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SENATE BILL 5165

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Hargrove and Carrell

Read first time 01/22/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to increasing the authority of superior court  
2 commissioners to hear and determine certain matters; and amending RCW  
3 71.05.137, 71.34.315, 2.24.010, and 2.24.040.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 71.05.137 and 1989 c 174 s 2 are each amended to read  
6 as follows:

7 The judges of the superior court of the county by majority vote may  
8 authorize mental health commissioners, appointed pursuant to RCW  
9 71.05.135, to perform any or all of the following duties:

10 (1) Receive all applications, petitions, and proceedings filed in  
11 the superior court for the purpose of disposing of them pursuant to  
12 this chapter or RCW 10.77.094;

13 (2) Investigate the facts upon which to base warrants, subpoenas,  
14 orders to directions in actions, or proceedings filed pursuant to this  
15 chapter or RCW 10.77.094;

16 (3) For the purpose of this chapter, exercise all powers and  
17 perform all the duties of a court commissioner appointed pursuant to  
18 RCW 2.24.010;

1 (4) Hold hearings in proceedings under this chapter or RCW  
2 10.77.094 and make written reports of all proceedings under this  
3 chapter or RCW 10.77.094 which shall become a part of the record of  
4 superior court;

5 (5) Provide such supervision in connection with the exercise of its  
6 jurisdiction as may be ordered by the presiding judge; and

7 (6) Cause the orders and findings to be entered in the same manner  
8 as orders and findings are entered in cases in the superior court.

9 **Sec. 2.** RCW 71.34.315 and 1989 c 174 s 3 are each amended to read  
10 as follows:

11 The judges of the superior court of the county by majority vote may  
12 authorize mental health commissioners, appointed pursuant to RCW  
13 71.05.135, to perform any or all of the following duties:

14 (1) Receive all applications, petitions, and proceedings filed in  
15 the superior court for the purpose of disposing of them pursuant to  
16 this chapter or RCW 10.77.094;

17 (2) Investigate the facts upon which to base warrants, subpoenas,  
18 orders to directions in actions, or proceedings filed pursuant to this  
19 chapter or RCW 10.77.094;

20 (3) For the purpose of this chapter, exercise all powers and  
21 perform all the duties of a court commissioner appointed pursuant to  
22 RCW 2.24.010;

23 (4) Hold hearings in proceedings under this chapter or RCW  
24 10.77.094 and make written reports of all proceedings under this  
25 chapter or RCW 10.77.094 which shall become a part of the record of  
26 superior court;

27 (5) Provide such supervision in connection with the exercise of its  
28 jurisdiction as may be ordered by the presiding judge; and

29 (6) Cause the orders and findings to be entered in the same manner  
30 as orders and findings are entered in cases in the superior court.

31 **Sec. 3.** RCW 2.24.010 and 2009 c 140 s 1 are each amended to read  
32 as follows:

33 (1) There may be appointed in each county or judicial district, by  
34 the judges of the superior court having jurisdiction therein, one or  
35 more court commissioners for said county or judicial district. Each

1 such commissioner shall be a citizen of the United States and shall  
2 hold the office during the pleasure of the judges making the  
3 appointment.

4 (2)(a) There may be appointed in counties with a population of more  
5 than four hundred thousand, by the presiding judge of the superior  
6 court having jurisdiction therein, one or more attorneys to act as  
7 criminal commissioners to assist the superior court in disposing of  
8 adult criminal cases. Such criminal commissioners shall have power,  
9 authority, and jurisdiction, concurrent with the superior court and the  
10 judges thereof, in adult criminal cases, to preside over arraignments,  
11 preliminary appearances, initial extradition hearings, and  
12 noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040;  
13 accept pleas if authorized by local court rules; appoint counsel; make  
14 determinations of probable cause; set, amend, and review conditions of  
15 pretrial release; set bail; set trial and hearing dates; authorize  
16 continuances; ~~((and))~~ accept waivers of the right to speedy trial; and  
17 authorize and issue search warrants and orders to intercept, monitor,  
18 or record wired or wireless telecommunications or for the installation  
19 of electronic taps or other devices to include, but not be limited to,  
20 vehicle global positioning system or other mobile tracking devices with  
21 all the powers conferred upon the judge of the superior court in such  
22 matters.

23 (b) The county legislative authority must approve the creation of  
24 criminal commissioner positions.

25 **Sec. 4.** RCW 2.24.040 and 2009 c 28 s 1 are each amended to read as  
26 follows:

27 Such court commissioner shall have power, authority, and  
28 jurisdiction, concurrent with the superior court and the judge thereof,  
29 in the following particulars:

30 (1) To hear and determine all matters in probate, to make and issue  
31 all proper orders therein, and to issue citations in all cases where  
32 same are authorized by the probate statutes of this state.

33 (2) To grant and enter defaults and enter judgment thereon.

34 (3) To issue temporary restraining orders and temporary  
35 injunctions, and to fix and approve bonds thereon.

36 (4) To act as referee in all matters and actions referred to him or

1 her by the superior court as such, with all the powers now conferred  
2 upon referees by law.

3 (5) To hear and determine all proceedings supplemental to  
4 execution, with all the powers conferred upon the judge of the superior  
5 court in such matters.

6 (6) To hear and determine all petitions for the adoption of  
7 children and for the dissolution of incorporations.

8 (7) To hear and determine all applications for the commitment of  
9 any person to the hospital for the insane, with all the powers of the  
10 superior court in such matters: PROVIDED, That in cases where a jury  
11 is demanded, same shall be referred to the superior court for trial.

12 (8) To hear and determine all complaints for the commitments of  
13 minors with all powers conferred upon the superior court in such  
14 matters.

15 (9) To hear and determine ex parte and uncontested civil matters of  
16 any nature.

17 (10) To grant adjournments, administer oaths, preserve order,  
18 compel attendance of witnesses, and to punish for contempts in the  
19 refusal to obey or the neglect of the court commissioner's lawful  
20 orders made in any matter before the court commissioner as fully as the  
21 judge of the superior court.

22 (11) To take acknowledgments and proofs of deeds, mortgages and all  
23 other instruments requiring acknowledgment under the laws of this  
24 state, and to take affidavits and depositions in all cases.

25 (12) To provide an official seal, upon which shall be engraved the  
26 words "Court Commissioner," and the name of the county for which he or  
27 she may be appointed, and to authenticate his official acts therewith  
28 in all cases where same is necessary.

29 (13) To charge and collect, for his or her own use, the same fees  
30 for the official performance of official acts mentioned in subsections  
31 (4) and (11) of this section as are provided by law for referees and  
32 notaries public.

33 (14) To hear and determine small claims appeals as provided in  
34 chapter 12.36 RCW.

35 (15) In adult criminal cases, to preside over arraignments,  
36 preliminary appearances, initial extradition hearings, and  
37 noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040;  
38 accept pleas if authorized by local court rules; appoint counsel; make

1 determinations of probable cause; set, amend, and review conditions of  
2 pretrial release; set bail; set trial and hearing dates; authorize  
3 continuances; ((and)) accept waivers of the right to speedy trial; and  
4 authorize the issuance of search warrants, wiretaps, the installation  
5 of electronic taps or other devices to include, but not be limited to,  
6 vehicle global positioning system devices with all the powers conferred  
7 upon the judge of the superior court in such matters.

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