

HOUSE BILL REPORT

HB 2557

As Reported by House Committee On:

Judiciary

Appropriations Subcommittee on General Government & Audit Review

Title: An act relating to improving the operation of the trial courts.

Brief Description: Improving the operation of the trial courts.

Sponsors: Representatives Goodman, Barlow and Warnick.

Brief History:

Committee Activity:

Judiciary: 1/16/08, 1/22/08 [DPS];

Appropriations Subcommittee on General Government & Audit Review: 2/5/08, 2/7/08 [DP2S(w/o sub JUDI)].

Brief Summary of Second Substitute Bill

- Increases the jurisdictional dollar limit on district court and small claims court.
- Adds a provision to the municipal court chapter expressly authorizing cities to enter into interlocal agreements with other cities for court services.
- Limits the authority of district and municipal court commissioners.
- Eliminates the municipal department court structure.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Lantz, Chair; Goodman, Vice Chair; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Edie Adams (786-7180) and Trudes Tango (786-7384)

Background:

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.

The state's trial courts consist of the superior courts, district courts, and municipal courts. Superior courts are courts of general jurisdiction with no limit on the types of civil and criminal cases they may hear. District and municipal courts are courts of limited jurisdiction; their jurisdiction is set by statute. District courts are county courts and municipal courts are those established by cities and towns.

Jurisdictional Provisions

District Courts: Jurisdiction of the district courts is set by statute and includes jurisdiction over both civil and criminal matters. District court has concurrent jurisdiction with superior court over many kinds of civil cases. However, the district court's jurisdiction in these civil cases is limited to actions in which the amount in controversy does not exceed \$50,000. This jurisdictional dollar limit for district courts was last raised in 2000 from the amount of \$35,000.

Small Claims Court: Small claims court is a department of the district court. The hearing and disposition of a small claims court action are informal and generally the parties may not be represented by attorneys. The parties may offer evidence through witness testimony, and the judge may informally consult witnesses or otherwise investigate the controversy. Small claims court judgements may be appealed to superior court. The jurisdiction of the small claims court is limited to cases for the recovery of money where the amount claimed does not exceed \$4,000. This dollar limit was last raised in 2001 from an amount of \$2,500.

Municipal Court Contracting

Municipal courts have jurisdiction over misdemeanors and infractions arising under city ordinances. Cities are responsible for the prosecution, adjudication, sentencing, and incarceration of adult misdemeanor offenders in their respective jurisdictions. Cities may meet this responsibility by establishing an independent municipal court, establishing a municipal department of the district court, or by contracting for court services through an interlocal agreement.

Most cities that contract for court services do so with the appropriate district court. There are a number of cities that contract for court services with other cities. This practice was recently challenged in the case *Primm v. Medina*. In *Primm*, the Washington Supreme Court upheld the authority of cities to enter into interlocal agreements with other cities for court services and determined that a municipal court has the authority to hear cases outside the city's geographical boundaries.

Court Commissioners

District and municipal court judges are authorized to appoint court commissioners to hear and dispose of cases. Commissioners serve at the pleasure of the appointing judges. A court commissioner must be a lawyer admitted to the practice of law in Washington or must have passed an examination for lay judges. Salaries for commissioners are set by local legislative authorities.

District and municipal court commissioners have the same power and authority to hear and dispose of cases as the appointing judges possess and prescribe. This unlimited authority applies to both civil and criminal cases and includes the authority to preside over trials. In contrast, the authority of superior court commissioners to hear and dispose of cases is limited under both statutory and constitutional provisions.

In district court, any party has an automatic right to have a case transferred from a district court commissioner to a district judge if the party files a petition for transfer prior to any discretionary ruling by the commissioner. The statute specifies that the following are not discretionary rulings: arrangement of the calendar; setting of an action, motion, or proceeding for hearing or trial; arraignment of an accused; or setting of bail. A similar right of transfer is not provided for municipal court commissioners.

Both statutory provisions and court rules provide a process for a party to have a case transferred from a district or municipal court judge by filing an affidavit of prejudice. A judge must disqualify himself or herself if a party files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judge. The affidavit must be filed before the jury is sworn or the trial is commenced. Only one change of judge is allowed a party in a case.

Domestic Violence and Harassment Petitions

Superior, district, and municipal courts have jurisdiction over petitions for protection orders in domestic violence cases. However, the jurisdiction of district and municipal courts is limited to issuance and enforcement of temporary orders when: the superior court has exercised jurisdiction over the parties in a domestic violence or dependency action; the petition involves issues of a residential schedule or contact with a child of the parties; or the petition involves a request to exclude a party from a shared dwelling. In those cases the district or municipal court must transfer the petition to the superior court.

District courts have jurisdiction over anti-harassment protection order proceedings, except in cases involving a respondent who is under the age of 18. In 2005 the Legislature provided municipal courts with the option to exercise jurisdiction over actions for anti-harassment protection orders. A municipal court may exercise this jurisdiction by adopting procedures to hear such protection orders through a local court rule. The municipal court must transfer the case to superior court when the respondent is under age 18.

Municipal Departments

A city may petition the county for the creation of a "municipal department" within the district court. Municipal courts organized as municipal departments are part of the county district court. Under this arrangement, generally the city provides the facilities and the staffing for the court and pays the county for the services of a district court judge. In practice, there are a variety of differences in organization and operation of the existing municipal departments.

Summary of Substitute Bill:

Jurisdictional Provisions

The dollar limit on the jurisdiction of district courts is raised from \$50,000 to \$75,000.

The dollar limit on the jurisdiction of small claims court is raised from \$4,000 to \$5,000.

Municipal Court Contracting

A provision is added to the chapter of law governing municipal courts that cities may meet their obligations for the prosecution, adjudication, sentencing, and incarceration of misdemeanor offenders in their jurisdictions by entering into interlocal agreements with the appropriate county or with one or more cities (the hosting jurisdiction). A hosting jurisdiction is given exclusive original jurisdiction over cases filed by the contracting city.

Court Commissioners

The authority of district and municipal court commissioners is limited. A court commissioner may not preside over trials in criminal matters, or over jury trials in civil matters unless agreed to by all parties.

The provision allowing an automatic transfer right of a case from a district court commissioner to a judge is repealed. Instead, the statutory provision regarding disqualification of a district judge is amended to apply to all judicial officers, including court commissioners. A similar provision is applied to judicial officers of municipal courts.

A judicial officer must disqualify himself or herself when a party files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judicial officer. The affidavit must be filed prior to any discretionary ruling, which does not include: arrangement of the calendar; setting of an action motion or proceeding for hearing or trial; arraignment of the accused; setting conditions of release; or setting of bail. Only one change of judicial officer is allowed each party in an action or proceeding.

Domestic Violence and Harassment Petitions

A task force on access to justice for victims of domestic violence and harassment is established. The task force is charged with examining ways to improve access to the courts of limited jurisdiction for victims of domestic violence and harassment. Particular issues the task must review include: necessary victim support and advocacy services available at or through the court; desirable training requirements for judicial officers and other court personnel involved in domestic violence and anti-harassment matters; necessary infrastructure for handling of domestic violence and anti-harassment matters; and effective coordination among the trial courts within a jurisdiction in providing access to domestic violence and harassment victims.

The task force consists of legislative members, judges, and representatives of cities, counties, domestic violence advocates, prosecutors, defense attorneys, and law enforcement. The task

force must report its findings and recommendations to the appropriate committees of the Legislature by December 1, 2008.

Municipal Departments

The chapter of law authorizing municipalities to establish municipal departments of district court is repealed. Existing municipal departments are grandfathered and will continue to operate under the municipal department chapter as it existed prior to its repeal.

Substitute Bill Compared to Original Bill:

The substitute made the following changes:

- removed language increasing the optional ceiling on mandatory arbitration in superior court;
- removed the requirement that the judge of the hosting jurisdiction sit as the municipal court judge of the contracting city under interlocal agreements; and
- specified that a ruling setting conditions of release of an accused is not a "discretionary ruling" that precludes a party from filing an affidavit of prejudice.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect July 1, 2008.

Staff Summary of Public Testimony:

(In support) This bill is a product of a lot of work during the interim. Although there are still two big issues unresolved, this bill focuses on things that stakeholders could agree upon. Increasing the jurisdiction limit in district court will increase their workload, which is desirable. Commissioners need accountability and this bill limits what they can do. They serve important purposes, but they should not be presiding over trials. There should be maximum access to the courts by domestic violence victims. The courts hearing domestic violence petitions need training. The mandatory arbitration level should be kept at the level established in 2005 and not be increased. The provisions dealing with municipal departments are an artifact from 1984 and should be repealed. The eight or nine municipal courts operating as municipal departments that exist now will be grandfathered in. Interlocal contracts between cities for court services are a benefit to cities.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; Larry Shannon, Washington State Trial Lawyers Association; Judge Steve Shelton, District and Municipal Court Judges; and Tammy Fellin, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & AUDIT REVIEW

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Judiciary. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Armstrong, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Alexander, Blake, Chandler, Kretz, Lantz, Liias, Miloscia, Morris, Nelson and Van De Wege.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Audit Review Compared to Recommendation of Committee On Judiciary:

The Appropriations Subcommittee on General Government and Audit Review recommended some technical changes and the removal of Section 12 relating to a legislative task force on access to justice for victims of domestic violence and harassment. A null and void clause was added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect July 1, 2008. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill is the product of a Judiciary Committee Interim Workgroup that took a look at the courts of limited jurisdiction. The bill shifts a number of cases from superior courts to district courts by increasing the jurisdictional dollar limit on district courts to \$75,000. The bill also creates a legislative task force on access to the courts for victims of domestic violence. This task force would examine in greater detail issues related to inadequate training, lack of domestic violence advocates, and better security in courthouses. Because the parties are all engaged and willing to continue the discussion, an interim workgroup can accomplish much the same work as a formal task force.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.