
SENATE BILL 5028

State of Washington

62nd Legislature

2011 Regular Session

By Senators Haugen, Stevens, Harper, and Shin

Read first time 01/10/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to triage facilities; amending RCW 71.05.153 and
2 10.31.110; and reenacting and amending RCW 71.05.020.

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

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

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

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

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

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

18 (4) "Commitment" means the determination by a court that a person

1 should be detained for a period of either evaluation or treatment, or
2 both, in an inpatient or a less restrictive setting;

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

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

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

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

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

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

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

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

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

37 (14) "Developmental disability" means that condition defined in RCW
38 71A.10.020(3);

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

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

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

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

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

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

37 (21) "Individualized service plan" means a plan prepared by a

1 developmental disabilities professional with other professionals as a
2 team, for a person with developmental disabilities, which shall state:

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

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

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

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

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

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

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

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

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

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

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

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

1 others, as evidenced by behavior which has caused substantial loss or
2 damage to the property of others; or

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

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

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

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

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

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

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

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

22 ~~((44))~~ (45) "Violent act" means behavior that resulted in
23 homicide, attempted suicide, nonfatal injuries, or substantial damage
24 to property.

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

27 (1) When a designated mental health professional receives
28 information alleging that a person, as the result of a mental disorder,
29 presents an imminent likelihood of serious harm, or is in imminent
30 danger because of being gravely disabled, after investigation and
31 evaluation of the specific facts alleged and of the reliability and
32 credibility of the person or persons providing the information if any,
33 the designated mental health professional may take such person, or
34 cause by oral or written order such person to be taken into emergency
35 custody in an evaluation and treatment facility for not more than
36 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 triage facility, crisis stabilization
12 unit, evaluation and treatment facility, or the emergency department of
13 a local hospital by peace officers pursuant to subsection (2) of this
14 section may be held by the facility for a period of up to twelve hours:
15 PROVIDED, That they are examined by a mental health professional within
16 three hours of their arrival. Within twelve hours of their arrival,
17 the designated mental health professional must determine whether the
18 individual meets detention criteria. If the individual is detained,
19 the designated mental health professional shall file a petition for
20 detention or a supplemental petition as appropriate and commence
21 service on the designated attorney for the detained person.

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

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

29 (a) Take the individual to a crisis stabilization unit as defined
30 in RCW 71.05.020(6). Individuals delivered to a crisis stabilization
31 unit pursuant to this section may be held by the facility for a period
32 of up to twelve hours: PROVIDED, That they are examined by a mental
33 health professional within three hours of their arrival;

34 (b) Take the individual to a triage facility as defined in RCW
35 71.05.020. An individual delivered to a triage facility may be held up
36 to a period of twelve hours: PROVIDED, That he or she is examined by
37 a mental health professional within three hours of his or her arrival;

1 (c) Refer the individual to a mental health professional for
2 evaluation for initial detention and proceeding under chapter 71.05
3 RCW; or

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

6 (2) In deciding whether to refer the individual to treatment under
7 this section, the police officer shall be guided by standards mutually
8 agreed upon with the prosecuting authority, which address, at a
9 minimum, the length, seriousness, and recency of the known criminal
10 history of the individual, the mental health history of the individual,
11 where available, and the circumstances surrounding the commission of
12 the alleged offense.

13 (3) Any agreement to participate in treatment shall not require
14 individuals to stipulate to any of the alleged facts regarding the
15 criminal activity as a prerequisite to participation in a mental health
16 treatment alternative. The agreement is inadmissible in any criminal
17 or civil proceeding. The agreement does not create immunity from
18 prosecution for the alleged criminal activity.

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

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

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

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

--- END ---