
SUBSTITUTE HOUSE BILL 3076

State of Washington

61st Legislature

2010 Regular Session

By House Human Services (originally sponsored by Representatives Dickerson and Kenney; by request of Governor Gregoire)

READ FIRST TIME 02/02/10.

1 AN ACT Relating to evaluations of persons under the involuntary
2 treatment act; reenacting and amending RCW 71.05.020; creating a new
3 section; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The Washington institute for public
6 policy shall, in collaboration with the department of social and health
7 services and other applicable entities, undertake a search for a
8 validated mental health assessment tool or combination of tools to be
9 used by designated mental health professionals when undertaking
10 assessments of individuals for detention, commitment, and revocation
11 under the involuntary treatment act pursuant to chapter 71.05 RCW.

12 (2) This section expires June 30, 2011.

13 **Sec. 2.** RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 are
14 each reenacted and amended to read as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

17 (1) "Admission" or "admit" means a decision by a physician or

1 psychiatric advanced registered nurse practitioner that a person should
2 be examined or treated as a patient in a hospital;

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

7 (3) "Attending staff" means any person on the staff of a public or
8 private agency having responsibility for the care and treatment of a
9 patient;

10 (4) "Commitment" means the determination by a court that a person
11 should be detained for a period of either evaluation or treatment, or
12 both, in an inpatient or a less restrictive setting;

13 (5) "Conditional release" means a revocable modification of a
14 commitment, which may be revoked upon violation of any of its terms;

15 (6) "Crisis stabilization unit" means a short-term facility or a
16 portion of a facility licensed by the department of health and
17 certified by the department of social and health services under RCW
18 71.24.035, such as an evaluation and treatment facility or a hospital,
19 which has been designed to assess, diagnose, and treat individuals
20 experiencing an acute crisis without the use of long-term
21 hospitalization;

22 (7) "Custody" means involuntary detention under the provisions of
23 this chapter or chapter 10.77 RCW, uninterrupted by any period of
24 unconditional release from commitment from a facility providing
25 involuntary care and treatment;

26 (8) "Department" means the department of social and health
27 services;

28 (9) "Designated chemical dependency specialist" means a person
29 designated by the county alcoholism and other drug addiction program
30 coordinator designated under RCW 70.96A.310 to perform the commitment
31 duties described in chapters 70.96A and 70.96B RCW;

32 (10) "Designated crisis responder" means a mental health
33 professional appointed by the county or the regional support network to
34 perform the duties specified in this chapter;

35 (11) "Designated mental health professional" means a mental health
36 professional designated by the county or other authority authorized in
37 rule to perform the duties specified in this chapter;

1 (12) "Detention" or "detain" means the lawful confinement of a
2 person, under the provisions of this chapter;

3 (13) "Developmental disabilities professional" means a person who
4 has specialized training and three years of experience in directly
5 treating or working with persons with developmental disabilities and is
6 a psychiatrist, psychologist, psychiatric advanced registered nurse
7 practitioner, or social worker, and such other developmental
8 disabilities professionals as may be defined by rules adopted by the
9 secretary;

10 (14) "Developmental disability" means that condition defined in RCW
11 71A.10.020(3);

12 (15) "Discharge" means the termination of hospital medical
13 authority. The commitment may remain in place, be terminated, or be
14 amended by court order;

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

26 (17) "Gravely disabled" means a condition in which a person, as a
27 result of a mental disorder: (a) Is in danger of serious physical harm
28 resulting from a failure to provide for his or her essential human
29 needs of health or safety; or (b) manifests severe deterioration in
30 routine functioning evidenced by repeated and escalating loss of
31 cognitive or volitional control over his or her actions and is not
32 receiving such care as is essential for his or her health or safety;

33 (18) "Habilitative services" means those services provided by
34 program personnel to assist persons in acquiring and maintaining life
35 skills and in raising their levels of physical, mental, social, and
36 vocational functioning. Habilitative services include education,
37 training for employment, and therapy. The habilitative process shall

1 be undertaken with recognition of the risk to the public safety
2 presented by the person being assisted as manifested by prior charged
3 criminal conduct;

4 (19) "History of one or more violent acts" refers to the period of
5 time ten years prior to the filing of a petition under this chapter,
6 excluding any time spent, but not any violent acts committed, in a
7 mental health facility or in confinement as a result of a criminal
8 conviction;

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

11 (21) "Individualized service plan" means a plan prepared by a
12 developmental disabilities professional with other professionals as a
13 team, for a person with developmental disabilities, which shall state:

14 (a) The nature of the person's specific problems, prior charged
15 criminal behavior, and habilitation needs;

16 (b) The conditions and strategies necessary to achieve the purposes
17 of habilitation;

18 (c) The intermediate and long-range goals of the habilitation
19 program, with a projected timetable for the attainment;

20 (d) The rationale for using this plan of habilitation to achieve
21 those intermediate and long-range goals;

22 (e) The staff responsible for carrying out the plan;

23 (f) Where relevant in light of past criminal behavior and due
24 consideration for public safety, the criteria for proposed movement to
25 less-restrictive settings, criteria for proposed eventual discharge or
26 release, and a projected possible date for discharge or release; and

27 (g) The type of residence immediately anticipated for the person
28 and possible future types of residences;

29 (22) "Information related to mental health services" means all
30 information and records compiled, obtained, or maintained in the course
31 of providing services to either voluntary or involuntary recipients of
32 services by a mental health service provider. This may include
33 documents of legal proceedings under this chapter or chapter 71.34 or
34 10.77 RCW, or somatic health care information;

35 (23) "Judicial commitment" means a commitment by a court pursuant
36 to the provisions of this chapter;

37 (24) "Legal counsel" means attorneys and staff employed by county

1 prosecutor offices or the state attorney general acting in their
2 capacity as legal representatives of public mental health service
3 providers under RCW 71.05.130;

4 (25) "Likelihood of serious harm" means:

5 (a) A substantial risk that: (i) Physical harm will be inflicted
6 by a person upon his or her own person, as evidenced by threats or
7 attempts to commit suicide or inflict physical harm on oneself; (ii)
8 physical harm will be inflicted by a person upon another, as evidenced
9 by behavior which has caused such harm or which places another person
10 or persons in reasonable fear of sustaining such harm; or (iii)
11 physical harm will be inflicted by a person upon the property of
12 others, as evidenced by behavior which has caused substantial loss or
13 damage to the property of others; ((or))

14 (b) The person has threatened the physical safety of another and
15 has a history of one or more violent acts; or

16 (c) The person has taken an action or engaged in behavior,
17 accompanied by signs of mental disorder that, when considered in light
18 of past behavior of the respondent, is likely to be followed in the
19 near future by an attempt to do physical harm or cause substantial
20 property destruction;

21 (26) "Mental disorder" means any organic, mental, or emotional
22 impairment which has substantial adverse effects on a person's
23 cognitive or volitional functions;

24 (27) "Mental health professional" means a psychiatrist,
25 psychologist, psychiatric advanced registered nurse practitioner,
26 psychiatric nurse, or social worker, and such other mental health
27 professionals as may be defined by rules adopted by the secretary
28 pursuant to the provisions of this chapter;

29 (28) "Mental health service provider" means a public or private
30 agency that provides mental health services to persons with mental
31 disorders as defined under this section and receives funding from
32 public sources. This includes, but is not limited to, hospitals
33 licensed under chapter 70.41 RCW, evaluation and treatment facilities
34 as defined in this section, community mental health service delivery
35 systems or community mental health programs as defined in RCW
36 71.24.025, facilities conducting competency evaluations and restoration
37 under chapter 10.77 RCW, and correctional facilities operated by state
38 and local governments;

1 (29) "Peace officer" means a law enforcement official of a public
2 agency or governmental unit, and includes persons specifically given
3 peace officer powers by any state law, local ordinance, or judicial
4 order of appointment;

5 (30) "Private agency" means any person, partnership, corporation,
6 or association that is not a public agency, whether or not financed in
7 whole or in part by public funds, which constitutes an evaluation and
8 treatment facility or private institution, or hospital, which is
9 conducted for, or includes a department or ward conducted for, the care
10 and treatment of persons who are mentally ill;

11 (31) "Professional person" means a mental health professional and
12 shall also mean a physician, psychiatric advanced registered nurse
13 practitioner, registered nurse, and such others as may be defined by
14 rules adopted by the secretary pursuant to the provisions of this
15 chapter;

16 (32) "Psychiatric advanced registered nurse practitioner" means a
17 person who is licensed as an advanced registered nurse practitioner
18 pursuant to chapter 18.79 RCW; and who is board certified in advanced
19 practice psychiatric and mental health nursing;

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

26 (34) "Psychologist" means a person who has been licensed as a
27 psychologist pursuant to chapter 18.83 RCW;

28 (35) "Public agency" means any evaluation and treatment facility or
29 institution, or hospital which is conducted for, or includes a
30 department or ward conducted for, the care and treatment of persons
31 with mental illness, if the agency is operated directly by, federal,
32 state, county, or municipal government, or a combination of such
33 governments;

34 (36) "Registration records" include all the records of the
35 department, regional support networks, treatment facilities, and other
36 persons providing services to the department, county departments, or
37 facilities which identify persons who are receiving or who at any time
38 have received services for mental illness;

1 (37) "Release" means legal termination of the commitment under the
2 provisions of this chapter;

3 (38) "Resource management services" has the meaning given in
4 chapter 71.24 RCW;

5 (39) "Secretary" means the secretary of the department of social
6 and health services, or his or her designee;

7 (40) "Serious violent offense" has the same meaning as provided in
8 RCW 9.94A.030;

9 (41) "Social worker" means a person with a master's or further
10 advanced degree from an accredited school of social work or a degree
11 deemed equivalent under rules adopted by the secretary;

12 (42) "Therapeutic court personnel" means the staff of a mental
13 health court or other therapeutic court which has jurisdiction over
14 defendants who are dually diagnosed with mental disorders, including
15 court personnel, probation officers, a court monitor, prosecuting
16 attorney, or defense counsel acting within the scope of therapeutic
17 court duties;

18 (43) "Treatment records" include registration and all other records
19 concerning persons who are receiving or who at any time have received
20 services for mental illness, which are maintained by the department, by
21 regional support networks and their staffs, and by treatment
22 facilities. Treatment records include mental health information
23 contained in a medical bill including but not limited to mental health
24 drugs, a mental health diagnosis, provider name, and dates of service
25 stemming from a medical service. Treatment records do not include
26 notes or records maintained for personal use by a person providing
27 treatment services for the department, regional support networks, or a
28 treatment facility if the notes or records are not available to others;

29 (44) "Violent act" means behavior that resulted in homicide,
30 attempted suicide, nonfatal injuries, or substantial damage to
31 property.

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