

HOUSE BILL REPORT

SSB 5593

As Reported by House Committee On: Judiciary

Title: An act relating to the safe delivery of and reasonable payment for health care services by hospitals for inmates and persons detained by law enforcement.

Brief Description: Concerning delivery and payment for health care services by hospitals for inmates and persons detained by law enforcement.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dammeier, Padden, Cleveland, O'Ban, Pedersen, Becker and Kohl-Welles).

Brief History:

Committee Activity:

Judiciary: 3/17/15, 3/26/15 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Outlines requirements for supervision of persons who are in custody for a violent or sex offense while those persons are receiving hospital care.
- Requires expedited emergency room treatment of supervised inmates, subject to triage practices and legal requirements regarding screening and treatment.
- Identifies a payment rate structure for inpatient, outpatient, and ancillary services that are rendered to jail inmates.
- Allows screening for Medicaid eligibility of jail inmates at the time of booking, and registration of eligible inmates.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

Staff: Omeara Harrington (786-7136).

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.

Background:

Supervision of Inmates Receiving Hospital Care.

No specific statutory standard requires supervision of jail or corrections inmates receiving medical care at a hospital; however, regulations and other policies may apply. For example, Department of Corrections (DOC) administrative regulations permit escorted leave for inmates for purposes of necessary medical or dental care not available in the institution. Inmates on escorted leave must be in visual or auditory contact of an approved correctional staff member at all times and remain in the custody of the DOC.

"Hospitals" are statutorily defined to include institutions or agencies providing accommodations, facilities, and services over a continuous period of 24 hours or more for observation, diagnosis, or care. Hospitals do not include hotels, clinics, physicians' offices, nursing homes, birthing centers, psychiatric hospitals, or other institutions for care of mental illness or intellectual disability.

Disclosure of Medical Information.

Health care providers and health care facilities may disclose health care information without a patient's consent to certain persons and entities, including, among others, previous and successor providers, immediate family members, emergency personnel and law enforcement in certain circumstances, and institutions to which the patient is detained. Permitted disclosure does not include disclosure of information related to sexually transmitted diseases or mental health services. In some instances, information may not be shared if the patient has instructed against disclosure in writing.

Payment for Jail Inmate Medical Care.

Upon booking an inmate into a jail, general information concerning the inmate's ability to pay for medical care is identified. To the extent that the inmate is unable to be financially responsible for medical care and is ineligible for Medicaid or other medical care programs offered through the Health Care Authority, the governing unit (meaning the local jurisdiction responsible for operation of the jail) is responsible for the inmate's health care costs. Necessary medical services cannot be denied or delayed because of disputes over the cost of medical care or a determination of financial responsibility.

Summary of Amended Bill:

Supervision of Inmates Receiving Medical Care.

A person in custody for a violent offense or sex offense who is brought to a hospital for care by an officer must be accompanied or otherwise secured the officer during the time the person is receiving care. An "officer" includes a law enforcement officer, a corrections officer, or a guard supplied by a law enforcement or corrections agency.

The requirement that an officer accompany or supervise the person does not apply if:

- the person is being supervised by the DOC, and the person is in custody solely due to a sanction imposed by DOC, the Indeterminate Sentence Review Board, or the court, in response to a violation of conditions;

- the provider indicates that there is no need to continue accompaniment or supervision; or
- the officer determines that: (1) the individual does not present an imminent and significant risk to self or others; (2) there is no longer sufficient evidentiary basis to maintain the individual in custody; or (3) an urgent public safety need requires the officer to be present in another location.

Determination by a Medical Care Provider that the Officer's Presence is Unnecessary.

If a medical care provider determines that it is not necessary for the person receiving treatment to be accompanied or secured, the officer has no ongoing duty to accompany or secure the person. The hospital must notify the officer when the person is expected to be released by the hospital. If the person later demonstrates behavior that presents an imminent and significant risk of causing physical harm to the person or others, the hospital may request the presence of an officer.

Determination by the Officer that it is Appropriate for the Officer to Leave.

If the officer accompanying or securing the person receiving care determines, in the officer's best judgment, that the person does not present an imminent and significant risk to self or others or that there is no longer sufficient evidentiary basis to maintain the individual in custody, the officer must notify the medical care provider that the officer is leaving the person unattended or unsecured. The hospital has no duty to notify the officer of the person's release or expected release from the hospital.

If the officer must leave due to an urgent public safety need in another location, the officer must notify the medical care provider, or another hospital staff member if the officer must leave immediately, that the officer leaving the person unattended or unsecured. The officer must make a reasonable effort to ensure a replacement officer or other means of accompanying or securing the person as soon as is reasonably possible under the circumstances. The hospital is required to notify the officer or the officer's designee of the person's release or expected release prior to the officer returning or a replacement arriving.

Priority of Treatment for Accompanied Offenders.

When a person who is accompanied or secured by an officer is waiting for treatment in a hospital emergency department, the hospital must see the patient in as expeditious a manner as possible. The hospital must take consideration of best triage practices and legal obligations regarding appropriate screening and treatment of patients when prioritizing treatment of an accompanied or secured offender.

Disclosure of Health Care Information to Officers.

A health care provider or health care facility may disclose a patient's health care information, other than information related to sexually transmitted diseases and mental health services, to an accompanying officer without the patient's authorization to the extent that the disclosure is incidental to the fulfillment of the role of the officer in securing or accompanying the person.

Limitations on Liability.

Absent gross negligence or willful misconduct, hospitals and health care providers are immune from civil liability, professional conduct sanctions, and administrative actions resulting from an individual not being accompanied or secured.

No special relationship exception to the public duty doctrine is created by the requirements surrounding accompanying and securing patients in officer custody. Officers and their employing departments and agencies are immune from civil liability arising out of the failure to comply with these requirements absent evidence of gross negligence or bad faith, taken in the context of the totality of the circumstances.

Payment for Medical Services Rendered to Jail Inmates.

With respect to inpatient, outpatient, and ancillary services rendered to jail inmates and not paid by Medicaid, providers of hospital services must accept from the governing unit, as payment in full, the facility's percent of allowed charges rate or fee schedule as determined, maintained, and posted by the Department of Labor and Industries (L&I). Other rates may be agreed to by the hospital and the governing unit.

At booking, a jail inmate may be evaluated for Medicaid eligibility and, if deemed potentially eligible, enrolled in Medicaid. To the extent allowed by federal law, a jail or the jail's designee is authorized to act on behalf of a confined person for purposes of applying for Medicaid.

Amended Bill Compared to Substitute Bill:

Changes are made to wording for clarity and consistency, and to remove redundant language. The usage of the terms "law enforcement officer," "corrections officer," and "guard supplied by a law enforcement or corrections agency" is made consistent throughout the bill. It is specified that 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. Rather than allowing a "correctional facility or correctional facility's designee" to act on behalf of a jail inmate for purposes of applying for Medicaid, a "jail or jail's designee" may do so.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: 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 stems from concerns about violence in emergency departments, and clarifies how inmates are supervised in emergency rooms. It also puts in place and clarifies a payment schedule for inmate medical care by allowing use of the L&I schedule without having to negotiate contracts, and brings Medicaid in when reasonable and practicable to do so.

In the past, law enforcement and the Washington State Hospital Association have had opposing bills on these issues. This bill represents an agreement on the issues of reasonable guarding for hospital safety and reasonable payment.

(Opposed) None.

Persons Testifying: Senator Dammeier, prime sponsor; Cassie Sauer, Washington State Hospital Association; and Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.