

# HOUSE BILL REPORT

## SHB 2056

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### As Amended by the Senate

**Title:** An act relating to information sharing and limited investigative authority of supreme court bailiffs.

**Brief Description:** Concerning information sharing and limited investigative authority of supreme court bailiffs.

**Sponsors:** House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Goodman, Cheney and Reeves; by request of Administrative Office of the Courts).

#### **Brief History:**

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

Civil Rights & Judiciary: 1/9/24, 1/12/24 [DPS].

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

Passed House: 2/8/24, 69-27.

Senate Amended.

Passed Senate: 3/1/24, 49-0.

#### **Brief Summary of Substitute Bill**

- Authorizing bailiffs of the Washington Supreme Court to conduct threat assessments on behalf of Supreme Court justices and to receive criminal history record information that includes nonconviction data for any purpose associated with the investigation of a threat against a justice.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Taylor, Chair; Farivar, Vice Chair; Cheney, Entenman, Goodman, Peterson, Thai and Walen.

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

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Walsh, Ranking Minority Member; Abbarno.

**Staff:** Matt Sterling (786-7289).

**Background:**

Under the Washington State Criminal Records Privacy Act (Act), generally no criminal justice agency may disseminate criminal history record information pertaining to an arrest, detention, indictment, information, or other formal criminal charge made after December 31, 1977, unless the record disseminated states the disposition of the charge. However, the dissemination of conviction records is not restricted by law and any criminal history record information that pertains to an incident that occurred within the last 12 months for which a person is currently being processed by the criminal justice system may also be disseminated without restriction.

The dissemination of any criminal history record information that includes nonconviction data is restricted. Such nonconviction data may only be disseminated to:

- a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data;
- individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice;
- individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and
- the State Auditor solely for the express purpose of conducting a process compliance audit procedure and review of any deadly force investigation.

Every criminal justice agency that maintains and disseminates criminal history record information must maintain the following information for a minimum of one year for each dissemination of criminal history record:

- an indication of to whom the criminal history record information was disseminated;
- the date on which the information was disseminated;
- the individual to whom the information relates; and
- a brief description of the information disseminated.

The Act provides both civil and criminal penalties for the improper disclosure of information protected under the Act. Any person may bring a civil action to enjoin any further improper disclosures of information. If the person is injured by the improper disclosure, they may bring an action for the recovery of damages and reasonable attorneys' fees. Improper disclosure of information under the Act constitutes a misdemeanor, and any person who discloses information in violation of the Act is guilty of a misdemeanor for each single violation. Any criminal prosecution does not affect the right of any person to bring a civil action.

### **Summary of Substitute Bill:**

Bailiffs of the Washington Supreme Court (Supreme Court) are authorized to conduct threat assessments on behalf of Supreme Court justices and to receive criminal history record information that includes nonconviction data for any purpose associated with the investigation of any person making a threat against a Supreme Court justice. The dissemination or use of criminal history records or nonconviction data for purposes other than authorized by law is prohibited. Any threats that are investigated under this section and found to be credible must be referred to local law enforcement for further action. Local law enforcement is authorized to report the outcome and any anticipated action regarding such threats to the bailiffs of the Supreme Court.

The Supreme Court must ensure that Supreme Court bailiffs are qualified by training and experience.

### **EFFECT OF SENATE AMENDMENT(S):**

The amended bill clarifies that bailiffs of the Washington Supreme Court are authorized to receive criminal history record information that includes nonconviction data for purposes exclusively related to investigating a person making threats against a Supreme Court Justice, rather than for any purpose associated with such an investigation.

**Appropriation:** None.

**Fiscal Note:** Available.

**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) There have been too many threats against public officials including judges. Local courts have a different relationship with local law enforcement, and they provide some level of protection for those courts. The Supreme Court does not have any commissioned officers, so they are a lot more vulnerable and have to rely on bailiffs. In the case of a Supreme Court, they are particularly vulnerable. Threats against courts and staff have been trending upwards. A report by the United States Marshals observed a roughly 400 percent increase in threats against federal courts. There have been recent threats against justices on the United States Supreme Court and several state courts. The United States Attorney General noted a spike in threats to public servants. If victims are threatened, they have the right to work with law enforcement and this bill is establishing the same process for Supreme Court Justices. Currently, when justices are being threatened, they are not having information shared or received with local law enforcement to address these concerns. The Bailiffs have received a lot of threats but are unable to access

information to adequately follow up or coordinate on these threats. Court bailiffs are responsible for safety and security of justices and bailiffs must assess threats in order to keep the justices safe. This bill would allow bailiffs to conduct more effective security measures. In the past, bailiffs have received limited information about potential threats. When the bailiffs have contacted law enforcement, they are unable to access important information because they were not a law enforcement officer. Threat assessments are a crucial tool to determine risk and the bailiffs need information to conduct timely and efficient assessments. This bill removes barriers for bailiffs to receive and share information to protect against threats. Many acts prior to a crime like planning and scouting behavior are not crimes and just constitute information acquisition. This bill would allow bailiffs to assess these situations and cooperate with law enforcement to better protect the justices. The bill increases information sharing between the bailiffs and local law enforcement and is modeled after the attorney general Consumer Protection Division and their limited investigative authority. The bill would give the bailiffs limited investigative authority to look at criminal history and nonconviction data to learn more about these threats and follow up with local law enforcement. This is not requiring the bailiffs to go through the law enforcement academy or authorize them to do anything more than receive this information to respond to threats to the justices. We are not trying to turn bailiffs into commissioned officers, but are just trying to make sure justices are safe and that information is being transferred.

(Opposed) None.

**Persons Testifying:** Representative Roger Goodman, prime sponsor; Brittany Gregory, Administrative Office of the Courts; Kyle Landry, Administrative Office of the Courts; and Tracy Foster, Washington Supreme Court.

**Persons Signed In To Testify But Not Testifying:** None.