
SUBSTITUTE SENATE BILL 6665

State of Washington 60th Legislature 2008 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, and Marr)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to the intensive case management and integrated
2 response pilot programs; amending RCW 70.96A.800, 70.96B.800,
3 70.96B.010, 70.96B.050, 70.96B.100, and 70.96B.900; amending 2007 c 120
4 s 4 (uncodified); adding a new section to chapter 70.96B RCW; and
5 providing expiration dates.

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

7 **Sec. 1.** RCW 70.96A.800 and 2005 c 504 s 220 are each amended to
8 read as follows:

9 (1) The secretary shall select and contract with counties to
10 provide intensive case management for chemically dependent persons with
11 histories of high utilization of crisis services at two sites. In
12 selecting the two sites, the secretary shall endeavor to site one in an
13 urban county, and one in a rural county; and to site them in counties
14 other than those selected pursuant to RCW 70.96B.020, to the extent
15 necessary to facilitate evaluation of pilot project results.

16 (2) The contracted sites shall implement the pilot programs by
17 providing intensive case management to persons with a primary chemical
18 dependency diagnosis or dual primary chemical dependency and mental

1 health diagnoses, through the employment of chemical dependency case
2 managers. The chemical dependency case managers shall:

3 (a) Be trained in and use the integrated, comprehensive screening
4 and assessment process adopted under RCW 70.96C.010;

5 (b) Reduce the use of crisis medical, chemical dependency and
6 mental health services, including but not limited to, emergency room
7 admissions, hospitalizations, detoxification programs, inpatient
8 psychiatric admissions, involuntary treatment petitions, emergency
9 medical services, and ambulance services;

10 (c) Reduce the use of emergency first responder services including
11 police, fire, emergency medical, and ambulance services;

12 (d) Reduce the number of criminal justice interventions including
13 arrests, violations of conditions of supervision, bookings, jail days,
14 prison sanction day for violations, court appearances, and prosecutor
15 and defense costs;

16 (e) Where appropriate and available, work with therapeutic courts
17 including drug courts and mental health courts to maximize the outcomes
18 for the individual and reduce the likelihood of reoffense;

19 (f) Coordinate with local offices of the economic services
20 administration to assist the person in accessing and remaining enrolled
21 in those programs to which the person may be entitled;

22 (g) Where appropriate and available, coordinate with primary care
23 and other programs operated through the federal government including
24 federally qualified health centers, Indian health programs, and
25 veterans' health programs for which the person is eligible to reduce
26 duplication of services and conflicts in case approach;

27 (h) Where appropriate, advocate for the client's needs to assist
28 the person in achieving and maintaining stability and progress toward
29 recovery;

30 (i) Document the numbers of persons with co-occurring mental and
31 substance abuse disorders and the point of determination of the co-
32 occurring disorder by quadrant of intensity of need; and

33 (j) Where a program participant is under supervision by the
34 department of corrections, collaborate with the department of
35 corrections to maximize treatment outcomes and reduce the likelihood of
36 reoffense.

37 (3) The pilot programs established by this section shall begin
38 providing services by March 1, 2006.

1 (4) This section expires June 30, (~~2008~~) 2009.

2 **Sec. 2.** RCW 70.96B.800 and 2005 c 504 s 217 are each amended to
3 read as follows:

4 (1) The Washington state institute for public policy shall evaluate
5 the pilot programs and make (~~(a)~~) preliminary reports to appropriate
6 committees of the legislature by December 1, 2007, and June 30, 2008,
7 and a final report by (~~September 30, 2008~~) June 30, 2010.

8 (2) The evaluation of the pilot programs shall include:

9 (a) Whether the designated crisis responder pilot program:

10 (i) Has increased efficiency of evaluation and treatment of persons
11 involuntarily detained for seventy-two hours;

12 (ii) Is cost-effective;

13 (iii) Results in better outcomes for persons involuntarily
14 detained;

15 (iv) Increased the effectiveness of the crisis response system in
16 the pilot catchment areas;

17 (b) The effectiveness of providing a single chapter in the Revised
18 Code of Washington to address initial detention of persons with mental
19 disorders or chemical dependency, in crisis response situations and the
20 likelihood of effectiveness of providing a single, comprehensive
21 involuntary treatment act.

22 (3) The reports shall consider the impact of the pilot programs on
23 the existing mental health system and on the persons served by the
24 system.

25 **Sec. 3.** RCW 70.96B.010 and 2005 c 504 s 202 are each amended to
26 read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Admission" or "admit" means a decision by a physician that a
30 person should be examined or treated as a patient in a hospital, an
31 evaluation and treatment facility, or other inpatient facility, or a
32 decision by a professional person in charge or his or her designee that
33 a person should be detained as a patient for evaluation and treatment
34 in a secure detoxification facility or other certified chemical
35 dependency provider.

1 (2) "Antipsychotic medications" means that class of drugs primarily
2 used to treat serious manifestations of mental illness associated with
3 thought disorders, which includes but is not limited to atypical
4 antipsychotic medications.

5 (3) "Approved treatment program" means a discrete program of
6 chemical dependency treatment provided by a treatment program certified
7 by the department as meeting standards adopted under chapter 70.96A
8 RCW.

9 (4) "Attending staff" means any person on the staff of a public or
10 private agency having responsibility for the care and treatment of a
11 patient.

12 (5) "Chemical dependency" means:

13 (a) Alcoholism;

14 (b) Drug addiction; or

15 (c) Dependence on alcohol and one or more other psychoactive
16 chemicals, as the context requires.

17 (6) "Chemical dependency professional" means a person certified as
18 a chemical dependency professional by the department of health under
19 chapter 18.205 RCW.

20 (7) "Commitment" means the determination by a court that a person
21 should be detained for a period of either evaluation or treatment, or
22 both, in an inpatient or a less restrictive setting.

23 (8) "Conditional release" means a revocable modification of a
24 commitment that may be revoked upon violation of any of its terms.

25 (9) "Custody" means involuntary detention under either chapter
26 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of
27 unconditional release from commitment from a facility providing
28 involuntary care and treatment.

29 (10) "Department" means the department of social and health
30 services.

31 (11) "Designated chemical dependency specialist" or "specialist"
32 means a person designated by the county alcoholism and other drug
33 addiction program coordinator designated under RCW 70.96A.310 to
34 perform the commitment duties described in RCW 70.96A.140 and this
35 chapter, and qualified to do so by meeting standards adopted by the
36 department.

37 (12) "Designated crisis responder" means a person designated by the

1 county or regional support network to perform the duties specified in
2 this chapter.

3 (13) "Designated mental health professional" means a mental health
4 professional designated by the county or other authority authorized in
5 rule to perform the duties specified in this chapter.

6 (14) "Detention" or "detain" means the lawful confinement of a
7 person under this chapter, or chapter 70.96A or 71.05 RCW.

8 (15) "Developmental disabilities professional" means a person who
9 has specialized training and three years of experience in directly
10 treating or working with individuals with developmental disabilities
11 and is a psychiatrist, psychologist, or social worker, and such other
12 developmental disabilities professionals as may be defined by rules
13 adopted by the secretary.

14 (16) "Developmental disability" means that condition defined in RCW
15 71A.10.020.

16 (17) "Discharge" means the termination of facility authority. The
17 commitment may remain in place, be terminated, or be amended by court
18 order.

19 (18) "Evaluation and treatment facility" means any facility that
20 can provide directly, or by direct arrangement with other public or
21 private agencies, emergency evaluation and treatment, outpatient care,
22 and timely and appropriate inpatient care to persons suffering from a
23 mental disorder, and that is certified as such by the department. A
24 physically separate and separately operated portion of a state hospital
25 may be designated as an evaluation and treatment facility. A facility
26 that is part of, or operated by, the department or any federal agency
27 does not require certification. No correctional institution or
28 facility, or jail, may be an evaluation and treatment facility within
29 the meaning of this chapter.

30 (19) "Facility" means either an evaluation and treatment facility
31 or a secure detoxification facility.

32 (20) "Gravely disabled" means a condition in which a person, as a
33 result of a mental disorder, or as a result of the use of alcohol or
34 other psychoactive chemicals:

- 35 (a) Is in danger of serious physical harm resulting from a failure
36 to provide for his or her essential human needs of health or safety; or
- 37 (b) Manifests severe deterioration in routine functioning evidenced

1 by repeated and escalating loss of cognitive or volitional control over
2 his or her actions and is not receiving such care as is essential for
3 his or her health or safety.

4 (21) "History of one or more violent acts" refers to the period of
5 time ten years before the filing of a petition under this chapter, or
6 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any
7 violent acts committed, in a mental health facility or a long-term
8 alcoholism or drug treatment facility, or in confinement as a result of
9 a criminal conviction.

10 (22) "Imminent" means the state or condition of being likely to
11 occur at any moment or near at hand, rather than distant or remote.

12 (23) "Intoxicated person" means a person whose mental or physical
13 functioning is substantially impaired as a result of the use of alcohol
14 or other psychoactive chemicals.

15 ~~((+23+))~~ (24) "Judicial commitment" means a commitment by a court
16 under this chapter.

17 ~~((+24+))~~ (25) "Licensed physician" means a person licensed to
18 practice medicine or osteopathic medicine and surgery in the state of
19 Washington.

20 ~~((+25+))~~ (26) "Likelihood of serious harm" means:

21 (a) A substantial risk that:

22 (i) Physical harm will be inflicted by a person upon his or her own
23 person, as evidenced by threats or attempts to commit suicide or
24 inflict physical harm on oneself;

25 (ii) Physical harm will be inflicted by a person upon another, as
26 evidenced by behavior that has caused such harm or that places another
27 person or persons in reasonable fear of sustaining such harm; or

28 (iii) Physical harm will be inflicted by a person upon the property
29 of others, as evidenced by behavior that has caused substantial loss or
30 damage to the property of others; or

31 (b) The person has threatened the physical safety of another and
32 has a history of one or more violent acts.

33 ~~((+26+))~~ (27) "Mental disorder" means any organic, mental, or
34 emotional impairment that has substantial adverse effects on a person's
35 cognitive or volitional functions.

36 ~~((+27+))~~ (28) "Mental health professional" means a psychiatrist,
37 psychologist, psychiatric nurse, or social worker, and such other

1 mental health professionals as may be defined by rules adopted by the
2 secretary under the authority of chapter 71.05 RCW.

3 ~~((+28+))~~ (29) "Peace officer" means a law enforcement official of
4 a public agency or governmental unit, and includes persons specifically
5 given peace officer powers by any state law, local ordinance, or
6 judicial order of appointment.

7 ~~((+29+))~~ (30) "Person in charge" means a physician or chemical
8 dependency counselor as defined in rule by the department, who is
9 empowered by a certified treatment program with authority to make
10 assessment, admission, continuing care, and discharge decisions on
11 behalf of the certified program.

12 ~~((+30+))~~ (31) "Private agency" means any person, partnership,
13 corporation, or association that is not a public agency, whether or not
14 financed in whole or in part by public funds, that constitutes an
15 evaluation and treatment facility or private institution, or hospital,
16 or approved treatment program, that is conducted for, or includes a
17 department or ward conducted for, the care and treatment of persons who
18 are mentally ill and/or chemically dependent.

19 ~~((+31+))~~ (32) "Professional person" means a mental health
20 professional or chemical dependency professional and shall also mean a
21 physician, registered nurse, and such others as may be defined by rules
22 adopted by the secretary pursuant to the provisions of this chapter.

23 ~~((+32+))~~ (33) "Psychiatrist" means a person having a license as a
24 physician and surgeon in this state who has in addition completed three
25 years of graduate training in psychiatry in a program approved by the
26 American medical association or the American osteopathic association
27 and is certified or eligible to be certified by the American board of
28 psychiatry and neurology.

29 ~~((+33+))~~ (34) "Psychologist" means a person who has been licensed
30 as a psychologist under chapter 18.83 RCW.

31 ~~((+34+))~~ (35) "Public agency" means any evaluation and treatment
32 facility or institution, or hospital, or approved treatment program
33 that is conducted for, or includes a department or ward conducted for,
34 the care and treatment of persons who are mentally ill and/or
35 chemically dependent, if the agency is operated directly by federal,
36 state, county, or municipal government, or a combination of such
37 governments.

1 ~~((35))~~ (36) "Registration records" means all the records of the
2 department, regional support networks, treatment facilities, and other
3 persons providing services to the department, county departments, or
4 facilities which identify persons who are receiving or who at any time
5 have received services for mental illness.

6 ~~((36))~~ (37) "Release" means legal termination of the commitment
7 under chapter 70.96A or 71.05 RCW or this chapter.

8 ~~((37))~~ (38) "Secretary" means the secretary of the department or
9 the secretary's designee.

10 ~~((38))~~ (39) "Secure detoxification facility" means a facility
11 operated by either a public or private agency or by the program of an
12 agency that serves the purpose of providing evaluation and assessment,
13 and acute and/or subacute detoxification services for intoxicated
14 persons and includes security measures sufficient to protect the
15 patients, staff, and community.

16 ~~((39))~~ (40) "Social worker" means a person with a master's or
17 further advanced degree from an accredited school of social work or a
18 degree deemed equivalent under rules adopted by the secretary.

19 ~~((40))~~ (41) "Treatment records" means registration records and
20 all other records concerning persons who are receiving or who at any
21 time have received services for mental illness, which are maintained by
22 the department, by regional support networks and their staffs, and by
23 treatment facilities. Treatment records do not include notes or
24 records maintained for personal use by a person providing treatment
25 services for the department, regional support networks, or a treatment
26 facility if the notes or records are not available to others.

27 ~~((41))~~ (42) "Violent act" means behavior that resulted in
28 homicide, attempted suicide, nonfatal injuries, or substantial damage
29 to property.

30 **Sec. 4.** RCW 70.96B.050 and 2007 c 120 s 1 are each amended to read
31 as follows:

32 (1) When a designated crisis responder receives information
33 alleging that a person, as a result of a mental disorder, chemical
34 dependency disorder, or both, presents a likelihood of serious harm or
35 is gravely disabled, the designated crisis responder may, after
36 investigation and evaluation of the specific facts alleged and of the
37 reliability and credibility of any person providing information to

1 initiate detention, if satisfied that the allegations are true and that
2 the person will not voluntarily seek appropriate treatment, file a
3 petition for initial detention. Before filing the petition, the
4 designated crisis responder must personally interview the person,
5 unless the person refuses an interview, and determine whether the
6 person will voluntarily receive appropriate evaluation and treatment at
7 either an evaluation and treatment facility, a detoxification facility,
8 or other certified chemical dependency provider.

9 (2)(a) An order to detain to an evaluation and treatment facility,
10 a detoxification facility, or other certified chemical dependency
11 provider for not more than a seventy-two hour evaluation and treatment
12 period may be issued by a judge upon request of a designated crisis
13 responder: (i) Whenever it appears to the satisfaction of a judge of
14 the superior court, district court, or other court permitted by court
15 rule, that there is probable cause to support the petition, and (ii)
16 that the person has refused or failed to accept appropriate evaluation
17 and treatment voluntarily.

18 (b) The petition for initial detention, signed under penalty of
19 perjury or sworn telephonic testimony, may be considered by the court
20 in determining whether there are sufficient grounds for issuing the
21 order.

22 (c) The order shall designate retained counsel or, if counsel is
23 appointed from a list provided by the court, the name, business
24 address, and telephone number of the attorney appointed to represent
25 the person.

26 (3) The designated crisis responder shall then serve or cause to be
27 served on such person, his or her guardian, and conservator, if any, a
28 copy of the order to appear, together with a notice of rights and a
29 petition for initial detention. After service on the person, the
30 designated crisis responder shall file the return of service in court
31 and provide copies of all papers in the court file to the evaluation
32 and treatment facility or secure detoxification facility and the
33 designated attorney. The designated crisis responder shall notify the
34 court and the prosecuting attorney that a probable cause hearing will
35 be held within seventy-two hours of the date and time of outpatient
36 evaluation or admission to the evaluation and treatment facility,
37 secure detoxification facility, or other certified chemical dependency
38 provider. If requested by the detained person or his or her attorney,

1 the hearing may be postponed for a period not to exceed forty-eight
2 hours. The court may be continued subject to the petitioner's showing
3 of good cause for a period not to exceed twenty-four hours. The person
4 may be accompanied by one or more of his or her relatives, friends, an
5 attorney, a personal physician, or other professional or religious
6 advisor to the place of evaluation. An attorney accompanying the
7 person to the place of evaluation shall be permitted to be present
8 during the admission evaluation. Any other person accompanying the
9 person may be present during the admission evaluation. The facility
10 may exclude the person if his or her presence would present a safety
11 risk, delay the proceedings, or otherwise interfere with the
12 evaluation.

13 (4) The designated crisis responder may notify a peace officer to
14 take the person or cause the person to be taken into custody and placed
15 in an evaluation and treatment facility, a secure detoxification
16 facility, or other certified chemical dependency provider. At the time
17 the person is taken into custody there shall commence to be served on
18 the person, his or her guardian, and conservator, if any, a copy of the
19 original order together with a notice of detention, a notice of rights,
20 and a petition for initial detention.

21 **Sec. 5.** RCW 70.96B.100 and 2005 c 504 s 211 are each amended to
22 read as follows:

23 ~~((If a person is detained for additional treatment beyond fourteen~~
24 ~~days under RCW 70.96B.090, the professional staff of the agency or~~
25 ~~facility may petition for additional treatment under RCW 70.96A.140.))~~

26 (1) A person detained for fourteen days of involuntary chemical
27 dependency treatment under RCW 70.96B.090 shall be released from
28 involuntary treatment at the expiration of the period of commitment
29 unless the professional staff of the agency or facility files a
30 petition for additional period of involuntary treatment under RCW
31 70.96A.140, or files a petition for sixty days less restrictive
32 treatment under this section.

33 (2) A petition for less restrictive treatment must be filed at
34 least three days before expiration of the fourteen-day period of
35 intensive treatment, and comport with the rules contained in RCW
36 70.96B.090(2). The petition shall state facts that support the finding
37 that the person, as a result of a chemical dependency, presents a

1 likelihood of serious harm or is gravely disabled, and that continued
2 treatment pursuant to a less restrictive order is in the best interest
3 of the person or others. At the time of filing such a petition, the
4 clerk shall set a time for the person to come before the court on the
5 next judicial day after the day of filing unless such appearance is
6 waived by the person's attorney.

7 (3) At the time set for appearance the detained person must be
8 brought before the court, unless such appearance has been waived and
9 the court shall advise him or her of his or her right to be represented
10 by an attorney. If the detained person is not represented by an
11 attorney, or is indigent or is unwilling to retain an attorney, the
12 court shall immediately appoint an attorney to represent him or her.
13 The court shall, if requested, appoint a reasonably available licensed
14 physician, psychologist, or psychiatrist, designated by the detained
15 person to examine and testify on behalf of the detained person.

16 (4) The court shall conduct a hearing on the petition for sixty
17 days less restrictive treatment on or before the last day of the
18 confinement period. The burden of proof shall be by clear, cogent, and
19 convincing evidence and shall be upon the petitioner. The person shall
20 be present at such proceeding, which shall in all respects accord with
21 the constitutional guarantees of due process of law and the rules of
22 evidence pursuant to RCW 71.05.360 (8) and (9). Involuntary treatment
23 shall continue while a petition for less restrictive treatment is
24 pending under this section.

25 (5) The court may impose a sixty-day less restrictive order if the
26 evidence shows that the person, as a result of a chemical dependency,
27 presents a likelihood of serious harm or is gravely disabled, and that
28 continued treatment pursuant to a less restrictive order is in the best
29 interest of the person or others. The less restrictive order may
30 impose treatment conditions and other conditions which are in the best
31 interest of the patient and others. A copy of the less restrictive
32 order shall be given to the patient, the designated crisis responder,
33 and any program designated to provide less restrictive treatment. A
34 program designated to provide less restrictive treatment and willing to
35 supervise the conditions of the less restrictive order may modify the
36 conditions for continued release when the modification is in the best
37 interests of the patient, but must notify the designated crisis
38 responder and the court of such modification.

1 (6) If an outpatient treatment program approved by the court and
2 willing to supervise the conditions of the less restrictive order or
3 the designated crisis responder determines that the respondent is
4 failing to adhere to the terms of the less restrictive order, or that
5 substantial deterioration in the patient's functioning has occurred,
6 then the designated crisis responder shall notify the court of original
7 commitment and request a hearing to be held no less than two and no
8 more than seven days after the date of the request to determine whether
9 or not the person should be returned to more restrictive care. The
10 designated crisis responder may cause the person to be immediately
11 taken into custody of the secure detox pending the hearing if the
12 alleged noncompliance causes an imminent risk to the safety of the
13 person. The designated crisis responder shall file a petition with the
14 court stating the facts substantiating the need for the hearing along
15 with the treatment recommendations. The patient shall have the same
16 rights with respect to notice, hearing, and counsel as for the original
17 involuntary treatment proceedings. The issues to be determined at the
18 hearing are whether the conditionally released patient did or did not
19 adhere to the terms and conditions of his or her release to less
20 restrictive care or that substantial deterioration of the patient's
21 functioning has occurred and whether the condition of release should be
22 modified or the person should be returned to a more restrictive
23 setting. The hearing may be waived by the patient and his or her
24 counsel and his or her guardian or conservator, if any, but may not be
25 waived unless all such persons agree to the waiver. If court finds in
26 favor of the petitioner, or the person waives a hearing, the court may
27 order the person to be committed to secure detox for fourteen days of
28 involuntary chemical dependency treatment, or may order the patient to
29 be returned to less restrictive treatment on the same or modified
30 conditions.

31 NEW SECTION. Sec. 6. A new section is added to chapter 70.96B RCW
32 to read as follows:

33 (1) A person committed for fourteen days of involuntary chemical
34 dependency treatment under this chapter has a right to refuse
35 antipsychotic medication unless it is determined that the failure to
36 medicate may result in a likelihood of serious harm or substantial

1 deterioration and there is no less intrusive course of treatment than
2 medication in the best interest of that person.

3 (2) The department shall adopt rules to carry out the purposes of
4 this chapter. These rules shall include:

5 (a) An attempt to obtain the informed consent of the person prior
6 to administration of antipsychotic medication;

7 (b) For short-term treatment up to fourteen days, the right to
8 refuse antipsychotic medications unless there is an additional
9 concurring medical opinion approving medication;

10 (c) Administration of antipsychotic medication in an emergency and
11 review of this decision within twenty-four hours. An emergency exists
12 if the person presents an imminent likelihood of serious harm, and
13 medically acceptable alternatives to administration of antipsychotic
14 medications are not available or are unlikely to be successful; and in
15 the opinion of the physician, the person's condition constitutes an
16 emergency requiring the treatment be instituted prior to obtaining a
17 second medical opinion;

18 (d) Documentation in the medical record of the physician's attempt
19 to obtain informed consent and the reasons why antipsychotic medication
20 is being administered over the person's objection or lack of consent.

21 (3) A person committed pursuant to this chapter may refuse
22 psychiatric medication twenty-four hours before a court hearing as
23 provided in RCW 71.05.210.

24 **Sec. 7.** RCW 70.96B.900 and 2005 c 504 s 219 are each amended to
25 read as follows:

26 Sections 202 through 216 (~~(of this act)~~), chapter 504, Laws of 2005
27 expire (~~(July 1, 2008)~~) June 30, 2009.

28 NEW SECTION. **Sec. 8.** Sections 3 through 6 of this act expire June
29 30, 2009.

30 **Sec. 9.** 2007 c 120 s 4 (uncodified) is amended to read as follows:
31 Sections 1 and 2 (~~(of this act)~~), chapter 120, Laws of 2007 expire
32 (~~(July 1, 2008)~~) June 30, 2009.

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