
SENATE BILL 5011

State of Washington

56th Legislature

1999 Regular Session

By Senators Long, Hargrove, Franklin, Loveland, Winsley, Patterson, Deccio, McCaslin, Goings, Oke and Costa

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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 department shall identify offenders in confinement or
6 partial confinement who are determined to: (a) Be reasonably believed
7 to be dangerous to themselves or others; and (b) have a mental
8 disorder. In determining an offender's dangerousness, the department
9 shall, based upon research, include consideration of an offender's
10 chemical dependency or abuse.

11 (2) Prior to release of an offender identified under this section,
12 a team consisting of representatives of the department of corrections,
13 the division of mental health, and, as necessary, other divisions or
14 administrations within the department of social and health services,
15 specifically including the division of alcohol and substance abuse, and
16 the appropriate regional support network, shall develop a plan, as
17 determined necessary by the team, for delivery of treatment and support
18 services to the offender upon release. The team may include a school
19 district representative for offenders under the age of twenty-one. The
20 team shall consult with the offender's counsel, if any, and, as
21 appropriate, the offender's family and community. The team may
22 recommend: (a) That the offender be evaluated by the county designated
23 mental health professional, as defined in chapter 71.05 RCW; (b)
24 department-supervised community treatment; or (c) voluntary community
25 mental health or chemical dependency or abuse treatment.

26 (3) Prior to release of an offender identified under this section,
27 the team shall determine whether or not an evaluation by a county
28 designated mental health professional is needed. If an evaluation is
29 recommended, the supporting documentation shall be immediately
30 forwarded to the appropriate county designated mental health
31 professional. The supporting documentation shall include the
32 offender's criminal history, history of judicially required or
33 administratively ordered involuntary antipsychotic medication while in
34 confinement, and any known history of involuntary civil commitment.

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

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

6 (6) If the county designated mental health professional determines
7 an emergency detention under chapter 71.05 RCW is necessary, the
8 department shall release the offender only to a state hospital or to a
9 consenting evaluation and treatment facility serving the jurisdiction
10 where the offender will reside at the time of release. The department
11 shall arrange transportation of the offender to the hospital or
12 facility.

13 (7) If the county designated mental health professional believes
14 that a less restrictive alternative treatment is appropriate, he or she
15 shall seek a summons, pursuant to the provisions of chapter 71.05 RCW,
16 to require the offender to appear at an evaluation and treatment
17 facility serving the jurisdiction where the offender will reside upon
18 release. If a summons is issued, the offender shall remain within the
19 corrections facility until completion of his or her term of confinement
20 and be transported, by corrections personnel on the day of completion,
21 directly to the identified evaluation and treatment facility.

22 (8) The department shall adopt rules to implement this section.

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

25 The department of corrections and the department of social and
26 health services shall develop rules and working agreements which will
27 ensure that offenders identified under section 2(1) of this act will be
28 assisted in making application for medicaid to facilitate a decision
29 regarding their eligibility for such entitlements prior to the end of
30 their term of confinement in a correctional facility.

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

33 The legislature intends that, when evaluating a person who is
34 identified under section 2(7) of this act, the professional person at
35 the evaluation and treatment facility shall, when appropriate after
36 consideration of the person's mental condition and relevant public

1 safety concerns, file a petition for a ninety-day less restrictive
2 alternative in lieu of a petition for a fourteen-day commitment.

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

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

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

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

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

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

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

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

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

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

20 (3) Minimum service delivery standards;

21 (4) Priorities for the use of available resources for the care of
22 the mentally ill;

23 (5) Coordination of services within the department, including those
24 divisions within the department that provide services to children,
25 between the department and the office of the superintendent of public
26 instruction, and among state mental hospitals, county authorities,
27 community mental health services, and other support services, which
28 shall to the maximum extent feasible also include the families of the
29 mentally ill, and other service providers; and

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

33 It is the policy of the state to encourage the provision of a full
34 range of treatment and rehabilitation services in the state for mental
35 disorders. The legislature intends to encourage the development of
36 county-based and county-managed mental health services with adequate
37 local flexibility to assure eligible people in need of care access to
38 the least-restrictive treatment alternative appropriate to their needs,
39 and the availability of treatment components to assure continuity of

1 care. To this end, counties are encouraged to enter into joint
2 operating agreements with other counties to form regional systems of
3 care which integrate planning, administration, and service delivery
4 duties assigned to counties under chapters 71.05 and 71.24 RCW to
5 consolidate administration, reduce administrative layering, and reduce
6 administrative costs.

7 It is further the intent of the legislature to integrate the
8 provision of services to provide continuity of care through all phases
9 of treatment. To this end the legislature intends to promote active
10 engagement with mentally ill persons and collaboration between families
11 and service providers.

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

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

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

1 (a) Administer and provide for the availability of all resource
2 management services, residential services, and community support
3 services.

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

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

21 (d) By July 1, 1993, administer a portion of funds appropriated by
22 the legislature to house mentally ill persons in state institutions
23 from counties within the boundaries of any regional support network,
24 with the exception of (~~mentally ill offenders~~) persons currently
25 confined at, or under the supervision of, a state mental hospital
26 pursuant to chapter 10.77 RCW, and provide for the care of all persons
27 needing evaluation and treatment services for periods up to seventeen
28 days according to chapter 71.05 RCW in appropriate residential
29 services, which may include state institutions. The regional support
30 networks shall reimburse the state for use of state institutions at a
31 rate equal to that assumed by the legislature when appropriating funds
32 for such care at state institutions during the biennium when
33 reimbursement occurs. The duty of a state hospital to accept persons
34 for evaluation and treatment under chapter 71.05 RCW is limited by the
35 responsibilities assigned to regional support networks under this
36 section. For regional support networks that are created after June 30,
37 1991, the requirements of (d) of this subsection must be met by July 1,
38 1995.

1 (e) Administer and provide for the availability of all other mental
2 health services, which shall include patient counseling, day treatment,
3 consultation, education services, employment services as defined in RCW
4 71.24.035, and mental health services to children as provided in this
5 chapter.

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

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

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

18 (4) Each regional support network shall appoint a mental health
19 advisory board which shall review and provide comments on plans and
20 policies developed under this chapter. The composition of the board
21 shall be broadly representative of the demographic character of the
22 region and the mentally ill persons served therein. Length of terms of
23 board members shall be determined by the regional support network.

24 (5) Regional support networks shall assume all duties specified in
25 their plans and joint operating agreements through biennial contractual
26 agreements with the secretary. Such contracts may include agreements
27 to provide periods of stable community living and work or other day
28 activities for specific chronically mentally ill persons who have
29 completed commitments at state hospitals on ninety-day or one hundred
30 eighty-day civil commitments or who have been residents at state
31 hospitals for no less than one hundred eighty days within the previous
32 year. Periods of stable community living may involve acute care in
33 local evaluation and treatment facilities but may not involve use of
34 state hospitals.

35 (6) Counties or groups of counties participating in a regional
36 support network are not subject to RCW 71.24.045(~~(+7)~~) (6). The
37 office of financial management shall consider information gathered in
38 studies required in this chapter and information about the experience
39 of other states to propose a mental health services administrative cost

1 lid to the 1993 legislature which shall include administrative costs of
2 licensed service providers, the state psychiatric hospitals and the
3 department.

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

19 (8) Regional support networks may receive technical assistance from
20 the housing trust fund and may identify and submit projects for housing
21 and housing support services to the housing trust fund established
22 under chapter 43.185 RCW. Projects identified or submitted under this
23 subsection must be fully integrated with the regional support network
24 six-year operating and capital plan, timeline, and budget required by
25 subsection (1) of this section.

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

28 (1) The department shall contract, within appropriated funds, for
29 case management services to assist offenders identified under section
30 2 of this act. The case manager has the authority to assist them in
31 obtaining the services, as set forth in the plan created under section
32 2(2) of this act, for up to five years. The services may include
33 coordination of mental health services through the regional support
34 networks, assistance with unfunded medical expenses, obtaining chemical
35 dependency treatment, housing, employment services, educational or
36 vocational training, independent living skills, parenting education,
37 anger management services, and such other services as the case manager
38 deems necessary.

1 (2) The department shall distribute funds appropriated for the
2 regional support networks, based upon the marginal cost of additional
3 services provided to offenders referred as a result of section 2 of
4 this act, who would not have otherwise qualified for, or received the
5 services of, a regional support network.

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

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

11 (2) Whether this act has resulted in: (a) Increased treatment of,
12 and services to, dangerous mentally ill offenders, including services
13 at the department of corrections, and through other publicly funded
14 services; (b) a reduction in repeated inpatient mental health treatment
15 by the same offender; and (c) reduced length of stays at state
16 hospitals;

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

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

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

26 (6) Increases in early medicaid enrollment and associated cost
27 savings; and

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

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

32 NEW SECTION. **Sec. 11.** The secretary of the department of
33 corrections and the secretary of the department of social and health
34 services shall, in consultation with the regional support networks,
35 each adopt rules as necessary to implement this act.

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

3 NEW SECTION. **Sec. 13.** Section 1 of this act shall not be
4 codified.

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