
SENATE BILL 6018

State of Washington

60th Legislature

2007 Regular Session

By Senator Brandland

Read first time 02/14/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to detention of persons with a mental disorder or
2 a chemical dependency; amending RCW 70.96B.010 and 70.96B.050; adding
3 a new section to chapter 70.96B RCW; providing an expiration date; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 70.96B.010 and 2005 c 504 s 202 are each amended to
7 read as follows:

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

10 (1) "Admission" or "admit" means a decision by a physician that a
11 person should be examined or treated as a patient in a hospital, an
12 evaluation and treatment facility, or other inpatient facility, or a
13 decision by a professional person in charge or his or her designee that
14 a person should be detained as a patient for evaluation and treatment
15 in a secure detoxification facility or other certified chemical
16 dependency provider.

17 (2) "Antipsychotic medications" means that class of drugs primarily
18 used to treat serious manifestations of mental illness associated with

1 thought disorders, which includes but is not limited to atypical
2 antipsychotic medications.

3 (3) "Approved treatment program" means a discrete program of
4 chemical dependency treatment provided by a treatment program certified
5 by the department as meeting standards adopted under chapter 70.96A
6 RCW.

7 (4) "Attending staff" means any person on the staff of a public or
8 private agency having responsibility for the care and treatment of a
9 patient.

10 (5) "Chemical dependency" means:

11 (a) Alcoholism;

12 (b) Drug addiction; or

13 (c) Dependence on alcohol and one or more other psychoactive
14 chemicals, as the context requires.

15 (6) "Chemical dependency professional" means a person certified as
16 a chemical dependency professional by the department of health under
17 chapter 18.205 RCW.

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

21 (8) "Conditional release" means a revocable modification of a
22 commitment that may be revoked upon violation of any of its terms.

23 (9) "Custody" means involuntary detention under either chapter
24 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of
25 unconditional release from commitment from a facility providing
26 involuntary care and treatment.

27 (10) "Department" means the department of social and health
28 services.

29 (11) "Designated chemical dependency specialist" or "specialist"
30 means a person designated by the county alcoholism and other drug
31 addiction program coordinator designated under RCW 70.96A.310 to
32 perform the commitment duties described in RCW 70.96A.140 and this
33 chapter, and qualified to do so by meeting standards adopted by the
34 department.

35 (12) "Designated crisis responder" means a person designated by the
36 county or regional support network to perform the duties specified in
37 this chapter.

1 (13) "Designated mental health professional" means a mental health
2 professional designated by the county or other authority authorized in
3 rule to perform the duties specified in this chapter.

4 (14) "Detention" or "detain" means the lawful confinement of a
5 person under this chapter, or chapter 70.96A or 71.05 RCW.

6 (15) "Developmental disabilities professional" means a person who
7 has specialized training and three years of experience in directly
8 treating or working with individuals with developmental disabilities
9 and is a psychiatrist, psychologist, or social worker, and such other
10 developmental disabilities professionals as may be defined by rules
11 adopted by the secretary.

12 (16) "Developmental disability" means that condition defined in RCW
13 71A.10.020.

14 (17) "Discharge" means the termination of facility authority. The
15 commitment may remain in place, be terminated, or be amended by court
16 order.

17 (18) "Evaluation and treatment facility" means any facility that
18 can provide directly, or by direct arrangement with other public or
19 private agencies, emergency evaluation and treatment, outpatient care,
20 and timely and appropriate inpatient care to persons suffering from a
21 mental disorder, and that is certified as such by the department. A
22 physically separate and separately operated portion of a state hospital
23 may be designated as an evaluation and treatment facility. A facility
24 that is part of, or operated by, the department or any federal agency
25 does not require certification. No correctional institution or
26 facility, or jail, may be an evaluation and treatment facility within
27 the meaning of this chapter.

28 (19) "Facility" means either an evaluation and treatment facility
29 or a secure detoxification facility.

30 (20) "Gravely disabled" means a condition in which a person, as a
31 result of a mental disorder, or as a result of the use of alcohol or
32 other psychoactive chemicals:

33 (a) Is in danger of serious physical harm resulting from a failure
34 to provide for his or her essential human needs of health or safety; or

35 (b) Manifests severe deterioration in routine functioning evidenced
36 by repeated and escalating loss of cognitive or volitional control over
37 his or her actions and is not receiving such care as is essential for
38 his or her health or safety.

1 (21) "History of one or more violent acts" refers to the period of
2 time ten years before the filing of a petition under this chapter, or
3 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any
4 violent acts committed, in a mental health facility or a long-term
5 alcoholism or drug treatment facility, or in confinement as a result of
6 a criminal conviction.

7 (22) "Imminence" means the state or condition of being likely to
8 occur at any moment or near at hand, rather than distant or remote. A
9 designated crisis responder shall consider the potential likelihood of
10 relapse or decompensation subsequent to an interview and prior to
11 service of an order to appear in determining imminence.

12 (23) "Intoxicated person" means a person whose mental or physical
13 functioning is substantially impaired as a result of the use of alcohol
14 or other psychoactive chemicals.

15 ~~((23))~~ (24) "Judicial commitment" means a commitment by a court
16 under this chapter.

17 ~~((24))~~ (25) "Licensed physician" means a person licensed to
18 practice medicine or osteopathic medicine and surgery in the state of
19 Washington.

20 ~~((25))~~ (26) "Likelihood of serious harm" means:

21 (a) A substantial risk that:

22 (i) Physical harm will be inflicted by a person upon his or her own
23 person, as evidenced by threats or attempts to commit suicide or
24 inflict physical harm on oneself;

25 (ii) Physical harm will be inflicted by a person upon another, as
26 evidenced by behavior that has caused such harm or that places another
27 person or persons in reasonable fear of sustaining such harm; or

28 (iii) Physical harm will be inflicted by a person upon the property
29 of others, as evidenced by behavior that has caused substantial loss or
30 damage to the property of others; or

31 (b) The person has threatened the physical safety of another and
32 has a history of one or more violent acts.

33 ~~((26))~~ (27) "Mental disorder" means any organic, mental, or
34 emotional impairment that has substantial adverse effects on a person's
35 cognitive or volitional functions.

36 ~~((27))~~ (28) "Mental health professional" means a psychiatrist,
37 psychologist, psychiatric nurse, or social worker, and such other

1 mental health professionals as may be defined by rules adopted by the
2 secretary under the authority of chapter 71.05 RCW.

3 ~~((+28+))~~ (29) "Peace officer" means a law enforcement official of
4 a public agency or governmental unit, and includes persons specifically
5 given peace officer powers by any state law, local ordinance, or
6 judicial order of appointment.

7 ~~((+29+))~~ (30) "Person in charge" means a physician or chemical
8 dependency counselor as defined in rule by the department, who is
9 empowered by a certified treatment program with authority to make
10 assessment, admission, continuing care, and discharge decisions on
11 behalf of the certified program.

12 ~~((+30+))~~ (31) "Private agency" means any person, partnership,
13 corporation, or association that is not a public agency, whether or not
14 financed in whole or in part by public funds, that constitutes an
15 evaluation and treatment facility or private institution, or hospital,
16 or approved treatment program, that is conducted for, or includes a
17 department or ward conducted for, the care and treatment of persons who
18 are mentally ill and/or chemically dependent.

19 ~~((+31+))~~ (32) "Professional person" means a mental health
20 professional or chemical dependency professional and shall also mean a
21 physician, registered nurse, and such others as may be defined by rules
22 adopted by the secretary pursuant to the provisions of this chapter.

23 ~~((+32+))~~ (33) "Psychiatrist" means a person having a license as a
24 physician and surgeon in this state who has in addition completed three
25 years of graduate training in psychiatry in a program approved by the
26 American medical association or the American osteopathic association
27 and is certified or eligible to be certified by the American board of
28 psychiatry and neurology.

29 ~~((+33+))~~ (34) "Psychologist" means a person who has been licensed
30 as a psychologist under chapter 18.83 RCW.

31 ~~((+34+))~~ (35) "Public agency" means any evaluation and treatment
32 facility or institution, or hospital, or approved treatment program
33 that is conducted for, or includes a department or ward conducted for,
34 the care and treatment of persons who are mentally ill and/or
35 chemically dependent, if the agency is operated directly by federal,
36 state, county, or municipal government, or a combination of such
37 governments.

1 ~~((35))~~ (36) "Registration records" means all the records of the
2 department, regional support networks, treatment facilities, and other
3 persons providing services to the department, county departments, or
4 facilities which identify persons who are receiving or who at any time
5 have received services for mental illness.

6 ~~((36))~~ (37) "Release" means legal termination of the commitment
7 under chapter 70.96A or 71.05 RCW or this chapter.

8 ~~((37))~~ (38) "Secretary" means the secretary of the department or
9 the secretary's designee.

10 ~~((38))~~ (39) "Secure detoxification facility" means a facility
11 operated by either a public or private agency or by the program of an
12 agency that serves the purpose of providing evaluation and assessment,
13 and acute and/or subacute detoxification services for intoxicated
14 persons and includes security measures sufficient to protect the
15 patients, staff, and community.

16 ~~((39))~~ (40) "Social worker" means a person with a master's or
17 further advanced degree from an accredited school of social work or a
18 degree deemed equivalent under rules adopted by the secretary.

19 ~~((40))~~ (41) "Treatment records" means registration records and
20 all other records concerning persons who are receiving or who at any
21 time have received services for mental illness, which are maintained by
22 the department, by regional support networks and their staffs, and by
23 treatment facilities. Treatment records do not include notes or
24 records maintained for personal use by a person providing treatment
25 services for the department, regional support networks, or a treatment
26 facility if the notes or records are not available to others.

27 ~~((41))~~ (42) "Violent act" means behavior that resulted in
28 homicide, attempted suicide, nonfatal injuries, or substantial damage
29 to property.

30 **Sec. 2.** RCW 70.96B.050 and 2005 c 504 s 206 are each amended to
31 read as follows:

32 (1)~~((a))~~ When a designated crisis responder receives information
33 alleging that a person, as a result of a mental disorder, chemical
34 dependency disorder, or both, presents a likelihood of serious harm or
35 is gravely disabled, the designated crisis responder may, after
36 investigation and evaluation of the specific facts alleged and of the
37 reliability and credibility of any person providing information to

1 initiate detention, if satisfied that the allegations are true and that
2 the person will not voluntarily seek appropriate treatment, file a
3 petition for initial detention. Before filing the petition, the
4 designated crisis responder must personally interview the person,
5 unless the person refuses an interview, and determine whether the
6 person will voluntarily receive appropriate evaluation and treatment at
7 either an evaluation and treatment facility, a detoxification facility,
8 or other certified chemical dependency provider.

9 ~~((b)(i)(A) Whenever it appears, by petition for initial detention,~~
10 ~~to the satisfaction of a judge of the superior court that a person~~
11 ~~presents as a result of a mental disorder, a likelihood of serious~~
12 ~~harm, or is gravely disabled, and that the person has refused or failed~~
13 ~~to accept appropriate evaluation and treatment voluntarily, the judge~~
14 ~~may issue an order requiring the person to appear within twenty four~~
15 ~~hours after service of the order at a designated evaluation and~~
16 ~~treatment facility for not more than a seventy two hour evaluation and~~
17 ~~treatment period; or~~

18 ~~(B) Whenever it appears, by petition for initial detention, to the~~
19 ~~satisfaction of a judge of the superior court, district court, or other~~
20 ~~court permitted by court rule, that a person presents as a result of a~~
21 ~~chemical dependency, a likelihood of serious harm, or is gravely~~
22 ~~disabled, and that the person has refused or failed to accept~~
23 ~~appropriate evaluation and treatment voluntarily, the judge may issue~~
24 ~~an order requiring the person to appear within twenty four hours after~~
25 ~~service of the order at a secure detoxification facility or other~~
26 ~~certified chemical dependency provider for not more than a seventy two~~
27 ~~hour evaluation and treatment period.~~

28 ~~(ii) The order issued under this subsection (1)(b) shall state the~~
29 ~~address of the evaluation and treatment facility, secure detoxification~~
30 ~~facility, or other certified chemical dependency provider to which the~~
31 ~~person is to report; whether the required seventy two hour evaluation~~
32 ~~and treatment services may be delivered on an outpatient or inpatient~~
33 ~~basis; and that if the person named in the order fails to appear at the~~
34 ~~evaluation and treatment facility, secure detoxification facility, or~~
35 ~~other certified chemical dependency provider at or before the date and~~
36 ~~time stated in the order, the person may be involuntarily taken into~~
37 ~~custody for evaluation and treatment. The order shall also designate~~

1 ~~retained counsel or, if counsel is appointed from a list provided by~~
2 ~~the court, the name, business address, and telephone number of the~~
3 ~~attorney appointed to represent the person.~~

4 (e)) (2)(a) An order to detain to an evaluation and treatment
5 facility, a detoxification facility, or other certified chemical
6 dependency provider for not more than a seventy-two hour evaluation and
7 treatment period may be issued by a judge upon request of a designated
8 crisis responder: (i) Whenever it appears to the satisfaction of a
9 judge of the superior court, district court, or other court permitted
10 by court rule, that there is probable cause to support the petition,
11 and (ii) that the person has refused or failed to accept appropriate
12 evaluation and treatment voluntarily.

13 (b) The petition for initial detention, signed under penalty of
14 perjury or sworn telephonic testimony, may be considered by the court
15 in determining whether there are sufficient grounds for issuing the
16 order.

17 (c) The order shall designate retained counsel or, if counsel is
18 appointed from a list provided by the court, the name, business
19 address, and telephone number of the attorney appointed to represent
20 the person.

21 (3) The designated crisis responder shall then serve or cause to be
22 served on such person, his or her guardian, and conservator, if any, a
23 copy of the order to appear, together with a notice of rights and a
24 petition for initial detention. After service on the person, the
25 designated crisis responder shall file the return of service in court
26 and provide copies of all papers in the court file to the evaluation
27 and treatment facility or secure detoxification facility and the
28 designated attorney. The designated crisis responder shall notify the
29 court and the prosecuting attorney that a probable cause hearing will
30 be held within seventy-two hours of the date and time of outpatient
31 evaluation or admission to the evaluation and treatment facility,
32 secure detoxification facility, or other certified chemical dependency
33 provider. The person (~~shall be permitted to remain in his or her home~~
34 ~~or other place of his or her choosing before the time of evaluation and~~
35 ~~shall be permitted to~~) may be accompanied by one or more of his or her
36 relatives, friends, an attorney, a personal physician, or other
37 professional or religious advisor to the place of evaluation. An
38 attorney accompanying the person to the place of evaluation shall be

1 permitted to be present during the admission evaluation. Any other
2 person accompanying the person may be present during the admission
3 evaluation. The facility may exclude the person if his or her presence
4 would present a safety risk, delay the proceedings, or otherwise
5 interfere with the evaluation.

6 ~~((d) If the person ordered to appear does appear on or before the
7 date and time specified, the evaluation and treatment facility, secure
8 detoxification facility, or other certified chemical dependency
9 provider may admit the person as required by subsection (3) of this
10 section or may provide treatment on an outpatient basis. If the person
11 ordered to appear fails to appear on or before the date and time
12 specified, the evaluation and treatment facility, secure detoxification
13 facility, or other certified chemical dependency provider shall
14 immediately notify))~~

15 (4) The designated crisis responder ~~((who))~~ may notify a peace
16 officer to take the person or cause the person to be taken into custody
17 and placed in an evaluation and treatment facility, a secure
18 detoxification facility, or other certified chemical dependency
19 provider. ~~((Should the designated crisis responder notify a peace
20 officer authorizing the officer to take a person into custody under
21 this subsection, the designated crisis responder shall file with the
22 court a copy of the authorization and a notice of detention.))~~ At the
23 time the person is taken into custody there shall commence to be served
24 on the person, his or her guardian, and conservator, if any, a copy of
25 the original order together with a notice of detention, a notice of
26 rights, and a petition for initial detention.

27 ~~((2) If a designated crisis responder receives information
28 alleging that a person, as the result of:~~

29 ~~(a) A mental disorder, presents an imminent likelihood of serious
30 harm, or is in imminent danger because of being gravely disabled, after
31 investigation and evaluation of the specific facts alleged and of the
32 reliability and credibility of the person or persons providing the
33 information if any, the designated crisis responder may take the
34 person, or cause by oral or written order the person to be taken into
35 emergency custody in an evaluation and treatment facility for not more
36 than seventy two hours as described in this chapter; or~~

37 ~~(b) Chemical dependency, presents an imminent likelihood of serious
38 harm, or is in imminent danger because of being gravely disabled, after~~

1 investigation and evaluation of the specific facts alleged and of the
2 reliability and credibility of the person or persons providing the
3 information if any, the designated crisis responder may take the
4 person, or cause by oral or written order the person to be taken into
5 emergency custody in a secure detoxification facility for not more than
6 seventy two hours as described in this chapter.

7 (3) If the designated crisis responder petitions for detention of
8 a person whose actions constitute a likelihood of serious harm, or who
9 is gravely disabled, the evaluation and treatment facility, the secure
10 detoxification facility, or other certified chemical dependency
11 provider providing seventy two hour evaluation and treatment must
12 immediately accept on a provisional basis the petition and the person.
13 The evaluation and treatment facility, the secure detoxification
14 facility, or other certified chemical dependency provider shall then
15 evaluate the person's condition and admit, detain, transfer, or
16 discharge such person in accordance with this chapter. The facility
17 shall notify in writing the court and the designated crisis responder
18 of the date and time of the initial detention of each person
19 involuntarily detained so that a probable cause hearing will be held no
20 later than seventy two hours after detention.

21 (4) A peace officer may, without prior notice of the proceedings
22 provided for in subsection (1) of this section, take or cause the
23 person to be taken into custody and immediately delivered to an
24 evaluation and treatment facility, secure detoxification facility,
25 other certified chemical dependency treatment provider only pursuant to
26 subsections (1)(d) and (2) of this section.

27 (5) Nothing in this chapter limits the power of a peace officer to
28 take a person into custody and immediately deliver the person to the
29 emergency department of a local hospital or to a detoxification
30 facility.))

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.96B RCW
32 to read as follows:

33 (1) If a designated crisis responder receives information alleging
34 that a person, as the result of:

35 (a) A mental disorder, presents an imminent likelihood of serious
36 harm, or is in imminent danger because of being gravely disabled, after
37 investigation and evaluation of the specific facts alleged and of the

1 reliability and credibility of the person or persons providing the
2 information if any, the designated crisis responder may take the
3 person, or cause by oral or written order the person to be taken into
4 emergency custody in an evaluation and treatment facility for not more
5 than seventy-two hours as described in this chapter; or

6 (b) Chemical dependency, presents an imminent likelihood of serious
7 harm, or is in imminent danger because of being gravely disabled, after
8 investigation and evaluation of the specific facts alleged and of the
9 reliability and credibility of the person or persons providing the
10 information if any, the designated crisis responder may take the
11 person, or cause by oral or written order the person to be taken into
12 emergency custody in a secure detoxification facility for not more than
13 seventy-two hours as described in this chapter.

14 (2) The evaluation and treatment facility, the secure
15 detoxification facility, or other certified chemical dependency
16 provider shall then evaluate the person's condition and admit, detain,
17 transfer, or discharge such person in accordance with this chapter.
18 The facility shall notify in writing the court and the designated
19 crisis responder of the date and time of the initial detention of each
20 person involuntarily detained so that a probable cause hearing will be
21 held no later than seventy-two hours after detention.

22 (3) A peace officer may take or cause the person to be taken into
23 custody and immediately delivered to an evaluation and treatment
24 facility, secure detoxification facility, or other certified chemical
25 dependency treatment provider: (a) Pursuant to this section; or (b)
26 when he or she has reasonable cause to believe that such person, as a
27 result of a mental disorder or chemical dependency, presents an
28 imminent likelihood of serious harm, or is in imminent danger because
29 of being gravely disabled. An individual brought to a facility by a
30 peace officer may be held for up to twelve hours: PROVIDED, That the
31 individual is examined by a designated crisis responder within three
32 hours of arrival. Within twelve hours of arrival the designated crisis
33 responder must determine whether the individual meets detention
34 criteria. If the individual is detained, the designated mental health
35 professional shall file a petition for detention or supplemental
36 petition as appropriate and commence service on the designated attorney
37 for the detained person.

1 (4) Nothing in this chapter limits the power of a peace officer to
2 take a person into custody and immediately deliver the person to the
3 emergency department of a local hospital or to a detoxification
4 facility.

5 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

9 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act expire July
10 1, 2008.

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