

SENATE BILL REPORT

SB 5273

As of January 26, 2017

Title: An act relating to electronic filing of court documents.

Brief Description: Implementing the electronic filing of court documents in certain courts.

Sponsors: Senators Fain and Kuderer.

Brief History:

Committee Activity: Law & Justice: 1/24/17.

Brief Summary of Bill

- Directs the State Auditor to assess the current utilization of electronic filing by Washington superior and appellate courts.
- Mandates electronic filing of court documents in counties with a population of 450,000 or more by December 31, 2018.
- Requires implementation of electronic filing by all superior and appellate courts by December 31, 2019.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Aldo Melchiori (786-7439)

Background: Washington court rules currently include provisions for the electronic transmission of information to a court or court clerk (GR 30). Electronic document is defined as an electronic version of information traditionally filed in paper form, except for documents filed by facsimile. An electronic document has the same legal effect as a paper document. Electronic Filing Technical Standards are those adopted by the Judicial Information System committee to implement electronic filing. Court clerks may accept for filing an electronic document that complies with the Court Rules and the Electronic Filing Technical Standards.

A court may adopt a local rule that mandates electronic filing by attorneys and/or electronic service of documents on attorneys for parties of record, provided that the attorneys are not additionally required to file paper copies except for those documents required by law to be

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filed in non-electronic form. Electronic service may be made either through an electronic transmission directly from the court or by a party's attorney. Absent a local rule, parties may electronically serve documents on other parties of record only by agreement. The local rule must permit paper filing and/or service upon a showing of good cause. Electronic filing and/or service should not serve as a barrier to access.

As of April 2016, Clark, King, Pierce, Snohomish, and Spokane counties have populations exceeding 450,000. The court rules in King and Pierce County mandate electronic filing unless the person is a non-attorney or the attorney applies for and is granted a waiver. In Thurston County, the clerk may accept electronic documents otherwise in compliance with the court rules. In San Juan County, service upon parties may be made by email if available. Spokane County authorizes electronic filing of documents initiated by law enforcement.

Summary of Bill: The Washington State Auditor's Office must assess the current utilization of electronic filing by Washington superior and appellate courts and make recommendations to the Governor, appropriate committees of the Legislature, and the Washington Supreme Court regarding the full statewide mandatory implementation of the electronic filing of documents in compliance with the Court Rules and Electronic Filing Technical Standards. The recommendations are due by December 1, 2017, and must emphasize utilization of existing systems and resources.

By December 31, 2018, the superior courts of each county with a population of 450,000 or more must fully implement the electronic filing of documents in compliance with the Court Rules, Electronic Filing Technical Standards, and the recommendations of the Washington State Auditor's Office. By December 31, 2019, the superior courts of every county and the appellate courts must fully implement the electronic filing of documents.

Appropriation: \$100,000 GFS to the State Auditor's Office for fiscal year ending June 30, 2018.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: CON: The county clerks cannot meet the timeline. Implementation would require the amendment of local court rules. This would require a significant financial outlay by the counties. The current Odyssey project could provide better options in the future. Some counties are further down the road than others in providing this capability.

OTHER: The premise behind the bill is good. The State Auditor can do the study as requested, but the timeline is a bit short. The Auditors Office would also need some additional funds to complete the study in a timely fashion.

Persons Testifying: CON: Tim Fitzgerald, Spokane County Clerk, Clerk's Association; Brady Horenstein, Board for Judicial Administration; Judge Sean O'Donell, Superior Court Judges Association.

OTHER: Scott Nelson, State Auditor's Office.

Persons Signed In To Testify But Not Testifying: No one.