
SENATE BILL 5456

State of Washington

63rd Legislature

2013 Regular Session

By Senators Schlicher, Becker, Keiser, Bailey, Frockt, Cleveland, Hargrove, Darneille, and McAuliffe

Read first time 01/31/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to detentions under the involuntary treatment act;
2 amending RCW 71.05.040 and 71.05.150; and adding a new section to
3 chapter 71.05 RCW.

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

5 **Sec. 1.** RCW 71.05.040 and 2004 c 166 s 2 are each amended to read
6 as follows:

7 (1) Persons ((~~who are developmentally disabled~~)) with developmental
8 disabilities, impaired by chronic alcoholism or drug abuse, or
9 suffering from dementia shall not be detained for evaluation and
10 treatment or judicially committed solely by reason of that condition
11 unless such condition causes a person to be gravely disabled or as a
12 result of a mental disorder such condition exists that constitutes a
13 likelihood of serious harm: Provided however, That persons ((~~who are~~
14 ~~developmentally disabled~~)) with developmental disabilities, impaired by
15 chronic alcoholism or drug abuse, or suffering from dementia and who
16 otherwise meet the criteria for detention or judicial commitment are
17 not ineligible for detention or commitment based on this condition
18 alone.

1 (2) The fact that a mental disorder within the definition of RCW
2 71.05.020 is caused by an underlying medical condition does not provide
3 a reason to withhold detention under this chapter.

4 **Sec. 2.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to read
5 as follows:

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

19 (2) A decision by a designated mental health professional not to
20 detain a person may be overridden by the affidavit of two examining
21 physicians, or one examining physician and one mental health
22 professional. The designated mental health professional must submit
23 the affidavits to a judge of the superior court as provided in
24 subsection (3) of this section for a review of legal sufficiency and
25 probable cause to support a petition for initial detention. If the
26 affidavits pass legal review, the designated mental health professional
27 shall complete the petition and process it to completion as provided in
28 this section.

29 (3)(a) An order to detain to a designated evaluation and treatment
30 facility for not more than a seventy-two-hour evaluation and treatment
31 period (~~may~~) must be issued by a judge of the superior court upon
32 request of a designated mental health professional, whenever it appears
33 to the satisfaction of a judge of the superior court:

34 (i) That there is probable cause to support the petition; and
35 (ii) That the person has refused or failed to accept appropriate
36 evaluation and treatment voluntarily.

1 (b) The petition for initial detention, signed under penalty of
2 perjury, or sworn telephonic testimony may be considered by the court
3 in determining whether there are sufficient grounds for issuing the
4 order.

5 (c) The order shall designate retained counsel or, if counsel is
6 appointed from a list provided by the court, the name, business
7 address, and telephone number of the attorney appointed to represent
8 the person.

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

29 ((+4)) (5) The designated mental health professional may notify a
30 peace officer to take such person or cause such person to be taken into
31 custody and placed in an evaluation and treatment facility. At the
32 time such person is taken into custody there shall commence to be
33 served on such person, his or her guardian, and conservator, if any, a
34 copy of the original order together with a notice of rights and a
35 petition for initial detention.

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

1 A designated mental health professional who conducts an evaluation
2 for imminent likelihood of serious harm or imminent danger because of
3 being gravely disabled under RCW 71.05.153 must also evaluate the
4 person under RCW 71.05.150 for likelihood of serious harm or grave
5 disability that does not meet the imminent standard for emergency
6 detention.

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