
SENATE BILL 5940

State of Washington

56th Legislature

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By Senators Stevens, Hargrove, Long and Sheahan

Read first time 02/17/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to treatment of minors in the custody of the
2 department of social and health services; amending RCW 71.05.150 and
3 71.05.200; adding new sections to chapter 71.34 RCW; and adding a new
4 section to chapter 71.05 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.34 RCW
7 to read as follows:

8 For a minor under thirteen years of age in the custody of the
9 department, the professional person in charge shall contact the
10 department within twenty-four hours of first providing treatment. The
11 department shall immediately provide the professional person in charge
12 with all known and available information concerning the mental,
13 physical, and health status of the child accompanied by a signed
14 statement by the appropriate department employee verifying that all
15 medical records in the department's possession have been provided and
16 identifying the steps taken to ensure the records are complete. If the
17 department has a current passport under RCW 74.13.285, providing the
18 professional person in charge with the passport satisfies this
19 requirement. The department has a continuing obligation to obtain any

1 missing records and to provide the records to the professional person
2 in charge.

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

5 For a minor under eighteen years of age in the custody of the
6 department, the treating physician shall contact the department within
7 twenty-four hours of first providing treatment. The department shall
8 immediately provide the treating physician with all known and available
9 information concerning the mental, physical, and health status of the
10 child accompanied by a signed statement by the appropriate department
11 employee verifying that all medical records in the department's
12 possession have been provided and identifying the steps taken to ensure
13 the records are complete. If the department has a current passport
14 under RCW 74.13.285, providing the treating physician with the passport
15 satisfies this requirement. The department has a continuing obligation
16 to obtain any missing records and to provide the records to the
17 treating physician.

18 **Sec. 3.** RCW 71.05.150 and 1998 c 297 s 8 are each amended to read
19 as follows:

20 (1)(a) When a county designated mental health professional receives
21 information alleging that a person, as a result of a mental disorder:
22 (i) Presents a likelihood of serious harm; or (ii) is gravely disabled;
23 the county designated mental health professional may, after
24 investigation and evaluation of the specific facts alleged and of the
25 reliability and credibility of any person providing information to
26 initiate detention, if satisfied that the allegations are true and that
27 the person will not voluntarily seek appropriate treatment, file a
28 petition for initial detention. Before filing the petition, the county
29 designated mental health professional must personally interview the
30 person, unless the person refuses an interview, and determine whether
31 the person will voluntarily receive appropriate evaluation and
32 treatment at an evaluation and treatment facility.

33 (b) Whenever it appears, by petition for initial detention, to the
34 satisfaction of a judge of the superior court that a person presents,
35 as a result of a mental disorder, a likelihood of serious harm, or is
36 gravely disabled, and that the person has refused or failed to accept
37 appropriate evaluation and treatment voluntarily, the judge may issue

1 an order requiring the person to appear within twenty-four hours after
2 service of the order at a designated evaluation and treatment facility
3 for not more than a seventy-two hour evaluation and treatment period.
4 The order shall state the address of the evaluation and treatment
5 facility to which the person is to report and whether the required
6 seventy-two hour evaluation and treatment services may be delivered on
7 an outpatient or inpatient basis and that if the person named in the
8 order fails to appear at the evaluation and treatment facility at or
9 before the date and time stated in the order, such person may be
10 involuntarily taken into custody for evaluation and treatment. The
11 order shall also designate retained counsel or, if counsel is appointed
12 from a list provided by the court, the name, business address, and
13 telephone number of the attorney appointed to represent the person.

14 (c) The county designated mental health professional shall then
15 serve or cause to be served on such person, his or her guardian, and
16 conservator, if any, a copy of the order to appear together with a
17 notice of rights and a petition for initial detention. For a minor
18 under eighteen years of age in the custody of the department, the
19 biological parents shall also be given a copy of the order, notice, and
20 petition unless the parent-child relationship has been terminated
21 pursuant to court order, there is reasonable cause to believe that the
22 safety or welfare of the child would be jeopardized, or there is
23 reasonable cause to believe that efforts to reunite the parent and
24 child or the permanent plan of care would be hindered. After service
25 on such person the county designated mental health professional shall
26 file the return of service in court and provide copies of all papers in
27 the court file to the evaluation and treatment facility and the
28 designated attorney. The county designated mental health professional
29 shall notify the court and the prosecuting attorney that a probable
30 cause hearing will be held within seventy-two hours of the date and
31 time of outpatient evaluation or admission to the evaluation and
32 treatment facility. The person shall be permitted to remain in his or
33 her home or other place of his or her choosing prior to the time of
34 evaluation and shall be permitted to be accompanied by one or more of
35 his or her relatives, friends, an attorney, a personal physician, or
36 other professional or religious advisor to the place of evaluation. An
37 attorney accompanying the person to the place of evaluation shall be
38 permitted to be present during the admission evaluation. Any other
39 individual accompanying the person may be present during the admission

1 evaluation. The facility may exclude the individual if his or her
2 presence would present a safety risk, delay the proceedings, or
3 otherwise interfere with the evaluation.

4 (d) If the person ordered to appear does appear on or before the
5 date and time specified, the evaluation and treatment facility may
6 admit such person as required by RCW 71.05.170 or may provide treatment
7 on an outpatient basis. If the person ordered to appear fails to
8 appear on or before the date and time specified, the evaluation and
9 treatment facility shall immediately notify the county designated
10 mental health professional who may notify a peace officer to take such
11 person or cause such person to be taken into custody and placed in an
12 evaluation and treatment facility. Should the county designated mental
13 health professional notify a peace officer authorizing him or her to
14 take a person into custody under the provisions of this subsection, he
15 or she shall file with the court a copy of such authorization and a
16 notice of detention. At the time such person is taken into custody
17 there shall commence to be served on such person, his or her guardian,
18 and conservator, if any, a copy of the original order together with a
19 notice of detention, a notice of rights, and a petition for initial
20 detention.

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

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

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

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

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

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

13 (6) If a minor under eighteen years of age cannot or will not
14 disclose the identity of his or her guardian, foster parent, or legal
15 custodian, the county designated mental health professional shall
16 notify the missing children clearinghouse.

17 **Sec. 4.** RCW 71.05.200 and 1998 c 297 s 11 are each amended to read
18 as follows:

19 (1) Whenever any person is detained for evaluation and treatment
20 pursuant to this chapter, both the person and, if possible, a
21 responsible member of his or her immediate family, guardian, or
22 conservator, if any, shall be advised as soon as possible in writing or
23 orally, by the officer or person taking him or her into custody or by
24 personnel of the evaluation and treatment facility where the person is
25 detained that unless the person is released or voluntarily admits
26 himself or herself for treatment within seventy-two hours of the
27 initial detention:

28 (a) That a judicial hearing in a superior court, either by a judge
29 or court commissioner thereof, shall be held not more than seventy-two
30 hours after the initial detention to determine whether there is
31 probable cause to detain the person after the seventy-two hours have
32 expired for up to an additional fourteen days without further automatic
33 hearing for the reason that the person is a mentally ill person whose
34 mental disorder presents a likelihood of serious harm or that the
35 person is gravely disabled;

36 (b) That the person has a right to communicate immediately with an
37 attorney; has a right to have an attorney appointed to represent him or
38 her before and at the probable cause hearing if he or she is indigent;

1 and has the right to be told the name and address of the attorney the
2 mental health professional has designated pursuant to this chapter;

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

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

8 (e) That the person has the right to refuse psychiatric
9 medications, including antipsychotic medication beginning twenty-four
10 hours prior to the probable cause hearing.

11 (2) For a minor under eighteen years of age in the custody of the
12 department, the biological parents shall also be advised pursuant to
13 subsection (1) of this section unless the parent-child relationship has
14 been terminated pursuant to court order, there is reasonable cause to
15 believe that the safety or welfare of the child would be jeopardized,
16 or there is reasonable cause to believe that efforts to reunite the
17 parent and child or the permanent plan of care would be hindered.

18 (3) When proceedings are initiated under RCW 71.05.150 (2), (3), or
19 (4)(b), no later than twelve hours after such person is admitted to the
20 evaluation and treatment facility the personnel of the evaluation and
21 treatment facility or the county designated mental health professional
22 shall serve on such person a copy of the petition for initial detention
23 and the name, business address, and phone number of the designated
24 attorney and shall forthwith commence service of a copy of the petition
25 for initial detention on the designated attorney.

26 ((+3)) (4) The judicial hearing described in subsection (1) of
27 this section is hereby authorized, and shall be held according to the
28 provisions of subsection (1) of this section and rules promulgated by
29 the supreme court.

30 NEW SECTION. Sec. 5. A new section is added to chapter 71.34 RCW
31 to read as follows:

32 The department shall not place a child who is in the custody of the
33 department under chapter 13.34 or 26.44 RCW in any facility not located
34 within the borders of the state if that facility is out of compliance
35 with medicaid rules, regulations, and guidelines or its state's
36 licensing or health and safety regulations, or the facility owes the
37 federal government, state government, or any other entity financial

1 penalties related to noncompliance with federal medicaid rules, or
2 state licensing or health and safety regulations.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 71.34 RCW
4 to read as follows:

5 The department shall not place a child who is in the custody of the
6 department under chapter 13.34 or 26.44 RCW in any facility, including
7 but not limited to a mental health or medical facility, not located
8 within the borders of the state unless there are medical orders signed
9 by a physician in the child case record and the department has
10 reasonable cause to believe and confirms in writing in the child's case
11 record that in-state facilities or services were considered and that
12 there is no facility or service available in the state that would meet
13 the child's treatment needs. The child case record shall contain all
14 available information to ensure that placement is consistent with the
15 goals of the child's permanency plan and appropriate services have been
16 offered in closest proximity to the child's family resources. This
17 documentation shall be included in the child's case record.

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