

HB 1589 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 04/14/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 71.05.340 and 2000 c 94 s 8 are each amended to read
4 as follows:

5 (1)(a) When, in the opinion of the superintendent or the
6 professional person in charge of the hospital or facility providing
7 involuntary treatment, the committed person can be appropriately served
8 by outpatient treatment prior to or at the expiration of the period of
9 commitment, then such outpatient care may be required as a term of
10 conditional release for a period which, when added to the inpatient
11 treatment period, shall not exceed the period of commitment. If the
12 hospital or facility designated to provide outpatient treatment is
13 other than the facility providing involuntary treatment, the outpatient
14 facility so designated must agree in writing to assume such
15 responsibility. A copy of the terms of conditional release shall be
16 given to the patient, the ((county)) designated mental health
17 professional in the county in which the patient is to receive
18 outpatient treatment, and to the court of original commitment.

19 (b) Before a person committed under grounds set forth in RCW
20 71.05.280(3) or 71.05.320((+2)) (3)(c) is conditionally released under
21 (a) of this subsection, the superintendent or professional person in
22 charge of the hospital or facility providing involuntary treatment
23 shall in writing notify the prosecuting attorney of the county in which
24 the criminal charges against the committed person were dismissed, of
25 the decision to conditionally release the person. Notice and a copy of
26 the terms of conditional release shall be provided at least thirty days
27 before the person is released from inpatient care. Within twenty days
28 after receiving notice, the prosecuting attorney may petition the court
29 in the county that issued the commitment order to hold a hearing to
30 determine whether the person may be conditionally released and the

1 terms of the conditional release. The prosecuting attorney shall
2 provide a copy of the petition to the superintendent or professional
3 person in charge of the hospital or facility providing involuntary
4 treatment, the attorney, if any, and guardian or conservator of the
5 committed person, and the court of original commitment. If the county
6 in which the committed person is to receive outpatient treatment is the
7 same county in which the criminal charges against the committed person
8 were dismissed, then the court shall, upon the motion of the
9 prosecuting attorney, transfer the proceeding to the court in that
10 county. The court shall conduct a hearing on the petition within ten
11 days of the filing of the petition. The committed person shall have
12 the same rights with respect to notice, hearing, and counsel as for an
13 involuntary treatment proceeding, except as set forth in this
14 subsection and except that there shall be no right to jury trial. The
15 issue to be determined at the hearing is whether or not the person may
16 be conditionally released without substantial danger to other persons,
17 or substantial likelihood of committing criminal acts jeopardizing
18 public safety or security. If the court disapproves of the conditional
19 release, it may do so only on the basis of substantial evidence.
20 Pursuant to the determination of the court upon the hearing, the
21 conditional release of the person shall be approved by the court on the
22 same or modified conditions or the person shall be returned for
23 involuntary treatment on an inpatient basis subject to release at the
24 end of the period for which he or she was committed, or otherwise in
25 accordance with the provisions of this chapter.

26 (2) The hospital or facility designated to provide outpatient care
27 or the secretary may modify the conditions for continued release when
28 such modification is in the best interest of the person. Notification
29 of such changes shall be sent to all persons receiving a copy of the
30 original conditions.

31 (3)(a) If the hospital or facility designated to provide outpatient
32 care, the ((county)) designated mental health professional, or the
33 secretary determines that:

34 (i) A conditionally released person is failing to adhere to the
35 terms and conditions of his or her release;

36 (ii) Substantial deterioration in a conditionally released person's
37 functioning has occurred;

1 (iii) There is evidence of substantial decompensation with a
2 reasonable probability that the decompensation can be reversed by
3 further inpatient treatment; or

4 (iv) The person poses a likelihood of serious harm.

5 Upon notification by the hospital or facility designated to provide
6 outpatient care, or on his or her own motion, the ((~~county~~)) designated
7 mental health professional or the secretary may order that the
8 conditionally released person be apprehended and taken into custody and
9 temporarily detained in an evaluation and treatment facility in or near
10 the county in which he or she is receiving outpatient treatment.

11 (b) The hospital or facility designated to provide outpatient
12 treatment shall notify the secretary or ((~~county~~)) designated mental
13 health professional when a conditionally released person fails to
14 adhere to terms and conditions of his or her conditional release or
15 experiences substantial deterioration in his or her condition and, as
16 a result, presents an increased likelihood of serious harm. The
17 ((~~county~~)) designated mental health professional or secretary shall
18 order the person apprehended and temporarily detained in an evaluation
19 and treatment facility in or near the county in which he or she is
20 receiving outpatient treatment.

21 (c) A person detained under this subsection (3) shall be held until
22 such time, not exceeding five days, as a hearing can be scheduled to
23 determine whether or not the person should be returned to the hospital
24 or facility from which he or she had been conditionally released. The
25 ((~~county~~)) designated mental health professional or the secretary may
26 modify or rescind such order at any time prior to commencement of the
27 court hearing.

28 (d) The court that originally ordered commitment shall be notified
29 within two judicial days of a person's detention under the provisions
30 of this section, and the ((~~county~~)) designated mental health
31 professional or the secretary shall file his or her petition and order
32 of apprehension and detention with the court that originally ordered
33 commitment or with the court in the county in which the person is
34 detained and serve them upon the person detained. His or her attorney,
35 if any, and his or her guardian or conservator, if any, shall receive
36 a copy of such papers as soon as possible. Such person shall have the
37 same rights with respect to notice, hearing, and counsel as for an
38 involuntary treatment proceeding, except as specifically set forth in

1 this section and except that there shall be no right to jury trial.
2 The venue for proceedings regarding a petition for modification or
3 revocation of an order for conditional release shall be in the county
4 in which the petition was filed. The issues to be determined shall be:
5 (i) Whether the conditionally released person did or did not adhere to
6 the terms and conditions of his or her conditional release; (ii) that
7 substantial deterioration in the person's functioning has occurred;
8 (iii) there is evidence of substantial decompensation with a reasonable
9 probability that the decompensation can be reversed by further
10 inpatient treatment; or (iv) there is a likelihood of serious harm;
11 and, if any of the conditions listed in this subsection (3)(d) have
12 occurred, whether the terms of conditional release should be modified
13 or the person should be returned to the facility.

14 (e) Pursuant to the determination of the court upon such hearing,
15 the conditionally released person shall either continue to be
16 conditionally released on the same or modified conditions or shall be
17 returned for involuntary treatment on an inpatient basis subject to
18 release at the end of the period for which he or she was committed for
19 involuntary treatment, or otherwise in accordance with the provisions
20 of this chapter. Such hearing may be waived by the person and his or
21 her counsel and his or her guardian or conservator, if any, but shall
22 not be waivable unless all such persons agree to waive, and upon such
23 waiver the person may be returned for involuntary treatment or
24 continued on conditional release on the same or modified conditions.

25 (4) The proceedings set forth in subsection (3) of this section may
26 be initiated by the ((county)) designated mental health professional or
27 the secretary on the same basis set forth therein without requiring or
28 ordering the apprehension and detention of the conditionally released
29 person, in which case the court hearing shall take place in not less
30 than five days from the date of service of the petition upon the
31 conditionally released person. The petition may be filed in the court
32 that originally ordered commitment or with the court in the county in
33 which the person is present. The venue for the proceedings regarding
34 the petition for modification or revocation of an order for conditional
35 release shall be in the county in which the petition was filed.

36 Upon expiration of the period of commitment, or when the person is
37 released from outpatient care, notice in writing to the court which
38 committed the person for treatment shall be provided.

1 (5) The grounds and procedures for revocation of less restrictive
2 alternative treatment shall be the same as those set forth in this
3 section for conditional releases.

4 (6) In the event of a revocation of a conditional release, the
5 subsequent treatment period may be for no longer than the actual period
6 authorized in the original court order."

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7 On page 1, line 2 of the title, after "release;" strike the
8 remainder of the title and insert "and amending RCW 71.05.340."

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