
SUBSTITUTE HOUSE BILL 2717

State of Washington

61st Legislature

2010 Regular Session

By House Human Services (originally sponsored by Representatives Shea, Parker, Ross, Haler, Klippert, Taylor, McCune, Short, Kristiansen, Kretz, Crouse, Hinkle, Johnson, Rodne, Bailey, Orcutt, Angel, Fagan, Smith, Condotta, Pearson, and Warnick)

READ FIRST TIME 02/02/10.

1 AN ACT Relating to restricting outings from state facilities;
2 amending RCW 10.77.010; and adding a new section to chapter 10.77 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.77 RCW
5 to read as follows:

6 (1) No person committed to the custody of the department for the
7 determination of competency to stand trial under RCW 10.77.060, the
8 restoration of competency for trial under RCW 10.77.084, 10.77.086, or
9 10.77.088, or following an acquittal by reason of insanity shall be
10 authorized to leave the facility where the person is confined, except
11 in the following circumstances:

12 (a) In accordance with conditional release or furlough ordered by
13 a court;

14 (b) For necessary medical or legal proceedings not available in the
15 facility where the person is confined;

16 (c) For visits to the bedside of a member of the person's immediate
17 family who is seriously ill; or

18 (d) For attendance at the funeral of a member of the person's
19 immediate family.

1 (2) Unless ordered otherwise by a court, no leave under subsection
2 (1) of this section shall be authorized unless the person who is the
3 subject of the authorization is escorted by a person approved by the
4 secretary. During the authorized leave, the person approved by the
5 secretary must be in visual or auditory contact at all times with the
6 person on authorized leave.

7 (3) Prior to the authorization of any leave under subsection (1) of
8 this section, the secretary must give notification to any county or
9 city law enforcement agency having jurisdiction in the location of the
10 leave destination.

11 (4) At no time and under no circumstance shall a person on
12 authorized leave under this section go beyond the boundaries of the
13 state of Washington.

14 **Sec. 2.** RCW 10.77.010 and 2005 c 504 s 106 are each amended to
15 read as follows:

16 As used in this chapter:

17 (1) "Admission" means acceptance based on medical necessity, of a
18 person as a patient.

19 (2) "Commitment" means the determination by a court that a person
20 should be detained for a period of either evaluation or treatment, or
21 both, in an inpatient or a less-restrictive setting.

22 (3) "Conditional release" means modification of a court-ordered
23 commitment, which may be revoked upon violation of any of its terms.

24 (4) A "criminally insane" person means any person who has been
25 acquitted of a crime charged by reason of insanity, and thereupon found
26 to be a substantial danger to other persons or to present a substantial
27 likelihood of committing criminal acts jeopardizing public safety or
28 security unless kept under further control by the court or other
29 persons or institutions.

30 (5) "Department" means the state department of social and health
31 services.

32 (6) "Designated mental health professional" has the same meaning as
33 provided in RCW 71.05.020.

34 (7) "Detention" or "detain" means the lawful confinement of a
35 person, under the provisions of this chapter, pending evaluation.

36 (8) "Developmental disabilities professional" means a person who
37 has specialized training and three years of experience in directly

1 treating or working with persons with developmental disabilities and is
2 a psychiatrist or psychologist, or a social worker, and such other
3 developmental disabilities professionals as may be defined by rules
4 adopted by the secretary.

5 (9) "Developmental disability" means the condition as defined in
6 RCW 71A.10.020(3).

7 (10) "Discharge" means the termination of hospital medical
8 authority. The commitment may remain in place, be terminated, or be
9 amended by court order.

10 (11) "Furlough" means an authorized leave of absence for a resident
11 of a state institution operated by the department designated for the
12 custody, care, and treatment of the criminally insane, consistent with
13 an order of conditional release from the court under this chapter,
14 without any requirement that the resident be accompanied by, or be in
15 the custody of, any law enforcement or institutional staff, while on
16 such unescorted leave.

17 (12) "Habilitative services" means those services provided by
18 program personnel to assist persons in acquiring and maintaining life
19 skills and in raising their levels of physical, mental, social, and
20 vocational functioning. Habilitative services include education,
21 training for employment, and therapy. The habilitative process shall
22 be undertaken with recognition of the risk to the public safety
23 presented by the person being assisted as manifested by prior charged
24 criminal conduct.

25 (13) "History of one or more violent acts" means violent acts
26 committed during: (a) The ten-year period of time prior to the filing
27 of criminal charges; plus (b) the amount of time equal to time spent
28 during the ten-year period in a mental health facility or in
29 confinement as a result of a criminal conviction.

30 (14) "Immediate family member" means a spouse, child, stepchild,
31 parent, stepparent, grandparent, sibling, or domestic partner.

32 (15) "Incompetency" means a person lacks the capacity to understand
33 the nature of the proceedings against him or her or to assist in his or
34 her own defense as a result of mental disease or defect.

35 ((+15+)) (16) "Indigent" means any person who is financially unable
36 to obtain counsel or other necessary expert or professional services
37 without causing substantial hardship to the person or his or her
38 family.

1 (~~(16)~~) (17) "Individualized service plan" means a plan prepared
2 by a developmental disabilities professional with other professionals
3 as a team, for an individual with developmental disabilities, which
4 shall state:

5 (a) The nature of the person's specific problems, prior charged
6 criminal behavior, and habilitation needs;

7 (b) The conditions and strategies necessary to achieve the purposes
8 of habilitation;

9 (c) The intermediate and long-range goals of the habilitation
10 program, with a projected timetable for the attainment;

11 (d) The rationale for using this plan of habilitation to achieve
12 those intermediate and long-range goals;

13 (e) The staff responsible for carrying out the plan;

14 (f) Where relevant in light of past criminal behavior and due
15 consideration for public safety, the criteria for proposed movement to
16 less-restrictive settings, criteria for proposed eventual release, and
17 a projected possible date for release; and

18 (g) The type of residence immediately anticipated for the person
19 and possible future types of residences.

20 (~~(17)~~) (18) "Professional person" means:

21 (a) A psychiatrist licensed as a physician and surgeon in this
22 state who has, in addition, completed three years of graduate training
23 in psychiatry in a program approved by the American medical association
24 or the American osteopathic association and is certified or eligible to
25 be certified by the American board of psychiatry and neurology or the
26 American osteopathic board of neurology and psychiatry;

27 (b) A psychologist licensed as a psychologist pursuant to chapter
28 18.83 RCW; or

29 (c) A social worker with a master's or further advanced degree from
30 an accredited school of social work or a degree deemed equivalent under
31 rules adopted by the secretary.

32 (~~(18)~~) (19) "Registration records" include all the records of the
33 department, regional support networks, treatment facilities, and other
34 persons providing services to the department, county departments, or
35 facilities which identify persons who are receiving or who at any time
36 have received services for mental illness.

37 (~~(19)~~) (20) "Release" means legal termination of the court-
38 ordered commitment under the provisions of this chapter.

1 (~~(+20)~~) (21) "Secretary" means the secretary of the department of
2 social and health services or his or her designee.

3 (~~(+21)~~) (22) "Treatment" means any currently standardized medical
4 or mental health procedure including medication.

5 (~~(+22)~~) (23) "Treatment records" include registration and all
6 other records concerning persons who are receiving or who at any time
7 have received services for mental illness, which are maintained by the
8 department, by regional support networks and their staffs, and by
9 treatment facilities. Treatment records do not include notes or
10 records maintained for personal use by a person providing treatment
11 services for the department, regional support networks, or a treatment
12 facility if the notes or records are not available to others.

13 (~~(+23)~~) (24) "Violent act" means behavior that: (a)(i) Resulted
14 in; (ii) if completed as intended would have resulted in; or (iii) was
15 threatened to be carried out by a person who had the intent and
16 opportunity to carry out the threat and would have resulted in,
17 homicide, nonfatal injuries, or substantial damage to property; or (b)
18 recklessly creates an immediate risk of serious physical injury to
19 another person. As used in this subsection, "nonfatal injuries" means
20 physical pain or injury, illness, or an impairment of physical
21 condition. "Nonfatal injuries" shall be construed to be consistent
22 with the definition of "bodily injury," as defined in RCW 9A.04.110.

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