

SENATE BILL REPORT

SSB 5327

As Amended by House, April 11, 2017

Title: An act relating to court clerks.

Brief Description: Clarifying the duties of court clerks.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Angel and Padden).

Brief History:

Committee Activity: Law & Justice: 1/24/17, 2/01/17 [DPS, w/oRec].

Floor Activity:

Passed Senate: 3/08/17, 49-0.

Passed House: 4/11/17, 96-0.

Brief Summary of First Substitute Bill

- Maintains the current statutory requirement for the court clerk to conform its performance to the court's direction.
- Relieves court clerks from the duty to forward residential time summary reports to the Department of Social Health and Services (DSHS) Division of Child Support each month.
- Discontinues the annual legislative report from the Washington Association of County Officials regarding the legal financial obligations the county clerks collect.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5327 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille and Wilson.

Minority Report: That it be referred without recommendation.

Signed by Senator Frockt.

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

Staff: Melissa Burke-Cain (786-7755)

Background: Court clerks in each county perform specific duties in support of court activities including, but not limited to, keeping the case files and other records of the court, receiving court filings according to court rules, keeping a record of court proceedings, and conforming with the court's direction in performance of its responsibilities. Court clerks also must track and report certain court activities using forms developed by the Administrative Office of the Courts related to dissolution and child support matters. The Washington Association of County Officials works with county clerks to develop funding allocation for collecting legal financial obligations. Legal financial obligations are the fines, fees, and other penalties courts order litigants to pay the court clerk as part of the disposition of a court case. The Washington Association of County Officials send a legislative report each year of the legal financial obligations each clerk collects.

Summary of First Substitute Bill: A court clerk must conform its performance to the court's direction. The court clerks are not required to forward monthly residential time summaries to the Division of Child Support. The Washington Association of County Officials is not required to provide an annual legislative report of county-collected legal financial obligations.

Appropriation: None.

Fiscal Note: Available.

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 on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: This is a clean-up bill requested by the County Clerks' Association to update current laws. Regarding residential time summary reports, the current law requires court clerks to send a monthly report to DSHS Child Support Enforcement, but the process has changed. DSHS used to pull the residential time summary report information and forward the data to the Administrative Office of the Courts (AOC). The requirement for the data to be sent to the AOC has been removed from law. The monthly reports are no longer necessary. The data will still be gathered on residential time and can be available if needed. The annual report to the Legislature regarding legal financial obligations (LFOs) collected by county clerks was not requested in 2013 and 2014, but it was requested in 2015 and provided to the Legislature. The data is still collected, although new systems cause the data to be collected in a somewhat different way. The term journal is still in the law, but journals are no longer used; the records are kept as minutes. The independently-elected clerks have a relationship to the courts, but it is difficult for the independently-elected officials to conform to the courts' directions. The original bill substituted a requirement for the court clerks to support the courts in the performance of the courts' statutory duties. The proposed substitute would strike subsection 9 in its entirety. When the annual report on LFOs were not filed, it was a transition time. We received an inquiry from the state law library verifying there hadn't been reports in 2013 and 2014. Senate staff asked for the 2015 report and it was filed late, in 2016.

CON: We oppose Section 1 (9) of the bill which changes the relationship between the judges and the clerks. This is more than clean-up language; it may be an Article IV, Sec. 1 state constitutional issue. The proposal to strike all of Sec. 1(9) in the proposed substitute is not satisfactory. The language in RCW 2.32.050(1) should remain as it is in current law. The LFO issue is also a concern. Rather than scratch the annual report, more information is needed from the county clerks beyond just the amount of LFOs collected. Other information should be reported, such as how much it costs to collect LFOs. The minority and justice commission of the courts is working on a grant-funded project to look at LFOs across the entire system.

Persons Testifying: PRO: Senator Angel, Prime Sponsor; Tim Fitzgerald, County Clerk Assoc.; Monty Cobb, WA Assoc. of County Officials.

CON: Bob Cooper, WA Defender Assoc., WA Assoc. of Criminal Defense Lawyers; Judge Sean O'Donnell, Superior Court Judges' Association.

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

EFFECT OF HOUSE AMENDMENT(S):

- Reinstates the current law requirement that the Washington Association of Counties prepare an annual report on the amount of legal financial obligations collected by county clerks.
- Eliminates a requirement that the Division of Child Support compile and transmit information in the residential time summary report to the AOC for purposes of tracking residential time awards by parents, enforcement practices, representation status of the parties, and other information.
- Eliminates the requirement that the AOC issue an annual report on the compiled information.