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**HOUSE BILL 1259**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Klippert, Goodman, Rodne, and Hayes

AN ACT Relating to standards for detention of persons with mental disorders or chemical dependency; amending RCW 70.96B.045, 71.05.050, 71.05.050, 71.05.153, 71.05.153, and 71.05.153; providing effective dates; and providing expiration dates.

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

**Sec.**  RCW 70.96B.045 and 2007 c 120 s 2 are each amended to read as follows:

(1) If a designated crisis responder receives information alleging that a person, as the result of:

(a) A mental disorder, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in this chapter; or

(b) Chemical dependency, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility for not more than seventy-two hours as described in this chapter.

(2) The evaluation and treatment facility, the secure detoxification facility, or other certified chemical dependency provider shall then evaluate the person's condition and admit, detain, transfer, or discharge such person in accordance with this chapter. The facility shall notify in writing the court and the designated crisis responder of the date and time of the initial detention of each person involuntarily detained so that a probable cause hearing will be held no later than seventy-two hours after detention.

(3) A peace officer may take or cause the person to be taken into custody and immediately delivered to an evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency treatment provider: (a) Pursuant to this section; or (b) when he or she has reasonable cause to believe that such person, as a result of a mental disorder or chemical dependency, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled. An individual brought to a facility by a peace officer may be held for up to twelve hours: PROVIDED, That the individual is examined by a designated crisis responder within three hours of arrival. Within twelve hours of arrival the designated crisis responder must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional shall file a petition for detention or supplemental petition as appropriate and commence service on the designated attorney for the detained person.

(4) Nothing in this chapter limits the power of a peace officer to take a person into custody and immediately deliver the person to the emergency department of a local hospital or to a detoxification facility.

**Sec.**  RCW 71.05.050 and 2015 c 269 s 5 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate discharge, and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment or possible discharge, at which time they shall again be advised of their right to discharge upon request.

(2) If the professional staff of any public or private agency or hospital ((~~regards~~)) determines that a person voluntarily admitted who requests discharge ((~~as presenting~~)) presents, as a result of a mental disorder, ((~~an imminent~~)) a substantial likelihood of serious harm, or is in substantial likelihood of being gravely disabled, they may detain such person for sufficient time to notify the designated mental health professional of such person's condition to enable the designated mental health professional to authorize such person being further held in custody or transported to an evaluation and treatment center pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day.

(3) If a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital ((~~regard~~)) determines that such person ((~~as presenting~~)) presents as a result of a mental disorder ((~~an imminent~~)) a substantial likelihood of serious harm, or ((~~as presenting an imminent~~)) is in a substantial likelihood of danger because of ((~~grave disability~~)) being gravely disabled, they may detain such person for sufficient time to notify the designated mental health professional of such person's condition to enable the designated mental health professional to authorize such person being further held in custody or transported to an evaluation treatment center pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff notify the designated mental health professional of the need for evaluation, not counting time periods prior to medical clearance.

(4) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

**Sec.**  RCW 71.05.050 and 2016 1st sp.s. c 29 s 207 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder or substance use disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate discharge, and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment or possible discharge, at which time they shall again be advised of their right to discharge upon request.

(2) If the professional staff of any public or private agency or hospital ((~~regards~~)) determines that a person voluntarily admitted who requests discharge ((~~as presenting~~)) presents, as a result of a mental disorder or substance use disorder, ((~~an imminent~~)) a substantial likelihood of serious harm, or is in substantial likelihood of being gravely disabled, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day.

(3) If a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital ((~~regard~~)) determines that such person ((~~as presenting~~)) presents as a result of a mental disorder or substance use disorder ((~~an imminent~~)) a substantial likelihood of serious harm, or ((~~as presenting an imminent~~)) is in substantial likelihood of danger because of ((~~grave disability~~)) being gravely disabled, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation treatment center, secure detoxification facility, or approved substance use disorder treatment program pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff notify the designated crisis responder of the need for evaluation, not counting time periods prior to medical clearance.

(4) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.

**Sec.**  RCW 71.05.153 and 2015 c 269 s 6 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as the result of a mental disorder, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents ((~~an imminent~~)) a substantial likelihood of serious harm or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility that has elected to operate as an involuntary facility by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated mental health professional must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

**Sec.**  RCW 71.05.153 and 2016 1st sp.s. c 29 s 212 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180, if a secure detoxification facility or approved substance use disorder treatment program is available and has adequate space for the person.

(3)(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) or (2) of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a mental disorder or substance use disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, based on a substance use disorder, to a secure detoxification facility or approved substance use disorder treatment program is subject to the availability of a secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

(4) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure detoxification facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(5) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

**Sec.**  RCW 71.05.153 and 2016 1st sp.s. c 29 s 213 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents ((~~an imminent~~)) a substantial likelihood of serious harm, or is in ((~~imminent~~)) a substantial likelihood of danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) or (2) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder or substance use disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(4) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure detoxification facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(5) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

NEW SECTION. **Sec.**  Sections 1, 2, and 4 of this act expire April 1, 2018.

NEW SECTION. **Sec.**  Sections 3 and 5 of this act take effect April 1, 2018.

NEW SECTION. **Sec.**  Section 5 of this act expires July 1, 2026.

NEW SECTION. **Sec.**  Section 6 of this act takes effect July 1, 2026.

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