
SENATE BILL 5047

State of Washington

56th Legislature

1999 Regular Session

By Senators Long, Hargrove and Costa

Read first time 01/11/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the sharing of information among mental health
2 professionals; and amending RCW 71.05.390.

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

4 **Sec. 1.** RCW 71.05.390 and 1998 c 297 s 22 are each amended to read
5 as follows:

6 Except as provided in this section, the fact of admission and all
7 information and records compiled, obtained, or maintained in the course
8 of providing services to either voluntary or involuntary recipients of
9 services at public or private agencies shall be confidential.

10 Information and records may be disclosed only:

11 (1) In communications between qualified professional persons to
12 meet the requirements of this chapter, in the provision of services or
13 appropriate referrals, or in the course of guardianship proceedings.
14 The consent of the patient, or his or her guardian, shall be obtained
15 before information or records may be disclosed by a professional person
16 employed by a facility unless provided to a professional person: (a)
17 Employed by the facility; (b) who has medical responsibility for the
18 patient's care; (c) who is a county designated mental health
19 professional; (d) who is providing services under chapter 71.24 RCW;

1 ((or)) (e) who is employed by a state or local correctional facility
2 where the person is confined; or (f) who is providing evaluation,
3 treatment, or follow-up services under chapter 10.77 RCW.

4 (2) When the communications regard the special needs of a patient
5 and the necessary circumstances giving rise to such needs and the
6 disclosure is made by a facility providing outpatient services to the
7 operator of a care facility in which the patient resides.

8 (3) When the person receiving services, or his or her guardian,
9 designates persons to whom information or records may be released, or
10 if the person is a minor, when his or her parents make such
11 designation.

12 (4) To the extent necessary for a recipient to make a claim, or for
13 a claim to be made on behalf of a recipient for aid, insurance, or
14 medical assistance to which he or she may be entitled.

15 (5) For either program evaluation or research, or both: PROVIDED,
16 That the secretary (~~of social and health services~~) adopts rules for
17 the conduct of the evaluation or research, or both. Such rules shall
18 include, but need not be limited to, the requirement that all
19 evaluators and researchers must sign an oath of confidentiality
20 substantially as follows:

21 "As a condition of conducting evaluation or research concerning
22 persons who have received services from (fill in the facility, agency,
23 or person) I,, agree not to divulge, publish, or
24 otherwise make known to unauthorized persons or the public any
25 information obtained in the course of such evaluation or research
26 regarding persons who have received services such that the person who
27 received such services is identifiable.

28 I recognize that unauthorized release of confidential information
29 may subject me to civil liability under the provisions of state law.

30 /s/ "

31 (6) To the courts as necessary to the administration of this
32 chapter.

33 (7) To law enforcement officers, public health officers, or
34 personnel of the department of corrections or the indeterminate
35 sentence review board for persons who are the subject of the records
36 and who are committed to the custody of the department of corrections
37 or indeterminate sentence review board which information or records are
38 necessary to carry out the responsibilities of their office. Except

1 for dissemination of information released pursuant to RCW 71.05.425 and
2 4.24.550, regarding persons committed under this chapter under RCW
3 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
4 defined in RCW 9.94A.030, the extent of information that may be
5 released is limited as follows:

6 (a) Only the fact, place, and date of involuntary admission, the
7 fact and date of discharge, and the last known address shall be
8 disclosed upon request; and

9 (b) The law enforcement and public health officers or personnel of
10 the department of corrections or indeterminate sentence review board
11 shall be obligated to keep such information confidential in accordance
12 with this chapter; and

13 (c) Additional information shall be disclosed only after giving
14 notice to said person and his or her counsel and upon a showing of
15 clear, cogent and convincing evidence that such information is
16 necessary and that appropriate safeguards for strict confidentiality
17 are and will be maintained. However, in the event the said person has
18 escaped from custody, said notice prior to disclosure is not necessary
19 and that the facility from which the person escaped shall include an
20 evaluation as to whether the person is of danger to persons or property
21 and has a propensity toward violence.

22 (8) To the attorney of the detained person.

23 (9) To the prosecuting attorney as necessary to carry out the
24 responsibilities of the office under RCW 71.05.330(2) and
25 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
26 to records regarding the committed person's treatment and prognosis,
27 medication, behavior problems, and other records relevant to the issue
28 of whether treatment less restrictive than inpatient treatment is in
29 the best interest of the committed person or others. Information shall
30 be disclosed only after giving notice to the committed person and the
31 person's counsel.

32 (10) To appropriate law enforcement agencies and to a person, when
33 the identity of the person is known to the public or private agency,
34 whose health and safety has been threatened, or who is known to have
35 been repeatedly harassed, by the patient. The person may designate a
36 representative to receive the disclosure. The disclosure shall be made
37 by the professional person in charge of the public or private agency or
38 his or her designee and shall include the dates of admission,
39 discharge, authorized or unauthorized absence from the agency's

1 facility, and only such other information that is pertinent to the
2 threat or harassment. The decision to disclose or not shall not result
3 in civil liability for the agency or its employees so long as the
4 decision was reached in good faith and without gross negligence.

5 (11) To the persons designated in RCW 71.05.425 for the purposes
6 described in that section.

7 (12) Civil liability and immunity for the release of information
8 about a particular person who is committed to the department under RCW
9 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
10 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

11 (13) To a patient's next of kin, guardian, or conservator, if any,
12 in the event of death, as provided in RCW 71.05.400.

13 (14) To the department of health of the purposes of determining
14 compliance with state or federal licensure, certification, or
15 registration rules or laws. However, the information and records
16 obtained under this subsection are exempt from public inspection and
17 copying pursuant to chapter 42.17 RCW.

18 The fact of admission, as well as all records, files, evidence,
19 findings, or orders made, prepared, collected, or maintained pursuant
20 to this chapter shall not be admissible as evidence in any legal
21 proceeding outside this chapter without the written consent of the
22 person who was the subject of the proceeding except in a subsequent
23 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
24 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
25 10.77 RCW due to incompetency to stand trial or in a civil commitment
26 proceeding pursuant to chapter 71.09 RCW. The records and files
27 maintained in any court proceeding pursuant to this chapter shall be
28 confidential and available subsequent to such proceedings only to the
29 person who was the subject of the proceeding or his or her attorney.
30 In addition, the court may order the subsequent release or use of such
31 records or files only upon good cause shown if the court finds that
32 appropriate safeguards for strict confidentiality are and will be
33 maintained.

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