

SHB 1170 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED AS AMENDED 04/08/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 are  
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Admission" or "admit" means a decision by a physician or  
8 psychiatric advanced registered nurse practitioner that a person should  
9 be examined or treated as a patient in a hospital;

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

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

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

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

22 (6) "Crisis stabilization unit" means a short-term facility or a  
23 portion of a facility licensed by the department of health and  
24 certified by the department of social and health services under RCW  
25 71.24.035, such as an evaluation and treatment facility or a hospital,  
26 which has been designed to assess, diagnose, and treat individuals  
27 experiencing an acute crisis without the use of long-term  
28 hospitalization;

29 (7) "Custody" means involuntary detention under the provisions of

1 this chapter or chapter 10.77 RCW, uninterrupted by any period of  
2 unconditional release from commitment from a facility providing  
3 involuntary care and treatment;

4 (8) "Department" means the department of social and health  
5 services;

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

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

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

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

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

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

27 (15) "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 (16) "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 (17) "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 (18) "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 (19) "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 (20) "Imminent" means the state or condition of being likely to  
25 occur at any moment or near at hand, rather than distant or remote;

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

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

31 (b) The conditions and strategies necessary to achieve the purposes  
32 of habilitation;

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

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

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

1 (f) Where relevant in light of past criminal behavior and due  
2 consideration for public safety, the criteria for proposed movement to  
3 less-restrictive settings, criteria for proposed eventual discharge or  
4 release, and a projected possible date for discharge or release; and

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

7 (22) "Information related to mental health services" means all  
8 information and records compiled, obtained, or maintained in the course  
9 of providing services to either voluntary or involuntary recipients of  
10 services by a mental health service provider. This may include  
11 documents of legal proceedings under this chapter or chapter 71.34 or  
12 10.77 RCW, or somatic health care information;

13 (23) "Judicial commitment" means a commitment by a court pursuant  
14 to the provisions of this chapter;

15 (24) "Legal counsel" means attorneys and staff employed by county  
16 prosecutor offices or the state attorney general acting in their  
17 capacity as legal representatives of public mental health service  
18 providers under RCW 71.05.130;

19 (25) "Likelihood of serious harm" means:

20 (a) A substantial risk that: (i) Physical harm will be inflicted  
21 by a person upon his or her own person, as evidenced by threats or  
22 attempts to commit suicide or inflict physical harm on oneself; (ii)  
23 physical harm will be inflicted by a person upon another, as evidenced  
24 by behavior which has caused such harm or which places another person  
25 or persons in reasonable fear of sustaining such harm; or (iii)  
26 physical harm will be inflicted by a person upon the property of  
27 others, as evidenced by behavior which has caused substantial loss or  
28 damage to the property of others; or

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

31 (26) "Mental disorder" means any organic, mental, or emotional  
32 impairment which has substantial adverse effects on a person's  
33 cognitive or volitional functions;

34 (27) "Mental health professional" means a psychiatrist,  
35 psychologist, psychiatric advanced registered nurse practitioner,  
36 psychiatric nurse, or social worker, and such other mental health  
37 professionals as may be defined by rules adopted by the secretary  
38 pursuant to the provisions of this chapter;

1 (28) "Mental health service provider" means a public or private  
2 agency that provides mental health services to persons with mental  
3 disorders as defined under this section and receives funding from  
4 public sources. This includes, but is not limited to, hospitals  
5 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
6 as defined in this section, community mental health service delivery  
7 systems or community mental health programs as defined in RCW  
8 71.24.025, facilities conducting competency evaluations and restoration  
9 under chapter 10.77 RCW, and correctional facilities operated by state  
10 and local governments;

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

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

21 (31) "Professional person" means a mental health professional and  
22 shall also mean a physician, psychiatric advanced registered nurse  
23 practitioner, registered nurse, and such others as may be defined by  
24 rules adopted by the secretary pursuant to the provisions of this  
25 chapter;

26 (32) "Psychiatric advanced registered nurse practitioner" means a  
27 person who is licensed as an advanced registered nurse practitioner  
28 pursuant to chapter 18.79 RCW; and who is board certified in advanced  
29 practice psychiatric and mental health nursing;

30 (33) "Psychiatrist" means a person having a license as a physician  
31 and surgeon in this state who has in addition completed three years of  
32 graduate training in psychiatry in a program approved by the American  
33 medical association or the American osteopathic association and is  
34 certified or eligible to be certified by the American board of  
35 psychiatry and neurology;

36 (34) "Psychologist" means a person who has been licensed as a  
37 psychologist pursuant to chapter 18.83 RCW;

1 (35) "Public agency" means any evaluation and treatment facility or  
2 institution, or hospital which is conducted for, or includes a  
3 department or ward conducted for, the care and treatment of persons  
4 with mental illness, if the agency is operated directly by, federal,  
5 state, county, or municipal government, or a combination of such  
6 governments;

7 (36) "Registration records" include all the records of the  
8 department, regional support networks, treatment facilities, and other  
9 persons providing services to the department, county departments, or  
10 facilities which identify persons who are receiving or who at any time  
11 have received services for mental illness;

12 (37) "Release" means legal termination of the commitment under the  
13 provisions of this chapter;

14 (38) "Resource management services" has the meaning given in  
15 chapter 71.24 RCW;

16 (39) "Secretary" means the secretary of the department of social  
17 and health services, or his or her designee;

18 (40) "Serious violent offense" has the same meaning as provided in  
19 RCW 9.94A.030;

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

23 (42) "Therapeutic court personnel" means the staff of a mental  
24 health court or other therapeutic court which has jurisdiction over  
25 defendants who are dually diagnosed with mental disorders, including  
26 court personnel, probation officers, a court monitor, prosecuting  
27 attorney, or defense counsel acting within the scope of therapeutic  
28 court duties;

29 (43) "Triage facility" means a short-term facility or a portion of  
30 a facility licensed by the department of health and certified by the  
31 department of social and health services under RCW 71.24.035, which is  
32 designed as a facility to assess and stabilize an individual or  
33 determine the need for involuntary commitment of an individual, and  
34 must meet department of health residential treatment facility  
35 standards. A triage facility may be structured as a voluntary or  
36 involuntary placement facility;

37 (44) "Treatment records" include registration and all other records  
38 concerning persons who are receiving or who at any time have received

1 services for mental illness, which are maintained by the department, by  
2 regional support networks and their staffs, and by treatment  
3 facilities. Treatment records include mental health information  
4 contained in a medical bill including but not limited to mental health  
5 drugs, a mental health diagnosis, provider name, and dates of service  
6 stemming from a medical service. Treatment records do not include  
7 notes or records maintained for personal use by a person providing  
8 treatment services for the department, regional support networks, or a  
9 treatment facility if the notes or records are not available to others;  
10 ((+44)) (45) "Violent act" means behavior that resulted in  
11 homicide, attempted suicide, nonfatal injuries, or substantial damage  
12 to property.

13 **Sec. 2.** RCW 71.05.153 and 2007 c 375 s 8 are each amended to read  
14 as follows:

15 (1) When a designated mental health professional receives  
16 information alleging that a person, as the result of a mental disorder,  
17 presents an imminent likelihood of serious harm, or is in imminent  
18 danger because of being gravely disabled, after investigation and  
19 evaluation of the specific facts alleged and of the reliability and  
20 credibility of the person or persons providing the information if any,  
21 the designated mental health professional may take such person, or  
22 cause by oral or written order such person to be taken into emergency  
23 custody in an evaluation and treatment facility for not more than  
24 seventy-two hours as described in RCW 71.05.180.

25 (2) A peace officer may take or cause such person to be taken into  
26 custody and immediately delivered to a triage facility, crisis  
27 stabilization unit, ((an)) evaluation and treatment facility, or the  
28 emergency department of a local hospital under the following  
29 circumstances:

30 (a) Pursuant to subsection (1) of this section; or

31 (b) When he or she has reasonable cause to believe that such person  
32 is suffering from a mental disorder and presents an imminent likelihood  
33 of serious harm or is in imminent danger because of being gravely  
34 disabled.

35 (3) Persons delivered to a crisis stabilization unit, evaluation  
36 and treatment facility, ((or the)) emergency department of a local  
37 hospital, or triage facility that has elected to operate as an

1 involuntary facility by peace officers pursuant to subsection (2) of  
2 this section may be held by the facility for a period of up to twelve  
3 hours(~~(: PROVIDED, That they are examined by a mental health~~  
4 ~~professional)~~).

5 (4) Within three hours of ((their)) arrival, the person must be  
6 examined by a mental health professional. Within twelve hours of  
7 ((their)) arrival, the designated mental health professional must  
8 determine whether the individual meets detention criteria. If the  
9 individual is detained, the designated mental health professional shall  
10 file a petition for detention or a supplemental petition as appropriate  
11 and commence service on the designated attorney for the detained  
12 person.

13 **Sec. 3.** RCW 10.31.110 and 2007 c 375 s 2 are each amended to read  
14 as follows:

15 (1) When a police officer has reasonable cause to believe that the  
16 individual has committed acts constituting a nonfelony crime that is  
17 not a serious offense as identified in RCW 10.77.092 and the individual  
18 is known by history or consultation with the regional support network  
19 to suffer from a mental disorder, the arresting officer may:

20 (a) Take the individual to a crisis stabilization unit as defined  
21 in RCW 71.05.020(6). Individuals delivered to a crisis stabilization  
22 unit pursuant to this section may be held by the facility for a period  
23 of up to twelve hours(~~(: PROVIDED, That they are)~~). The individual  
24 must be examined by a mental health professional within three hours of  
25 ((their)) arrival;

26 (b) Take the individual to a triage facility as defined in RCW  
27 71.05.020. An individual delivered to a triage facility which has  
28 elected to operate as an involuntary facility may be held up to a  
29 period of twelve hours. The individual must be examined by a mental  
30 health professional within three hours of arrival;

31 (c) Refer the individual to a mental health professional for  
32 evaluation for initial detention and proceeding under chapter 71.05  
33 RCW; or

34 ((+e)) (d) Release the individual upon agreement to voluntary  
35 participation in outpatient treatment.

36 (2) In deciding whether to refer the individual to treatment under  
37 this section, the police officer shall be guided by standards mutually



1 agreed upon with the prosecuting authority, which address, at a  
2 minimum, the length, seriousness, and recency of the known criminal  
3 history of the individual, the mental health history of the individual,  
4 where available, and the circumstances surrounding the commission of  
5 the alleged offense.

6 (3) Any agreement to participate in treatment shall not require  
7 individuals to stipulate to any of the alleged facts regarding the  
8 criminal activity as a prerequisite to participation in a mental health  
9 treatment alternative. The agreement is inadmissible in any criminal  
10 or civil proceeding. The agreement does not create immunity from  
11 prosecution for the alleged criminal activity.

12 (4) If an individual violates such agreement and the mental health  
13 treatment alternative is no longer appropriate:

14 (a) The mental health provider shall inform the referring law  
15 enforcement agency of the violation; and

16 (b) The original charges may be filed or referred to the  
17 prosecutor, as appropriate, and the matter may proceed accordingly.

18 (5) The police officer is immune from liability for any good faith  
19 conduct under this section.

20 NEW SECTION. **Sec. 4.** Facilities providing triage services as of  
21 the effective date of this section are not required to relicense or  
22 recertify under any new rules governing licensure or certification of  
23 triage facilities. The department of social and health services shall  
24 work with the Washington association of counties and the Washington  
25 association of sheriffs and police chiefs in creating rules that  
26 establish standards for certification of triage facilities. The  
27 department of health rules must not require triage facilities to  
28 provide twenty-four hour nursing.

29 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and takes effect  
32 immediately."

**ADOPTED AS AMENDED 04/08/2011**

1        On page 1, line 1 of the title, after "facilities;" strike the  
2 remainder of the title and insert "amending RCW 71.05.153 and  
3 10.31.110; reenacting and amending RCW 71.05.020; creating a new  
4 section; and declaring an emergency."

EFFECT:    A triage facility may be structured as a voluntary or  
involuntary facility.

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