

**2SHB 3076 - S AMD 365**

By Senators Hargrove, Brandland

ADOPTED 03/09/2010

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

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

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

11 **Sec. 2.** RCW 71.05.212 and 1999 c 214 s 5 are each amended to read  
12 as follows:

13 (1) Whenever a ((county)) designated mental health professional or  
14 professional person is conducting an evaluation under this chapter,  
15 consideration shall include all reasonably available information from  
16 credible witnesses and records regarding:

17 ((+1)) (a) Prior recommendations for evaluation of the need for  
18 civil commitments when the recommendation is made pursuant to an  
19 evaluation conducted under chapter 10.77 RCW;

20 ((+2)) (b) Historical behavior, including history of one or more  
21 violent acts;

22 ((+3)) (c) Prior determinations of incompetency or insanity under  
23 chapter 10.77 RCW; and

24 ((+4)) (d) Prior commitments under this chapter.

25 (2) Credible witnesses may include family members, landlords,  
26 neighbors, or others with significant contact and history of  
27 involvement with the person. If the designated mental health  
28 professional relies upon information from a credible witness in  
29 reaching his or her decision to detain the individual, then he or she

1 must provide contact information for any such witness to the  
2 prosecutor. The designated mental health professional or prosecutor  
3 shall provide notice of the date, time, and location of the probable  
4 cause hearing to such a witness.

5 (3) Symptoms and behavior of the respondent which standing alone  
6 would not justify civil commitment may support a finding of grave  
7 disability or likelihood of serious harm when:

8 (a) Such symptoms or behavior are closely associated with symptoms  
9 or behavior which preceded and led to a past incident of involuntary  
10 hospitalization, severe deterioration, or one or more violent acts;

11 (b) These symptoms or behavior represent a marked and concerning  
12 change in the baseline behavior of the respondent; and

13 (c) Without treatment, the continued deterioration of the  
14 respondent is probable.

15 ~~((In addition,))~~ (4) When conducting an evaluation for offenders  
16 identified under RCW 72.09.370, the ((county)) designated mental health  
17 professional or professional person shall consider an offender's  
18 history of judicially required or administratively ordered  
19 antipsychotic medication while in confinement.

20 **Sec. 3.** RCW 71.05.245 and 1999 c 13 s 6 are each amended to read  
21 as follows:

22 (1) In making a determination of whether a person is gravely  
23 disabled or presents a likelihood of serious harm in a hearing  
24 conducted under RCW 71.05.240 or 71.05.320, the court must consider the  
25 symptoms and behavior of the respondent in light of all available  
26 evidence concerning the respondent's historical behavior.

27 (2) Symptoms or behavior which standing alone would not justify  
28 civil commitment may support a finding of grave disability or  
29 likelihood of serious harm when: (a) Such symptoms or behavior are  
30 closely associated with symptoms or behavior which preceded and led to  
31 a past incident of involuntary hospitalization, severe deterioration,  
32 or one or more violent acts; (b) these symptoms or behavior represent  
33 a marked and concerning change in the baseline behavior of the  
34 respondent; and (c) without treatment, the continued deterioration of  
35 the respondent is probable.

36 (3) In making a determination of whether there is a likelihood of  
37 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,

1 the court shall give great weight to any evidence before the court  
2 regarding whether the person has: ~~((+1))~~ (a) A recent history of one  
3 or more violent acts; or ~~((+2))~~ (b) a recent history of one or more  
4 commitments under this chapter or its equivalent provisions under the  
5 laws of another state which were based on a likelihood of serious harm.  
6 The existence of prior violent acts or commitments under this chapter  
7 or its equivalent shall not be the sole basis for determining whether  
8 a person presents a likelihood of serious harm.

9 For the purposes of this ~~((section))~~ subsection "recent" refers to  
10 the period of time not exceeding three years prior to the current  
11 hearing.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.05 RCW  
13 to read as follows:

14 (1) Whenever a person who is the subject of an involuntary  
15 commitment order under this chapter is discharged from an evaluation  
16 and treatment facility or state hospital, the evaluation and treatment  
17 facility or state hospital shall provide notice of the person's  
18 discharge to the designated mental health professional office  
19 responsible for the initial commitment and the designated mental health  
20 professional office that serves the county in which the person is  
21 expected to reside. The evaluation and treatment facility or state  
22 hospital must also provide these offices with a copy of any less  
23 restrictive order or conditional release order entered in conjunction  
24 with the discharge of the person, unless the evaluation and treatment  
25 facility or state hospital has entered into a memorandum of  
26 understanding obligating another entity to provide these documents.

27 (2) The notice and documents referred to in subsection (1) of this  
28 section shall be provided as soon as possible and no later than one  
29 business day following the discharge of the person. Notice is not  
30 required under this section if the discharge is for the purpose of  
31 transferring the person for continued detention and treatment under  
32 this chapter at another treatment facility.

33 (3) The department shall maintain and make available an updated  
34 list of contact information for designated mental health professional  
35 offices around the state.

1        NEW SECTION.    **Sec. 5.**    Sections 2 and 3 of this act take effect  
2    January 1, 2012.

3        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 9.94A RCW  
4    to read as follows:

5        (1)    Before imposing any legal financial obligations upon a  
6    defendant who suffers from a mental health condition, other than  
7    restitution or the victim penalty assessment under RCW 7.68.035, a  
8    judge must first determine that the defendant, under the terms of this  
9    section, has the means to pay such additional sums.

10       (2)    For the purposes of this section, a defendant suffers from a  
11    mental health condition when the defendant has been diagnosed with a  
12    mental disorder that prevents the defendant from participating in  
13    gainful employment, as evidenced by a determination of mental  
14    disability as the basis for the defendant's enrollment in a public  
15    assistance program, a record of involuntary hospitalization, or by  
16    competent expert evaluation.

17       NEW SECTION.    **Sec. 7.**    If specific funding for the purposes of  
18    sections 1, 2, and 3 of this act, referencing the specific section of  
19    this act by section number and by bill or chapter number, is not  
20    provided by June 30, 2010, in the omnibus appropriations act, each  
21    section not referenced is null and void."

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22        On page 1, line 2 of the title, after "act;" strike the remainder  
23    of the title and insert "amending RCW 71.05.212 and 71.05.245; adding  
24    a new section to chapter 71.05 RCW; adding a new section to chapter  
25    9.94A RCW; creating new sections; providing an effective date; and  
26    providing an expiration date."

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