
HOUSE BILL 2909

State of Washington

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2016 Regular Session

By Representatives Cody and Ortiz-Self

Read first time 01/27/16. Referred to Committee on Judiciary.

1 AN ACT Relating to involuntary outpatient mental health treatment
2 for persons with a persistent or acute disability; and reenacting and
3 amending RCW 71.05.020.

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

5 **Sec. 1.** RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2 are
6 each reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Admission" or "admit" means a decision by a physician or
10 psychiatric advanced registered nurse practitioner that a person
11 should be examined or treated as a patient in a hospital;

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

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

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

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

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

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

14 (8) "Department" means the department of social and health
15 services;

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

20 (10) "Designated crisis responder" means a mental health
21 professional appointed by the county or the behavioral health
22 organization to perform the duties specified in this chapter;

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

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

28 (13) "Developmental disabilities professional" means a person who
29 has specialized training and three years of experience in directly
30 treating or working with persons with developmental disabilities and
31 is a psychiatrist, psychologist, psychiatric advanced registered
32 nurse practitioner, or social worker, and such other developmental
33 disabilities professionals as may be defined by rules adopted by the
34 secretary;

35 (14) "Developmental disability" means that condition defined in
36 RCW 71A.10.020(5);

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

1 (16) "Evaluation and treatment facility" means any facility which
2 can provide directly, or by direct arrangement with other public or
3 private agencies, emergency evaluation and treatment, outpatient
4 care, and timely and appropriate inpatient care to persons suffering
5 from a mental disorder, and which is certified as such by the
6 department. The department may certify single beds as temporary
7 evaluation and treatment beds under RCW 71.05.745. A physically
8 separate and separately operated portion of a state hospital may be
9 designated as an evaluation and treatment facility. A facility which
10 is part of, or operated by, the department or any federal agency will
11 not require certification. No correctional institution or facility,
12 or jail, shall be an evaluation and treatment facility within the
13 meaning of this chapter;

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

22 (18) "Habilitative services" means those services provided by
23 program personnel to assist persons in acquiring and maintaining life
24 skills and in raising their levels of physical, mental, social, and
25 vocational functioning. Habilitative services include education,
26 training for employment, and therapy. The habilitative process shall
27 be undertaken with recognition of the risk to the public safety
28 presented by the person being assisted as manifested by prior charged
29 criminal conduct;

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

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

37 (21) "In need of assisted outpatient mental health treatment"
38 means that a person(~~(, as a result of a mental disorder: (a) Has been~~
39 ~~committed by a court to detention for involuntary mental health~~
40 ~~treatment at least twice during the preceding thirty six months, or,~~

1 ~~if the person is currently committed for involuntary mental health~~
2 ~~treatment, the person has been committed to detention for involuntary~~
3 ~~mental health treatment at least once during the thirty-six months~~
4 ~~preceding the date of initial detention of the current commitment~~
5 ~~cycle; (b) is unlikely to voluntarily participate in outpatient~~
6 ~~treatment without an order for less restrictive alternative~~
7 ~~treatment, in view of the person's treatment history or current~~
8 ~~behavior; (c) is unlikely to survive safely in the community without~~
9 ~~supervision; (d) is likely to benefit from less restrictive~~
10 ~~alternative treatment; and (e) requires less restrictive alternative~~
11 ~~treatment to prevent a relapse, decompensation, or deterioration that~~
12 ~~is likely to result in the person presenting a likelihood of serious~~
13 ~~harm or the person becoming gravely disabled within a reasonably~~
14 ~~short period of time. For purposes of (a) of this subsection, time~~
15 ~~spent in a mental health facility or in confinement as a result of a~~
16 ~~criminal conviction is excluded from the thirty-six month~~
17 ~~calculation)) has a persistent or acute disability due to a severe~~
18 ~~mental disorder that meets all of the following criteria:~~

19 (a) If not treated, has a substantial probability of causing the
20 person to suffer or continue to suffer severe and abnormal mental,
21 emotional, or physical harm that significantly impairs judgment,
22 reason, behavior, or capacity to recognize reality;

23 (b) Substantially impairs the person's capacity to make an
24 informed decision regarding treatment, and this impairment causes the
25 person to be incapable of understanding and expressing an
26 understanding of the advantages and disadvantages of accepting
27 treatment and understanding and expressing an understanding of the
28 alternatives to the particular treatment offered after the
29 advantages, disadvantages, and alternatives are explained to that
30 person; and

31 (c) Has a reasonable prospect of being treatable by outpatient
32 treatment;

33 (22) "Individualized service plan" means a plan prepared by a
34 developmental disabilities professional with other professionals as a
35 team, for a person with developmental disabilities, which shall
36 state:

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

39 (b) The conditions and strategies necessary to achieve the
40 purposes of habilitation;

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

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

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

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

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

13 (23) "Information related to mental health services" means all
14 information and records compiled, obtained, or maintained in the
15 course of providing services to either voluntary or involuntary
16 recipients of services by a mental health service provider. This may
17 include documents of legal proceedings under this chapter or chapter
18 71.34 or 10.77 RCW, or somatic health care information;

19 (24) "Judicial commitment" means a commitment by a court pursuant
20 to the provisions of this chapter;

21 (25) "Legal counsel" means attorneys and staff employed by county
22 prosecutor offices or the state attorney general acting in their
23 capacity as legal representatives of public mental health service
24 providers under RCW 71.05.130;

25 (26) "Less restrictive alternative treatment" means a program of
26 individualized treatment in a less restrictive setting than inpatient
27 treatment that includes the services described in RCW 71.05.585;

28 (27) "Likelihood of serious harm" means:

29 (a) A substantial risk that: (i) Physical harm will be inflicted
30 by a person upon his or her own person, as evidenced by threats or
31 attempts to commit suicide or inflict physical harm on oneself; (ii)
32 physical harm will be inflicted by a person upon another, as
33 evidenced by behavior which has caused such harm or which places
34 another person or persons in reasonable fear of sustaining such harm;
35 or (iii) physical harm will be inflicted by a person upon the
36 property of others, as evidenced by behavior which has caused
37 substantial loss or damage to the property of others; or

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

1 (28) "Medical clearance" means a physician or other health care
2 provider has determined that a person is medically stable and ready
3 for referral to the designated mental health professional;

4 (29) "Mental disorder" means any organic, mental, or emotional
5 impairment which has substantial adverse effects on a person's
6 cognitive or volitional functions;

7 (30) "Mental health professional" means a psychiatrist,
8 psychologist, psychiatric advanced registered nurse practitioner,
9 psychiatric nurse, or social worker, and such other mental health
10 professionals as may be defined by rules adopted by the secretary
11 pursuant to the provisions of this chapter;

12 (31) "Mental health service provider" means a public or private
13 agency that provides mental health services to persons with mental
14 disorders as defined under this section and receives funding from
15 public sources. This includes, but is not limited to, hospitals
16 licensed under chapter 70.41 RCW, evaluation and treatment facilities
17 as defined in this section, community mental health service delivery
18 systems or community mental health programs as defined in RCW
19 71.24.025, facilities conducting competency evaluations and
20 restoration under chapter 10.77 RCW, and correctional facilities
21 operated by state and local governments;

22 (32) "Peace officer" means a law enforcement official of a public
23 agency or governmental unit, and includes persons specifically given
24 peace officer powers by any state law, local ordinance, or judicial
25 order of appointment;

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

32 (34) "Professional person" means a mental health professional and
33 shall also mean a physician, psychiatric advanced registered nurse
34 practitioner, registered nurse, and such others as may be defined by
35 rules adopted by the secretary pursuant to the provisions of this
36 chapter;

37 (35) "Psychiatric advanced registered nurse practitioner" means a
38 person who is licensed as an advanced registered nurse practitioner
39 pursuant to chapter 18.79 RCW; and who is board certified in advanced
40 practice psychiatric and mental health nursing;

1 (36) "Psychiatrist" means a person having a license as a
2 physician and surgeon in this state who has in addition completed
3 three years of graduate training in psychiatry in a program approved
4 by the American medical association or the American osteopathic
5 association and is certified or eligible to be certified by the
6 American board of psychiatry and neurology;

7 (37) "Psychologist" means a person who has been licensed as a
8 psychologist pursuant to chapter 18.83 RCW;

9 (38) "Public agency" means any evaluation and treatment facility
10 or institution, or hospital which is conducted for, or includes a
11 department or ward conducted for, the care and treatment of persons
12 with mental illness, if the agency is operated directly by, federal,
13 state, county, or municipal government, or a combination of such
14 governments;

15 (39) "Registration records" include all the records of the
16 department, behavioral health organizations, treatment facilities,
17 and other persons providing services to the department, county
18 departments, or facilities which identify persons who are receiving
19 or who at any time have received services for mental illness;

20 (40) "Release" means legal termination of the commitment under
21 the provisions of this chapter;

22 (41) "Resource management services" has the meaning given in
23 chapter 71.24 RCW;

24 (42) "Secretary" means the secretary of the department of social
25 and health services, or his or her designee;

26 (43) "Serious violent offense" has the same meaning as provided
27 in RCW 9.94A.030;

28 (44) "Social worker" means a person with a master's or further
29 advanced degree from a social work educational program accredited and
30 approved as provided in RCW 18.320.010;

31 (45) "Therapeutic court personnel" means the staff of a mental
32 health court or other therapeutic court which has jurisdiction over
33 defendants who are dually diagnosed with mental disorders, including
34 court personnel, probation officers, a court monitor, prosecuting
35 attorney, or defense counsel acting within the scope of therapeutic
36 court duties;

37 (46) "Treatment records" include registration and all other
38 records concerning persons who are receiving or who at any time have
39 received services for mental illness, which are maintained by the
40 department, by behavioral health organizations and their staffs, and

1 by treatment facilities. Treatment records include mental health
2 information contained in a medical bill including but not limited to
3 mental health drugs, a mental health diagnosis, provider name, and
4 dates of service stemming from a medical service. Treatment records
5 do not include notes or records maintained for personal use by a
6 person providing treatment services for the department, behavioral
7 health organizations, or a treatment facility if the notes or records
8 are not available to others;

9 (47) "Triage facility" means a short-term facility or a portion
10 of a facility licensed by the department of health and certified by
11 the department of social and health services under RCW 71.24.035,
12 which is designed as a facility to assess and stabilize an individual
13 or determine the need for involuntary commitment of an individual,
14 and must meet department of health residential treatment facility
15 standards. A triage facility may be structured as a voluntary or
16 involuntary placement facility;

17 (48) "Violent act" means behavior that resulted in homicide,
18 attempted suicide, nonfatal injuries, or substantial damage to
19 property.

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