

HOUSE BILL REPORT

SSB 5531

As Reported by House Committee On: Judiciary

Title: An act relating to the judicial costs of commitments for involuntary mental health treatment.

Brief Description: Reimbursing counties for providing judicial services involving mental health commitments.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators King, Prentice, Keiser and Shin).

Brief History:

Committee Activity:

Judiciary: 3/16/11, 3/24/11 [DPA].

Brief Summary of Substitute Bill (As Amended by House)

- Provides that the Department of Social and Health Services must reimburse counties for the costs of judicial services for civil commitment proceedings out of funds from the annual appropriation to the Regional Support Networks.
- Prohibits the imposition or collection of a filing fee for civil commitment cases subject to reimbursement.
- Requires local maintenance of effort funds devoted to civil commitment judicial services that are reimbursed to be expended for other mental health or chemical dependency treatment purposes.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Edie Adams (786-7180).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Involuntary civil commitment laws allow for the commitment of individuals by court order to hospitals or other facilities for mental health treatment under specified legal standards. Under the Involuntary Treatment Act, a person can be detained and ordered to undergo treatment at an inpatient psychiatric facility when the person, as a result of a mental disorder, presents a likelihood of serious harm or is gravely disabled. An initial commitment may last for up to 72 hours, but individuals can be committed by a court for additional periods of 14, 90, or 180 days if necessary for further treatment. Minors are also subject to involuntary commitment under another statute which provides similar standards and procedures for commitment proceedings, although after a 14-day commitment, a minor may be subject to additional periods of involuntary treatment of 180 days.

Under the involuntary treatments statutes, Regional Support Networks (RSNs) are responsible for investigating and detaining people who are in need of involuntary treatment. Investigations are conducted by designated mental health professionals (DMHPs). When a DMHP or court determines that a person meets the standards for involuntary treatment, the person is detained in a local evaluation and treatment facility (E&T), which can be either a freestanding facility or a hospital certified to provide inpatient involuntary treatment services.

There are currently only 12 counties that have E&Ts certified to accept involuntary treatment patients. As a result, counties that have these facilities often serve patients who were initially investigated outside the county and RSN where the E&T facility is located. Some, but not all, RSNs reimburse counties for their costs in providing judicial services for civil commitment proceedings for those patients who are from outside the county. In 2010 RSNs reported reimbursing counties for civil commitment judicial services in an amount of \$6.5 million. In addition to direct reimbursement, counties may also receive indirect reimbursement from the filing fee for instituting civil commitment cases. The filing fee is \$230, of which \$30 is a temporary surcharge that expires July 1, 2011. The remaining \$200 of the filing fee is split between the state and counties, with 54 percent retained by the county and 46 percent transmitted to the state. County law libraries receive \$17 of the county portion of the filing fee.

Summary of Amended Bill:

A county may apply to the Department of Social and Health Services (DSHS) for reimbursement of its costs in providing judicial services for civil commitments. The DSHS must reimburse each county for its costs per commitment case based on the average of the expenditures for judicial services within the county over the past three years. If there is no significant history of similar cases within the county, the DSHS must approve a reasonable rate of reimbursement that is comparable to the average costs incurred in similar counties. The county can apply at reasonable intervals for an increase in the reimbursement rate based on a change in the actual cost of delivering services.

The DSHS must pay for reimbursements out of funds from the annual appropriation to the RSN in which the person who is subject to the commitment case resides. Funds distributed to the RSNs may not be used to reimburse counties for the costs of judicial services.

"Judicial services" refers to a county's reasonable cost in providing the following services for civil commitments: prosecution services; assigned counsel and defense services; court services; and court clerk services. A "case" includes all judicial hearings related to a single episode of hospitalization, or less restrictive alternative detention, except for the filing of a 180-day petition under the adult commitment laws or a successive 180-day petition under the minor commitment laws.

A filing fee may not be charged or collected for civil commitment proceedings subject to reimbursement. Statutes requiring the county to bear the costs of appointed counsel for indigent persons are amended to provide that the state will reimburse the counties for these costs.

Local maintenance of effort funds devoted to judicial services related to involuntary commitment that are now reimbursed under the act must be used for other mental health or chemical dependency treatment purposes.

The DSHS must adopt rules to implement the act in consultation with affected parties.

Amended Bill Compared to Substitute Bill:

The amended bill requires the reimbursements to be paid from the appropriation to the RSN where the person who is the subject of the case resides. The amended bill clarified that the reimbursement applies to commitment cases for adults and minors and that the state will reimburse counties for the costs of counsel appointed for indigent persons in both adult and minor commitment cases. The amended bill also adds a specific statement that RSNs are not responsible for providing for judicial services subject to reimbursement under the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on July 1, 2012.

Staff Summary of Public Testimony:

(In support) This bill addresses the ambiguity in the law about who has the responsibility to pay for the judicial costs of commitment proceedings. Some RSNs are paying for these costs, but some are not. Counties that have E&T facilities are bearing the costs of judicial proceedings for persons who are sent from other counties and RSNs. In 2010 King County had to bear the costs of proceedings for 485 people from outside the county, at a cost of about \$600,000. This money could be used to provide mental health services in the community. In Yakima County about 25 percent of the cases are from outside the county.

There has been a decline in E&T facilities in the state which has put pressure on the counties that have these facilities. The RSNs should have to pay the legal costs when they send their residents to other counties for commitment hearings. Counties can no longer absorb the impact of these judicial costs. Creating a statewide reimbursement schedule can remedy the inequity that currently exists. The bill creates a fair distribution of judicial costs across the state based on the number of patients from each of the RSNs. Although the reimbursement will come from scarce state-only dollars, the benefits of the bill outweigh its costs.

(With concerns) Clerks are concerned that the reimbursement will not be adequate to cover the loss of revenue to the courts. Additionally, elimination of the filing fee will result in a loss of funding for county law libraries.

This proposal will have a negative impact on some of the small, rural counties, especially those in the northeastern part of the state. We understand the problem that is being addressed, but the RSNs are already dealing with shrinking dollars, so it will be hard on these counties to handle further reductions.

The fiscal note indicates that the DSHS would have to add staff and spend additional funds to set up this process. Resources should not be spent on additional administrative functions in a time of shrinking state dollars. The purposes of the bill could be accomplished through a financial analysis and report to the Legislature, and then the reallocation of funds could be done in the budget.

(Opposed) None.

Persons Testifying: (In support) Senator King, prime sponsor; Amnon Shoenfeld, King County Regional Support Network; Ken Roughton, Greater Columbia Behavioral Health Regional Support Network; Kevin Bouchey, Yakima County; and Bob Cooper, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.

(With concerns) Debbie Wilke, Washington Association of County Clerks; Jim Potts, Washington Association of Rural Counties; and Dave Knutson, Pierce County Regional Support Network.

Persons Signed In To Testify But Not Testifying: None.