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**SENATE BILL 6365**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators O'Ban, Darneille, Chase, and Kuderer

AN ACT Relating to suspending the evaluation, detention, and commitment of persons with a substance use disorder when secure detoxification facility beds are not available; amending RCW 71.05.750, 71.05.750, and 71.05.755; providing an effective date; providing an expiration date; and declaring an emergency.

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

**Sec.**  RCW 71.05.750 and 2015 c 269 s 3 are each amended to read as follows:

(1) A designated mental health professional shall make a report to the department when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and:

(a) For a person determined to meet detention criteria as the result of a mental disorder, there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or less restrictive alternative; or

(b) For a person determined to meet detention criteria as the result of a substance use disorder, there are not any beds available in a secure detoxification facility or approved substance use disorder treatment program and the person cannot be served on a less restrictive alternative. Starting at the time when the designated mental health professional determines a person meets detention criteria and the investigation has been completed, the designated mental health professional has twenty-four hours to submit a completed report to the department.

(2) The report required under subsection (1) of this section must contain at a minimum:

(a) The date and time that the investigation was completed;

(b) The identity of the responsible regional support network or behavioral health organization;

(c) The county in which the person met detention criteria;

(d) A list of facilities which refused to admit the person; ((~~and~~))

(e) Identifying information for the person, including age or date of birth;

(f) Whether the person met detention criteria as a result of a mental disorder; and

(g) Whether the person met detention criteria as a result of a substance use disorder.

(3) The department shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The department shall also determine the method for the transmission of the completed report from the designated mental health professional to the department.

(4) The department shall create quarterly reports displayed on its web site that summarize the information reported under subsection (2) of this section. At a minimum, the reports must display data by county and by month. The reports must also include the number of single bed certifications granted by category. The categories must include all of the reasons that the department recognizes for issuing a single bed certification, as identified in rule.

(5) The reports provided according to this section may not display "protected health information" as that term is used in the federal health insurance portability and accountability act of 1996, nor information contained in "mental health treatment records" as that term is used in chapter 70.02 RCW or elsewhere in state law, and must otherwise be compliant with state and federal privacy laws.

(6) For purposes of this section, the term "single bed certification" means a situation in which an adult on a seventy-two hour detention, fourteen-day commitment, ninety-day commitment, or one hundred eighty-day commitment is detained to a facility that is:

(a) Not certified as an inpatient evaluation and treatment facility; or

(b) A certified inpatient evaluation and treatment facility that is already at capacity.

**Sec.**  RCW 71.05.750 and 2016 sp.s. c 29 s 253 are each amended to read as follows:

(1) A designated crisis responder shall make a report to the department when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and:

(a) For a person determined to meet detention criteria as the result of a mental disorder, there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or less restrictive alternative; or

(b) For a person determined to meet detention criteria as the result of a substance use disorder, there are not any beds available in a secure detoxification facility or approved substance use disorder treatment program and the person cannot be served on a less restrictive alternative. Starting at the time when the designated crisis responder determines a person meets detention criteria and the investigation has been completed, the designated crisis responder has twenty-four hours to submit a completed report to the department.

(2) The report required under subsection (1) of this section must contain at a minimum:

(a) The date and time that the investigation was completed;

(b) The identity of the responsible behavioral health organization;

(c) The county in which the person met detention criteria;

(d) A list of facilities which refused to admit the person; ((~~and~~))

(e) Identifying information for the person, including age or date of birth;

(f) Whether the person met detention criteria as a result of a mental disorder; and

(g) Whether the person met detention criteria as a result of a substance use disorder.

(3) The department shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The department shall also determine the method for the transmission of the completed report from the designated crisis responder to the department.

(4) The department shall create quarterly reports displayed on its web site that summarize the information reported under subsection (2) of this section. At a minimum, the reports must display data by county and by month. The reports must also include the number of single bed certifications granted by category. The categories must include all of the reasons that the department recognizes for issuing a single bed certification, as identified in rule.

(5) The reports provided according to this section may not display "protected health information" as that term is used in the federal health insurance portability and accountability act of 1996, nor information contained in "mental health treatment records" as that term is used in chapter 70.02 RCW or elsewhere in state law, and must otherwise be compliant with state and federal privacy laws.

(6) For purposes of this section, the term "single bed certification" means a situation in which an adult on a seventy-two hour detention, fourteen-day commitment, ninety-day commitment, or one hundred eighty-day commitment is detained to a facility that is:

(a) Not certified as an inpatient evaluation and treatment facility; or

(b) A certified inpatient evaluation and treatment facility that is already at capacity.

**Sec.**  RCW 71.05.755 and 2015 c 269 s 4 are each amended to read as follows:

(1) The department shall promptly share reports it receives under RCW 71.05.750 with the responsible regional support network or behavioral health organization. The regional support network or behavioral health organization receiving this notification must attempt to engage the person in appropriate services for which the person is eligible and report back within seven days to the department.

(2) The department shall track and analyze reports submitted under RCW 71.05.750. The department must initiate corrective action when appropriate to ensure that each regional support network or behavioral health organization has implemented an adequate plan to provide evaluation and treatment services. Corrective actions may include remedies under RCW 71.24.330 and 43.20A.894, including requiring expenditure of reserve funds. An adequate plan may include development of less restrictive alternatives to involuntary commitment such as crisis triage, crisis diversion, voluntary treatment, or prevention programs reasonably calculated to reduce demand for evaluation and treatment under this chapter.

(3)(a) If the department receives a total of sixty reports submitted under RCW 71.05.750(1)(b) within any three-month period, the operation and enforcement of provisions in RCW 71.05.150, 71.05.153, 71.34.700, 71.34.710, and 71.34.720 regarding evaluations, detentions, and commitments for persons with a substance use disorder are suspended.

(b) The suspension provided in (a) of this subsection is effective the tenth business day after the department provides notice to behavioral health organizations, designated crisis responders, secure detoxification facilities, and hospitals, describing the suspension provided in (a) of this subsection and stating that the suspension will be effective ten business days from the date of the notice.

(c) The suspension provided in (a) of this subsection terminates forty-five calendar days after the department issues a notice to behavioral health organizations, designated crisis responders, secure detoxification facilities, and hospitals, stating that the suspension will terminate forty-five calendar days from the date of the notice. The department shall issue a resumption notice under this subsection (3)(c) if, and only if, the department determines forty-eight additional secure detoxification beds, including at least one additional sixteen bed secure detoxification facility located in eastern Washington, are operational.

(d) Nothing in this subsection (3) limits a certified secure detoxification facility or approved substance use disorder treatment program from treating voluntary patients. The department and the health care authority must continue to pay or direct behavioral health organizations and managed care organizations to pay certified secure detoxification facilities and approved substance use disorder treatment programs for services provided to patients receiving voluntary treatment while the suspension provided in (a) of this subsection is effective.

NEW SECTION. **Sec.**  Section 1 of this act expires April 1, 2018.

NEW SECTION. **Sec.**  Sections 1 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec.**  Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2018.

**--- END ---**