
HOUSE BILL 1486

State of Washington 61st Legislature 2009 Regular Session

By Representatives Green, Hinkle, Bailey, Cody, and O'Brien

Read first time 01/21/09. Referred to Committee on Human Services.

1 AN ACT Relating to evidence at proceedings involving persons with
2 mental illnesses; and amending RCW 71.05.212, 71.05.240, and 71.05.310.

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

4 **Sec. 1.** RCW 71.05.212 and 1999 c 214 s 5 are each amended to read
5 as follows:

6 Whenever a ((~~county~~)) designated mental health professional or
7 professional person is conducting an evaluation under this chapter,
8 consideration shall include all reasonably available information and
9 records regarding: (1) Prior recommendations for evaluation of the
10 need for civil commitments when the recommendation is made pursuant to
11 an evaluation conducted under chapter 10.77 RCW; (2) history of one or
12 more violent acts; (3) prior determinations of incompetency or insanity
13 under chapter 10.77 RCW; ((~~and~~)) (4) prior commitments under this
14 chapter; and (5) any pertinent information submitted by the person's
15 relative.

16 In addition, when conducting an evaluation for offenders identified
17 under RCW 72.09.370, the ((~~county~~)) designated mental health
18 professional or professional person shall consider an offender's

1 history of judicially required or administratively ordered
2 antipsychotic medication while in confinement.

3 **Sec. 2.** RCW 71.05.240 and 1997 c 112 s 19 are each amended to read
4 as follows:

5 If a petition is filed for fourteen day involuntary treatment or
6 ninety days of less restrictive alternative treatment, the court shall
7 hold a probable cause hearing within seventy-two hours of the initial
8 detention of such person as determined in RCW 71.05.180. If requested
9 by the detained person or his or her attorney, the hearing may be
10 postponed for a period not to exceed forty-eight hours. The hearing
11 may also be continued subject to the conditions set forth in RCW
12 71.05.210 or subject to the petitioner's showing of good cause for a
13 period not to exceed twenty-four hours. A relative of the person may
14 provide the court with pertinent information at the probable cause
15 hearing.

16 At the conclusion of the probable cause hearing, if the court finds
17 by a preponderance of the evidence that such person, as the result of
18 mental disorder, presents a likelihood of serious harm, or is gravely
19 disabled, and, after considering less restrictive alternatives to
20 involuntary detention and treatment, finds that no such alternatives
21 are in the best interests of such person or others, the court shall
22 order that such person be detained for involuntary treatment not to
23 exceed fourteen days in a facility certified to provide treatment by
24 the department. If the court finds that such person, as the result of
25 a mental disorder, presents a likelihood of serious harm, or is gravely
26 disabled, but that treatment in a less restrictive setting than
27 detention is in the best interest of such person or others, the court
28 shall order an appropriate less restrictive course of treatment for not
29 to exceed ninety days.

30 The court shall specifically state to such person and give such
31 person notice in writing that if involuntary treatment beyond the
32 fourteen day period or beyond the ninety days of less restrictive
33 treatment is to be sought, such person will have the right to a full
34 hearing or jury trial as required by RCW 71.05.310. The court shall
35 also provide written notice that the person is barred from the
36 possession of firearms.

1 **Sec. 3.** RCW 71.05.310 and 2005 c 504 s 709 are each amended to
2 read as follows:

3 The court shall conduct a hearing on the petition for ninety day
4 treatment within five judicial days of the first court appearance after
5 the probable cause hearing. The court may continue the hearing upon
6 the written request of the person named in the petition or the person's
7 attorney, for good cause shown, which continuance shall not exceed five
8 additional judicial days. If the person named in the petition requests
9 a jury trial, the trial shall commence within ten judicial days of the
10 first court appearance after the probable cause hearing. The burden of
11 proof shall be by clear, cogent, and convincing evidence and shall be
12 upon the petitioner. The person shall be present at such proceeding,
13 which shall in all respects accord with the constitutional guarantees
14 of due process of law and the rules of evidence pursuant to RCW
15 71.05.360 (8) and (9). A relative of the person may provide the court
16 with pertinent information at the proceeding.

17 During the proceeding, the person named in the petition shall
18 continue to be treated until released by order of the superior court.
19 If no order has been made within thirty days after the filing of the
20 petition, not including extensions of time requested by the detained
21 person or his or her attorney, the detained person shall be released.

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