
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, Dansel, Miloscia, Pearson, Bailey, Padden, Becker, Frockt, Habib, and Pedersen)

READ FIRST TIME 02/25/15.

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

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;

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

3 (c) An optional sworn statement 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 detention with reference to legal criteria
7 under this chapter.

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

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

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

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

1 been detained under RCW 71.05.150. An order for initial detention
2 under this section must expire within sixty days.

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

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.

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