
SENATE BILL 6559

State of Washington

55th Legislature

1998 Regular Session

By Senators Zarelli and Stevens

Read first time 01/21/98. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to computation of the seventy-two hour period for
2 evaluation and treatment of mental disorders; and amending RCW
3 71.05.180, 71.05.150, 71.05.160, 71.05.170, and 71.05.200.

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

5 **Sec. 1.** RCW 71.05.180 and 1997 c 112 s 12 are each amended to read
6 as follows:

7 If the evaluation and treatment facility admits the person, it may
8 detain him or her for evaluation and treatment for a period not to
9 exceed seventy-two hours from the time of acceptance as set forth in
10 RCW 71.05.170. The computation of such seventy-two hour period shall
11 ~~((exclude))~~ include Saturdays, Sundays, and holidays for the purposes
12 of making the determination as to whether or not the person should be
13 detained for additional treatment under RCW 71.05.230. The person
14 conducting the evaluation shall either notify the person and the
15 designated attorney of the detained person being evaluated at the
16 conclusion of the seventy-two hour period of the determination that a
17 probable cause hearing is required or release the person immediately.
18 The probable cause hearing shall be held at the end of the seventy-two
19 hour period or on the next judicial day following the seventy-two hour

1 period if the seventy-two hour period ends on a Saturday, Sunday, or
2 holiday.

3 **Sec. 2.** RCW 71.05.150 and 1997 c 112 s 8 are each amended to read
4 as follows:

5 (1)(a) When a mental health professional designated by the county
6 receives information alleging that a person, as a result of a mental
7 disorder: (i) Presents a likelihood of serious harm, or (ii) is
8 gravely disabled; such mental health professional, after investigation
9 and evaluation of the specific facts alleged, and of the reliability
10 and credibility of the person or persons, if any, providing information
11 to initiate detention, may, if satisfied that the allegations are true
12 and that the person will not voluntarily seek appropriate treatment,
13 file a petition for initial detention. Before filing the petition, the
14 county designated mental health professional must personally interview
15 the person, unless the person refuses an interview, and determine
16 whether the person will voluntarily receive appropriate evaluation and
17 treatment at an evaluation and treatment facility.

18 (b) Whenever it appears, by petition for initial detention, to the
19 satisfaction of a judge of the superior court that a person presents,
20 as a result of a mental disorder, a likelihood of serious harm, or is
21 gravely disabled, and that the person has refused or failed to accept
22 appropriate evaluation and treatment voluntarily, the judge may issue
23 an order requiring the person to appear within twenty-four hours after
24 service of the order at a designated evaluation and treatment facility
25 for not more than a seventy-two hour evaluation and treatment period.
26 The order shall state the address of the evaluation and treatment
27 facility to which the person is to report and whether the required
28 seventy-two hour evaluation and treatment services may be delivered on
29 an outpatient or inpatient basis and that if the person named in the
30 order fails to appear at the evaluation and treatment facility at or
31 before the date and time stated in the order, such person may be
32 involuntarily taken into custody for evaluation and treatment. The
33 order shall also designate retained counsel or, if counsel is appointed
34 from a list provided by the court, the name, business address, and
35 telephone number of the attorney appointed to represent the person.
36 The order shall also state that the evaluation and treatment facility
37 must complete its evaluation of the person within seventy-two hours as
38 set forth in RCW 71.05.180.

1 (c) The mental health professional shall then serve or cause to be
2 served on such person, his or her guardian, and conservator, if any, a
3 copy of the order to appear together with a notice of rights and a
4 petition for initial detention. After service on such person the
5 mental health professional shall file the return of service in court
6 and provide copies of all papers in the court file to the evaluation
7 and treatment facility and the designated attorney. The mental health
8 professional shall notify the court and the prosecuting attorney that
9 a probable cause hearing will be held within seventy-two hours of the
10 date and time of outpatient evaluation or admission to the evaluation
11 and treatment facility. The person shall be permitted to remain in his
12 or her home or other place of his or her choosing prior to the time of
13 evaluation and shall be permitted to be accompanied by one or more of
14 his or her relatives, friends, an attorney, a personal physician, or
15 other professional or religious advisor to the place of evaluation. An
16 attorney accompanying the person to the place of evaluation shall be
17 permitted to be present during the admission evaluation. Any other
18 individual accompanying the person may be present during the admission
19 evaluation. The facility may exclude the individual if his or her
20 presence would present a safety risk, delay the proceedings, or
21 otherwise interfere with the evaluation.

22 (d) If the person ordered to appear does appear on or before the
23 date and time specified, the evaluation and treatment facility may
24 admit such person as required by RCW 71.05.170 or may provide treatment
25 on an outpatient basis. If the person ordered to appear fails to
26 appear on or before the date and time specified, the evaluation and
27 treatment facility shall immediately notify the mental health
28 professional designated by the county who may notify a peace officer to
29 take such person or cause such person to be taken into custody and
30 placed in an evaluation and treatment facility. Should the mental
31 health professional notify a peace officer authorizing him or her to
32 take a person into custody under the provisions of this subsection, he
33 or she shall file with the court a copy of such authorization and a
34 notice of detention. At the time such person is taken into custody
35 there shall commence to be served on such person, his or her guardian,
36 and conservator, if any, a copy of the original order together with a
37 notice of detention, a notice of rights, and a petition for initial
38 detention.

1 (2) When a mental health professional designated by the county
2 receives information alleging that a person, as the result of a mental
3 disorder, presents an imminent likelihood of serious harm, or is in
4 imminent danger because of being gravely disabled, after investigation
5 and evaluation of the specific facts alleged and of the reliability and
6 credibility of the person or persons providing the information if any,
7 the mental health professional may take such person, or cause by oral
8 or written order such person to be taken into emergency custody in an
9 evaluation and treatment facility for not more than seventy-two hours
10 as described in RCW 71.05.180.

11 (3) A peace officer may take such person or cause such person to be
12 taken into custody and placed in an evaluation and treatment facility
13 pursuant to subsection (1)(d) of this section.

14 (4) A peace officer may, without prior notice of the proceedings
15 provided for in subsection (1) of this section, take or cause such
16 person to be taken into custody and immediately delivered to an
17 evaluation and treatment facility or the emergency department of a
18 local hospital:

19 (a) Only pursuant to subsections (1)(d) and (2) of this section; or

20 (b) When he or she has reasonable cause to believe that such person
21 is suffering from a mental disorder and presents an imminent likelihood
22 of serious harm or is in imminent danger because of being gravely
23 disabled.

24 (5) Persons delivered to evaluation and treatment facilities by
25 peace officers pursuant to subsection (4)(b) of this section may be
26 held by the facility for a period of up to twelve hours: PROVIDED,
27 That they are examined by a mental health professional within three
28 hours of their arrival. Within twelve hours of their arrival, the
29 designated county mental health professional must file a supplemental
30 petition for detention, and commence service on the designated attorney
31 for the detained person.

32 **Sec. 3.** RCW 71.05.160 and 1997 c 112 s 10 are each amended to read
33 as follows:

34 Any facility receiving a person pursuant to RCW 71.05.150 shall
35 require a petition for initial detention stating the circumstances
36 under which the person's condition was made known and stating that such
37 officer or person has evidence, as a result of his or her personal
38 observation or investigation, that the actions of the person for which

1 application is made constitute a likelihood of serious harm, or that he
2 or she is gravely disabled, and stating the specific facts known to him
3 or her as a result of his or her personal observation or investigation,
4 upon which he or she bases the belief that such person should be
5 detained for the purposes and under the authority of this chapter.

6 If a person is involuntarily placed in an evaluation and treatment
7 facility pursuant to RCW 71.05.150, on the next judicial day following
8 the initial detention, the mental health professional designated by the
9 county shall file with the court and serve the designated attorney of
10 the detained person the petition or supplemental petition for initial
11 detention, proof of service of notice, and a copy of a notice of
12 emergency detention. The petition shall state that the evaluation and
13 treatment facility must complete its evaluation and treatment of the
14 person within seventy-two hours as set forth in RCW 71.05.180.

15 **Sec. 4.** RCW 71.05.170 and 1997 c 112 s 11 are each amended to read
16 as follows:

17 Whenever the designated county mental health professional petitions
18 for detention of a person whose actions constitute a likelihood of
19 serious harm, or who is gravely disabled, the facility providing
20 seventy-two hour evaluation and treatment must immediately accept on a
21 provisional basis the petition and the person. The facility shall then
22 evaluate the person's condition and admit or release such person in
23 accordance with RCW 71.05.180 and 71.05.210. The facility shall notify
24 in writing the court and the designated county mental health
25 professional of the date and time of the initial detention of each
26 person involuntarily detained in order that a probable cause hearing
27 shall be held no later than seventy-two hours after detention or on the
28 next judicial day following the seventy-two hour period if the seventy-
29 two hour period ends on a Saturday, Sunday, or holiday.

30 The duty of a state hospital to accept persons for evaluation and
31 treatment under this section shall be limited by chapter 71.24 RCW.

32 **Sec. 5.** RCW 71.05.200 and 1997 c 112 s 14 are each amended to read
33 as follows:

34 (1) Whenever any person is detained for evaluation and treatment
35 pursuant to this chapter, both the person and, if possible, a
36 responsible member of his or her immediate family, guardian, or
37 conservator, if any, shall be advised as soon as possible in writing or

1 orally, by the officer or person taking him or her into custody or by
2 personnel of the evaluation and treatment facility where the person is
3 detained that unless the person is released or voluntarily admits
4 himself or herself for treatment within seventy-two hours of the
5 initial detention:

6 (a) That the evaluation and treatment facility will make its
7 determination as to whether or not additional treatment is necessary
8 not more than seventy-two hours after the initial detention; that a
9 judicial hearing in a superior court, either by a judge or court
10 commissioner thereof, shall be held not more than seventy-two hours
11 after the initial detention, or on the next judicial day following the
12 seventy-two hour period if the seventy-two hour period ends on a
13 Saturday, Sunday, or holiday, to determine whether there is probable
14 cause to detain the person after the seventy-two hours have expired for
15 up to an additional fourteen days without further automatic hearing for
16 the reason that the person is a mentally ill person whose mental
17 disorder presents a likelihood of serious harm or that the person is
18 gravely disabled; and that the person will be released immediately at
19 the end of the seventy-two hour period if the evaluation and treatment
20 facility has determined not to request a probable cause hearing;

21 (b) That the person has a right to communicate immediately with an
22 attorney; has a right to have an attorney appointed to represent him or
23 her before and at the probable cause hearing if he or she is indigent;
24 and has the right to be told the name and address of the attorney the
25 mental health professional has designated pursuant to this chapter;

26 (c) That the person has the right to remain silent and that any
27 statement he or she makes may be used against him or her;

28 (d) That the person has the right to present evidence and to cross-
29 examine witnesses who testify against him or her at the probable cause
30 hearing; and

31 (e) That the person has the right to refuse medications, including
32 antipsychotic medication beginning twenty-four hours prior to the
33 probable cause hearing.

34 (2) When proceedings are initiated under RCW 71.05.150 (2), (3), or
35 (4)(b), no later than twelve hours after such person is admitted to the
36 evaluation and treatment facility the personnel of the evaluation and
37 treatment facility or the designated mental health professional shall
38 serve on such person a copy of the petition for initial detention and
39 the name, business address, and phone number of the designated attorney

1 and shall forthwith commence service of a copy of the petition for
2 initial detention on the designated attorney.

3 (3) The judicial hearing described in subsection (1) of this
4 section is hereby authorized, and shall be held according to the
5 provisions of subsection (1) of this section and rules promulgated by
6 the supreme court.

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