

2SSB 5269 - S AMD 97

By Senators O'Ban, Darneille

ADOPTED 3/4/2015

1 Strike everything after the enacting clause and insert the  
2 following:

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

5 (1) An immediate family member, guardian, or conservator of a  
6 person may petition superior court for review of a designated mental  
7 health professional's decision not to (a) detain a person for  
8 evaluation and treatment under RCW 71.05.150 or 71.05.153; or (b)  
9 take action within forty-eight hours of a request for investigation  
10 being submitted to the designated mental health professional.

11 (2) The petition must be accompanied by a sworn declaration from  
12 the petitioner, and other witnesses if desired including a  
13 declaration from a mental health professional, describing why the  
14 person should be detained for evaluation and treatment. The petition  
15 must be submitted on forms developed by the courts for this purpose.  
16 The petition must contain the following information:

17 (a) A description of the relationship between the petitioner and  
18 the person;

19 (b) The date on which an investigation was requested from the  
20 designated mental health professional; and

21 (c) An optional declaration from a mental health professional  
22 familiar with the person who is the subject of the petition  
23 describing the declarant's qualifications and offering a professional  
24 opinion in support of initial detention with reference to legal  
25 criteria under this chapter.

26 (3) Following the filing of the petition and before the court's  
27 decision, any person may submit a declaration to the court in support  
28 of or in opposition to initial detention.

29 (4) The court shall review the petition to determine whether the  
30 petition raises sufficient evidence to support the allegation. If the  
31 court so finds, it shall provide a copy of the petition and  
32 accompanying information to the designated mental health professional  
33 agency with an order for the agency to provide the court and the

1 petitioner with a written sworn statement providing a detailed  
2 description of the designated mental health professional's  
3 investigation and the basis for the decision not to seek initial  
4 detention within one business day. The court must issue a final  
5 ruling on the petition within five business days after it is filed.  
6 The court shall dismiss the petition at any time if it finds that the  
7 person has been detained for evaluation and treatment or that the  
8 person has voluntarily accepted appropriate treatment.

9 (5) If, after reviewing all the information provided to the  
10 court, the court finds that: (a) There is probable cause to support a  
11 petition for detention; and (b) the person has refused or failed to  
12 accept appropriate evaluation and treatment voluntarily; the court  
13 may enter an order for initial detention.

14 (6) If the court enters an order for initial detention, it shall  
15 provide the order to the designated mental health professional  
16 agency, which shall execute the order without delay. The designated  
17 mental health professional may notify a peace officer to take the  
18 person or cause the person to be taken into custody and placed in an  
19 evaluation and treatment facility. At the time the person is taken  
20 into custody there must commence to be served on the person, his or  
21 her guardian, and conservator, if any, a copy of the original order  
22 together with a notice of rights and a petition for initial  
23 detention. Subsequent procedure must be followed as if the person had  
24 been detained under RCW 71.05.150. An order for initial detention  
25 under this section must expire within one hundred eighty days.

26 (7) All filings and records relating to a petition under this  
27 section must be held by the court under seal with no public access.  
28 The court shall transmit its final decision to the petitioner when it  
29 is made.

30 (8) For purposes of this section, "immediate family member" means  
31 a spouse, domestic partner, child, stepchild, parent, stepparent,  
32 grandparent, or sibling.

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

35 (1) The department and each regional support network or agency  
36 employing designated mental health professionals shall publish  
37 information in an easily accessible format describing the process for  
38 an immediate family member, guardian, or conservator to petition for  
39 court review of a detention decision under section 1 of this act.

1 (2) A designated mental health professional or designated mental  
2 health professional agency that receives a request for investigation  
3 for possible detention under this chapter must inquire whether the  
4 request comes from an immediate family member, guardian, or  
5 conservator who would be eligible to petition under section 1 of this  
6 act. If the person is not detained within forty-eight hours, the  
7 designated mental health professional or designated mental health  
8 professional agency must inform the immediate family member,  
9 guardian, or conservator about the process to petition for court  
10 review under section 1 of this act.

11 **Sec. 3.** RCW 71.05.130 and 1998 c 297 s 7 are each amended to  
12 read as follows:

13 In any judicial proceeding for involuntary commitment or  
14 detention except under section 1 of this act, or in any proceeding  
15 challenging such commitment or detention, the prosecuting attorney  
16 for the county in which the proceeding was initiated shall represent  
17 the individuals or agencies petitioning for commitment or detention  
18 and shall defend all challenges to such commitment or detention(~~(-~~  
19 ~~PROVIDED~~)), except that the attorney general shall represent and  
20 provide legal services and advice to state hospitals or institutions  
21 with regard to all provisions of and proceedings under this chapter  
22 (~~(except in)~~) other than proceedings initiated by such hospitals and  
23 institutions seeking fourteen day detention.

24 **Sec. 4.** RCW 71.05.160 and 2007 c 375 s 13 are each amended to  
25 read as follows:

26 Any facility receiving a person pursuant to RCW 71.05.150 or  
27 71.05.153 shall require the designated mental health professional to  
28 prepare a petition for initial detention stating the circumstances  
29 under which the person's condition was made known and stating that  
30 there is evidence, as a result of his or her personal observation or  
31 investigation, that the actions of the person for which application  
32 is made constitute a likelihood of serious harm, or that he or she is  
33 gravely disabled, and stating the specific facts known to him or her  
34 as a result of his or her personal observation or investigation, upon  
35 which he or she bases the belief that such person should be detained  
36 for the purposes and under the authority of this chapter. If the  
37 detention was ordered pursuant to section 1 of this act, the  
38 designated mental health professional shall prepare a petition

1 attaching the court's order for initial detention and a copy of the  
2 information submitted by the petitioner and designated mental health  
3 professional to the court, and otherwise follow normal procedures as  
4 if the person were detained under RCW 71.05.150.

5 If a person is involuntarily placed in an evaluation and  
6 treatment facility pursuant to RCW 71.05.150 ~~((or))~~, 71.05.153, or  
7 section 1 of this act, on the next judicial day following the initial  
8 detention, the designated mental health professional shall file with  
9 the court and serve the designated attorney of the detained person  
10 the petition or supplemental petition for initial detention, proof of  
11 service of notice, and a copy of a notice of emergency detention.

12 NEW SECTION. Sec. 5. If specific funding for the purposes of  
13 this act, referencing this act by bill or chapter number, is not  
14 provided by June 30, 2015, in the omnibus appropriations act, this  
15 act is null and void.

16 NEW SECTION. Sec. 6. This act may be known and cited as Joel's  
17 law."

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18 On page 1, line 2 of the title, after "act;" strike the remainder  
19 of the title and insert "amending RCW 71.05.130 and 71.05.160; adding  
20 new sections to chapter 71.05 RCW; and creating new sections."

EFFECT: The act may be known and cited as Joel's Law. After the  
petition is filed and before the court's decision, any person,  
instead of just an immediate family member, may submit a declaration  
in support of or in opposition to initial detention. If the court  
orders initial detention, the order must expire in 180 days, instead  
of 60 days. The court must transmit its final decision to the  
petitioner when it is made.

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