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**SUBSTITUTE HOUSE BILL 2025**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Haigh, Hatfield, Darneille, Lovick, O'Brien, Romero and Blake)

READ FIRST TIME 03/05/03.

1       AN ACT Relating to mental illness; amending RCW 71.05.150; and  
2       creating a new section.

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

4       **Sec. 1.** RCW 71.05.150 and 1998 c 297 s 8 are each amended to read  
5       as follows:

6       (1)(a) When a county designated mental health professional receives  
7       information alleging that a person, as a result of a mental disorder:  
8       (i) Presents a likelihood of serious harm; or (ii) is gravely disabled;  
9       the county designated mental health professional may, after  
10       investigation and evaluation of the specific facts alleged and of the  
11       reliability and credibility of any person providing information to  
12       initiate detention, if satisfied that the allegations are true and that  
13       the person will not voluntarily seek appropriate treatment, file a  
14       petition for initial detention. Before filing the petition, the county  
15       designated mental health professional must personally interview the  
16       person, unless the person refuses an interview, and determine whether  
17       the person will voluntarily receive appropriate evaluation and  
18       treatment at an evaluation and treatment facility.

1 (b) Whenever it appears, by petition for initial detention, to the  
2 satisfaction of a judge of the superior court that a person presents,  
3 as a result of a mental disorder, a likelihood of serious harm, or is  
4 gravely disabled, and that the person has refused or failed to accept  
5 appropriate evaluation and treatment voluntarily, the judge may issue  
6 an order requiring the person to appear within twenty-four hours after  
7 service of the order at a designated evaluation and treatment facility  
8 for not more than a seventy-two hour evaluation and treatment period.  
9 The order shall state the address of the evaluation and treatment  
10 facility to which the person is to report and whether the required  
11 seventy-two hour evaluation and treatment services may be delivered on  
12 an outpatient or inpatient basis and that if the person named in the  
13 order fails to appear at the evaluation and treatment facility at or  
14 before the date and time stated in the order, such person may be  
15 involuntarily taken into custody for evaluation and treatment. The  
16 order shall also designate retained counsel or, if counsel is appointed  
17 from a list provided by the court, the name, business address, and  
18 telephone number of the attorney appointed to represent the person.

19 (c) The county designated mental health professional shall then  
20 serve or cause to be served on such person, his or her guardian, and  
21 conservator, if any, a copy of the order to appear together with a  
22 notice of rights and a petition for initial detention. After service  
23 on such person the county designated mental health professional shall  
24 file the return of service in court and provide copies of all papers in  
25 the court file to the evaluation and treatment facility and the  
26 designated attorney. The county designated mental health professional  
27 shall notify the court and the prosecuting attorney that a probable  
28 cause hearing will be held within seventy-two hours of the date and  
29 time of outpatient evaluation or admission to the evaluation and  
30 treatment facility. The person shall be permitted to remain in his or  
31 her home or other place of his or her choosing prior to the time of  
32 evaluation and shall be permitted to be accompanied by one or more of  
33 his or her relatives, friends, an attorney, a personal physician, or  
34 other professional or religious advisor to the place of evaluation. An  
35 attorney accompanying the person to the place of evaluation shall be  
36 permitted to be present during the admission evaluation. Any other  
37 individual accompanying the person may be present during the admission

1 evaluation. The facility may exclude the individual if his or her  
2 presence would present a safety risk, delay the proceedings, or  
3 otherwise interfere with the evaluation.

4 (d) If the person ordered to appear does appear on or before the  
5 date and time specified, the evaluation and treatment facility may  
6 admit such person as required by RCW 71.05.170 or may provide treatment  
7 on an outpatient basis. If the person ordered to appear fails to  
8 appear on or before the date and time specified, the evaluation and  
9 treatment facility shall immediately notify the county designated  
10 mental health professional who may notify a peace officer to take such  
11 person or cause such person to be taken into custody and placed in an  
12 evaluation and treatment facility. Should the county designated mental  
13 health professional notify a peace officer authorizing him or her to  
14 take a person into custody under the provisions of this subsection, he  
15 or she shall file with the court a copy of such authorization and a  
16 notice of detention. At the time such person is taken into custody  
17 there shall commence to be served on such person, his or her guardian,  
18 and conservator, if any, a copy of the original order together with a  
19 notice of detention, a notice of rights, and a petition for initial  
20 detention.

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

31 (3) A peace officer may take such person or cause such person to be  
32 taken into custody and placed in an evaluation and treatment facility  
33 pursuant to subsection (1)(d) of this section.

34 (4) A peace officer may, without prior notice of the proceedings  
35 provided for in subsection (1) of this section, take or cause such  
36 person to be taken into custody and immediately delivered to an  
37 evaluation and treatment facility or the emergency department of a  
38 local hospital:

1 (a) Only pursuant to subsections (1)(d) and (2) of this section; or  
2 (b) When he or she has reasonable cause to believe that such person  
3 is suffering from a mental disorder and presents an imminent likelihood  
4 of serious harm or is in imminent danger because of being gravely  
5 disabled.

6 (5) Persons delivered to evaluation and treatment facilities by  
7 peace officers pursuant to subsection (4)(b) of this section may be  
8 held by the facility for a period of up to twelve hours: PROVIDED,  
9 That they are examined by a mental health professional within three  
10 hours of their arrival. Within twelve hours of their arrival, the  
11 county designated mental health professional must file a supplemental  
12 petition for detention, and commence service on the designated attorney  
13 for the detained person.

14 (6) A person detained and taken into custody under this section by  
15 a county designated mental health professional or a peace officer shall  
16 not be charged with assault if physically resisting under diminished  
17 capacity conditions and at least one of the following conditions is  
18 present:

19 (a) Proper and adequate crisis intervention training for detaining  
20 a person with mental illness was not provided to the detaining person;

21 (b) No permanent bodily harm was done to the detaining person;

22 (c) The detainee was psychotic at the time he or she was taken into  
23 custody;

24 (d) The detainee was acting in a defensive manner; or

25 (e) The detainee was not armed.

26 NEW SECTION. Sec. 2. This act may be known and cited as the Shawn  
27 Bryan act.

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