

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5047

56th Legislature
1999 Regular Session

Passed by the Senate February 17, 1999
YEAS 49 NAYS 0

President of the Senate

Passed by the House April 6, 1999
YEAS 92 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5047** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5047

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove and Costa)

Read first time 01/29/1999.

1 AN ACT Relating to the sharing of information received by mental
2 health professionals performing services under chapter 10.77 RCW; and
3 amending RCW 71.05.390.

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

5 **Sec. 1.** RCW 71.05.390 and 1998 c 297 s 22 are each amended to read
6 as follows:

7 Except as provided in this section, the fact of admission and all
8 information and records compiled, obtained, or maintained in the course
9 of providing services to either voluntary or involuntary recipients of
10 services at public or private agencies shall be confidential.

11 Information and records may be disclosed only:

12 (1) In communications between qualified professional persons to
13 meet the requirements of this chapter, in the provision of services or
14 appropriate referrals, or in the course of guardianship proceedings.
15 The consent of the patient, or his or her guardian, shall be obtained
16 before information or records may be disclosed by a professional person
17 employed by a facility unless provided to a professional person: (a)
18 Employed by the facility; (b) who has medical responsibility for the
19 patient's care; (c) who is a county designated mental health

1 professional; (d) who is providing services under chapter 71.24 RCW;
2 ((or)) (e) who is employed by a state or local correctional facility
3 where the person is confined; or (f) who is providing evaluation,
4 treatment, or follow-up services under chapter 10.77 RCW.

5 (2) When the communications regard the special needs of a patient
6 and the necessary circumstances giving rise to such needs and the
7 disclosure is made by a facility providing outpatient services to the
8 operator of a care facility in which the patient resides.

9 (3) When the person receiving services, or his or her guardian,
10 designates persons to whom information or records may be released, or
11 if the person is a minor, when his or her parents make such
12 designation.

13 (4) To the extent necessary for a recipient to make a claim, or for
14 a claim to be made on behalf of a recipient for aid, insurance, or
15 medical assistance to which he or she may be entitled.

16 (5) For either program evaluation or research, or both: PROVIDED,
17 That the secretary (~~of social and health services~~) adopts rules for
18 the conduct of the evaluation or research, or both. Such rules shall
19 include, but need not be limited to, the requirement that all
20 evaluators and researchers must sign an oath of confidentiality
21 substantially as follows:

22 "As a condition of conducting evaluation or research concerning
23 persons who have received services from (fill in the facility, agency,
24 or person) I,, agree not to divulge, publish, or
25 otherwise make known to unauthorized persons or the public any
26 information obtained in the course of such evaluation or research
27 regarding persons who have received services such that the person who
28 received such services is identifiable.

29 I recognize that unauthorized release of confidential information
30 may subject me to civil liability under the provisions of state law.

31 /s/ "

32 (6) To the courts as necessary to the administration of this
33 chapter.

34 (7) To law enforcement officers, public health officers, or
35 personnel of the department of corrections or the indeterminate
36 sentence review board for persons who are the subject of the records
37 and who are committed to the custody of the department of corrections
38 or indeterminate sentence review board which information or records are

1 necessary to carry out the responsibilities of their office. Except
2 for dissemination of information released pursuant to RCW 71.05.425 and
3 4.24.550, regarding persons committed under this chapter under RCW
4 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
5 defined in RCW 9.94A.030, the extent of information that may be
6 released is limited as follows:

7 (a) Only the fact, place, and date of involuntary admission, the
8 fact and date of discharge, and the last known address shall be
9 disclosed upon request; and

10 (b) The law enforcement and public health officers or personnel of
11 the department of corrections or indeterminate sentence review board
12 shall be obligated to keep such information confidential in accordance
13 with this chapter; and

14 (c) Additional information shall be disclosed only after giving
15 notice to said person and his or her counsel and upon a showing of
16 clear, cogent and convincing evidence that such information is
17 necessary and that appropriate safeguards for strict confidentiality
18 are and will be maintained. However, in the event the said person has
19 escaped from custody, said notice prior to disclosure is not necessary
20 and that the facility from which the person escaped shall include an
21 evaluation as to whether the person is of danger to persons or property
22 and has a propensity toward violence.

23 (8) To the attorney of the detained person.

24 (9) To the prosecuting attorney as necessary to carry out the
25 responsibilities of the office under RCW 71.05.330(2) and
26 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
27 to records regarding the committed person's treatment and prognosis,
28 medication, behavior problems, and other records relevant to the issue
29 of whether treatment less restrictive than inpatient treatment is in
30 the best interest of the committed person or others. Information shall
31 be disclosed only after giving notice to the committed person and the
32 person's counsel.

33 (10) To appropriate law enforcement agencies and to a person, when
34 the identity of the person is known to the public or private agency,
35 whose health and safety has been threatened, or who is known to have
36 been repeatedly harassed, by the patient. The person may designate a
37 representative to receive the disclosure. The disclosure shall be made
38 by the professional person in charge of the public or private agency or
39 his or her designee and shall include the dates of admission,

1 discharge, authorized or unauthorized absence from the agency's
2 facility, and only such other information that is pertinent to the
3 threat or harassment. The decision to disclose or not shall not result
4 in civil liability for the agency or its employees so long as the
5 decision was reached in good faith and without gross negligence.

6 (11) To the persons designated in RCW 71.05.425 for the purposes
7 described in that section.

8 (12) Civil liability and immunity for the release of information
9 about a particular person who is committed to the department under RCW
10 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
11 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

12 (13) To a patient's next of kin, guardian, or conservator, if any,
13 in the event of death, as provided in RCW 71.05.400.

14 (14) To the department of health for the purposes of determining
15 compliance with state or federal licensure, certification, or
16 registration rules or laws. However, the information and records
17 obtained under this subsection are exempt from public inspection and
18 copying pursuant to chapter 42.17 RCW.

19 The fact of admission, as well as all records, files, evidence,
20 findings, or orders made, prepared, collected, or maintained pursuant
21 to this chapter shall not be admissible as evidence in any legal
22 proceeding outside this chapter without the written consent of the
23 person who was the subject of the proceeding except in a subsequent
24 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
25 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
26 10.77 RCW due to incompetency to stand trial or in a civil commitment
27 proceeding pursuant to chapter 71.09 RCW. The records and files
28 maintained in any court proceeding pursuant to this chapter shall be
29 confidential and available subsequent to such proceedings only to the
30 person who was the subject of the proceeding or his or her attorney.
31 In addition, the court may order the subsequent release or use of such
32 records or files only upon good cause shown if the court finds that
33 appropriate safeguards for strict confidentiality are and will be
34 maintained.

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