

---

**SUBSTITUTE SENATE BILL 5046**

---

**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove and Costa)

Read first time 01/29/1999.

1 AN ACT Relating to creating an additional hearing procedure when  
2 the court disagrees with the mental health evaluation conducted by a  
3 professional person; amending RCW 71.05.235; providing an effective  
4 date; and declaring an emergency.

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

6 **Sec. 1.** RCW 71.05.235 and 1998 c 297 s 18 are each amended to read  
7 as follows:

8 (1) If an individual is referred to a county designated mental  
9 health professional under RCW 10.77.090(1)(d)(iii)(A), the county  
10 designated mental health professional shall examine the individual  
11 within forty-eight hours. If the county designated mental health  
12 professional determines it is not appropriate to detain the individual  
13 or petition for a ninety-day less restrictive alternative under RCW  
14 71.05.230(4), that decision shall be immediately presented to the  
15 superior court for hearing. The court shall hold a hearing to consider  
16 the decision of the county designated mental health professional not  
17 later than the next judicial day. At the hearing the superior court  
18 shall review the determination of the county designated mental health  
19 professional and determine whether an order should be entered requiring

1 the person to be evaluated at an evaluation and treatment facility. No  
2 person referred to an evaluation and treatment facility may be held at  
3 the facility longer than seventy-two hours.

4 (2) If an individual is placed in an evaluation and treatment  
5 facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall  
6 evaluate the individual for purposes of determining whether to file a  
7 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.  
8 Immediately following completion of the evaluation, the professional  
9 person shall file a petition or, if the recommendation of the  
10 professional person is to release the individual, present his or her  
11 recommendation to the court. The superior court shall review the  
12 recommendation not later than the next judicial day. If the court  
13 rejects the recommendation to unconditionally release the individual,  
14 the court may order the individual detained at a designated evaluation  
15 and treatment facility for not more than a seventy-two hour evaluation  
16 and treatment period and direct the individual to appear at a surety  
17 hearing before that court within seventy-two hours, or the court may  
18 release the individual but direct the individual to appear at a surety  
19 hearing set before that court within eleven days, at which time the  
20 prosecutor may file a petition under this chapter for ninety-day  
21 inpatient or outpatient treatment. If a petition is filed by the  
22 prosecutor, the court may order that the person named in the petition  
23 be detained at the evaluation and treatment facility that performed the  
24 evaluation under this subsection or order the respondent to be in  
25 outpatient treatment. If a petition is filed but the individual fails  
26 to appear in court for the surety hearing, the court shall order that  
27 a mental health professional or peace officer shall take such person or  
28 cause such person to be taken into custody and placed in an evaluation  
29 and treatment facility to be brought before the court the next judicial  
30 day after detention. Upon the individual's first appearance in court  
31 after a petition has been filed, proceedings under RCW 71.05.310 and  
32 71.05.320 shall commence. For an individual subject to this  
33 subsection, the prosecutor or professional person may directly file a  
34 petition for ninety-day inpatient or outpatient treatment and no  
35 petition for initial detention or fourteen-day detention is required  
36 before such a petition may be filed.

37 (3) If a county designated mental health professional or the  
38 professional person and prosecuting attorney or attorney general, as  
39 appropriate, stipulate that the individual does not present a

1 likelihood of serious harm or is not gravely disabled, the hearing  
2 under this section is not required and the individual, if in custody,  
3 shall be released.

4 (4) The individual shall have the rights specified in RCW  
5 71.05.250.

6 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and takes effect  
9 March 1, 1999, or upon approval by the governor, whichever occurs  
10 later.

--- END ---