

## **Board for Judicial Administration Sine Die Report**

Monday, April 29, 2013

The Legislature adjourned *sine die* on Sunday, April 28<sup>th</sup>. They are scheduled to return for a special session beginning May 13<sup>th</sup>.

Bills not passed by *sine die* are returned to the Rules Committees in their houses of origin.

Here are the highlights regarding bills BJA is tracking:

### **BJA Request Legislation**

**HB 1159** - Increases the number of superior court judges in Whatcom County.

Position - Request

Status – Passed House 89-8. Died in Senate Law & Justice. Returned to House Rules.

**HB 1175** - Increases the number of superior court judges in Benton and Franklin Counties jointly.

Position – Request

Status – Passed House 87-9. Passed Senate 47-1. Delivered to the governor. Action scheduled on May 1.

~~**SHB 1542**~~ - Requires courts to appoint a certified or registered interpreter at public expense in all legal proceedings in which a non-English-speaking person is a party or is compelled to appear. Requires the state to pay 50 percent of the cost of interpreters beginning in January 2017. Requires courts to track and provide interpreter cost and usage data annually to the Administrative Office of the Courts. (Amended in House Appropriations to remove the 2017 deadline for state funding.)

Position – BJA Request

Status – Passed House 54-42. Died in Senate Law & Justice. Returned to House Rules.

**SHB 1961** – Extending the expiration date for judicial stabilization trust account surcharges. Amended in House Appropriations to extend sunset date by 4 years rather than 2 due to new budget outlook requirements. The Senate budget assumes a 2-year extension at one-half the amount, but does not have a bill.

Position – BJA Request

Status – Passed House 91-5. Bill should be considered “necessary to implement the budget” and should not be considered dead. Returned to House Rules.

**SB 5052** - Increases the number of superior court judges in Whatcom County.

Position - Request

Status – Passed Senate 48-1. Passed House 91-6. Delivered to the governor.

Action scheduled for May 10.

~~**SB 5069**~~ - Increases the number of superior court judges in Benton and Franklin Counties jointly.

Position – Request

Status – Passed Senate 49-0. Died in House Rules. Returned to Senate Rules.

**SB 5398** - Requires courts to appoint a certified or registered interpreter at public expense in all legal proceedings in which a non-English-speaking person is a party or is compelled to appear. Requires the state to pay 50 percent of the cost of interpreters beginning in January 2017. Requires courts to track and provide interpreter cost and usage data annually to the Administrative Office of the Courts.

Position – BJA Request

Status – Died in Senate Law & Justice

## **Data Dissemination/Access to Court Records**

~~**HB 1497**~~ - Requests the Washington State Supreme Court to adopt court rules redacting or sealing nonconviction court records and, when technologically and economically feasible, providing a process for removing nonconviction information from public court indices. Prohibits employers and landlords from inquiring into, or receiving information through a criminal history background check, about nonconviction records and rejecting an applicant on the basis of nonconviction records. *This bill has significant JIS impact, resulting in 8,400 to 12,000 hours of programming time and a fiscal note ranging from \$1,010,400 to \$1,459,200.*

Position – No position

Status – Died in House Judiciary

~~SHB 1651~~ - Provides that juvenile offender records are confidential unless the juvenile has been adjudicated for a sex offense or a serious violent offense. The court may release juvenile records for inspection upon good cause shown. Provides that juvenile offender records may not be published, distributed, or sold. *This bill has significant JIS impact resulting in 4,300 hours of programming time and one-time costs of \$518,400 and an annual loss of \$19,500 in revenue.* Amended in House to increase the number of crimes that must remain open. Amended in Senate Human Services to mirror SB 5689. Court records and public court indices containing nonadjudication or nonconviction information relating to the commission of juvenile offenses are restricted from public access. Nonadjudication or nonconviction information means information contained in records collected by the courts relating to arrest, probable cause hearings, citation, and charges that did not lead to an adjudication; charges resulting in a dismissal or acquittal; and charges dismissed pursuant to a diversion or deferred sentence. Access by agencies for research purposes, as provided elsewhere in statute and expressly permitted for sealed juvenile records is allowed. *This bill requires significant changes to JIS, resulting 8,400 to 12,000 hours of programming time and one-time costs ranging from \$1.1 million to \$1.4 million.* A “null and void” clause was added by Senate Ways & Means. \$518,000 of JIS Account funding is provided in the House budget.  
Position – No position. Concerns regarding JIS impact and costs.  
Status – Passed House 97-0. Died on Senate Floor calendar. Returned to House Rules.

SB 5344 - Requests the Washington State Supreme Court to adopt court rules redacting or sealing nonconviction court records and, when technologically and economically feasible, providing a process for removing nonconviction information from public court indices. Prohibits employers and landlords from inquiring into, or receiving information through a criminal history background check, about nonconviction records and rejecting an applicant on the basis of nonconviction records. *This bill has significant JIS impact, resulting in 8,400 to 12,000 hours of programming time and a fiscal note ranging from \$1,010,400 to \$1,459,200.*

Position – No position

Status – Died in Senate Law & Justice

~~2SSB 5689~~ - Court records and public court indices containing nonadjudication or nonconviction information relating to the commission of juvenile offenses are restricted from public access. Nonadjudication or nonconviction information means information contained in records collected by the courts relating to arrest, probable cause hearings, citation, and charges that did not lead to an adjudication; charges resulting in a dismissal or acquittal; and charges dismissed pursuant to a diversion or deferred sentence. Access by agencies for research purposes, as provided elsewhere in statute and expressly permitted for sealed juvenile records is allowed. *This bill requires significant changes to JIS, resulting 8,400 to 12,000 hours of programming time and one-time costs ranging from \$1.1 million to \$1.4 million.*

Position – No position

Status – Died in Senate Rules

### **Bills Affecting AOC Employees and/or Judges**

~~SHB 1005~~ - Assesses a \$150-\$200 yearly fee to political committees, lobbyists, lobbyist employers, government entities, and elected officials that receive a salary and file personal financial disclosure statements.

Position - Not reviewed

Status – Died in House Rules

SHB 1093 - Imposes personal liability, in the form of a civil penalty of \$100 per statement, on a state agency director who knowingly fails to file lobbying disclosure statements, in addition to any other civil remedy or sanction imposed on the agency. Establishes a civil penalty on any state agency official, officer, or employee who is responsible for or knowingly directs or expends public funds in violation of lobbying restrictions, and specifies that this penalty must be at least equivalent to the amount of public funds expended in the violation. Amended in Senate to require electronic reporting.

Position - Not reviewed

Status – Passed House 97-1. Passed Senate 40-8. House concurred in Senate amendments 95-0. Delivered to governor.

~~HB 1266~~ - Instead of requiring that a district court judge must retire from office at the end of the calendar year in which the judge reaches the age of 75, the judge is allowed to serve until the expiration of the judge's term of office.

Position – Support. DMCJA request

Status – Passed House 98-0. Died in Senate Rules. Returned to House Rules.

~~SB 5046~~ - Instead of requiring that a district court judge must retire from office at the end of the calendar year in which the judge reaches the age of 75, the judge is allowed to serve until the expiration of the judge's term of office.

Position – Support. DMCJA request

Status – Passed Senate 48-0-1. Passed House 92-0. Governor signed.

SSB 5577 - Knowing acquiescence by a supervisor in the ethics violation of an employee is made an ethics violation. A state employee who files an ethics complaint must be afforded whistleblower protection and receive protection from retaliation. Every state officer and employee must attend an approved ethics training within 60 days of employment and at least every three years thereafter. Amended in committee to apply to executive branch employees. Amended in House.

Position – Not Reviewed

Status – Passed Senate 47-0. Passed House 96-1. Senate concurred in House amendments 47-0. Delivered to governor.

**ESB 5860** - The Attorney General is not required to institute legal actions on behalf of Superior Court judges unless requested to do so by the Administrator for the Courts. Amended by the Senate to require AOC to bear half the legal costs and to institute a 90-day notice requirement and a 120-day period for alternative dispute resolution. Amended by House Judiciary to provide that the Attorney General is not required to institute actions over funding on behalf of superior court judges.

**HB 2024** applies the same restrictions to all state officers. Amended by Senate to reflect ESB 5860.

Position – Oppose

Status – ESB 5860 passed the Senate 47-2 and died in House Rules. Returned to Senate Rules. HB 2024 died on the Senate floor calendar. Returned to House Rules.

**SB 5867** – Reduces the size of the Supreme Court from 9 to 5 by lottery (drawing straws.)

Position – Not currently reviewed. Presumably opposed.

Status – Died in Senate Law & Justice.

## **Elections**

**HB 1195** – The provisions that prohibit a primary election in an odd-numbered year to fill a vacancy in any office that is scheduled to be voted upon for a full term in an even-number year are repealed. Amended in the House to expand the requirement that no primary be held when there are no more than two candidates filing for office to include all nonpartisan offices. Amended in Senate Governmental Operations to include a requirement of prepaid postage for ballots. Amended in Senate Ways & Means to remove the Governmental Operations' amendment.

Position – Oppose

Status – Passed House 96-1. Passed Senate 45-3. House concurred in Senate amendments 94-1.

**HB 1211** - Requires the Secretary of State to print and distribute a voters' pamphlet for the primary in even-numbered years and for the general election each year.

Position – Support

Status – Died in House Appropriations

**HB 1386** - Requires a superior court judge to be a qualified voter in a county served by the superior court he or she is elected or appointed to.

Position – Watch

Status – Died in House Judiciary

**HB 1474** - Requires that the names of the two candidates who receive the most votes in races for the office of justice of the Washington Supreme Court, judge of the court of appeals, judge of the superior court, and the Superintendent of Public Instruction appear on the general election ballot. Amended by Senate Government Operations to require voters' pamphlets. Amended by Senate Ways & Means to remove the Government Operations' amendment.

Position – Oppose

Status – Passed House 97-0. Passed Senate 37-9. Will need further action by the House.

**HB 1966** - No primary may be held for any single position in any nonpartisan office if there are no more than two candidates filed for the position.

Position – Not reviewed but similar to other bills opposed by BJA

Status – Died in House Government Operations and Elections

**HJR 4207** - Amends the state Constitution to modify eligibility requirements for superior court judges in accord with HB 1386.

Position – Watch

Status – Died in House Judiciary

**SB 5277** - Several changes eliminate or modify election administration requirements including requiring that primaries not be held for any nonpartisan position, including judicial positions, if only two candidates filed for the position.

Position – Oppose

Status – Died in Senate Governmental Operations

**SSB 5637** - Requires the Secretary of State to print and distribute a voters' pamphlet for the primary in even-numbered years and for the general election each year. Amended in Senate Ways & Means to be subject to appropriation.

Position – Support

Status – Died in Senate Rules.

## **Court Security**

**HB 1365** - Requires counties, cities, and towns to provide security to district and municipal courts, and to pay the costs associated with courthouse security.

Position – Support. DMCJA Request

Status – Died in House Local Government

**SHB 1653** - Makes an assault offense that is committed in any area used in connection with court proceedings an assault in the third degree offense. Adds a felony "crime against persons" to the list of aggravating circumstances when it occurs in any building that is used in connection with court proceedings.

Amended to require courts to develop procedures for notifying the public that an assault offense occurring on the grounds of a court proceeding is a class C felony. (AG request legislation)

Position – Support.

Status – Died in House Appropriations Subcommittee on General Government

**SB 5240** - Requires counties, cities, and towns to provide security to district and municipal courts, and to pay the costs associated with courthouse security.

Position – Support. DMCJA Request.

Status – Died in Senate Law & Justice

**ESB 5484** - Makes an assault offense that is committed in any area used in connection with court proceedings an assault in the third degree offense. Adds a felony "crime against persons" to the list of aggravating circumstances when it occurs in any building that is used in connection with court proceedings.

Amended in the Senate to clarify that when the building/area is not in use for judicial purposes, the bill does not apply. Further amended in House Public Safety to require notifying signage. (AG request legislation)

Position – Support

Status – Passed Senate 40-9. Passed House 83-10 as amended. Senate concurred in House amendments 35-9. Delivered to governor.

## **Problem Solving Courts**

**SB 5023** - Providing for college DUI courts.

Position – Concerns

Status – Died in Senate Law & Justice

**SB 5797** - The Legislature respectfully encourages the Supreme Court to adopt any administrative orders and court rules of practice and procedure it deems necessary to support the establishment of effective specialty courts. Any jurisdiction that establishes a specialty court may seek state or federal funding as it becomes available for the establishment, maintenance, and expansion of the specialty courts and for the provision by participating agencies of treatment to participating defendants. Amended in House Judiciary to remove certain provisions, add therapeutic courts, municipal jurisdictions, and a study.

Position – Support

Status – Passed Senate 49-0. Passed House 94-1. Senate concurred in House amendments 47-0. Delivered to governor.

## **Other**

**SHB 1098** – Amends professional conduct requirements of bail bond agents. Requires a court to notify the Administrative Office of Courts when the court revokes or reinstates the justification or certification of a bail bond agent to post bonds in the court.

Position - Support

Status - Passed House 92-0-6. Died in Senate Law & Justice. Returned to House Rules.

**SHB 1116** - Adopts the Uniform Collaborative Law Act.

Position – Concerns. Support WSBA position of removing sections relating to the regulation of the practice of law. (Issue not corrected in substitute bill.) Largely technical amendment adopted by Senate.

Status – Passed House 97-0. Passed Senate 48-0. House concurred in Senate amendment, 94-0. Delivered to governor.

**HB 1335** – Repeals “unnecessary” provisions concerning the Washington State Bar Association.

Position - Watch

Status – Died in House Judiciary. Received a work session in Senate Law & Justice.

**SHB 1771** - Requires approval before public agencies can obtain a public unmanned aircraft system. Allows a public unmanned aircraft system to be operated, or information gained therefrom, to be disclosed pursuant to a judicial search warrant, if the use is not regulatory enforcement and is reasonably determined to be unlikely to collect personal information, or in an emergency. Includes reporting requirements similar to those for wiretaps.

Position – Watch

Status – Died in House Rules.



**HJR 4205** – Requires that all mandatory, regulatory, licensing, and disciplinary functions regarding the practice of law and administration of justice reside exclusively in the Supreme Court.

Position – Watch

Status – Died in House Judiciary. Received a work session in Senate Law & Justice.

HR 4619 – Honoring the life work of Justice Vernon R. Pearson.

Position – Not Reviewed

Status – Adopted by House on February 19<sup>th</sup>

**SSB 5165** - Court commissioners may hear applications and petitions filed in superior court for the purpose of administering antipsychotic medication without consent to a person who has been committed pursuant to the Involuntary Treatment Act. Criminal court commissioners may authorize and issue search warrants and orders to intercept, monitor, or record wired or wireless telecommunications, or for the installation of electronic taps or other devices to include, but not limited to, vehicle global positioning system or other mobile tracking devices, with all the powers conferred upon the judge of the superior court in such matters.

Position – Support

Status – Passed Senate 46-2. Passed House 72-25. Governor signed.

**SB 5782** - Establishing standards for the use of public unmanned aircraft systems.

Position – Concerns/Watch

Status – Died in Senate Law & Justice

## **Budget**

**ESSB 5034** – Senate budget reduces Office of Civil Legal Aid by \$3 million, Supreme Court by \$500,000, Court of Appeals by \$1.1 million, and Administrative Office of the Courts by \$7.8 million plus \$20 million in transfers from the JIS Account. The Superior Court Case Management System upgrade is not funded. The Office of Public Defense is funded and includes a rate increase for contract attorneys. State Law Library and Commission on Judicial Conduct sustain reductions for “administrative efficiencies.” Restores state employees’ 3% wage reduction.

Position – Oppose

Status – Passed Senate 30-18-1

The House striking amendment on the budget funds the Office of Civil Legal Aid, funds the Office of Public Defense and expands the parents' representation program, and funds the Court of Appeals, Supreme Court, Law Library, and Judicial Conduct Commission. In the AOC budget, funding for BECCA/truancy and the Office of Public Guardianship is curtailed. Funding is provided for a video remote interpretation pilot. Funding is also provided for Judicial Information Systems projects including the SC-CMS, but some conditions are required. State employees' wage reduction is restored.

Position – Support, with some changes

Status – Passed House 54-43-1.

Referred to Senate Rules.