
HOUSE BILL 2401

State of Washington

65th Legislature

2018 Regular Session

By Representatives Jenkins, Rodne, Macri, and Appleton

Prefiled 01/05/18. Read first time 01/08/18. Referred to Committee on Judiciary.

1 AN ACT Relating to suspending the evaluation, detention, and
2 commitment of persons with a substance use disorder when secure
3 detoxification facility beds are not available; amending RCW
4 71.05.750, 71.05.750, and 71.05.755; providing an effective date;
5 providing an expiration date; and declaring an emergency.

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

7 **Sec. 1.** RCW 71.05.750 and 2015 c 269 s 3 are each amended to
8 read as follows:

9 (1) A designated mental health professional shall make a report
10 to the department when he or she determines a person meets detention
11 criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and:

12 (a) For a person determined to meet detention criteria as the
13 result of a mental disorder, there are not any beds available at an
14 evaluation and treatment facility, the person has not been
15 provisionally accepted for admission by a facility, and the person
16 cannot be served on a single bed certification or less restrictive
17 alternative; or

18 (b) For a person determined to meet detention criteria as the
19 result of a substance use disorder, there are not any beds available
20 in a secure detoxification facility or approved substance use
21 disorder treatment program and the person cannot be served on a less

1 restrictive alternative. Starting at the time when the designated
2 mental health professional determines a person meets detention
3 criteria and the investigation has been completed, the designated
4 mental health professional has twenty-four hours to submit a
5 completed report to the department.

6 (2) The report required under subsection (1) of this section must
7 contain at a minimum:

8 (a) The date and time that the investigation was completed;

9 (b) The identity of the responsible regional support network or
10 behavioral health organization;

11 (c) The county in which the person met detention criteria;

12 (d) A list of facilities which refused to admit the person;
13 (~~and~~)

14 (e) Identifying information for the person, including age or date
15 of birth;

16 (f) Whether the person met detention criteria as a result of a
17 mental disorder; and

18 (g) Whether the person met detention criteria as a result of a
19 substance use disorder.

20 (3) The department shall develop a standardized reporting form or
21 modify the current form used for single bed certifications for the
22 report required under subsection (2) of this section and may require
23 additional reporting elements as it determines are necessary or
24 supportive. The department shall also determine the method for the
25 transmission of the completed report from the designated mental
26 health professional to the department.

27 (4) The department shall create quarterly reports displayed on
28 its web site that summarize the information reported under subsection
29 (2) of this section. At a minimum, the reports must display data by
30 county and by month. The reports must also include the number of
31 single bed certifications granted by category. The categories must
32 include all of the reasons that the department recognizes for issuing
33 a single bed certification, as identified in rule.

34 (5) The reports provided according to this section may not
35 display "protected health information" as that term is used in the
36 federal health insurance portability and accountability act of 1996,
37 nor information contained in "mental health treatment records" as
38 that term is used in chapter 70.02 RCW or elsewhere in state law, and
39 must otherwise be compliant with state and federal privacy laws.

1 (6) For purposes of this section, the term "single bed
2 certification" means a situation in which an adult on a seventy-two
3 hour detention, fourteen-day commitment, ninety-day commitment, or
4 one hundred eighty-day commitment is detained to a facility that is:

5 (a) Not certified as an inpatient evaluation and treatment
6 facility; or

7 (b) A certified inpatient evaluation and treatment facility that
8 is already at capacity.

9 **Sec. 2.** RCW 71.05.750 and 2016 sp.s. c 29 s 253 are each amended
10 to read as follows:

11 (1) A designated crisis responder shall make a report to the
12 department when he or she determines a person meets detention
13 criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and:

14 (a) For a person determined to meet detention criteria as the
15 result of a mental disorder, there are not any beds available at an
16 evaluation and treatment facility, the person has not been
17 provisionally accepted for admission by a facility, and the person
18 cannot be served on a single bed certification or less restrictive
19 alternative; or

20 (b) For a person determined to meet detention criteria as the
21 result of a substance use disorder, there are not any beds available
22 in a secure detoxification facility or approved substance use
23 disorder treatment program and the person cannot be served on a less
24 restrictive alternative. Starting at the time when the designated
25 crisis responder determines a person meets detention criteria and the
26 investigation has been completed, the designated crisis responder has
27 twenty-four hours to submit a completed report to the department.

28 (2) The report required under subsection (1) of this section must
29 contain at a minimum:

30 (a) The date and time that the investigation was completed;

31 (b) The identity of the responsible behavioral health
32 organization;

33 (c) The county in which the person met detention criteria;

34 (d) A list of facilities which refused to admit the person;

35 ((and))

36 (e) Identifying information for the person, including age or date
37 of birth;

38 (f) Whether the person met detention criteria as a result of a
39 mental disorder; and

1 (g) Whether the person met detention criteria as a result of a
2 substance use disorder.

3 (3) The department shall develop a standardized reporting form or
4 modify the current form used for single bed certifications for the
5 report required under subsection (2) of this section and may require
6 additional reporting elements as it determines are necessary or
7 supportive. The department shall also determine the method for the
8 transmission of the completed report from the designated crisis
9 responder to the department.

10 (4) The department shall create quarterly reports displayed on
11 its web site that summarize the information reported under subsection
12 (2) of this section. At a minimum, the reports must display data by
13 county and by month. The reports must also include the number of
14 single bed certifications granted by category. The categories must
15 include all of the reasons that the department recognizes for issuing
16 a single bed certification, as identified in rule.

17 (5) The reports provided according to this section may not
18 display "protected health information" as that term is used in the
19 federal health insurance portability and accountability act of 1996,
20 nor information contained in "mental health treatment records" as
21 that term is used in chapter 70.02 RCW or elsewhere in state law, and
22 must otherwise be compliant with state and federal privacy laws.

23 (6) For purposes of this section, the term "single bed
24 certification" means a situation in which an adult on a seventy-two
25 hour detention, fourteen-day commitment, ninety-day commitment, or
26 one hundred eighty-day commitment is detained to a facility that is:

27 (a) Not certified as an inpatient evaluation and treatment
28 facility; or

29 (b) A certified inpatient evaluation and treatment facility that
30 is already at capacity.

31 **Sec. 3.** RCW 71.05.755 and 2015 c 269 s 4 are each amended to
32 read as follows:

33 (1) The department shall promptly share reports it receives under
34 RCW 71.05.750 with the responsible regional support network or
35 behavioral health organization. The regional support network or
36 behavioral health organization receiving this notification must
37 attempt to engage the person in appropriate services for which the
38 person is eligible and report back within seven days to the
39 department.

1 (2) The department shall track and analyze reports submitted
2 under RCW 71.05.750. The department must initiate corrective action
3 when appropriate to ensure that each regional support network or
4 behavioral health organization has implemented an adequate plan to
5 provide evaluation and treatment services. Corrective actions may
6 include remedies under RCW 71.24.330 and 43.20A.894, including
7 requiring expenditure of reserve funds. An adequate plan may include
8 development of less restrictive alternatives to involuntary
9 commitment such as crisis triage, crisis diversion, voluntary
10 treatment, or prevention programs reasonably calculated to reduce
11 demand for evaluation and treatment under this chapter.

12 (3)(a) If the department receives a total of sixty reports
13 submitted under RCW 71.05.750(1)(b) within any three-month period,
14 the operation and enforcement of provisions in RCW 71.05.150,
15 71.05.153, 71.34.700, 71.34.710, and 71.34.720 regarding evaluations,
16 detentions, and commitments for persons with a substance use disorder
17 are suspended.

18 (b) The suspension provided in (a) of this subsection is
19 effective the tenth business day after the department provides notice
20 to behavioral health organizations, designated crisis responders,
21 secure detoxification facilities, and hospitals, describing the
22 suspension provided in (a) of this subsection and stating that the
23 suspension will be effective ten business days from the date of the
24 notice.

25 (c) The suspension provided in (a) of this subsection terminates
26 forty-five calendar days after the department issues a notice to
27 behavioral health organizations, designated crisis responders, secure
28 detoxification facilities, and hospitals, stating that the suspension
29 will terminate forty-five calendar days from the date of the notice.
30 The department shall issue a resumption notice under this subsection
31 (3)(c) if, and only if, the department determines forty-eight
32 additional secure detoxification beds, including at least one
33 additional sixteen bed secure detoxification facility located in
34 eastern Washington, are operational.

35 (d) Nothing in this subsection (3) limits a certified secure
36 detoxification facility or approved substance use disorder treatment
37 program from treating voluntary patients. The department and the
38 health care authority must continue to pay or direct behavioral
39 health organizations and managed care organizations to pay certified
40 secure detoxification facilities and approved substance use disorder

1 treatment programs for services provided to patients receiving
2 voluntary treatment while the suspension provided in (a) of this
3 subsection is effective.

4 NEW SECTION. Sec. 4. Section 1 of this act expires April 1,
5 2018.

6 NEW SECTION. Sec. 5. Sections 1 and 3 of this act are necessary
7 for the immediate preservation of the public peace, health, or
8 safety, or support of the state government and its existing public
9 institutions, and take effect immediately.

10 NEW SECTION. Sec. 6. Section 2 of this act is necessary for the
11 immediate preservation of the public peace, health, or safety, or
12 support of the state government and its existing public institutions,
13 and takes effect April 1, 2018.

--- END ---