

Judicial Impact Fiscal Note

Bill Number: 5649 E 2S SB	Title: Mental health/inv outpatient	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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OFM Review:	Phone:	Date:

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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 amend the laws regarding involuntary mental health treatment in two major ways. First, in Part I, it would address the problem of psychiatric boarding of persons who are waiting for an appropriate evaluation and treatment bed. It would also instruct the courts to use dismissal of the case only as a remedy to lengthy boarding only where there is a total disregard of the provisions of the bill. These sections are new to E2SSB 5649. The financial impact to the courts cannot be estimated because no judicial data exists to support an estimate, but the impact is assumed to be small.

Second, in Part II, this bill would create an outpatient treatment alternative for persons “in need of assisted outpatient treatment” where they do not present a likelihood of serious harm or are gravely disabled. The financial impact to the courts from these sections also cannot be estimated because no judicial data exists to support an estimate, but the impact is assumed to be less than \$50,000.

Sections with potential court impact:

PART I: INITIAL DETENTION

Section 101 would amend RCW 71.05.010 to direct courts to focus on the merits of mental health treatment petitions, except where requirements have been totally disregarded. This section is new to E2SSB 5649.

Sections 102, 103 and 104 would create new statutes to regulate the use of single bed certifications. These sections are new to E2SSB 5649.

Section 105 would amend RCW 71.05.050 and section 106 would amend RCW 71.05.153 to instruct courts that dismissal of a commitment petition is not the appropriate remedy where a detained person is not moved in from a boarding area to an evaluation and treatment bed within the timelines developed by the department of social and health services, unless there is a total disregard of the requirements. (There is no mention of a more appropriate remedy in this situation.) These sections are new to E2SSB 5649.

Section 107 would amend RCW 71.05.210 to exclude time periods prior to medical clearance from the time in which mental health patients must be examined by mental health professionals. This section is new to E2SSB 5649.

PART II: ASSISTED OUTPATIENT TREATMENT

Sections 201 and 202 would amend RCW 71.05.020 to create a new definition for “in need of assisted outpatient treatment” and “medical clearance.” These sections are essentially the same as sections 1 and 2 in SSB 5649.

Section 203 would amend RCW 71.05.150 to create the procedure for filing a petition for assisted outpatient treatment. An emergency room may release a person who is subject to this petition when the medical treatment is finished. This section is the same as section 3 in SSB 5649.

Section 206 would amend RCW 71.05.230 to change the current 14-day detention for treatment to a 14-day commitment for treatment. If the petition seeks an involuntary less restrictive alternative to treatment, the court may find that the person is in need of assisted outpatient treatment instead of that the person presents a likelihood of serious harm or is gravely disabled. The court may not order inpatient treatment without a finding of likelihood of serious harm or grave disability. This section is the same as section 6 in SSB 5649.

Section 207 would amend RCW 71.05.240 to provide that the court may not order inpatient treatment without a finding of likelihood of serious harm or grave disability. This section is the same as section 7 in SSB 5649.

Section 208 would amend RCW 71.05.245 to direct that the court consider the person’s current and prior condition when determining whether the person is in need of assisted outpatient treatment. This section is the same as section 8 in SSB 5649.

Section 209 would amend RCW 71.05.280 to allow the court to confine a person who has finished the 14-day intensive treatment, where the person is in need of assisted outpatient treatment. This section is the same as section 9 in SSB 5649.

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Section 210 would amend RCW 71.05.320 to allow the court to only order an appropriate less restrictive course of treatment for no more than 90 days where the court or jury finds the person is only in need of assisted outpatient treatment. This section is the same as section 10 in SSB 5649.

PART III: MISCELLANEOUS

Section 301 provides that sections 201 through 210 would be null and void if specific funding is not provided by June 30, 2015.

Section 304 would enable sections 101 through 109, 111, and 112 to take effect immediately upon the bill becoming law.

II. B - Cash Receipts Impact

There is no revenue expected as a result of this bill.

II. C - Expenditures

Expenditure Impact to the Courts from Part I:

Based upon information provided and input from the courts, it is assumed that there would be minimal financial impact to the superior courts statewide from the amendments and provisions in this bill. Because we believe the impact to be so small, we are considering Part I of E2SSB 5649 to have no fiscal impact on the courts.

The main provision of this bill which could impact the courts is the clarification that dismissal is not the appropriate remedy where a detained person is not moved in from a boarding area to an evaluation and treatment bed within the timelines developed by the department of social and health services, unless there is a total disregard of the requirements. The courts which currently have cases where patients are boarded do not always dismiss the cases. Where courts use dismissal as a remedy for boarding, the persons whose cases are dismissed often still have mental health issues which need treatment. It is highly probable that these persons are re-detained by mental health professionals, so the courts are still handling cases involving these persons. Dismissal in those cases may result in extra cases and increased court time spent on those cases. Fewer dismissals in these cases would balance out the court time reductions in those cases which are not refiled. It is not expected that fewer dismissals would result in a significant increase in workload in these cases.

Available data in the Judicial Information System from 2010 to 2014 indicate that the superior courts handle an average of 10,000 mental health cases each year. A large percentage of these cases, estimated at 15-25%, are dismissed each year for a number of reasons. Because the Judicial Information System does not collect information on the reasons for the dismissals, we do not know how many cases are currently dismissed for reasons related to boarding. In addition, the Judicial Information System does not collect information on the number of these cases which are refiled after a dismissal for boarding.

There is a finite amount of superior court judicial officer time available to hear 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.

Expenditure Impact to the Courts from Part II:

Based upon information provided and input from the courts, it is assumed that there would be a financial impact to the superior courts statewide from the amendments and provisions in this bill. However, there is no judicial data available to estimate the number of new cases which may be filed as a result of this bill, and therefore we cannot estimate the full impact this bill would have if passed. We assume that the financial impact to the courts from Part II of E2SSB 5649 would be less than \$50,000, but it could be greater than that amount.

Mental health cases each take between 10 minutes (for the least contested hearings) and several hours (for highly contested hearings) of court time. For the purposes of this note, we assume that the cases will take an average of 20 minutes each. Unfortunately, without any data to estimate the number of cases which will be filed, we cannot give an accurate assessment of the financial impact to the courts.

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The total number of involuntary mental illness and alcohol dependency cases filed statewide in the last 3 years averages 10,851 per year. Because this bill would bring to the courts a group of persons never before included, we cannot estimate the number of new cases which would be filed. For illustration, we can estimate the impact to the courts if we assume 100 new cases are filed, or 500 new cases are filed.

Number of new cases filed: 100

New case filings cost to the courts – state: \$3,464

New case filings cost to the courts – counties: \$15,147

Total costs: \$18,611

Number of new cases filed: 500

New case filings cost to the courts – state: \$17,318

New case filings cost to the courts – counties: \$75,735

Total costs: \$93,053

Again, these calculations are simply for illustration, as the true impact could be less or more than either of these estimates .

Part III: Expenditure Detail

Part IV: Capital Budget Impact