

---

HOUSE BILL 2725

---

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Cody, Morrell, Jinkins, Harris, Rodne, Bergquist, Robinson, and Walsh

Read first time 01/28/14. Referred to Committee on Judiciary.

1 AN ACT Relating to court review of detention decisions under the  
2 involuntary treatment act; and amending RCW 71.05.150.

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

4 **Sec. 1.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to read  
5 as follows:

6 (1) When a designated mental health professional receives  
7 information alleging that a person, as a result of a mental disorder:  
8 ~~((+i+))~~ (a) Presents a likelihood of serious harm; or ~~((+ii+))~~ (b) is  
9 gravely disabled; the designated mental health professional may, after  
10 investigation and evaluation of the specific facts alleged and of the  
11 reliability and credibility of any person providing information to  
12 initiate detention, if satisfied that the allegations are true and that  
13 the person will not voluntarily seek appropriate treatment, file a  
14 petition for initial detention. Before filing the petition, the  
15 designated mental health professional must personally interview the  
16 person, unless the person refuses an interview, and determine whether  
17 the person will voluntarily receive appropriate evaluation and  
18 treatment at an evaluation and treatment facility, crisis stabilization  
19 unit, or triage facility.

1       (2)(a) If a designated mental health professional decides not to  
2 file a petition, an immediate family member of the person may petition  
3 the superior court for review of the designated mental health  
4 professional's decision. The immediate family member shall serve, or  
5 cause to be served, a notice of the petition on the designated mental  
6 health professional. As soon as possible, but no longer than twenty-  
7 four hours after receiving notice of the petition, the designated  
8 mental health professional shall provide the court with a written  
9 explanation of the basis for the decision not to file a petition and a  
10 copy of the information collected during the investigation under  
11 subsection (1) of this section. If upon review of the designated  
12 mental health professional's decision the judge finds that there is  
13 probable cause to support a petition for initial detention and that the  
14 person has refused or failed to accept appropriate evaluation and  
15 treatment voluntarily, taking into consideration any information  
16 provided by the immediate family member, the court may enter an order  
17 for initial detention under subsection (3) of this section.

18       (b) For purposes of this section, "immediate family member" means  
19 a spouse, domestic partner, child, stepchild, parent, stepparent,  
20 grandparent, or sibling.

21       (3)(a) An order to detain to a designated evaluation and treatment  
22 facility for not more than a seventy-two-hour evaluation and treatment  
23 period may be issued by a judge of the superior court upon request of  
24 a designated mental health professional, whenever it appears to the  
25 satisfaction of a judge of the superior court:

26       (i) That there is probable cause to support the petition; and

27       (ii) That the person has refused or failed to accept appropriate  
28 evaluation and treatment voluntarily.

29       (b) The petition for initial detention, signed under penalty of  
30 perjury, or sworn telephonic testimony may be considered by the court  
31 in determining whether there are sufficient grounds for issuing the  
32 order.

33       (c) The order shall designate retained counsel or, if counsel is  
34 appointed from a list provided by the court, the name, business  
35 address, and telephone number of the attorney appointed to represent  
36 the person.

37       ~~((3))~~ (4) The designated mental health professional shall then  
38 serve or cause to be served on such person, his or her guardian, and

1 conservator, if any, a copy of the order together with a notice of  
2 rights, and a petition for initial detention. After service on such  
3 person the designated mental health professional shall file the return  
4 of service in court and provide copies of all papers in the court file  
5 to the evaluation and treatment facility and the designated attorney.  
6 The designated mental health professional shall notify the court and  
7 the prosecuting attorney that a probable cause hearing will be held  
8 within seventy-two hours of the date and time of outpatient evaluation  
9 or admission to the evaluation and treatment facility. The person  
10 shall be permitted to be accompanied by one or more of his or her  
11 relatives, friends, an attorney, a personal physician, or other  
12 professional or religious advisor to the place of evaluation. An  
13 attorney accompanying the person to the place of evaluation shall be  
14 permitted to be present during the admission evaluation. Any other  
15 individual accompanying the person may be present during the admission  
16 evaluation. The facility may exclude the individual if his or her  
17 presence would present a safety risk, delay the proceedings, or  
18 otherwise interfere with the evaluation.

19 ((+4)) (5) The designated mental health professional may notify a  
20 peace officer to take such person or cause such person to be taken into  
21 custody and placed in an evaluation and treatment facility. At the  
22 time such person is taken into custody there shall commence to be  
23 served on such person, his or her guardian, and conservator, if any, a  
24 copy of the original order together with a notice of rights and a  
25 petition for initial detention.

--- END ---