

HB 2473 STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 04/03/23

Action: Do pass. Refer to Rules.

Vote: 9-0-1-0

Yeas: 9 - Andersen, Bynum, Chaichi, Conrad, Kropf, Lewis, Morgan, Reynolds, Wallan

Exc: 1 - Tran

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

Prepared By: Adrienne Anderson, LPRO Analyst

Meeting Dates: 2/22, 4/3

WHAT THE MEASURE DOES:

Requires the court clerk or administrator to furnish to any person who requests a certified copy of any record(s) that are either in the custody of the clerk or administrator or accessible to a clerk or administrator through an electronic records management system of the Judicial Department. Permits a witness who is testifying during a probation violation hearing to appear via simultaneous electronic transmission without written consent from the opposing party or permission from the court. Requires the party requesting the testimony to notify the opposing party at least 48 hours before the hearing. Provides that a person commits the crime of failure to appear in the first or second degree after they are released from any custody if they fail to appear either in person or by some other means. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Only the county record custodian can certify the county record
- Odyssey and Ecourts were implemented in 2012 and replaced paper files and unified the numbering system
- The records belong to the court so the court must certify the records

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Court clerks and administrators can furnish certified copies of court records if the records are from the county in which the request is made. If the request is for records from a different county, the request must go through the court administrator in that county. There is often a fee attached to a request and it takes days to fulfill the request.

Currently, if a witness would like to appear via video for a probation violation hearing, the opposing party and the court must agree. If the court orders a person to appear in court by other means (video, telephone) and that person fails to appear, they cannot be charged with failure to appear in the first or second degree because the statute requires the court to order them to appear personally for that penalty to attach. During the pandemic, many courts ordered defendants to appear via video or telephone, but defendants could not be charged with failure to appear if they did not appear as ordered.

House Bill 2473 would permit court clerks or administrators to certify court records from any county, permit witnesses to testify via video without the opposing party and court's consent, and eliminate the requirement that someone must fail to appear in person in order to be charged with failure to appear in the first or second degree.