
SENATE BILL 5046

State of Washington

56th Legislature

1999 Regular Session

By Senators Long, Hargrove and Costa

Read first time 01/11/1999. Referred to Committee on Human Services & Corrections.

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 shall release the individual but direct the individual to
15 appear at a surety hearing set before that court within eleven days, at
16 which time the prosecutor may file a petition under this chapter for
17 ninety-day inpatient or outpatient treatment. If a petition is filed
18 by the prosecutor, the court may order that the person named in the
19 petition be detained at the evaluation and treatment facility that
20 performed the evaluation under this subsection or order the respondent
21 to be in outpatient treatment. If a petition is filed but the
22 individual fails to appear in court for the surety hearing, the court
23 may order that a mental health professional or peace officer may take
24 such person or cause such person to be taken into custody and placed in
25 an evaluation and treatment facility to be brought before the court the
26 next judicial day after detention. Upon the individual's first
27 appearance in court after a petition has been filed, proceedings under
28 RCW 71.05.310 and 71.05.320 shall commence. For an individual subject
29 to this subsection, the prosecutor or professional person may directly
30 file a petition for ninety-day inpatient or outpatient treatment and no
31 petition for initial detention or fourteen-day detention is required
32 before such a petition may be filed.

33 (3) If a county designated mental health professional or the
34 professional person and prosecuting attorney or attorney general, as
35 appropriate, stipulate that the individual does not present a
36 likelihood of serious harm or is not gravely disabled, the hearing
37 under this section is not required and the individual, if in custody,
38 shall be released.

1 (4) The individual shall have the rights specified in RCW
2 71.05.250.

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

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