

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1589**

61st Legislature  
2009 Regular Session

Passed by the House April 20, 2009  
Yeas 98 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate April 14, 2009  
Yeas 47 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1589** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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HOUSE BILL 1589

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AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

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 venue for proceedings regarding a petition for modification or  
16 revocation of an order for conditional release shall be in the county  
17 in which the petition was filed. The issues to be determined shall be:  
18 (i) Whether the conditionally released person did or did not adhere to  
19 the terms and conditions of his or her conditional release; (ii) that  
20 substantial deterioration in the person's functioning has occurred;  
21 (iii) there is evidence of substantial decompensation with a reasonable  
22 probability that the decompensation can be reversed by further  
23 inpatient treatment; or (iv) there is a likelihood of serious harm;  
24 and, if any of the conditions listed in this subsection (3)(d) have  
25 occurred, whether the terms of conditional release should be modified  
26 or the person should be returned to the facility.

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

1           (4) The proceedings set forth in subsection (3) of this section may  
2 be initiated by the ((county)) designated mental health professional or  
3 the secretary on the same basis set forth therein without requiring or  
4 ordering the apprehension and detention of the conditionally released  
5 person, in which case the court hearing shall take place in not less  
6 than five days from the date of service of the petition upon the  
7 conditionally released person. The petition may be filed in the court  
8 that originally ordered commitment or with the court in the county in  
9 which the person is present. The venue for the proceedings regarding  
10 the petition for modification or revocation of an order for conditional  
11 release shall be in the county in which the petition was filed.

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

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

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

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