

# HOUSE BILL REPORT

## HB 2908

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### As Reported By House Committee On:

Law & Justice

**Title:** An act relating to court commissioners.

**Brief Description:** Clarifying provisions affecting court commissioners.

**Sponsors:** Representatives Sheahan, Mason, Dunshee, Robertson and Lantz.

### Brief History:

#### Committee Activity:

Law & Justice: 2/6/98 [DP].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

**Staff:** Daniel Jablonsky (786-5793); Edie Adams (786-7180).

**Background:** Under Washington law, the Office of Municipal Court Commissioner may be provided for in one of three ways. First, any city may establish a municipal department of the district court, and in that department municipal court commissioners may be appointed. RCW 3.46.145. Second, there is an alternate provision for cities with populations of less than 400,000 to establish municipal courts and municipal court commissioners. RCW 3.50.075. Third, there is a provision for cities with populations greater than 400,000 to establish municipal court commissioners. RCW 35.20.155.

*RCW 3.46.145:* Any city may establish a municipal department. This section allows municipal court commissioners to be appointed under the provisions of a chapter relating to district court commissioners. However, there is no provision in the chapter relating to district courts for municipal court commissioners.

*RCW 3.50.075:* Cities with populations less than 400,000. Alternate provision. Municipal court commissioners may be appointed by a judge of the municipal court. Each commissioner holds office at the pleasure of the appointing judge. A commissioner authorized to hear or dispose of cases must be a lawyer who is admitted to practice law

in the state of Washington or a nonlawyer who has passed the qualifying examination for lay judges for courts of limited jurisdiction. A commissioner need not be a resident of the city or county in which the municipal court is created.

*RCW 35.20.155: Cities with populations greater than 400,000.* When authorized by the city legislative authority, the judges of the city may appoint one or more municipal court commissioners. A commissioner must be a registered voter of the city, and shall hold office at the pleasure of the appointing judges. A person appointed as a commissioner authorized to hear and dispose of cases must be a lawyer who is admitted to the practice of law in the state of Washington. A commissioner has such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess and may prescribe.

When a judge is unqualified to hear a matter, transfer of the case is controlled by the Washington Court Rules, specifically CrRLJ 8.9 and CRLJ 40(f).

**Summary of Bill:** Provisions relating to municipal court commissioners are added to the chapter relating to district court commissioners. Municipal court judges may appoint municipal court commissioners when authorized to do so by the city council. These municipal court commissioners shall have the same authority as the appointing judges, unless a lesser power is so prescribed. A person appointed as a commissioner shall either be a lawyer who is admitted to the practice of law in the state of Washington or has passed the qualifying examination for lay judges.

Other sections of the RCW are amended to provide explicit authority for municipal court commissioners to solemnize marriages and to hear and determine traffic infractions.

A section relating to transfer of cases from a district court commissioner to a district court judge on demand of a party is repealed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This legislation clarifies statutory provisions relating to court commissioners. It also makes the process of removing cases from a court commissioner determinant upon a showing of bias. The legislation helps remove confusion, prevents judge shopping, and provides clearer statutory guidelines for court commissioners.

**Testimony Against:** None.

**Testified:** Melanie Stewart, Washington Municipal and District Court Judges (pro); and Judge Linda Thompson, Aukeen District Court (pro).