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HOUSE BILL 1852

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State of Washington

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By Representatives Green, Cody, Kenney and Schual-Berke; by request of Department of Social and Health Services

Read first time 01/30/2007. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to treatment records; and amending RCW 71.05.630  
2 and 71.05.020.

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

4 **Sec. 1.** RCW 71.05.630 and 2005 c 504 s 112 are each amended to  
5 read as follows:

6 (1) Except as otherwise provided by law, all treatment records  
7 shall remain confidential and may be released only to the persons  
8 designated in this section, or to other persons designated in an  
9 informed written consent of the patient.

10 (2) Treatment records of a person may be released without informed  
11 written consent in the following circumstances:

12 (a) To a person, organization, or agency as necessary for  
13 management or financial audits, or program monitoring and evaluation.  
14 Information obtained under this subsection shall remain confidential  
15 and may not be used in a manner that discloses the name or other  
16 identifying information about the person whose records are being  
17 released.

18 (b) To the department, the director of regional support networks,

1 or a qualified staff member designated by the director only when  
2 necessary to be used for billing or collection purposes. The  
3 information shall remain confidential.

4 (c) For purposes of research as permitted in chapter 42.48 RCW.

5 (d) Pursuant to lawful order of a court.

6 (e) To qualified staff members of the department, to the director  
7 of regional support networks, to resource management services  
8 responsible for serving a patient, or to service providers designated  
9 by resource management services as necessary to determine the progress  
10 and adequacy of treatment and to determine whether the person should be  
11 transferred to a less restrictive or more appropriate treatment  
12 modality or facility. The information shall remain confidential.

13 (f) Within the treatment facility where the patient is receiving  
14 treatment, confidential information may be disclosed to persons  
15 employed, serving in bona fide training programs, or participating in  
16 supervised volunteer programs, at the facility when it is necessary to  
17 perform their duties.

18 (g) Within the department as necessary to coordinate treatment for  
19 mental illness, developmental disabilities, alcoholism, or drug abuse  
20 of persons who are under the supervision of the department.

21 (h) To a licensed physician who has determined that the life or  
22 health of the person is in danger and that treatment without the  
23 information contained in the treatment records could be injurious to  
24 the patient's health. Disclosure shall be limited to the portions of  
25 the records necessary to meet the medical emergency.

26 (i) To a facility that is to receive a person who is involuntarily  
27 committed under chapter 71.05 RCW, or upon transfer of the person from  
28 one treatment facility to another. The release of records under this  
29 subsection shall be limited to the treatment records required by law,  
30 a record or summary of all somatic treatments, and a discharge summary.  
31 The discharge summary may include a statement of the patient's problem,  
32 the treatment goals, the type of treatment which has been provided, and  
33 recommendation for future treatment, but may not include the patient's  
34 complete treatment record.

35 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a  
36 correctional facility or a corrections officer who is responsible for  
37 the supervision of a person who is receiving inpatient or outpatient

1 evaluation or treatment. Except as provided in RCW 71.05.445 and  
2 (~~71.34.225~~) 71.34.345, release of records under this section is  
3 limited to:

4 (i) An evaluation report provided pursuant to a written supervision  
5 plan.

6 (ii) The discharge summary, including a record or summary of all  
7 somatic treatments, at the termination of any treatment provided as  
8 part of the supervision plan.

9 (iii) When a person is returned from a treatment facility to a  
10 correctional facility, the information provided under (j)(iv) of this  
11 subsection.

12 (iv) Any information necessary to establish or implement changes in  
13 the person's treatment plan or the level or kind of supervision as  
14 determined by resource management services. In cases involving a  
15 person transferred back to a correctional facility, disclosure shall be  
16 made to clinical staff only.

17 (k) To the person's counsel or guardian ad litem, without  
18 modification, at any time in order to prepare for involuntary  
19 commitment or recommitment proceedings, reexaminations, appeals, or  
20 other actions relating to detention, admission, commitment, or  
21 patient's rights under chapter 71.05 RCW.

22 (l) To staff members of the protection and advocacy agency or to  
23 staff members of a private, nonprofit corporation for the purpose of  
24 protecting and advocating the rights of persons with mental disorders  
25 or developmental disabilities. Resource management services may limit  
26 the release of information to the name, birthdate, and county of  
27 residence of the patient, information regarding whether the patient was  
28 voluntarily admitted, or involuntarily committed, the date and place of  
29 admission, placement, or commitment, the name and address of a guardian  
30 of the patient, and the date and place of the guardian's appointment.  
31 Any staff member who wishes to obtain additional information shall  
32 notify the patient's resource management services in writing of the  
33 request and of the resource management services' right to object. The  
34 staff member shall send the notice by mail to the guardian's address.  
35 If the guardian does not object in writing within fifteen days after  
36 the notice is mailed, the staff member may obtain the additional  
37 information. If the guardian objects in writing within fifteen days

1 after the notice is mailed, the staff member may not obtain the  
2 additional information.

3 (m) For purposes of coordinating health care, the department may  
4 release without informed written consent of the patient, information  
5 acquired for billing and collection purposes as described in (b) of  
6 this subsection to all current treating providers of the patient with  
7 prescriptive authority who have written a prescription for the patient  
8 within the last twelve months. The department shall notify the patient  
9 that billing and collection information has been released to named  
10 providers, and provide the substance of the information released and  
11 the dates of such release. The department shall not release  
12 counseling, inpatient psychiatric hospitalization, or drug and alcohol  
13 treatment information without a signed written release from the client.

14 (3) Whenever federal law or federal regulations restrict the  
15 release of information contained in the treatment records of any  
16 patient who receives treatment for chemical dependency, the department  
17 may restrict the release of the information as necessary to comply with  
18 federal law and regulations.

19 **Sec. 2.** RCW 71.05.020 and 2005 c 504 s 104 are each amended to  
20 read as follows:

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

23 (1) "Admission" or "admit" means a decision by a physician that a  
24 person should be examined or treated as a patient in a hospital;

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

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

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

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

1 (6) "Custody" means involuntary detention under the provisions of  
2 this chapter or chapter 10.77 RCW, uninterrupted by any period of  
3 unconditional release from commitment from a facility providing  
4 involuntary care and treatment;

5 (7) "Department" means the department of social and health  
6 services;

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

11 (9) "Designated crisis responder" means a mental health  
12 professional appointed by the county or the regional support network to  
13 perform the duties specified in this chapter;

14 (10) "Designated mental health professional" means a mental health  
15 professional designated by the county or other authority authorized in  
16 rule to perform the duties specified in this chapter;

17 (11) "Detention" or "detain" means the lawful confinement of a  
18 person, under the provisions of this chapter;

19 (12) "Developmental disabilities professional" means a person who  
20 has specialized training and three years of experience in directly  
21 treating or working with persons with developmental disabilities and is  
22 a psychiatrist, psychologist, or social worker, and such other  
23 developmental disabilities professionals as may be defined by rules  
24 adopted by the secretary;

25 (13) "Developmental disability" means that condition defined in RCW  
26 71A.10.020(3);

27 (14) "Discharge" means the termination of hospital medical  
28 authority. The commitment may remain in place, be terminated, or be  
29 amended by court order;

30 (15) "Evaluation and treatment facility" means any facility which  
31 can provide directly, or by direct arrangement with other public or  
32 private agencies, emergency evaluation and treatment, outpatient care,  
33 and timely and appropriate inpatient care to persons suffering from a  
34 mental disorder, and which is certified as such by the department. A  
35 physically separate and separately operated portion of a state hospital  
36 may be designated as an evaluation and treatment facility. A facility  
37 which is part of, or operated by, the department or any federal agency

1 will not require certification. No correctional institution or  
2 facility, or jail, shall be an evaluation and treatment facility within  
3 the meaning of this chapter;

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

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

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

24 (19) "Individualized service plan" means a plan prepared by a  
25 developmental disabilities professional with other professionals as a  
26 team, for a person with developmental disabilities, which shall state:

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

29 (b) The conditions and strategies necessary to achieve the purposes  
30 of habilitation;

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

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

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

36 (f) Where relevant in light of past criminal behavior and due  
37 consideration for public safety, the criteria for proposed movement to

1 less-restrictive settings, criteria for proposed eventual discharge or  
2 release, and a projected possible date for discharge or release; and

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

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

7 (21) "Likelihood of serious harm" means:

8 (a) A substantial risk that: (i) Physical harm will be inflicted  
9 by a person upon his or her own person, as evidenced by threats or  
10 attempts to commit suicide or inflict physical harm on oneself; (ii)  
11 physical harm will be inflicted by a person upon another, as evidenced  
12 by behavior which has caused such harm or which places another person  
13 or persons in reasonable fear of sustaining such harm; or (iii)  
14 physical harm will be inflicted by a person upon the property of  
15 others, as evidenced by behavior which has caused substantial loss or  
16 damage to the property of others; or

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

19 (22) "Mental disorder" means any organic, mental, or emotional  
20 impairment which has substantial adverse effects on a person's  
21 cognitive or volitional functions;

22 (23) "Mental health professional" means a psychiatrist,  
23 psychologist, psychiatric nurse, or social worker, and such other  
24 mental health professionals as may be defined by rules adopted by the  
25 secretary pursuant to the provisions of this chapter;

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

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

36 (26) "Professional person" means a mental health professional and  
37 shall also mean a physician, registered nurse, and such others as may

1 be defined by rules adopted by the secretary pursuant to the provisions  
2 of this chapter;

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

9 (28) "Psychologist" means a person who has been licensed as a  
10 psychologist pursuant to chapter 18.83 RCW;

11 (29) "Public agency" means any evaluation and treatment facility or  
12 institution, or hospital which is conducted for, or includes a  
13 department or ward conducted for, the care and treatment of persons who  
14 are mentally ill, if the agency is operated directly by, federal,  
15 state, county, or municipal government, or a combination of such  
16 governments;

17 (30) "Registration records" include all the records of the  
18 department, regional support networks, treatment facilities, and other  
19 persons providing services to the department, county departments, or  
20 facilities which identify persons who are receiving or who at any time  
21 have received services for mental illness;

22 (31) "Release" means legal termination of the commitment under the  
23 provisions of this chapter;

24 (32) "Resource management services" has the meaning given in  
25 chapter 71.24 RCW;

26 (33) "Secretary" means the secretary of the department of social  
27 and health services, or his or her designee;

28 (34) "Social worker" means a person with a master's or further  
29 advanced degree from an accredited school of social work or a degree  
30 deemed equivalent under rules adopted by the secretary;

31 (35) "Treatment records" include registration and all other records  
32 concerning persons who are receiving or who at any time have received  
33 services for mental illness, which are maintained by the department, by  
34 regional support networks and their staffs, and by treatment  
35 facilities. Treatment records include mental health information  
36 contained in a medical bill including but not limited to mental health  
37 drugs, a mental health diagnosis, provider name, and dates of service  
38 stemming from a medical service. Treatment records do not include



1 notes or records maintained for personal use by a person providing  
2 treatment services for the department, regional support networks, or a  
3 treatment facility if the notes or records are not available to others;  
4 (36) "Violent act" means behavior that resulted in homicide,  
5 attempted suicide, nonfatal injuries, or substantial damage to  
6 property.

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