

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5531

62nd Legislature
2011 Regular Session

Passed by the Senate April 21, 2011
YEAS 46 NAYS 0

President of the Senate

Passed by the House April 21, 2011
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5531** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5531

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senators King, Prentice, Keiser, and Shin)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to the judicial costs of commitments for
2 involuntary mental health treatment; amending RCW 71.05.110, 71.24.160,
3 71.34.300, and 71.34.330; reenacting and amending RCW 71.05.230; adding
4 new sections to chapter 71.05 RCW; adding a new section to chapter
5 71.34 RCW; creating a new section; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that counties
8 that host evaluation and treatment beds incur costs by providing
9 judicial services associated with civil commitments under chapters
10 71.05 and 71.34 RCW. Because evaluation and treatment beds are not
11 evenly distributed across the state, these commitments frequently occur
12 in a different county from the county in which the person was
13 originally detained. The intent of this act is to create a process for
14 the state to reimburse counties through the regional support networks
15 for the counties' reasonable direct costs incurred in providing these
16 judicial services, and to prevent the burden of these costs from
17 falling disproportionately on the counties or regional support networks
18 in which the commitments are most likely to occur. The legislature

1 recognizes that the costs of judicial services may vary across the
2 state based on different factors and conditions.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.05 RCW
4 to read as follows:

5 (1) A county may apply to its regional support network on a
6 quarterly basis for reimbursement of its direct costs in providing
7 judicial services for civil commitment cases under this chapter and
8 chapter 71.34 RCW. The regional support network shall in turn be
9 entitled to reimbursement from the regional support network that serves
10 the county of residence of the individual who is the subject of the
11 civil commitment case. Reimbursements under this section shall be paid
12 out of the regional support network's nonmedicaid appropriation.

13 (2) Reimbursement for judicial services shall be provided per civil
14 commitment case at a rate to be determined based on an independent
15 assessment of the county's actual direct costs. This assessment must
16 be based on an average of the expenditures for judicial services within
17 the county over the past three years. In the event that a baseline
18 cannot be established because there is no significant history of
19 similar cases within the county, the reimbursement rate shall be equal
20 to eighty percent of the median reimbursement rate of counties included
21 in the independent assessment.

22 (3) For the purposes of this section:

23 (a) "Civil commitment case" includes all judicial hearings related
24 to a single episode of hospitalization, or less restrictive alternative
25 detention in lieu of hospitalization, except that the filing of a
26 petition for a one hundred eighty-day commitment under this chapter or
27 a petition for a successive one hundred eighty-day commitment under
28 chapter 71.34 RCW shall be considered to be a new case regardless of
29 whether there has been a break in detention. "Civil commitment case"
30 does not include the filing of a petition for a one hundred eighty-day
31 commitment under this chapter on behalf of a patient at a state
32 psychiatric hospital.

33 (b) "Judicial services" means a county's reasonable direct costs in
34 providing prosecutor services, assigned counsel and defense services,
35 court services, and court clerk services for civil commitment cases
36 under this chapter and chapter 71.34 RCW.

1 (4) To the extent that resources have shared purpose, the regional
2 support network may only reimburse counties to the extent such
3 resources are necessary for and devoted to judicial services as
4 described in this section.

5 (5) No filing fee may be charged or collected for any civil
6 commitment case subject to reimbursement under this section.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05 RCW
8 to read as follows:

9 (1) The joint legislative audit and review committee shall conduct
10 an independent assessment of the direct costs of providing judicial
11 services under this chapter and chapter 71.34 RCW as defined in section
12 2 of this act. The assessment shall include a review and analysis of
13 the reasons for differences in costs among counties. The assessment
14 shall be conducted for any county in which more than twenty civil
15 commitment cases were conducted during the year prior to the study.
16 The assessment must be completed by June 1, 2012.

17 (2) The administrative office of the courts and the department
18 shall provide the joint legislative audit and review committee with
19 assistance and data required to complete the assessment.

20 (3) The joint legislative audit and review committee shall present
21 recommendations as to methods for updating the costs identified in the
22 assessment to reflect changes over time.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.34 RCW
24 to read as follows:

25 A county may apply to its regional support network for
26 reimbursement of its direct costs in providing judicial services for
27 civil commitment cases under this chapter, as provided in section 2 of
28 this act.

29 **Sec. 5.** RCW 71.05.110 and 1997 c 112 s 7 are each amended to read
30 as follows:

31 Attorneys appointed for persons pursuant to this chapter shall be
32 compensated for their services as follows: (1) The person for whom an
33 attorney is appointed shall, if he or she is financially able pursuant
34 to standards as to financial capability and indigency set by the
35 superior court of the county in which the proceeding is held, bear the

1 costs of such legal services; (2) if such person is indigent pursuant
2 to such standards, the (~~costs of such services shall be borne by~~)
3 regional support network shall reimburse the county in which the
4 proceeding is held(~~, subject however to the responsibility for costs~~
5 ~~provided in RCW 71.05.320(2))~~) for the direct costs of such legal
6 services, as provided in section 2 of this act.

7 **Sec. 6.** RCW 71.24.160 and 2001 c 323 s 15 are each amended to read
8 as follows:

9 The regional support networks shall make satisfactory showing to
10 the secretary that state funds shall in no case be used to replace
11 local funds from any source being used to finance mental health
12 services prior to January 1, 1990. Maintenance of effort funds devoted
13 to judicial services related to involuntary commitment reimbursed under
14 section 2 of this act must be expended for other purposes that further
15 treatment for mental health and chemical dependency disorders.

16 **Sec. 7.** RCW 71.34.300 and 1985 c 354 s 14 are each amended to read
17 as follows:

18 (1) The county or combination of counties is responsible for
19 development and coordination of the evaluation and treatment program
20 for minors, for incorporating the program into the county mental health
21 plan, and for coordination of evaluation and treatment services and
22 resources with the community mental health program required under
23 chapter 71.24 RCW.

24 (2) The county shall be responsible for maintaining its support of
25 involuntary treatment services for minors at its 1984 level, adjusted
26 for inflation, with the department responsible for additional costs to
27 the county resulting from this chapter. Maintenance of effort funds
28 devoted to judicial services related to involuntary commitment
29 reimbursed under section 2 of this act must be expended for other
30 purposes that further treatment for mental health and chemical
31 dependency disorders.

32 **Sec. 8.** RCW 71.34.330 and 1985 c 354 s 23 are each amended to read
33 as follows:

34 Attorneys appointed for minors under this chapter shall be
35 compensated for their services as follows:

1 (1) Responsible others shall bear the costs of such legal services
2 if financially able according to standards set by the court of the
3 county in which the proceeding is held.

4 (2) If all responsible others are indigent as determined by these
5 standards, the ~~((costs of these legal services shall be borne by))~~
6 regional support network shall reimburse the county in which the
7 proceeding is held for the direct costs of such legal services, as
8 provided in section 2 of this act.

9 **Sec. 9.** RCW 71.05.230 and 2009 c 293 s 3 and 2009 c 217 s 2 are
10 each reenacted and amended to read as follows:

11 A person detained for seventy-two hour evaluation and treatment may
12 be detained for not more than fourteen additional days of involuntary
13 intensive treatment or ninety additional days of a less restrictive
14 alternative to involuntary intensive treatment. ~~((There shall be no
15 fee for filing petitions for fourteen days of involuntary intensive
16 treatment.))~~ A petition may only be filed if the following conditions
17 are met:

18 (1) The professional staff of the agency or facility providing
19 evaluation services has analyzed the person's condition and finds that
20 the condition is caused by mental disorder and either results in a
21 likelihood of serious harm, or results in the detained person being
22 gravely disabled and are prepared to testify those conditions are met;
23 and

24 (2) The person has been advised of the need for voluntary treatment
25 and the professional staff of the facility has evidence that he or she
26 has not in good faith volunteered; and

27 (3) The facility providing intensive treatment is certified to
28 provide such treatment by the department; and

29 (4) The professional staff of the agency or facility or the
30 designated mental health professional has filed a petition for fourteen
31 day involuntary detention or a ninety day less restrictive alternative
32 with the court. The petition must be signed either by:

33 (a) Two physicians;

34 (b) One physician and a mental health professional;

35 (c) Two psychiatric advanced registered nurse practitioners;

36 (d) One psychiatric advanced registered nurse practitioner and a
37 mental health professional; or

1 (e) A physician and a psychiatric advanced registered nurse
2 practitioner. The persons signing the petition must have examined the
3 person. If involuntary detention is sought the petition shall state
4 facts that support the finding that such person, as a result of mental
5 disorder, presents a likelihood of serious harm, or is gravely disabled
6 and that there are no less restrictive alternatives to detention in the
7 best interest of such person or others. The petition shall state
8 specifically that less restrictive alternative treatment was considered
9 and specify why treatment less restrictive than detention is not
10 appropriate. If an involuntary less restrictive alternative is sought,
11 the petition shall state facts that support the finding that such
12 person, as a result of mental disorder, presents a likelihood of
13 serious harm, or is gravely disabled and shall set forth the less
14 restrictive alternative proposed by the facility; and

15 (5) A copy of the petition has been served on the detained person,
16 his or her attorney and his or her guardian or conservator, if any,
17 prior to the probable cause hearing; and

18 (6) The court at the time the petition was filed and before the
19 probable cause hearing has appointed counsel to represent such person
20 if no other counsel has appeared; and

21 (7) The petition reflects that the person was informed of the loss
22 of firearm rights if involuntarily committed; and

23 (8) At the conclusion of the initial commitment period, the
24 professional staff of the agency or facility or the designated mental
25 health professional may petition for an additional period of either
26 ninety days of less restrictive alternative treatment or ninety days of
27 involuntary intensive treatment as provided in RCW 71.05.290; and

28 (9) If the hospital or facility designated to provide outpatient
29 treatment is other than the facility providing involuntary treatment,
30 the outpatient facility so designated has agreed to assume such
31 responsibility.

32 NEW SECTION. **Sec. 10.** Except for section 3 of this act, this act
33 takes effect July 1, 2012.

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