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SENATE BILL 5593

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State of Washington

64th Legislature

2015 Regular Session

By Senators Dammeier, Padden, Cleveland, O'Ban, Pedersen, Becker, and Kohl-Welles

Read first time 01/26/15. Referred to Committee on Law & Justice.

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 be accompanied or otherwise secured by a law  
12 enforcement or corrections officer or guard supplied by the law  
13 enforcement or corrections agency.

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

16 (a) The individual's medical care provider so indicates; or  
17 (b) The law enforcement officer determines, using his or her best  
18 judgment, that:

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

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

3 (iii) In the interest of public safety, the presence of the law  
4 enforcement officer is urgently required at another location and the  
5 officer determines, using his or her best judgment and in  
6 consultation with his or her supervisor, if available on duty, that  
7 the public safety interest outweighs the need to accompany or secure  
8 the individual in the hospital.

9 (2)(a) In the event that a medical care provider determines the  
10 individual need not be accompanied or otherwise secured pursuant to  
11 subsection (1)(a) of this section, the law enforcement officer,  
12 corrections officer, or guard supplied by a law enforcement or  
13 corrections agency has no ongoing duty to accompany or otherwise  
14 secure the individual for the duration of their treatment by the  
15 hospital. When a medical care provider indicates that a person need  
16 not be accompanied or otherwise secured, the hospital must notify the  
17 law enforcement officer, corrections officer, or guard supplied by a  
18 law enforcement or corrections agency or their designee when the  
19 individual is expected to be released by the hospital.

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

30 (3) In the event the law enforcement officer, corrections  
31 officer, or guard supplied by a law enforcement or corrections agency  
32 determines the individual need not be accompanied or otherwise  
33 secured pursuant to subsection (1)(b)(i) or (ii) of this section, the  
34 officer or guard must notify the medical care provider that the  
35 officer or guard is leaving the individual unattended or unsecured,  
36 in which case the hospital has no duty to notify the officer or guard  
37 when the individual is, or expected to be, released from the  
38 hospital.

39 (4) In the event that the law enforcement officer, corrections  
40 officer, or guard supplied by a law enforcement or corrections agency

1 determines the individual need not be accompanied or secured pursuant  
2 to subsection (1)(b)(iii) of this section, the officer or guard must  
3 notify the medical care provider or, if an immediate departure is  
4 required, other hospital staff member that the officer or guard is  
5 leaving the individual unattended or unsecured and make a reasonable  
6 effort to ensure a replacement officer or guard or other means of  
7 accompanying or securing the individual as soon as reasonably  
8 possible under the circumstances. The hospital must notify the  
9 officer or the officer's designee if the individual is, or is  
10 expected to be, released from the hospital prior to the officer or  
11 guard or a replacement officer or guard returning to resume  
12 accompanying or otherwise securing the individual.

13 (5) Except for actions or omissions constituting gross negligence  
14 or willful misconduct, the hospital and health care providers as  
15 defined in chapter 18.130 RCW are immune from liability, including  
16 civil liability, professional conduct sanctions, and administrative  
17 actions resulting from the individual not being accompanied or  
18 secured.

19 NEW SECTION. **Sec. 3.** In a case where an individual accompanied  
20 or otherwise secured by a law enforcement or corrections officer or a  
21 guard supplied by a law enforcement or corrections agency pursuant to  
22 this act is waiting for treatment in a hospital emergency department,  
23 the hospital shall see the patient in as expeditious a manner as  
24 possible, while taking into consideration best triage practices and  
25 federal and state legal obligations regarding appropriate screening  
26 and treatment of patients.

27 NEW SECTION. **Sec. 4.** The provisions of this act do not  
28 constitute a special relationship exception to the public duty  
29 doctrine. Law enforcement officers, corrections officers, guards  
30 supplied by a law enforcement or corrections agency, and their  
31 employing departments and agencies and representatives are immune  
32 from civil liability arising out of the failure to comply with this  
33 act, unless it is shown that, in the totality of the circumstances,  
34 the officer or agency acted with gross negligence or bad faith.

35 **Sec. 5.** RCW 70.02.200 and 2014 c 220 s 7 are each amended to  
36 read as follows:

1 (1) In addition to the disclosures authorized by RCW 70.02.050  
2 and 70.02.210, a health care provider or health care facility may  
3 disclose health care information, except for information and records  
4 related to sexually transmitted diseases and information related to  
5 mental health services which are addressed by RCW 70.02.220 through  
6 70.02.260, about a patient without the patient's authorization, to:

7 (a) Any other health care provider or health care facility  
8 reasonably believed to have previously provided health care to the  
9 patient, to the extent necessary to provide health care to the  
10 patient, unless the patient has instructed the health care provider  
11 or health care facility in writing not to make the disclosure;

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

18 (c) A health care provider or health care facility who is the  
19 successor in interest to the health care provider or health care  
20 facility maintaining the health care information;

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

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

26 (ii) Not to disclose the information further, except to  
27 accomplish the audit or report unlawful or improper conduct involving  
28 fraud in payment for health care by a health care provider or  
29 patient, or other unlawful conduct by the health care provider;

30 (e) Provide directory information, unless the patient has  
31 instructed the health care provider or health care facility not to  
32 make the disclosure;

33 (f) Fire, police, sheriff, or other public authority, that  
34 brought, or caused to be brought, the patient to the health care  
35 facility or health care provider if the disclosure is limited to the  
36 patient's name, residence, sex, age, occupation, condition,  
37 diagnosis, estimated or actual discharge date, or extent and location  
38 of injuries as determined by a physician, and whether the patient was  
39 conscious when admitted;

1 (g) Federal, state, or local law enforcement authorities and the  
2 health care provider, health care facility, or third-party payor  
3 believes in good faith that the health care information disclosed  
4 constitutes evidence of criminal conduct that occurred on the  
5 premises of the health care provider, health care facility, or third-  
6 party payor;

7 (h) Another health care provider, health care facility, or third-  
8 party payor for the health care operations of the health care  
9 provider, health care facility, or third-party payor that receives  
10 the information, if each entity has or had a relationship with the  
11 patient who is the subject of the health care information being  
12 requested, the health care information pertains to such relationship,  
13 and the disclosure is for the purposes described in RCW 70.02.010(17)  
14 (a) and (b); ~~((and))~~

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

17 (j) Any law enforcement officer, corrections officer, or guard  
18 supplied by a law enforcement or corrections agency who is  
19 accompanying a patient pursuant to section 1 of this act, only to the  
20 extent the disclosure is incidental to the fulfillment of the role of  
21 the law enforcement officer, corrections officer, or guard under  
22 section 1 of this act.

23 (2) In addition to the disclosures required by RCW 70.02.050 and  
24 70.02.210, a health care provider shall disclose health care  
25 information, except for information related to sexually transmitted  
26 diseases and information related to mental health services which are  
27 addressed by RCW 70.02.220 through 70.02.260, about a patient without  
28 the patient's authorization if the disclosure is:

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

31 (b) To federal, state, or local law enforcement authorities, upon  
32 receipt of a written or oral request made to a nursing supervisor,  
33 administrator, or designated privacy official, in a case in which the  
34 patient is being treated or has been treated for a bullet wound,  
35 gunshot wound, powder burn, or other injury arising from or caused by  
36 the discharge of a firearm, or an injury caused by a knife, an ice  
37 pick, or any other sharp or pointed instrument which federal, state,  
38 or local law enforcement authorities reasonably believe to have been  
39 intentionally inflicted upon a person, or a blunt force injury that  
40 federal, state, or local law enforcement authorities reasonably

1 believe resulted from a criminal act, the following information, if  
2 known:

- 3 (i) The name of the patient;
- 4 (ii) The patient's residence;
- 5 (iii) The patient's sex;
- 6 (iv) The patient's age;
- 7 (v) The patient's condition;
- 8 (vi) The patient's diagnosis, or extent and location of injuries  
9 as determined by a health care provider;
- 10 (vii) Whether the patient was conscious when admitted;
- 11 (viii) The name of the health care provider making the  
12 determination in (b)(v), (vi), and (vii) of this subsection;
- 13 (ix) Whether the patient has been transferred to another  
14 facility; and
- 15 (x) The patient's discharge time and date;
- 16 (c) Pursuant to compulsory process in accordance with RCW  
17 70.02.060.

18 **Sec. 6.** RCW 70.48.130 and 2011 1st sp.s. c 15 s 85 are each  
19 amended to read as follows:

20 (1) It is the intent of the legislature that all jail inmates  
21 receive appropriate and cost-effective emergency and necessary  
22 medical care. Governing units, the health care authority, and medical  
23 care providers shall cooperate to achieve the best rates consistent  
24 with adequate care.

25 (2) Payment for emergency or necessary health care shall be by  
26 the governing unit, except that the health care authority shall  
27 directly reimburse the provider pursuant to chapter 74.09 RCW, in  
28 accordance with the rates and benefits established by the authority,  
29 if the confined person is eligible under the authority's medical care  
30 programs as authorized under chapter 74.09 RCW. After payment by the  
31 authority, the financial responsibility for any remaining balance,  
32 including unpaid client liabilities that are a condition of  
33 eligibility or participation under chapter 74.09 RCW, shall be borne  
34 by the medical care provider and the governing unit as may be  
35 mutually agreed upon between the medical care provider and the  
36 governing unit. In the absence of mutual agreement between the  
37 medical care provider and the governing unit, the financial  
38 responsibility for any remaining balance shall be borne equally  
39 between the medical care provider and the governing unit. Total

1 payments from all sources to providers for care rendered to confined  
2 persons eligible under chapter 74.09 RCW shall not exceed the amounts  
3 that would be paid by the authority for similar services provided  
4 under Title XIX medicaid, unless additional resources are obtained  
5 from the confined person.

6 (3) For inpatient, outpatient, and ancillary services for  
7 confined persons that are not paid by the medicaid program pursuant  
8 to subsection (2) of this section, unless other rates are agreed to  
9 by the governing unit and the hospital, providers of hospital  
10 services that are hospitals licensed under chapter 70.41 RCW must  
11 accept as payment in full by the governing units the applicable  
12 facility's percent of allowed charges rate or fee schedule as  
13 determined, maintained, and posted by the Washington state department  
14 of labor and industries pursuant to chapter 51.04 RCW.

15 (4) As part of the screening process upon booking or preparation  
16 of an inmate into jail, general information concerning the inmate's  
17 ability to pay for medical care may be identified, including  
18 insurance or other medical benefits or resources to which an inmate  
19 is entitled. The inmate may also be evaluated for medicaid  
20 eligibility and, if deemed potentially eligible, enrolled in  
21 medicaid. To the extent that federal law allows, a correctional  
22 facility, or the correctional facility's designee, is authorized to  
23 act on behalf of a confined person for purposes of applying for  
24 medicaid. This information may be made available to the authority,  
25 the governing unit, and any provider of health care services.

26 (5) As part of the screening process upon booking or preparation  
27 of an inmate into jail, general information concerning the inmate's  
28 ability to pay for medical care shall be identified, including  
29 insurance or other medical benefits or resources to which an inmate  
30 is entitled. This information shall be made available to the  
31 authority, the governing unit, and any provider of health care  
32 services.

33 ~~((4))~~ (6) The governing unit or provider may obtain  
34 reimbursement from the confined person for the cost of health care  
35 services not provided under chapter 74.09 RCW, including  
36 reimbursement from any insurance program or from other medical  
37 benefit programs available to the confined person. Nothing in this  
38 chapter precludes civil or criminal remedies to recover the costs of  
39 medical care provided jail inmates or paid for on behalf of inmates  
40 by the governing unit. As part of a judgment and sentence, the courts

1 are authorized to order defendants to repay all or part of the  
2 medical costs incurred by the governing unit or provider during  
3 confinement.

4 ~~((+5))~~ (7) To the extent that a confined person is unable to be  
5 financially responsible for medical care and is ineligible for the  
6 authority's medical care programs under chapter 74.09 RCW, or for  
7 coverage from private sources, and in the absence of an interlocal  
8 agreement or other contracts to the contrary, the governing unit may  
9 obtain reimbursement for the cost of such medical services from the  
10 unit of government whose law enforcement officers initiated the  
11 charges on which the person is being held in the jail: PROVIDED, That  
12 reimbursement for the cost of such services shall be by the state for  
13 state prisoners being held in a jail who are accused of either  
14 escaping from a state facility or of committing an offense in a state  
15 facility.

16 ~~((+6))~~ (8) There shall be no right of reimbursement to the  
17 governing unit from units of government whose law enforcement  
18 officers initiated the charges for which a person is being held in  
19 the jail for care provided after the charges are disposed of by  
20 sentencing or otherwise, unless by intergovernmental agreement  
21 pursuant to chapter 39.34 RCW.

22 ~~((+7))~~ (9) Under no circumstance shall necessary medical  
23 services be denied or delayed because of disputes over the cost of  
24 medical care or a determination of financial responsibility for  
25 payment of the costs of medical care provided to confined persons.

26 ~~((+8))~~ (10) Nothing in this section shall limit any existing  
27 right of any party, governing unit, or unit of government against the  
28 person receiving the care for the cost of the care provided.

29 NEW SECTION. **Sec. 7.** Sections 1 through 4 of this act  
30 constitute a new chapter in Title 10 RCW.

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