
HOUSE BILL 1259

State of Washington 65th Legislature 2017 Regular Session

By Representatives Klippert, Goodman, Rodne, and Hayes

Read first time 01/16/17. Referred to Committee on Judiciary.

1 AN ACT Relating to standards for detention of persons with mental
2 disorders or chemical dependency; amending RCW 70.96B.045, 71.05.050,
3 71.05.050, 71.05.153, 71.05.153, and 71.05.153; providing effective
4 dates; and providing expiration dates.

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

6 **Sec. 1.** RCW 70.96B.045 and 2007 c 120 s 2 are each amended to
7 read as follows:

8 (1) If a designated crisis responder receives information
9 alleging that a person, as the result of:

10 (a) A mental disorder, presents (~~(an imminent)~~) a substantial
11 likelihood of serious harm, or is in (~~imminent~~) a substantial
12 likelihood of danger because of being gravely disabled, after
13 investigation and evaluation of the specific facts alleged and of the
14 reliability and credibility of the person or persons providing the
15 information if any, the designated crisis responder may take the
16 person, or cause by oral or written order the person to be taken into
17 emergency custody in an evaluation and treatment facility for not
18 more than seventy-two hours as described in this chapter; or

19 (b) Chemical dependency, presents (~~(an imminent)~~) a substantial
20 likelihood of serious harm, or is in (~~imminent~~) a substantial
21 likelihood of danger because of being gravely disabled, after

1 investigation and evaluation of the specific facts alleged and of the
2 reliability and credibility of the person or persons providing the
3 information if any, the designated crisis responder may take the
4 person, or cause by oral or written order the person to be taken,
5 into emergency custody in a secure detoxification facility for not
6 more than seventy-two hours as described in this chapter.

7 (2) The evaluation and treatment facility, the secure
8 detoxification facility, or other certified chemical dependency
9 provider shall then evaluate the person's condition and admit,
10 detain, transfer, or discharge such person in accordance with this
11 chapter. The facility shall notify in writing the court and the
12 designated crisis responder of the date and time of the initial
13 detention of each person involuntarily detained so that a probable
14 cause hearing will be held no later than seventy-two hours after
15 detention.

16 (3) A peace officer may take or cause the person to be taken into
17 custody and immediately delivered to an evaluation and treatment
18 facility, secure detoxification facility, or other certified chemical
19 dependency treatment provider: (a) Pursuant to this section; or (b)
20 when he or she has reasonable cause to believe that such person, as a
21 result of a mental disorder or chemical dependency, presents ((an
22 imminent)) a substantial likelihood of serious harm, or is in
23 ((imminent)) a substantial likelihood of danger because of being
24 gravely disabled. An individual brought to a facility by a peace
25 officer may be held for up to twelve hours: PROVIDED, That the
26 individual is examined by a designated crisis responder within three
27 hours of arrival. Within twelve hours of arrival the designated
28 crisis responder must determine whether the individual meets
29 detention criteria. If the individual is detained, the designated
30 mental health professional shall file a petition for detention or
31 supplemental petition as appropriate and commence service on the
32 designated attorney for the detained person.

33 (4) Nothing in this chapter limits the power of a peace officer
34 to take a person into custody and immediately deliver the person to
35 the emergency department of a local hospital or to a detoxification
36 facility.

37 **Sec. 2.** RCW 71.05.050 and 2015 c 269 s 5 are each amended to
38 read as follows:

1 (1) Nothing in this chapter shall be construed to limit the right
2 of any person to apply voluntarily to any public or private agency or
3 practitioner for treatment of a mental disorder, either by direct
4 application or by referral. Any person voluntarily admitted for
5 inpatient treatment to any public or private agency shall be released
6 immediately upon his or her request. Any person voluntarily admitted
7 for inpatient treatment to any public or private agency shall orally
8 be advised of the right to immediate discharge, and further advised
9 of such rights in writing as are secured to them pursuant to this
10 chapter and their rights of access to attorneys, courts, and other
11 legal redress. Their condition and status shall be reviewed at least
12 once each one hundred eighty days for evaluation as to the need for
13 further treatment or possible discharge, at which time they shall
14 again be advised of their right to discharge upon request.

15 (2) If the professional staff of any public or private agency or
16 hospital (~~((regards))~~) determines that a person voluntarily admitted
17 who requests discharge (~~((as presenting))~~) presents, as a result of a
18 mental disorder, (~~((an imminent))~~) a substantial likelihood of serious
19 harm, or is in substantial likelihood of being gravely disabled, they
20 may detain such person for sufficient time to notify the designated
21 mental health professional of such person's condition to enable the
22 designated mental health professional to authorize such person being
23 further held in custody or transported to an evaluation and treatment
24 center pursuant to the provisions of this chapter, which shall in
25 ordinary circumstances be no later than the next judicial day.

26 (3) If a person is brought to the emergency room of a public or
27 private agency or hospital for observation or treatment, the person
28 refuses voluntary admission, and the professional staff of the public
29 or private agency or hospital (~~((regard))~~) determines that such person
30 (~~((as presenting))~~) presents as a result of a mental disorder (~~((an~~
31 ~~imminent))~~) a substantial likelihood of serious harm, or (~~((as~~
32 ~~presenting an imminent))~~) is in a substantial likelihood of danger
33 because of (~~((grave disability))~~) being gravely disabled, they may
34 detain such person for sufficient time to notify the designated
35 mental health professional of such person's condition to enable the
36 designated mental health professional to authorize such person being
37 further held in custody or transported to an evaluation treatment
38 center pursuant to the conditions in this chapter, but which time
39 shall be no more than six hours from the time the professional staff

1 notify the designated mental health professional of the need for
2 evaluation, not counting time periods prior to medical clearance.

3 (4) Dismissal of a commitment petition is not the appropriate
4 remedy for a violation of the timeliness requirements of this section
5 based on the intent of this chapter under RCW 71.05.010 except in the
6 few cases where the facility staff or designated mental health
7 professional has totally disregarded the requirements of this
8 section.

9 **Sec. 3.** RCW 71.05.050 and 2016 1st sp.s. c 29 s 207 are each
10 amended to read as follows:

11 (1) Nothing in this chapter shall be construed to limit the right
12 of any person to apply voluntarily to any public or private agency or
13 practitioner for treatment of a mental disorder or substance use
14 disorder, either by direct application or by referral. Any person
15 voluntarily admitted for inpatient treatment to any public or private
16 agency shall be released immediately upon his or her request. Any
17 person voluntarily admitted for inpatient treatment to any public or
18 private agency shall orally be advised of the right to immediate
19 discharge, and further advised of such rights in writing as are
20 secured to them pursuant to this chapter and their rights of access
21 to attorneys, courts, and other legal redress. Their condition and
22 status shall be reviewed at least once each one hundred eighty days
23 for evaluation as to the need for further treatment or possible
24 discharge, at which time they shall again be advised of their right
25 to discharge upon request.

26 (2) If the professional staff of any public or private agency or
27 hospital (~~((regards))~~) determines that a person voluntarily admitted
28 who requests discharge (~~((as presenting))~~) presents, as a result of a
29 mental disorder or substance use disorder, (~~((an imminent))~~) a
30 substantial likelihood of serious harm, or is in substantial
31 likelihood of being gravely disabled, they may detain such person for
32 sufficient time to notify the designated crisis responder of such
33 person's condition to enable the designated crisis responder to
34 authorize such person being further held in custody or transported to
35 an evaluation and treatment center, secure detoxification facility,
36 or approved substance use disorder treatment program pursuant to the
37 provisions of this chapter, which shall in ordinary circumstances be
38 no later than the next judicial day.

1 (3) If a person is brought to the emergency room of a public or
2 private agency or hospital for observation or treatment, the person
3 refuses voluntary admission, and the professional staff of the public
4 or private agency or hospital (~~(regard)~~) determines that such person
5 (~~(as presenting)~~) presents as a result of a mental disorder or
6 substance use disorder (~~(an imminent)~~) a substantial likelihood of
7 serious harm, or (~~(as presenting an imminent)~~) is in substantial
8 likelihood of danger because of (~~(grave disability)~~) being gravely
9 disabled, they may detain such person for sufficient time to notify
10 the designated crisis responder of such person's condition to enable
11 the designated crisis responder to authorize such person being
12 further held in custody or transported to an evaluation treatment
13 center, secure detoxification facility, or approved substance use
14 disorder treatment program pursuant to the conditions in this
15 chapter, but which time shall be no more than six hours from the time
16 the professional staff notify the designated crisis responder of the
17 need for evaluation, not counting time periods prior to medical
18 clearance.

19 (4) Dismissal of a commitment petition is not the appropriate
20 remedy for a violation of the timeliness requirements of this section
21 based on the intent of this chapter under RCW 71.05.010 except in the
22 few cases where the facility staff or designated crisis responder has
23 totally disregarded the requirements of this section.

24 **Sec. 4.** RCW 71.05.153 and 2015 c 269 s 6 are each amended to
25 read as follows:

26 (1) When a designated mental health professional receives
27 information alleging that a person, as the result of a mental
28 disorder, presents (~~(an imminent)~~) a substantial likelihood of
29 serious harm, or is in (~~(imminent)~~) a substantial likelihood of
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
33 any, the designated mental health professional may take such person,
34 or cause by oral or written order such person to be taken into
35 emergency custody in an evaluation and treatment facility for not
36 more than seventy-two hours as described in RCW 71.05.180.

37 (2) A peace officer may take or cause such person to be taken
38 into custody and immediately delivered to a triage facility, crisis
39 stabilization unit, evaluation and treatment facility, or the

1 emergency department of a local hospital under the following
2 circumstances:

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

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

9 (3) Persons delivered to a crisis stabilization unit, evaluation
10 and treatment facility, emergency department of a local hospital, or
11 triage facility that has elected to operate as an involuntary
12 facility by peace officers pursuant to subsection (2) of this section
13 may be held by the facility for a period of up to twelve hours, not
14 counting time periods prior to medical clearance.

15 (4) Within three hours after arrival, not counting time periods
16 prior to medical clearance, the person must be examined by a mental
17 health professional. Within twelve hours of notice of the need for
18 evaluation, not counting time periods prior to medical clearance, the
19 designated mental health professional must determine whether the
20 individual meets detention criteria. If the individual is detained,
21 the designated mental health professional shall file a petition for
22 detention or a supplemental petition as appropriate and commence
23 service on the designated attorney for the detained person. If the
24 individual is released to the community, the mental health provider
25 shall inform the peace officer of the release within a reasonable
26 period of time after the release if the peace officer has
27 specifically requested notification and provided contact information
28 to the provider.

29 (5) Dismissal of a commitment petition is not the appropriate
30 remedy for a violation of the timeliness requirements of this section
31 based on the intent of this chapter under RCW 71.05.010 except in the
32 few cases where the facility staff or designated mental health
33 professional has totally disregarded the requirements of this
34 section.

35 **Sec. 5.** RCW 71.05.153 and 2016 1st sp.s. c 29 s 212 are each
36 amended to read as follows:

37 (1) When a designated crisis responder receives information
38 alleging that a person, as the result of a mental disorder, presents
39 (~~an imminent~~) a substantial likelihood of serious harm, or is in

1 (~~imminent~~) a substantial likelihood of danger because of being
2 gravely disabled, after investigation and evaluation of the specific
3 facts alleged and of the reliability and credibility of the person or
4 persons providing the information if any, the designated crisis
5 responder may take such person, or cause by oral or written order
6 such person to be taken into emergency custody in an evaluation and
7 treatment facility for not more than seventy-two hours as described
8 in RCW 71.05.180.

9 (2) When a designated crisis responder receives information
10 alleging that a person, as the result of substance use disorder,
11 presents (~~an imminent~~) a substantial likelihood of serious harm, or
12 is in (~~imminent~~) a substantial likelihood of danger because of
13 being gravely disabled, after investigation and evaluation of the
14 specific facts alleged and of the reliability and credibility of the
15 person or persons providing the information if any, the designated
16 crisis responder may take the person, or cause by oral or written
17 order the person to be taken, into emergency custody in a secure
18 detoxification facility or approved substance use disorder treatment
19 program for not more than seventy-two hours as described in RCW
20 71.05.180, if a secure detoxification facility or approved substance
21 use disorder treatment program is available and has adequate space
22 for the person.

23 (3)(a) Subject to (b) of this subsection, a peace officer may
24 take or cause such person to be taken into custody and immediately
25 delivered to a triage facility, crisis stabilization unit, evaluation
26 and treatment facility, secure detoxification facility, approved
27 substance use disorder treatment program, or the emergency department
28 of a local hospital under the following circumstances:

- 29 (i) Pursuant to subsection (1) or (2) of this section; or
30 (ii) When he or she has reasonable cause to believe that such
31 person is suffering from a mental disorder or substance use disorder
32 and presents an imminent likelihood of serious harm or is in imminent
33 danger because of being gravely disabled.

34 (b) A peace officer's delivery of a person, based on a substance
35 use disorder, to a secure detoxification facility or approved
36 substance use disorder treatment program is subject to the
37 availability of a secure detoxification facility or approved
38 substance use disorder treatment program with adequate space for the
39 person.

1 (4) Persons delivered to a crisis stabilization unit, evaluation
2 and treatment facility, emergency department of a local hospital,
3 triage facility that has elected to operate as an involuntary
4 facility, secure detoxification facility, or approved substance use
5 disorder treatment program by peace officers pursuant to subsection
6 (3) of this section may be held by the facility for a period of up to
7 twelve hours, not counting time periods prior to medical clearance.

8 (5) Within three hours after arrival, not counting time periods
9 prior to medical clearance, the person must be examined by a mental
10 health professional. Within twelve hours of notice of the need for
11 evaluation, not counting time periods prior to medical clearance, the
12 designated crisis responder must determine whether the individual
13 meets detention criteria. If the individual is detained, the
14 designated crisis responder shall file a petition for detention or a
15 supplemental petition as appropriate and commence service on the
16 designated attorney for the detained person. If the individual is
17 released to the community, the mental health service provider shall
18 inform the peace officer of the release within a reasonable period of
19 time after the release if the peace officer has specifically
20 requested notification and provided contact information to the
21 provider.

22 (6) Dismissal of a commitment petition is not the appropriate
23 remedy for a violation of the timeliness requirements of this section
24 based on the intent of this chapter under RCW 71.05.010 except in the
25 few cases where the facility staff or designated mental health
26 professional has totally disregarded the requirements of this
27 section.

28 **Sec. 6.** RCW 71.05.153 and 2016 1st sp.s. c 29 s 213 are each
29 amended to read as follows:

30 (1) When a designated crisis responder receives information
31 alleging that a person, as the result of a mental disorder, presents
32 (~~(an imminent))~~) a substantial likelihood of serious harm, or is in
33 (~~(imminent))~~) a substantial likelihood of danger because of being
34 gravely disabled, after investigation and evaluation of the specific
35 facts alleged and of the reliability and credibility of the person or
36 persons providing the information if any, the designated crisis
37 responder may take such person, or cause by oral or written order
38 such person to be taken into emergency custody in an evaluation and

1 treatment facility for not more than seventy-two hours as described
2 in RCW 71.05.180.

3 (2) When a designated crisis responder receives information
4 alleging that a person, as the result of substance use disorder,
5 presents (~~(an imminent)~~) a substantial likelihood of serious harm, or
6 is in (~~(imminent)~~) a substantial likelihood of danger because of
7 being gravely disabled, after investigation and evaluation of the
8 specific facts alleged and of the reliability and credibility of the
9 person or persons providing the information if any, the designated
10 crisis responder may take the person, or cause by oral or written
11 order the person to be taken, into emergency custody in a secure
12 detoxification facility or approved substance use disorder treatment
13 program for not more than seventy-two hours as described in RCW
14 71.05.180.

15 (3) A peace officer may take or cause such person to be taken
16 into custody and immediately delivered to a triage facility, crisis
17 stabilization unit, evaluation and treatment facility, secure
18 detoxification facility, approved substance use disorder treatment
19 program, or the emergency department of a local hospital under the
20 following circumstances:

21 (a) Pursuant to subsection (1) or (2) of this section; or

22 (b) When he or she has reasonable cause to believe that such
23 person is suffering from a mental disorder or substance use disorder
24 and presents an imminent likelihood of serious harm or is in imminent
25 danger because of being gravely disabled.

26 (4) Persons delivered to a crisis stabilization unit, evaluation
27 and treatment facility, emergency department of a local hospital,
28 triage facility that has elected to operate as an involuntary
29 facility, secure detoxification facility, or approved substance use
30 disorder treatment program by peace officers pursuant to subsection
31 (3) of this section may be held by the facility for a period of up to
32 twelve hours, not counting time periods prior to medical clearance.

33 (5) Within three hours after arrival, not counting time periods
34 prior to medical clearance, the person must be examined by a mental
35 health professional. Within twelve hours of notice of the need for
36 evaluation, not counting time periods prior to medical clearance, the
37 designated crisis responder must determine whether the individual
38 meets detention criteria. If the individual is detained, the
39 designated crisis responder shall file a petition for detention or a
40 supplemental petition as appropriate and commence service on the

1 designated attorney for the detained person. If the individual is
2 released to the community, the mental health service provider shall
3 inform the peace officer of the release within a reasonable period of
4 time after the release if the peace officer has specifically
5 requested notification and provided contact information to the
6 provider.

7 (6) Dismissal of a commitment petition is not the appropriate
8 remedy for a violation of the timeliness requirements of this section
9 based on the intent of this chapter under RCW 71.05.010 except in the
10 few cases where the facility staff or designated mental health
11 professional has totally disregarded the requirements of this
12 section.

13 NEW SECTION. **Sec. 7.** Sections 1, 2, and 4 of this act expire
14 April 1, 2018.

15 NEW SECTION. **Sec. 8.** Sections 3 and 5 of this act take effect
16 April 1, 2018.

17 NEW SECTION. **Sec. 9.** Section 5 of this act expires July 1,
18 2026.

19 NEW SECTION. **Sec. 10.** Section 6 of this act takes effect July
20 1, 2026.

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