

SENATE BILL REPORT

SHB 2196

As of February 27, 2014

Title: An act relating to the courts' consultation of the judicial information system before granting orders.

Brief Description: Concerning the use of the judicial information system by courts before granting certain orders.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Jinkins).

Brief History: Passed House: 2/17/14, 75-22.

Committee Activity: Law & Justice: 2/26/14.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Kelly Walsh (786-7755)

Background: The Judicial Information System (JIS) is a statewide information system for courts in Washington. The JIS contains information regarding family law actions and other civil cases, criminal history, pending criminal charges, and outstanding warrants. The JIS also includes information relating to protection, no-contact, and restraining orders, including those issued in proceedings involving domestic violence, sexual assault, harassment, family law, and vulnerable adults. Information related to these orders includes the names of the parties, the cause number, the criminal histories of the parties, and any other relevant information necessary to assist courts. The statutorily stated purpose for having this information available in the JIS is to prevent the issuance of competing protection orders and to provide courts with needed information for issuance of protection orders.

Rules regarding ex parte communications prohibit judges from receiving or seeking factual information from outside of the record of a pending case except in limited situations, including when authorized by law to do so. Courts are statutorily required or permitted to consult the JIS in certain circumstances, for example, when entering orders for permanent parenting plans or child custody, and when entering certain protection orders.

Summary of Bill: Prior to entering certain types of orders, the court may consult the JIS or related databases to review criminal history or to determine whether other proceedings involving the parties are pending. Such orders include the following:

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- granting temporary or permanent parenting plans or residential schedules in family law actions;
- granting orders regarding a vulnerable adult or child or incapacitated person;
- granting letters of guardianship or appointing an administrator of an estate;
- granting any relief under the title of the RCW addressing mental illness, which includes civil commitment, sexually violent predators, and related matters; and
- granting any relief in a juvenile proceeding.

If the court consults such a database, the court must disclose that fact to the parties and disclose any particular matters relied upon by the court in making its decision. A copy of the document relied upon must be filed in the court file as a confidential document with redaction of contact information or other information that might disclose the location or whereabouts of any person.

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: PRO: This bill helps judges make sure that they have as much information as possible. This is particularly important when it comes to the types of orders covered in this bill because there tends to be a large amount of pro se litigants.

CON: This is a solution in search of a problem. Why are judges asking to do research? The rules require the attorneys to put information in front of the judges. If judges are going to search databases, all participants should be able to search databases. Many times attorneys present agreed orders. What if the judge or commissioner finds something in JIS that they do not like and deny the agreed order? We already have provisions addressing this and they have caused these types of problems. This will cost time and money for people trying to get parenting plans and other orders. It assumes that parties do not know what they want. This is not favorable for people trying to resolve their conflicts.

OTHER: The Washington State Bar Association (WSBA) testified in opposition in the House and is now neutral given the amendments, but still concerned.

Persons Testifying: PRO: Representative Jinkins, prime sponsor; Steve Warning, Superior Court Judges Assn.

CON: Lisa Scott, family law attorney.

OTHER: Kathryn Leathers, Family Law Section, WSBA.