

**House Bill 1130**  
**Senate Judiciary Committee**  
**Testimony Presented by Sara Behrens**  
**March 15, 2021**

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am submitting this testimony on House Bill No. 1130 in a neutral capacity. The municipal courts are seeking a way to docket their judgments in district court. The municipal court is a separate court from the district court so in legal terms they are a "foreign" courts. Therefore, the municipal court cannot simply docket the judgment in the same way a district court judgment is docketed. We are aware that it has been a struggle to come up with a method of docketing the judgments, particularly since municipal courts are not courts of record and small municipalities are not part of the Odyssey system. Some cities have already adopted ordinances which allow the municipal court to enforce a judgment like a civil judgment in district court which would allow methods of collection like garnishment of wages. However, my understanding is that the Municipal Judges' Association has requested this legislation because they wish to docket the judgments in district court so the docketed judgments will appear if a defendant were to sell real property. Municipal courts could also bring a small claims court action which would result in a judgment. No attorneys are needed to proceed in small claims court and the filing fee is the same as the filing fee proposed here.

While not appearing in opposition to the bill, the Supreme Court would feel much more comfortable having the municipal clerk send the notice of filing to the defendant and file proof of that mailing with the district court. This bill was modeled after chapter 28-20.1. Chapter 28-20.1 does provide for the district court clerk to send the notice of filing, but foreign judgments are not filed frequently with only 221 foreign judgment cases filed in the entire state in 2020 out of over

154,000 case filings. It is unclear how many municipal court judgments would be filed if this bill passes but the number of municipal cases filed per year is in the thousands. This could put a significant amount of additional obligation on the district court clerks. While we have not requested a fiscal note, there is a possibility of substantial additional staff time being needed.

I have provided a proposed amendment to shift the responsibility for mailing the notice of filing from the district court clerk to the municipal court clerk and ask for your thoughtful consideration of that amendment.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1130

Page 1, line 20 replace "district" with "municipal"

Page 1, line 21 replace "address provided and make a note of the mailing in the docket" with "defendant's last known address and file proof of mailing with the district court"

Page 1, line 22, overstrike "In addition, the municipal"

Page 1, overstrike lines 23-24

Page 2, overstrike lines 1-2

Renumber accordingly

40 - 18 - 14.2. Notice of filing.

1. At the time of filing a judgment under section 40 - 18 - 14, the municipal court judge shall order an affidavit providing the name and last known mailing address of the defendant and otherwise complying with section 28 - 20 - 15 be filed.

2. Upon the filing of the judgment and affidavit as provided in section 40 - 18 - 14, the clerk of ~~district~~ municipal court shall mail notice of the filing of the municipal judgment to the defendant at the ~~address provided and make a note of the mailing in the docket~~ defendant's last known address and file proof of mailing with the district court. The notice must include the name and mailing address of the municipal court. ~~In addition, the municipal judge may order notice of the filing of the judgment be mailed to the defendant and proof of the filing may be filed with the clerk of district court. If proof of mailing by the municipal court has been filed, a failure of the clerk of district court to mail a notice may not effect the enforcement of the proceedings.~~

3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.