
SUBSTITUTE SENATE BILL 5644

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Brandland, Hargrove, Keiser, Pridemore and Delvin)

READ FIRST TIME 02/19/07.

1 AN ACT Relating to clubhouse rehabilitation services; and amending
2 RCW 71.24.025, 71.24.035, and 49.19.010.

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

4 **Sec. 1.** RCW 71.24.025 and 2006 c 333 s 104 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Acutely mentally ill" means a condition which is limited to a
9 short-term severe crisis episode of:

10 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
11 of a child, as defined in RCW 71.34.020;

12 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
13 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
14 or

15 (c) Presenting a likelihood of serious harm as defined in RCW
16 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

17 (2) "Available resources" means funds appropriated for the purpose
18 of providing community mental health programs, federal funds, except
19 those provided according to Title XIX of the Social Security Act, and

1 state funds appropriated under this chapter or chapter 71.05 RCW by the
2 legislature during any biennium for the purpose of providing
3 residential services, resource management services, community support
4 services, and other mental health services. This does not include
5 funds appropriated for the purpose of operating and administering the
6 state psychiatric hospitals.

7 (3) "Child" means a person under the age of eighteen years.

8 (4) "Chronically mentally ill adult" or "adult who is chronically
9 mentally ill" means an adult who has a mental disorder and meets at
10 least one of the following criteria:

11 (a) Has undergone two or more episodes of hospital care for a
12 mental disorder within the preceding two years; or

13 (b) Has experienced a continuous psychiatric hospitalization or
14 residential treatment exceeding six months' duration within the
15 preceding year; or

16 (c) Has been unable to engage in any substantial gainful activity
17 by reason of any mental disorder which has lasted for a continuous
18 period of not less than twelve months. "Substantial gainful activity"
19 shall be defined by the department by rule consistent with Public Law
20 92-603, as amended.

21 (5) "Clubhouse" means a community-based program that provides
22 rehabilitation services and is certified by the department of social
23 and health services.

24 (6) "Community mental health program" means all mental health
25 services, activities, or programs using available resources.

26 ((+6+)) (7) "Community mental health service delivery system" means
27 public or private agencies that provide services specifically to
28 persons with mental disorders as defined under RCW 71.05.020 and
29 receive funding from public sources.

30 ((+7+)) (8) "Community support services" means services authorized,
31 planned, and coordinated through resource management services
32 including, at a minimum, assessment, diagnosis, emergency crisis
33 intervention available twenty-four hours, seven days a week,
34 prescreening determinations for persons who are mentally ill
35 ((persons)) being considered for placement in nursing homes as required
36 by federal law, screening for patients being considered for admission
37 to residential services, diagnosis and treatment for children who are
38 acutely mentally ill ((and)) or severely emotionally disturbed

1 ((children)) discovered under screening through the federal Title XIX
2 early and periodic screening, diagnosis, and treatment program,
3 investigation, legal, and other nonresidential services under chapter
4 71.05 RCW, case management services, psychiatric treatment including
5 medication supervision, counseling, psychotherapy, assuring transfer of
6 relevant patient information between service providers, recovery
7 services, and other services determined by regional support networks.

8 ((+8)) (9) "Consensus-based" means a program or practice that has
9 general support among treatment providers and experts, based on
10 experience or professional literature, and may have anecdotal or case
11 study support, or that is agreed but not possible to perform studies
12 with random assignment and controlled groups.

13 ((+9)) (10) "County authority" means the board of county
14 commissioners, county council, or county executive having authority to
15 establish a community mental health program, or two or more of the
16 county authorities specified in this subsection which have entered into
17 an agreement to provide a community mental health program.

18 ((+10)) (11) "Department" means the department of social and
19 health services.

20 ((+11)) (12) "Designated mental health professional" means a
21 mental health professional designated by the county or other authority
22 authorized in rule to perform the duties specified in this chapter.

23 ((+12)) (13) "Emerging best practice" or "promising practice"
24 means a practice that presents, based on preliminary information,
25 potential for becoming a research-based or consensus-based practice.

26 ((+13)) (14) "Evidence-based" means a program or practice that has
27 had multiple site random controlled trials across heterogeneous
28 populations demonstrating that the program or practice is effective for
29 the population.

30 ((+14)) (15) "Licensed service provider" means an entity licensed
31 according to this chapter or chapter 71.05 RCW or an entity deemed to
32 meet state minimum standards as a result of accreditation by a
33 recognized behavioral health accrediting body recognized and having a
34 current agreement with the department, that meets state minimum
35 standards or persons licensed under chapter 18.57, 18.71, 18.83, or
36 18.79 RCW, as it applies to registered nurses and advanced registered
37 nurse practitioners.

1 ~~((15))~~ (16) "Long-term inpatient care" means inpatient services
2 for persons committed for, or voluntarily receiving intensive treatment
3 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-
4 term inpatient care" as used in this chapter does not include: (a)
5 Services for individuals committed under chapter 71.05 RCW who are
6 receiving services pursuant to a conditional release or a court-ordered
7 less restrictive alternative to detention; or (b) services for
8 individuals voluntarily receiving less restrictive alternative
9 treatment on the grounds of the state hospital.

10 ~~((16))~~ (17) "Mental health services" means all services provided
11 by regional support networks and other services provided by the state
12 for ~~((the))~~ persons who are mentally ill.

13 ~~((17))~~ (18) "Mentally ill persons," "persons who are mentally
14 ill," and "the mentally ill" mean persons and conditions defined in
15 subsections (1), (4), ~~((26))~~ (27), and ~~((27))~~ (28) of this section.

16 ~~((18))~~ (19) "Recovery" means the process in which people are able
17 to live, work, learn, and participate fully in their communities.

18 ~~((19))~~ (20) "Regional support network" means a county authority
19 or group of county authorities or other nonprofit entity recognized by
20 the secretary in contract in a defined region.

21 ~~((20))~~ (21) "Registration records" include all the records of the
22 department, regional support networks, treatment facilities, and other
23 persons providing services to the department, county departments, or
24 facilities which identify persons who are receiving or who at any time
25 have received services for mental illness.

26 ~~((21))~~ (22) "Research-based" means a program or practice that has
27 some research demonstrating effectiveness, but that does not yet meet
28 the standard of evidence-based practices.

29 ~~((22))~~ (23) "Residential services" means a complete range of
30 residences and supports authorized by resource management services and
31 which may involve a facility, a distinct part thereof, or services
32 which support community living, for persons who are acutely mentally
33 ill ~~((persons))~~, adults who are chronically mentally ill ~~((adults))~~,
34 children who are severely emotionally disturbed ~~((children))~~, or adults
35 who are seriously disturbed ~~((adults))~~ and determined by the regional
36 support network to be at risk of becoming acutely or chronically
37 mentally ill. The services shall include at least evaluation and
38 treatment services as defined in chapter 71.05 RCW, acute crisis

1 respite care, long-term adaptive and rehabilitative care, and
2 supervised and supported living services, and shall also include any
3 residential services developed to service persons who are mentally ill
4 (~~persons~~) in nursing homes, boarding homes, and adult family homes,
5 and may include outpatient services provided as an element in a package
6 of services in a supported housing model. Residential services for
7 children in out-of-home placements related to their mental disorder
8 shall not include the costs of food and shelter, except for children's
9 long-term residential facilities existing prior to January 1, 1991.

10 ~~((+23))~~ (24) "Resilience" means the personal and community
11 qualities that enable individuals to rebound from adversity, trauma,
12 tragedy, threats, or other stresses, and to live productive lives.

13 ~~((+24))~~ (25) "Resource management services" mean the planning,
14 coordination, and authorization of residential services and community
15 support services administered pursuant to an individual service plan
16 for: (a) Adults and children who are acutely mentally ill (~~adults and~~
17 ~~children~~); (b) adults who are chronically mentally ill (~~adults~~); (c)
18 children who are severely emotionally disturbed (~~children~~); or (d)
19 adults who are seriously disturbed (~~adults~~) and determined solely by
20 a regional support network to be at risk of becoming acutely or
21 chronically mentally ill. Such planning, coordination, and
22 authorization shall include mental health screening for children
23 eligible under the federal Title XIX early and periodic screening,
24 diagnosis, and treatment program. Resource management services include
25 seven day a week, twenty-four hour a day availability of information
26 regarding (~~mentally ill adults' and children's~~) enrollment of adults
27 and children who are mentally ill in services and their individual
28 service plan to designated mental health professionals, evaluation and
29 treatment facilities, and others as determined by the regional support
30 network.

31 ~~((+25))~~ (26) "Secretary" means the secretary of social and health
32 services.

33 ~~((+26))~~ (27) "Seriously disturbed person" means a person who:
34 (a) Is gravely disabled or presents a likelihood of serious harm to
35 himself or herself or others, or to the property of others, as a result
36 of a mental disorder as defined in chapter 71.05 RCW;
37 (b) Has been on conditional release status, or under a less

1 restrictive alternative order, at some time during the preceding two
2 years from an evaluation and treatment facility or a state mental
3 health hospital;

4 (c) Has a mental disorder which causes major impairment in several
5 areas of daily living;

6 (d) Exhibits suicidal preoccupation or attempts; or

7 (e) Is a child diagnosed by a mental health professional, as
8 defined in chapter 71.34 RCW, as experiencing a mental disorder which
9 is clearly interfering with the child's functioning in family or school
10 or with peers or is clearly interfering with the child's personality
11 development and learning.

12 ((+27)) (28) "Severely emotionally disturbed child" or "child who
13 is severely emotionally disturbed" means a child who has been
14 determined by the regional support network to be experiencing a mental
15 disorder as defined in chapter 71.34 RCW, including those mental
16 disorders that result in a behavioral or conduct disorder, that is
17 clearly interfering with the child's functioning in family or school or
18 with peers and who meets at least one of the following criteria:

19 (a) Has undergone inpatient treatment or placement outside of the
20 home related to a mental disorder within the last two years;

21 (b) Has undergone involuntary treatment under chapter 71.34 RCW
22 within the last two years;

23 (c) Is currently served by at least one of the following child-
24 serving systems: Juvenile justice, child-protection/welfare, special
25 education, or developmental disabilities;

26 (d) Is at risk of escalating maladjustment due to:

27 (i) Chronic family dysfunction involving a caretaker who is
28 mentally ill or inadequate (~~caretaker~~);

29 (ii) Changes in custodial adult;

30 (iii) Going to, residing in, or returning from any placement
31 outside of the home, for example, psychiatric hospital, short-term
32 inpatient, residential treatment, group or foster home, or a
33 correctional facility;

34 (iv) Subject to repeated physical abuse or neglect;

35 (v) Drug or alcohol abuse; or

36 (vi) Homelessness.

37 ((+28)) (29) "State minimum standards" means minimum requirements
38 established by rules adopted by the secretary and necessary to

1 implement this chapter for: (a) Delivery of mental health services;
2 (b) licensed service providers for the provision of mental health
3 services; (c) residential services; and (d) community support services
4 and resource management services.

5 ~~((+29+))~~ (30) "Treatment records" include registration and all
6 other records concerning persons who are receiving or who at any time
7 have received services for mental illness, which are maintained by the
8 department, by regional support networks and their staffs, and by
9 treatment facilities. Treatment records do not include notes or
10 records maintained for personal use by a person providing treatment
11 services for the department, regional support networks, or a treatment
12 facility if the notes or records are not available to others.

13 ~~((+30+))~~ (31) "Tribal authority," for the purposes of this section
14 and RCW 71.24.300 only, means: The federally recognized Indian tribes
15 and the major Indian organizations recognized by the secretary insofar
16 as these organizations do not have a financial relationship with any
17 regional support network that would present a conflict of interest.

18 **Sec. 2.** RCW 71.24.035 and 2006 c 333 s 201 are each amended to
19 read as follows:

20 (1) The department is designated as the state mental health
21 authority.

22 (2) The secretary shall provide for public, client, and licensed
23 service provider participation in developing the state mental health
24 program, developing contracts with regional support networks, and any
25 waiver request to the federal government under medicaid.

26 (3) The secretary shall provide for participation in developing the
27 state mental health program for children and other underserved
28 populations, by including representatives on any committee established
29 to provide oversight to the state mental health program.

30 (4) The secretary shall be designated as the regional support
31 network if the regional support network fails to meet state minimum
32 standards or refuses to exercise responsibilities under RCW 71.24.045.

33 (5) The secretary shall:

34 (a) Develop a biennial state mental health program that
35 incorporates regional biennial needs assessments and regional mental
36 health service plans and state services for mentally ill adults and

1 children. The secretary shall also develop a six-year state mental
2 health plan;

3 (b) Assure that any regional or county community mental health
4 program provides access to treatment for the region's residents in the
5 following order of priority: (i) The acutely mentally ill; (ii)
6 chronically mentally ill adults and severely emotionally disturbed
7 children; and (iii) the seriously disturbed. Such programs shall
8 provide:

9 (A) Outpatient services;

10 (B) Emergency care services for twenty-four hours per day;

11 (C) Day treatment for mentally ill persons which includes training
12 in basic living and social skills, supported work, vocational
13 rehabilitation, and day activities. Such services may include
14 therapeutic treatment. In the case of a child, day treatment includes
15 age-appropriate basic living and social skills, educational and
16 prevocational services, day activities, and therapeutic treatment;

17 (D) Screening for patients being considered for admission to state
18 mental health facilities to determine the appropriateness of admission;

19 (E) Employment services, which may include supported employment,
20 transitional work, placement in competitive employment, and other work-
21 related services, that result in mentally ill persons becoming engaged
22 in meaningful and gainful full or part-time work. Other sources of
23 funding such as the division of vocational rehabilitation may be
24 utilized by the secretary to maximize federal funding and provide for
25 integration of services;

26 (F) Consultation and education services; and

27 (G) Community support services;

28 (c) Develop and adopt rules establishing state minimum standards
29 for the delivery of mental health services pursuant to RCW 71.24.037
30 including, but not limited to:

31 (i) Licensed service providers. These rules shall permit a county-
32 operated mental health program to be licensed as a service provider
33 subject to compliance with applicable statutes and rules. The
34 secretary shall provide for deeming of compliance with state minimum
35 standards for those entities accredited by recognized behavioral health
36 accrediting bodies recognized and having a current agreement with the
37 department;

38 (ii) Regional support networks; and

1 (iii) Inpatient services, evaluation and treatment services and
2 facilities under chapter 71.05 RCW, resource management services, and
3 community support services;

4 (d) Assure that the special needs of minorities, the elderly,
5 disabled, children, and low-income persons are met within the
6 priorities established in this section;

7 (e) Establish a standard contract or contracts, consistent with
8 state minimum standards and RCW 71.24.320, 71.24.330, and 71.24.3201,
9 which shall be used in contracting with regional support networks. The
10 standard contract shall include a maximum fund balance, which shall be
11 consistent with that required by federal regulations or waiver
12 stipulations;

13 (f) Establish, to the extent possible, a standardized auditing
14 procedure which minimizes paperwork requirements of regional support
15 networks and licensed service providers. The audit procedure shall
16 focus on the outcomes of service and not the processes for
17 accomplishing them;

18 (g) Develop and maintain an information system to be used by the
19 state and regional support networks that includes a tracking method
20 which allows the department and regional support networks to identify
21 mental health clients' participation in any mental health service or
22 public program on an immediate basis. The information system shall not
23 include individual patient's case history files. Confidentiality of
24 client information and records shall be maintained as provided in this
25 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

26 (h) License service providers who meet state minimum standards;

27 (i) Certify regional support networks that meet state minimum
28 standards;

29 (j) Periodically monitor the compliance of certified regional
30 support networks and their network of licensed service providers for
31 compliance with the contract between the department, the regional
32 support network, and federal and state rules at reasonable times and in
33 a reasonable manner;

34 (k) Fix fees to be paid by evaluation and treatment centers to the
35 secretary for the required inspections;

36 (l) Monitor and audit regional support networks and licensed
37 service providers as needed to assure compliance with contractual
38 agreements authorized by this chapter;

1 (m) Adopt such rules as are necessary to implement the department's
2 responsibilities under this chapter; (~~and~~)

3 (n) Assure the availability of an appropriate amount, as determined
4 by the legislature in the operating budget by amounts appropriated for
5 this specific purpose, of community-based, geographically distributed
6 residential services; and

7 (o) Certify clubhouses that meet state minimum standards.

8 (6) The secretary shall use available resources only for regional
9 support networks, except to the extent authorized, and in accordance
10 with any priorities or conditions specified, in the biennial
11 appropriations act.

12 (7) Each certified regional support network and licensed service
13 provider shall file with the secretary, on request, such data,
14 statistics, schedules, and information as the secretary reasonably
15 requires. A certified regional support network or licensed service
16 provider which, without good cause, fails to furnish any data,
17 statistics, schedules, or information as requested, or files fraudulent
18 reports thereof, may have its certification or license revoked or
19 suspended.

20 (8) The secretary may suspend, revoke, limit, or restrict a
21 certification or license, or refuse to grant a certification or license
22 for failure to conform to: (a) The law; (b) applicable rules and
23 regulations; (c) applicable standards; or (d) state minimum standards.

24 (9) The superior court may restrain any regional support network or
25 service provider from operating without certification or a license or
26 any other violation of this section. The court may also review,
27 pursuant to procedures contained in chapter 34.05 RCW, any denial,
28 suspension, limitation, restriction, or revocation of certification or
29 license, and grant other relief required to enforce the provisions of
30 this chapter.

31 (10) Upon petition by the secretary, and after hearing held upon
32 reasonable notice to the facility, the superior court may issue a
33 warrant to an officer or employee of the secretary authorizing him or
34 her to enter at reasonable times, and examine the records, books, and
35 accounts of any regional support network or service provider refusing
36 to consent to inspection or examination by the authority.

37 (11) Notwithstanding the existence or pursuit of any other remedy,
38 the secretary may file an action for an injunction or other process

1 against any person or governmental unit to restrain or prevent the
2 establishment, conduct, or operation of a regional support network or
3 service provider without certification or a license under this chapter.

4 (12) The standards for certification of evaluation and treatment
5 facilities shall include standards relating to maintenance of good
6 physical and mental health and other services to be afforded persons
7 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
8 otherwise assure the effectuation of the purposes of these chapters.

9 (13) The standards for certification of a clubhouse shall at a
10 minimum include:

11 (a) The facilities may be peer-operated and must be
12 recovery-focused;

13 (b) Members and employees must work together;

14 (c) Members must have the opportunity to participate in all the
15 work of the clubhouse, including administration, research, intake and
16 orientation, outreach, hiring, training and evaluation of staff, public
17 relations, advocacy, and evaluation of clubhouse effectiveness;

18 (d) Members and staff and ultimately the clubhouse director must be
19 responsible for the operation of the clubhouse, central to this
20 responsibility is the engagement of members and staff in all aspects of
21 clubhouse operations;

22 (e) Clubhouse programs must be comprised of structured activities
23 including but not limited to social skills training, vocational
24 rehabilitation, employment training and job placement, and community
25 resource development;

26 (f) Clubhouse programs must provide in-house educational programs
27 that significantly utilize the teaching and tutoring skills of members
28 and assist members by helping them to take advantage of adult education
29 opportunities in the community;

30 (g) Clubhouse programs must focus on strengths, talents, and
31 abilities of its members;

32 (h) The work-ordered day may not include medication clinics, day
33 treatment, or other therapy programs within the clubhouse.

34 (14) The department shall distribute appropriated state and federal
35 funds in accordance with any priorities, terms, or conditions specified
36 in the appropriations act.

37 ~~((+14))~~ (15) The secretary shall assume all duties assigned to the
38 nonparticipating regional support networks under chapters 71.05, 71.34,

1 and 71.24 RCW. Such responsibilities shall include those which would
2 have been assigned to the nonparticipating counties in regions where
3 there are not participating regional support networks.

4 The regional support networks, or the secretary's assumption of all
5 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
6 included in all state and federal plans affecting the state mental
7 health program including at least those required by this chapter, the
8 medicaid program, and P.L. 99-660. Nothing in these plans shall be
9 inconsistent with the intent and requirements of this chapter.

10 ~~((+15+))~~ (16) The secretary shall:

11 (a) Disburse funds for the regional support networks within sixty
12 days of approval of the biennial contract. The department must either
13 approve or reject the biennial contract within sixty days of receipt.

14 (b) Enter into biennial contracts with regional support networks.
15 The contracts shall be consistent with available resources. No
16 contract shall be approved that does not include progress toward
17 meeting the goals of this chapter by taking responsibility for: (i)
18 Short-term commitments; (ii) residential care; and (iii) emergency
19 response systems.

20 (c) Notify regional support networks of their allocation of
21 available resources at least sixty days prior to the start of a new
22 biennial contract period.

23 (d) Deny all or part of the funding allocations to regional support
24 networks based solely upon formal findings of noncompliance with the
25 terms of the regional support network's contract with the department.
26 Regional support networks disputing the decision of the secretary to
27 withhold funding allocations are limited to the remedies provided in
28 the department's contracts with the regional support networks.

29 ~~((+16+))~~ (17) The department, in cooperation with the state
30 congressional delegation, shall actively seek waivers of federal
31 requirements and such modifications of federal regulations as are
32 necessary to allow federal medicaid reimbursement for services provided
33 by free-standing evaluation and treatment facilities certified under
34 chapter 71.05 RCW. The department shall periodically report its
35 efforts to the appropriate committees of the senate and the house of
36 representatives.

1 **Sec. 3.** RCW 49.19.010 and 2000 c 94 s 18 are each amended to read
2 as follows:

3 For purposes of this chapter:

4 (1) "Health care setting" means:

5 (a) Hospitals as defined in RCW 70.41.020;

6 (b) Home health, hospice, and home care agencies under chapter
7 70.127 RCW, subject to RCW 49.19.070;

8 (c) Evaluation and treatment facilities as defined in RCW
9 71.05.020(~~(+12)~~); and

10 (d) Community mental health programs as defined in RCW
11 71.24.025(~~(+5)~~).

12 (2) "Department" means the department of labor and industries.

13 (3) "Employee" means an employee as defined in RCW 49.17.020.

14 (4) "Violence" or "violent act" means any physical assault or
15 verbal threat of physical assault against an employee of a health care
16 setting.

--- END ---