
HOUSE BILL 1275

State of Washington 61st Legislature 2009 Regular Session

By Representatives Dickerson, O'Brien, Cody, Hurst, Green, and Dammeier

Read first time 01/16/09. Referred to Committee on Human Services.

1 AN ACT Relating to consideration of respondents' recent and past
2 acts in involuntary commitment proceedings; amending RCW 71.05.212,
3 71.05.245, and 71.05.157; creating a new section; and providing an
4 effective date.

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

6 NEW SECTION. **Sec. 1.** To effectuate the legislature's goal of
7 protecting public safety, as provided in RCW 71.05.010, within the
8 context of the Washington state supreme court's holding in *In re*
9 *Harris*, 98 Wn.2d 276 (1982), the legislature intends that a trier of
10 fact determining whether a person presents a likelihood of serious harm
11 have the ability to consider a respondent's recent and past acts where
12 such acts would indicate a substantial risk to public safety.

13 **Sec. 2.** RCW 71.05.212 and 1999 c 214 s 5 are each amended to read
14 as follows:

15 (1) Whenever a ((county)) designated mental health professional or
16 professional person is conducting an evaluation under this chapter,
17 consideration shall include all reasonably available information and
18 records regarding: (1) Prior recommendations for evaluation of the

1 need for civil commitments when the recommendation is made pursuant to
2 an evaluation conducted under chapter 10.77 RCW; (2) history of one or
3 more violent acts; (3) prior determinations of incompetency or insanity
4 under chapter 10.77 RCW; ~~((and))~~ (4) prior commitments under this
5 chapter; and (5) other available treatment records.

6 ~~((In addition,))~~ (2) When conducting an evaluation for offenders
7 identified under RCW 72.09.370, the ~~((county))~~ designated mental health
8 professional or professional person also shall consider an offender's
9 history of judicially required or administratively ordered
10 antipsychotic medication while in confinement.

11 **Sec. 3.** RCW 71.05.245 and 1999 c 13 s 6 are each amended to read
12 as follows:

13 (1) In determining whether a person presents a likelihood of
14 serious harm under RCW 71.05.020(23), the legislature recognizes that
15 in the case of *In re Harris*, 98 Wn.2d 276 (1982), the Washington state
16 supreme court held that in some circumstances it is necessary for a
17 trier of fact to find a substantial risk of physical harm as evidenced
18 by a recent overt act prior to ordering a civil commitment. For the
19 purposes of this section, an act is deemed to be recent if it has
20 occurred within three years prior to the current evaluation by a
21 designated mental health professional or the current court hearing,
22 excluding any time spent, but not acts committed, in a mental health
23 facility or in confinement as a result of a criminal conviction.

24 (2) In making a determination of whether there is a likelihood of
25 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
26 the ~~((court))~~ trier of fact shall give great weight to any evidence
27 before the court regarding whether the person has: (1) A recent
28 history of one or more violent acts; ~~((or))~~ (2) a recent history of an
29 act that, based upon the past behavior of the respondent, may be
30 associated with a likelihood of serious harm; or (3) a recent history
31 of one or more commitments under this chapter or its equivalent
32 provisions under the laws of another state which were based on a
33 likelihood of serious harm. The existence of prior violent acts or
34 commitments under this chapter or its equivalent shall not be the sole
35 basis for determining whether a person presents a likelihood of serious
36 harm.

1 ((For the purposes of this section "recent" refers to the period of
2 time not exceeding three years prior to the current hearing.))

3 **Sec. 4.** RCW 71.05.157 and 2007 c 375 s 9 are each amended to read
4 as follows:

5 (1) When a designated mental health professional is notified by a
6 jail that a defendant or offender who was subject to a discharge review
7 under RCW 71.05.232 is to be released to the community, the designated
8 mental health professional shall evaluate the person within seventy-two
9 hours of release.

10 (2) When an offender is under court-ordered treatment in the
11 community and the supervision of the department of corrections, and the
12 treatment provider becomes aware that the person is in violation of the
13 terms of the court order, the treatment provider shall notify the
14 designated mental health professional and the department of corrections
15 of the violation and request an evaluation for purposes of revocation
16 of the less restrictive alternative.

17 (3) When a designated mental health professional becomes aware that
18 an offender who is under court-ordered treatment in the community and
19 the supervision of the department of corrections is in violation of a
20 treatment order or a condition of supervision that relates to public
21 safety, or the designated mental health professional detains a person
22 under this chapter, the designated mental health professional shall
23 notify the person's treatment provider and the department of
24 corrections.

25 (4) When an offender who is confined in a state correctional
26 facility or is under supervision of the department of corrections in
27 the community is subject to a petition for involuntary treatment under
28 this chapter, the petitioner shall notify the department of corrections
29 ~~((and the)).~~ If the department of corrections has classified the
30 offender as a high risk or high needs offender, the department shall
31 provide documentation of its risk assessment ((or)), records of the
32 offender's compliance with any conditions of his or her sentence or
33 community supervision related to participation in mental health
34 treatment, and any other concerns to the petitioner and the court ((if
35 the department of corrections classified the offender as a high risk or
36 high needs offender)).

1 (5) Nothing in this section creates a duty on any treatment
2 provider or designated mental health professional to provide offender
3 supervision.

4 (6) No jail or state correctional facility may be considered a less
5 restrictive alternative to an evaluation and treatment facility.

6 NEW SECTION. **Sec. 5.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2010.

--- END ---