
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5269

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators O'Ban, Darneille, Rolfes, Dandel, Miloscia, Pearson, Bailey, Padden, Becker, Frockt, Habib, and Pedersen)

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;
3 adding new sections to chapter 71.05 RCW; and creating new sections.

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 may petition superior court for review of a designated mental
9 health professional's decision not to (a) detain a person for
10 evaluation and treatment under RCW 71.05.150 or 71.05.153; or (b)
11 take action within forty-eight hours of a request for investigation
12 being submitted to the designated mental health professional.

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

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

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

3 (c) An optional declaration from a mental health professional
4 familiar with the person who is the subject of the petition
5 describing the declarant's qualifications and offering a professional
6 opinion in support of initial detention with reference to legal
7 criteria under this chapter.

8 (3) Following the filing of the petition and before the court's
9 decision, any person may submit a declaration to the court in support
10 of or in opposition to initial detention.

11 (4) The court shall review the petition to determine whether the
12 petition raises sufficient evidence to support the allegation. If the
13 court so finds, it shall provide a copy of the petition and
14 accompanying information to the designated mental health professional
15 agency with an order for the agency to provide the court and the
16 petitioner with a written sworn statement providing a detailed
17 description of the designated mental health professional's
18 investigation and the basis for the decision not to seek initial
19 detention within one business day. The court must issue a final
20 ruling on the petition within five business days after it is filed.
21 The court shall dismiss the petition at any time if it finds that the
22 person has been detained for evaluation and treatment or that the
23 person has voluntarily accepted appropriate treatment.

24 (5) If, after reviewing all the information provided to the
25 court, the court finds that: (a) There is probable cause to support a
26 petition for detention; and (b) the person has refused or failed to
27 accept appropriate evaluation and treatment voluntarily; the court
28 may enter an order for initial detention.

29 (6) If the court enters an order for initial detention, it shall
30 provide the order to the designated mental health professional
31 agency, which shall execute the order without delay. The designated
32 mental health professional may notify a peace officer to take the
33 person or cause the person to be taken into custody and placed in an
34 evaluation and treatment facility. At the time the person is taken
35 into custody there must commence to be served on the person, his or
36 her guardian, and conservator, if any, a copy of the original order
37 together with a notice of rights and a petition for initial
38 detention. Subsequent procedure must be followed as if the person had
39 been detained under RCW 71.05.150. An order for initial detention
40 under this section must expire within one hundred eighty days.

1 (7) All filings and records relating to a petition under this
2 section must be held by the court under seal with no public access.
3 The court shall transmit its final decision to the petitioner when it
4 is made.

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

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

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

15 (2) A designated mental health professional or designated mental
16 health professional agency that receives a request for investigation
17 for possible detention under this chapter must inquire whether the
18 request comes from an immediate family member, guardian, or
19 conservator who would be eligible to petition under section 1 of this
20 act. If the person is not detained within forty-eight hours, the
21 designated mental health professional or designated mental health
22 professional agency must inform the immediate family member,
23 guardian, or conservator about the process to petition for court
24 review under section 1 of this act.

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

27 In any judicial proceeding for involuntary commitment or
28 detention except under section 1 of this act, or in any proceeding
29 challenging such commitment or detention, the prosecuting attorney
30 for the county in which the proceeding was initiated shall represent
31 the individuals or agencies petitioning for commitment or detention
32 and shall defend all challenges to such commitment or detention(~~(-~~
33 ~~PROVIDED)~~), except that the attorney general shall represent and
34 provide legal services and advice to state hospitals or institutions
35 with regard to all provisions of and proceedings under this chapter
36 (~~(except in)~~) other than proceedings initiated by such hospitals and
37 institutions seeking fourteen day detention.

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

3 Any facility receiving a person pursuant to RCW 71.05.150 or
4 71.05.153 shall require the designated mental health professional to
5 prepare a petition for initial detention stating the circumstances
6 under which the person's condition was made known and stating that
7 there is evidence, as a result of his or her personal observation or
8 investigation, that the actions of the person for which application
9 is made constitute a likelihood of serious harm, or that he or she is
10 gravely disabled, and stating the specific facts known to him or her
11 as a result of his or her personal observation or investigation, upon
12 which he or she bases the belief that such person should be detained
13 for the purposes and under the authority of this chapter. If the
14 detention was ordered pursuant to section 1 of this act, the
15 designated mental health professional shall prepare a petition
16 attaching the court's order for initial detention and a copy of the
17 information submitted by the petitioner and designated mental health
18 professional to the court, and otherwise follow normal procedures as
19 if the person were detained under RCW 71.05.150.

20 If a person is involuntarily placed in an evaluation and
21 treatment facility pursuant to RCW 71.05.150 (~~(or)~~) 71.05.153, or
22 section 1 of this act, on the next judicial day following the initial
23 detention, the designated mental health professional shall file with
24 the court and serve the designated attorney of the detained person
25 the petition or supplemental petition for initial detention, proof of
26 service of notice, and a copy of a notice of emergency detention.

27 NEW SECTION. **Sec. 5.** If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 2015, in the omnibus appropriations act, this
30 act is null and void.

31 NEW SECTION. **Sec. 6.** This act may be known and cited as Joel's
32 law.

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