

HOUSE BILL REPORT

SB 5658

As Reported by House Committee On:
Judiciary

Title: An act relating to the role of parties in cases related to certain notices and records.

Brief Description: Concerning the role of parties in cases related to certain notices and records.

Sponsors: Senators Dansel and Kohl-Welles.

Brief History:

Committee Activity:

Judiciary: 3/18/15, 3/26/15 [DPA].

Brief Summary of Bill
(As Amended by Committee)

- Requires the petitioner in a criminal case, or an involuntary mental health commitment case, that results in loss of firearms rights to provide the court with certain identifying information of the convicted or committed person.
- Provides that when multiple involuntary mental health commitments are entered under the same cause number, the court need only send one notification of the committed person's identifying information to the Department of Licensing and the National Criminal Instant Background Check System.
- Amends statutes relating to a number of different court proceedings to provide that a party in the case, rather than the clerk of the court, must provide certain notices or issue summons in the proceedings.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

Staff: Edie Adams (786-7180).

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.

Background:

Court Notification of a Conviction or Commitment Resulting in Loss of Firearms Rights.

Certain persons are prohibited from possessing firearms, including persons who have been convicted of felony crimes or certain misdemeanor crimes of domestic violence, and persons who have been involuntarily committed for mental health treatment under the civil or forensic mental health laws. At the time a person is convicted of a crime or involuntarily committed, if the conviction or commitment results in the loss of firearms rights, the convicting or committing court must forward the person's driver's license or comparable information to the Department of Licensing (DOL) and the National Instant Criminal Background Check System (NICS).

County Clerks.

The county clerk is an independent elected official that serves as the clerk of the superior court. The clerk has a variety of administrative and financial duties associated with the operation of the courts that are imposed by statute and local rules. Clerk duties include processing and maintaining court records, assisting in court proceedings, collecting and disbursing court fees, fines and other collections, and issuing court orders and decrees. Some statutes require clerks to issue summons or provide certain notifications with respect to court proceedings.

Certificated School Employees. There are specific notice and hearing procedures that apply when a school board takes action to discharge a certificated employee or takes adverse action affecting the certificated employee's contract status. A certificated employee may appeal a discharge or other adverse action affecting his or her contract status to the superior court. Within 10 days of receipt of the notice of appeal, the clerk of court must send a notice of the appeal to the chair of the school board.

Non-Payment of Vehicle-Related Judgments. Under the motor vehicle laws, when a judgment for personal injury or property damage caused by the ownership or use of a motor vehicle remains unpaid after 30 days, the clerk of court, or the judge of a court which has no clerk, must immediately provide notice to the DOL. The notice must include a certified copy or abstract of the judgment, a certificate of facts relative to the judgment, and if it is a default judgment, a certified copy or abstract of the portion of the record that indicated the manner in which service of summons was effectuated and the measure taken to provide the defendant with notice of the suit.

Dissolution of Certain Districts. There are specific procedures for dissolving certain districts, such as port districts, school districts, water-sewer districts, fire protection districts, and other similar districts. The Board of Commissioners (Board) or other governing body of the district must file a petition with the superior court of the county in which the Board is situated. The court sets a hearing date and the clerk of court must give notice of the hearing by publication in a newspaper of general circulation where the district is located and by posting in three public places in the county in which the district is located.

Dependency Petitions. Under child dependency laws, any person or the Department of Social and Health Services may file a petition with the court alleging that a child is dependent due to alleged abuse or neglect. When a dependency petition is filed, the clerk of

the court must issue a summons to the child if over age 12 and to the child's parents, guardian, or custodian, requiring them to appear in court for the hearing on the dependency petition.

Summary of Amended Bill:

Court Notification of a Conviction or Commitment Resulting in Loss of Firearms Rights.

In cases where a court must notify the DOL and the NICS of the identifying information of a person who is convicted of a crime or committed for mental health treatment resulting in a loss of firearms rights, the petitioner in the case must provide the court with the required identifying information.

If more than one commitment order is entered under one cause number, only one notification to the DOL and the NICS is required.

County Clerks.

Various statutes imposing notice or other duties relating to court proceedings on the county clerk are amended.

Certificated School Employees. When a certificated employee of a school district files a notice of appeal of a discharge or other adverse action affecting his or her contract status, the certificated employee, rather than the clerk of court, must notify the chair of the school board of the appeal.

Non-Payment of Vehicle-Related Judgments. When a judgment for personal injury or property damage caused by the ownership or use of a motor vehicle remains unpaid after 30 days, the judgment debtor, rather than the clerk or judge of the court, must immediately provide notice of the nonpayment to the DOL.

Dissolution of Certain Districts. The Board or other governing body of the district, rather than the clerk of court, must provide notice by publication of the hearing on a petition to dissolve the district.

Dependency Petitions. The petitioner, rather than the clerk of court, must issue the required summons when filing a petition alleging that a child is dependent due to abuse or neglect.

Amended Bill Compared to Original Bill:

The original bill broadened the definition of "official juvenile court file" to include any documents that are not records and reports of the probation counselor, and also removed the requirement that truancy records of a juvenile who has no other case history, and records of a juvenile's parents who have no other case history, must be removed from the judicial information system when the juvenile is no longer subject to compulsory school attendance laws.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: 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 section relating to the official juvenile court file responds to a recent Washington Supreme Court decision relating to what can be filed in the official juvenile court file. The documents that currently go into the court file are much broader than what the court decision says may be put in the court file. The change relating to truancy records is being made because the process of removing these records from the judicial information system is time consuming and not a good use of taxpayer money because no one can see these records. This is the only area where the clerks are required to remove information. Other sections of the bill shift duties that are currently performed by the clerk to the parties in the case where they more appropriately belong. It is typically up to the parties to provide service or notice in cases. It is not the government's role to step in to perform duties on behalf of private parties in a case.

(Opposed) We oppose sections two and three of the bill relating to juvenile court records. The bill expands what is included in the juvenile court file which will allow the public to see private information relating to juveniles. Juveniles in the court system are in crisis and it is not appropriate to allow these records to be available to the public. The bill does not indicate how truancy records will be removed from the judicial information system if the clerk does not remove those records. Truancy records contain a lot of personal information that is gathered about the youth and their families. This information should be taken out of the public eye when the juvenile is no longer subject to school attendance laws. The policy decision made when this requirement was enacted is that these records should go away.

Persons Testifying: (In support) Barb Miner, Washington State Association of County Clerks.

(Opposed) Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers; and Hillary Madsen, Columbia Legal Services.

Persons Signed In To Testify But Not Testifying: None.