
SUBSTITUTE SENATE BILL 5011

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Franklin, Loveland, Winsley, Patterson, Deccio, McCaslin, Goings, Oke and Costa)

Read first time 02/16/1999.

1 AN ACT Relating to dangerous mentally ill offenders; amending RCW
2 71.05.212, 71.24.015, and 71.24.300; adding new sections to chapter
3 72.09 RCW; adding new sections to chapter 71.05 RCW; adding a new
4 section to chapter 71.24 RCW; creating new sections; and providing an
5 effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature intends to improve the
8 process of identifying, and providing additional mental health
9 treatment for, persons: (1) Determined to be dangerous to themselves
10 or others as a result of a mental disorder or a combination of a mental
11 disorder and chemical dependency or abuse; and (2) under, or being
12 released from, confinement or partial confinement of the department of
13 corrections.

14 The legislature does not create a presumption that any person
15 subject to the provisions of this act is dangerous as a result of a
16 mental disorder or chemical dependency or abuse. The legislature
17 intends that every person subject to the provisions of this act retain
18 the amount of liberty consistent with his or her condition, behavior,

1 and legal status and that any restraint of liberty be done solely on
2 the basis of forensic and clinical practices and standards.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW
4 to read as follows:

5 (1) The secretary shall identify offenders in confinement or
6 partial confinement who: (a) Are reasonably believed to be dangerous
7 to themselves or others; and (b) have a mental disorder. In
8 determining an offender's dangerousness, the secretary shall consider
9 behavior known to the department and factors, based on research, that
10 are linked to an increased risk for dangerousness of mentally ill
11 offenders and shall include consideration of an offender's chemical
12 dependency or abuse.

13 (2) Prior to release of an offender identified under this section,
14 a team consisting of representatives of the department of corrections,
15 the division of mental health, and, as necessary, other divisions or
16 administrations within the department of social and health services,
17 specifically including the division of alcohol and substance abuse and
18 the division of developmental disabilities, the appropriate regional
19 support network, and the providers, as appropriate, shall develop a
20 plan, as determined necessary by the team, for delivery of treatment
21 and support services to the offender upon release. The team may
22 include a school district representative for offenders under the age of
23 twenty-one. The team shall consult with the offender's counsel, if
24 any, and, as appropriate, the offender's family and community. The
25 team shall notify the crime victim/witness program, which shall provide
26 notice to all people registered to receive notice under RCW 9.94A.155
27 of the proposed release plan developed by the team. Victims,
28 witnesses, and other interested people notified by the department may
29 provide information and comments to the department on potential safety
30 risk to specific individuals or classes of individuals posed by the
31 specific offender. The team may recommend: (a) That the offender be
32 evaluated by the county designated mental health professional, as
33 defined in chapter 71.05 RCW; (b) department-supervised community
34 treatment; or (c) voluntary community mental health or chemical
35 dependency or abuse treatment.

36 (3) Prior to release of an offender identified under this section,
37 the team shall determine whether or not an evaluation by a county
38 designated mental health professional is needed. If an evaluation is

1 recommended, the supporting documentation shall be immediately
2 forwarded to the appropriate county designated mental health
3 professional. The supporting documentation shall include the
4 offender's criminal history, history of judicially required or
5 administratively ordered involuntary antipsychotic medication while in
6 confinement, and any known history of involuntary civil commitment.

7 (4) If an evaluation by a county designated mental health
8 professional is recommended by the team, such evaluation shall occur
9 not more than ten days, nor less than five days, prior to release.

10 (5) A second evaluation by a county designated mental health
11 professional shall occur on the day of release if requested by the
12 team, based upon new information or a change in the offender's mental
13 condition, and the initial evaluation did not result in an emergency
14 detention or a summons under chapter 71.05 RCW.

15 (6) If the county designated mental health professional determines
16 an emergency detention under chapter 71.05 RCW is necessary, the
17 department shall release the offender only to a state hospital or to a
18 consenting evaluation and treatment facility. The department shall
19 arrange transportation of the offender to the hospital or facility.

20 (7) If the county designated mental health professional believes
21 that a less restrictive alternative treatment is appropriate, he or she
22 shall seek a summons, pursuant to the provisions of chapter 71.05 RCW,
23 to require the offender to appear at an evaluation and treatment
24 facility. If a summons is issued, the offender shall remain within the
25 corrections facility until completion of his or her term of confinement
26 and be transported, by corrections personnel on the day of completion,
27 directly to the identified evaluation and treatment facility.

28 (8) The secretary shall adopt rules to implement this section.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 72.09 RCW
30 to read as follows:

31 The secretaries of the department of corrections and the department
32 of social and health services shall adopt rules and develop working
33 agreements which will ensure that offenders identified under section
34 2(1) of this act will be assisted in making application for medicaid to
35 facilitate a decision regarding their eligibility for such entitlements
36 prior to the end of their term of confinement in a correctional
37 facility.

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

3 The legislature intends that, when evaluating a person who is
4 identified under section 2(7) of this act, the professional person at
5 the evaluation and treatment facility shall, when appropriate after
6 consideration of the person's mental condition and relevant public
7 safety concerns, file a petition for a ninety-day less restrictive
8 alternative in lieu of a petition for a fourteen-day commitment.

9 **Sec. 5.** RCW 71.05.212 and 1998 c 297 s 19 are each amended to read
10 as follows:

11 Whenever a county designated mental health professional or
12 professional person is conducting an evaluation under this chapter,
13 consideration shall include all reasonably available information and
14 records regarding: (1) Prior recommendations for evaluation of the
15 need for civil commitments when the recommendation is made pursuant to
16 an evaluation conducted under chapter 10.77 RCW; (2) history of one or
17 more violent acts; (3) prior determinations of incompetency or insanity
18 under chapter 10.77 RCW; and (4) prior commitments under this chapter.

19 In addition, when conducting an evaluation for offenders identified
20 under section 2 of this act, the county designated mental health
21 professional or professional person shall consider an offender's
22 history of judicially required or administratively ordered
23 antipsychotic medication while in confinement.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 71.05 RCW
25 to read as follows:

26 (1) When making a decision under this chapter whether to require a
27 less restrictive alternative treatment, the court shall consider
28 whether it is appropriate to include or exclude time spent in
29 confinement when determining whether the person has committed a recent
30 overt act.

31 (2) When determining whether an offender is a danger to himself or
32 herself or others under this chapter, a court shall give great weight
33 to any evidence submitted to the court regarding an offender's recent
34 history of judicially required or administratively ordered involuntary
35 antipsychotic medication while in confinement.

1 **Sec. 7.** RCW 71.24.015 and 1991 c 306 s 1 are each amended to read
2 as follows:

3 It is the intent of the legislature to establish a community mental
4 health program which shall help people experiencing mental illness to
5 retain a respected and productive position in the community. This will
6 be accomplished through programs which provide for:

7 (1) Access to mental health services for adults of the state who
8 are acutely mentally ill, chronically mentally ill, or seriously
9 disturbed and children of the state who are acutely mentally ill,
10 severely emotionally disturbed, or seriously disturbed, which services
11 recognize the special needs of underserved populations, including
12 minorities, children, the elderly, disabled, and low-income persons.
13 Access to mental health services shall not be limited by a person's
14 history of confinement in a state, federal, or local correctional
15 facility. It is also the purpose of this chapter to promote the early
16 identification of mentally ill children and to ensure that they receive
17 the mental health care and treatment which is appropriate to their
18 developmental level. This care should improve home, school, and
19 community functioning, maintain children in a safe and nurturing home
20 environment, and should enable treatment decisions to be made in
21 response to clinical needs in accordance with sound professional
22 judgment while also recognizing parents' rights to participate in
23 treatment decisions for their children;

24 (2) Accountability of services through state-wide standards for
25 monitoring and reporting of information;

26 (3) Minimum service delivery standards;

27 (4) Priorities for the use of available resources for the care of
28 the mentally ill;

29 (5) Coordination of services within the department, including those
30 divisions within the department that provide services to children,
31 between the department and the office of the superintendent of public
32 instruction, and among state mental hospitals, county authorities,
33 community mental health services, and other support services, which
34 shall to the maximum extent feasible also include the families of the
35 mentally ill, and other service providers; and

36 (6) Coordination of services aimed at reducing duplication in
37 service delivery and promoting complementary services among all
38 entities that provide mental health services to adults and children.

1 It is the policy of the state to encourage the provision of a full
2 range of treatment and rehabilitation services in the state for mental
3 disorders. The legislature intends to encourage the development of
4 county-based and county-managed mental health services with adequate
5 local flexibility to assure eligible people in need of care access to
6 the least-restrictive treatment alternative appropriate to their needs,
7 and the availability of treatment components to assure continuity of
8 care. To this end, counties are encouraged to enter into joint
9 operating agreements with other counties to form regional systems of
10 care which integrate planning, administration, and service delivery
11 duties assigned to counties under chapters 71.05 and 71.24 RCW to
12 consolidate administration, reduce administrative layering, and reduce
13 administrative costs.

14 It is further the intent of the legislature to integrate the
15 provision of services to provide continuity of care through all phases
16 of treatment. To this end the legislature intends to promote active
17 engagement with mentally ill persons and collaboration between families
18 and service providers.

19 **Sec. 8.** RCW 71.24.300 and 1994 c 204 s 2 are each amended to read
20 as follows:

21 A county authority or a group of county authorities whose combined
22 population is no less than forty thousand may enter into a joint
23 operating agreement to form a regional support network. Upon the
24 request of a tribal authority or authorities within a regional support
25 network the joint operating agreement or the county authority shall
26 allow for the inclusion of the tribal authority to be represented as a
27 party to the regional support network. The roles and responsibilities
28 of the county and tribal authorities shall be determined by the terms
29 of that agreement including a determination of membership on the
30 governing board and advisory committees, the number of tribal
31 representatives to be party to the agreement, and the provisions of law
32 and shall assure the provision of culturally competent services to the
33 tribes served. The state mental health authority may not determine the
34 roles and responsibilities of county authorities as to each other under
35 regional support networks by rule, except to assure that all duties
36 required of regional support networks are assigned and that a single
37 authority has final responsibility for all available resources and

1 performance under the regional support network's contract with the
2 secretary.

3 (1) Regional support networks shall within three months of
4 recognition submit an overall six-year operating and capital plan,
5 timeline, and budget and submit progress reports and an updated
6 two-year plan biennially thereafter, to assume within available
7 resources all of the following duties by July 1, 1995, instead of those
8 presently assigned to counties under RCW 71.24.045(1):

9 (a) Administer and provide for the availability of all resource
10 management services, residential services, and community support
11 services.

12 (b) Administer and provide for the availability of all
13 investigation, transportation, court-related, and other services
14 provided by the state or counties pursuant to chapter 71.05 RCW.

15 (c) By July 1, 1993, provide within the boundaries of each regional
16 support network evaluation and treatment services for at least
17 eighty-five percent of persons detained or committed for periods up to
18 seventeen days according to chapter 71.05 RCW. Regional support
19 networks with populations of less than one hundred fifty thousand may
20 contract to purchase evaluation and treatment services from other
21 networks. Insofar as the original intent of serving persons in the
22 community is maintained, the secretary is authorized to approve
23 exceptions on a case-by-case basis to the requirement to provide
24 evaluation and treatment services within the boundaries of each
25 regional support network. Such exceptions are limited to contracts
26 with neighboring or contiguous regions. For regional support networks
27 that are created after June 30, 1991, the requirements of (c) of this
28 subsection must be met by July 1, 1995.

29 (d) By July 1, 1993, administer a portion of funds appropriated by
30 the legislature to house mentally ill persons in state institutions
31 from counties within the boundaries of any regional support network,
32 with the exception of (~~mentally ill offenders~~) persons currently
33 confined at, or under the supervision of, a state mental hospital
34 pursuant to chapter 10.77 RCW, and provide for the care of all persons
35 needing evaluation and treatment services for periods up to seventeen
36 days according to chapter 71.05 RCW in appropriate residential
37 services, which may include state institutions. The regional support
38 networks shall reimburse the state for use of state institutions at a
39 rate equal to that assumed by the legislature when appropriating funds

1 for such care at state institutions during the biennium when
2 reimbursement occurs. The duty of a state hospital to accept persons
3 for evaluation and treatment under chapter 71.05 RCW is limited by the
4 responsibilities assigned to regional support networks under this
5 section. For regional support networks that are created after June 30,
6 1991, the requirements of (d) of this subsection must be met by July 1,
7 1995.

8 (e) Administer and provide for the availability of all other mental
9 health services, which shall include patient counseling, day treatment,
10 consultation, education services, employment services as defined in RCW
11 71.24.035, and mental health services to children as provided in this
12 chapter.

13 (f) Establish standards and procedures for reviewing individual
14 service plans and determining when that person may be discharged from
15 resource management services.

16 (2) Regional support networks shall assume all duties assigned to
17 county authorities by this chapter and chapter 71.05 RCW.

18 (3) A regional support network may request that any state-owned
19 land, building, facility, or other capital asset which was ever
20 purchased, deeded, given, or placed in trust for the care of the
21 mentally ill and which is within the boundaries of a regional support
22 network be made available to support the operations of the regional
23 support network. State agencies managing such capital assets shall
24 give first priority to requests for their use pursuant to this chapter.

25 (4) Each regional support network shall appoint a mental health
26 advisory board which shall review and provide comments on plans and
27 policies developed under this chapter. The composition of the board
28 shall be broadly representative of the demographic character of the
29 region and the mentally ill persons served therein. Length of terms of
30 board members shall be determined by the regional support network.

31 (5) Regional support networks shall assume all duties specified in
32 their plans and joint operating agreements through biennial contractual
33 agreements with the secretary. Such contracts may include agreements
34 to provide periods of stable community living and work or other day
35 activities for specific chronically mentally ill persons who have
36 completed commitments at state hospitals on ninety-day or one hundred
37 eighty-day civil commitments or who have been residents at state
38 hospitals for no less than one hundred eighty days within the previous
39 year. Periods of stable community living may involve acute care in

1 local evaluation and treatment facilities but may not involve use of
2 state hospitals.

3 (6) Counties or groups of counties participating in a regional
4 support network are not subject to RCW 71.24.045(~~(+7)~~) (6). The
5 office of financial management shall consider information gathered in
6 studies required in this chapter and information about the experience
7 of other states to propose a mental health services administrative cost
8 lid to the 1993 legislature which shall include administrative costs of
9 licensed service providers, the state psychiatric hospitals and the
10 department.

11 (7) By November 1, 1991, and as part of each biennial plan
12 thereafter, each regional support network shall establish and submit to
13 the state, procedures and agreements to assure access to sufficient
14 additional local evaluation and treatment facilities to meet the
15 requirements of this chapter while reducing short-term admissions to
16 state hospitals. These shall be commitments to construct and operate,
17 or contract for the operation of, freestanding evaluation and treatment
18 facilities or agreements with local evaluation and treatment facilities
19 which shall include (a) required admission and treatment for short-term
20 inpatient care for any person enrolled in community support or
21 residential services, (b) discharge planning procedures, (c)
22 limitations on admissions or transfers to state hospitals, (d) adequate
23 psychiatric supervision, (e) prospective payment methods, and (f)
24 contractual assurances regarding referrals to local evaluation and
25 treatment facilities from regional support networks.

26 (8) Regional support networks may receive technical assistance from
27 the housing trust fund and may identify and submit projects for housing
28 and housing support services to the housing trust fund established
29 under chapter 43.185 RCW. Projects identified or submitted under this
30 subsection must be fully integrated with the regional support network
31 six-year operating and capital plan, timeline, and budget required by
32 subsection (1) of this section.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.24 RCW
34 to read as follows:

35 (1) The secretary shall contract, to the extent that funds are
36 appropriated for this purpose, for case management services and such
37 other services as the secretary deems necessary to assist offenders
38 identified under section 2 of this act. The contracts may be with

1 regional support networks or any other qualified and appropriate
2 entities.

3 (2) The case manager has the authority to assist these offenders in
4 obtaining the services, as set forth in the plan created under section
5 2(2) of this act, for up to five years. The services may include
6 coordination of mental health services, assistance with unfunded
7 medical expenses, obtaining chemical dependency treatment, housing,
8 employment services, educational or vocational training, independent
9 living skills, parenting education, anger management services, and such
10 other services as the case manager deems necessary.

11 (3) The legislature intends that funds appropriated for the
12 purposes of sections 2 and 4 of this act, RCW 71.05.212, and this
13 section and distributed to the regional support networks are to
14 supplement and not to supplant general funding. Funds appropriated to
15 implement sections 2 and 4 of this act, RCW 71.05.212, and this section
16 are not to be considered available resources as defined in RCW
17 71.24.025 and are not subject to the statutory distribution formula
18 established pursuant to RCW 71.24.035.

19 NEW SECTION. **Sec. 10.** The Washington state institute for public
20 policy, in conjunction with the University of Washington, shall conduct
21 an evaluation of this act to determine:

22 (1) Whether there is a reduction in criminal recidivism as a result
23 of this act;

24 (2) Whether this act has resulted in: (a) Increased treatment of,
25 and services to, dangerous mentally ill offenders, including services
26 at the department of corrections, and through other publicly funded
27 services; (b) a reduction in repeated inpatient mental health treatment
28 by the same offender; and (c) reduced length of stays at state
29 hospitals;

30 (3) Whether this act improves delivery and effectiveness of the
31 treatment and services, including mental health, drug/alcohol, case
32 management, housing assistance, and other provided services;

33 (4) Whether services under this act should be expanded to include
34 other classifications of offenders, such as: Juveniles; felons not
35 sentenced to confinement; misdemeanants; and felons in county jails.
36 Cost estimates for expansion of each classification shall be included;

37 (5) The validity of the risk assessment tool utilized by the
38 department of corrections to assess dangerousness of offenders;

1 (6) Increases in early medicaid enrollment and associated cost
2 savings; and

3 (7) Any savings in bed spaces in the department of corrections as
4 a result of this act.

5 The evaluation shall be submitted to the governor and legislature
6 by December 1, 2004.

7 NEW SECTION. **Sec. 11.** The secretary of the department of
8 corrections and the secretary of the department of social and health
9 services shall, in consultation with the regional support networks and
10 provider representatives, each adopt rules as necessary to implement
11 this act.

12 NEW SECTION. **Sec. 12.** Sections 1, 2, and 4 through 9 of this act
13 take effect March 15, 2000.

14 NEW SECTION. **Sec. 13.** Section 1 of this act shall not be
15 codified.

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