
SUBSTITUTE SENATE BILL 5593

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dammeier, Padden, Cleveland, O'Ban, Pedersen, Becker, and Kohl-Welles)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to the safe delivery of and reasonable payment
2 for health care services by hospitals for inmates and persons
3 detained by law enforcement; amending RCW 70.02.200 and 70.48.130;
4 and adding a new chapter to Title 10 RCW.

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

6 NEW SECTION. **Sec. 1.** Any individual in the custody of a law
7 enforcement officer, corrections officer, or guard supplied by a law
8 enforcement or corrections agency for a violent offense as defined in
9 RCW 9.94A.030 or a sex offense as defined in RCW 9.94A.030 who is
10 brought by, or accompanied by, a law enforcement officer to a
11 hospital must continue to be accompanied or otherwise secured by a
12 law enforcement or corrections officer or guard supplied by the law
13 enforcement or corrections agency. However, this section does not
14 apply to an individual being supervised by the department of
15 corrections if the individual's custody is the result solely of a
16 sanction imposed by the department of corrections, the indeterminate
17 sentence review board, or the court, in response to a violation of
18 conditions.

1 NEW SECTION. **Sec. 2.** (1) An individual receiving medical care
2 under this section need not continue to be accompanied or otherwise
3 secured if:

4 (a) The individual's medical care provider so indicates; or

5 (b) The law enforcement officer determines, using his or her best
6 judgment, that:

7 (i) The individual does not present an imminent and significant
8 risk of causing physical harm to themselves or another person;

9 (ii) There is no longer sufficient evidentiary basis to maintain
10 the individual in custody; or

11 (iii) In the interest of public safety, the presence of the law
12 enforcement officer is urgently required at another location and the
13 officer determines, using his or her best judgment and in
14 consultation with his or her supervisor, if available on duty, that
15 the public safety interest outweighs the need to accompany or secure
16 the individual in the hospital.

17 (2)(a) In the event that a medical care provider determines the
18 individual need not be accompanied or otherwise secured pursuant to
19 subsection (1)(a) of this section, the law enforcement officer,
20 corrections officer, or guard supplied by a law enforcement or
21 corrections agency has no ongoing duty to accompany or otherwise
22 secure the individual for the duration of their treatment by the
23 hospital. When a medical care provider indicates that a person need
24 not be accompanied or otherwise secured, the hospital must notify the
25 law enforcement officer, corrections officer, or guard supplied by a
26 law enforcement or corrections agency or their designee when the
27 individual is expected to be released by the hospital.

28 (b) If, after a medical provider indicates that the individual
29 need not be accompanied or otherwise secured pursuant to subsection
30 (1)(a) of this section, the individual demonstrates behavior that
31 presents an imminent and significant risk of causing physical harm to
32 themselves or others and the physical condition of the individual
33 renders the individual capable of causing physical harm to themselves
34 or others, the hospital may request the presence of a law enforcement
35 officer, corrections officer, or guard supplied by a law enforcement
36 or corrections agency to guard or otherwise accompany the individual,
37 in which case subsection (1)(a) and (b) of this section still apply.

38 (3) In the event the law enforcement officer, corrections
39 officer, or guard supplied by a law enforcement or corrections agency
40 determines the individual need not be accompanied or otherwise

1 secured pursuant to subsection (1)(b)(i) or (ii) of this section, the
2 officer or guard must notify the medical care provider that the
3 officer or guard is leaving the individual unattended or unsecured,
4 in which case the hospital has no duty to notify the officer or guard
5 when the individual is, or expected to be, released from the
6 hospital.

7 (4) In the event that the law enforcement officer, corrections
8 officer, or guard supplied by a law enforcement or corrections agency
9 determines the individual need not be accompanied or secured pursuant
10 to subsection (1)(b)(iii) of this section, the officer or guard must
11 notify the medical care provider or, if an immediate departure is
12 required, other hospital staff member that the officer or guard is
13 leaving the individual unattended or unsecured and make a reasonable
14 effort to ensure a replacement officer or guard or other means of
15 accompanying or securing the individual as soon as reasonably
16 possible under the circumstances. The hospital must notify the
17 officer or the officer's designee if the individual is, or is
18 expected to be, released from the hospital prior to the officer or
19 guard or a replacement officer or guard returning to resume
20 accompanying or otherwise securing the individual.

21 (5) Except for actions or omissions constituting gross negligence
22 or willful misconduct, the hospital and health care providers as
23 defined in chapter 18.130 RCW are immune from liability, including
24 civil liability, professional conduct sanctions, and administrative
25 actions resulting from the individual not being accompanied or
26 secured.

27 NEW SECTION. **Sec. 3.** In a case where an individual accompanied
28 or otherwise secured by a law enforcement or corrections officer or a
29 guard supplied by a law enforcement or corrections agency pursuant to
30 this act is waiting for treatment in a hospital emergency department,
31 the hospital shall see the patient in as expeditious a manner as
32 possible, while taking into consideration best triage practices and
33 federal and state legal obligations regarding appropriate screening
34 and treatment of patients.

35 NEW SECTION. **Sec. 4.** The provisions of this act do not
36 constitute a special relationship exception to the public duty
37 doctrine. Law enforcement officers, corrections officers, guards
38 supplied by a law enforcement or corrections agency, and their

1 employing departments and agencies and representatives are immune
2 from civil liability arising out of the failure to comply with this
3 act, unless it is shown that, in the totality of the circumstances,
4 the officer or agency acted with gross negligence or bad faith.

5 NEW SECTION. **Sec. 5.** Nothing in this chapter changes the
6 standards of care with regard to the use of restraints on pregnant
7 women or youth in custody as codified in chapters 70.48 and 72.09
8 RCW.

9 **Sec. 6.** RCW 70.02.200 and 2014 c 220 s 7 are each amended to
10 read as follows:

11 (1) In addition to the disclosures authorized by RCW 70.02.050
12 and 70.02.210, a health care provider or health care facility may
13 disclose health care information, except for information and records
14 related to sexually transmitted diseases and information related to
15 mental health services which are addressed by RCW 70.02.220 through
16 70.02.260, about a patient without the patient's authorization, to:

17 (a) Any other health care provider or health care facility
18 reasonably believed to have previously provided health care to the
19 patient, to the extent necessary to provide health care to the
20 patient, unless the patient has instructed the health care provider
21 or health care facility in writing not to make the disclosure;

22 (b) Immediate family members of the patient, including a
23 patient's state registered domestic partner, or any other individual
24 with whom the patient is known to have a close personal relationship,
25 if made in accordance with good medical or other professional
26 practice, unless the patient has instructed the health care provider
27 or health care facility in writing not to make the disclosure;

28 (c) A health care provider or health care facility who is the
29 successor in interest to the health care provider or health care
30 facility maintaining the health care information;

31 (d) A person who obtains information for purposes of an audit, if
32 that person agrees in writing to:

33 (i) Remove or destroy, at the earliest opportunity consistent
34 with the purpose of the audit, information that would enable the
35 patient to be identified; and

36 (ii) Not to disclose the information further, except to
37 accomplish the audit or report unlawful or improper conduct involving

1 fraud in payment for health care by a health care provider or
2 patient, or other unlawful conduct by the health care provider;

3 (e) Provide directory information, unless the patient has
4 instructed the health care provider or health care facility not to
5 make the disclosure;

6 (f) Fire, police, sheriff, or other public authority, that
7 brought, or caused to be brought, the patient to the health care
8 facility or health care provider if the disclosure is limited to the
9 patient's name, residence, sex, age, occupation, condition,
10 diagnosis, estimated or actual discharge date, or extent and location
11 of injuries as determined by a physician, and whether the patient was
12 conscious when admitted;

13 (g) Federal, state, or local law enforcement authorities and the
14 health care provider, health care facility, or third-party payor
15 believes in good faith that the health care information disclosed
16 constitutes evidence of criminal conduct that occurred on the
17 premises of the health care provider, health care facility, or third-
18 party payor;

19 (h) Another health care provider, health care facility, or third-
20 party payor for the health care operations of the health care
21 provider, health care facility, or third-party payor that receives
22 the information, if each entity has or had a relationship with the
23 patient who is the subject of the health care information being
24 requested, the health care information pertains to such relationship,
25 and the disclosure is for the purposes described in RCW 70.02.010(17)
26 (a) and (b); (~~and~~))

27 (i) An official of a penal or other custodial institution in
28 which the patient is detained; and

29 (j) Any law enforcement officer, corrections officer, or guard
30 supplied by a law enforcement or corrections agency who is
31 accompanying a patient pursuant to section 1 of this act, only to the
32 extent the disclosure is incidental to the fulfillment of the role of
33 the law enforcement officer, corrections officer, or guard under
34 section 1 of this act.

35 (2) In addition to the disclosures required by RCW 70.02.050 and
36 70.02.210, a health care provider shall disclose health care
37 information, except for information related to sexually transmitted
38 diseases and information related to mental health services which are
39 addressed by RCW 70.02.220 through 70.02.260, about a patient without
40 the patient's authorization if the disclosure is:

1 (a) To federal, state, or local law enforcement authorities to
2 the extent the health care provider is required by law;

3 (b) To federal, state, or local law enforcement authorities, upon
4 receipt of a written or oral request made to a nursing supervisor,
5 administrator, or designated privacy official, in a case in which the
6 patient is being treated or has been treated for a bullet wound,
7 gunshot wound, powder burn, or other injury arising from or caused by
8 the discharge of a firearm, or an injury caused by a knife, an ice
9 pick, or any other sharp or pointed instrument which federal, state,
10 or local law enforcement authorities reasonably believe to have been
11 intentionally inflicted upon a person, or a blunt force injury that
12 federal, state, or local law enforcement authorities reasonably
13 believe resulted from a criminal act, the following information, if
14 known:

15 (i) The name of the patient;

16 (ii) The patient's residence;

17 (iii) The patient's sex;

18 (iv) The patient's age;

19 (v) The patient's condition;

20 (vi) The patient's diagnosis, or extent and location of injuries
21 as determined by a health care provider;

22 (vii) Whether the patient was conscious when admitted;

23 (viii) The name of the health care provider making the
24 determination in (b)(v), (vi), and (vii) of this subsection;

25 (ix) Whether the patient has been transferred to another
26 facility; and

27 (x) The patient's discharge time and date;

28 (c) Pursuant to compulsory process in accordance with RCW
29 70.02.060.

30 **Sec. 7.** RCW 70.48.130 and 2011 1st sp.s. c 15 s 85 are each
31 amended to read as follows:

32 (1) It is the intent of the legislature that all jail inmates
33 receive appropriate and cost-effective emergency and necessary
34 medical care. Governing units, the health care authority, and medical
35 care providers shall cooperate to achieve the best rates consistent
36 with adequate care.

37 (2) Payment for emergency or necessary health care shall be by
38 the governing unit, except that the health care authority shall
39 directly reimburse the provider pursuant to chapter 74.09 RCW, in

1 accordance with the rates and benefits established by the authority,
2 if the confined person is eligible under the authority's medical care
3 programs as authorized under chapter 74.09 RCW. After payment by the
4 authority, the financial responsibility for any remaining balance,
5 including unpaid client liabilities that are a condition of
6 eligibility or participation under chapter 74.09 RCW, shall be borne
7 by the medical care provider and the governing unit as may be
8 mutually agreed upon between the medical care provider and the
9 governing unit. In the absence of mutual agreement between the
10 medical care provider and the governing unit, the financial
11 responsibility for any remaining balance shall be borne equally
12 between the medical care provider and the governing unit. Total
13 payments from all sources to providers for care rendered to confined
14 persons eligible under chapter 74.09 RCW shall not exceed the amounts
15 that would be paid by the authority for similar services provided
16 under Title XIX medicaid, unless additional resources are obtained
17 from the confined person.

18 (3) For inpatient, outpatient, and ancillary services for
19 confined persons that are not paid by the medicaid program pursuant
20 to subsection (2) of this section, unless other rates are agreed to
21 by the governing unit and the hospital, providers of hospital
22 services that are hospitals licensed under chapter 70.41 RCW must
23 accept as payment in full by the governing units the applicable
24 facility's percent of allowed charges rate or fee schedule as
25 determined, maintained, and posted by the Washington state department
26 of labor and industries pursuant to chapter 51.04 RCW.

27 (4) As part of the screening process upon booking or preparation
28 of an inmate into jail, general information concerning the inmate's
29 ability to pay for medical care may be identified, including
30 insurance or other medical benefits or resources to which an inmate
31 is entitled. The inmate may also be evaluated for medicaid
32 eligibility and, if deemed potentially eligible, enrolled in
33 medicaid. To the extent that federal law allows, a correctional
34 facility, or the correctional facility's designee, is authorized to
35 act on behalf of a confined person for purposes of applying for
36 medicaid. This information may be made available to the authority,
37 the governing unit, and any provider of health care services.

38 (5) As part of the screening process upon booking or preparation
39 of an inmate into jail, general information concerning the inmate's
40 ability to pay for medical care shall be identified, including

1 insurance or other medical benefits or resources to which an inmate
2 is entitled. This information shall be made available to the
3 authority, the governing unit, and any provider of health care
4 services.

5 ~~((4))~~ (6) The governing unit or provider may obtain
6 reimbursement from the confined person for the cost of health care
7 services not provided under chapter 74.09 RCW, including
8 reimbursement from any insurance program or from other medical
9 benefit programs available to the confined person. Nothing in this
10 chapter precludes civil or criminal remedies to recover the costs of
11 medical care provided jail inmates or paid for on behalf of inmates
12 by the governing unit. As part of a judgment and sentence, the courts
13 are authorized to order defendants to repay all or part of the
14 medical costs incurred by the governing unit or provider during
15 confinement.

16 ~~((5))~~ (7) To the extent that a confined person is unable to be
17 financially responsible for medical care and is ineligible for the
18 authority's medical care programs under chapter 74.09 RCW, or for
19 coverage from private sources, and in the absence of an interlocal
20 agreement or other contracts to the contrary, the governing unit may
21 obtain reimbursement for the cost of such medical services from the
22 unit of government whose law enforcement officers initiated the
23 charges on which the person is being held in the jail: PROVIDED, That
24 reimbursement for the cost of such services shall be by the state for
25 state prisoners being held in a jail who are accused of either
26 escaping from a state facility or of committing an offense in a state
27 facility.

28 ~~((6))~~ (8) There shall be no right of reimbursement to the
29 governing unit from units of government whose law enforcement
30 officers initiated the charges for which a person is being held in
31 the jail for care provided after the charges are disposed of by
32 sentencing or otherwise, unless by intergovernmental agreement
33 pursuant to chapter 39.34 RCW.

34 ~~((7))~~ (9) Under no circumstance shall necessary medical
35 services be denied or delayed because of disputes over the cost of
36 medical care or a determination of financial responsibility for
37 payment of the costs of medical care provided to confined persons.

38 ~~((8))~~ (10) Nothing in this section shall limit any existing
39 right of any party, governing unit, or unit of government against the
40 person receiving the care for the cost of the care provided.

1 NEW SECTION. **Sec. 8.** Sections 1 through 5 of this act
2 constitute a new chapter in Title 10 RCW.

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