

SENATE BILL REPORT

SSB 6142

As Passed Senate, February 12, 2018

Title: An act relating to commissioners of courts of limited jurisdiction.

Brief Description: Revising the authority of commissioners of courts of limited jurisdiction.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Lias and Walsh).

Brief History:

Committee Activity: Law & Justice: 1/25/18, 1/30/18 [DPS].

Floor Activity:

Passed Senate: 2/12/18, 45-2.

Brief Summary of First Substitute Bill

- A municipal court commissioner has the same power, authority, and jurisdiction as an appointing municipal court judge, subject to the requirement that all parties must agree before a municipal court commissioner may preside over a criminal trial or a civil jury trial..
- A commissioner of a court of limited jurisdiction may officiate a marriage in Washington.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6142 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Angel, Assistant Ranking Member; Darneille, Frockt and Wilson.

Staff: Melissa Burke-Cain (786-7755)

Background: In Washington, district and municipal courts are courts of limited jurisdiction organized under Titles 3, 35, or 35A RCW. District and municipal court judges serve four-year terms. Under current law, these courts adjudicate:

- misdemeanor criminal cases;
- traffic, non-traffic, and parking infractions;

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- domestic violence protection orders;
- civil actions of \$100,000 or less; and
- small claims up to \$5,000.

A city or town with a population of 400,000 or less may adopt an ordinance to designate a municipal court. These municipal courts have exclusive original jurisdiction over traffic infractions arising under the city's ordinances, exclusive original criminal jurisdiction of all violations of the city's ordinances, and original jurisdiction of all other actions brought to enforce or recover license penalties or forfeiture provided by ordinance as well as other statutory jurisdiction.

Under current law, a municipal court judge may appoint one or more court commissioners. A commissioner authorized to hear or dispose of cases must be either:

- a lawyer admitted to practice in Washington State; or
- a non-lawyer who has passed the qualifying examination for lay judges for courts of limited jurisdiction.

A municipal court commissioner does not have authority to preside over criminal trials or jury trials unless all parties agree on the record.

Officers and persons authorized to solemnize marriages are outlined in RCW 26.04.050. Authorized officiants include the following members of the judiciary, whether active or retired: supreme court justices, judges of the court of appeals, superior court, and judges of courts of limited jurisdiction and tribal court judges of a federally recognized tribe. Under current law, commissioners of the supreme court, court of appeals, and superior courts may also solemnize marriages.

Summary of First Substitute Bill: A municipal court commissioner has such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess, and must be a lawyer admitted to practice in Washington or a non-lawyer who has passed the qualifying examination for lay judges in courts of limited jurisdiction. The municipal court commissioner's power, authority, and jurisdiction is subject to the requirement that all parties agree on the record before a municipal court commissioner is authorized to preside over a criminal trial or a civil jury trial.

A commissioner of a court of limited jurisdiction may officiate at a marriage in Washington.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This change in the municipal court commissioner's authority was prompted by a challenge to issue a search warrant signed by a

commissioner. In smaller or rural locations with a small number of judicial officers, a problem can occur if one or more judges are away on leave. This bill will help address that issue. There is a drafting error that should be corrected. The same language is in the district court commissioner's statute. The authority of the municipal court commissioners is still subject to subsection (4). All parties must agree on the record in order for a commissioner to preside over a criminal trial or a civil jury trial. As far as officiating at weddings, as municipal court commissioners, we become close to the community because we see many community members in the course of our work. A wedding is a positive occasion and some in the community might feel comfortable having a commissioner they know officiate at their wedding. All other court commissioners are authorized to officiate at weddings except municipal court commissioners; it just seems like an oversight that should be corrected.

CON: I do not oppose allowing commissioners to perform weddings. There is a problem with expanding the use of commissioners into the judicial realm because there is no opportunity to file an affidavit of prejudice. The only remedy is the right to seek revision of a commissioner's order. It is constitutionally deficient. In criminal cases, for example in the the search and seizure context, the approach creates more problems than it solves. The commissioners may not have the same level of familiarity with the laws and their rulings must be corrected. It is better, and less costly, to get things right the first time.

OTHER: I do not oppose commissioners performing weddings. As to the expanded authority for commissioners, the increasing reliance on the commissioner system raises due process concerns. Commissioners' dockets do not require the same evidentiary standards and there is a lack of uniformity across the state.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Judge Rick Leo, District and Municipal Court Judges Association.

CON: Arthur West, citizen.

OTHER: Branden Durst, citizen.

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