

SHB 2717 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 03/04/2010

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

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

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

11 (a) In accordance with conditional release or furlough authorized  
12 by a court;

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

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

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

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

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

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

3       As used in this chapter:

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

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

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

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

17       (5) "Department" means the state department of social and health  
18 services.

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

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

23       (8) "Developmental disabilities professional" means a person who  
24 has specialized training and three years of experience in directly  
25 treating or working with persons with developmental disabilities and is  
26 a psychiatrist or psychologist, or a social worker, and such other  
27 developmental disabilities professionals as may be defined by rules  
28 adopted by the secretary.

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

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

34       (11) "Furlough" means an authorized leave of absence for a resident  
35 of a state institution operated by the department designated for the  
36 custody, care, and treatment of the criminally insane, consistent with  
37 an order of conditional release from the court under this chapter,

1 without any requirement that the resident be accompanied by, or be in  
2 the custody of, any law enforcement or institutional staff, while on  
3 such unescorted leave.

4 (12) "Habilitative services" means those services provided by  
5 program personnel to assist persons in acquiring and maintaining life  
6 skills and in raising their levels of physical, mental, social, and  
7 vocational functioning. Habilitative services include education,  
8 training for employment, and therapy. The habilitative process shall  
9 be undertaken with recognition of the risk to the public safety  
10 presented by the person being assisted as manifested by prior charged  
11 criminal conduct.

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

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

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

22 ((+15+)) (16) "Indigent" means any person who is financially unable  
23 to obtain counsel or other necessary expert or professional services  
24 without causing substantial hardship to the person or his or her  
25 family.

26 ((+16+)) (17) "Individualized service plan" means a plan prepared  
27 by a developmental disabilities professional with other professionals  
28 as a team, for an individual with developmental disabilities, which  
29 shall state:

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

32 (b) The conditions and strategies necessary to achieve the purposes  
33 of habilitation;

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

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

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

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

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

7 ~~((+17+))~~ (18) "Professional person" means:

8 (a) A psychiatrist licensed as a physician and surgeon in this  
9 state who has, in addition, completed three years of graduate training  
10 in psychiatry in a program approved by the American medical association  
11 or the American osteopathic association and is certified or eligible to  
12 be certified by the American board of psychiatry and neurology or the  
13 American osteopathic board of neurology and psychiatry;

14 (b) A psychologist licensed as a psychologist pursuant to chapter  
15 18.83 RCW; or

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

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

24 ~~((+19+))~~ (20) "Release" means legal termination of the court-  
25 ordered commitment under the provisions of this chapter.

26 ~~((+20+))~~ (21) "Secretary" means the secretary of the department of  
27 social and health services or his or her designee.

28 ~~((+21+))~~ (22) "Treatment" means any currently standardized medical  
29 or mental health procedure including medication.

30 ~~((+22+))~~ (23) "Treatment records" include registration and all  
31 other records concerning persons who are receiving or who at any time  
32 have received services for mental illness, which are maintained by the  
33 department, by regional support networks and their staffs, and by  
34 treatment facilities. Treatment records do not include notes or  
35 records maintained for personal use by a person providing treatment  
36 services for the department, regional support networks, or a treatment  
37 facility if the notes or records are not available to others.

1        (~~(+23+)~~) (24) "Violent act" means behavior that: (a)(i) Resulted  
2 in; (ii) if completed as intended would have resulted in; or (iii) was  
3 threatened to be carried out by a person who had the intent and  
4 opportunity to carry out the threat and would have resulted in,  
5 homicide, nonfatal injuries, or substantial damage to property; or (b)  
6 recklessly creates an immediate risk of serious physical injury to  
7 another person. As used in this subsection, "nonfatal injuries" means  
8 physical pain or injury, illness, or an impairment of physical  
9 condition. "Nonfatal injuries" shall be construed to be consistent  
10 with the definition of "bodily injury," as defined in RCW 9A.04.110."

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11        On page 1, line 1 of the title, after "facilities;" strike the  
12 remainder of the title and insert "amending RCW 10.77.010; and adding  
13 a new section to chapter 10.77 RCW."

EFFECT: Permits the Department of Social and Health Services to allow a person committed under chapter 10.77 RCW to leave the state for necessary medical or legal proceedings, to visit the bedside of a member of the person's immediate family who is seriously ill, for attendance at the funeral of a member of the person's immediate family, or in accordance with a court order.

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