

# SENATE BILL REPORT

## SB 5531

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As of February 15, 2011

**Title:** An act relating to the judicial costs of commitments for involuntary mental health treatment.

**Brief Description:** Reimbursing counties for providing judicial services involving mental health commitments.

**Sponsors:** Senators King, Prentice, Keiser and Shin.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/10/11.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** A person may be detained for involuntary commitment if a designated mental health professional finds, following investigation, that due to a mental disorder the person presents a likelihood of serious harm or is gravely disabled. Detention for longer than a 72-hour period requires court review and the detained individual is afforded an array of due process protections including the right to counsel, confrontation of witnesses, and a jury trial under certain circumstances.

Detention for civil commitment occurs at an evaluation and treatment facility (E&T). Twelve counties in Washington have E&Ts. These E&Ts are found in nine of the 13 Regional Support Networks (RSNs). Because E&T resources are not spread evenly across the state, counties which have E&Ts frequently serve patients who were detained outside of the county and RSN where the E&T is located. An estimated 38 percent of all civil commitment cases filed in 2009 were filed outside the RSN where the patient was originally detained.

An RSN currently reimburses counties for the judicial costs of civil commitment in two ways. First, the RSN pays a filing fee of \$230 of which 54 percent is retained by the county and 46 percent is transmitted to the state. Second, many RSNs pay direct reimbursement fees to the counties which host civil commitment hearings. All reimbursement funds are paid using non-Medicaid funding. In revenue and expenditure reports filed with the Department of Social and Health Services (DSHS), the RSNs reported spending \$4.3 million on judicial

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costs in fiscal year 2009 and \$6.5 million in fiscal year 2010. A survey distributed to counties in 2010 suggests that the actual cost of providing judicial services in civil commitment cases was an estimated \$6.6 million in calendar year 2009.

**Summary of Bill:** A county may apply to DSHS for reimbursement of its cost in providing judicial services. DSHS must provide reimbursement for each commitment case at a rate to be determined based on an average of expenditures within the county over the past three years. The reimbursement must be provided out of money withheld from the annual RSN appropriation. Any withheld funds not used for reimbursement must be distributed to the RSNs. The RSNs are prohibited from paying reimbursements for county judicial services out of funds that have been distributed. No filing fee may be charged for civil commitment cases subject to reimbursement under this act. A county may apply at reasonable intervals for an increase in the rate of reimbursement based on a change in its actual cost in delivering services.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on July 1, 2012.

**Staff Summary of Public Testimony:** PRO: This bill tries to provide uniformity and consistency in the payment of judicial costs in the most fair and equitable manner possible. We don't require all counties to have the same costs, but DSHS would determine whether the costs are reasonable. Addressing the costs may give us a chance to focus on the fact that there is not enough money in this system to address the needs we have as a state. We appreciate the collaborative process by which this bill was developed. King County prosecuted 485 out-of-county civil commitment cases in 2010, the impact of which takes about \$1 million away from funds available for treatment in the county. An entity who wants to develop more treatment beds should not have to worry about creating collateral impacts on the justice system. We are concerned about the scarcity of state treatment dollars.

CON: Small rural counties have concerns about this bill. There just isn't enough money. These counties are struggling to provide basic services and will find it even harder if they lose money to pay judicial costs.

OTHER: Providers in some counties appreciate this, while others who have not been contributing as much see they will lose money. We see a trend where costs increase while the available treatment dollars go down. There should be a lid to prevent costs from increasing beyond their current level. If counties can pass along their costs, they will not have an incentive to keep the costs down. We worry about how the billing system would work. There may be a conflict with another statute.

**Persons Testifying:** PRO: Senator King, prime sponsor; Mike DeFelice, The Defender Association; Ethan Rogers, King County Prosecuting Attorney's Office; Ken Roughton, Greater Columbia Mental Health; Amnon Shoenfeld, King County.

CON: Jim Potts, Rural Counties.

OTHER: Gregory Robinson, Community Mental Health Council; Mike Burgess, Spokane County.