

HOUSE BILL REPORT

SSB 5151

As Passed House:

April 7, 2009

Title: An act relating to the appointment of court commissioners to assist with criminal cases.

Brief Description: Authorizing the appointment of court commissioners to assist with criminal cases.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Rockefeller and Kohl-Welles).

Brief History:

Committee Activity:

Judiciary: 3/16/09, 3/18/09 [DP].

Floor Activity

Passed House: 4/7/09, 81-17.

Brief Summary of Substitute Bill

- Authorizes county legislative authorities in counties with a population of more than 400,000 to approve the creation of criminal commissioner positions in superior court.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts and Ross.

Minority Report: Do not pass. Signed by 2 members: Representatives Shea, Assistant Ranking Minority Member; Warnick.

Staff: Edie Adams (786-7180)

Background:

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.

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.

Statutes give court commissioners explicit authority to perform duties such as conducting probate proceedings, issuing temporary restraining orders, and hearing ex parte and uncontested civil matters. In addition, court commissioners are authorized in statute to conduct a variety of preliminary duties in adult criminal cases. All proceedings and rulings of a court commissioner are subject to revision by a superior court judge upon motion by a party.

In addition to the constitutionally authorized commissioners, the Legislature has authorized the use of specialized commissioners. These commissioners have fairly narrowly defined authority to act in family law and mental health proceedings. These commissioners are not considered "court commissioners" within the meaning of the Constitution, and therefore are not subject to the three-commissioner limit. The number of family law and mental health commissioners in each county is set by the county legislative authority.

Court commissioners are paid out of county funds and their salaries are set by county legislative authorities.

Summary of Bill:

The legislative authority of a county with a population of more than 400,000 may approve the creation of criminal commissioner positions. The presiding judge of the superior court in such a county may appoint one or more attorneys to serve as criminal commissioners to assist the court in handling adult criminal cases.

The criminal commissioner has the same power, authority, and jurisdiction as a superior court judge to: preside over arraignments, preliminary appearances, initial extradition hearings, and noncompliance proceedings; accept pleas if authorized by local court rules; appoint counsel; make probable cause determinations; set, amend, and review conditions of pretrial release; set bail; set trial and hearing dates; authorize continuances; and accept waivers of the right to speedy trial.

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.

Staff Summary of Public Testimony:

(In support) The bill creates specialized criminal commissioners to handle some of the criminal case workload in the superior courts in larger counties. This will allow for the more efficient use of judge time to handle trials. The matters that a criminal commissioner may

preside over are fairly routine hearings with established standards for the commissioner to follow. Any ruling of the commissioner is subject to revision. This allows a party to appeal any commissioner decision to an elected superior court judge for a new determination on the issue.

(Opposed) None.

Persons Testifying: Senator Kline, prime sponsor; and Richard McDermott, Superior Court Judges Association.

Persons Signed In To Testify But Not Testifying: None,