

HOUSE BILL REPORT

HB 1961

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to the authority of the courts to waive auditor's fees for filing and recording name change orders.

Brief Description: Concerning the authority of the courts to waive auditor's fees for filing and recording name change orders.

Sponsors: Representatives Peterson and Ramel.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/18/22, 1/21/22 [DPS].

Brief Summary of Substitute Bill

- Authorizes courts to waive auditor's fees related to name change orders.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Hansen, Chair; Simmons, Vice Chair; Abbarno, Davis, Entenman, Goodman, Kirby, Orwall, Peterson, Thai, Valdez and Walen.

Minority Report: Do not pass. Signed by 2 members: Representatives Graham, Assistant Ranking Minority Member; Klippert.

Minority Report: Without recommendation. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Ybarra.

Staff: Phillip Craig (786-7291) and Yelena Baker (786-7301).

Background:

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.

Name Change Process.

A person seeking a name change may file a petition for change of name with the clerk in any district court division located in the county where the person resides. After the petitioner files the petition and pays all fees, the clerk schedules a hearing for the applicant according to the court's scheduling procedure. If the petition for change of name is granted by the court, the court will issue a name change order. A certified copy of the name change order is provided to the petitioner and a copy is sent to the county auditor for recording.

Name Change Fees.

The total cost of changing one's name varies by county and includes both court fees and the county auditor's fees. The auditor's fees include the fee for filing and recording name change orders and various statutory surcharges that the auditor is required to collect, such as \$3 collected per recorded document for the Washington state library operations account, and \$100 collected per recorded document for the Affordable Housing for All account, the Landlord Mitigation Program account, and the Home Security Fund.

Waiver of Fees.

Under General Rule 34 of the Washington courts rules, courts may waive court fees and clerk's fees for indigent individuals when the payment of fees is required for the individual to secure access to judicial relief. A person seeking a waiver must complete a motion for waiver of civil fees and surcharges and submit a financial statement to the court. If the motion is granted, the court waives the court fees and clerk's fees, but still collects the county auditor's fees.

Summary of Substitute Bill:

The court must waive all auditor's fees for filing and recording a name change order if the person requesting the name change submits an affidavit stating that the person is unable to pay the fees due to financial hardship. When the court grants the waiver, the court must direct the county auditor or recorder to process the name change order at no expense to the person requesting the name change. If the person requesting a name change order has received victim compensation for name change fees, the court is prohibited from waiving the auditor's fees.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) requires, instead of authorizes, the court to waive auditor's fees for filing and recording a name change order if the applicant submits an affidavit stating they are unable to pay the fees due to financial hardship; (2) changes the fees that the court must waive from those fees explicitly authorized in the auditor's fees statute to all auditor's fees; (3) replaces all gendered pronouns with gender-neutral language within the section related to actions for change of name; and (4) prohibits the court from waiving auditor's fees if a person has received victim compensation for name change fees.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2022.

Staff Summary of Public Testimony:

(In support) The cost of a name change creates an access to justice barrier for transgender community members who are disproportionately more likely to be low-income in the state of Washington. As of 2015, only 11 percent of transgender people were able to access legal name changes, and 35 percent said they could not access a legal name change because of the cost. A 2021 report from the Washington Supreme Court's Gender and Justice Commission found that the cost of accessing the courts is a significant barrier to justice, particularly for LGBTQ communities, two-spirit communities, and communities of color.

The bill language should be changed from "may charge" to "shall charge," and no additional affidavits should be required beyond the affidavit for the waiver of court fees that is already in place.

(Opposed) None.

Persons Testifying: Representative Strom Peterson, prime sponsor; and Denise Diskin, QLaw Foundation of Washington.

Persons Signed In To Testify But Not Testifying: None.