
SUBSTITUTE SENATE BILL 5269

State of Washington

64th Legislature

2015 Regular Session

By Senate Human Services, Mental Health & Housing (originally sponsored by Senators O'Ban, Darneille, Rolfes, Dinsel, Miloscia, Pearson, Bailey, Padden, Becker, Frockt, Habib, and Pedersen)

READ FIRST TIME 02/06/15.

1 AN ACT Relating to court review of detention decisions under the
2 involuntary treatment act; amending RCW 71.05.130 and 71.05.160; and
3 adding new sections to chapter 71.05 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.05
6 RCW to read as follows:

7 (1) An immediate family member, guardian, or conservator of a
8 person who disagrees with the decision of a designated mental health
9 professional not to (a) detain a person for evaluation and treatment
10 under RCW 71.05.150 or 71.05.153; or (b) take action within forty-
11 eight hours of a request for investigation being submitted to the
12 designated mental health professional; may petition the superior
13 court for review of the designated mental health professional's
14 decision.

15 (2) The petition must be accompanied by a sworn declaration from
16 the petitioner, and other witnesses if desired, describing why the
17 person should be detained for evaluation and treatment. The petition
18 must be submitted on forms developed by the courts for this purpose.
19 The petition must contain the following information:

20 (a) A description of the relationship between the petitioner and
21 the person; and

1 (b) The date on which an investigation was requested from the
2 designated mental health professional.

3 (3) Any immediate family member may, following the filing of the
4 petition and before the court's decision, submit a declaration to the
5 court in support of or in opposition to the designated mental health
6 professional's decision.

7 (4) The court shall review the petition to determine whether the
8 petition raises sufficient evidence to support the allegation. If the
9 court so finds, it shall provide a copy of the petition and
10 accompanying information to the designated mental health professional
11 agency with an order for the agency to provide the court with a
12 written sworn statement describing the designated mental health
13 professional's investigation and the basis for the decision not to
14 seek initial detention within one business day. The court shall
15 dismiss the petition at any time if it finds that the person has been
16 detained for evaluation and treatment or that the person has
17 voluntarily accepted appropriate treatment.

18 (5) If, after reviewing the information from the designated
19 mental health professional, the court finds that: (a) There is
20 probable cause to support a petition for detention; and (b) the
21 person has refused or failed to accept appropriate evaluation and
22 treatment voluntarily; the court may enter an order for initial
23 detention.

24 (6) If the court enters an order for initial detention, it shall
25 provide the order to the designated mental health professional. The
26 designated mental health professional may notify a peace officer to
27 take the person or cause the person to be taken into custody and
28 placed in an evaluation and treatment facility. At the time the
29 person is taken into custody there must commence to be served on the
30 person, his or her guardian, and conservator, if any, a copy of the
31 original order together with a notice of rights and a petition for
32 initial detention. Subsequent procedure must be followed as if the
33 person had been detained under RCW 71.05.150. An order for initial
34 detention under this section must expire within sixty days.

35 (7) All filings and records relating to a petition under this
36 section must be held by the court under seal with no public access.

37 (8) For purposes of this section, "immediate family member" means
38 a spouse, domestic partner, child, stepchild, parent, stepparent,
39 grandparent, or sibling.

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

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

8 (2) A designated mental health professional or designated mental
9 health professional agency that receives a complaint about a failure
10 to detain a person must inform the complainant about the process to
11 petition for court review under section 1 of this act.

12 **Sec. 3.** RCW 71.05.130 and 1998 c 297 s 7 are each amended to
13 read as follows:

14 In any judicial proceeding for involuntary commitment or
15 detention except under section 1 of this act, or in any proceeding
16 challenging such commitment or detention, the prosecuting attorney
17 for the county in which the proceeding was initiated shall represent
18 the individuals or agencies petitioning for commitment or detention
19 and shall defend all challenges to such commitment or detention(~~(-~~
20 ~~PROVIDED))~~, except that the attorney general shall represent and
21 provide legal services and advice to state hospitals or institutions
22 with regard to all provisions of and proceedings under this chapter
23 (~~(except in))~~ other than proceedings initiated by such hospitals and
24 institutions seeking fourteen day detention.

25 **Sec. 4.** RCW 71.05.160 and 2007 c 375 s 13 are each amended to
26 read as follows:

27 Any facility receiving a person pursuant to RCW 71.05.150 or
28 71.05.153 shall require the designated mental health professional to
29 prepare a petition for initial detention stating the circumstances
30 under which the person's condition was made known and stating that
31 there is evidence, as a result of his or her personal observation or
32 investigation, that the actions of the person for which application
33 is made constitute a likelihood of serious harm, or that he or she is
34 gravely disabled, and stating the specific facts known to him or her
35 as a result of his or her personal observation or investigation, upon
36 which he or she bases the belief that such person should be detained
37 for the purposes and under the authority of this chapter. If the
38 detention was ordered pursuant to section 1 of this act, the

1 designated mental health professional shall prepare a petition
2 attaching the court's order for initial detention and a copy of the
3 information submitted by the petitioner and designated mental health
4 professional to the court, and otherwise follow normal procedures as
5 if the person were detained under RCW 71.05.150.

6 If a person is involuntarily placed in an evaluation and
7 treatment facility pursuant to RCW 71.05.150 (~~(or)~~) 71.05.153, or
8 section 1 of this act, on the next judicial day following the initial
9 detention, the designated mental health professional shall file with
10 the court and serve the designated attorney of the detained person
11 the petition or supplemental petition for initial detention, proof of
12 service of notice, and a copy of a notice of emergency detention.

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