
SUBSTITUTE SENATE BILL 5531

State of Washington

62nd Legislature

2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators King, Prentice, Keiser, and Shin)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to the judicial costs of commitments for
2 involuntary mental health treatment; amending RCW 71.05.110, 71.24.160,
3 71.24.300, and 71.34.300; reenacting and amending RCW 71.05.230; adding
4 a new section to chapter 71.05 RCW; creating new sections; and
5 providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that counties
8 which host evaluation and treatment beds incur costs by providing
9 judicial services associated with civil commitments under chapters
10 71.05 and 71.34 RCW. Because evaluation and treatment beds are not
11 evenly distributed across the state, these commitments frequently occur
12 in a different county from the county in which the person was
13 originally detained. The intent of this act is to create a process for
14 the state to reimburse counties for their reasonable costs incurred in
15 providing these judicial services, and to prevent the burden of these
16 costs from falling disproportionately on the counties or regional
17 support networks in which the commitments are most likely to occur.
18 The legislature recognizes that the cost of judicial services may vary
19 across the state based on different factors and conditions.

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

3 (1) A county may apply to the department for reimbursement of its
4 cost in providing judicial services under this section.

5 (2) The department shall reimburse each county for its cost per
6 commitment case at a rate to be determined based on an average of the
7 expenditures for judicial services within the county over the past
8 three years. In the event that a baseline cannot be established
9 because there is no significant history of similar cases within the
10 county, the department shall approve a reasonable rate comparable to
11 the average costs incurred in similar counties. For the purposes of
12 this section, a case includes all judicial hearings related to a single
13 episode of hospitalization, or less restrictive alternative detention
14 in lieu of hospitalization, except that the filing of a petition for a
15 one hundred eighty-day commitment under this chapter or a petition for
16 a successive one hundred eighty-day commitment under chapter 71.34 RCW
17 shall be considered to be a new case regardless of whether there has
18 been a break in detention. A county may apply at reasonable intervals
19 for an increase in its rate of reimbursement based on a change in its
20 actual cost in delivering services.

21 (3) The department shall pay for reimbursements under this section
22 out of funds withheld from the annual appropriation to the regional
23 support networks. Any funds withheld under this subsection that are
24 not used for reimbursement must be distributed to the regional support
25 networks. Funds which are distributed to regional support networks by
26 the department shall not be used to reimburse counties for the cost of
27 judicial services.

28 (4) As used in this section, "judicial services" refers to a
29 county's reasonable cost in providing prosecution services, assigned
30 counsel and defense services, court services, and court clerk services
31 for civil commitment cases under chapters 71.05 and 71.34 RCW. To the
32 extent that resources have shared purpose, the state may only reimburse
33 counties to the extent such resources are necessary for and devoted to
34 judicial services as described in this section.

35 (5) No filing fee shall be charged or collected for any civil
36 commitment case subject to reimbursement under this section.

1 **Sec. 3.** RCW 71.05.110 and 1997 c 112 s 7 are each amended to read
2 as follows:

3 (~~Attorneys appointed for persons pursuant to this chapter shall be~~
4 ~~compensated for their services as follows:—(1))~~) The person for whom
5 an attorney is appointed under this chapter shall, if he or she is
6 financially able pursuant to standards as to financial capability and
7 indigency set by the superior court of the county in which the
8 proceeding is held, bear the costs of such legal services(~~(;—(2)—if~~
9 ~~such person is indigent pursuant to such standards, the costs of such~~
10 ~~services shall be borne by the county in which the proceeding is held,~~
11 ~~subject however to the responsibility for costs provided in RCW~~
12 ~~71.05.320(2))~~).

13 **Sec. 4.** RCW 71.05.230 and 2009 c 293 s 3 and 2009 c 217 s 2 are
14 each reenacted and amended to read as follows:

15 A person detained for seventy-two hour evaluation and treatment may
16 be detained for not more than fourteen additional days of involuntary
17 intensive treatment or ninety additional days of a less restrictive
18 alternative to involuntary intensive treatment. (~~There shall be no~~
19 ~~fee for filing petitions for fourteen days of involuntary intensive~~
20 ~~treatment.~~) A petition may only be filed if the following conditions
21 are met:

22 (1) The professional staff of the agency or facility providing
23 evaluation services has analyzed the person's condition and finds that
24 the condition is caused by mental disorder and either results in a
25 likelihood of serious harm, or results in the detained person being
26 gravely disabled and are prepared to testify those conditions are met;
27 and

28 (2) The person has been advised of the need for voluntary treatment
29 and the professional staff of the facility has evidence that he or she
30 has not in good faith volunteered; and

31 (3) The facility providing intensive treatment is certified to
32 provide such treatment by the department; and

33 (4) The professional staff of the agency or facility or the
34 designated mental health professional has filed a petition for fourteen
35 day involuntary detention or a ninety day less restrictive alternative
36 with the court. The petition must be signed either by:

37 (a) Two physicians;

1 (b) One physician and a mental health professional;
2 (c) Two psychiatric advanced registered nurse practitioners;
3 (d) One psychiatric advanced registered nurse practitioner and a
4 mental health professional; or

5 (e) A physician and a psychiatric advanced registered nurse
6 practitioner. The persons signing the petition must have examined the
7 person. If involuntary detention is sought the petition shall state
8 facts that support the finding that such person, as a result of mental
9 disorder, presents a likelihood of serious harm, or is gravely disabled
10 and that there are no less restrictive alternatives to detention in the
11 best interest of such person or others. The petition shall state
12 specifically that less restrictive alternative treatment was considered
13 and specify why treatment less restrictive than detention is not
14 appropriate. If an involuntary less restrictive alternative is sought,
15 the petition shall state facts that support the finding that such
16 person, as a result of mental disorder, presents a likelihood of
17 serious harm, or is gravely disabled and shall set forth the less
18 restrictive alternative proposed by the facility; and

19 (5) A copy of the petition has been served on the detained person,
20 his or her attorney and his or her guardian or conservator, if any,
21 prior to the probable cause hearing; and

22 (6) The court at the time the petition was filed and before the
23 probable cause hearing has appointed counsel to represent such person
24 if no other counsel has appeared; and

25 (7) The petition reflects that the person was informed of the loss
26 of firearm rights if involuntarily committed; and

27 (8) At the conclusion of the initial commitment period, the
28 professional staff of the agency or facility or the designated mental
29 health professional may petition for an additional period of either
30 ninety days of less restrictive alternative treatment or ninety days of
31 involuntary intensive treatment as provided in RCW 71.05.290; and

32 (9) If the hospital or facility designated to provide outpatient
33 treatment is other than the facility providing involuntary treatment,
34 the outpatient facility so designated has agreed to assume such
35 responsibility.

36 **Sec. 5.** RCW 71.24.160 and 2001 c 323 s 15 are each amended to read
37 as follows:

1 The regional support networks shall make satisfactory showing to
2 the secretary that state funds shall in no case be used to replace
3 local funds from any source being used to finance mental health
4 services prior to January 1, 1990. Maintenance of effort funds devoted
5 to judicial services related to involuntary commitment reimbursed under
6 section 2 of this act must be expended for other purposes that further
7 treatment for mental health and chemical dependency disorders.

8 **Sec. 6.** RCW 71.24.300 and 2008 c 261 s 4 are each amended to read
9 as follows:

10 (1) Upon the request of a tribal authority or authorities within a
11 regional support network the joint operating agreement or the county
12 authority shall allow for the inclusion of the tribal authority to be
13 represented as a party to the regional support network.

14 (2) The roles and responsibilities of the county and tribal
15 authorities shall be determined by the terms of that agreement
16 including a determination of membership on the governing board and
17 advisory committees, the number of tribal representatives to be party
18 to the agreement, and the provisions of law and shall assure the
19 provision of culturally competent services to the tribes served.

20 (3) The state mental health authority may not determine the roles
21 and responsibilities of county authorities as to each other under
22 regional support networks by rule, except to assure that all duties
23 required of regional support networks are assigned and that counties
24 and the regional support network do not duplicate functions and that a
25 single authority has final responsibility for all available resources
26 and performance under the regional support network's contract with the
27 secretary.

28 (4) If a regional support network is a private entity, the
29 department shall allow for the inclusion of the tribal authority to be
30 represented as a party to the regional support network.

31 (5) The roles and responsibilities of the private entity and the
32 tribal authorities shall be determined by the department, through
33 negotiation with the tribal authority.

34 (6) Regional support networks shall submit an overall six-year
35 operating and capital plan, timeline, and budget and submit progress
36 reports and an updated two-year plan biennially thereafter, to assume
37 within available resources all of the following duties:

1 (a) Administer and provide for the availability of all resource
2 management services, residential services, and community support
3 services.

4 (b) Administer and provide for the availability of all
5 investigation, transportation, (~~court-related,~~) and other services
6 provided by the state or counties pursuant to chapter 71.05 RCW.

7 (c) Provide within the boundaries of each regional support network
8 evaluation and treatment services for at least ninety percent of
9 persons detained or committed for periods up to seventeen days
10 according to chapter 71.05 RCW. Regional support networks may contract
11 to purchase evaluation and treatment services from other networks if
12 they are unable to provide for appropriate resources within their
13 boundaries. Insofar as the original intent of serving persons in the
14 community is maintained, the secretary is authorized to approve
15 exceptions on a case-by-case basis to the requirement to provide
16 evaluation and treatment services within the boundaries of each
17 regional support network. Such exceptions are limited to:

18 (i) Contracts with neighboring or contiguous regions; or

19 (ii) Individuals detained or committed for periods up to seventeen
20 days at the state hospitals at the discretion of the secretary.

21 (d) Administer and provide for the availability of all other mental
22 health services, which shall include patient counseling, day treatment,
23 consultation, education services, employment services as defined in RCW
24 71.24.035, and mental health services to children.

25 (e) Establish standards and procedures for reviewing individual
26 service plans and determining when that person may be discharged from
27 resource management services.

28 (7) A regional support network may request that any state-owned
29 land, building, facility, or other capital asset which was ever
30 purchased, deeded, given, or placed in trust for the care of the
31 persons with mental illness and which is within the boundaries of a
32 regional support network be made available to support the operations of
33 the regional support network. State agencies managing such capital
34 assets shall give first priority to requests for their use pursuant to
35 this chapter.

36 (8) Each regional support network shall appoint a mental health
37 advisory board which shall review and provide comments on plans and
38 policies developed under this chapter, provide local oversight

1 regarding the activities of the regional support network, and work with
2 the regional support network to resolve significant concerns regarding
3 service delivery and outcomes. The department shall establish
4 statewide procedures for the operation of regional advisory committees
5 including mechanisms for advisory board feedback to the department
6 regarding regional support network performance. The composition of the
7 board shall be broadly representative of the demographic character of
8 the region and shall include, but not be limited to, representatives of
9 consumers and families, law enforcement, and where the county is not
10 the regional support network, county elected officials. Composition
11 and length of terms of board members may differ between regional
12 support networks but shall be included in each regional support
13 network's contract and approved by the secretary.

14 (9) Regional support networks shall assume all duties specified in
15 their plans and joint operating agreements through biennial contractual
16 agreements with the secretary.

17 (10) Regional support networks may receive technical assistance
18 from the housing trust fund and may identify and submit projects for
19 housing and housing support services to the housing trust fund
20 established under chapter 43.185 RCW. Projects identified or submitted
21 under this subsection must be fully integrated with the regional
22 support network six-year operating and capital plan, timeline, and
23 budget required by subsection (6) of this section.

24 **Sec. 7.** RCW 71.34.300 and 1985 c 354 s 14 are each amended to read
25 as follows:

26 (1) The county or combination of counties is responsible for
27 development and coordination of the evaluation and treatment program
28 for minors, for incorporating the program into the county mental health
29 plan, and for coordination of evaluation and treatment services and
30 resources with the community mental health program required under
31 chapter 71.24 RCW.

32 (2) The county shall be responsible for maintaining its support of
33 involuntary treatment services for minors at its 1984 level, adjusted
34 for inflation, with the department responsible for additional costs to
35 the county resulting from this chapter. Maintenance of effort funds
36 devoted to judicial services related to involuntary commitment

1 reimbursed under section 2 of this act must be expended for other
2 purposes that further treatment for mental health and chemical
3 dependency disorders.

4 NEW SECTION. Sec. 8. The department of social and health services
5 shall establish rules and standards for the implementation of this act
6 in consultation with affected parties.

7 NEW SECTION. Sec. 9. This act takes effect July 1, 2012.

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