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**HOUSE BILL 2570**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Taylor, Shea, MacEwen, Holy, Condotta, Rodne, G. Hunt, Young, and Haler

AN ACT Relating to limiting the subpoena power of special inquiry judges; and amending RCW 10.27.170 and 10.29.050.

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

**Sec.**  RCW 10.27.170 and 1971 ex.s. c 67 s 17 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, when any public attorney, corporation counsel or city attorney has reason to suspect crime or corruption, within the jurisdiction of such attorney, and there is reason to believe that there are persons who may be able to give material testimony or provide material evidence concerning such suspected crime or corruption, such attorney may petition the judge designated as a special inquiry judge pursuant to RCW 10.27.050 for an order directed to such persons commanding them to appear at a designated time and place in said county and to then and there answer such questions concerning the suspected crime or corruption as the special inquiry judge may approve, or provide evidence as directed by the special inquiry judge.

(2) A public attorney, corporation counsel, city attorney, special inquiry judge, or other person acting under the authority of this section or chapter 10.29 RCW may not search or seize personal banking records without: (a) The informed consent of the account holder; (b) a warrant, based upon probable cause, describing the person, place, or thing to be searched or seized; or (c) a legally recognized exception to the warrant requirement.

**Sec.**  RCW 10.29.050 and 2010 c 8 s 1027 are each amended to read as follows:

A statewide special inquiry judge shall have the following powers and duties:

(1) To hear and receive evidence of crime and corruption.

(2) To appoint a reporter to record the proceedings; and to swear the reporter not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(3) Whenever necessary, to appoint an interpreter, and to swear him or her not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(4) When a person held in official custody is a witness before a statewide special inquiry judge, a public servant, assigned to guard him or her during his or her appearance may accompany him or her. The statewide special inquiry judge shall swear such public servant not to disclose any testimony or the name of any witness except as provided in RCW 10.27.090.

(5) To cause to be called as a witness any person believed by him or her to possess relevant information or knowledge, except as limited by RCW 10.27.170(2). If the statewide special inquiry judge desires to hear any such witness who was not called by the special prosecutor, it may direct the special prosecutor to issue and serve a subpoena upon such witness and the special prosecutor must comply with such direction. At any time after service of such subpoena and before the return date thereof, however, the special prosecutor may apply to the statewide special inquiry judge for an order vacating or modifying the subpoena on the grounds that such is in the public interest. Upon such application, the statewide special inquiry judge may in its discretion vacate the subpoena, extend its return date, attach reasonable conditions to directions, or make such other qualification thereof as is appropriate.

(6) Upon a showing of good cause may make available any or all evidence obtained to any other public attorney, prosecuting attorney, city attorney, or corporation counsel upon proper application and with the concurrence of the special prosecutor. Any witness' testimony, given before a statewide special inquiry judge and relevant to any subsequent proceeding against the witness, shall be made available to the witness upon proper application to the statewide special inquiry judge. The statewide special inquiry judge may also, upon proper application and upon a showing of good cause, make available to a defendant in a subsequent criminal proceeding other testimony or evidence when given or presented before a special inquiry judge, if doing so is in the furtherance of justice.

(7) Have authority to perform such other duties as may be required to effectively implement this chapter, in accord with rules adopted by the supreme court relating to these proceedings.

(8) Have authority to hold in contempt of court any person who shall disclose the name or testimony of a witness examined before a statewide special inquiry judge except when required by a court to disclose the testimony given before such statewide special inquiry judge in a subsequent criminal proceeding.

**--- END ---**