
HOUSE BILL 2283

State of Washington 64th Legislature 2015 2nd Special Session

By Representative Klippert

Prefiled 06/27/15.

1 AN ACT Relating to the mental health evaluation and treatment of
2 individuals who threaten to murder a family member or other person
3 who resides with the individual; reenacting and amending RCW
4 71.05.020 and 71.05.020; providing an effective date; providing an
5 expiration date; and declaring an emergency.

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

7 **Sec. 1.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are
8 each reenacted and amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

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

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

18 (3) "Attending staff" means any person on the staff of a public
19 or private agency having responsibility for the care and treatment of
20 a 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
10 hospital, which has been designed to assess, diagnose, and treat
11 individuals 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
25 to perform the duties specified in this chapter;

26 (11) "Designated mental health professional" means a mental
27 health professional designated by the county or other authority
28 authorized in 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
34 is a psychiatrist, psychologist, psychiatric advanced registered
35 nurse practitioner, or social worker, and such other developmental
36 disabilities professionals as may be defined by rules adopted by the
37 secretary;

38 (14) "Developmental disability" means that condition defined in
39 RCW 71A.10.020(~~((3))~~) (5);

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
7 care, and timely and appropriate inpatient care to persons suffering
8 from a mental disorder, and which is certified as such by the
9 department. A physically separate and separately operated portion of
10 a state hospital may be designated as an evaluation and treatment
11 facility. A facility which is part of, or operated by, the department
12 or any federal agency will not require certification. No correctional
13 institution or facility, or jail, shall be an evaluation and
14 treatment facility within 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
17 harm resulting from a failure to provide for his or her essential
18 human needs of health or safety; or (b) manifests severe
19 deterioration in routine functioning evidenced by repeated and
20 escalating loss of cognitive or volitional control over his or her
21 actions and is not receiving such care as is essential for his or her
22 health or safety;

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

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

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

38 (21) "Individualized service plan" means a plan prepared by a
39 developmental disabilities professional with other professionals as a

1 team, for a person with developmental disabilities, which shall
2 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
6 purposes 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
14 to less-restrictive settings, criteria for proposed eventual
15 discharge or release, and a projected possible date for discharge or
16 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
21 course of providing services to either voluntary or involuntary
22 recipients of services by a mental health service provider. This may
23 include documents of legal proceedings under this chapter or chapter
24 71.34 or 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
36 evidenced by behavior which has caused such harm or which places
37 another person or persons in reasonable fear of sustaining such harm;
38 ~~((e))~~ (iii) physical harm will be inflicted by a person who has
39 threatened to murder a family member or other person who resides with
40 the person, the threat seriously alarms the family member or other

1 person, and the threat places the family member or other person in
2 reasonable fear the person will attempt to carry out the threat; or
3 (iv) physical harm will be inflicted by a person upon the property of
4 others, as evidenced by behavior which has caused substantial loss or
5 damage to the property of others; or

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

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

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

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

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

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

36 (31) "Professional person" means a mental health professional and
37 shall also mean a physician, psychiatric advanced registered nurse
38 practitioner, registered nurse, and such others as may be defined by
39 rules adopted by the secretary pursuant to the provisions of this
40 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
6 physician and surgeon in this state who has in addition completed
7 three years of graduate training in psychiatry in a program approved
8 by the American medical association or the American osteopathic
9 association and is certified or eligible to be certified by the
10 American board of 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
14 or 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
21 other persons providing services to the department, county
22 departments, or facilities which identify persons who are receiving
23 or who at any time have received services for mental illness;

24 (37) "Release" means legal termination of the commitment under
25 the 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
31 in RCW 9.94A.030;

32 (41) "Social worker" means a person with a master's or further
33 advanced degree from a social work educational program accredited and
34 approved as provided in RCW 18.320.010;

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
38 court personnel, probation officers, a court monitor, prosecuting
39 attorney, or defense counsel acting within the scope of therapeutic
40 court duties;

1 (43) "Treatment records" include registration and all other
2 records concerning persons who are receiving or who at any time have
3 received services for mental illness, which are maintained by the
4 department, by regional support networks and their staffs, and by
5 treatment facilities. Treatment records include mental health
6 information contained in a medical bill including but not limited to
7 mental health drugs, a mental health diagnosis, provider name, and
8 dates of service stemming from a medical service. Treatment records
9 do not include notes or records maintained for personal use by a
10 person providing treatment services for the department, regional
11 support networks, or a treatment facility if the notes or records are
12 not available to others;

13 (44) "Triage facility" means a short-term facility or a portion
14 of a facility licensed by the department of health and certified by
15 the department of social and health services under RCW 71.24.035,
16 which is designed as a facility to assess and stabilize an individual
17 or determine the need for involuntary commitment of an individual,
18 and must meet department of health residential treatment facility
19 standards. A triage facility may be structured as a voluntary or
20 involuntary placement facility;

21 (~~(44) "Treatment records" include registration and all other~~
22 ~~records concerning persons who are receiving or who at any time have~~
23 ~~received services for mental illness, which are maintained by the~~
24 ~~department, by regional support networks and their staffs, and by~~
25 ~~treatment facilities. Treatment records include mental health~~
26 ~~information contained in a medical bill including but not limited to~~
27 ~~mental health drugs, a mental health diagnosis, provider name, and~~
28 ~~dates of service stemming from a medical service. Treatment records~~
29 ~~do not include notes or records maintained for personal use by a~~
30 ~~person providing treatment services for the department, regional~~
31 ~~support networks, or a treatment facility if the notes or records are~~
32 ~~not available to others;))~~

33 (45) "Violent act" means behavior that resulted in homicide,
34 attempted suicide, nonfatal injuries, or substantial damage to
35 property.

36 **Sec. 2.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and
37 amended to read as follows:

38 The definitions in this section apply throughout this chapter
39 unless the context clearly requires otherwise.

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

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

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

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

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

16 (6) "Crisis stabilization unit" means a short-term facility or a
17 portion of a facility licensed by the department of health and
18 certified by the department of social and health services under RCW
19 71.24.035, such as an evaluation and treatment facility or a
20 hospital, which has been designed to assess, diagnose, and treat
21 individuals experiencing an acute crisis without the use of long-term
22 hospitalization;

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

27 (8) "Department" means the department of social and health
28 services;

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

33 (10) "Designated crisis responder" means a mental health
34 professional appointed by the county or the behavioral health
35 organization to perform the duties specified in this chapter;

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

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

1 (13) "Developmental disabilities professional" means a person who
2 has specialized training and three years of experience in directly
3 treating or working with persons with developmental disabilities and
4 is a psychiatrist, psychologist, psychiatric advanced registered
5 nurse practitioner, or social worker, and such other developmental
6 disabilities professionals as may be defined by rules adopted by the
7 secretary;

8 (14) "Developmental disability" means that condition defined in
9 RCW 71A.10.020(~~(+4)~~) (5);

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

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

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

32 (18) "Habilitative services" means those services provided by
33 program personnel to assist persons in acquiring and maintaining life
34 skills and in raising their levels of physical, mental, social, and
35 vocational functioning. Habilitative services include education,
36 training for employment, and therapy. The habilitative process shall
37 be undertaken with recognition of the risk to the public safety
38 presented by the person being assisted as manifested by prior charged
39 criminal conduct;

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

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

8 (21) "Individualized service plan" means a plan prepared by a
9 developmental disabilities professional with other professionals as a
10 team, for a person with developmental disabilities, which shall
11 state:

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

14 (b) The conditions and strategies necessary to achieve the
15 purposes of habilitation;

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

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

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

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

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

28 (22) "Information related to mental health services" means all
29 information and records compiled, obtained, or maintained in the
30 course of providing services to either voluntary or involuntary
31 recipients of services by a mental health service provider. This may
32 include documents of legal proceedings under this chapter or chapter
33 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

1 (a) A substantial risk that: (i) Physical harm will be inflicted
2 by a person upon his or her own person, as evidenced by threats or
3 attempts to commit suicide or inflict physical harm on oneself; (ii)
4 physical harm will be inflicted by a person upon another, as
5 evidenced by behavior which has caused such harm or which places
6 another person or persons in reasonable fear of sustaining such harm;
7 ~~((or))~~ (iii) physical harm will be inflicted by a person who has
8 threatened to murder a family member or other person who resides with
9 the person, the threat seriously alarms the family member or other
10 person, and the threat places the family member or other person in
11 reasonable fear the person will attempt to carry out the threat; or
12 (iv) physical harm will be inflicted by a person upon the property of
13 others, as evidenced by behavior which has caused substantial loss or
14 damage to the property of others; or

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

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

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

25 (28) "Mental health service provider" means a public or private
26 agency that provides mental health services to persons with mental
27 disorders as defined under this section and receives funding from
28 public sources. This includes, but is not limited to, hospitals
29 licensed under chapter 70.41 RCW, evaluation and treatment facilities
30 as defined in this section, community mental health service delivery
31 systems or community mental health programs as defined in RCW
32 71.24.025, facilities conducting competency evaluations and
33 restoration under chapter 10.77 RCW, and correctional facilities
34 operated by state and local governments;

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

39 (30) "Private agency" means any person, partnership, corporation,
40 or association that is not a public agency, whether or not financed

1 in whole or in part by public funds, which constitutes an evaluation
2 and treatment facility or private institution, or hospital, which is
3 conducted for, or includes a department or ward conducted for, the
4 care and treatment of persons who are mentally ill;

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

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

14 (33) "Psychiatrist" means a person having a license as a
15 physician and surgeon in this state who has in addition completed
16 three years of graduate training in psychiatry in a program approved
17 by the American medical association or the American osteopathic
18 association and is certified or eligible to be certified by the
19 American board of psychiatry and neurology;

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

22 (35) "Public agency" means any evaluation and treatment facility
23 or institution, or hospital which is conducted for, or includes a
24 department or ward conducted for, the care and treatment of persons
25 with mental illness, if the agency is operated directly by, federal,
26 state, county, or municipal government, or a combination of such
27 governments;

28 (36) "Registration records" include all the records of the
29 department, behavioral health organizations, treatment facilities,
30 and other persons providing services to the department, county
31 departments, or facilities which identify persons who are receiving
32 or who at any time have received services for mental illness;

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

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

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

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

1 (41) "Social worker" means a person with a master's or further
2 advanced degree from a social work educational program accredited and
3 approved as provided in RCW 18.320.010;

4 (42) "Therapeutic court personnel" means the staff of a mental
5 health court or other therapeutic court which has jurisdiction over
6 defendants who are dually diagnosed with mental disorders, including
7 court personnel, probation officers, a court monitor, prosecuting
8 attorney, or defense counsel acting within the scope of therapeutic
9 court duties;

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

23 (44) "Triage facility" means a short-term facility or a portion
24 of a facility licensed by the department of health and certified by
25 the department of social and health services under RCW 71.24.035,
26 which is designed as a facility to assess and stabilize an individual
27 or determine the need for involuntary commitment of an individual,
28 and must meet department of health residential treatment facility
29 standards. A triage facility may be structured as a voluntary or
30 involuntary placement facility;

31 (45) "Violent act" means behavior that resulted in homicide,
32 attempted suicide, nonfatal injuries, or substantial damage to
33 property.

34 NEW SECTION. **Sec. 3.** Section 2 of this act takes effect April
35 1, 2016.

36 NEW SECTION. **Sec. 4.** Section 1 of this act expires April 1,
37 2016.

1 NEW SECTION. **Sec. 5.** Section 1 of this act is necessary for the
2 immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect immediately.

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