**5800 AMS OBAN S2061.2 - NOT FOR FLOOR USE**

**SB 5800** - S AMD **129**

By Senator O'Ban

**ADOPTED 03/08/2017**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 71.05 RCW to read as follows:

(1) As used in this section:

(a) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, social worker, or chemical dependency professional, and any person licensed by the department of health as a mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapist associate.

(b) "Mental health services" means voluntary or involuntary outpatient and inpatient services provided to diagnose or treat mental disorders covered by the diagnostic categories listed in the most current version of the diagnostic and statistical manual of mental disorders, published by the American psychiatric association, or any successor publication.

(2) A mental health professional or an individual health care provider providing mental health services to a patient has a duty to warn of a patient's violent behavior only if the patient has communicated to the mental health professional or the individual health care provider providing mental health services to the patient an actual threat of physical violence that poses a serious or imminent threat to the health or safety of a reasonably identifiable person or persons.

(3) The duty to warn of a serious or imminent threat to the health or safety of a reasonably identifiable person or persons is discharged by the mental health professional or the individual health care provider providing mental health services to the patient if reasonable efforts are made to communicate the threat to the reasonably identifiable person or persons whose health or safety is threatened and to law enforcement personnel.

(4) No mental health professional or individual health care provider providing mental health services is liable for civil damages for discharging the duty to warn as provided in this section, or having discharged the duty to warn, for failing to predict, warn of, or take reasonable precautions to provide protections from a patient's violent behavior so long as the mental health professional or individual health care provider providing mental health services acted in good faith and without gross negligence.

(5) This section does not limit, and is in addition to, any other statutory immunities from liability of mental health professionals or individual health care providers as otherwise provided by law.

**Sec.**  RCW 71.05.120 and 2016 c 158 s 4 are each amended to read as follows:

(1) No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor any ((~~county~~)) designated mental health professional, nor the state, a unit of local government, or an evaluation and treatment facility shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to admit, discharge, release, administer antipsychotic medications, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) Peace officers and their employing agencies are not liable for the referral of a person, or the failure to refer a person, to a mental health agency pursuant to a policy adopted pursuant to RCW 71.05.457 if such action or inaction is taken in good faith and without gross negligence.

(3) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn ((~~or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel~~)) as provided for in section 1 of this act.

**Sec.**  RCW 71.05.120 and 2016 sp.s. c 29 s 208 and 2016 c 158 s 4 are each reenacted and amended to read as follows:

(1) No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor any designated crisis responder, nor the state, a unit of local government, an evaluation and treatment facility, a secure detoxification facility, or an approved substance use disorder treatment program shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to admit, discharge, release, administer antipsychotic medications, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) Peace officers and their employing agencies are not liable for the referral of a person, or the failure to refer a person, to a mental health agency pursuant to a policy adopted pursuant to RCW 71.05.457 if such action or inaction is taken in good faith and without gross negligence.

(3) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn ((~~or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel~~)) as provided for in section 1 of this act.

NEW SECTION. **Sec.**  Section 2 of this act expires April 1, 2018.

NEW SECTION. **Sec.**  Section 3 of this act takes effect April 1, 2018."

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**ADOPTED 03/08/2017**

On page 1, line 1 of the title, after "professionals;" strike the remainder of the title and insert "amending RCW 71.05.120; reenacting and amending RCW 71.05.120; adding a new section to chapter 71.05 RCW; providing an effective date; and providing an expiration date."

EFFECT: Mental health professionals have a duty to warn of a patient's violent behavior if the patient has communicated an actual threat of physical violence that poses a serious or imminent threat to the health or safety of a reasonably identifiable person or persons.

The duty to warn is discharged if the mental health professional makes reasonable efforts to communicate the threat to the reasonably identifiable person or persons whose health or safety is threatened and to law enforcement.

Mental health professionals are not liable for civil damages for discharging the duty to warn or for failing to predict, warn of, or take reasonable precautions to provide protections from a patient's violent behavior so long as the mental health professional acts in good faith and without gross negligence.