

WAC 246-100-2031 Sexually transmitted infections—Orders and standards for detainment.

(1) When the requirements in RCW 70.24.024 have been exhausted, and the state or local public health officer, within their respective jurisdiction, knows or has reason to believe, because of medical information, that a person has a sexually transmitted disease and that the person continues to engage in behaviors that present an imminent danger to the public health, a state or local health officer within their jurisdiction may, in accordance with RCW 70.24.034, bring an action in superior court to detain a person, who continues to engage in behaviors that present an imminent danger to the public health, in a designated facility.

(2) For the purposes of detention in accordance with RCW 70.24.034 and this section, "behaviors that present an imminent danger to public health" or "BPID" means the following activities, under conditions specified below, performed by a person with a laboratory-confirmed infectious HIV infection:

(a) Anal or vaginal intercourse without a latex or plastic condom; or

(b) Shared use of injection equipment that contains blood;

(c) Donating or selling blood, blood products, or semen; and

(d) Activities described in (a) and (b) of this subsection constitute BPID only if the person with a laboratory-confirmed HIV infection is infectious and did not inform the persons with whom the activities occurred of their infectious status.

(3) A local health officer may notify the state health officer if they determine:

(a) The criteria for BPID are met by a person; and

(b) The local health officer obtained a superior court order requiring the person to comply with a cease and desist order and the person failed to comply.

(4) A state or local health officer may request the prosecuting attorney to file an action in superior court to detain a person specified in this subsection. The requesting state or local health officer or authorized representative shall:

(a) Notify the department prior to recommending the detainment setting where an individualized counseling and education plan may be carried out consistent with subsections (5), (6), and (7) of this section;

(b) Make a recommendation to the court for placement of the person consistent with subsections (5), (6), and (7) of this section; and

(c) Provide to the court an individualized plan for education and counseling consistent with subsection (6) of this section.

(5) Requirements for detainment of persons demonstrating BPID include:

(a) Sufficient number of staff, caregivers, or family members, or any combination of these to:

(i) Provide round-the-clock supervision, safety of detainee, and security;

(ii) Limit and restrict activities to prevent BPID;

(iii) Make available any medical, psychological, or nursing care when needed;

(iv) Provide access to education and counseling; and

(v) Immediately notify the state or local health officer of unauthorized absence or elopement.

(b) Sufficient equipment and facilities to provide:

- (i) Meals and nourishment to meet nutritional and religious or cultural needs;
 - (ii) A sanitary toilet and lavatory;
 - (iii) A bathing facility;
 - (iv) Bed and clean bedding appropriate to size of detainee;
 - (v) A safe detention setting appropriate to chronological and developmental age of detainee; and
 - (vi) A private sleeping room.
- (c) Sufficient access to services and programs directed toward cessation of BPID and providing:
- (i) Psychological and psychiatric evaluation and counseling; and
 - (ii) Implementation of court-ordered plan for individualized counseling and education consistent with subsection (6) of this section.
- (d) If required, provide access to facilities equipped to provide isolation or restraint, or both, in accordance with their applicable rules;
- (e) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.
- (6) Standards for an individualized counseling and education plan for a detainee include:
- (a) Alignment with the detainee's personal and environmental characteristics, culture, social group, developmental age, and language;
 - (b) Identification of habitual and addictive behavior and relapse pattern;
 - (c) Identification of unique risk factors and possible cross-addiction leading to BPID;
 - (d) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;
 - (e) Provision of information about acquisition and transmission of HIV;
 - (f) Teaching and training of individual coping skills to prevent relapse to BPID;
 - (g) Specific counseling for substance use disorder, if required;
 - (h) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and
 - (i) Designation of a person primarily responsible for counseling or education, or both, who:
 - (i) Has a postgraduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and
 - (ii) Completed at least one year of clinical experience after postgraduate education with a primary focus on individualized behavior change; and
 - (iii) Is a certified counselor under chapter 18.19 RCW;
 - (j) Designation and provision of a qualified counselor under chapter 246-811 WAC when the detainee is assessed to have substance use disorder.
- (7) The following settings are appropriate for detainment provided a setting meets requirements in subsection (5)(a) through (e) of this section:
- (a) Homes, care facilities, or treatment institutions operated or contracted by the department;
 - (b) Private homes, as recommended by the state or local health officer;
 - (c) Assisted living facilities licensed under chapter 18.20 RCW;

- (d) Nursing homes licensed under chapter 18.51 RCW;
- (e) Facilities licensed under chapter 71.12 RCW that provide behavioral health services, including:
 - (i) Psychiatric hospitals, under chapter 246-322 WAC;
 - (ii) Chemical dependency hospitals licensed under chapter 246-324 WAC;
 - (iii) Residential treatment facilities under chapter 246-337 WAC;
 - (f) A hospital licensed under chapter 70.41 RCW.

[Statutory Authority: RCW 43.20.050 and 70.24.130. WSR 22-06-061, § 246-100-2031, filed 2/25/22, effective 3/28/22.]