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ENGROSSED SUBSTITUTE HOUSE BILL 2235

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State of Washington

63rd Legislature

2014 Regular Session

By House Judiciary (originally sponsored by Representatives Hayes, Goodman, and Magendanz)

READ FIRST TIME 02/03/14.

1 AN ACT Relating to creating effective and timely access to  
2 magistrates for purposes of reviewing search warrant applications;  
3 amending RCW 9A.72.085; adding a new section to chapter 2.20 RCW;  
4 adding a new section to chapter 10.79 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that recent decisions  
7 of the United States supreme court and the Washington state supreme  
8 court require law enforcement to obtain the review of a neutral and  
9 disinterested magistrate and the issuance of a search warrant more  
10 frequently before proceeding with a criminal investigation. The  
11 legislature intends to accommodate this requirement by creating  
12 effective and timely access to magistrates for purposes of reviewing  
13 search warrant applications across the state of Washington. This act  
14 does not change the legal standards for issuing a search warrant or the  
15 legal standards for review of an issued search warrant.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.20 RCW  
17 to read as follows:

1 Any district or municipal court judge, in the county in which the  
2 offense is alleged to have occurred, may issue a search warrant for any  
3 person or evidence located anywhere within the state.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.79 RCW  
5 to read as follows:

6 (1) Any magistrate as defined by RCW 2.20.010, when satisfied that  
7 there is probable cause, may upon application supported by oath or  
8 affirmation, issue a search warrant to search for and seize any: (a)  
9 Evidence of a crime; (b) contraband, the fruits of crime, or things  
10 otherwise criminally possessed; (c) weapons or other things by means of  
11 which a crime has been committed or reasonably appears about to be  
12 committed; or (d) person for whose arrest there is probable cause or  
13 who is unlawfully restrained.

14 (2) The application may be provided or transmitted to the  
15 magistrate by telephone, e-mail, or any other reliable method.

16 (3) If the magistrate finds that probable cause for the issuance of  
17 a warrant exists, the magistrate must issue a warrant or direct an  
18 individual whom the magistrate authorizes to affix the magistrate's  
19 signature to a warrant identifying the property or person and naming or  
20 describing the person, place, or thing to be searched. The magistrate  
21 may communicate permission to affix the magistrate's signature to the  
22 warrant by telephone, e-mail, or any other reliable method.

23 **Sec. 4.** RCW 9A.72.085 and 1981 c 187 s 3 are each amended to read  
24 as follows:

25 (1) Whenever, under any law of this state or under any rule, order,  
26 or requirement made under the law of this state, any matter in an  
27 official proceeding is required or permitted to be supported,  
28 evidenced, established, or proved by a person's sworn written  
29 statement, declaration, verification, certificate, oath, or affidavit,  
30 the matter may with like force and effect be supported, evidenced,  
31 established, or proved in the official proceeding by an unsworn written  
32 statement, declaration, verification, or certificate, which:

33 ~~((1))~~ (a) Recites that it is certified or declared by the person  
34 to be true under penalty of perjury;

35 ~~((2))~~ (b) Is subscribed by the person;

36 ~~((3))~~ (c) States the date and place of its execution; and

1        ~~((4))~~ (d) States that it is so certified or declared under the  
2 laws of the state of Washington.

3        (2) The certification or declaration may be in substantially the  
4 following form:

5                                "I certify (or declare) under penalty of perjury under  
6 the laws of the State of Washington that the foregoing is  
7 true and correct":

8                                .....  
9                                (Date and Place)                                (Signature)

10        (3) For purposes of this section, a person subscribes to an unsworn  
11 written statement, declaration, verification, or certificate by:

12        (a) Affixing or placing his or her signature as defined in RCW  
13 9A.04.110 on the document;

14        (b) Attaching or logically associating his or her digital signature  
15 or electronic signature as defined in RCW 19.34.020 to the document;

16        (c) Affixing or logically associating his or her signature in the  
17 manner described in general rule 30 to the document if he or she is a  
18 licensed attorney; or

19        (d) Affixing or logically associating his or her full name,  
20 department or agency, and badge or personnel number to any document  
21 that is electronically submitted to a court, a prosecutor, or a  
22 magistrate from an electronic device that is owned, issued, or  
23 maintained by a criminal justice agency if he or she is a law  
24 enforcement officer.

25        (4) This section does not apply to writings requiring an  
26 acknowledgment, depositions, oaths of office, or oaths required to be  
27 taken before a special official other than a notary public.

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