
SUBSTITUTE SENATE BILL 5028

State of Washington

62nd Legislature

2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Haugen, Stevens, Harper, and Shin)

READ FIRST TIME 02/15/11.

1 AN ACT Relating to triage facilities; amending RCW 71.05.153 and
2 10.31.110; reenacting and amending RCW 71.05.020; creating a new
3 section; and declaring an emergency.

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

5 **Sec. 1.** RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 are
6 each reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

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

6 (6) "Crisis stabilization unit" means a short-term facility or a
7 portion of a facility licensed by the department of health and
8 certified by the department of social and health services under RCW
9 71.24.035, such as an evaluation and treatment facility or a hospital,
10 which has been designed to assess, diagnose, and treat individuals
11 experiencing an acute crisis without the use of long-term
12 hospitalization;

13 (7) "Custody" means involuntary detention under the provisions of
14 this chapter or chapter 10.77 RCW, uninterrupted by any period of
15 unconditional release from commitment from a facility providing
16 involuntary care and treatment;

17 (8) "Department" means the department of social and health
18 services;

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

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

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

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

31 (13) "Developmental disabilities professional" means a person who
32 has specialized training and three years of experience in directly
33 treating or working with persons with developmental disabilities and is
34 a psychiatrist, psychologist, psychiatric advanced registered nurse
35 practitioner, or social worker, and such other developmental
36 disabilities professionals as may be defined by rules adopted by the
37 secretary;

1 (14) "Developmental disability" means that condition defined in RCW
2 71A.10.020(3);

3 (15) "Discharge" means the termination of hospital medical
4 authority. The commitment may remain in place, be terminated, or be
5 amended by court order;

6 (16) "Evaluation and treatment facility" means any facility which
7 can provide directly, or by direct arrangement with other public or
8 private agencies, emergency evaluation and treatment, outpatient care,
9 and timely and appropriate inpatient care to persons suffering from a
10 mental disorder, and which is certified as such by the department. A
11 physically separate and separately operated portion of a state hospital
12 may be designated as an evaluation and treatment facility. A facility
13 which is part of, or operated by, the department or any federal agency
14 will not require certification. No correctional institution or
15 facility, or jail, shall be an evaluation and treatment facility within
16 the meaning of this chapter;

17 (17) "Gravely disabled" means a condition in which a person, as a
18 result of a mental disorder: (a) Is in danger of serious physical harm
19 resulting from a failure to provide for his or her essential human
20 needs of health or safety; or (b) manifests severe deterioration in
21 routine functioning evidenced by repeated and escalating loss of
22 cognitive or volitional control over his or her actions and is not
23 receiving such care as is essential for his or her health or safety;

24 (18) "Habilitative services" means those services provided by
25 program personnel to assist persons in acquiring and maintaining life
26 skills and in raising their levels of physical, mental, social, and
27 vocational functioning. Habilitative services include education,
28 training for employment, and therapy. The habilitative process shall
29 be undertaken with recognition of the risk to the public safety
30 presented by the person being assisted as manifested by prior charged
31 criminal conduct;

32 (19) "History of one or more violent acts" refers to the period of
33 time ten years prior to the filing of a petition under this chapter,
34 excluding any time spent, but not any violent acts committed, in a
35 mental health facility or in confinement as a result of a criminal
36 conviction;

37 (20) "Imminent" means the state or condition of being likely to
38 occur at any moment or near at hand, rather than distant or remote;

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

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

6 (b) The conditions and strategies necessary to achieve the purposes
7 of habilitation;

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

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

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

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

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

19 (22) "Information related to mental health services" means all
20 information and records compiled, obtained, or maintained in the course
21 of providing services to either voluntary or involuntary recipients of
22 services by a mental health service provider. This may include
23 documents of legal proceedings under this chapter or chapter 71.34 or
24 10.77 RCW, or somatic health care information;

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

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

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

32 (a) A substantial risk that: (i) Physical harm will be inflicted
33 by a person upon his or her own person, as evidenced by threats or
34 attempts to commit suicide or inflict physical harm on oneself; (ii)
35 physical harm will be inflicted by a person upon another, as evidenced
36 by behavior which has caused such harm or which places another person
37 or persons in reasonable fear of sustaining such harm; or (iii)

1 physical harm will be inflicted by a person upon the property of
2 others, as evidenced by behavior which has caused substantial loss or
3 damage to the property of others; or

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

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

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

14 (28) "Mental health service provider" means a public or private
15 agency that provides mental health services to persons with mental
16 disorders as defined under this section and receives funding from
17 public sources. This includes, but is not limited to, hospitals
18 licensed under chapter 70.41 RCW, evaluation and treatment facilities
19 as defined in this section, community mental health service delivery
20 systems or community mental health programs as defined in RCW
21 71.24.025, facilities conducting competency evaluations and restoration
22 under chapter 10.77 RCW, and correctional facilities operated by state
23 and local governments;

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

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

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

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

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

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

13 (35) "Public agency" means any evaluation and treatment facility or
14 institution, or hospital which is conducted for, or includes a
15 department or ward conducted for, the care and treatment of persons
16 with mental illness, if the agency is operated directly by, federal,
17 state, county, or municipal government, or a combination of such
18 governments;

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

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

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

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

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

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

35 (42) "Therapeutic court personnel" means the staff of a mental
36 health court or other therapeutic court which has jurisdiction over
37 defendants who are dually diagnosed with mental disorders, including

1 court personnel, probation officers, a court monitor, prosecuting
2 attorney, or defense counsel acting within the scope of therapeutic
3 court duties;

4 (43) "Triage facility" means a short-term facility or a portion of
5 a facility licensed by the department of health and certified by the
6 department of social and health services under RCW 71.24.035, which is
7 designed as a facility to assess and stabilize an individual or
8 determine the need for involuntary commitment of an individual, and
9 must meet department of health residential treatment facility
10 standards. A triage facility may be structured as a voluntary or
11 involuntary placement facility;

12 (44) "Treatment records" include registration and all other records
13 concerning persons who are receiving or who at any time have received
14 services for mental illness, which are maintained by the department, by
15 regional support networks and their staffs, and by treatment
16 facilities. Treatment records include mental health information
17 contained in a medical bill including but not limited to mental health
18 drugs, a mental health diagnosis, provider name, and dates of service
19 stemming from a medical service. Treatment records do not include
20 notes or records maintained for personal use by a person providing
21 treatment services for the department, regional support networks, or a
22 treatment facility if the notes or records are not available to others;

23 ~~((44))~~ (45) "Violent act" means behavior that resulted in
24 homicide, attempted suicide, nonfatal injuries, or substantial damage
25 to property.

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

28 (1) When a designated mental health professional receives
29 information alleging that a person, as the result of a mental disorder,
30 presents an imminent likelihood of serious harm, or is in imminent
31 danger because of being gravely disabled, after investigation and
32 evaluation of the specific facts alleged and of the reliability and
33 credibility of the person or persons providing the information if any,
34 the designated mental health professional may take such person, or
35 cause by oral or written order such person to be taken into emergency
36 custody in an evaluation and treatment facility for not more than
37 seventy-two hours as described in RCW 71.05.180.

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

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

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

11 (3) Persons delivered to a crisis stabilization unit, evaluation
12 and treatment facility, ~~((or the))~~ emergency department of a local
13 hospital, or triage facility that has elected to operate as an
14 involuntary facility by peace officers pursuant to subsection (2) of
15 this section may be held by the facility for a period of up to twelve
16 hours ~~((: PROVIDED, That they are examined by a mental health~~
17 ~~professional))~~.

18 (4) Within three hours of ((their)) arrival, the person must be
19 examined by a mental health professional. Within twelve hours of
20 ~~((their))~~ arrival, the designated mental health professional must
21 determine whether the individual meets detention criteria. If the
22 individual is detained, the designated mental health professional shall
23 file a petition for detention or a supplemental petition as appropriate
24 and commence service on the designated attorney for the detained
25 person.

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

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

33 (a) Take the individual to a crisis stabilization unit as defined
34 in RCW 71.05.020(6). Individuals delivered to a crisis stabilization
35 unit pursuant to this section may be held by the facility for a period
36 of up to twelve hours ~~((: PROVIDED, That they are))~~. The individual

1 must be examined by a mental health professional within three hours of
2 (~~their~~) arrival;

3 (b) Take the individual to a triage facility as defined in RCW
4 71.05.020. An individual delivered to a triage facility which has
5 elected to operate as an involuntary facility may be held up to a
6 period of twelve hours. The individual must be examined by a mental
7 health professional within three hours of arrival;

8 (c) Refer the individual to a mental health professional for
9 evaluation for initial detention and proceeding under chapter 71.05
10 RCW; or

11 (~~(c)~~) (d) Release the individual upon agreement to voluntary
12 participation in outpatient treatment.

13 (2) In deciding whether to refer the individual to treatment under
14 this section, the police officer shall be guided by standards mutually
15 agreed upon with the prosecuting authority, which address, at a
16 minimum, the length, seriousness, and recency of the known criminal
17 history of the individual, the mental health history of the individual,
18 where available, and the circumstances surrounding the commission of
19 the alleged offense.

20 (3) Any agreement to participate in treatment shall not require
21 individuals to stipulate to any of the alleged facts regarding the
22 criminal activity as a prerequisite to participation in a mental health
23 treatment alternative. The agreement is inadmissible in any criminal
24 or civil proceeding. The agreement does not create immunity from
25 prosecution for the alleged criminal activity.

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

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

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

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

34 NEW SECTION. Sec. 4. Facilities providing triage services as of
35 the effective date of this section are not required to relicense or
36 recertify under any new rules governing licensure or certification of
37 triage facilities. The department of social and health services shall

1 work with the Washington association of counties and the Washington
2 association of sheriffs and police chiefs in creating rules that
3 establish standards for certification of triage facilities. These
4 rules must not require triage facilities to provide twenty-four hour
5 nursing.

6 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 immediately.

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