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ENGROSSED SENATE BILL 5800

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State of Washington

65th Legislature

2017 Regular Session

By Senator Baumgartner

Read first time 02/10/17. Referred to Committee on Health Care.

1 AN ACT Relating to obligations of mental health professionals;  
2 amending RCW 71.05.120; reenacting and amending RCW 71.05.120; adding  
3 a new section to chapter 71.05 RCW; providing an effective date; and  
4 providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.05  
7 RCW to read as follows:

8 (1) As used in this section:

9 (a) "Mental health professional" means a psychiatrist,  
10 psychologist, physician assistant working with a supervising  
11 psychiatrist, psychiatric advanced registered nurse practitioner,  
12 psychiatric nurse, social worker, or chemical dependency  
13 professional, and any person licensed by the department of health as  
14 a mental health counselor, mental health counselor associate,  
15 marriage and family therapist, or marriage and family therapist  
16 associate.

17 (b) "Mental health services" means voluntary or involuntary  
18 outpatient and inpatient services provided to diagnose or treat  
19 mental disorders covered by the diagnostic categories listed in the  
20 most current version of the diagnostic and statistical manual of

1 mental disorders, published by the American psychiatric association,  
2 or any successor publication.

3 (2) A mental health professional or an individual health care  
4 provider providing mental health services to a patient has a duty to  
5 warn of a patient's violent behavior only if the patient has  
6 communicated to the mental health professional or the individual  
7 health care provider providing mental health services to the patient  
8 an actual threat of physical violence that poses a serious or  
9 imminent threat to the health or safety of a reasonably identifiable  
10 person or persons.

11 (3) The duty to warn of a serious or imminent threat to the  
12 health or safety of a reasonably identifiable person or persons is  
13 discharged by the mental health professional or the individual health  
14 care provider providing mental health services to the patient if  
15 reasonable efforts are made to communicate the threat to the  
16 reasonably identifiable person or persons whose health or safety is  
17 threatened and to law enforcement personnel.

18 (4) No mental health professional or individual health care  
19 provider providing mental health services is liable for civil damages  
20 for discharging the duty to warn as provided in this section, or  
21 having discharged the duty to warn, for failing to predict, warn of,  
22 or take reasonable precautions to provide protections from a  
23 patient's violent behavior so long as the mental health professional  
24 or individual health care provider providing mental health services  
25 acted in good faith and without gross negligence.

26 (5) This section does not limit, and is in addition to, any other  
27 statutory immunities from liability of mental health professionals or  
28 individual health care providers as otherwise provided by law.

29 **Sec. 2.** RCW 71.05.120 and 2016 c 158 s 4 are each amended to  
30 read as follows:

31 (1) No officer of a public or private agency, nor the  
32 superintendent, professional person in charge, his or her  
33 professional designee, or attending staff of any such agency, nor any  
34 public official performing functions necessary to the administration  
35 of this chapter, nor peace officer responsible for detaining a person  
36 pursuant to this chapter, nor any ((~~county~~)) designated mental health  
37 professional, nor the state, a unit of local government, or an  
38 evaluation and treatment facility shall be civilly or criminally  
39 liable for performing duties pursuant to this chapter with regard to

1 the decision of whether to admit, discharge, release, administer  
2 antipsychotic medications, or detain a person for evaluation and  
3 treatment: PROVIDED, That such duties were performed in good faith  
4 and without gross negligence.

5 (2) Peace officers and their employing agencies are not liable  
6 for the referral of a person, or the failure to refer a person, to a  
7 mental health agency pursuant to a policy adopted pursuant to RCW  
8 71.05.457 if such action or inaction is taken in good faith and  
9 without gross negligence.

10 (3) This section does not relieve a person from giving the  
11 required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the  
12 duty to warn (~~or to take reasonable precautions to provide~~  
13 ~~protection from violent behavior where the patient has communicated~~  
14 ~~an actual threat of physical violence against a reasonably~~  
15 ~~identifiable victim or victims. The duty to warn or to take~~  
16 ~~reasonable precautions to provide protection from violent behavior is~~  
17 ~~discharged if reasonable efforts are made to communicate the threat~~  
18 ~~to the victim or victims and to law enforcement personnel)) as  
19 provided for in section 1 of this act.~~

20 **Sec. 3.** RCW 71.05.120 and 2016 sp.s. c 29 s 208 and 2016 c 158 s  
21 4 are each reenacted and amended to read as follows:

22 (1) No officer of a public or private agency, nor the  
23 superintendent, professional person in charge, his or her  
24 professional designee, or attending staff of any such agency, nor any  
25 public official performing functions necessary to the administration  
26 of this chapter, nor peace officer responsible for detaining a person  
27 pursuant to this chapter, nor any designated crisis responder, nor  
28 the state, a unit of local government, an evaluation and treatment  
29 facility, a secure detoxification facility, or an approved substance  
30 use disorder treatment program shall be civilly or criminally liable  
31 for performing duties pursuant to this chapter with regard to the  
32 decision of whether to admit, discharge, release, administer  
33 antipsychotic medications, or detain a person for evaluation and  
34 treatment: PROVIDED, That such duties were performed in good faith  
35 and without gross negligence.

36 (2) Peace officers and their employing agencies are not liable  
37 for the referral of a person, or the failure to refer a person, to a  
38 mental health agency pursuant to a policy adopted pursuant to RCW

1 71.05.457 if such action or inaction is taken in good faith and  
2 without gross negligence.

3 (3) This section does not relieve a person from giving the  
4 required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the  
5 duty to warn (~~or to take reasonable precautions to provide~~  
6 ~~protection from violent behavior where the patient has communicated~~  
7 ~~an actual threat of physical violence against a reasonably~~  
8 ~~identifiable victim or victims. The duty to warn or to take~~  
9 ~~reasonable precautions to provide protection from violent behavior is~~  
10 ~~discharged if reasonable efforts are made to communicate the threat~~  
11 ~~to the victim or victims and to law enforcement personnel)) as  
12 provided for in section 1 of this act.~~

13 NEW SECTION. **Sec. 4.** Section 2 of this act expires April 1,  
14 2018.

15 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect April  
16 1, 2018.

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