

SSB 5531 - H COMM AMD
By Committee on Judiciary

NOT CONSIDERED 04/09/2011

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

3 NEW SECTION. **Sec. 1.** The legislature recognizes that counties
4 that host evaluation and treatment beds incur costs by providing
5 judicial services associated with civil commitments under chapters
6 71.05 and 71.34 RCW. Because evaluation and treatment beds are not
7 evenly distributed across the state, these commitments frequently occur
8 in a different county from the county in which the person was
9 originally detained. The intent of this act is to create a process for
10 the state to reimburse counties for their reasonable costs incurred in
11 providing these judicial services, and to prevent the burden of these
12 costs from falling disproportionately on the counties or regional
13 support networks in which the commitments are most likely to occur.
14 The legislature recognizes that the cost of judicial services may vary
15 across the state based on different factors and conditions.

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

18 (1) A county may apply to the department for reimbursement of its
19 cost in providing judicial services for civil commitment cases under
20 this chapter and chapter 71.34 RCW.

21 (2) The department shall reimburse each county for its cost per
22 commitment case at a rate to be determined based on an average of the
23 expenditures for judicial services within the county over the past
24 three years. In the event that a baseline cannot be established
25 because there is no significant history of similar cases within the
26 county, the department shall approve a reasonable rate comparable to
27 the average costs incurred in similar counties. For the purposes of
28 this section, a case includes all judicial hearings related to a single
29 episode of hospitalization, or less restrictive alternative detention

1 in lieu of hospitalization, except that the filing of a petition for a
2 one hundred eighty-day commitment under this chapter or a petition for
3 a successive one hundred eighty-day commitment under chapter 71.34 RCW
4 shall be considered to be a new case regardless of whether there has
5 been a break in detention. A county may apply at reasonable intervals
6 for an increase in its rate of reimbursement based on a change in its
7 actual cost in delivering services.

8 (3) The department shall pay for reimbursements under this section
9 out of funds from the annual appropriation to the regional support
10 network in which the individual who is the subject of the commitment
11 case resides. Any funds that the department retains from the
12 appropriation to regional support networks that are not used for
13 reimbursement must be distributed to the regional support networks.
14 Funds which are distributed to regional support networks by the
15 department shall not be used to reimburse counties for the cost of
16 judicial services.

17 (4) As used in this section, "judicial services" refers to a
18 county's reasonable cost in providing prosecution services, assigned
19 counsel and defense services, court services, and court clerk services
20 for civil commitment cases under chapters 71.05 and 71.34 RCW. To the
21 extent that resources have shared purpose, the state may only reimburse
22 counties to the extent such resources are necessary for and devoted to
23 judicial services as described in this section.

24 (5) No filing fee shall be charged or collected for any civil
25 commitment case subject to reimbursement under this section.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.34 RCW
27 to read as follows:

28 A county may apply to the department for reimbursement of its costs
29 in providing judicial services for civil commitment cases under this
30 chapter, as provided in section 2 of this act.

31 **Sec. 4.** RCW 71.05.110 and 1997 c 112 s 7 are each amended to read
32 as follows:

33 Attorneys appointed for persons pursuant to this chapter shall be
34 compensated for their services as follows: (1) The person for whom an
35 attorney is appointed shall, if he or she is financially able pursuant
36 to standards as to financial capability and indigency set by the

1 superior court of the county in which the proceeding is held, bear the
2 costs of such legal services; (2) if such person is indigent pursuant
3 to such standards, the ~~((costs of such services shall be borne by))~~
4 state shall reimburse the county in which the proceeding is held(~~(-~~
5 ~~subject however to the responsibility for costs provided in RCW~~
6 ~~71.05.320(2))~~) for the costs of such legal services, as provided in
7 section 2 of this act.

8 **Sec. 5.** RCW 71.34.330 and 1985 c 354 s 23 are each amended to read
9 as follows:

10 Attorneys appointed for minors under this chapter shall be
11 compensated for their services as follows:

12 (1) Responsible others shall bear the costs of such legal services
13 if financially able according to standards set by the court of the
14 county in which the proceeding is held.

15 (2) If all responsible others are indigent as determined by these
16 standards, the ~~((costs of these legal services shall be borne by))~~
17 state shall reimburse the county in which the proceeding is held for
18 the costs of such legal services, as provided in section 2 of this act.

19 **Sec. 6.** RCW 71.05.230 and 2009 c 293 s 3 and 2009 c 217 s 2 are
20 each reenacted and amended to read as follows:

21 A person detained for seventy-two hour evaluation and treatment may
22 be detained for not more than fourteen additional days of involuntary
23 intensive treatment or ninety additional days of a less restrictive
24 alternative to involuntary intensive treatment. ~~((There shall be no
25 fee for filing petitions for fourteen days of involuntary intensive
26 treatment.))~~ A petition may only be filed if the following conditions
27 are met:

28 (1) The professional staff of the agency or facility providing
29 evaluation services has analyzed the person's condition and finds that
30 the condition is caused by mental disorder and either results in a
31 likelihood of serious harm, or results in the detained person being
32 gravely disabled and are prepared to testify those conditions are met;
33 and

34 (2) The person has been advised of the need for voluntary treatment
35 and the professional staff of the facility has evidence that he or she
36 has not in good faith volunteered; and

1 (3) The facility providing intensive treatment is certified to
2 provide such treatment by the department; and

3 (4) The professional staff of the agency or facility or the
4 designated mental health professional has filed a petition for fourteen
5 day involuntary detention or a ninety day less restrictive alternative
6 with the court. The petition must be signed either by:

7 (a) Two physicians;

8 (b) One physician and a mental health professional;

9 (c) Two psychiatric advanced registered nurse practitioners;

10 (d) One psychiatric advanced registered nurse practitioner and a
11 mental health professional; or

12 (e) A physician and a psychiatric advanced registered nurse
13 practitioner. The persons signing the petition must have examined the
14 person. If involuntary detention is sought the petition shall state
15 facts that support the finding that such person, as a result of mental
16 disorder, presents a likelihood of serious harm, or is gravely disabled
17 and that there are no less restrictive alternatives to detention in the
18 best interest of such person or others. The petition shall state
19 specifically that less restrictive alternative treatment was considered
20 and specify why treatment less restrictive than detention is not
21 appropriate. If an involuntary less restrictive alternative is sought,
22 the petition shall state facts that support the finding that such
23 person, as a result of mental disorder, presents a likelihood of
24 serious harm, or is gravely disabled and shall set forth the less
25 restrictive alternative proposed by the facility; and

26 (5) A copy of the petition has been served on the detained person,
27 his or her attorney and his or her guardian or conservator, if any,
28 prior to the probable cause hearing; and

29 (6) The court at the time the petition was filed and before the
30 probable cause hearing has appointed counsel to represent such person
31 if no other counsel has appeared; and

32 (7) The petition reflects that the person was informed of the loss
33 of firearm rights if involuntarily committed; and

34 (8) At the conclusion of the initial commitment period, the
35 professional staff of the agency or facility or the designated mental
36 health professional may petition for an additional period of either
37 ninety days of less restrictive alternative treatment or ninety days of
38 involuntary intensive treatment as provided in RCW 71.05.290; and

1 (9) If the hospital or facility designated to provide outpatient
2 treatment is other than the facility providing involuntary treatment,
3 the outpatient facility so designated has agreed to assume such
4 responsibility.

5 **Sec. 7.** RCW 71.24.160 and 2001 c 323 s 15 are each amended to read
6 as follows:

7 The regional support networks shall make satisfactory showing to
8 the secretary that state funds shall in no case be used to replace
9 local funds from any source being used to finance mental health
10 services prior to January 1, 1990. Maintenance of effort funds devoted
11 to judicial services related to involuntary commitment reimbursed under
12 section 2 of this act must be expended for other purposes that further
13 treatment for mental health and chemical dependency disorders.

14 **Sec. 8.** RCW 71.24.300 and 2008 c 261 s 4 are each amended to read
15 as follows:

16 (1) Upon the request of a tribal authority or authorities within a
17 regional support network the joint operating agreement or the county
18 authority shall allow for the inclusion of the tribal authority to be
19 represented as a party to the regional support network.

20 (2) The roles and responsibilities of the county and tribal
21 authorities shall be determined by the terms of that agreement
22 including a determination of membership on the governing board and
23 advisory committees, the number of tribal representatives to be party
24 to the agreement, and the provisions of law and shall assure the
25 provision of culturally competent services to the tribes served.

26 (3) The state mental health authority may not determine the roles
27 and responsibilities of county authorities as to each other under
28 regional support networks by rule, except to assure that all duties
29 required of regional support networks are assigned and that counties
30 and the regional support network do not duplicate functions and that a
31 single authority has final responsibility for all available resources
32 and performance under the regional support network's contract with the
33 secretary.

34 (4) If a regional support network is a private entity, the
35 department shall allow for the inclusion of the tribal authority to be
36 represented as a party to the regional support network.

1 (5) The roles and responsibilities of the private entity and the
2 tribal authorities shall be determined by the department, through
3 negotiation with the tribal authority.

4 (6) Regional support networks shall submit an overall six-year
5 operating and capital plan, timeline, and budget and submit progress
6 reports and an updated two-year plan biennially thereafter, to assume
7 within available resources all of the following duties:

8 (a) Administer and provide for the availability of all resource
9 management services, residential services, and community support
10 services.

11 (b) Administer and provide for the availability of all
12 investigation, transportation, (~~court-related,~~) and other services
13 provided by the state or counties pursuant to chapter 71.05 RCW, except
14 for judicial services subject to reimbursement under section 2 of this
15 act.

16 (c) Provide within the boundaries of each regional support network
17 evaluation and treatment services for at least ninety percent of
18 persons detained or committed for periods up to seventeen days
19 according to chapter 71.05 RCW. Regional support networks may contract
20 to purchase evaluation and treatment services from other networks if
21 they are unable to provide for appropriate resources within their
22 boundaries. Insofar as the original intent of serving persons in the
23 community is maintained, the secretary is authorized to approve
24 exceptions on a case-by-case basis to the requirement to provide
25 evaluation and treatment services within the boundaries of each
26 regional support network. Such exceptions are limited to:

27 (i) Contracts with neighboring or contiguous regions; or

28 (ii) Individuals detained or committed for periods up to seventeen
29 days at the state hospitals at the discretion of the secretary.

30 (d) Administer and provide for the availability of all other mental
31 health services, which shall include patient counseling, day treatment,
32 consultation, education services, employment services as defined in RCW
33 71.24.035, and mental health services to children.

34 (e) Establish standards and procedures for reviewing individual
35 service plans and determining when that person may be discharged from
36 resource management services.

37 (7) A regional support network may request that any state-owned
38 land, building, facility, or other capital asset which was ever

1 purchased, deeded, given, or placed in trust for the care of the
2 persons with mental illness and which is within the boundaries of a
3 regional support network be made available to support the operations of
4 the regional support network. State agencies managing such capital
5 assets shall give first priority to requests for their use pursuant to
6 this chapter.

7 (8) Each regional support network shall appoint a mental health
8 advisory board which shall review and provide comments on plans and
9 policies developed under this chapter, provide local oversight
10 regarding the activities of the regional support network, and work with
11 the regional support network to resolve significant concerns regarding
12 service delivery and outcomes. The department shall establish
13 statewide procedures for the operation of regional advisory committees
14 including mechanisms for advisory board feedback to the department
15 regarding regional support network performance. The composition of the
16 board shall be broadly representative of the demographic character of
17 the region and shall include, but not be limited to, representatives of
18 consumers and families, law enforcement, and where the county is not
19 the regional support network, county elected officials. Composition
20 and length of terms of board members may differ between regional
21 support networks but shall be included in each regional support
22 network's contract and approved by the secretary.

23 (9) Regional support networks shall assume all duties specified in
24 their plans and joint operating agreements through biennial contractual
25 agreements with the secretary.

26 (10) Regional support networks may receive technical assistance
27 from the housing trust fund and may identify and submit projects for
28 housing and housing support services to the housing trust fund
29 established under chapter 43.185 RCW. Projects identified or submitted
30 under this subsection must be fully integrated with the regional
31 support network six-year operating and capital plan, timeline, and
32 budget required by subsection (6) of this section.

33 **Sec. 9.** RCW 71.34.300 and 1985 c 354 s 14 are each amended to read
34 as follows:

35 (1) The county or combination of counties is responsible for
36 development and coordination of the evaluation and treatment program
37 for minors, for incorporating the program into the county mental health

1 plan, and for coordination of evaluation and treatment services and
2 resources with the community mental health program required under
3 chapter 71.24 RCW.

4 (2) The county shall be responsible for maintaining its support of
5 involuntary treatment services for minors at its 1984 level, adjusted
6 for inflation, with the department responsible for additional costs to
7 the county resulting from this chapter. Maintenance of effort funds
8 devoted to judicial services related to involuntary commitment
9 reimbursed under section 2 of this act must be expended for other
10 purposes that further treatment for mental health and chemical
11 dependency disorders.

12 NEW SECTION. **Sec. 10.** The department of social and health
13 services shall establish rules and standards for the implementation of
14 this act in consultation with affected parties.

15 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2012."

16 Correct the title.

EFFECT: Provides that the Department must pay for reimbursements
out of funds from the annual appropriation to the regional support
network (RSN) from which the individual subject to the civil commitment
case resides. Clarifies that the reimbursement applies to civil
commitment cases for adults and minors. Provides that the state will
reimburse the counties for the cost of appointed counsel (rather than
eliminating the language that the county bears the cost) and provides
that reimbursement for appointed counsel also applies for commitment
proceedings involving minors. Specifically states that RSNs are not
responsible for providing for judicial services subject to
reimbursement under the act.

--- END ---