

# SENATE BILL REPORT

## HB 1119

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As of March 18, 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:** Passed House: 2/25/13, 92-0.

**Committee Activity:** Law & Justice: 3/18/13.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Sharon Swanson (786-7447)

**Background:** Habeas corpus is Latin and literally means you have the body. RCW 7.36 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 such rights, and for the protection of children and persons who are incompetent. Whenever it appears that the person that is the subject of 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 that person 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 who is 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.

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*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.*

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

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Women who have been abused and had their children abducted often do not have the financial resources to pay these fees. The fiscal impact on counties would be minimal. The court already has the discretion to waive their fees; the sheriff should have the similar discretion to waive service fees in these cases.

**Persons Testifying:** PRO: Representative Goodman, prime sponsor.