

SENATE BILL REPORT

SSB 6324

As Passed Senate, February 7, 2018

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 History:

Committee Activity: Law & Justice: 1/22/18, 1/30/18 [DPS].

Floor Activity:

Passed Senate: 2/07/18, 48-0.

Brief Summary of First Substitute Bill

- Requires a court order to destroy court exhibits and records.
- Removes a requirement for a county clerk certificate in special actions for partition of property.
- Changes the period from six to ten years before a clerk may apply to destroy records of a case after its completion.
- Permits a clerk to require court reporter notes to be filed electronically.
- Requires statewide filing standards for electronic filing of court reporter notes to be established by the Washington State Association of County Clerks.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6324 be substituted therefor, and the substitute bill do pass.

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

Staff: Tim Ford (786-7423)

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: Clerk of the Court. The county clerk, an independent elected official, serves as the clerk of the superior court. Statutes and local rules impose a variety of administrative duties for clerks associated with the operation of the courts. 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.

Special Actions in Court. A partition is a special lawsuit or action to divide real property where several person hold or possess certain interests in the property. A partition may also require the sale of the property or part of the property if a division can't 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.

Destruction of Court Exhibits. Any time after six years after the entry of final judgment in any action, the clerk may apply for an order to dispose of records related to the action. Those records include:

- turning over exhibits of possible value to the sheriff as unclaimed property, and
- destroying exhibits, unopened depositions, and reporter notes.

Reporter notes in criminal cases must be preserved for at least 15 years. Exhibits of historical value are to be delivered to libraries or historical societies.

Records That Must be Kept. The clerk must keep the following records:

1. A record of all appearances and the time of filing of all pleadings in any cause.
2. A docket with the title of all causes pending before the court.
 - a) The docket must be in order in which they were commenced beginning with criminal cases.
 - b) The docket must contain the names of attorneys for each case, the character of the action, and pleadings at commencement.
 - c) A copy of the docket is provided to the court and to members of the bar.
3. A record of the names of witnesses and jurors, and other information related to reimbursement of costs.
4. A record of the daily proceedings including all verdicts, orders, judgments, and decisions signed by a judge.
5. A record of final judgments in criminal or civil cases.
6. A record of probate proceedings.
7. A record of wills and bonds.
8. A record of testamentary letters, administration, or guardianship.
9. A record of each claim in an appearance docket, including the name of each claimant, amount claimed; and date filed.
10. A memo of the files for each case noting the papers filed in each case, and the date of filing.
11. A record of petitions filed for restoration of firearm rights, and their outcome.
12. Other records as prescribed by law

Summary of First Substitute Bill: In special actions to partition or sell property, the clerk is not required to produce a certificate showing any remaining unsatisfied liens on the property.

More than ten years after case completion, a clerk may apply for an order to destroy records related to the case. A court order is required to destroy court exhibits and records. Exhibits may be destroyed sooner as authorized by state court rule, when ordered by a court. Exhibits of historical value may be offered to the state archivist. Court reporter notes must be accompanied by an index with case numbers and hearing dates. A clerk may require court reporter notes to be filed electronically. Statewide filing standards for electronic filing of court reporter notes are to be established by the Washington State Association of County Clerks.

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: Some of these laws go back to territorial times. With all of the technology that has become available, some of these old laws create problems for the clerks. This is a clean up bill that gets the laws up to date with greater efficiency. The bill is an effort to modernize and provide better services. The clerks do not provide certificates as required by law. There is no certificate but the clerk can create a document. It is not normally done anymore. Class B and C felonies are potentially up to ten years, so by extending the retention period prior to destruction, this bill will match the longest term of punishment for Class B and C felonies. The courtroom minutes are maintained in the Odyssey program.

CON: There is a need for a couple minor amendments. The current language requires a signed order by a judge to destroy records. The bill only requires an application. We would like to retain the requirement for a judicial order. Also, there needs to be a statewide standard for electronic filing of court reporter notes.

Persons Testifying: PRO: Senator Jan Angel, Prime Sponsor; Tim Fitzgerald, Spokane County Clerk.

CON: Sean O'Donnell, President, Superior Court Judges' Association.

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