

# SENATE BILL REPORT

## SB 5872

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As of February 20, 1995

**Title:** An act relating to authorizing superior courts and courts of limited jurisdiction to issue civil inspection warrants.

**Brief Description:** Authorizing the courts to issue civil inspection warrants.

**Sponsors:** Senator Prentice.

**Brief History:**

**Committee Activity:** Financial Institutions & Housing: 2/21/95.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

**Staff:** David Cheal (786-7576)

**Background:** Inspections are a vital part of public safety code enforcement. Inspections may be in response to a complaint of a violation, or based on a schedule or other noncomplaint-based rationale.

Inspections of residences where the consent of the owner or occupant cannot be obtained, can only be conducted if certain federal and state constitutional protections are met. The principle protection is that a valid warrant must be issued by a judge or magistrate.

Two recent decisions of the Washington State Supreme Court have announced that warrants issued by either a superior court or municipal court which authorize civil inspections must be authorized by law and be based on probable cause that a violation exists in the premises where the inspection is sought.

**Summary of Bill:** Superior courts and courts of limited jurisdiction are authorized to issue civil inspection warrants. These inspections must relate to a federal, state or local public health or safety code, such as the Uniform Building Code, health, fire, mechanical, electrical or plumbing code. It may be issued at the request of the regulatory or prosecuting authority.

Civil inspection warrants must be based on probable cause supported by an affidavit or declaration that describes the particular place, dwelling, or vehicle to be inspected. Probable cause can exist if reasonable legislative or administrative standards for conducting a routine inspection with respect to the particular place are satisfied. The affidavit must also contain a statement that consent is sought and denied, or that no response is obtained.

The probable cause standard may also be met by an affidavit that there is reason to believe there exists a violation of the particular public safety code.

The warrant must describe the place to be inspected and designate the purpose and limitations of the inspections. Hours may be specified when the warrant may be executed,

as well as any other reasonable limitations. The inspection warrant is effective for the time specified, not to exceed 14 days, unless the period is extended by the judge who signed the original warrant.

If the place to be inspected is a residence, the occupant or owner must be notified at least three days, excluding weekends and holidays, before the warrant is executed. The notice must include a phone number and address for contacting the inspecting agency, and must state that to prevent execution of the warrant, he or she must bring a motion to quash the warrant in the court that issued it. The motion must be brought before the scheduled execution of the warrant.

**Appropriation:** None.

**Fiscal Note:** Requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.