

SENATE BILL REPORT

HB 2637

As Reported By Senate Committee On:
Judiciary, February 27, 2008

Title: An act relating to records in a criminal case.

Brief Description: Concerning records in a criminal case.

Sponsors: Representatives Pearson, O'Brien, Ericks, Ross and Roach; by request of Attorney General.

Brief History: Passed House: 2/13/08, 96-0.

Committee Activity: Judiciary: 2/27/08 [DP]

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, McDermott, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: Businesses, associations, and organizations that provide goods and services in Washington, and therefore affect Washington residents, often operate nationally or globally. These business, associations, and organizations frequently maintain their business records outside of the state of Washington. When such a business, association, or organization has engaged in a transaction that is believed to have involved or resulted in a crime in Washington, the business records of the organization are often needed as evidence. Currently, in order to obtain and use the out-of-state records of the organization, record custodians must be produced to authenticate the records so that they may be used in court.

There is concern that the need to secure the presence of the record custodian to authenticate the records represents a cost to businesses, associations and organizations due to lost productivity when their employee is away, and a cost to taxpayers who must ultimately pay for transporting, housing, and feeding witnesses who are needed for criminal trials. Federal law and several other states permit business records to be self-authenticated thereby facilitating their admission in court without requiring the presence of the record custodian.

Summary of Bill: Foreign corporations are required to respond to a search warrant or legal process issued by a judge of the superior court in a criminal matter as though it were issued in their home state. The court or the person who sought the search warrant or legal process may request that the recipient of the process verify the authenticity of the records it produces

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through submission of an affidavit, declaration, or certification. "Recipient" is defined as a person or business that has conducted business or engaged in transactions occurring at least in part in this state.

Records which are produced and authenticated by this procedure are admissible as evidence in the criminal proceeding. Either party may request the court to require production of the record custodian or other witness to testify regarding the records. A person who responds to criminal process and produces the requested records is immune from civil liability for complying with the process.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: None.

Persons Testifying: No one.