

CERTIFICATION OF ENROLLMENT

SENATE BILL 6272

Chapter 58, Laws of 2002

57th Legislature
2002 Regular Session

MEDICAL CARE--SEXUALLY VIOLENT PREDATORS

EFFECTIVE DATE: 3/21/02

Passed by the Senate February 11, 2002
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 7, 2002
YEAS 79 NAYS 14

FRANK CHOPP

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6272** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved March 21, 2002

FILED

March 21, 2002 - 2:06 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6272

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Senators Long, Hargrove and Costa; by request of Department of Social and Health Services

Read first time 01/14/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to contracting for medical care services under
2 chapter 71.09 RCW; amending RCW 71.09.020; adding a new section to
3 chapter 71.09 RCW; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.09 RCW
6 to read as follows:

7 (1) Notwithstanding any other provisions of law, the secretary may
8 enter into contracts with health care practitioners, health care
9 facilities, and other entities or agents as may be necessary to provide
10 basic medical care to residents. The contracts shall not cause the
11 termination of classified employees of the department rendering the
12 services at the time the contract is executed.

13 (2) In contracting for services, the secretary is authorized to
14 provide for indemnification of health care practitioners who cannot
15 obtain professional liability insurance through reasonable effort, from
16 liability on any action, claim, or proceeding instituted against them
17 arising out of the good faith performance or failure of performance of
18 services on behalf of the department. The contracts may provide that
19 for the purposes of chapter 4.92 RCW only, those health care

1 practitioners with whom the department has contracted shall be
2 considered state employees.

3 **Sec. 2.** RCW 71.09.020 and 2001 2nd sp.s. c 12 s 102 are each
4 amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Department" means the department of social and health
8 services.

9 (2) "Health care facility" means any hospital, hospice care center,
10 licensed or certified health care facility, health maintenance
11 organization regulated under chapter 48.46 RCW, federally qualified
12 health maintenance organization, federally approved renal dialysis
13 center or facility, or federally approved blood bank.

14 (3) "Health care practitioner" means an individual or firm licensed
15 or certified to engage actively in a regulated health profession.

16 (4) "Health care services" means those services provided by health
17 professionals licensed pursuant to RCW 18.120.020(4).

18 (5) "Health profession" means those licensed or regulated
19 professions set forth in RCW 18.120.020(4).

20 (6) "Less restrictive alternative" means court-ordered treatment in
21 a setting less restrictive than total confinement which satisfies the
22 conditions set forth in RCW 71.09.092.

23 ~~((+3))~~ (7) "Likely to engage in predatory acts of sexual violence
24 if not confined in a secure facility" means that the person more
25 probably than not will engage in such acts if released unconditionally
26 from detention on the sexually violent predator petition. Such
27 likelihood must be evidenced by a recent overt act if the person is not
28 totally confined at the time the petition is filed under RCW 71.09.030.

29 ~~((+4))~~ (8) "Mental abnormality" means a congenital or acquired
30 condition affecting the emotional or volitional capacity which
31 predisposes the person to the commission of criminal sexual acts in a
32 degree constituting such person a menace to the health and safety of
33 others.

34 ~~((+5))~~ (9) "Predatory" means acts directed towards: (a)
35 Strangers; (b) individuals with whom a relationship has been
36 established or promoted for the primary purpose of victimization; or
37 (c) persons of casual acquaintance with whom no substantial personal
38 relationship exists.

1 (~~(6)~~) (10) "Recent overt act" means any act or threat that has
2 either caused harm of a sexually violent nature or creates a reasonable
3 apprehension of such harm in the mind of an objective person who knows
4 of the history and mental condition of the person engaging in the act.

5 (~~(7)~~) (11) "Risk potential activity" or "risk potential facility"
6 means an activity or facility that provides a higher incidence of risk
7 to the public from persons conditionally released from the special
8 commitment center. Risk potential activities and facilities include:
9 Public and private schools, school bus stops, licensed day care and
10 licensed preschool facilities, public parks, publicly dedicated trails,
11 sports fields, playgrounds, recreational and community centers,
12 churches, synagogues, temples, mosques, and public libraries.

13 (~~(8)~~) (12) "Secretary" means the secretary of social and health
14 services or the secretary's designee.

15 (~~(9)~~) (13) "Secure facility" means a residential facility for
16 persons civilly confined under the provisions of this chapter that
17 includes security measures sufficient to protect the community. Such
18 facilities include total confinement facilities, secure community
19 transition facilities, and any residence used as a court-ordered
20 placement under RCW 71.09.096.

21 (~~(10)~~) (14) "Secure community transition facility" means a
22 residential facility for persons civilly committed and conditionally
23 released to a less restrictive alternative under this chapter. A
24 secure community transition facility has supervision and security, and
25 either provides or ensures the provision of sex offender treatment
26 services. Secure community transition facilities include but are not
27 limited to the facilities established pursuant to RCW 71.09.250 and any
28 community-based facilities established under this chapter and operated
29 by the secretary or under contract with the secretary.

30 (~~(11)~~) (15) "Sexually violent offense" means an act committed on,
31 before, or after July 1, 1990, that is: (a) An act defined in Title 9A
32 RCW as rape in the first degree, rape in the second degree by forcible
33 compulsion, rape of a child in the first or second degree, statutory
34 rape in the first or second degree, indecent liberties by forcible
35 compulsion, indecent liberties against a child under age fourteen,
36 incest against a child under age fourteen, or child molestation in the
37 first or second degree; (b) a felony offense in effect at any time
38 prior to July 1, 1990, that is comparable to a sexually violent offense
39 as defined in (a) of this subsection, or any federal or out-of-state

1 conviction for a felony offense that under the laws of this state would
2 be a sexually violent offense as defined in this subsection; (c) an act
3 of murder in the first or second degree, assault in the first or second
4 degree, assault of a child in the first or second degree, kidnapping in
5 the first or second degree, burglary in the first degree, residential
6 burglary, or unlawful imprisonment, which act, either at the time of
7 sentencing for the offense or subsequently during civil commitment
8 proceedings pursuant to this chapter, has been determined beyond a
9 reasonable doubt to have been sexually motivated, as that term is
10 defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28
11 RCW, that is an attempt, criminal solicitation, or criminal conspiracy
12 to commit one of the felonies designated in (a), (b), or (c) of this
13 subsection.

14 ~~((12))~~ (16) "Sexually violent predator" means any person who has
15 been convicted of or charged with a crime of sexual violence and who
16 suffers from a mental abnormality or personality disorder which makes
17 the person likely to engage in predatory acts of sexual violence if not
18 confined in a secure facility.

19 ~~((13))~~ (17) "Total confinement facility" means a facility that
20 provides supervision and sex offender treatment services in a total
21 confinement setting. Total confinement facilities include the special
22 commitment center and any similar facility designated as a secure
23 facility by the secretary.

24 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 immediately.

Passed the Senate February 11, 2002.

Passed the House March 7, 2002.

Approved by the Governor March 21, 2002.

Filed in Office of Secretary of State March 21, 2002.