

SENATE BILL REPORT

SB 5327

As of January 30, 2017

Title: An act relating to court clerks.

Brief Description: Clarifying the duties of court clerks.

Sponsors: Senators Angel and Padden.

Brief History:

Committee Activity: Law & Justice: 1/24/17.

Brief Summary of Bill

- Removes the requirement for the court clerk to conform its performance to the court's direction.
- Relieves court clerks from the duty to forward residential time summary reports to the Department of Social Health and Services (DSHS) Division of Child Support each month.
- Discontinues the annual legislative report from the Washington Association of County Officials regarding the legal financial obligations the county clerks collect.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Melissa Burke-Cain (786-7755)

Background: Court clerks in each county perform specific duties in support of court activities including, but not limited to, keeping the case files and other records of the court, receiving court filings according to court rules, keeping a record of court proceedings, and conforming with the court's direction in performance of its responsibilities. Court clerks also must track and report certain court activities using forms developed by the Administrative Office of the Courts related to dissolution and child support matters. The Washington Association of County Officials works with county clerks to develop funding allocation for collecting legal financial obligations. Legal financial obligations are the fines, fees, and other penalties courts order litigants to pay the court clerk as part of the disposition of a court

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case. The Washington Association of County Officials send a legislative report each year of the legal financial obligations each clerk collects.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): A court clerk must exercise the powers and perform the duties imposed by statute. The court clerks are not required to forward monthly residential time summaries to the Division of Child Support. The Washington Association of County Officials is not required to provide an annual legislative report of county-collected legal financial obligations.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Proposed Substitute: PRO: This is a clean-up bill requested by the County Clerks' Association to update current laws. Regarding residential time summary reports, the current law requires court clerks to send a monthly report to DSHS Child Support Enforcement, but the process has changed. DSHS used to pull the residential time summary report information and forward the data to the Administrative Office of the Courts (AOC). The requirement for the data to be sent to the AOC has been removed from law. The monthly reports are no longer necessary. The data will still be gathered on residential time and can be available if needed. The annual report to the Legislature regarding legal financial obligations (LFOs) collected by county clerks was not requested in 2013 and 2014, but it was requested in 2015 and provided to the Legislature. The data is still collected, although new systems cause the data to be collected in a somewhat different way. The term journal is still in the law, but journals are no longer used; the records are kept as minutes. The independently-elected clerks have a relationship to the courts, but it is difficult for the independently-elected officials to conform to the courts' directions. The original bill substituted a requirement for the court clerks to support the courts in the performance of the courts' statutory duties. The proposed substitute would strike subsection 9 in its entirety. When the annual report on LFOs were not filed, it was a transition time. We received an inquiry from the state law library verifying there hadn't been reports in 2013 and 2014. Senate staff asked for the 2015 report and it was filed late, in 2016.

CON: We oppose Section 1 (9) of the bill which changes the relationship between the judges and the clerks. This is more than clean-up language; it may be an Article IV, Sec. 1 state constitutional issue. The proposal to strike all of Sec. 1(9) in the proposed substitute is not satisfactory. The language in RCW 2.32.050(1) should remain as it is in current law. The LFO issue is also a concern. Rather than scratch the annual report, more information is needed from the county clerks beyond just the amount of LFOs collected. Other information should be reported, such as how much it costs to collect LFOs. The minority and justice commission of the courts is working on a grant-funded project to look at LFOs across the entire system.

Persons Testifying: PRO: Senator Angel, Prime Sponsor; Tim Fitzgerald, County Clerk Assoc.; Monty Cobb, WA Assoc. of County Officials.

CON: Bob Cooper, WA Defender Assoc., WA Assoc. of Criminal Defense Lawyers; Judge Sean O'Donnell, Superior Court Judges' Association.

Persons Signed In To Testify But Not Testifying: No one.