

SSB 5593 - H COMM AMD
By Committee on Judiciary

ADOPTED 4/15/2015

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

3 "NEW SECTION. **Sec. 1.** Any individual in custody for a violent
4 offense or a sex offense as those terms are defined in RCW 9.94A.030
5 who is brought by, or accompanied by, an officer to a hospital must
6 continue to be accompanied or otherwise secured by an officer during
7 the time that the individual is receiving care at the hospital.
8 However, this section does not apply to an individual being
9 supervised by the department of corrections if the individual's
10 custody is the result solely of a sanction imposed by the department
11 of corrections, the indeterminate sentence review board, or the
12 court, in response to a violation of conditions.

13 NEW SECTION. **Sec. 2.** (1) An individual receiving medical care
14 under this section need not continue to be accompanied or otherwise
15 secured if:

- 16 (a) The individual's medical care provider so indicates; or
17 (b) The officer determines, using his or her best judgment, that:
18 (i) The individual does not present an imminent and significant
19 risk of causing physical harm to themselves or another person;
20 (ii) There is no longer sufficient evidentiary basis to maintain
21 the individual in custody; or
22 (iii) In the interest of public safety, the presence of the
23 officer is urgently required at another location and the officer
24 determines, using his or her best judgment and in consultation with
25 his or her supervisor, if available on duty, that the public safety
26 interest outweighs the need to accompany or secure the individual in
27 the hospital.

28 (2)(a) In the event that a medical care provider determines the
29 individual need not be accompanied or otherwise secured pursuant to
30 subsection (1)(a) of this section, the officer has no ongoing duty to
31 accompany or otherwise secure the individual for the duration of
32 their treatment by the hospital. When a medical care provider

1 indicates that a person need not be accompanied or otherwise secured,
2 the hospital must notify the officer or the officer's designee when
3 the individual is expected to be released by the hospital.

4 (b) If, after a medical provider indicates that the individual
5 need not be accompanied or otherwise secured pursuant to subsection
6 (1)(a) of this section, the individual demonstrates behavior that
7 presents an imminent and significant risk of causing physical harm to
8 themselves or others and the physical condition of the individual
9 renders the individual capable of causing physical harm to themselves
10 or others, the hospital may request the presence of an officer to
11 guard or otherwise accompany the individual, in which case subsection
12 (1)(a) and (b) of this section still apply.

13 (3) In the event the officer determines the individual need not
14 be accompanied or otherwise secured pursuant to subsection (1)(b)(i)
15 or (ii) of this section, the officer must notify the medical care
16 provider that the officer is leaving the individual unattended or
17 unsecured, in which case the hospital has no duty to notify the
18 officer when the individual is, or expected to be, released from the
19 hospital.

20 (4) In the event that the officer is urgently required at another
21 location pursuant to subsection (1)(b)(iii) of this section, the
22 officer must notify the medical care provider or, if an immediate
23 departure is required, other hospital staff member that the officer
24 is leaving the individual unattended or unsecured and make a
25 reasonable effort to ensure a replacement officer or other means of
26 accompanying or securing the individual as soon as reasonably
27 possible under the circumstances. The hospital must notify the
28 officer or the officer's designee if the individual is, or is
29 expected to be, released from the hospital prior to the officer or a
30 replacement officer returning to resume accompanying or otherwise
31 securing the individual.

32 (5) Except for actions or omissions constituting gross negligence
33 or willful misconduct, the hospital and health care providers as
34 defined in chapter 18.130 RCW are immune from liability, including
35 civil liability, professional conduct sanctions, and administrative
36 actions resulting from the individual not being accompanied or
37 secured.

38 NEW SECTION. **Sec. 3.** In a case where an individual accompanied
39 or otherwise secured by an officer pursuant to this act is waiting

1 for treatment in a hospital emergency department, the hospital shall
2 see the patient in as expeditious a manner as possible, while taking
3 into consideration best triage practices and federal and state legal
4 obligations regarding appropriate screening and treatment of
5 patients.

6 NEW SECTION. **Sec. 4.** The provisions of this act do not
7 constitute a special relationship exception to the public duty
8 doctrine. Officers and their employing departments and agencies and
9 representatives are immune from civil liability arising out of the
10 failure to comply with this act, unless it is shown that, in the
11 totality of the circumstances, the officer, employing department,
12 agency, or representative acted with gross negligence or bad faith.

13 NEW SECTION. **Sec. 5.** Nothing in this chapter changes the
14 standards of care with regard to the use of restraints on pregnant
15 women or youth in custody as codified in chapters 70.48 and 72.09
16 RCW.

17 NEW SECTION. **Sec. 6.** For purposes of this chapter, "officer"
18 means a law enforcement officer, corrections officer, or guard
19 supplied by a law enforcement or corrections agency.

20 **Sec. 7.** RCW 70.02.200 and 2014 c 220 s 7 are each amended to
21 read as follows:

22 (1) In addition to the disclosures authorized by RCW 70.02.050
23 and 70.02.210, a health care provider or health care facility may
24 disclose health care information, except for information and records
25 related to sexually transmitted diseases and information related to
26 mental health services which are addressed by RCW 70.02.220 through
27 70.02.260, about a patient without the patient's authorization, to:

28 (a) Any other health care provider or health care facility
29 reasonably believed to have previously provided health care to the
30 patient, to the extent necessary to provide health care to the
31 patient, unless the patient has instructed the health care provider
32 or health care facility in writing not to make the disclosure;

33 (b) Immediate family members of the patient, including a
34 patient's state registered domestic partner, or any other individual
35 with whom the patient is known to have a close personal relationship,
36 if made in accordance with good medical or other professional

1 practice, unless the patient has instructed the health care provider
2 or health care facility in writing not to make the disclosure;

3 (c) A health care provider or health care facility who is the
4 successor in interest to the health care provider or health care
5 facility maintaining the health care information;

6 (d) A person who obtains information for purposes of an audit, if
7 that person agrees in writing to:

8 (i) Remove or destroy, at the earliest opportunity consistent
9 with the purpose of the audit, information that would enable the
10 patient to be identified; and

11 (ii) Not to disclose the information further, except to
12 accomplish the audit or report unlawful or improper conduct involving
13 fraud in payment for health care by a health care provider or
14 patient, or other unlawful conduct by the health care provider;

15 (e) Provide directory information, unless the patient has
16 instructed the health care provider or health care facility not to
17 make the disclosure;

18 (f) Fire, police, sheriff, or other public authority, that
19 brought, or caused to be brought, the patient to the health care
20 facility or health care provider if the disclosure is limited to the
21 patient's name, residence, sex, age, occupation, condition,
22 diagnosis, estimated or actual discharge date, or extent and location
23 of injuries as determined by a physician, and whether the patient was
24 conscious when admitted;

25 (g) Federal, state, or local law enforcement authorities and the
26 health care provider, health care facility, or third-party payor
27 believes in good faith that the health care information disclosed
28 constitutes evidence of criminal conduct that occurred on the
29 premises of the health care provider, health care facility, or third-
30 party payor;

31 (h) Another health care provider, health care facility, or third-
32 party payor for the health care operations of the health care
33 provider, health care facility, or third-party payor that receives
34 the information, if each entity has or had a relationship with the
35 patient who is the subject of the health care information being
36 requested, the health care information pertains to such relationship,
37 and the disclosure is for the purposes described in RCW 70.02.010(17)

38 (a) and (b); (~~and~~)

39 (i) An official of a penal or other custodial institution in
40 which the patient is detained; and

1 (j) Any law enforcement officer, corrections officer, or guard
2 supplied by a law enforcement or corrections agency who is
3 accompanying a patient pursuant to section 1 of this act, only to the
4 extent the disclosure is incidental to the fulfillment of the role of
5 the law enforcement officer, corrections officer, or guard under
6 section 1 of this act.

7 (2) In addition to the disclosures required by RCW 70.02.050 and
8 70.02.210, a health care provider shall disclose health care
9 information, except for information related to sexually transmitted
10 diseases and information related to mental health services which are
11 addressed by RCW 70.02.220 through 70.02.260, about a patient without
12 the patient's authorization if the disclosure is:

13 (a) To federal, state, or local law enforcement authorities to
14 the extent the health care provider is required by law;

15 (b) To federal, state, or local law enforcement authorities, upon
16 receipt of a written or oral request made to a nursing supervisor,
17 administrator, or designated privacy official, in a case in which the
18 patient is being treated or has been treated for a bullet wound,
19 gunshot wound, powder burn, or other injury arising from or caused by
20 the discharge of a firearm, or an injury caused by a knife, an ice
21 pick, or any other sharp or pointed instrument which federal, state,
22 or local law enforcement authorities reasonably believe to have been
23 intentionally inflicted upon a person, or a blunt force injury that
24 federal, state, or local law enforcement authorities reasonably
25 believe resulted from a criminal act, the following information, if
26 known:

27 (i) The name of the patient;

28 (ii) The patient's residence;

29 (iii) The patient's sex;

30 (iv) The patient's age;

31 (v) The patient's condition;

32 (vi) The patient's diagnosis, or extent and location of injuries
33 as determined by a health care provider;

34 (vii) Whether the patient was conscious when admitted;

35 (viii) The name of the health care provider making the
36 determination in (b)(v), (vi), and (vii) of this subsection;

37 (ix) Whether the patient has been transferred to another
38 facility; and

39 (x) The patient's discharge time and date;

1 (c) Pursuant to compulsory process in accordance with RCW
2 70.02.060.

3 **Sec. 8.** RCW 70.48.130 and 2011 1st sp.s. c 15 s 85 are each
4 amended to read as follows:

5 (1) It is the intent of the legislature that all jail inmates
6 receive appropriate and cost-effective emergency and necessary
7 medical care. Governing units, the health care authority, and medical
8 care providers shall cooperate to achieve the best rates consistent
9 with adequate care.

10 (2) Payment for emergency or necessary health care shall be by
11 the governing unit, except that the health care authority shall
12 directly reimburse the provider pursuant to chapter 74.09 RCW, in
13 accordance with the rates and benefits established by the authority,
14 if the confined person is eligible under the authority's medical care
15 programs as authorized under chapter 74.09 RCW. After payment by the
16 authority, the financial responsibility for any remaining balance,
17 including unpaid client liabilities that are a condition of
18 eligibility or participation under chapter 74.09 RCW, shall be borne
19 by the medical care provider and the governing unit as may be
20 mutually agreed upon between the medical care provider and the
21 governing unit. In the absence of mutual agreement between the
22 medical care provider and the governing unit, the financial
23 responsibility for any remaining balance shall be borne equally
24 between the medical care provider and the governing unit. Total
25 payments from all sources to providers for care rendered to confined
26 persons eligible under chapter 74.09 RCW shall not exceed the amounts
27 that would be paid by the authority for similar services provided
28 under Title XIX medicaid, unless additional resources are obtained
29 from the confined person.

30 (3) For inpatient, outpatient, and ancillary services for
31 confined persons that are not paid by the medicaid program pursuant
32 to subsection (2) of this section, unless other rates are agreed to
33 by the governing unit and the hospital, providers of hospital
34 services that are hospitals licensed under chapter 70.41 RCW must
35 accept as payment in full by the governing units the applicable
36 facility's percent of allowed charges rate or fee schedule as
37 determined, maintained, and posted by the Washington state department
38 of labor and industries pursuant to chapter 51.04 RCW.

1 (4) As part of the screening process upon booking or preparation
2 of an inmate into jail, general information concerning the inmate's
3 ability to pay for medical care shall be identified, including
4 insurance or other medical benefits or resources to which an inmate
5 is entitled. The inmate may also be evaluated for medicaid
6 eligibility and, if deemed potentially eligible, enrolled in
7 medicaid. This information shall be made available to the authority,
8 the governing unit, and any provider of health care services. To the
9 extent that federal law allows, a jail or the jail's designee is
10 authorized to act on behalf of a confined person for purposes of
11 applying for medicaid.

12 (~~(4)~~) (5) The governing unit or provider may obtain
13 reimbursement from the confined person for the cost of health care
14 services not provided under chapter 74.09 RCW, including
15 reimbursement from any insurance program or from other medical
16 benefit programs available to the confined person. Nothing in this
17 chapter precludes civil or criminal remedies to recover the costs of
18 medical care provided jail inmates or paid for on behalf of inmates
19 by the governing unit. As part of a judgment and sentence, the courts
20 are authorized to order defendants to repay all or part of the
21 medical costs incurred by the governing unit or provider during
22 confinement.

23 (~~(5)~~) (6) To the extent that a confined person is unable to be
24 financially responsible for medical care and is ineligible for the
25 authority's medical care programs under chapter 74.09 RCW, or for
26 coverage from private sources, and in the absence of an interlocal
27 agreement or other contracts to the contrary, the governing unit may
28 obtain reimbursement for the cost of such medical services from the
29 unit of government whose law enforcement officers initiated the
30 charges on which the person is being held in the jail: PROVIDED, That
31 reimbursement for the cost of such services shall be by the state for
32 state prisoners being held in a jail who are accused of either
33 escaping from a state facility or of committing an offense in a state
34 facility.

35 (~~(6)~~) (7) There shall be no right of reimbursement to the
36 governing unit from units of government whose law enforcement
37 officers initiated the charges for which a person is being held in
38 the jail for care provided after the charges are disposed of by
39 sentencing or otherwise, unless by intergovernmental agreement
40 pursuant to chapter 39.34 RCW.

1 (~~(7)~~) (8) Under no circumstance shall necessary medical
2 services be denied or delayed because of disputes over the cost of
3 medical care or a determination of financial responsibility for
4 payment of the costs of medical care provided to confined persons.

5 (~~(8)~~) (9) Nothing in this section shall limit any existing
6 right of any party, governing unit, or unit of government against the
7 person receiving the care for the cost of the care provided.

8 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act
9 constitute a new chapter in Title 10 RCW."

10 Correct the title.

EFFECT: The striking amendment makes the following changes:

(1) Makes several minor changes to wording for clarity and consistency, for example:

(a) Makes usage of the terms "law enforcement officer," "corrections officer," and "guard supplied by a law enforcement or corrections agency" consistent throughout the bill.

(b) Clarifies the requirement that the person is secured or accompanied by an officer pertains to the period of time that the individual is receiving care at the hospital.

(c) Provides that a "jail or jail's designee" may act on behalf of a jail inmate for purposes of applying for Medicaid, rather than a "correctional facility or correctional facility's designee."

(2) Removes redundant language.

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