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SENATE BILL 5426

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State of Washington

55th Legislature

1997 Regular Session

By Senator McCaslin

Read first time 01/27/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to making technical changes by deleting references  
2 to the former judicial council; amending RCW 1.08.025, 2.56.030,  
3 3.34.020, 7.75.020, 10.101.020, 13.34.102, 26.12.177, and 36.22.210;  
4 reenacting and amending RCW 43.10.067; and repealing RCW 2.56.035 and  
5 13.70.005.

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

7 **Sec. 1.** RCW 1.08.025 and 1983 c 52 s 2 are each amended to read as  
8 follows:

9 The committee, or the reviser with the approval of the committee,  
10 shall from time to time make written recommendations to the legislature  
11 concerning deficiencies, conflicts, or obsolete provisions in, and need  
12 for reorganization or revision of, the statutes, and shall prepare for  
13 submission to the legislature, legislation for the correction or  
14 removal of such deficiencies, conflicts or obsolete provisions, or to  
15 otherwise improve the form or substance of any portion of the statute  
16 law of this state as the public interest or the administration of the  
17 subject may require.

18 Such or similar projects may also be undertaken at the request of  
19 the legislature(~~(,)~~) and legislative interim bodies(~~(, and the judicial~~

1 council)) and if such undertaking will not impede the other functions  
2 of the committee.

3 All such proposed legislation shall be annotated so as to show the  
4 purposes, reasons, and history thereof.

5 **Sec. 2.** RCW 2.56.030 and 1996 c 249 s 2 are each amended to read  
6 as follows:

7 The administrator for the courts shall, under the supervision and  
8 direction of the chief justice:

9 (1) Examine the administrative methods and systems employed in the  
10 offices of the judges, clerks, stenographers, and employees of the  
11 courts and make recommendations, through the chief justice, for the  
12 improvement of the same;

13 (2) Examine the state of the dockets of the courts and determine  
14 the need for assistance by any court;

15 (3) Make recommendations to the chief justice relating to the  
16 assignment of judges where courts are in need of assistance and carry  
17 out the direction of the chief justice as to the assignments of judges  
18 to counties and districts where the courts are in need of assistance;

19 (4) Collect and compile statistical and other data and make reports  
20 of the business transacted by the courts and transmit the same to the  
21 chief justice to the end that proper action may be taken in respect  
22 thereto;

23 (5) Prepare and submit budget estimates of state appropriations  
24 necessary for the maintenance and operation of the judicial system and  
25 make recommendations in respect thereto;

26 (6) Collect statistical and other data and make reports relating to  
27 the expenditure of public moneys, state and local, for the maintenance  
28 and operation of the judicial system and the offices connected  
29 therewith;

30 (7) Obtain reports from clerks of courts in accordance with law or  
31 rules adopted by the supreme court of this state on cases and other  
32 judicial business in which action has been delayed beyond periods of  
33 time specified by law or rules of court and make report thereof to  
34 supreme court of this state;

35 (8) Act as secretary of the judicial conference referred to in RCW  
36 2.56.060;

37 (9) ~~((Formulate and submit to the judicial council of this state  
38 recommendations of policies for the improvement of the judicial system;~~

1       ~~((10))~~) Submit annually, as of February 1st, to the chief justice  
2       ~~((and the judicial council))~~, a report of the activities of the  
3       administrator's office for the preceding calendar year including  
4       activities related to courthouse security;

5       ~~((11))~~) (10) Administer programs and standards for the training  
6       and education of judicial personnel;

7       ~~((12))~~) (11) Examine the need for new superior court and district  
8       judge positions under a weighted caseload analysis that takes into  
9       account the time required to hear all the cases in a particular court  
10       and the amount of time existing judges have available to hear cases in  
11       that court. The results of the weighted caseload analysis shall be  
12       reviewed by the board for judicial administration ~~((and the judicial~~  
13       ~~council, both of))~~ which shall make recommendations to the legislature.  
14       It is the intent of the legislature that weighted caseload analysis  
15       become the basis for creating additional district court positions, and  
16       recommendations should address that objective;

17       ~~((13))~~) (12) Provide staff to the judicial retirement account plan  
18       under chapter 2.14 RCW;

19       ~~((14))~~) (13) Attend to such other matters as may be assigned by  
20       the supreme court of this state;

21       ~~((15))~~) (14) Within available funds, develop a curriculum for a  
22       general understanding of child development, placement, and treatment  
23       resources, as well as specific legal skills and knowledge of relevant  
24       statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court  
25       rules, interviewing skills, and special needs of the abused or  
26       neglected child. This curriculum shall be completed and made available  
27       to all juvenile court judges, court personnel, and service providers  
28       and be updated yearly to reflect changes in statutes, court rules, or  
29       case law;

30       ~~((16))~~) (15) Develop, in consultation with the entities set forth  
31       in RCW 2.56.150(3), a comprehensive state-wide curriculum for persons  
32       who act as guardians ad litem under Title 13 or 26 RCW. The curriculum  
33       shall be made available July 1, 1997, and include specialty sections on  
34       child development, child sexual abuse, child physical abuse, child  
35       neglect, clinical and forensic investigative and interviewing  
36       techniques, family reconciliation and mediation services, and relevant  
37       statutory and legal requirements. The curriculum shall be made  
38       available to all superior court judges, court personnel, and all  
39       persons who act as guardians ad litem;

1       (~~(17)~~) (16) Develop a curriculum for a general understanding of  
2 crimes of malicious harassment, as well as specific legal skills and  
3 knowledge of RCW 9A.36.080, relevant cases, court rules, and the  
4 special needs of malicious harassment victims. This curriculum shall  
5 be made available to all superior court and court of appeals judges and  
6 to all justices of the supreme court;

7       (~~(18)~~) (17) Develop, in consultation with the criminal justice  
8 training commission and the commissions established under chapters  
9 43.113, 43.115, and 43.117 RCW, a curriculum for a general  
10 understanding of ethnic and cultural diversity and its implications for  
11 working with youth of color and their families. The curriculum shall  
12 be available to all superior court judges and court commissioners  
13 assigned to juvenile court, and other court personnel. Ethnic and  
14 cultural diversity training shall be provided annually so as to  
15 incorporate cultural sensitivity and awareness into the daily operation  
16 of juvenile courts state-wide;

17       (~~(19)~~) (18) Authorize the use of closed circuit television and  
18 other electronic equipment in judicial proceedings. The administrator  
19 shall promulgate necessary standards and procedures and shall provide  
20 technical assistance to courts as required.

21       **Sec. 3.** RCW 3.34.020 and 1991 c 313 s 2 are each amended to read  
22 as follows:

23       (1) Any change in the number of full and part-time district judges  
24 after January 1, 1992, shall be determined by the legislature after  
25 receiving a recommendation from the supreme court. The supreme court  
26 shall make its recommendations to the legislature based on a weighted  
27 caseload analysis that takes into account the following:

28       (a) The extent of time that existing judges have available to hear  
29 cases in that court;

30       (b) A measurement of the judicial time needed to process various  
31 types of cases;

32       (c) A determination of the time required to process each type of  
33 case to the individual court workload;

34       (d) A determination of the amount of a judge's annual work time  
35 that can be devoted exclusively to processing cases; and

36       (e) An assessment of judicial resource needs, including annual case  
37 filings, and case weights and the judge year value determined under the  
38 weighted caseload method.

1 (2) The administrator for the courts, under the supervision of the  
2 supreme court, may consult with the board of judicial administration(~~(~~  
3 ~~the judicial council,~~) and the district and municipal court judge's  
4 association in developing the procedures and methods of applying the  
5 weighted caseload analysis.

6 (3) For each recommended change from the number of full and part-  
7 time district judges in any county as of January 1, 1992, the  
8 administrator for the courts, under the supervision of the supreme  
9 court, shall complete a judicial impact note detailing any local or  
10 state cost associated with such recommended change.

11 (4) If the legislature approves an increase in the base number of  
12 district judges in any county as of January 1, 1992, such increase in  
13 the base number of district judges and all related costs may be paid  
14 for by the county from moneys provided under RCW 82.14.310, and any  
15 such costs shall be deemed to be expended for criminal justice purposes  
16 as provided in RCW 82.14.315, and such expenses shall not constitute a  
17 supplanting of existing funding.

18 (5)(a) A county legislative authority that desires to change the  
19 number of full or part-time district judges from the base number on  
20 January 1, 1992, must first request the assistance of the supreme  
21 court. The administrator for the courts, under the supervision of the  
22 supreme court, shall conduct a weighted caseload analysis and make a  
23 recommendation of its findings to the legislature for consideration as  
24 provided in this section.

25 (b) The legislative authority of any county may change a part-time  
26 district judge position to a full-time position.

27 **Sec. 4.** RCW 7.75.020 and 1984 c 258 s 502 are each amended to read  
28 as follows:

29 (1) A dispute resolution center may be created and operated by a  
30 municipality, county, or by a corporation organized exclusively for the  
31 resolution of disputes or for charitable or educational purposes. The  
32 corporation shall not be organized for profit, and no part of the net  
33 earnings may inure to the benefit of any private shareholders or  
34 individuals. The majority of the directors of such a corporation shall  
35 not consist of members of any single profession.

36 (2) A dispute resolution center may not begin operation under this  
37 chapter until a plan for establishing a center for the mediation and  
38 settlement of disputes has been approved by the legislative authority

1 of the municipality or county creating the center or, in the case of a  
2 center operated by a nonprofit corporation, by the legislative  
3 authority of the municipality or county within which the center will be  
4 located. A plan for a dispute resolution center shall not be approved  
5 and the center shall not begin operation until the legislative  
6 authority finds that the plan adequately prescribes:

7 (a) Procedures for filing requests for dispute resolution services  
8 with the center and for scheduling mediation sessions participated in  
9 by the parties to the dispute;

10 (b) Procedures to ensure that each dispute mediated by the center  
11 meets the criteria for appropriateness for mediation set by the  
12 legislative authority and for rejecting disputes which do not meet the  
13 criteria;

14 (c) Procedures for giving notice of the time, place, and nature of  
15 the mediation session to the parties, and for conducting mediation  
16 sessions that comply with the provisions of this chapter;

17 (d) Procedures which ensure that participation by all parties is  
18 voluntary;

19 (e) Procedures for obtaining referrals from public and private  
20 bodies;

21 (f) Procedures for meeting the particular needs of the  
22 participants, including, but not limited to, providing services at  
23 times convenient to the participants, in sign language, and in  
24 languages other than English;

25 (g) Procedures for providing trained and certified mediators who,  
26 during the dispute resolution process, shall make no decisions or  
27 determinations of the issues involved, but who shall facilitate  
28 negotiations by the participants themselves to achieve a voluntary  
29 resolution of the issues; and

30 (h) Procedures for informing and educating the community about the  
31 dispute resolution center and encouraging the use of the center's  
32 services in appropriate cases.

33 ~~((3) A dispute resolution center established under this chapter  
34 annually shall provide to the administrator for the courts such data  
35 regarding its operation as the administrator requires. The  
36 administrator shall report annually beginning January 1, 1986, to the  
37 governor, the supreme court, and the legislature regarding the  
38 operation of centers established under this chapter.))~~

1       **Sec. 5.** RCW 10.101.020 and 1989 c 409 s 3 are each amended to read  
2 as follows:

3       (1) A determination of indigency shall be made for all persons  
4 wishing the appointment of counsel in criminal, juvenile, involuntary  
5 commitment, and dependency cases, and any other case where the right to  
6 counsel attaches. The court or its designee shall determine whether  
7 the person is indigent pursuant to the standards set forth in this  
8 chapter.

9       (2) In making the determination of indigency, the court shall also  
10 consider the anticipated length and complexity of the proceedings and  
11 the usual and customary charges of an attorney in the community for  
12 rendering services, and any other circumstances presented to the court  
13 which are relevant to the issue of indigency. The appointment of  
14 counsel shall not be denied to the person because the person's friends  
15 or relatives, other than a spouse who was not the victim of any offense  
16 or offenses allegedly committed by the person, have resources adequate  
17 to retain counsel, or because the person has posted or is capable of  
18 posting bond.

19       (3) The determination of indigency shall be made upon the  
20 defendant's initial contact with the court or at the earliest time  
21 circumstances permit. The court or its designee shall keep a written  
22 record of the determination of indigency. Any information given by the  
23 accused under this section or sections shall be confidential and shall  
24 not be available for use by the prosecution in the pending case.

25       (4) If a determination of eligibility cannot be made before the  
26 time when the first services are to be rendered, the court shall  
27 appoint an attorney on a provisional basis. If the court subsequently  
28 determines that the person receiving the services is ineligible, the  
29 court shall notify the person of the termination of services, subject  
30 to court-ordered reinstatement.

31       (5) All persons determined to be indigent and able to contribute,  
32 shall be required to execute a promissory note at the time counsel is  
33 appointed. The person shall be informed whether payment shall be made  
34 in the form of a lump sum payment or periodic payments. The payment  
35 and payment schedule must be set forth in writing. The person  
36 receiving the appointment of counsel shall also sign an affidavit  
37 swearing under penalty of perjury that all income and assets reported  
38 are complete and accurate. In addition, the person must swear in the

1 affidavit to immediately report any change in financial status to the  
2 court.

3 (6) The office or individual charged by the court to make the  
4 determination of indigency shall provide a written report and opinion  
5 as to indigency on a form prescribed by the office of (~~the~~  
6 ~~administrator for the courts~~) public defense, based on information  
7 obtained from the defendant and subject to verification. The form  
8 shall include information necessary to provide a basis for making a  
9 determination with respect to indigency as provided by this chapter.

10 **Sec. 6.** RCW 13.34.102 and 1996 c 249 s 17 are each amended to read  
11 as follows:

12 (1) All guardians ad litem, who have not previously served or been  
13 trained as a guardian ad litem in this state, who are appointed after  
14 January 1, 1998, must complete the curriculum developed by the office  
15 of the administrator for the courts under RCW 2.56.030(~~(+16+)~~) (15),  
16 prior to their appointment in cases under Title 13 RCW except that  
17 volunteer guardians ad litem or court-appointed special advocates  
18 accepted into a volunteer program after January 1, 1998, may complete  
19 an alternative curriculum approved by the office of the administrator  
20 for the courts that meets or exceeds the state-wide curriculum.

21 (2)(a) Each guardian ad litem program for compensated guardians ad  
22 litem shall establish a rotational registry system for the appointment  
23 of guardians ad litem. If a judicial district does not have a program  
24 the court shall establish the rotational registry system. Guardians ad  
25 litem shall be selected from the registry except in exceptional  
26 circumstances as determined and documented by the court. The parties  
27 may make a joint recommendation for the appointment of a guardian ad  
28 litem from the registry.

29 (b) In judicial districts with a population over one hundred  
30 thousand, a list of three names shall be selected from the registry and  
31 given to the parties along with the background information as specified  
32 in RCW 13.34.100(3), including their hourly rate for services. Each  
33 party may, within three judicial days, strike one name from the list.  
34 If more than one name remains on the list, the court shall make the  
35 appointment from the names on the list. In the event all three names  
36 are stricken the person whose name appears next on the registry shall  
37 be appointed.

1 (c) If a party reasonably believes that the appointed guardian ad  
2 litem lacks the necessary expertise for the proceeding, charges an  
3 hourly rate higher than what is reasonable for the particular  
4 proceeding, or has a conflict of interest, the party may, within three  
5 judicial days from the appointment, move for substitution of the  
6 appointed guardian ad litem by filing a motion with the court.

7 (3) The rotational registry system shall not apply to court-  
8 appointed special advocate programs.

9 **Sec. 7.** RCW 26.12.177 and 1996 c 249 s 18 are each amended to read  
10 as follows:

11 (1) All guardians ad litem, who have not previously served or been  
12 trained as a guardian ad litem in this state, who are appointed after  
13 January 1, 1998, must complete the curriculum developed by the office  
14 of the administrator for the courts under RCW 2.56.030(~~((+16+))~~) (15),  
15 prior to their appointment in cases under Title 26 RCW except that  
16 volunteer guardians ad litem or court-appointed special advocates  
17 accepted into a volunteer program after January 1, 1998, may complete  
18 an alternative curriculum approved by the office of the administrator  
19 for the courts that meets or exceeds the state-wide curriculum.

20 (2)(a) Each guardian ad litem program for compensated guardians ad  
21 litem shall establish a rotational registry system for the appointment  
22 of guardians ad litem. If a judicial district does not have a program  
23 the court shall establish the rotational registry system. Guardians ad  
24 litem shall be selected from the registry except in exceptional  
25 circumstances as determined and documented by the court. The parties  
26 may make a joint recommendation for the appointment of a guardian ad  
27 litem from the registry.

28 (b) In judicial districts with a population over one hundred  
29 thousand, a list of three names shall be selected from the registry and  
30 given to the parties along with the background information as specified  
31 in RCW 26.12.175(3), including their hourly rate for services. Each  
32 party may, within three judicial days, strike one name from the list.  
33 If more than one name remains on the list, the court shall make the  
34 appointment from the names on the list. In the event all three names  
35 are stricken the person whose name appears next on the registry shall  
36 be appointed.

37 (c) If a party reasonably believes that the appointed guardian ad  
38 litem lacks the necessary expertise for the proceeding, charges an

1 hourly rate higher than what is reasonable for the particular  
2 proceeding, or has a conflict of interest, the party may, within three  
3 judicial days from the appointment, move for substitution of the  
4 appointed guardian ad litem by filing a motion with the court.

5 (3) The rotational registry system shall not apply to court-  
6 appointed special advocate programs.

7 **Sec. 8.** RCW 36.22.210 and 1992 c 125 s 2 are each amended to read  
8 as follows:

9 (1) Each county auditor shall develop a registration process to  
10 register process servers required to register under RCW 18.180.010.

11 (2) The county auditor may collect an annual registration fee from  
12 the process server not to exceed ten dollars.

13 (3) The (~~office of the administrator for the courts shall develop~~  
14 ~~a registration form for the~~) county auditor(~~(s to)~~) shall use a form  
15 in the registration process for the purpose of identifying and locating  
16 the registrant, including the process server's name, birthdate, and  
17 social security number, and the process server's business name,  
18 business address, and business telephone number.

19 (4) The county auditor shall maintain a register of process servers  
20 and assign a number to each registrant. Upon renewal of the  
21 registration as required in RCW 18.180.020, the auditor shall continue  
22 to assign the same registration number. A successor entity composed of  
23 one or more registrants shall be permitted to transfer one or more  
24 registration numbers to the new entity.

25 **Sec. 9.** RCW 43.10.067 and 1987 c 364 s 1 and 1987 c 186 s 7 are  
26 each reenacted and amended to read as follows:

27 No officer, director, administrative agency, board, or commission  
28 of the state, other than the attorney general, shall employ, appoint or  
29 retain in employment any attorney for any administrative body,  
30 department, commission, agency, or tribunal or any other person to act  
31 as attorney in any legal or quasi legal capacity in the exercise of any  
32 of the powers or performance of any of the duties specified by law to  
33 be performed by the attorney general, except where it is provided by  
34 law to be the duty of the judge of any court or the prosecuting  
35 attorney of any county to employ or appoint such persons: PROVIDED,  
36 That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to  
37 the administration of (~~the judicial council,~~) the commission on

1 judicial conduct, the state law library, the law school of the state  
2 university, the administration of the state bar act by the Washington  
3 State Bar Association, or the representation of an estate administered  
4 by the director of the department of revenue or the director's designee  
5 pursuant to chapter 11.28 RCW.

6 The authority granted by chapter 1.08 RCW, RCW (~~44.28.140~~)  
7 44.28.065, and 47.01.061 shall not be affected hereby.

8 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
9 each repealed:

10 (1) RCW 2.56.035 and 1982 1st ex.s. c 8 s 6; and

11 (2) RCW 13.70.005 and 1993 c 505 s 1.

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