

E2SSB 5269 - H AMD 498

By Representative Walkinshaw

ADOPTED 4/22/2015

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as Joel's
4 Law.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.05
6 RCW to read as follows:

7 (1) If a designated mental health professional decides not to
8 detain a person for evaluation and treatment under RCW 71.05.150 or
9 71.05.153 or forty-eight hours have elapsed since a designated mental
10 health professional received a request for investigation and the
11 designated mental health professional has not taken action to have
12 the person detained, an immediate family member or guardian or
13 conservator of the person may petition the superior court for the
14 person's initial detention.

15 (2)(a) The petition must be submitted on forms developed by the
16 administrative office of the courts for this purpose. The petition
17 must be accompanied by a sworn declaration from the petitioner, and
18 other witnesses if desired, describing why the person should be
19 detained for evaluation and treatment. The description of why the
20 person should be detained may contain, but is not limited to, the
21 information identified in RCW 71.05.212.

22 (b) The petition must contain:

23 (i) A description of the relationship between the petitioner and
24 the person; and

25 (ii) The date on which an investigation was requested from the
26 designated mental health professional.

27 (3) The court shall, within one judicial day, review the petition
28 to determine whether the petition raises sufficient evidence to
29 support the allegation. If the court so finds, it shall provide a
30 copy of the petition to the designated mental health professional
31 agency with an order for the agency to provide the court, within one
32 judicial day, with a written sworn statement describing the basis for

1 the decision not to seek initial detention and a copy of all
2 information material to the designated mental health professional's
3 current decision.

4 (4) Following the filing of the petition and before the court
5 reaches a decision, any person, including a mental health
6 professional, may submit a sworn declaration to the court in support
7 of or in opposition to initial detention.

8 (5) The court shall dismiss the petition at any time if it finds
9 that a designated mental health professional has filed a petition for
10 the person's initial detention under RCW 71.05.150 or 71.05.153 or
11 that the person has voluntarily accepted appropriate treatment.

12 (6) The court must issue a final ruling on the petition within
13 five judicial days after it is filed. After reviewing all of the
14 information provided to the court, the court may enter an order for
15 initial detention if the court finds that: (a) There is probable
16 cause to support a petition for detention; and (b) the person has
17 refused or failed to accept appropriate evaluation and treatment
18 voluntarily. The court shall transmit its final decision to the
19 petitioner.

20 (7) If the court enters an order for initial detention, it shall
21 provide the order to the designated mental health professional
22 agency, which shall execute the order without delay. An order for
23 initial detention under this section expires one hundred eighty days
24 from issuance.

25 (8) Except as otherwise expressly stated in this chapter, all
26 procedures must be followed as if the order had been entered under
27 RCW 71.05.150. RCW 71.05.160 does not apply if detention was
28 initiated under the process set forth in this section.

29 (9) For purposes of this section, "immediate family member" means
30 a spouse, domestic partner, child, stepchild, parent, stepparent,
31 grandparent, or sibling.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05
33 RCW to read as follows:

34 (1) The department and each regional support network or agency
35 employing designated mental health professionals shall publish
36 information in an easily accessible format describing the process for
37 an immediate family member, guardian, or conservator to petition for
38 court review of a detention decision under section 2 of this act.

1 (2) A designated mental health professional or designated mental
2 health professional agency that receives a request for investigation
3 for possible detention under this chapter must inquire whether the
4 request comes from an immediate family member, guardian, or
5 conservator who would be eligible to petition under section 2 of this
6 act. If the designated mental health professional decides not to
7 detain the person for evaluation and treatment under RCW 71.05.150 or
8 71.05.153 or forty-eight hours have elapsed since the request for
9 investigation was received and the designated mental health
10 professional has not taken action to have the person detained, the
11 designated mental health professional or designated mental health
12 professional agency must inform the immediate family member,
13 guardian, or conservator who made the request for investigation about
14 the process to petition for court review under section 2 of this act.

15 **Sec. 4.** RCW 71.05.130 and 1998 c 297 s 7 are each amended to
16 read as follows:

17 In any judicial proceeding for involuntary commitment or
18 detention except under section 2 of this act, or in any proceeding
19 challenging (~~such~~) involuntary commitment or detention, the
20 prosecuting attorney for the county in which the proceeding was
21 initiated shall represent the individuals or agencies petitioning for
22 commitment or detention and shall defend all challenges to such
23 commitment or detention(~~:-PROVIDED~~), except that the attorney
24 general shall represent and provide legal services and advice to
25 state hospitals or institutions with regard to all provisions of and
26 proceedings under this chapter (~~except in~~) other than proceedings
27 initiated by such hospitals and institutions seeking fourteen day
28 detention."

29 Correct the title.

EFFECT: The striking amendment makes the following changes:

- (1) Makes changes to the petition requirements:
 - (a) Provides that the petitioner's description of the reason that the person should be detained may include certain historical information about the person;
 - (b) Removes specific authorization for a petition to contain a declaration in support of detention by a mental health professional, and instead provides, generally, that a mental health professional may submit a declaration to the court in support of or in opposition to initial detention; and
 - (c) Requires the court to review the petition within one judicial day.

(2) Modifies the process under which the court receives information from the designated mental health professional (DMHP):

(a) Requires the DMHP, in response to the court's order requesting information, to provide the court with a copy of all information material to the designated mental health professional's current decision (along with a written statement); and

(b) Removes the requirement that the court provide the DMHP with any information accompanying the petition.

(3) Provides that orders expire 180 days from issuance, rather than "within 180 days."

(4) Removes the requirement that a DMHP prepare and submit a supplemental petition after the person is placed in the facility.

(5) Requires DMHP agencies to provide notice of the petition process to persons who requested an investigation if the DMHP decides not to detain the person (in addition to when 48 hours have elapsed and the person has not been detained).

(6) Changes references to "business day" to "judicial day."

(7) Removes the null and void clause.

(8) Reorganizes provisions and makes wording changes for clarity, and removes redundant language.

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