

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 3076

Chapter 280, Laws of 2010

61st Legislature
2010 Regular Session

INVOLUNTARY TREATMENT ACT--EVALUATIONS

EFFECTIVE DATE: 06/10/10 - Except sections 2 and 3, which become effective 01/01/12.

Passed by the House March 10, 2010
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 9, 2010
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved April 1, 2010, 2:52 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 3076** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 2, 2010

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 3076

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Ways & Means (originally sponsored by Representatives Dickerson and Kenney; by request of Governor Gregoire)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to evaluations of persons under the involuntary
2 treatment act; amending RCW 71.05.212 and 71.05.245; adding a new
3 section to chapter 71.05 RCW; adding a new section to chapter 9.94A
4 RCW; creating new sections; providing an effective date; and providing
5 an expiration date.

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

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

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

15 **Sec. 2.** RCW 71.05.212 and 1999 c 214 s 5 are each amended to read
16 as follows:

17 (1) Whenever a ((county)) designated mental health professional or

1 professional person is conducting an evaluation under this chapter,
2 consideration shall include all reasonably available information from
3 credible witnesses and records regarding:

4 ~~((1))~~ (a) Prior recommendations for evaluation of the need for
5 civil commitments when the recommendation is made pursuant to an
6 evaluation conducted under chapter 10.77 RCW;

7 ~~((2))~~ (b) Historical behavior, including history of one or more
8 violent acts;

9 ~~((3))~~ (c) Prior determinations of incompetency or insanity under
10 chapter 10.77 RCW; and

11 ~~((4))~~ (d) Prior commitments under this chapter.

12 (2) Credible witnesses may include family members, landlords,
13 neighbors, or others with significant contact and history of
14 involvement with the person. If the designated mental health
15 professional relies upon information from a credible witness in
16 reaching his or her decision to detain the individual, then he or she
17 must provide contact information for any such witness to the
18 prosecutor. The designated mental health professional or prosecutor
19 shall provide notice of the date, time, and location of the probable
20 cause hearing to such a witness.

21 (3) Symptoms and behavior of the respondent which standing alone
22 would not justify civil commitment may support a finding of grave
23 disability or likelihood of serious harm when:

24 (a) Such symptoms or behavior are closely associated with symptoms
25 or behavior which preceded and led to a past incident of involuntary
26 hospitalization, severe deterioration, or one or more violent acts;

27 (b) These symptoms or behavior represent a marked and concerning
28 change in the baseline behavior of the respondent; and

29 (c) Without treatment, the continued deterioration of the
30 respondent is probable.

31 ~~((In addition,))~~ (4) When conducting an evaluation for offenders
32 identified under RCW 72.09.370, the ~~((county))~~ designated mental health
33 professional or professional person shall consider an offender's
34 history of judicially required or administratively ordered
35 antipsychotic medication while in confinement.

36 **Sec. 3.** RCW 71.05.245 and 1999 c 13 s 6 are each amended to read
37 as follows:

1 (1) In making a determination of whether a person is gravely
2 disabled or presents a likelihood of serious harm in a hearing
3 conducted under RCW 71.05.240 or 71.05.320, the court must consider the
4 symptoms and behavior of the respondent in light of all available
5 evidence concerning the respondent's historical behavior.

6 (2) Symptoms or behavior which standing alone would not justify
7 civil commitment may support a finding of grave disability or
8 likelihood of serious harm when: (a) Such symptoms or behavior are
9 closely associated with symptoms or behavior which preceded and led to
10 a past incident of involuntary hospitalization, severe deterioration,
11 or one or more violent acts; (b) these symptoms or behavior represent
12 a marked and concerning change in the baseline behavior of the
13 respondent; and (c) without treatment, the continued deterioration of
14 the respondent is probable.

15 (3) In making a determination of whether there is a likelihood of
16 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
17 the court shall give great weight to any evidence before the court
18 regarding whether the person has: ((+1)) (a) A recent history of one
19 or more violent acts; or ((+2)) (b) a recent history of one or more
20 commitments under this chapter or its equivalent provisions under the
21 laws of another state which were based on a likelihood of serious harm.
22 The existence of prior violent acts or commitments under this chapter
23 or its equivalent shall not be the sole basis for determining whether
24 a person presents a likelihood of serious harm.

25 For the purposes of this ~~(section)~~ subsection "recent" refers to
26 the period of time not exceeding three years prior to the current
27 hearing.

28 NEW SECTION. Sec. 4. A new section is added to chapter 71.05 RCW
29 to read as follows:

30 (1) Whenever a person who is the subject of an involuntary
31 commitment order under this chapter is discharged from an evaluation
32 and treatment facility or state hospital, the evaluation and treatment
33 facility or state hospital shall provide notice of the person's
34 discharge to the designated mental health professional office
35 responsible for the initial commitment and the designated mental health
36 professional office that serves the county in which the person is
37 expected to reside. The evaluation and treatment facility or state

1 hospital must also provide these offices with a copy of any less
2 restrictive order or conditional release order entered in conjunction
3 with the discharge of the person, unless the evaluation and treatment
4 facility or state hospital has entered into a memorandum of
5 understanding obligating another entity to provide these documents.

6 (2) The notice and documents referred to in subsection (1) of this
7 section shall be provided as soon as possible and no later than one
8 business day following the discharge of the person. Notice is not
9 required under this section if the discharge is for the purpose of
10 transferring the person for continued detention and treatment under
11 this chapter at another treatment facility.

12 (3) The department shall maintain and make available an updated
13 list of contact information for designated mental health professional
14 offices around the state.

15 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act take effect
16 January 1, 2012.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 9.94A RCW
18 to read as follows:

19 (1) Before imposing any legal financial obligations upon a
20 defendant who suffers from a mental health condition, other than
21 restitution or the victim penalty assessment under RCW 7.68.035, a
22 judge must first determine that the defendant, under the terms of this
23 section, has the means to pay such additional sums.

24 (2) For the purposes of this section, a defendant suffers from a
25 mental health condition when the defendant has been diagnosed with a
26 mental disorder that prevents the defendant from participating in
27 gainful employment, as evidenced by a determination of mental
28 disability as the basis for the defendant's enrollment in a public
29 assistance program, a record of involuntary hospitalization, or by
30 competent expert evaluation.

31 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
32 sections 1, 2, and 3 of this act, referencing the specific section of
33 this act by section number and by bill or chapter number, is not

1 provided by June 30, 2010, in the omnibus appropriations act, each
2 section not referenced is null and void.

Passed by the House March 10, 2010.

Passed by the Senate March 9, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.