

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1349

61st Legislature
2009 Regular Session

Passed by the House April 20, 2009
Yeas 89 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 13, 2009
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1349** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1349

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By House Human Services (originally sponsored by Representatives Green, Moeller, Dickerson, Cody, and Kenney)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to additional grounds for renewal of orders for
2 less restrictive treatment; amending RCW 71.05.320; adding a new
3 section to chapter 71.05 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that many persons
6 who are released from involuntary mental health treatment in an
7 inpatient setting would benefit from an order for less restrictive
8 treatment in order to provide the structure and support necessary to
9 facilitate long-term stability and success in the community.

10 (2) The legislature intends to make it easier to renew orders for
11 less restrictive treatment following a period of inpatient commitment
12 in cases in which a person has been involuntarily committed more than
13 once and is likely to benefit from a renewed order for less restrictive
14 treatment.

15 (3) The legislature finds that public safety is enhanced when a
16 designated mental health professional is able to file a petition to
17 revoke an order for less restrictive treatment under RCW 71.05.340
18 before a person who is the subject of the petition becomes ill enough
19 to present a likelihood of serious harm.

1 **Sec. 2.** RCW 71.05.320 and 2008 c 213 s 9 are each amended to read
2 as follows:

3 (1) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven and that the best interests of the person or
5 others will not be served by a less restrictive treatment which is an
6 alternative to detention, the court shall remand him or her to the
7 custody of the department or to a facility certified for ninety day
8 treatment by the department for a further period of intensive treatment
9 not to exceed ninety days from the date of judgment(~~(+—PROVIDED, That~~
10 ~~(a))~~). If the grounds set forth in RCW 71.05.280(3) are the basis of
11 commitment, then the period of treatment may be up to but not exceed
12 one hundred eighty days from the date of judgment in a facility
13 certified for one hundred eighty day treatment by the department.

14 (~~((b) If the committed person has a developmental disability and~~
15 ~~has been determined incompetent pursuant to RCW 10.77.086(4), and the~~
16 ~~best interests of the person or others will not be served by a less-~~
17 ~~restrictive treatment which is an alternative to detention, the court~~
18 ~~shall remand him or her to the custody of the department or to a~~
19 ~~facility certified for one hundred eighty day treatment by the~~
20 ~~department. When appropriate and subject to available funds, treatment~~
21 ~~and training of such persons must be provided in a program specifically~~
22 ~~reserved for the treatment and training of persons with developmental~~
23 ~~disabilities. A person so committed shall receive habilitation~~
24 ~~services pursuant to an individualized service plan specifically~~
25 ~~developed to treat the behavior which was the subject of the criminal~~
26 ~~proceedings. The treatment program shall be administered by~~
27 ~~developmental disabilities professionals and others trained~~
28 ~~specifically in the needs of persons with developmental disabilities.~~
29 ~~The department may limit admissions to this specialized program in~~
30 ~~order to ensure that expenditures for services do not exceed amounts~~
31 ~~appropriated by the legislature and allocated by the department for~~
32 ~~such services. The department may establish admission priorities in~~
33 ~~the event that the number of eligible persons exceeds the limits set by~~
34 ~~the department. An order for treatment less restrictive than~~
35 ~~involuntary detention may include conditions, and if such conditions~~
36 ~~are not adhered to, the designated mental health professional or~~
37 ~~developmental disabilities professional may order the person~~
38 ~~apprehended under the terms and conditions of RCW 71.05.340.))~~)

1 (2) If the court or jury finds that grounds set forth in RCW
2 71.05.280 have been proven, but finds that treatment less restrictive
3 than detention will be in the best interest of the person or others,
4 then the court shall remand him or her to the custody of the department
5 or to a facility certified for ninety day treatment by the department
6 or to a less restrictive alternative for a further period of less
7 restrictive treatment not to exceed ninety days from the date of
8 judgment(~~(+—PROVIDED, That)~~). If the grounds set forth in RCW
9 71.05.280(3) are the basis of commitment, then the period of treatment
10 may be up to but not exceed one hundred eighty days from the date of
11 judgment.

12 (3) The person shall be released from involuntary treatment at the
13 expiration of the period of commitment imposed under subsection (1) or
14 (2) of this section unless the superintendent or professional person in
15 charge of the facility in which he or she is confined, or in the event
16 of a less restrictive alternative, the designated mental health
17 professional (~~(or developmental disabilities professional)~~), files a
18 new petition for involuntary treatment on the grounds that the
19 committed person(~~(+)~~):

20 (a) During the current period of court ordered treatment: (i) Has
21 threatened, attempted, or inflicted physical harm upon the person of
22 another, or substantial damage upon the property of another, and (ii)
23 as a result of mental disorder or developmental disability presents a
24 likelihood of serious harm; or

25 (b) Was taken into custody as a result of conduct in which he or
26 she attempted or inflicted serious physical harm upon the person of
27 another, and continues to present, as a result of mental disorder or
28 developmental disability a likelihood of serious harm; or

29 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of
30 mental disorder or developmental disability presents a substantial
31 likelihood of repeating similar acts considering the charged criminal
32 behavior, life history, progress in treatment, and the public safety;
33 or

34 (d) Continues to be gravely disabled.

35 If the conduct required to be proven in (b) and (c) of this
36 subsection was found by a judge or jury in a prior trial under this
37 chapter, it shall not be necessary to (~~reprove that element~~) prove
38 such conduct again. (~~Such~~)

1 (4) For a person committed under subsection (2) of this section who
2 has been remanded to a period of less restrictive treatment, in
3 addition to the grounds specified in subsection (3) of this section,
4 the designated mental health professional may file a new petition for
5 continued less restrictive treatment if:

6 (a) The person was previously committed by a court to detention for
7 involuntary mental health treatment during the thirty-six months that
8 preceded the person's initial detention date during the current
9 involuntary commitment cycle, excluding any time spent in a mental
10 health facility or in confinement as a result of a criminal conviction;

11 (b) In view of the person's treatment history or current behavior,
12 the person is unlikely to voluntarily participate in outpatient
13 treatment without an order for less restrictive treatment; and

14 (c) Outpatient treatment that would be provided under a less
15 restrictive treatment order is necessary to prevent a relapse,
16 decompensation, or deterioration that is likely to result in the person
17 presenting a likelihood of serious harm or the person becoming gravely
18 disabled within a reasonably short period of time.

19 (5) A new petition for involuntary treatment filed under subsection
20 (3) or (4) of this section shall be filed and heard in the superior
21 court of the county of the facility which is filing the new petition
22 for involuntary treatment unless good cause is shown for a change of
23 venue. The cost of the proceedings shall be borne by the state.

24 (6) The hearing shall be held as provided in RCW 71.05.310, and if
25 the court or jury finds that the grounds for additional confinement as
26 set forth in this ((subsection)) section are present, the court may
27 order the committed person returned for an additional period of
28 treatment not to exceed one hundred eighty days from the date of
29 judgment. At the end of the one hundred eighty day period of
30 commitment, the committed person shall be released unless a petition
31 for another one hundred eighty day period of continued treatment is
32 filed and heard in the same manner as provided in this ((subsection))
33 section. Successive one hundred eighty day commitments are permissible
34 on the same grounds and pursuant to the same procedures as the original
35 one hundred eighty day commitment. However, a commitment is not
36 permissible under subsection (4) of this section if thirty-six months
37 have passed since the last date of discharge from detention for
38 inpatient treatment that preceded the current less restrictive

1 alternative order, nor shall a commitment under subsection (4) of this
2 section be permissible if the likelihood of serious harm in subsection
3 (4)(c) of this section is based solely on harm to the property of
4 others.

5 ((+4)) (7) No person committed as provided in this section may be
6 detained unless a valid order of commitment is in effect. No order of
7 commitment can exceed one hundred eighty days in length.

8 NEW SECTION. Sec. 3. A new section is added to chapter 71.05 RCW
9 to read as follows:

10 When appropriate and subject to available funds, the treatment and
11 training of a person with a developmental disability who is committed
12 to the custody of the department or to a facility certified for ninety
13 day treatment by the department for a further period of intensive
14 treatment under RCW 71.05.320 must be provided in a program
15 specifically reserved for the treatment and training of persons with
16 developmental disabilities. A person so committed shall receive
17 habilitation services pursuant to an individualized service plan
18 specifically developed to treat the behavior which was the subject of
19 the criminal proceedings. The treatment program shall be administered
20 by developmental disabilities professionals and others trained
21 specifically in the needs of persons with developmental disabilities.
22 The department may limit admissions to this specialized program in
23 order to ensure that expenditures for services do not exceed amounts
24 appropriated by the legislature and allocated by the department for
25 such services. The department may establish admission priorities in
26 the event that the number of eligible persons exceeds the limits set by
27 the department.

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