

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5593

64th Legislature
2015 Regular Session

Passed by the Senate April 21, 2015
Yeas 47 Nays 0

President of the Senate

Passed by the House April 15, 2015
Yeas 98 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5593** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5593

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

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 custody for a violent
7 offense or a sex offense as those terms are defined in RCW 9.94A.030
8 who is brought by, or accompanied by, an officer to a hospital must
9 continue to be accompanied or otherwise secured by an officer during
10 the time that the individual is receiving care at the hospital.
11 However, this section does not apply to an individual being
12 supervised by the department of corrections if the individual's
13 custody is the result solely of a sanction imposed by the department
14 of corrections, the indeterminate sentence review board, or the
15 court, in response to a violation of conditions.

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

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

20 (b) The officer determines, using his or her best judgment, that:

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

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

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

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

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

28 (3) In the event the officer determines the individual need not
29 be accompanied or otherwise secured pursuant to subsection (1)(b)(i)
30 or (ii) of this section, the officer must notify the medical care
31 provider that the officer is leaving the individual unattended or
32 unsecured, in which case the hospital has no duty to notify the
33 officer when the individual is, or expected to be, released from the
34 hospital.

35 (4) In the event that the officer is urgently required at another
36 location pursuant to subsection (1)(b)(iii) of this section, the
37 officer must notify the medical care provider or, if an immediate
38 departure is required, other hospital staff member that the officer
39 is leaving the individual unattended or unsecured and make a
40 reasonable effort to ensure a replacement officer or other means of

1 accompanying or securing the individual as soon as reasonably
2 possible under the circumstances. The hospital must notify the
3 officer or the officer's designee if the individual is, or is
4 expected to be, released from the hospital prior to the officer or a
5 replacement officer returning to resume accompanying or otherwise
6 securing the individual.

7 (5) Except for actions or omissions constituting gross negligence
8 or willful misconduct, the hospital and health care providers as
9 defined in chapter 18.130 RCW are immune from liability, including
10 civil liability, professional conduct sanctions, and administrative
11 actions resulting from the individual not being accompanied or
12 secured.

13 NEW SECTION. **Sec. 3.** In a case where an individual accompanied
14 or otherwise secured by an officer pursuant to this act is waiting
15 for treatment in a hospital emergency department, the hospital shall
16 see the patient in as expeditious a manner as possible, while taking
17 into consideration best triage practices and federal and state legal
18 obligations regarding appropriate screening and treatment of
19 patients.

20 NEW SECTION. **Sec. 4.** The provisions of this act do not
21 constitute a special relationship exception to the public duty
22 doctrine. Officers and their employing departments and agencies and
23 representatives are immune from civil liability arising out of the
24 failure to comply with this act, unless it is shown that, in the
25 totality of the circumstances, the officer, employing department,
26 agency, or representative acted with gross negligence or bad faith.

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

31 NEW SECTION. **Sec. 6.** For purposes of this chapter, "officer"
32 means a law enforcement officer, corrections officer, or guard
33 supplied by a law enforcement or corrections agency.

34 **Sec. 7.** RCW 70.02.200 and 2014 c 220 s 7 are each amended to
35 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. 8.** 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 shall 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. This information shall be made available to the authority,
22 the governing unit, and any provider of health care services. To the
23 extent that federal law allows, a jail or the jail's designee is
24 authorized to act on behalf of a confined person for purposes of
25 applying for medicaid.

26 ~~((+4))~~ (5) The governing unit or provider may obtain
27 reimbursement from the confined person for the cost of health care
28 services not provided under chapter 74.09 RCW, including
29 reimbursement from any insurance program or from other medical
30 benefit programs available to the confined person. Nothing in this
31 chapter precludes civil or criminal remedies to recover the costs of
32 medical care provided jail inmates or paid for on behalf of inmates
33 by the governing unit. As part of a judgment and sentence, the courts
34 are authorized to order defendants to repay all or part of the
35 medical costs incurred by the governing unit or provider during
36 confinement.

37 ~~((+5))~~ (6) To the extent that a confined person is unable to be
38 financially responsible for medical care and is ineligible for the
39 authority's medical care programs under chapter 74.09 RCW, or for
40 coverage from private sources, and in the absence of an interlocal

1 agreement or other contracts to the contrary, the governing unit may
2 obtain reimbursement for the cost of such medical services from the
3 unit of government whose law enforcement officers initiated the
4 charges on which the person is being held in the jail: PROVIDED, That
5 reimbursement for the cost of such services shall be by the state for
6 state prisoners being held in a jail who are accused of either
7 escaping from a state facility or of committing an offense in a state
8 facility.

9 ~~((+6))~~ (7) There shall be no right of reimbursement to the
10 governing unit from units of government whose law enforcement
11 officers initiated the charges for which a person is being held in
12 the jail for care provided after the charges are disposed of by
13 sentencing or otherwise, unless by intergovernmental agreement
14 pursuant to chapter 39.34 RCW.

15 ~~((+7))~~ (8) Under no circumstance shall necessary medical
16 services be denied or delayed because of disputes over the cost of
17 medical care or a determination of financial responsibility for
18 payment of the costs of medical care provided to confined persons.

19 ~~((+8))~~ (9) Nothing in this section shall limit any existing
20 right of any party, governing unit, or unit of government against the
21 person receiving the care for the cost of the care provided.

22 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act
23 constitute a new chapter in Title 10 RCW.

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