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HOUSE BILL 3076

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Dickerson and Kenney; by request of Governor Gregoire

Read first time 01/22/10. Referred to Committee on Human Services.

1            AN ACT Relating to evaluations of persons under the involuntary  
2 treatment act; reenacting and amending RCW 71.05.020; creating a new  
3 section; and providing an expiration date.

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

5            NEW SECTION.    **Sec. 1.**    (1) The Washington institute for public  
6 policy shall, in collaboration with the department of social and health  
7 services and other applicable entities, undertake a search for a  
8 validated mental health assessment tool or combination of tools to be  
9 used by designated mental health professionals when undertaking  
10 assessments of individuals for detention, commitment, and revocation  
11 under the involuntary treatment act pursuant to chapter 71.05 RCW.

12            (2) This section expires June 30, 2011.

13            **Sec. 2.**    RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 are  
14 each reenacted and amended to read as follows:

15            The definitions in this section apply throughout this chapter  
16 unless the context clearly requires otherwise.

17            (1) "Admission" or "admit" means a decision by a physician or

1 psychiatric advanced registered nurse practitioner that a person should  
2 be examined or treated as a patient in a hospital;

3 (2) "Antipsychotic medications" means that class of drugs primarily  
4 used to treat serious manifestations of mental illness associated with  
5 thought disorders, which includes, but is not limited to atypical  
6 antipsychotic medications;

7 (3) "Attending staff" means any person on the staff of a public or  
8 private agency having responsibility for the care and treatment of a  
9 patient;

10 (4) "Commitment" means the determination by a court that a person  
11 should be detained for a period of either evaluation or treatment, or  
12 both, in an inpatient or a less restrictive setting;

13 (5) "Conditional release" means a revocable modification of a  
14 commitment, which may be revoked upon violation of any of its terms;

15 (6) "Crisis stabilization unit" means a short-term facility or a  
16 portion of a facility licensed by the department of health and  
17 certified by the department of social and health services under RCW  
18 71.24.035, such as an evaluation and treatment facility or a hospital,  
19 which has been designed to assess, diagnose, and treat individuals  
20 experiencing an acute crisis without the use of long-term  
21 hospitalization;

22 (7) "Custody" means involuntary detention under the provisions of  
23 this chapter or chapter 10.77 RCW, uninterrupted by any period of  
24 unconditional release from commitment from a facility providing  
25 involuntary care and treatment;

26 (8) "Department" means the department of social and health  
27 services;

28 (9) "Designated chemical dependency specialist" means a person  
29 designated by the county alcoholism and other drug addiction program  
30 coordinator designated under RCW 70.96A.310 to perform the commitment  
31 duties described in chapters 70.96A and 70.96B RCW;

32 (10) "Designated crisis responder" means a mental health  
33 professional appointed by the county or the regional support network to  
34 perform the duties specified in this chapter;

35 (11) "Designated mental health professional" means a mental health  
36 professional designated by the county or other authority authorized in  
37 rule to perform the duties specified in this chapter;

1 (12) "Detention" or "detain" means the lawful confinement of a  
2 person, under the provisions of this chapter;

3 (13) "Developmental disabilities professional" means a person who  
4 has specialized training and three years of experience in directly  
5 treating or working with persons with developmental disabilities and is  
6 a psychiatrist, psychologist, psychiatric advanced registered nurse  
7 practitioner, or social worker, and such other developmental  
8 disabilities professionals as may be defined by rules adopted by the  
9 secretary;

10 (14) "Developmental disability" means that condition defined in RCW  
11 71A.10.020(3);

12 (15) "Discharge" means the termination of hospital medical  
13 authority. The commitment may remain in place, be terminated, or be  
14 amended by court order;

15 (16) "Evaluation and treatment facility" means any facility which  
16 can provide directly, or by direct arrangement with other public or  
17 private agencies, emergency evaluation and treatment, outpatient care,  
18 and timely and appropriate inpatient care to persons suffering from a  
19 mental disorder, and which is certified as such by the department. A  
20 physically separate and separately operated portion of a state hospital  
21 may be designated as an evaluation and treatment facility. A facility  
22 which is part of, or operated by, the department or any federal agency  
23 will not require certification. No correctional institution or  
24 facility, or jail, shall be an evaluation and treatment facility within  
25 the meaning of this chapter;

26 (17) "Gravely disabled" means a condition in which a person, as a  
27 result of a mental disorder: (a) Is in danger of serious physical harm  
28 resulting from a failure to provide for his or her essential human  
29 needs of health or safety; or (b) manifests severe deterioration in  
30 routine functioning evidenced by repeated and escalating loss of  
31 cognitive or volitional control over his or her actions and is not  
32 receiving such care as is essential for his or her health or safety;

33 (18) "Habilitative services" means those services provided by  
34 program personnel to assist persons in acquiring and maintaining life  
35 skills and in raising their levels of physical, mental, social, and  
36 vocational functioning. Habilitative services include education,  
37 training for employment, and therapy. The habilitative process shall

1 be undertaken with recognition of the risk to the public safety  
2 presented by the person being assisted as manifested by prior charged  
3 criminal conduct;

4 (19) "History of one or more violent acts" refers to the period of  
5 time ten years prior to the filing of a petition under this chapter,  
6 excluding any time spent, but not any violent acts committed, in a  
7 mental health facility or in confinement as a result of a criminal  
8 conviction;

9 (20) "Imminent" means the state or condition of being likely to  
10 occur at any moment or near at hand, rather than distant or remote;

11 (21) "Individualized service plan" means a plan prepared by a  
12 developmental disabilities professional with other professionals as a  
13 team, for a person with developmental disabilities, which shall state:

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

16 (b) The conditions and strategies necessary to achieve the purposes  
17 of habilitation;

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

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

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

23 (f) Where relevant in light of past criminal behavior and due  
24 consideration for public safety, the criteria for proposed movement to  
25 less-restrictive settings, criteria for proposed eventual discharge or  
26 release, and a projected possible date for discharge or release; and

27 (g) The type of residence immediately anticipated for the person  
28 and possible future types of residences;

29 (22) "Information related to mental health services" means all  
30 information and records compiled, obtained, or maintained in the course  
31 of providing services to either voluntary or involuntary recipients of  
32 services by a mental health service provider. This may include  
33 documents of legal proceedings under this chapter or chapter 71.34 or  
34 10.77 RCW, or somatic health care information;

35 (23) "Judicial commitment" means a commitment by a court pursuant  
36 to the provisions of this chapter;

37 (24) "Legal counsel" means attorneys and staff employed by county

1 prosecutor offices or the state attorney general acting in their  
2 capacity as legal representatives of public mental health service  
3 providers under RCW 71.05.130;

4 (25) "Likelihood of serious harm" means:

5 (a) A substantial risk that: (i) Physical harm will be inflicted  
6 by a person upon his or her own person, as evidenced by threats or  
7 attempts to commit suicide or inflict physical harm on oneself; (ii)  
8 physical harm will be inflicted by a person upon another, as evidenced  
9 by behavior which has caused such harm or which places another person  
10 or persons in reasonable fear of sustaining such harm; or (iii)  
11 physical harm will be inflicted by a person upon the property of  
12 others, as evidenced by behavior which has caused substantial loss or  
13 damage to the property of others; ((or))

14 (b) The person has threatened the physical safety of another and  
15 has a history of one or more violent acts; or

16 (c) The person has committed a recent overt act that creates a  
17 reasonable apprehension of harm to the physical safety of another  
18 person or the community in the mind of an objective person who knows  
19 the history of any violent acts or the history of the mental condition  
20 of the person engaging in the act;

21 (26) "Mental disorder" means any organic, mental, or emotional  
22 impairment which has substantial adverse effects on a person's  
23 cognitive or volitional functions;

24 (27) "Mental health professional" means a psychiatrist,  
25 psychologist, psychiatric advanced registered nurse practitioner,  
26 psychiatric nurse, or social worker, and such other mental health  
27 professionals as may be defined by rules adopted by the secretary  
28 pursuant to the provisions of this chapter;

29 (28) "Mental health service provider" means a public or private  
30 agency that provides mental health services to persons with mental  
31 disorders as defined under this section and receives funding from  
32 public sources. This includes, but is not limited to, hospitals  
33 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
34 as defined in this section, community mental health service delivery  
35 systems or community mental health programs as defined in RCW  
36 71.24.025, facilities conducting competency evaluations and restoration  
37 under chapter 10.77 RCW, and correctional facilities operated by state  
38 and local governments;

1 (29) "Peace officer" means a law enforcement official of a public  
2 agency or governmental unit, and includes persons specifically given  
3 peace officer powers by any state law, local ordinance, or judicial  
4 order of appointment;

5 (30) "Private agency" means any person, partnership, corporation,  
6 or association that is not a public agency, whether or not financed in  
7 whole or in part by public funds, which constitutes an evaluation and  
8 treatment facility or private institution, or hospital, which is  
9 conducted for, or includes a department or ward conducted for, the care  
10 and treatment of persons who are mentally ill;

11 (31) "Professional person" means a mental health professional and  
12 shall also mean a physician, psychiatric advanced registered nurse  
13 practitioner, registered nurse, and such others as may be defined by  
14 rules adopted by the secretary pursuant to the provisions of this  
15 chapter;

16 (32) "Psychiatric advanced registered nurse practitioner" means a  
17 person who is licensed as an advanced registered nurse practitioner  
18 pursuant to chapter 18.79 RCW; and who is board certified in advanced  
19 practice psychiatric and mental health nursing;

20 (33) "Psychiatrist" means a person having a license as a physician  
21 and surgeon in this state who has in addition completed three years of  
22 graduate training in psychiatry in a program approved by the American  
23 medical association or the American osteopathic association and is  
24 certified or eligible to be certified by the American board of  
25 psychiatry and neurology;

26 (34) "Psychologist" means a person who has been licensed as a  
27 psychologist pursuant to chapter 18.83 RCW;

28 (35) "Public agency" means any evaluation and treatment facility or  
29 institution, or hospital which is conducted for, or includes a  
30 department or ward conducted for, the care and treatment of persons  
31 with mental illness, if the agency is operated directly by, federal,  
32 state, county, or municipal government, or a combination of such  
33 governments;

34 (36) "Recent overt act" means any act, threat, behavior, or  
35 combination thereof;

36 (37) "Registration records" include all the records of the  
37 department, regional support networks, treatment facilities, and other

1 persons providing services to the department, county departments, or  
2 facilities which identify persons who are receiving or who at any time  
3 have received services for mental illness;

4 ~~((+37+))~~ (38) "Release" means legal termination of the commitment  
5 under the provisions of this chapter;

6 ~~((+38+))~~ (39) "Resource management services" has the meaning given  
7 in chapter 71.24 RCW;

8 ~~((+39+))~~ (40) "Secretary" means the secretary of the department of  
9 social and health services, or his or her designee;

10 ~~((+40+))~~ (41) "Serious violent offense" has the same meaning as  
11 provided in RCW 9.94A.030;

12 ~~((+41+))~~ (42) "Social worker" means a person with a master's or  
13 further advanced degree from an accredited school of social work or a  
14 degree deemed equivalent under rules adopted by the secretary;

15 ~~((+42+))~~ (43) "Therapeutic court personnel" means the staff of a  
16 mental health court or other therapeutic court which has jurisdiction  
17 over defendants who are dually diagnosed with mental disorders,  
18 including court personnel, probation officers, a court monitor,  
19 prosecuting attorney, or defense counsel acting within the scope of  
20 therapeutic court duties;

21 ~~((+43+))~~ (44) "Treatment records" include registration and all  
22 other records concerning persons who are receiving or who at any time  
23 have received services for mental illness, which are maintained by the  
24 department, by regional support networks and their staffs, and by  
25 treatment facilities. Treatment records include mental health  
26 information contained in a medical bill including but not limited to  
27 mental health drugs, a mental health diagnosis, provider name, and  
28 dates of service stemming from a medical service. Treatment records do  
29 not include notes or records maintained for personal use by a person  
30 providing treatment services for the department, regional support  
31 networks, or a treatment facility if the notes or records are not  
32 available to others;

33 ~~((+44+))~~ (45) "Violent act" means behavior that resulted in  
34 homicide, attempted suicide, nonfatal injuries, or substantial damage  
35 to property.

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