
HOUSE BILL 1589

State of Washington 61st Legislature 2009 Regular Session

By Representatives Green, Dickerson, and O'Brien

Read first time 01/23/09. Referred to Committee on Human Services.

1 AN ACT Relating to venue for hearings to modify or revoke an order
2 for conditional release; and amending RCW 71.05.340.

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

4 **Sec. 1.** RCW 71.05.340 and 2000 c 94 s 8 are each amended to read
5 as follows:

6 (1)(a) When, in the opinion of the superintendent or the
7 professional person in charge of the hospital or facility providing
8 involuntary treatment, the committed person can be appropriately served
9 by outpatient treatment prior to or at the expiration of the period of
10 commitment, then such outpatient care may be required as a term of
11 conditional release for a period which, when added to the inpatient
12 treatment period, shall not exceed the period of commitment. If the
13 hospital or facility designated to provide outpatient treatment is
14 other than the facility providing involuntary treatment, the outpatient
15 facility so designated must agree in writing to assume such
16 responsibility. A copy of the terms of conditional release shall be
17 given to the patient, the ((county)) designated mental health
18 professional in the county in which the patient is to receive
19 outpatient treatment, and to the court of original commitment.

1 (b) Before a person committed under grounds set forth in RCW
2 71.05.280(3) or 71.05.320(~~(+2)~~)(3)(c) is conditionally released under
3 (a) of this subsection, the superintendent or professional person in
4 charge of the hospital or facility providing involuntary treatment
5 shall in writing notify the prosecuting attorney of the county in which
6 the criminal charges against the committed person were dismissed, of
7 the decision to conditionally release the person. Notice and a copy of
8 the terms of conditional release shall be provided at least thirty days
9 before the person is released from inpatient care. Within twenty days
10 after receiving notice, the prosecuting attorney may petition the court
11 in the county that issued the commitment order to hold a hearing to
12 determine whether the person may be conditionally released and the
13 terms of the conditional release. The prosecuting attorney shall
14 provide a copy of the petition to the superintendent or professional
15 person in charge of the hospital or facility providing involuntary
16 treatment, the attorney, if any, and guardian or conservator of the
17 committed person, and the court of original commitment. If the county
18 in which the committed person is to receive outpatient treatment is the
19 same county in which the criminal charges against the committed person
20 were dismissed, then the court shall, upon the motion of the
21 prosecuting attorney, transfer the proceeding to the court in that
22 county. The court shall conduct a hearing on the petition within ten
23 days of the filing of the petition. The committed person shall have
24 the same rights with respect to notice, hearing, and counsel as for an
25 involuntary treatment proceeding, except as set forth in this
26 subsection and except that there shall be no right to jury trial. The
27 issue to be determined at the hearing is whether or not the person may
28 be conditionally released without substantial danger to other persons,
29 or substantial likelihood of committing criminal acts jeopardizing
30 public safety or security. If the court disapproves of the conditional
31 release, it may do so only on the basis of substantial evidence.
32 Pursuant to the determination of the court upon the hearing, the
33 conditional release of the person shall be approved by the court on the
34 same or modified conditions or the person shall be returned for
35 involuntary treatment on an inpatient basis subject to release at the
36 end of the period for which he or she was committed, or otherwise in
37 accordance with the provisions of this chapter.

1 (2) The hospital or facility designated to provide outpatient care
2 or the secretary may modify the conditions for continued release when
3 such modification is in the best interest of the person. Notification
4 of such changes shall be sent to all persons receiving a copy of the
5 original conditions.

6 (3)(a) If the hospital or facility designated to provide outpatient
7 care, the ((~~county~~)) designated mental health professional, or the
8 secretary determines that:

9 (i) A conditionally released person is failing to adhere to the
10 terms and conditions of his or her release;

11 (ii) Substantial deterioration in a conditionally released person's
12 functioning has occurred;

13 (iii) There is evidence of substantial decompensation with a
14 reasonable probability that the decompensation can be reversed by
15 further inpatient treatment; or

16 (iv) The person poses a likelihood of serious harm.

17 Upon notification by the hospital or facility designated to provide
18 outpatient care, or on his or her own motion, the ((~~county~~)) designated
19 mental health professional or the secretary may order that the
20 conditionally released person be apprehended and taken into custody and
21 temporarily detained in an evaluation and treatment facility in or near
22 the county in which he or she is receiving outpatient treatment.

23 (b) The hospital or facility designated to provide outpatient
24 treatment shall notify the secretary or ((~~county~~)) designated mental
25 health professional when a conditionally released person fails to
26 adhere to terms and conditions of his or her conditional release or
27 experiences substantial deterioration in his or her condition and, as
28 a result, presents an increased likelihood of serious harm. The
29 ((~~county~~)) designated mental health professional or secretary shall
30 order the person apprehended and temporarily detained in an evaluation
31 and treatment facility in or near the county in which he or she is
32 receiving outpatient treatment.

33 (c) A person detained under this subsection (3) shall be held until
34 such time, not exceeding five days, as a hearing can be scheduled to
35 determine whether or not the person should be returned to the hospital
36 or facility from which he or she had been conditionally released. The
37 ((~~county~~)) designated mental health professional or the secretary may

1 modify or rescind such order at any time prior to commencement of the
2 court hearing.

3 (d) The court that originally ordered commitment shall be notified
4 within two judicial days of a person's detention under the provisions
5 of this section, and the ((~~county~~)) designated mental health
6 professional or the secretary shall file his or her petition and order
7 of apprehension and detention with the court that originally ordered
8 commitment or with the court in the county in which the person is
9 detained and serve them upon the person detained. His or her attorney,
10 if any, and his or her guardian or conservator, if any, shall receive
11 a copy of such papers as soon as possible. Such person shall have the
12 same rights with respect to notice, hearing, and counsel as for an
13 involuntary treatment proceeding, except as specifically set forth in
14 this section and except that there shall be no right to jury trial.
15 The issues to be determined shall be: (i) Whether the conditionally
16 released person did or did not adhere to the terms and conditions of
17 his or her conditional release; (ii) that substantial deterioration in
18 the person's functioning has occurred; (iii) there is evidence of
19 substantial decompensation with a reasonable probability that the
20 decompensation can be reversed by further inpatient treatment; or (iv)
21 there is a likelihood of serious harm; and, if any of the conditions
22 listed in this subsection (3)(d) have occurred, whether the terms of
23 conditional release should be modified or the person should be returned
24 to the facility.

25 (e) Pursuant to the determination of the court upon such hearing,
26 the conditionally released person shall either continue to be
27 conditionally released on the same or modified conditions or shall be
28 returned for involuntary treatment on an inpatient basis subject to
29 release at the end of the period for which he or she was committed for
30 involuntary treatment, or otherwise in accordance with the provisions
31 of this chapter. Such hearing may be waived by the person and his or
32 her counsel and his or her guardian or conservator, if any, but shall
33 not be waivable unless all such persons agree to waive, and upon such
34 waiver the person may be returned for involuntary treatment or
35 continued on conditional release on the same or modified conditions.

36 (4) The proceedings set forth in subsection (3) of this section may
37 be initiated by the ((~~county~~)) designated mental health professional or
38 the secretary on the same basis set forth therein without requiring or

1 ordering the apprehension and detention of the conditionally released
2 person, in which case the court hearing shall take place in not less
3 than five days from the date of service of the petition upon the
4 conditionally released person. The petition may be filed in the court
5 that originally ordered commitment or with the court in the county in
6 which the person is present.

7 Upon expiration of the period of commitment, or when the person is
8 released from outpatient care, notice in writing to the court which
9 committed the person for treatment shall be provided.

10 (5) The grounds and procedures for revocation of less restrictive
11 alternative treatment shall be the same as those set forth in this
12 section for conditional releases.

13 (6) In the event of a revocation of a conditional release, the
14 subsequent treatment period may be for no longer than the actual period
15 authorized in the original court order.

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