

HB 1825 - S COMM AMD

By Committee on Law & Justice

ADOPTED 03/02/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 2.56
4 RCW to read as follows:

5 For purposes of this title and Title 3 RCW, unless the context
6 clearly requires otherwise, "single judge court" means a court or
7 judicial district that has only one judge.

8 **Sec. 2.** RCW 2.56.040 and 2005 c 182 s 1 are each amended to read
9 as follows:

10 (1) The chief justice shall consider all recommendations of the
11 administrator for the assignment of judges, and, in the discretion of
12 the chief justice, direct any judge whose calendar, in the judgment
13 of the chief justice, will permit, to hold court (~~in any county or~~
14 ~~district~~) where need therefor exists, to the end that the courts
15 (~~of~~) in this state shall function with maximum efficiency, and that
16 the work of other courts shall be equitably distributed. It shall be
17 the duty of every judge to obey such direction of the chief justice
18 unless excused by the chief justice for sufficient cause.

19 (2)(a) If due to illness, incapacity, resignation, death, or
20 other unavailability the presiding judge in a single judge court is
21 unable to fulfill the duties of the office, and either (i) no person
22 has been designated by the presiding judge to serve as presiding
23 judge pro tempore or (ii) the previously designated presiding judge
24 pro tempore resigns, is removed from office, or is no longer able to
25 serve, the chief justice may appoint another judicial officer or
26 other person as the presiding judge pro tempore who meets the
27 qualifications of a judge pro tempore, subject to (c) of this
28 subsection, during the remaining period of unavailability or until a
29 vacancy is filled as provided by law.

30 (b) The chief justice may appoint someone other than the
31 previously designated or appointed individual to serve as presiding

1 judge pro tempore whenever the chief justice determines that the
2 administration of justice would be better served by appointment of
3 someone else to fulfill the presiding judge duties, subject to (c) of
4 this subsection, during the remaining period of unavailability or
5 until the vacancy is filled as provided by law.

6 (c) The chief justice, or designee, shall consult with the local
7 legislative and executive authorities before removing or appointing a
8 presiding judge pro tempore under (a) or (b) of this subsection.

9 (d) Nothing in this section is intended to modify the role of the
10 commission on judicial conduct as provided in Article IV, section 31
11 of the Washington state Constitution and chapter 2.64 RCW.

12 **Sec. 3.** RCW 2.08.120 and 1955 c 38 s 5 are each amended to read
13 as follows:

14 (1) If a vacancy occurs in the office of judge of the superior
15 court, the governor shall appoint a person to hold the office until
16 the election and qualification of a judge to fill the vacancy, which
17 election shall be at the next succeeding general election, and the
18 judge so elected shall hold office for the remainder of the unexpired
19 term.

20 (2) During any vacancy that occurs pursuant to subsection (1) of
21 this section in a single judge court, a presiding judge pro tempore
22 who has been predesignated pursuant to court rule or appointed
23 pursuant to RCW 2.56.040(2) may fulfill presiding judge duties, and
24 the authority of the predesignated or appointed presiding judge pro
25 tempore endures until the chief justice appoints someone else to
26 fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(b), or
27 until a vacancy in the position is filled as provided by law,
28 whichever occurs first.

29 **Sec. 4.** RCW 2.24.010 and 2021 c 311 s 17 are each amended to
30 read as follows:

31 (1) There may be appointed in each county or judicial district,
32 by the judges of the superior court having jurisdiction therein or a
33 presiding judge pro tempore who is fulfilling presiding judge duties
34 for a single judge court pursuant to RCW 2.08.120(2), one or more
35 court commissioners for said county or judicial district. Each such
36 commissioner shall be a citizen of the United States and shall hold
37 the office during the pleasure of the judges making the appointment.

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

20 (b) Criminal commissioners shall also have the authority to
21 conduct resentencing hearings and to vacate convictions related to
22 *State v. Blake*, No. 96873-0 (Feb. 25, 2021). Criminal commissioners
23 may be appointed for this purpose regardless of the population of the
24 county served by the appointing court.

25 (c) The county legislative authority must approve the creation of
26 criminal commissioner positions.

27 **Sec. 5.** RCW 3.34.150 and 1989 c 227 s 7 are each amended to read
28 as follows:

29 (1) If a district has more than one judge, the supreme court may
30 by rule provide for the manner of selection of one of the judges to
31 serve as presiding judge and prescribe the presiding judge's duties.
32 If a county has multiple districts or has one district with multiple
33 electoral districts, the supreme court may by rule provide for the
34 manner of selection of one of the judges to serve as presiding judge
35 and prescribe the presiding judge's duties.

36 (2) Pursuant to court rule or RCW 2.56.040(2), a presiding judge
37 pro tempore may be predesignated or appointed to fulfill presiding
38 judge duties in case of the illness, incapacity, resignation, death,
39 or unavailability of the presiding judge of a single judge court. In

1 such circumstances, the authority of the predesignated or appointed
2 presiding judge pro tempore endures until the chief justice appoints
3 someone else to fulfill the presiding judge duties pursuant to RCW
4 2.56.040(2)(b), or the period of such illness, incapacity, or
5 unavailability ends, or until a vacancy in the position is filled as
6 provided by law, whichever occurs first.

7 **Sec. 6.** RCW 3.34.100 and 2003 c 97 s 3 are each amended to read
8 as follows:

9 (1) If a district judge dies, resigns, is convicted of a felony,
10 ceases to reside in the district, fails to serve for any reason
11 except temporary disability, or if his or her term of office is
12 terminated in any other manner, the office shall be deemed vacant.
13 The county legislative authority shall fill all vacancies by
14 appointment and the judge thus appointed shall hold office until the
15 next general election and until a successor is elected and qualified.
16 However, if a vacancy in the office of district court judge occurs
17 and the total number of district court judges remaining in the county
18 is equal to or greater than the number of district court judges
19 authorized in RCW 3.34.010 then the position shall remain vacant.
20 District judges shall be granted sick leave in the same manner as
21 other county employees. A district judge may receive when vacating
22 office remuneration for unused accumulated leave and sick leave at a
23 rate equal to one day's monetary compensation for each full day of
24 accrued leave and one day's monetary compensation for each four full
25 days of accrued sick leave, the total remuneration for leave and sick
26 leave not to exceed the equivalent of thirty days' monetary
27 compensation.

28 (2) During any vacancy that occurs pursuant to subsection (1) of
29 this section in a single judge court, a presiding judge pro tempore
30 who has been predesignated pursuant to court rule or appointed
31 pursuant to RCW 2.56.040(2) may fulfill presiding judge duties, and
32 the authority of the predesignated or appointed presiding judge pro
33 tempore endures until the chief justice appoints someone else to
34 fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(b), or
35 until a vacancy in the position is filled as provided by law,
36 whichever occurs first.

37 **Sec. 7.** RCW 3.34.130 and 1996 c 16 s 1 are each amended to read
38 as follows:

1 (1) (~~Each~~) In addition to the designation of a presiding judge
2 pro tempore for a single judge court as provided in RCW 3.34.150(2),
3 each district court shall designate one or more persons as judge pro
4 tempore who shall serve during the temporary absence,
5 disqualification, or incapacity of a district judge or to serve as an
6 additional judge for excess caseload or special set cases. The
7 qualifications of a judge pro tempore shall be the same as for a
8 district judge, except that with respect to RCW 3.34.060(1), the
9 person appointed need only be a registered voter of the state. A
10 district that has a population of not more than ten thousand and that
11 has no person available who meets the qualifications under RCW
12 3.34.060(2) (a) or (b), may appoint as a pro tempore judge a person
13 who has taken and passed the qualifying examination for the office of
14 district judge as is provided by rule of the supreme court. A judge
15 pro tempore may sit in any district of the county for which he or she
16 is appointed. A judge pro tempore shall be paid the salary authorized
17 by the county legislative authority.

18 (2) For each day that a judge pro tempore serves in excess of
19 thirty days during any calendar year, the annual salary of the
20 district judge in whose place the judge pro tempore serves shall be
21 reduced by an amount equal to one-two hundred fiftieth of such
22 salary: PROVIDED, That each full time district judge shall have up to
23 fifteen days annual leave without reduction for service on judicial
24 commissions established by the legislature or the chief justice of
25 the supreme court. No reduction in salary shall occur when a judge
26 pro tempore serves:

27 (a) While a district judge is using sick leave granted in
28 accordance with RCW 3.34.100;

29 (b) While a district court judge is disqualified from serving
30 following the filing of an affidavit of prejudice;

31 (c) As an additional judge for excess case load or special set
32 cases; or

33 (d) While a district judge is otherwise involved in
34 administrative, educational, or judicial functions related to the
35 performance of the judge's duties: PROVIDED, That the appointment of
36 judge pro tempore authorized under subsection (2)(c) and (d) of this
37 section is subject to an appropriation for this purpose by the county
38 legislative authority.

39 (3) The legislature may appropriate money for the purpose of
40 reimbursing counties for the salaries of judges pro tempore for

1 certain days in excess of thirty worked per year that the judge pro
2 tempore was required to work as the result of service by a judge on a
3 commission as authorized under subsection (2) of this section. No
4 later than September 1 of each year, each county treasurer shall
5 certify to the administrator for the courts for the year ending the
6 preceding June 30, the number of days in excess of thirty that any
7 judge pro tempore was required to work as the result of service by a
8 judge on a commission as authorized under subsection (2) of this
9 section. Upon receipt of the certification, the administrator for the
10 courts shall reimburse the county from money appropriated for that
11 purpose.

12 **Sec. 8.** RCW 3.42.010 and 1984 c 258 s 30 are each amended to
13 read as follows:

14 When so authorized by the districting plan, one or more district
15 court commissioners may be appointed in any district by the judges of
16 the district. Each commissioner shall be a registered voter of the
17 county in which the district or a portion thereof is located, and
18 shall hold office at the pleasure of the appointing judges. For
19 purposes of this section, "appointing judge" includes a presiding
20 judge pro tempore fulfilling presiding judge duties for a single
21 judge court pursuant to RCW 3.34.100(2) or 3.34.150(2). Any person
22 appointed as a commissioner authorized to hear or dispose of cases
23 shall be a lawyer who is admitted to the practice of law in the state
24 of Washington or who has passed the qualifying examination for lay
25 judges as provided under RCW 3.34.060.

26 NEW SECTION. **Sec. 9.** A new section is added to chapter 3.50 RCW
27 to read as follows:

28 During any vacancy that occurs in a single judge court pursuant
29 to RCW 3.50.093 or 3.50.095, a presiding judge pro tempore who has
30 been predesignated pursuant to court rule or appointed pursuant to
31 RCW 2.56.040(2) may fulfill presiding judge duties, and the authority
32 of the predesignated or appointed presiding judge pro tempore endures
33 until the chief justice appoints someone else to fulfill the
34 presiding judge duties pursuant to RCW 2.56.040(2)(b), or until a
35 vacancy in the position is filled as provided by law, whichever
36 occurs first.

1 **Sec. 10.** RCW 3.50.075 and 2019 c 52 s 1 are each amended to read
2 as follows:

3 (1) One or more court commissioners may be appointed by a judge
4 of the municipal court.

5 (2) Each commissioner holds office at the pleasure of the
6 appointing judge.

7 (3) Except as provided in subsection (4) of this section, a
8 commissioner has such power, authority, and jurisdiction in criminal
9 and civil matters as the appointing judges possess, and must be a
10 lawyer who is admitted to practice law in the state of Washington or
11 a nonlawyer who has passed, by January 1, 2003, the qualifying
12 examination for lay judges for courts of limited jurisdiction under
13 RCW 3.34.060.

14 (4) On or after July 1, 2010, when serving as a commissioner, the
15 commissioner does not have authority to preside over trials in
16 criminal matters, or jury trials in civil matters unless agreed to on
17 the record by all parties.

18 (5) A commissioner need not be a resident of the city or of the
19 county in which the municipal court is created. When a court
20 commissioner has not been appointed and the municipal court is
21 presided over by a part-time appointed judge, the judge need not be a
22 resident of the city or of the county in which the municipal court is
23 created.

24 (6) For purposes of this section, "appointing judge" includes a
25 presiding judge pro tempore fulfilling presiding judge duties for a
26 single judge court pursuant to RCW 3.50.090(2).

27 **Sec. 11.** RCW 3.50.090 and 2000 c 55 s 1 are each amended to read
28 as follows:

29 ~~((The))~~ (1) In addition to the designation of a presiding judge
30 pro tempore for a single judge court as provided in RCW 3.50.090(2),
31 the presiding municipal court judge may designate one or more persons
32 as judges pro tem to serve in the absence or disability of the
33 elected or duly appointed judges of the court, subsequent to the
34 filing of an affidavit of prejudice, or in addition to the elected or
35 duly appointed judges when the administration of justice and the
36 accomplishment of the work of the court make it necessary. The
37 qualifications of a judge pro tempore shall be the same as for judges
38 as provided under RCW 3.50.040 except that a judge pro tempore need
39 not be a resident of the city or county in which the municipal court

1 is located. Judges pro tempore shall have all of the powers of the
2 duly appointed or elected judges when serving as judges pro tempore
3 of the court. Before entering on his or her duties, each judge pro
4 tempore shall take, subscribe, and file an oath as is taken by a duly
5 appointed or elected judge. Such pro tempore judges shall receive
6 such compensation as shall be fixed by ordinance by the municipality
7 in which the court is located and such compensation shall be paid by
8 the municipality.

9 (2) If a presiding municipal court judge is the single judge of
10 the court, then pursuant to court rule or RCW 2.56.040(2), a
11 presiding judge pro tempore may be predesignated or appointed to
12 fulfill presiding judge duties in case of the illness, incapacity,
13 resignation, death, or unavailability of the presiding judge. In such
14 circumstances, the authority of the predesignated or appointed
15 presiding judge pro tempore endures until the chief justice appoints
16 someone else to fulfill the presiding judge duties pursuant to RCW
17 2.56.040(2)(b), or the period of such illness, incapacity, or
18 unavailability ends, or until a vacancy in the position is filled as
19 provided by law, whichever occurs first."

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20 On page 1, line 2 of the title, after "courts;" strike the
21 remainder of the title and insert "amending RCW 2.56.040, 2.08.120,
22 2.24.010, 3.34.150, 3.34.100, 3.34.130, 3.42.010, 3.50.075, and
23 3.50.090; adding a new section to chapter 2.56 RCW; and adding a new
24 section to chapter 3.50 RCW."

EFFECT: Requires the Chief Justice to consult with local
legislative authorities prior to appointing a presiding judge pro
tempore to fill a vacancy in a single judge court.

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