

Judicial Impact Fiscal Note

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| Bill Number: 1713 E S HB | Title: Mental hlth, chem dependency | Agency: 055-Admin Office of the Courts |
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

| Account | FY 2016 | FY 2017 | 2015-17 | 2017-19 | 2019-21 |
|-----------------|---------|---------|---------|---------|---------|
| Counties | | | | | |
| Cities | | | | | |
| Total \$ | | | | | |

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

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| Agency Approval: Ramsey Radwan | Phone: 360-357-2406 | Date: 03/17/2015 |
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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

This bill would combine persons needing treatment for chemical dependency, renamed substance use disorders, within the current involuntary treatment for mental health system. ESHB 1713 has a few substantive changes from SHB 1713:

-- ESHB 1713 would prohibit persons being ordered to or detained at a secure detoxification facility or approved substance use disorder treatment program unless there is available space at the facility or program between April 1, 2017, and July 1, 2019. After July 1, 2019, persons could be so ordered or detained without regard to whether space was available.

-- ESHB 1713 would limit the loss of firearms rights to those who have a mental disorder and those who have a substance use disorder based on use of a controlled substance (not based on alcohol or a legal drug).

While there would be significant impact upon the courts' procedures as a result of this bill, there would remain a minimal fiscal impact upon the courts.

Sections with potential court impact:

Unless mentioned, the changes in ESHB 1713 are essentially the same as the changes in SHB 1713.

Part I: Chemical Dependency Involuntary Treatment Provisions

Sections 101 and 102 would amend RCW 70.94A.020 to define "commitment," "mental health professional," "physician assistant," and "psychiatric advanced registered nurse practitioner." In SHB 1713, Section 101 would have retained RCW 70.96A.020 as is with no changes.

Section 103 would amend RCW 70.96A.140 to revise the procedures to file a petition for either inpatient chemical dependency treatment or a less restrictive alternative (hereafter "LRA").

-- This section would add physician assistant to those who may petition the court for such treatment orders.

-- Subsection 4 would change the standard of proof for the court to order detention or an LRA from clear, cogent, and convincing proof to a preponderance of the evidence. Subsection 4 would also require, before treatment at an LRA is ordered, the treating program to agree to the plan in writing.

-- Subsection 5 would limit inpatient treatment under this section to no more than 14 days, and an LRA under this section would be limited to no more than 90 days. Either may be extended for an additional 90 days if a petition to the court is filed and approved by the court. New to SHB 1713 is the requirement that this petition be filed at least 3 days before the end of the 14-day treatment period.

-- Subsection 6 would require proof by clear, cogent, and convincing evidence to extend treatment by an additional 90 days.

-- Subsection 12 would require that revocation of LRA treatment would be governed by the same grounds and procedures as creating the LRA treatment.

Section 104 would amend RCW 70.96A.145 to require the prosecuting attorney for the county to represent the chemical dependency specialist or treatment program in the above proceedings. Currently, the prosecuting attorney has discretion to act.

Part II: Integrated System

Sections 201 and 202 would add new sections to 71.05 RCW that would, by April 1, 2016, combine the functions of a designated mental health professional and a designated chemical dependency specialist, with the new position to be called a designated crisis responder.

Section 203 would amend RCW 71.05.020 to delete the definitions for designated mental health professional and designated chemical dependency specialist. The definition of "gravely disabled" would include a disability resulting from the use of alcohol or other psychoactive chemicals. Other definitions would be amended to include similar references.

SHB 1713 defined "alcoholism," "approved substance use disorder treatment program," "chemical dependency," "chemical dependency

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professional,” “drug addiction,” “intoxicated person,” “licensed physician,” “secure detoxification facility,” and “substance use disorder.” ESHB 1713 would also define, in addition to the definitions in SHB 1713, “controlled substance” and “physician assistant.”

Sections 204 through 246 (sections 204 through 239 in SHB 1713) would amend various sections within chapter 71 .05 RCW, which applies to involuntary mental health treatment for adults, to combine the programs for the involuntary treatment of mental disorders and the involuntary treatment of substance use disorders. In addition:

- ESHB 1713 would also prohibit persons being ordered to or detained at a secure detoxification facility or approved substance use disorder treatment program unless there is available space at the facility or program between April 1, 2017, and July 1, 2019. After July 1, 2019, persons could be so ordered or detained without regard to whether space was available.
- ESHB 1713 would limit the loss of firearms rights to those who have a mental disorder and those who have a substance use disorder based on use of a controlled substance (not based on alcohol or a legal drug).

Section 247 is new to ESHB 1713 and would add a new section to Chapter 71 .05 RCW to provide that the limitation on firearm rights based on involuntary commitment for treatment of a substance use disorder shall be strictly construed to apply only if the person would otherwise have his or her firearm rights limited under federal law.

Sections 248 through 273 (sections 240 through 259 in SHB 1713) would amend various sections within chapter 71 .34 RCW, which applies to involuntary mental health treatment for minors, to combine the programs for the involuntary treatment of mental disorders and the involuntary treatment of substance use disorders. In addition:

- ESHB 1713 would also prohibit persons being ordered to or detained at a secure detoxification facility or approved substance use disorder treatment program unless there is available space at the facility or program between April 1, 2017, and July 1, 2019. After July 1, 2019, persons could be so ordered or detained without regard to whether space was available.
- ESHB 1713 would limit the loss of firearms rights to those who have a mental disorder and those who have a substance use disorder based on use of a controlled substance (not based on alcohol or a legal drug).

Section 274 is new to ESHB 1713 and would add a new section to Chapter 71 .34 RCW to provide that the limitation on firearm rights based on involuntary commitment for treatment of a substance use disorder shall be strictly construed to apply only if the person would otherwise have his or her firearm rights limited under federal law.

Section 275 (new to ESHB 1713) would amend RCW 9.41.010 to add a definition of “controlled substance.”

Section 276 (section 260 in ESHB 1713) would amend RCW 9.41.040(2)(iii) to amend the crime of unlawful possession of a firearm in the second degree to include where the person possesses a firearm after having been involuntarily committed for substance use disorder based on use of a controlled substance (not based on alcohol or a legal drug).

Section 277 (section 261 in ESHB 1713) would amend RCW 9.41.047 to prohibit a person has been involuntarily committed for substance use disorder based on use of a controlled substance (not based on alcohol or a legal drug) from possessing a firearm .

Section 278 (section 262 in ESHB 1713) would amend RCW 9.41.075 to require revocation of a concealed pistol license when the license holder is committed for substance use disorder treatment (not based on alcohol or a legal drug).

Section 280 (new to ESHB 1713) would amend RCW 9.41.098 to allow courts to order forfeiture of firearms proven to be in the possession of a person to have been subject to involuntary substance use disorder treatment, based on use of a controlled substance (not based on alcohol or a legal drug).

Section 281 is new to ESHB 1713 and would add a new section to Chapter 9.41 RCW to provide that the limitation on firearm rights based on involuntary commitment for treatment of a substance use disorder shall be strictly construed to apply only if the person would otherwise have his or her firearm rights limited under federal law.

Part III: Repealers

Section 301 would repeal a number of statutes in chapter 70.96A RCW (Treatment for alcoholism, intoxication, and drug addiction), statutes in chapter 70.96B RCW (Integrated crisis response and involuntary treatment -- Pilot programs), and RCW 71.05.032 (Joinder of petitions for commitment), made unnecessary by the changes above, effective April 1, 2017.

Part IV: Corrections to References

Sections 401 through 431 would correct references to statutes throughout the revised code which would be necessary based on the changes above.

Part V: Miscellaneous

Section 501 would name the act Ricky Garcia's act.

Sections 502 and 503 would make the changes effective April 1, 2017, and July 1, 2019, as described above.

Section 504 provides that this act would be null and void if specific funding is not provided by June 30, 2015.

II. B - Cash Receipts Impact

No revenue changes are expected as a result of this bill.

II. C - Expenditures

Based upon information provided, it is assumed that there would be minimal financial impact to the superior courts statewide from the amendments/provisions in this bill. The differences between SHB 1713 and ESHB 1713 do not change the financial impact on the courts.

There are two potential impacts: (1) the impact from the changes to the system, and (2) the impact from increasing the number of persons who would be prohibited from possessing a firearm. While the first impact would cause some significant changes to the way involuntary mental health and chemical dependency cases are handled, it is not expected that those changes would require significant additional court time in each case.

The second potential impact is also expected to be small. By expanding the number of persons who are prohibited from possessing a firearm, it is possible that there would be an increase in the number of felony charges filed for unlawful possession of a firearm. However, there is no judicial data available to estimate how many more criminal cases may be filed. It is most likely, though, that the increase would be small as a result of the provisions of this bill.

There is a finite amount of superior court judicial officer time available to hear criminal cases throughout the state. Whenever additional caseload creates a need for additional judicial officers, the system absorbs that need. The system accommodates such changes partially by delaying criminal and juvenile cases and partly by lengthening the backlog for civil trials. Small increases in FTE need may be absorbed by the system, but there is a cumulative effect from multiple bills in a session or over a series of years that can result in a shortage of judges and commissioners relative to the judicial need expressed in caseload.

Part III: Expenditure Detail

Part IV: Capital Budget Impact