

SSB 5073 - H AMD TO APP COMM AMD (H-1481.1/21) **643**
By Representative Davis

ADOPTED 04/07/2021

1 On page 3, beginning on line 21, after "(5)" strike all material
2 through "(6)" on line 27 and insert "~~((An Indian tribe shall have~~
3 ~~jurisdiction exclusive to the state as to any involuntary commitment~~
4 ~~of an American Indian or Alaska Native to an evaluation and treatment~~
5 ~~facility located within the boundaries of that tribe, unless the~~
6 ~~tribe has consented to the state's concurrent jurisdiction, or the~~
7 ~~tribe has expressly declined to exercise its exclusive jurisdiction.~~
8 ~~(6))~~"

9 Renumber the remaining subsection consecutively and correct any
10 internal references accordingly.

11 On page 3, line 35, after "tribe" strike "or" and insert "~~((or))~~
12 and"

13 On page 6, beginning on line 8, after "(5)" strike all material
14 through "(6)" on line 14 and insert "~~((An Indian tribe shall have~~
15 ~~jurisdiction exclusive to the state as to any involuntary commitment~~
16 ~~of an American Indian or Alaska Native to an evaluation and treatment~~
17 ~~facility located within the boundaries of that tribe, unless the~~
18 ~~tribe has consented to the state's concurrent jurisdiction, or the~~
19 ~~tribe has expressly declined to exercise its exclusive jurisdiction.~~
20 ~~(6))~~"

21 Renumber the remaining subsection consecutively and correct any
22 internal references accordingly.

23 On page 6, line 22, after "tribe" strike "or" and insert "~~((or))~~
24 and"

25 On page 9, after line 39, insert the following:

26 "**Sec. 5.** RCW 71.05.203 and 2019 c 325 s 3006 are each amended to
27 read as follows:

1 (1) The authority and each behavioral health administrative
2 services organization or agency employing designated crisis
3 responders shall publish information in an easily accessible format
4 describing the process for an immediate family member, guardian, or
5 conservator, or a federally recognized Indian tribe if the person is
6 a member of such tribe, to petition for court review of a detention
7 decision under RCW 71.05.201.

8 (2) A designated crisis responder or designated crisis responder
9 agency that receives a request for investigation for possible
10 detention under this chapter must inquire whether the request comes
11 from an immediate family member, guardian, or conservator, or a
12 federally recognized Indian tribe if the person is a member of such
13 tribe, who would be eligible to petition under RCW 71.05.201. If the
14 designated crisis responder decides not to detain the person for
15 evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-
16 eight hours have elapsed since the request for investigation was
17 received and the designated crisis responder has not taken action to
18 have the person detained, the designated crisis responder or
19 designated crisis responder agency must inform the immediate family
20 member, guardian, or conservator, or a federally recognized Indian
21 tribe if the person is a member of such tribe, who made the request
22 for investigation about the process to petition for court review
23 under RCW 71.05.201 and, to the extent feasible, provide the
24 immediate family member, guardian, or conservator, or a federally
25 recognized Indian tribe if the person is a member of such tribe, with
26 written or electronic information about the petition process.
27 Information provided to a federally recognized Indian tribe shall be
28 sent to the tribal contact listed in the authority's tribal crisis
29 coordination plan. If provision of written or electronic information
30 is not feasible, the designated crisis responder or designated crisis
31 responder agency must refer the immediate family member, guardian, or
32 conservator, or a federally recognized Indian tribe if the person is
33 a member of such tribe, to a website where published information on
34 the petition process may be accessed. The designated crisis responder
35 or designated crisis responder agency must document the manner and
36 date on which the information required under this subsection was
37 provided to the immediate family member, guardian, or conservator, or
38 a federally recognized Indian tribe if the person is a member of such
39 tribe.

1 (3) A designated crisis responder or designated crisis responder
2 agency must, upon request, disclose the date of a designated crisis
3 responder investigation under this chapter to an immediate family
4 member, guardian, or conservator, or a federally recognized Indian
5 tribe if the person is a member of such tribe, of a person to assist
6 in the preparation of a petition under RCW 71.05.201."

7 Renumber the remaining sections consecutively and correct any
8 internal references accordingly.

9 On page 122, after line 8, insert the following:

10 **"Sec. 29.** RCW 71.34.705 and 2020 c 302 s 80 are each amended to
11 read as follows:

12 (1) Whenever a designated crisis responder or professional person
13 is conducting an evaluation under this chapter, the designated crisis
14 responder or professional person must consider all reasonably
15 available information from credible witnesses and records regarding:

16 (a) Historical behavior, including history of one or more violent
17 acts; and

18 (b) Prior commitments under this chapter.

19 (2) Credible witnesses may include family members, landlords,
20 neighbors, teachers, school personnel, or others with significant
21 contact and history of involvement with the minor. If the designated
22 crisis responder relies upon information from a credible witness in
23 reaching his or her decision to detain the minor, then he or she must
24 provide contact information for any such witness to the prosecutor.
25 The designated crisis responder or prosecutor shall provide notice of
26 the date, time, and location of the probable cause hearing to such a
27 witness.

28 (3) Symptoms and behavior of the minor which standing alone would
29 not justify civil commitment may support a finding of grave
30 disability or likelihood of serious harm, when:

31 (a) Such symptoms or behavior are closely associated with
32 symptoms or behavior which preceded and led to a past incident of
33 involuntary hospitalization, severe deterioration, or one or more
34 violent acts;

35 (b) These symptoms or behavior represent a marked and concerning
36 change in the baseline behavior of the minor; and

1 (c) Without treatment, the continued deterioration of the minor
2 is probable.

3 (4) The authority, in consultation with tribes and in
4 coordination with Indian health care providers and the American
5 Indian health commission of Washington state, shall establish written
6 guidelines by June 30, 2022, for conducting culturally appropriate
7 evaluations of American Indians or Alaska Natives."

8 Renumber the remaining sections consecutively and correct any
9 internal references accordingly.

10 On page 122, at the beginning of line 31, insert ", or a
11 federally recognized Indian tribe if the person is a member of such
12 tribe,"

13 On page 124, after line 28, insert the following:

14 "(8) Tribal court orders for involuntary commitment shall be
15 recognized and enforced in accordance with superior court civil rule
16 82.5.

17 (9) In any investigation and evaluation of a juvenile under this
18 section in which the designated crisis responder knows, or has reason
19 to know, that the juvenile is an American Indian or Alaska Native who
20 receives medical or behavioral health services from a tribe within
21 this state, the designated crisis responder shall notify the tribe
22 and the Indian health care provider regarding whether or not a
23 petition for initial detention or involuntary outpatient treatment
24 will be filed. Notification shall be made in person or by telephonic
25 or electronic communication to the tribal contact listed in the
26 authority's tribal crisis coordination plan as soon as possible but
27 no later than three hours subject to the requirements in RCW
28 70.02.230 (2)(ee) and (3). A designated crisis responder may restrict
29 the release of information as necessary to comply with 42 C.F.R. Part
30 2."

31 On page 125, at the beginning of line 9, insert ", or a federally
32 recognized Indian tribe if the person is a member of such tribe,"

33 On page 126, after line 36, insert the following:

34 "(7) Tribal court orders for involuntary commitment shall be
35 recognized and enforced in accordance with superior court civil rule
36 82.5.

1 (8) In any investigation and evaluation of a juvenile under this
2 section in which the designated crisis responder knows, or has reason
3 to know, that the juvenile is an American Indian or Alaska Native who
4 receives medical or behavioral health services from a tribe within
5 this state, the designated crisis responder shall notify the tribe
6 and the Indian health care provider regarding whether or not a
7 petition for initial detention or involuntary outpatient treatment
8 will be filed. Notification shall be made in person or by telephonic
9 or electronic communication to the tribal contact listed in the
10 authority's tribal crisis coordination plan as soon as possible but
11 no later than three hours subject to the requirements in RCW
12 70.02.230 (2)(ee) and (3). A designated crisis responder may restrict
13 the release of information as necessary to comply with 42 C.F.R. Part
14 2."

15 Correct the title.

EFFECT: (1) Removes language in the adult Involuntary Treatment Act (ITA) conferring exclusive jurisdiction over the involuntary commitment of an AI/AN person to an evaluation and treatment facility located within the boundaries of the tribe;

(2) Requires the DCR to notify both the tribe and the Indian health care provider whether or not to petition for initial detention or outpatient treatment will be filed, instead of the tribe or the provider;

(3) Requires HCA to publish information on how federally recognized tribes can utilize Joel's Law and requires DCRs to inform a tribe, if a person is a member, if the DCR makes a decision not to file a petition for involuntary treatment when the tribe has requested a DCR investigation;

(4) Applies provisions from the adult ITA related to the involuntary treatment of American Indians or Alaska Natives (AI/AN) to the minor ITA, specifically:

(a) Requires the Health Care Authority (HCA) to establish guidelines for conducting culturally appropriate civil commitment evaluations in consultation with Indian health care providers and the American Indian Health Commission by June 30, 2022;

(b) Authorizes a federally recognized Indian tribe to file a petition for initial detention with superior court under Joel's Law;

(c) Requires involuntary commitment orders by tribal courts be recognized and enforced by Washington courts;

(d) Provides notification requirements if a designated crisis responder (DCR) knows, or has reason to know, that a juvenile under investigation for civil commitment is an AI/AN who receives medical or behavioral health services from a tribe. Notification must be made in person or by telephonic or electronic communication to the tribal contact listed in HCA's Tribal Crisis Coordination Plan as soon as possible and within three hours. The DCR may restrict the release of

information to comply with federal substance use disorder privacy laws.

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