
Judiciary Committee

SSB 5165

Title: An act relating to increasing the authority of superior court commissioners to hear and determine certain matters.

Brief Description: Increasing the authority of superior court commissioners to hear and determine certain matters.

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

Brief Summary of Substitute Bill

- Authorizes mental health commissioners to hear petitions for involuntary administration of antipsychotic medication to a person committed after a finding of not guilty by reason of insanity.
- Authorizes criminal commissioners to issue search warrants and orders for wiretaps and mobile tracking devices.

Hearing Date: 3/21/13

Staff: Omeara Harrington (786-7136).

Background:

Article IV, section 23 of the Washington Constitution authorizes the superior courts to appoint up to three court commissioners in each county. Court commissioners have the power to perform all the duties of a superior court judge that do not require a trial by jury, and other duties provided by law to aid in the administration of justice. The Legislature has authorized superior courts to appoint additional commissioners, including specialized mental health commissioners and criminal commissioners. These statutorily authorized commissioners are limited to the authority that they are expressly granted in statute. All acts and proceedings of court commissioners are subject to revision by a superior court judge upon motion by a party.

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.

Mental health commissioners may preside over proceedings under the Involuntary Treatment Act (ITA) including petitions to involuntarily administer antipsychotic medication to a committed person. Mental health commissioners do not have statutory authority to hear petitions for involuntary administration of antipsychotic medication to a person who is committed after a finding of not guilty by reason of insanity (NGRI), as they do over petitions concerning a person committed under the ITA. A person committed under the NGRI statutes may be treated with antipsychotic medication without consent under the same standards that apply under the ITA. A court may order administration of antipsychotic medication to a civilly committed person if the petitioner proves by clear, cogent, and convincing evidence that a compelling state interest justifies overriding the patient's lack of consent, the proposed treatment is necessary and effective, and medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

Criminal commissioners may be appointed in counties with a population of more than 400,000. These commissioners have authority to preside over a variety of preliminary matters in adult criminal cases including arraignments, probable cause determinations, and bail determinations, among other matters.

Summary of Bill:

Mental health commissioners are authorized to hear petitions for the involuntary administration of antipsychotic medication to a person who has been committed after being found NGRI.

Criminal commissioners are authorized to exercise the same authority as a superior court judge in issuing search warrants, orders to intercept, monitor, or record wired or wireless telecommunications, and orders to install electronic taps or mobile tracking devices.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.