
HOUSE BILL 1718

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Roberts, Moeller, Dammeier, and Green

Read first time 01/31/11. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to offenders with developmental disabilities or
2 traumatic brain injuries; amending RCW 2.28.180 and 74.09.555; and
3 adding a new section to chapter 70.48 RCW.

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

5 **Sec. 1.** RCW 2.28.180 and 2005 c 504 s 501 are each amended to read
6 as follows:

7 (1) Counties may establish and operate mental health courts.

8 (2) For the purposes of this section, "mental health court" means
9 a court that has special calendars or dockets designed to achieve a
10 reduction in recidivism and symptoms of mental illness among
11 nonviolent, (~~mentally ill~~) felony and nonfelony offenders with mental
12 illnesses and recidivism among nonviolent felony and nonfelony
13 offenders who have intellectual or developmental disabilities or who
14 have suffered a traumatic brain injury by increasing their likelihood
15 for successful rehabilitation through early, continuous, and intense
16 judicially supervised treatment including drug treatment for persons
17 with co-occurring disorders; mandatory periodic reviews, including drug
18 testing if indicated; and the use of appropriate sanctions and other
19 rehabilitation services.

1 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
2 mental health court program must first:

3 (i) Exhaust all federal funding that is available to support the
4 operations of its mental health court and associated services; and

5 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
6 for mental health court programs with local cash or in-kind resources.
7 Moneys allocated by the state must be used to supplement, not supplant,
8 other federal, state, and local funds for mental health court
9 operations and associated services.

10 (b) Any county that establishes a mental health court pursuant to
11 this section shall establish minimum requirements for the participation
12 of offenders in the program. The mental health court may adopt local
13 requirements that are more stringent than the minimum. The minimum
14 requirements are:

15 (i) The offender would benefit from psychiatric treatment or
16 treatment related to his or her intellectual or developmental
17 disability or traumatic brain injury;

18 (ii) The offender has not previously been convicted of a serious
19 violent offense or sex offense as defined in RCW 9.94A.030; and

20 (iii) Without regard to whether proof of any of these elements is
21 required to convict, the offender is not currently charged with or
22 convicted of an offense:

23 (A) That is a sex offense;

24 (B) That is a serious violent offense;

25 (C) During which the defendant used a firearm; or

26 (D) During which the defendant caused substantial or great bodily
27 harm or death to another person.

28 NEW SECTION. Sec. 2. A new section is added to chapter 70.48 RCW
29 to read as follows:

30 When a jail has determined that a person in custody has or may have
31 an intellectual or developmental disability or a traumatic brain
32 injury, upon transfer of the person to a department of corrections
33 facility or other jail facility, every reasonable effort shall be made
34 by the transferring jail staff to communicate to receiving staff the
35 nature of the disability, as determined by the jail and any necessary
36 accommodation for the person as identified by the transferring jail
37 staff.

1 **Sec. 3.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each amended
2 to read as follows:

3 (1) The department shall adopt rules and policies providing that
4 when persons with a mental disorder, an intellectual or developmental
5 disability, or a traumatic brain injury, who were enrolled in medical
6 assistance immediately prior to confinement, are released from
7 confinement, their medical assistance coverage will be fully reinstated
8 on the day of their release, subject to any expedited review of their
9 continued eligibility for medical assistance coverage that is required
10 under federal or state law.

11 (2) The department, in collaboration with the Washington
12 association of sheriffs and police chiefs, the department of
13 corrections, and the regional support networks, shall establish
14 procedures for coordination between department field offices,
15 institutions for mental disease, and correctional institutions, as
16 defined in RCW 9.94.049, that result in prompt reinstatement of
17 eligibility and speedy eligibility determinations for persons who are
18 likely to be eligible for medical assistance services upon release from
19 confinement. Procedures developed under this subsection must address:

20 (a) Mechanisms for receiving medical assistance services
21 applications on behalf of confined persons in anticipation of their
22 release from confinement;

23 (b) Expeditious review of applications filed by or on behalf of
24 confined persons and, to the extent practicable, completion of the
25 review before the person is released;

26 (c) Mechanisms for providing medical assistance services identity
27 cards to persons eligible for medical assistance services immediately
28 upon their release from confinement; and

29 (d) Coordination with the federal social security administration,
30 through interagency agreements or otherwise, to expedite processing of
31 applications for federal supplemental security income or social
32 security disability benefits, including federal acceptance of
33 applications on behalf of confined persons.

34 (3) Where medical or psychiatric examinations during a person's
35 confinement indicate that the person is disabled, the correctional
36 institution or institution for mental diseases shall provide the
37 department with that information for purposes of making medical
38 assistance eligibility and enrollment determinations prior to the

1 person's release from confinement. The department shall, to the
2 maximum extent permitted by federal law, use the examination in making
3 its determination whether the person is disabled and eligible for
4 medical assistance.

5 (4) For purposes of this section, "confined" or "confinement" means
6 incarcerated in a correctional institution, as defined in RCW 9.94.049,
7 or admitted to an institute for mental disease, as defined in 42 C.F.R.
8 part 435, Sec. 1009 on July 24, 2005.

9 (5) For purposes of this section, "likely to be eligible" means
10 that a person:

11 (a) Was enrolled in medicaid or supplemental security income or the
12 disability lifeline program immediately before he or she was confined
13 and his or her enrollment was terminated during his or her confinement;
14 or

15 (b) Was enrolled in medicaid or supplemental security income or the
16 disability lifeline program at any time during the five years before
17 his or her confinement, and medical or psychiatric examinations during
18 the person's confinement indicate that the person continues to be
19 disabled and the disability is likely to last at least twelve months
20 following release.

21 (6) The economic services administration shall adopt standardized
22 statewide screening and application practices and forms designed to
23 facilitate the application of a confined person who is likely to be
24 eligible for medicaid.

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