

HOUSE BILL REPORT

HB 1119

As Passed House:
February 25, 2013

Title: An act relating to fees associated with service of writs of habeas corpus.

Brief Description: Allowing the sheriff to waive fees associated with the service of a writ of habeas corpus under certain circumstances.

Sponsors: Representatives Goodman, Ryu and Santos.

Brief History:

Committee Activity:

Judiciary: 1/30/13, 2/5/13 [DP].

Floor Activity:

Passed House: 2/25/13, 92-0.

Brief Summary of Bill

- Permits a sheriff to waive fees associated with service of a writ of habeas corpus that was issued for the return of a child when the person who was granted the writ is, by reason of poverty, unable to pay the costs.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

Staff: Cece Clynch (786-7195).

Background:

"Habeas corpus" is Latin and literally means "you have the body." Chapter 7.36 RCW governs writs of habeas corpus. Pursuant to that chapter, the superior and appellate courts of this state may grant writs of habeas corpus in favor of parents, guardians, spouses or domestic partners, and next of kin, to enforce the rights, and for the protection of children and persons who are incompetent. Whenever it appears that the person that is the subject of

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the writ will be carried out of the jurisdiction of the court, or will suffer irreparable injury, before compliance with the writ may be enforced, the court may also issue a warrant directing the sheriff to take the person that is the subject of the writ and bring him or her immediately before the court.

Once issued by the court, the writ (and any warrant) are brought to the sheriff to be served by delivery on the person who is alleged to be illegally holding the person that is the subject of the writ. The sheriff is also tasked with filing the return.

The fees that the sheriff must collect for official services are set forth in statute. These include fees that must be charged and collected for service of writs, warrants, making returns, and actual and necessary mileage.

There are also fees specified in statute with respect to what courts must charge for various filings. The chapter governing writs of habeas corpus includes a specific provision allowing an impoverished person seeking a writ of habeas corpus, but unable to pay the fees, to seek a waiver of court fees and permitting, but not requiring, the court to waive such fees.

Summary of Bill:

Sheriffs are permitted, but not required, to waive fees associated with service of a writ of habeas corpus that was issued for the return of a child when the person who was granted the writ is, by reason of poverty, unable to pay the cost of service.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The concerns that led to this bill were raised in an ad hoc domestic violence workgroup. The last resort in some cases is the writ of habeas corpus to recover a child that has been taken but the sheriffs' fees can make this impossible or delay such action. In one case, a very violent husband and father abducted a baby. The mother obtained a writ of habeas corpus, and the court waived the fee for obtaining the writ. But, she could not get a waiver of the sheriff's \$150 fees for service. She did not have the money immediately and this prevented service of the writ. The baby in that case was away from the mother for three years. In another case, a father refused to return three children. The mother tried self help but the father had a firearm. The court waived fees for the writ but the sheriff could not waive the \$250 fee. Since she did not have the money at that time, she had to wait. This bill allows but does not require waiver of fees. It is hoped that sheriffs waive the fees.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.