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HOUSE BILL 1419

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State of Washington

64th Legislature

2015 Regular Session

By Representative Ormsby

Read first time 01/20/15. Referred to Committee on Judiciary.

1 AN ACT Relating to restrictions on outings from state facilities;  
2 amending RCW 10.77.010 and 10.77.010; repealing RCW 10.77.145;  
3 providing an effective date; and providing an expiration date.

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

5 **Sec. 1.** RCW 10.77.010 and 2011 c 89 s 4 are each amended to read  
6 as follows:

7 As used in this chapter:

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

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

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

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

1 (5) "Department" means the state department of social and health  
2 services.

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

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

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

13 (9) "Developmental disability" means the condition as defined in  
14 RCW 71A.10.020(~~(+3)~~) (5).

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

18 (11) "Furlough" means an authorized leave of absence for a  
19 resident of a state institution operated by the department designated  
20 for the custody, care, and treatment of the criminally insane,  
21 consistent with an order of conditional release from the court under  
22 this chapter, without any requirement that the resident be  
23 accompanied by, or be in the custody of, any law enforcement or  
24 institutional staff, while on such unescorted leave.

25 (12) "Habilitative services" means those services provided by  
26 program personnel to assist persons in acquiring and maintaining life  
27 skills and in raising their levels of physical, mental, social, and  
28 vocational functioning. Habilitative services include education,  
29 training for employment, and therapy. The habilitative process shall  
30 be undertaken with recognition of the risk to the public safety  
31 presented by the person being assisted as manifested by prior charged  
32 criminal conduct.

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

38 (~~("Immediate family member" means a spouse, child,~~  
39 ~~stepchild, parent, stepparent, grandparent, sibling, or domestic~~  
40 ~~partner.~~

1       ~~(15))~~ "Incompetency" means a person lacks the capacity to  
2 understand the nature of the proceedings against him or her or to  
3 assist in his or her own defense as a result of mental disease or  
4 defect.

5       ~~((16))~~ (15) "Indigent" means any person who is financially  
6 unable to obtain counsel or other necessary expert or professional  
7 services without causing substantial hardship to the person or his or  
8 her family.

9       ~~((17))~~ (16) "Individualized service plan" means a plan prepared  
10 by a developmental disabilities professional with other professionals  
11 as a team, for an individual with developmental disabilities, which  
12 shall state:

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

15       (b) The conditions and strategies necessary to achieve the  
16 purposes of habilitation;

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

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

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

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

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

28       ~~((18))~~ (17) "Professional person" means:

29       (a) A psychiatrist licensed as a physician and surgeon in this  
30 state who has, in addition, completed three years of graduate  
31 training in psychiatry in a program approved by the American medical  
32 association or the American osteopathic association and is certified  
33 or eligible to be certified by the American board of psychiatry and  
34 neurology or the American osteopathic board of neurology and  
35 psychiatry;

36       (b) A psychologist licensed as a psychologist pursuant to chapter  
37 18.83 RCW; or

38       (c) A social worker with a master's or further advanced degree  
39 from a social work educational program accredited and approved as  
40 provided in RCW 18.320.010.

1       ~~((19))~~ (18) "Registration records" include all the records of  
2 the department, regional support networks, treatment facilities, and  
3 other persons providing services to the department, county  
4 departments, or facilities which identify persons who are receiving  
5 or who at any time have received services for mental illness.

6       ~~((20))~~ (19) "Release" means legal termination of the court-  
7 ordered commitment under the provisions of this chapter.

8       ~~((21))~~ (20) "Secretary" means the secretary of the department  
9 of social and health services or his or her designee.

10       ~~((22))~~ (21) "Treatment" means any currently standardized  
11 medical or mental health procedure including medication.

12       ~~((23))~~ (22) "Treatment records" include registration and all  
13 other records concerning persons who are receiving or who at any time  
14 have received services for mental illness, which are maintained by  
15 the department, by regional support networks and their staffs, and by  
16 treatment facilities. Treatment records do not include notes or  
17 records maintained for personal use by a person providing treatment  
18 services for the department, regional support networks, or a  
19 treatment facility if the notes or records are not available to  
20 others.

21       ~~((24))~~ (23) "Violent act" means behavior that: (a)(i) Resulted  
22 in; (ii) if completed as intended would have resulted in; or (iii)  
23 was threatened to be carried out by a person who had the intent and  
24 opportunity to carry out the threat and would have resulted in,  
25 homicide, nonfatal injuries, or substantial damage to property; or  
26 (b) recklessly creates an immediate risk of serious physical injury  
27 to another person. As used in this subsection, "nonfatal injuries"  
28 means physical pain or injury, illness, or an impairment of physical  
29 condition. "Nonfatal injuries" shall be construed to be consistent  
30 with the definition of "bodily injury," as defined in RCW 9A.04.110.

31       **Sec. 2.** RCW 10.77.010 and 2014 c 225 s 58 are each amended to  
32 read as follows:

33       As used in this chapter:

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

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

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

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

9 (5) "Department" means the state department of social and health  
10 services.

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

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

15 (8) "Developmental disabilities professional" means a person who  
16 has specialized training and three years of experience in directly  
17 treating or working with persons with developmental disabilities and  
18 is a psychiatrist or psychologist, or a social worker, and such other  
19 developmental disabilities professionals as may be defined by rules  
20 adopted by the secretary.

21 (9) "Developmental disability" means the condition as defined in  
22 RCW 71A.10.020(~~(+4)~~) (5).

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

26 (11) "Furlough" means an authorized leave of absence for a  
27 resident of a state institution operated by the department designated  
28 for the custody, care, and treatment of the criminally insane,  
29 consistent with an order of conditional release from the court under  
30 this chapter, without any requirement that the resident be  
31 accompanied by, or be in the custody of, any law enforcement or  
32 institutional staff, while on such unescorted leave.

33 (12) "Habilitative services" means those services provided by  
34 program personnel to assist persons in acquiring and maintaining life  
35 skills and in raising their levels of physical, mental, social, and  
36 vocational functioning. Habilitative services include education,  
37 training for employment, and therapy. The habilitative process shall  
38 be undertaken with recognition of the risk to the public safety  
39 presented by the person being assisted as manifested by prior charged  
40 criminal conduct.

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

6 (~~(14)~~ (~~"Immediate family member" means a spouse, child,~~  
7 ~~stepchild, parent, stepparent, grandparent, sibling, or domestic~~  
8 ~~partner.~~

9 ~~(15)~~) "Incompetency" means a person lacks the capacity to  
10 understand the nature of the proceedings against him or her or to  
11 assist in his or her own defense as a result of mental disease or  
12 defect.

13 (~~(16)~~) (15) "Indigent" means any person who is financially  
14 unable to obtain counsel or other necessary expert or professional  
15 services without causing substantial hardship to the person or his or  
16 her family.

17 (~~(17)~~) (16) "Individualized service plan" means a plan prepared  
18 by a developmental disabilities professional with other professionals  
19 as a team, for an individual with developmental disabilities, which  
20 shall state:

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

23 (b) The conditions and strategies necessary to achieve the  
24 purposes of habilitation;

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

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

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

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

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

36 (~~(18)~~) (17) "Professional person" means:

37 (a) A psychiatrist licensed as a physician and surgeon in this  
38 state who has, in addition, completed three years of graduate  
39 training in psychiatry in a program approved by the American medical  
40 association or the American osteopathic association and is certified

1 or eligible to be certified by the American board of psychiatry and  
2 neurology or the American osteopathic board of neurology and  
3 psychiatry;

4 (b) A psychologist licensed as a psychologist pursuant to chapter  
5 18.83 RCW; or

6 (c) A social worker with a master's or further advanced degree  
7 from a social work educational program accredited and approved as  
8 provided in RCW 18.320.010.

9 ~~((19))~~ (18) "Registration records" include all the records of  
10 the department, behavioral health organizations, treatment  
11 facilities, and other persons providing services to the department,  
12 county departments, or facilities which identify persons who are  
13 receiving or who at any time have received services for mental  
14 illness.

15 ~~((20))~~ (19) "Release" means legal termination of the court-  
16 ordered commitment under the provisions of this chapter.

17 ~~((21))~~ (20) "Secretary" means the secretary of the department  
18 of social and health services or his or her designee.

19 ~~((22))~~ (21) "Treatment" means any currently standardized  
20 medical or mental health procedure including medication.

21 ~~((23))~~ (22) "Treatment records" include registration and all  
22 other records concerning persons who are receiving or who at any time  
23 have received services for mental illness, which are maintained by  
24 the department, by behavioral health organizations and their staffs,  
25 and by treatment facilities. Treatment records do not include notes  
26 or records maintained for personal use by a person providing  
27 treatment services for the department, behavioral health  
28 organizations, or a treatment facility if the notes or records are  
29 not available to others.

30 ~~((24))~~ (23) "Violent act" means behavior that: (a)(i) Resulted  
31 in; (ii) if completed as intended would have resulted in; or (iii)  
32 was threatened to be carried out by a person who had the intent and  
33 opportunity to carry out the threat and would have resulted in,  
34 homicide, nonfatal injuries, or substantial damage to property; or  
35 (b) recklessly creates an immediate risk of serious physical injury  
36 to another person. As used in this subsection, "nonfatal injuries"  
37 means physical pain or injury, illness, or an impairment of physical  
38 condition. "Nonfatal injuries" shall be construed to be consistent  
39 with the definition of "bodily injury," as defined in RCW 9A.04.110.

1        NEW SECTION.    **Sec. 3.**    RCW 10.77.145 (Authorization to leave  
2 facility where person is confined prohibited—Exceptions—Approval by  
3 secretary—Notification to county or city law enforcement agency) and  
4 2010 c 262 s 1 are each repealed.

5        NEW SECTION.    **Sec. 4.**    Section 1 of this act expires April 1,  
6 2016.

7        NEW SECTION.    **Sec. 5.**    Section 2 of this act takes effect April  
8 1, 2016.

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