

HOUSE BILL REPORT

SSB 5165

As Reported by House Committee On: Judiciary

Title: An act relating to increasing the authority of superior court commissioners to hear and determine certain matters.

Brief Description: Increasing the authority of superior court commissioners to hear and determine certain matters.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Hargrove and Carrell).

Brief History:

Committee Activity:

Judiciary: 3/21/13, 3/27/13 [DP].

Brief Summary of Substitute Bill

- Authorizes mental health commissioners to hear petitions for involuntary administration of antipsychotic medication to persons committed after being found not guilty by reason of insanity.
- Authorizes criminal commissioners to issue search warrants and orders for wiretaps and mobile tracking devices.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall and Roberts.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Staff: Omeara Harrington (786-7136).

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 appointed by constitutional authority 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. The Legislature has authorized superior courts to appoint additional commissioners, including specialized mental health commissioners and criminal commissioners. These statutorily authorized commissioners are limited to the authority that they are expressly granted in statute. All acts and proceedings of court commissioners are subject to revision by a superior court judge upon motion by a party.

Mental health commissioners may preside over proceedings under the Involuntary Treatment Act (ITA) including petitions to involuntarily administer antipsychotic medication to a committed person. Mental health commissioners do not have statutory authority to hear petitions for involuntary administration of antipsychotic medication to a person who is committed after a finding of not guilty by reason of insanity (NGRI), as they do over petitions concerning a person committed under the ITA. A person committed under the NGRI statutes may be treated with antipsychotic medication without consent under the same standards that apply under the ITA. A court may order administration of antipsychotic medication to a civilly committed person if the petitioner proves by clear, cogent, and convincing evidence that a compelling state interest justifies overriding the patient's lack of consent, the proposed treatment is necessary and effective, and medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

Criminal commissioners may be appointed in counties with a population of more than 400,000. These commissioners have authority to preside over a variety of preliminary matters in adult criminal cases including arraignments, probable cause determinations, and bail determinations, among other matters.

Summary of Bill:

Mental health commissioners are authorized to hear petitions for the involuntary administration of antipsychotic medication to persons committed after being found NGRI.

Criminal commissioners are authorized to exercise the same authority as a superior court judge in issuing search warrants; orders to intercept, monitor, or record wired or wireless telecommunications; and orders to install electronic taps or mobile tracking devices.

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) This bill gives commissioners in statutorily created positions some of the authority that commissioners in constitutionally created positions already have. This is a judicial resource management issue. Mental health commissioners already hear petitions for administration of antipsychotic medication under the ITA. Last year a law passed allowing petitions for administration of antipsychotic medication in NGRI cases to be brought in the county of commitment. It was an oversight to not add the authority to hear these matters in the mental health commissioner statute. In Pierce County, where Western State Hospital is located, a mental health commissioner had to be placed in a constitutionally created position to allow them to handle the sudden increase in petitions.

It is helpful to have commissioners handling search warrants, especially because warrants are often needed quickly. Commissioners in the constitutionally created positions are handling search warrants rather than the guardianship and probate matters they would normally preside over. There is a review process to all commissioner decisions. Upon challenge, another judge will look at the decision de novo and decide whether there was probable cause to issue the warrant.

(Opposed) None.

Persons Testifying: Michael Shaw, Pierce County; and Bryan Chughcoff, Pierce County Superior Court.

Persons Signed In To Testify But Not Testifying: None.