

FINAL BILL REPORT

SSB 5593

C 267 L 15
Synopsis as Enacted

Brief Description: Concerning delivery and payment for health care services by hospitals for inmates and persons detained by law enforcement.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dammeier, Padden, Cleveland, O'Ban, Pedersen, Becker and Kohl-Welles).

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Judiciary

Background: Washington law currently does not require law enforcement to secure or accompany a hospital patient who is in custody for a violent or sexual crime. When a violent suspect or convict is in the hospital, there is a risk of injury to other hospital patients and hospital staff.

Hospitals are defined in RCW 70.41.020 to mean an institution, place, building, or agency which provides accommodations, facilities, and services over a continuous period of 24 hours or more for observation, medical care, and diagnosis. Hospitals treat illness, injury, deformity, abnormality, or any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. Hospitals, as defined, exclude other places including clinics, physician's offices, nursing homes, birthing centers, or institutions specifically intended for use in the diagnosis and care of mental illness, intellectual disability, convulsive disorders, or other abnormal mental conditions. Hospital policy may address safety considerations for patients and staff, and that policy may vary according to institution, facility structure, and circumstances.

Summary: Any individual who is brought to a hospital to receive care and who is in custody for a violent offense or sex offense must be accompanied or otherwise secured by the officer during the time that the individual is receiving care at the hospital. An exception is provided for individuals being supervised by the Department of Corrections in the community if the custody is solely the result of a sanction for violation of conditions. In addition it is clarified that all current statutes regulating restraints' use for pregnant women and youth in custody remain unchanged.

An individual receiving medical care does not need to be accompanied or otherwise secured if:

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1. the individual's medical care provider so indicates; or
2. the officer determines, using the officer's best judgment, that:
 - a. the individual does not present an imminent and significant risk of causing physical harm to themselves or another person;
 - b. there is no longer sufficient evidentiary basis to maintain the individual in custody; or
 - c. in the interest of public safety, the presence of the officer is urgently required at another location and the officer determines, using the officer's best judgment and in consultation with the officer's supervisor, if available on duty, that the public safety interest outweighs the need to accompany or secure the individual in the hospital.

If the medical care provider determines the individual does not need to be accompanied or otherwise secured, the officer has no ongoing duty to accompany or otherwise secure the individual for the duration of their treatment by the hospital. In that circumstance, the hospital must notify the officer when the individual is expected to be released by the hospital. Even after indicating that an individual need not be accompanied or otherwise secured, the hospital may request the presence of an officer if the individual demonstrates behavior that presents an imminent and significant risk of causing physical harm to themselves or others.

If the officer determines the individual need not be accompanied or otherwise secured, the officer must notify the medical care provider that the officer is leaving the individual unattended or unsecured. In that case, the hospital has no duty to notify the officer when the individual is, or is expected to be, released from the hospital.

Additionally if the officer determines that the individual need not be accompanied or otherwise secured, the officer must notify the medical care provider that the individual is unattended or unsecured. If immediate departure by the officer is required, the officer must notify the medical care provider or other hospital staff that the individual is unattended or unsecured and the officer must make a reasonable effort to ensure a replacement officer or other means of accompanying or securing the individual as soon as reasonably possible under the circumstances. The hospital must notify the officer or the officer's designee if the individual is, or is expected to be, released from the hospital prior to the officer, or a replacement officer, returning to resume accompanying or otherwise securing the individual.

Immunity from Civil Liability. Except for actions or omissions constituting gross negligence or willful misconduct, the hospital and health care providers are immune from liability, including civil liability, professional conduct sanctions, and administrative actions resulting from the individual not being accompanied or secured.

Law enforcement officers, corrections officers, guards supplied by a law enforcement or corrections agency, and their employing departments, agencies, and representatives are immune from civil liability arising out of the failure to comply with this act, unless it is shown that, in the totality of the circumstances, the officer or agency acted with gross negligence or bad faith.

Medical Payments. A payment rate structure is created for hospital services provided to patients who are the financial responsibility of the law enforcement entity. Unless other rates are agreed to by the governing unit and the hospital, the hospital must accept as payment in full by the governing units the applicable facility's percent of allowed charges rate or fee

schedule as determined, maintained, and posted by the Washington State Department of Labor and Industries. These payments are for inpatient, outpatient, and ancillary services for confined persons that are not already paid by the Medicaid Program.

When an inmate is screened during booking or in preparation for entering jail, general information concerning the inmate's ability to pay for medical care must be identified, including insurance or other medical benefits or resources to which an inmate is entitled. The inmate may also be evaluated for Medicaid eligibility and, if deemed potentially eligible, enrolled in Medicaid. This information may be made available to the authority, the governing unit, and any provider of health services. To the extent that federal law allows, a jail or jail's designee is authorized to act on behalf of a confined person for purposes of applying for Medicaid.

Votes on Final Passage:

Senate	49	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 24, 2015