

SENATE BILL REPORT

HB 2775

As Reported By Senate Committee On:
Judiciary, February 25, 2000

Title: An act relating to the transfer of cases from commissioners to judges.

Brief Description: Clarifying requirements for the transfer of cases from commissioners to judges.

Sponsors: Representatives Lambert, Constantine, Carrell, Hurst, Lantz and Cox.

Brief History:

Committee Activity: Judiciary: 2/21/2000, 2/25/2000 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Thibaudeau and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: District Court Commissioners. Judges of district courts are authorized to appoint one or more court commissioners to assist in conducting judicial business. A district court commissioner must be a registered voter in the county and must either have passed the state bar exam or the qualifying exam for lay judges.

A district court commissioner has as much of a judge's authority as the appointing judge prescribes.

Transferring a Case From a Commissioner to a Judge. When a case is being heard by a commissioner, any party may have the case transferred to a judge. There is no explicit limit on when a demand to transfer the case may be made.

Transferring a Case From One Judge to Another Judge. When a case is being heard by a judge, any party may have the case transferred by filing an affidavit of prejudice. However, the demand to transfer must be filed before the judge has made any order or ruling involving "discretion." There is no statutory definition of a "discretionary ruling," but there are many court decisions suggesting that a ruling is discretionary if the judge has the authority to grant or deny a party's motion. Certain judicial actions are specifically listed in the affidavit of prejudice statute, however, as not being discretionary rulings. These listed rulings do not, therefore, cut off the right to demand a transfer to a different judge. The listed rulings that are not "discretionary" include:

- arrangement of the calendar;
- setting of an action, motion, or proceeding down for hearing or trial;

- arraignment of the accused in a criminal action; or
- fixing bail.

Summary of Bill: A motion to transfer a case from a district court commissioner to a judge must be filed before any discretionary ruling is made. The same rulings that are not considered discretionary for purposes of transferring a case from one judge to another are not considered discretionary for purposes of transferring a case from a commissioner to a judge.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill is an attempt to prohibit frivolous forum shopping and keep things fair. Similar provisions already exist for transferring cases from one district court judge to another, and the same restrictions should also apply to court commissioners. Once a judicial officer makes a discretionary ruling, a litigant should not be able to file an affidavit of prejudice.

Testimony Against: We do not need more legislation on the court system. There are not enough citizens that are involved in the process. There is too much involvement by those with a vested interest.

Testified: PRO: Judge Lukovich, Judge McBeth, District and Municipal Court Judges Assn.; CON: Mr. Bugonz, citizen.