

SENATE BILL REPORT

SB 5658

As Passed Senate, March 4, 2015

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 Dandel and Kohl-Welles.

Brief History:

Committee Activity: Law & Justice: 2/05/15, 2/12/15 [DP].

Passed Senate: 3/04/15, 47-1.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Tim Ford (786-7423)

Background: The county clerk is an independently elected official who is the administrative and financial officer for the courts of a county. The clerk's office provides multiple functions including receiving and processing all documents in court actions. The processing of court documents involves record classification, assignment of cause number, computerized docketing, and manual filing of hard copy records. Records must be processed, maintained, retained, and purged in accordance with law. In court actions, different laws may apply which may require the clerk of the court to process documents differently. A law may require the clerk to provide notice of a court-related document to another party or non-party to the court action.

The following court proceedings require document processing by the clerk:

- For certain conviction or commitment proceedings where a person must immediately surrender a concealed pistol license and firearm, within three days after an order of conviction or commitment, the clerk must provide a copy of the committed person's driver's license to the Department of Licensing (DOL) and to the National Instant Criminal Background Check System index.

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.

- For truancy records where the juvenile has no other case history and is no longer subject to compulsory laws, the clerk must remove the truancy records from the judicial information system.
- For employment-related appeals filed by certified employees of common schools, the clerk must provide notice of the appeal to the school board.
- For judgments related to damages caused by motor vehicles, the clerk must provide notice to DOL for nonpayment of the judgment after 30 days.
- For a Port District dissolution proceeding, the clerk must provide notice of the dissolution hearing to the general public by newspaper publication and by posting in public places.
- For petition filings related to dependency or termination of child-parent relationships, the clerk must issue a summons to the child or custodian, and other persons as appropriate.

Summary of Bill: The requirement to process certain court documents is not required by the county clerk. The petitioning party, e.g. prosecutor or mental health professional, in a case that results in entry of an order of conviction or order of commitment for mental health treatment where the defendant or respondent is prohibited from possessing a firearm, must provide the court with the defendant or respondent's driver's license, Identicard, or comparable information. Only one notification to DOL and the National Instant Criminal Background Check System is required for multiple commitments under one cause number.

The clerk is no longer required to remove truancy records from the judicial information system where a juvenile who has no other case history is no longer subject to compulsory attendance laws, and records of a juvenile's parents who have no other case history. The official juvenile court file includes, but is not limited to, the petition or information, motions, memos, briefs, findings, and documents not specified in the social file.

The certified employee filing an appeal of an adverse change in contract status, not the clerk, is responsible for notifying the chair of a school board within ten days of filing of a notice of appeal.

The judgment creditor, not the clerk, must provide notice of nonpayment of judgments to DOL.

The petitioner, not the clerk, is responsible for publishing the notice of a hearing on a petition for dissolution of port districts.

In dependency and termination petition filings, the petitioning party, not the clerk, issues the required summons.

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: The filing of certain documents and notices would go from the duties of the clerk to the petitioner. Counties are struggling with finances. This would cut down on county expenses and put the burden on the party where it should be.

There are seven statutes that need minor changes. The statutes relate to commitment cases requiring the surrender of a concealed pistol license; juvenile records and truancy cases; employment-related appeals for certificated educational employees of common schools; cases for damages caused by motor vehicles; port dissolution proceedings; and petitions related to dependency or termination of a child-parent relationship. We have fewer staff and more turnover and retirements. These laws all relate to exceptions to standard practices creating potential liability. We are trying to create consistency in standard practices.

Persons Testifying: PRO: Senator Dansel, prime sponsor; Ruth Gordon, WA Assn. of County Clerks.