools, among others.

Juvenile records are divided into three categories: (1) the official juvenile court file; (2) the social file; and (3) records of any other juvenile justice or care agency in the case. Records in the "official juvenile court file" are open to public inspection unless they have been sealed. All records other than the official juvenile court file are confidential and may not be released except under some limited exceptions. The "official juvenile court file" is defined as the legal file of the juvenile court containing only the following specific list of records: the petition or information; motions; memorandums; briefs; findings of the court; and court orders. The "social file" is defined as the court file containing the records and reports of the probation counselor.

County Clerks.

The County Clerk is an independent elected official that serves as the clerk of the superior court. The clerk has a variety of administrative and financial duties associated with the operation of the courts that are imposed by statute and local rules. Clerk duties include processing and maintaining court records, assisting in court proceedings, collecting and disbursing court fees, fines and other collections, and issuing court orders and decrees. Some statutes require clerks to issue summons or provide certain notifications with respect to court proceedings.

Certificated School Employees. There are specific notice and hearing procedures that apply when a school board takes action to discharge a certificated employee or takes adverse action affecting the certificated employee's contract status. A certificated employee may appeal a

discharge or other adverse action affecting his or her contract status to the superior court. Within 10 days of receipt of the notice of appeal, the clerk of the court must send a notice of the appeal to the chair of the school board.

Non-Payment of Vehicle-Related Judgments. Under the motor vehicle laws, when a judgment for personal injury or property damage caused by the ownership or use of a motor vehicle remains unpaid after 30 days, the clerk of court, or the judge of a court which has no clerk, must immediately provide notice to the DOL. The notice must include a certified copy or abstract of the judgment, a certificate of facts relative to the judgment, and if it is a default judgment, a certified copy or abstract of the portion of the record that indicated the manner in which service of summons was effectuated and the measure taken to provide the defendant with notice of the suit.

Dissolution of Certain Districts. There are specific procedures for dissolving certain districts, such as port districts, school districts, water-sewer districts, fire protection districts, and other similar districts. The Board of Commissioners (Board) or other governing body of the district must file a petition with the superior court of the county in which the Board is situated. The court sets a hearing date, and the clerk of the court must give notice of the hearing by publication in a newspaper of general circulation where the district is located and by posting in three public places in the county in which the district is located.

Dependency Petitions. Under child dependency laws, any person or the DSHS may file a petition with the court alleging that a child is dependent due to alleged abuse or neglect. When a dependency petition is filed, the clerk of the court must issue a summons to the child if over age 12 and to the child's parents, guardian, or custodian, requiring them to appear in court for the hearing on the dependency petition.

Summary of Substitute Bill:

Court Notification of the Loss of Firearms Rights.

In cases where a court must notify the DOL and the NICS of the identifying information of a person who is convicted of a crime or committed for mental health treatment resulting in a loss of firearms rights, the petitioner in the case must provide the court with the required identifying information.

If more than one commitment order is entered under one cause number, only one notification to the DOL and the NICS is required.

Juvenile Court Records.

The definition of "official juvenile court file" is broadened to include: notices of hearing or appearance, service documents, witness and exhibit lists, agreements, judgments, decrees, notices of appeal, as well as a variety of documents prepared by the clerk.

County Clerks.

Various statutes imposing notice or other duties on the county clerk are amended.

Certificated School Employees. When a certificated employee of a school district files a notice of appeal of a discharge or other adverse action affecting his or her contract status, the

certificated employee, rather than the clerk of the court, must notify the chair of the school board of the appeal.

Non-Payment of Vehicle-Related Judgments. When a judgment for personal injury or property damage caused by the ownership or use of a motor vehicle remains unpaid after 30 days, the judgment debtor, rather than the clerk or judge of the court, must immediately provide notice of the nonpayment to the DOL.

Dissolution of Certain Districts. The Board or other governing body of the district, rather than the clerk of the court, must provide notice by publication of the hearing to dissolve the district.

Dependency Petitions. The petitioner, rather than the clerk of the court, must issue the required summons when filing a petition alleging that a child is dependent due to abuse or neglect.

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) The bill improves the manner of providing notices and summons. Clerks should not be responsible for providing these notices. That is the duty of the parties in the case. These statutes impose exceptional duties that are unusual and may happen only once in the clerk's term. The provision governing juvenile records is in response to a Supreme Court case that caused confusion about what documents go into the file. Stakeholders are working on refining the list of documents that should go into the file.

(Opposed) None.

Persons Testifying: Representative Muri, prime sponsor; Josie Delvin, Alison Sonntag, and Ruth Gordon, Washington State Association of County Clerks; Tim Fitzgerald, Spokane County Clerks Office; and Steve Warning, Superior Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.