

# **HOUSE BILL REPORT**

## **EHB 1202**

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### **As Passed House:**

March 10, 1999

**Title:** An act relating to judicial officers in district and municipal courts.

**Brief Description:** Appointing judicial officers of the district and municipal courts.

**Sponsors:** Representatives Constantine, Sheahan and Carrell.

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 2/4/99, 3/2/99 [DPA].

##### **Floor Activity:**

Passed House: 3/10/99, 97-0.

#### **Brief Summary of Amended Bill**

- Provides uniformity in provisions relating to court commissioners in municipal courts.
- Clarifies authority of municipal court commissioners to hear certain kinds of cases.

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## **HOUSE COMMITTEE ON JUDICIARY**

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**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Edder; Kastama; Lantz; Lovick; McDonald and Schindler.

**Staff:** Bill Perry (786-7123).

#### **Background:**

District and municipal court judges are authorized to appoint court commissioners. Generally, the appointing judges may prescribe the authority of a commissioner, up to and including all of the authority the appointing judges have. A court commissioner

must be a registered voter in the county in which the court sits, and must either be admitted to the bar or must have passed an examination for lay judges. Salaries for commissioners are set by local legislative authorities. Commissioners serve at the pleasure of the appointing judges.

Court rules govern how parties in a case may seek to have the case transferred from one judge to another. Any party to a civil or criminal action is entitled to one demand to have a case transferred to another judge. Such a demand is made by filing an affidavit of prejudice before certain stages have been reached in the proceedings. A statute provides that any party in a case presided over by a commissioner may demand that the case be transferred to a judge.

A variety of provisions relating to district and municipal court commissioners exist in several statutes relating to district courts and the various kinds of municipal courts. There are three separate ways in which a municipal court may be formed. First, a city of any size may create a municipal court as a "department" of the district court. Second, a city of under 400,000 population may create its own separate municipal court. Third, special provisions apply to creation of a municipal court in a city of over 400,000. In Seattle Municipal Court, the appointed judicial officers are designated as "magistrates." These magistrates are given explicit statutory authority to hear cases of traffic infractions.

The statutes covering these various kinds of municipal courts contain variations in how they describe the appointment and authority of court commissioners.

Statutes relating to the solemnization of marriages and to traffic infractions and other types of civil infractions explicitly mention the authority of "district" court commissioners, but do not mention "municipal" court commissioners. Statutes also provide for the filing of oaths of office of judges and commissioners of all levels of courts except municipal courts.

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### **Summary of Bill:**

Explicit uniformity is provided to several provisions of statutes dealing with the appointment and authority of municipal court commissioners. General provisions relating to municipal court commissioners are placed in the same chapter with district court commissioners, and the chapter is renamed to reflect that inclusion.

The appointment of commissioners in cities of population under 400,000 is explicitly made subject to the authorization of the city legislative authority. Any limitation on the authority granted a commissioner must be part of the written appointment by the judges, otherwise the authority of the commissioner is the same as that of a judge.

Specific mention is made authorizing municipal court commissioners to solemnize marriages and to hear cases involving traffic infractions and other civil infractions.

The oaths of office of municipal court judges and commissioners are to be filed with the county auditor.

A definition is provided for a "full-time" commissioner. Full-time is defined as 35 or more hours of work per week.

Seattle Municipal Court magistrates are given authority to handle civil infractions other than just traffic infractions.

Commissioners may be removed from office or disciplined by their appointing judges only for cause.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** (Original bill) The bill provides clarity regarding the appointment of commissioners. The bill is essentially the same as one that passed the House 96 to zero last year. The current authority for a party to demand transfer of a case from a commissioner to a judge without reason is being abused. Parties already have the right to file one "affidavit of prejudice" against a judge or magistrate without giving any reasons. Parties in small jurisdictions with one judge and one commissioner sometimes demand a transfer of a case from the commissioner to the judge, and then file an affidavit against the judge, all without having to give any reasons. These tactics cause unnecessary delay and expense in finding another judge to take the case.

**Testimony Against:** None.

**Testified:** (In support) Judge Robert McBeth, District and Municipal Court Judges Association.

(In support with amendment) Judge Helen Halpert, Seattle Municipal Court.