

FINAL BILL REPORT

HB 2775

C 164 L 00

Synopsis as Enacted

Brief Description: Clarifying requirements for the transfer of cases from commissioners to judges.

Sponsors: Representatives Lambert, Constantine, Carrell, Hurst, Lantz and Cox.

House Committee on Judiciary
Senate Committee on Judiciary

Background:

District Court Commissioners. Judges of district courts are authorized to appoint one or more court commissioners to assist in conducting judicial business. A district court commissioner must be a registered voter in the county and must have passed either the state bar exam or the qualifying exam for lay judges.

A district court commissioner has as much of a judge's authority as the appointing judge prescribes.

Transferring a Case from a Commissioner to a Judge. When a case is being heard by a commissioner, any party may have the case transferred to a judge. There is no explicit limit on when a demand to transfer the case may be made.

Transferring a Case from one Judge to another Judge. When a case is being heard by a judge, any party may have the case transferred by filing an affidavit of prejudice. However, the demand to transfer must be filed before the judge has made any order or ruling involving "discretion." There is no statutory definition of a "discretionary ruling," but many court decisions suggests that a ruling is discretionary if the judge has the authority to grant or deny a party's motion. Certain judicial actions are, however, specifically listed in the affidavit of prejudice statute as not being discretionary rulings. These listed rulings do not, therefore, cut off the right to demand a transfer to a different judge. The listed rulings that are not "discretionary" include:

- arrangement of the calendar;
- setting of an action, motion, or proceeding down for hearing or trial;
- arraignment of the accused in a criminal action; or
- fixing bail.

Summary of Bill:

A motion to transfer a case from a district court commissioner to a judge must be filed before any discretionary ruling is made. The same rulings that are not considered discretionary for purposes of transferring a case from one judge to another are not considered discretionary for purposes of transferring a case from a commissioner to a judge.

Votes on Final Passage:

House 97 0

Senate 48 0

Effective: June 8, 2000