
ENGROSSED SUBSTITUTE HOUSE BILL 1349

State of Washington

61st Legislature

2009 Regular Session

By House Human Services (originally sponsored by Representatives Green, Moeller, Dickerson, Cody, and Kenney)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to additional grounds for renewal of orders for
2 less restrictive treatment; amending RCW 71.05.320; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that many persons
6 who are released from involuntary mental health treatment in an
7 inpatient setting would benefit from an order for less restrictive
8 treatment in order to provide the structure and support necessary to
9 facilitate long-term stability and success in the community.

10 (2) The legislature intends to make it easier to renew orders for
11 less restrictive treatment following a period of inpatient commitment
12 in cases in which a person has been involuntarily committed more than
13 once and is likely to benefit from a renewed order for less restrictive
14 treatment.

15 (3) The legislature also finds that public safety is enhanced when
16 a designated mental health professional or developmental disabilities
17 professional is able to file a petition to revoke an order for less
18 restrictive treatment under RCW 71.05.340 before a person who is the

1 subject of the petition becomes ill enough to present a likelihood of
2 serious harm.

3 **Sec. 2.** RCW 71.05.320 and 2008 c 213 s 9 are each amended to read
4 as follows:

5 (1) If the court or jury finds that grounds set forth in RCW
6 71.05.280 have been proven and that the best interests of the person or
7 others will not be served by a less restrictive treatment which is an
8 alternative to detention, the court shall remand him or her to the
9 custody of the department or to a facility certified for ninety day
10 treatment by the department for a further period of intensive treatment
11 not to exceed ninety days from the date of judgment: PROVIDED, That

12 (a) If the grounds set forth in RCW 71.05.280(3) are the basis of
13 commitment, then the period of treatment may be up to but not exceed
14 one hundred eighty days from the date of judgment in a facility
15 certified for one hundred eighty day treatment by the department.

16 (b) If the committed person has a developmental disability and has
17 been determined incompetent pursuant to RCW 10.77.086(4), and the best
18 interests of the person or others will not be served by a less-
19 restrictive treatment which is an alternative to detention, the court
20 shall remand him or her to the custody of the department or to a
21 facility certified for one hundred eighty-day treatment by the
22 department. When appropriate and subject to available funds, treatment
23 and training of such persons must be provided in a program specifically
24 reserved for the treatment and training of persons with developmental
25 disabilities. A person so committed shall receive habilitation
26 services pursuant to an individualized service plan specifically
27 developed to treat the behavior which was the subject of the criminal
28 proceedings. The treatment program shall be administered by
29 developmental disabilities professionals and others trained
30 specifically in the needs of persons with developmental disabilities.
31 The department may limit admissions to this specialized program in
32 order to ensure that expenditures for services do not exceed amounts
33 appropriated by the legislature and allocated by the department for
34 such services. The department may establish admission priorities in
35 the event that the number of eligible persons exceeds the limits set by
36 the department. An order for treatment less restrictive than
37 involuntary detention may include conditions, and if such conditions

1 are not adhered to, the designated mental health professional or
2 developmental disabilities professional may order the person
3 apprehended under the terms and conditions of RCW 71.05.340.

4 (2) If the court or jury finds that grounds set forth in RCW
5 71.05.280 have been proven, but finds that treatment less restrictive
6 than detention will be in the best interest of the person or others,
7 then the court shall remand him or her to the custody of the department
8 or to a facility certified for ninety day treatment by the department
9 or to a less restrictive alternative for a further period of less
10 restrictive treatment not to exceed ninety days from the date of
11 judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3)
12 are the basis of commitment, then the period of treatment may be up to
13 but not exceed one hundred eighty days from the date of judgment.

14 (3) The person shall be released from involuntary treatment at the
15 expiration of the period of commitment imposed under subsection (1) or
16 (2) of this section unless the superintendent or professional person in
17 charge of the facility in which he or she is confined, or in the event
18 of a less restrictive alternative, the designated mental health
19 professional or developmental disabilities professional, files a new
20 petition for involuntary treatment on the grounds that the committed
21 person;

22 (a) During the current period of court ordered treatment: (i) Has
23 threatened, attempted, or inflicted physical harm upon the person of
24 another, or substantial damage upon the property of another, and (ii)
25 as a result of mental disorder or developmental disability presents a
26 likelihood of serious harm; or

27 (b) Was taken into custody as a result of conduct in which he or
28 she attempted or inflicted serious physical harm upon the person of
29 another, and continues to present, as a result of mental disorder or
30 developmental disability a likelihood of serious harm; or

31 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of
32 mental disorder or developmental disability presents a substantial
33 likelihood of repeating similar acts considering the charged criminal
34 behavior, life history, progress in treatment, and the public safety;
35 or

36 (d) Continues to be gravely disabled.

37 If the conduct required to be proven in (b) and (c) of this

1 subsection was found by a judge or jury in a prior trial under this
2 chapter, it shall not be necessary to (~~reprove that element~~) prove
3 such conduct again. ((Such))

4 (4) For a person committed under subsection (2) of this section who
5 has been remanded to a period of less restrictive treatment, in
6 addition to the grounds specified in subsection (3) of this section,
7 the designated mental health professional or developmental disabilities
8 professional may file a new petition for continued less restrictive
9 treatment if:

10 (a) The person has a history of at least one involuntary commitment
11 for inpatient treatment, at least part of which occurred during the
12 thirty-six months prior to the initial detention date of the
13 involuntary commitment that the current less restrictive alternative
14 order followed, excluding any time spent in a mental health facility or
15 in confinement as a result of a criminal conviction;

16 (b) Since the date that the person was discharged from an inpatient
17 facility under the prior involuntary commitment, the person has a
18 history of deterioration, decompensation, lack of compliance with
19 treatment for mental illness which precipitated the current period of
20 commitment, including but not limited to revocation of a prior less
21 restrictive alternative order;

22 (c) In view of the person's treatment history or current behavior,
23 the person is unlikely to voluntarily participate in outpatient
24 treatment without an order for less restrictive treatment; and

25 (d) Outpatient treatment that would be provided under a less
26 restrictive treatment order is necessary to prevent a relapse,
27 decompensation, or deterioration that is likely to result in the person
28 presenting a likelihood of serious harm to others or the person
29 becoming gravely disabled within a reasonably short period of time.

30 If the conduct required to be proven in (a) and (b) of this
31 subsection was found by a judge or jury in a prior trial that resulted
32 in the most recent involuntary commitment for inpatient treatment or
33 less restrictive alternative orders following that inpatient treatment,
34 it shall not be necessary to prove such conduct again.

35 (5) A new petition for involuntary treatment filed under subsection
36 (3) or (4) of this section shall be filed and heard in the superior
37 court of the county of the facility which is filing the new petition

1 for involuntary treatment unless good cause is shown for a change of
2 venue. The cost of the proceedings shall be borne by the state.

3 (6) The hearing shall be held as provided in RCW 71.05.310, and if
4 the court or jury finds that the grounds for additional confinement as
5 set forth in this (~~(subsection)~~) section are present, the court may
6 order the committed person returned for an additional period of
7 treatment not to exceed one hundred eighty days from the date of
8 judgment. At the end of the one hundred eighty day period of
9 commitment, the committed person shall be released unless a petition
10 for another one hundred eighty day period of continued treatment is
11 filed and heard in the same manner as provided in this (~~(subsection)~~)
12 section. Successive one hundred eighty day commitments are permissible
13 on the same grounds and pursuant to the same procedures as the original
14 one hundred eighty day commitment. However, a commitment is not
15 permissible under subsection (4) of this section if thirty-six months
16 have passed since the date of discharge from the involuntary inpatient
17 commitment that the current less restrictive alternative order or
18 orders followed, excluding any time spent in a mental health facility
19 or in confinement as a result of a criminal conviction.

20 (~~(+4)~~) (7) No person committed as provided in this section may be
21 detained unless a valid order of commitment is in effect. No order of
22 commitment can exceed one hundred eighty days in length.

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