

SENATE BILL REPORT

SB 5569

As of February 17, 2025

Title: An act relating to recognizing a court's authority to authorize a defendant's direct transfer from jail to inpatient or residential substance use disorder treatment.

Brief Description: Recognizing a court's authority to authorize a defendant's direct transfer from jail to inpatient or residential substance use disorder treatment.

Sponsors: Senators Gildon, Christian and Hasegawa.

Brief History:

Committee Activity: Law & Justice: 2/17/25.

Brief Summary of Bill

- Allows a defendant to make a motion for pretrial release and a stay of proceedings to receive inpatient or residential substance use disorder treatment at a treatment facility if certain conditions are met.
- Establishes procedures related to a defendant's release to and discharge from such treatment facility.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: Pretrial release is the release of the accused from detention pending trial. The Washington State Constitution guarantees the right to bail for people charged with noncapital crimes, and this right has been interpreted as the right to a judicial determination of either release or reasonable bail. For capital offenses where the proof of the accused's guilt is evident or the presumption of the accused's guilt is great, there is no right to bail. For offenses punishable by the possibility of life imprisonment, bail may be denied upon a showing of clear and convincing evidence of the accused's propensity for violence that

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

creates a substantial likelihood of danger to the community or any persons.

Upon the appearance before a judge of a person charged with an offense, the judge must issue an order releasing the person on personal recognizance, releasing the person on conditions, or detaining the person as allowed by law.

If the judge issues an order releasing the person on conditions, appropriate conditions include, among others, placement in a Pretrial Release Program, restrictions on travel and association, a curfew, electronic monitoring, and prohibitions on the consumption of drugs and alcohol. A release order must include a written statement of the conditions of release, as well as the penalties and consequences for violation of the conditions.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): A judge who issues an order releasing the defendant on conditions which includes payment of bail may indicate on the order that the court will allow the defendant to bring a motion for pretrial release on personal recognizance and to stay a proceeding for purpose of inpatient or residential treatment if:

- the defendant has an offer of admission to a facility which provides inpatient or residential substance use disorder treatment or inpatient or residential co-occurring mental health and substance use disorder treatment (treatment facility); and
- a family member, member of the defense team, health care worker, social worker, peer support specialist, case manager, employee of a treatment facility or other supportive individual (trusted individual) escorts the defendant directly from jail to the treatment facility.

A defendant with such an order may bring a motion for pretrial release on personal recognizance and to stay the proceeding for purpose of inpatient or residential treatment if the aforementioned conditions and any additional conditions established by the court are satisfied.

The defendant must affirm the defendant's agreement to participate in the treatment program, authorization to release information, and waiver of the right to a speedy trial until the stay for treatment is lifted. If the court is satisfied, the court shall immediately stay the criminal proceedings and order the defendant's release from jail to a trusted individual for escort to the treatment facility. The treatment facility must notify the court when the defendant is admitted to and discharged from the facility.

Upon a defendant's discharge from a treatment facility, the prosecutor may make a motion for the court to lift the stay on the proceeding and summon the defendant to court for further proceedings. If the notice from the treatment facility indicates the defendant has transitioned successfully to the next level of care, the prosecutor is encouraged to consider diversion or dismissal of the charge.

Appropriation: None.

Fiscal Note: Requested on February 12, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony On Proposed Substitute: PRO: This bill allows judges to authorize a person at the first hearing to go into treatment if they get a treatment bed and are escorted by a trusted individual. Judges can do this now, but this requires a separate, additional appearance in front of the court. We want to ensure preauthorization the very first time a person comes before a court in order for the person to get authorized for treatment.

OTHER: Trial courts generally do not have the authority to issue an indefinite stay of proceedings. Continuances are usually granted for purposes of getting to trial. The state has a compelling interest to getting cases to resolution. There are concerns about superior courts being able to override the authority of other superior courts and further concerns about how a trusted individual will know if a defendant has multiple warrants from different courts. There are no limitations as to what kinds of charges would be considered nor is there any indication as to the nexus required between the substance use disorder and the criminal conduct. This process should be modeled on a drug court or therapeutic court. The goals of this bill can be accomplished without any legislation.

Persons Testifying: PRO: Senator Chris Gildon, Prime Sponsor.

OTHER: James McMahan, WA Assoc Sheriffs & Police Chiefs; Jon Tunheim, Thurston County Prosecutor/Wa Assoc of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: No one.