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## Judiciary Committee

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### SSB 6324

**Title:** An act relating to the destruction of court exhibits by county clerks.

**Brief Description:** Concerning the destruction of court exhibits by county clerks.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Angel and Takko).

#### Brief Summary of Substitute Bill

- Removes the requirement for a county clerk to issue a certificate showing liens on a property in an action to partition.
- Changes the time period in which a county clerk may petition the court for authorization to dispose of court records from six years to 10 years from the entry of a case completion order or final mandate in any action.
- Provides requirements for the filing of court reporter's notes.

**Hearing Date:** 2/15/18

**Staff:** Ingrid Lewis (786-7289).

#### **Background:**

##### Partitioning of Property.

When several persons hold and are in possession of real property as tenants in common, each person has the freedom to partition the land if they desire to no longer co-own it, according to the respective rights of the persons with interests in the property. A partition may be voluntary or by court order. A partition may require the sale of all or part of the property if the division cannot be made without great prejudice to the owners. Prior to distributing the proceeds of any sale of the property, the plaintiff must produce a certificate of the clerk showing any remaining unsatisfied liens on the property.

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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.*

### Destruction of Court Exhibits.

A county clerk is an elected official and is the administrative and financial officer of the superior court. County clerks perform specific duties in support of court activities, including but not limited to, keeping case files and other records of the court, as well as the destruction, sealing, and redaction of court records filed in their offices.

"Court record" includes, but is not limited to: (i) any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding; and (ii) any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding.

The destruction of court records is prohibited unless expressly permitted by statute. A county clerk may petition the court for authorization to either destroy exhibits, unopened depositions, and reporter's notes or turn over exhibits to the sheriff of the county for disposal pursuant to statute, if six years have elapsed from the entry of the final judgement in an action. There are two exceptions: (1) court reporter's notes in criminal cases require a 15-year retention period; and (2) any exhibit deemed to possess historical value may be delivered to libraries or historical societies.

### **Summary of Bill:**

#### Partitioning of Property.

In an action to partition property, the county clerk no longer issues a certificate showing unsatisfied liens on the property to the plaintiff.

#### Destruction of Court Exhibits.

The time period in which a county clerk may petition the court for authorization to either destroy exhibits, court recordings, and court reporter's notes or turn over exhibits to the sheriff of the county for disposal pursuant to statute, is changed from six years to 10 years from the entry of a case completion order or final mandate in any action.

Court exhibits deemed by the county clerk or state authorities to possess historical value may be offered to the state archivist. Unclaimed exhibits may be destroyed.

Court reporter's notes are required to be filed with the county clerk and must include an index of the case numbers and hearing dates included in each submission. A county clerk may require court reporters to file notes electronically using statewide standards established by the Washington State Association of County Clerks.

**Appropriation:** None.

**Fiscal Note:** Available.

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