
SUBSTITUTE SENATE BILL 5698

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Regala and Shin; by request of Department of Social and Health Services)

READ FIRST TIME 02/26/07.

1 AN ACT Relating to case management services for dangerous mentally
2 ill offenders; and amending RCW 71.24.480 and 72.09.370.

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

4 **Sec. 1.** RCW 71.24.480 and 2002 c 173 s 1 are each amended to read
5 as follows:

6 (1) A licensed service provider or regional support network, acting
7 in the course of the provider's or network's duties under this chapter,
8 is not liable for civil damages resulting from the injury or death of
9 another caused by a (~~dangerous mentally ill offender who is a~~) client
10 of (~~the provider or network~~) a reintegration program for offenders
11 with mental disorders, unless the act or omission of the provider or
12 network constitutes:

13 (a) Gross negligence;

14 (b) Willful or wanton misconduct; or

15 (c) A breach of the duty to warn of and protect from a client's
16 threatened violent behavior if the client has communicated a serious
17 threat of physical violence against a reasonably ascertainable victim
18 or victims.

1 (2) In addition to any other requirements to report violations, the
2 licensed service provider and regional support network shall report an
3 offender's expressions of intent to harm or other predatory behavior,
4 regardless of whether there is an ascertainable victim, in progress
5 reports and other established processes that enable courts and
6 supervising entities to assess and address the progress and
7 appropriateness of treatment.

8 (3) A licensed service provider's or regional support network's
9 mere act of (~~(treating a dangerous mentally ill offender)~~) providing
10 reintegration services for offenders with mental disorders is not
11 negligence. Nothing in this subsection alters the licensed service
12 provider's or regional support network's normal duty of care with
13 regard to the client.

14 (4) The limited liability provided by this section applies only to
15 the conduct of licensed service providers and regional support networks
16 and does not apply to conduct of the state.

17 (5) For purposes of this section, "~~(dangerous mentally ill~~
18 ~~offender)~~ client of a reintegration program for offenders with mental
19 disorders" means a person who has been identified under RCW 72.09.370
20 as an offender who: (a) Is reasonably believed to be dangerous to
21 himself or herself or others; and (b) has a mental disorder.

22 **Sec. 2.** RCW 72.09.370 and 2001 2nd sp.s. c 12 s 362 are each
23 amended to read as follows:

24 (1) The secretary shall identify offenders in confinement or
25 partial confinement who: (a) Are reasonably believed to be dangerous
26 to themselves or others; and (b) have a mental disorder. In
27 determining an offender's dangerousness, the secretary shall consider
28 behavior known to the department and factors, based on research, that
29 are linked to an increased risk for dangerousness of (~~(mentally ill)~~)
30 offenders who are mentally ill and shall include consideration of an
31 offender's chemical dependency or abuse.

32 (2) Prior to release of an offender identified under this section,
33 a team consisting of representatives of the department of corrections,
34 the division of mental health, and, as necessary, the indeterminate
35 sentence review board, other divisions or administrations within the
36 department of social and health services, specifically including the
37 division of alcohol and substance abuse and the division of

1 developmental disabilities, the appropriate regional support network,
2 and the providers, as appropriate, shall develop a plan, as determined
3 necessary by the team, for delivery of treatment and support services
4 to the offender upon release. The team may include a school district
5 representative for offenders under the age of twenty-one. The team
6 shall consult with the offender's counsel, if any, and, as appropriate,
7 the offender's family and community. The team shall notify the crime
8 victim/witness program, which shall provide notice to all people
9 registered to receive notice under RCW 9.94A.612 of the proposed
10 release plan developed by the team. Victims, witnesses, and other
11 interested people notified by the department may provide information
12 and comments to the department on potential safety risk to specific
13 individuals or classes of individuals posed by the specific offender.
14 The team may recommend: (a) That the offender be evaluated by the
15 ((~~county~~)) designated mental health professional, as defined in chapter
16 71.05 RCW; (b) department-supervised community treatment; or (c)
17 voluntary community mental health or chemical dependency or abuse
18 treatment.

19 (3) Prior to release of an offender identified under this section,
20 the team shall determine whether or not an evaluation by a ((~~county~~))
21 designated mental health professional is needed. If an evaluation is
22 recommended, the supporting documentation shall be immediately
23 forwarded to the appropriate ((~~county~~)) designated mental health
24 professional. The supporting documentation shall include the
25 offender's criminal history, history of judicially required or
26 administratively ordered involuntary antipsychotic medication while in
27 confinement, and any known history of involuntary civil commitment.

28 (4) If an evaluation by a ((~~county~~)) designated mental health
29 professional is recommended by the team, such evaluation shall occur
30 not more than ten days, nor less than five days, prior to release.

31 (5) A second evaluation by a ((~~county~~)) designated mental health
32 professional shall occur on the day of release if requested by the
33 team, based upon new information or a change in the offender's mental
34 condition, and the initial evaluation did not result in an emergency
35 detention or a summons under chapter 71.05 RCW.

36 (6) If the ((~~county~~)) designated mental health professional
37 determines an emergency detention under chapter 71.05 RCW is necessary,
38 the department shall release the offender only to a state hospital or

1 to a consenting evaluation and treatment facility. The department
2 shall arrange transportation of the offender to the hospital or
3 facility.

4 (7) If the ((county)) designated mental health professional
5 believes that a less restrictive alternative treatment is appropriate,
6 ~~((he or she shall seek a summons, pursuant to the provisions of chapter~~
7 ~~71.05 RCW, to require the offender to appear at an evaluation and~~
8 ~~treatment facility. If a summons is issued))~~ the designated mental
9 health professional shall follow the procedure outlined in the
10 nonemergent provisions of chapter 71.05 RCW, and the offender shall
11 remain within the corrections facility until completion of his or her
12 term of confinement and be transported, by corrections personnel on the
13 day of completion, directly to the identified evaluation and treatment
14 facility for entry of the less restrictive order and release to the
15 community.

16 (8) The secretary shall adopt rules to implement this section.

--- END ---