

## CHAPTER 25.

[ H. B. 1. ]

MENTAL ILLNESS AND INEBRIACY—  
TITLE 71 RCW REENACTMENT.

AN ACT enacting Title 71 of the Revised Code of Washington relating to mental illness and inebriacy; providing penalties; repealing sections 1 through 7, pages 113 and 114, Laws of 1879; sections 1 through 4, pages 13 and 14, Laws of 1881; sections 1671 through 1677, chapter 113, Code 1881; sections 1, 6 and 7, pages 32 and 33, Laws of 1883; sections 416 and 417, chapter 249, Laws of 1909; chapter 105, Laws of 1915; chapter 109, Laws of 1915; chapter 145, Laws of 1923; chapter 42, Laws of 1939; chapter 179, Laws of 1947; sections 1 through 19, 21 through 51 and 53 through 69, chapter 198, Laws of 1949; sections 1 through 5, 17 through 39, and 51 through 64, chapter 139, Laws of 1951; chapter 223, Laws of 1951; chapter 24, Laws of 1957; chapter 26, Laws of 1957; chapter 28, Laws of 1957; chapter 35, Laws of 1957; chapter 49, Laws of 1957; and chapter 184, Laws of 1957; and declaring an emergency.

*Be it enacted by the Legislature of the State of Washington:*

## TITLE 71

## MENTAL ILLNESS AND INEBRIACY

## Chapter 71.02

MENTAL ILLNESS—COMMITMENT  
PROCEDURE

SECTION 71.02.010 *Definitions.* As used in this chapter, the following terms shall have the following meanings:

“Mentally ill person” shall mean any person found to be suffering from psychosis or other disease impairing his mental health, and the symptoms of such disease are of a suicidal, homicidal, or incendiary nature, or of such nature which would render such person dangerous to his own life or to the lives or property of others.

“Patient” shall mean a person under observation, care or treatment in a state hospital, or a person found mentally ill by the court, and not discharged

from a state hospital, or other facility, to which such person had been ordered hospitalized.

“Licensed physician” shall mean an individual licensed as a physician under the laws of the state, or a medical officer, similarly qualified, of the government of the United States while in this state in performance of his official duties.

“State hospital” shall mean any hospital operated and maintained by the state of Washington for the care of the mentally ill.

“Superintendent” shall mean the superintendent of a state hospital.

“Court” shall mean the superior court of the state of Washington.

“Department” shall mean the department of institutions.

“Resident” shall mean a resident of the state of Washington who has maintained his domiciliary residence within this state for a period of two years immediately preceding commitment.

Wherever used in this chapter, the masculine shall include the feminine and the singular shall include the plural.

SEC. 71.02.020 *Construction of Chapter—Criminal Insane—“Insane” As Used in Other Statutes.* Nothing in this chapter shall be construed as affecting the laws of this state relating to the criminally insane or insane inmates of penal institutions. Where the term “insane” is used in other statutes of this state its meaning shall be synonymous with mental illness as defined in this chapter.

SEC. 71.02.090 *Involuntary Patients—Application to Court for Hospitalization.* Any person may make application to the superior court for the county in which an alleged mentally ill person is found for the involuntary hospitalization of such person. Such application shall be made under oath and shall be to the

effect that there is in such county a mentally ill person who by reason of such mental illness is unsafe to be at large and requesting that such person be taken before the superior court for examination. Before accepting said application for filing, the same must be endorsed by the prosecuting attorney of said county where the court has not designated some other person to the effect that he or his deputy has personally examined the applicant, investigated the merits of the application and believes reasonable grounds exist for filing of same.

SEC. 71.02.100 *Application—Liability of Applicant.* Any person making or filing an application alleging a person to be mentally ill under the provisions of this chapter shall not be rendered civilly or criminally liable where the making and filing of such application was in good faith.

SEC. 71.02.110 *Application—Probate Matter—Court Commissioners.* Applications for involuntary hospitalization shall be handled as a probate matter. Nothing in this chapter shall be construed as limiting or modifying the powers of the various court commissioners.

SEC. 71.02.120 *Application—Hearing Date—Detention Pending Hearing or Application.* Upon the filing of such application the court shall issue an order setting a date for hearing and examination. Such application may contain a statement to the effect that immediate apprehension and detention is necessary to safeguard the lives and property of the alleged mentally ill person or others. If such statement is contained in the application, the court shall issue an order of apprehension directing that the alleged mentally ill person be immediately apprehended and detained pending hearing and examination. The sheriff or other person as designated by the court, shall execute the order of apprehension.

In emergencies requiring immediate apprehension and restraint, or at times when superior courts are not open for business, any sheriff or other peace officer, may, when he shall have reasonable cause to believe any person is so mentally ill as to be unsafe to be at large, apprehend such person without warrant, wherever found, and detain him or her in suitable quarters until an application can be made as above provided.

**Note:** See also section 9, chapter 196, Laws of 1959.

SEC. 71.02.130 *Detention Wards, Counties—Use of Other Facilities, Cost—Examination of Patient, Duration.* There shall be set aside in each county of the state of Washington having a county hospital, such portions of such hospital as may be necessary for the detention and observation of those persons detained under the provisions of this chapter pending further proceedings. In each such hospital there shall be separate detention wards for males and females. The superior court may order the examination of such person by medical personnel for the purpose of obtaining testimony as to the alleged mentally ill person's condition. Such observation period shall not exceed sixty days unless a jury trial has been demanded: *Provided,* That in all counties having no county hospital, the court may designate as a detention ward the nearest state hospital for the mentally ill or such other place of detention and treatment as it may deem suitable for the purpose of this chapter, and the superintendents of the state hospitals for the mentally ill so designated shall admit such persons committed thereto in accordance with the provisions of this section: *Provided further,* That liability for the cost of detention and observation in a state hospital and responsibility for transportation to the hospital and return of the patient to the court shall be upon the county of the committing court.

**Note:** See also section 10, chapter 196, Laws of 1959.

SEC. 71.02.140 *Notice of Hearing—Service.* A copy of the application, notice of hearing, and order of apprehension shall be served upon the alleged mentally ill person by the sheriff or other person as designated by the court. The clerk of the court shall cause notice of hearing to be given to the guardian, spouse, or next of kin of the alleged mentally ill person, if known, and in that respective priority, unless such person shall have filed the original application. Such notice shall specify the name of the applicant, date of application, place of detention, and date, time, and place of hearing. Such notice shall also specify the alleged mentally ill person's right to trial by jury and right to be represented by counsel. Notice to the alleged mentally ill person may be eliminated if the court finds that the serving of such notice might be injurious to the health of such person and if a guardian ad litem is appointed.

SEC. 71.02.150 *Property of Patient—Safeguarding.* Any person apprehending an alleged mentally ill person under the provisions of this chapter shall take reasonable precautions to safeguard the property of such person. At any time after application has been filed the court may make such orders relative to such person's personal property as may seem necessary for his best interests, health and welfare, pending the appointment of a guardian of such person's estate.

SEC. 71.02.160 *Hearings—Time and Place—Privacy.* For the purpose of conducting hearings and examinations under this chapter, or chapter 72.23 RCW, court may be convened at any time and place within the limits of the county in which the court resides: *Provided,* That hearings and examinations under this chapter may be closed to the general public unless the guardian, attorney, or guardian ad litem representing the alleged mentally ill person

demands an open hearing as in other civil actions, or unless a jury is demanded.

SEC. 71.02.170 *Hearings—Evidence.* At the hearing on the application the court shall require the testimony of at least two licensed physicians, who shall have made a joint examination of the alleged mentally ill person, and who shall have filed with the court a written report of the facts and circumstances upon which their testimony is based. Such report shall contain a statement as to whether or not the person filed against is mentally ill. The person filed against, his guardian, relatives, or friends, or the court of its own motion, may summon or produce such witnesses and evidence as they may desire. At least two of the testifying physicians must have been appointed by the court for the purpose of examining the alleged mentally ill person.

SEC. 71.02.180 *Evidence — Subpoenas — Witness Fees.* Subpoenas may be issued to compel the attendance of witnesses or the production of evidence in the same manner as in civil cases: *Provided,* That such subpoenas shall be effective within the boundaries of the county of the issuing court. All witnesses shall be allowed witness fees as in criminal cases.

SEC. 71.02.190 *Hearing—Representation For Patient.* If no guardian of the person has been appointed, the court may appoint a guardian ad litem to represent the patient during proceedings. The person filed against shall have the right to be represented by an attorney if requested.

SEC. 71.02.200 *Hearing—Order of Hospitalization.* If the court shall find after hearing and examination that the person filed against is mentally ill, it shall enter an order directing the hospitalization of such person pursuant to section 71.02.240.

SEC. 71.02.210 *Jury Trial—Request For—Date, Detention Pending.* At commencement of hearing the person filed against, his guardian, attorney or guardian ad litem, may request a trial by jury. Such request shall be in writing and filed with the court accompanied by the required fee. The court shall then enter an order directing the alleged mentally ill person to be detained pending trial and shall set a date for such trial.

SEC. 71.02.220 *Jury Trial—Evidence—Order of Hospitalization.* Where trial is by jury the testimony and evidence required by section 71.02.170 shall be presented. After all the evidence is in the jury shall determine whether or not the person filed against is mentally ill. If the jury finds that such person is mentally ill the court shall enter an order directing the hospitalization of such person in accordance with section 71.02.240.

SEC. 71.02.230 *Expenses—By Whom Payable.* After a person has been found mentally ill under section 71.02.200, the court shall, after reasonable notice of the time, place and purpose of the hearing has been given to persons subject to liability under this section, inquire into the ability of the person's estate, or his spouse, parents or children, or any combination thereof, to pay the charges for transportation and hospitalization in a state hospital, detention pending proceedings, and court costs. If the court finds that the patient's estate or above named relatives, or combination thereof, are able to pay such charges or any part thereof, an order to such effect shall be entered. If the court finds that neither the patient's estate nor said relatives are able to pay the charge for transportation to and hospitalization in a state hospital, such costs shall be borne by the state of Washington. If the court finds that neither the patient's estate nor above relatives can pay charges for detention pending proceedings or court

costs, such costs shall be borne by the county. When a patient is a resident of another county, the committing county shall recover from the county of the patient's residence all costs and expenses of the patient's detention and commitment.

SEC. 71.02.240 *Order of Hospitalization or Custody—Inventory of Personal Effects.* Where a person is found to be mentally ill the court shall:

(1) Order a person hospitalized at a state hospital until released by the superintendent thereof; or

(2) Order such person hospitalized by the United States veterans' administration, or other agency of the United States government, where it appears that the mentally ill person is eligible for such treatment, and a certificate of eligibility has been obtained from the veterans' administration, or agency of the United States government, until released by such agency; or

(3) Order such person hospitalized at a private facility for the care and treatment of the mentally ill, where such facility is willing to accept such mentally ill person, until released by the chief officer thereof; or

(4) Where the mentally ill person is not dangerous to the lives or property of others, and is not dangerous to himself, the court may direct that custody of such person be given to such friends or relatives as are willing and able to care for him.

If ordered hospitalized all personal effects, including contents of trunks, boxes and other containers to be transferred with the patient, shall be inventoried by the sheriff or other person making the apprehension and a copy of said inventory shall be given to the representative of the hospital at the time of transfer of the patient.

SEC. 71.02.250 *Files Confidential—Record Entries.* All files in these cases shall be closed files subject to examination only on court order. Where a person is found mentally ill the clerk shall cause the



following facts to be noted in his probate docket: Name and age of such person, date of order of hospitalization, place of hospitalization, date of parole and date of discharge. Where a person is found not to be mentally ill the clerk shall cause such proceedings to be noted in an alphabetically arranged index, which index shall contain the following information: Name of person filed against, date of order dismissing proceedings, and probate cause number. This index shall be open to inspection only under court order. Nothing in this section shall be construed to prevent the forwarding of all case histories, physicians' reports, and other case data to the state hospital or other agency in which a mentally ill person may have been ordered hospitalized.

*Note:* See also section 1, chapter 51, Laws of 1959.

SEC. 71.02.260 *Alien Patients—Report.* Whenever any person shall be brought before the court for examination and hearing on application for involuntary hospitalization, the court shall, if such person is found mentally ill, inquire into the nationality of such person and may summon witnesses and require the production of documentary evidence for that purpose. If it shall appear that such person is an alien, the court shall cause the clerk to make out and transmit to the United States district director of immigration and naturalization in the state of Washington, and to the superintendent of the state hospital where such patient is to be hospitalized, a report showing the names and addresses of all witnesses who appeared and testified as to the nationality of the mentally ill person, a synopsis of the testimony of each witness and copies of documentary evidence tending to show the nationality found at the hearing.

SEC. 71.02.270 *Orders and Reports—Forms.* The report of medical testimony, order directing hospitalization, order directing payment of court costs, transportation and hospitalization charges, and order directing disposition or safeguarding of a mentally ill

person's property shall be entered on forms provided by the department.

SEC. 71.02.280 *Orders and Reports—Copies to Hospital—Inadequate Reports.* A copy of the medical report, order of hospitalization, and order directing payment of hospitalization charges shall be delivered with the patient to the superintendent of the state hospital or officer in charge of veterans' facility, wherein a patient is ordered hospitalized: *Provided, however,* That if said medical report is not filled out legibly and completely, giving essential information pertaining to the patient, the hospital may refuse admission of the patient.

SEC. 71.02.290 *Orders—Execution.* The department shall be charged with the execution of orders of hospitalization at state hospitals and orders directing payment of hospitalization charges at such hospitals, including the transportation of persons so hospitalized.

SEC. 71.02.300 *Jurisdiction of Court to Continue.* The court shall retain jurisdiction for the purpose of entering further appropriate orders until such time as a patient is certified as discharged.

SEC. 71.02.310 *Hospitalization Charges—Continuation of Responsibility, Existing Cases.* Patients' estates and relatives now responsible for the payment of maintenance charges upon the taking effect of this chapter shall remain so responsible hereunder.

SEC. 71.02.320 ————*Due Date — Collection.* Hospitalization charges are payable in advance on the first day of each calendar month, and the department may make all necessary rules and regulations relative to the billing and collection of such charges.

SEC. 71.02.330 ————*Modification of Order Requiring Payment.* The superior court may, upon petition, modify any existing order entered pursuant to section 71.02.230, where it is shown that the peti-

tioner is unable to continue payment of hospitalization charges. A hearing may be had on such petition in the nature of proceedings supplemental to execution in civil actions. Such petition must be served on the department at least ten days prior to hearing.

SEC. 71.02.340 ————*Modification of Order to Require Payment by Relative.* The department may apply for modification of any existing order where it is shown that there exists some relative within the classification set forth in section 71.02.230 who is able to pay hospitalization charges. Such relative must be served with notice of such petition in the same manner as summons is served in civil action.

SEC. 71.02.350 ————*Transportation charges—Collection.* The department shall have the right to collect hospitalization and transportation charges from a patient's estate or person legally responsible for the support of a patient without the entry of any order to such effect under section 71.02.230. If the person administering the patient's estate or the person responsible for the support of the patient is unable to pay such charges he shall petition the court for an order declaring such inability pursuant to section 71.02.330.

SEC. 71.02.360 ————*Collection — Statutes of Limitation.* No statutes of limitations shall run against the state of Washington for hospitalization charges: *Provided, however,* That periods of limitations for the filing of creditors' claims against probate and guardianship estates shall apply against such claims.

SEC. 71.02.370 ————*Collection—Prosecuting Attorneys to Assist.* The prosecuting attorneys of the various counties shall assist the department in the collection of hospitalization charges.

SEC. 71.02.380 ————*Criminally Insane — Liability.* Patients hospitalized at state hospitals as

criminally insane shall be responsible for payment of hospitalization charges unless an order is obtained pursuant to section 71.02.330.

SEC. 71.02.390 ————*Advance Remittances.* Advance remittances of such hospitalization charges may be held by the department in a suspense account for a period not to exceed ninety days in order to make prompt refunds in cases of overpayment. Moneys in such account shall be deposited in such bank or banks as the department may select, and any such depository shall furnish suitable surety bond or collateral for their safekeeping. Such funds shall be transmitted to the state treasurer for deposit in the general fund after being held for the above purpose.

SEC. 71.02.400 ————*Cancellation.* The department shall have authority to cancel accrued hospitalization charges to the extent of one hundred dollars or less, when a patient has deceased or has been discharged.

SEC. 71.02.410 ————*How Computed.* Charges for hospitalization of patients in state hospitals are to be based on the actual cost of operating such hospitals for the previous year, taking into consideration the overhead expense of operating the hospital and expense of maintenance and repair, including in both cases all salaries of supervision and management as well as material and equipment actually used or expended in operation as computed by the department. Costs of transportation shall be computed by the department.

SEC. 71.02.420 ————*Change in Rate.* The department may execute a change in rate for hospitalization charges upon the giving of sixty days' notice to the parties responsible for payment of such charges. Said notice may be mailed to the parties concerned.

SEC. 71.02.430 ————*Certification to Court.*  
The department shall certify to the various superior courts the rate for hospitalization charges when executing a change in rate, including in said certification the effective date of such change.

SEC. 71.02.450 *State Hospitals—Allocation of Patients.* Persons found to be mentally ill by the courts of the various counties and in need of hospitalization at a state hospital shall be hospitalized at the following state hospitals: From the counties of Grays Harbor, Clark, Cowlitz, King, Kitsap, Lewis, Mason, Pacific, Pierce, Thurston and Wahkiakum, to the western state hospital; from the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, Walla Walla, Whitman and Yakima, to the eastern state hospital; from the counties of Clallam, King, Island, Jefferson, San Juan, Skagit, Snohomish and Whatcom, to the northern state hospital: *Provided, however,* That whenever the department shall certify to the superior court of any county that the hospital above specified to receive mentally ill persons from such county is temporarily unable to care for additional patients, and shall designate one of the other hospitals, the court shall order patients hospitalized at such other hospital until further advised by the department: *And provided further,* That if it shall be made to appear to the satisfaction of the court ordering the hospitalization of a mentally ill person, upon the application of the guardian or attorney representing such person, that by reason of climatic conditions, the nature of the mental illness, or location of relatives, it would be to the best interest of the patient to be hospitalized at another state hospital, and such other hospital can accommodate said patient, the court may order such person hospitalized at such other state hospital.

SEC. 71.02.490 *Authority Over Patient—Federal Agencies, Private Establishments.* The United States veterans' administration, or other United States government agency, or the chief officer of a private facility shall have the same powers as are conferred upon the superintendent of a state hospital with reference to retention, transfer, parole, or discharge of mentally ill persons ordered hospitalized in their facilities.

SEC. 71.02.650 *Legal Competency—Effect of Application or Discharge—Examination Before Discharge.* Any person complained against in any application or proceedings started by virtue of the provisions of this chapter shall not forfeit or suffer any legal disability by the reason of the pendency of proceedings under this chapter, until an order declaring such person to be mentally ill has been entered. A person shall be presumed to be competent to manage his affairs when such person has been certified as discharged as recovered from a state hospital or other facility to which he has been hospitalized as a mentally ill person: *Provided, however,* Before any such discharge shall issue, the mentally ill person must have been examined by the superintendent of a state hospital, or person in charge of such other facility, within thirty days immediately preceding his discharge as recovered. The superintendent of a state hospital shall have authority to receive such persons for the above examination although a prior discharge has been issued.

SEC. 71.02.900 *Construction and Purpose.* The provisions of this chapter shall be liberally construed so that persons who are in need of care and treatment for mental illness shall receive humane care and treatment and be restored to normal mental condition as rapidly as possible with an avoidance of loss of civil rights where not necessary, and with as little formality as possible, still preserving all rights and

all privileges of the person as guaranteed by the Constitution.

### Chapter 71.06

## SEXUAL PSYCHOPATHS AND PSYCHOPATHIC DELINQUENTS

SEC. 71.06.010 *Definitions.* As used in this chapter, the following terms shall have the following meanings:

“Psychopathic personality” means the existence in any person of such hereditary, congenital or acquired condition affecting the emotional or volitional rather than the intellectual field and manifested by anomalies of such character as to render satisfactory social adjustment of such person difficult or impossible.

“Sexual psychopath” means any person who is affected in a form of psychoneurosis or in a form of psychopathic personality, which form predisposes such person to the commission of sexual offenses in a degree constituting him a menace to the health or safety of others.

“Sex offense” means one or more of the following: Abduction, incest, rape, assault with intent to commit rape, indecent assault, contributing to the delinquency of a minor involving sexual misconduct, sodomy, indecent exposure, indecent liberties with children, carnal knowledge of children, soliciting or enticing a child for immoral purposes, vagrancy involving immoral or sexual misconduct, or an attempt to commit any of the said offenses.

“Psychopathic delinquent” means any minor who is psychopathic, and who is a habitual delinquent, if his delinquency is such as to constitute him a menace to the health, person, or property of himself or others, and the minor is not a proper subject for commitment to a state correctional school, a penal institution, to a state school for the mentally deficient

as a mentally deficient person, or to a state hospital as a mentally ill person.

“Minor” means any person under twenty-one years of age.

“Department” means department of institutions.

“Court” means the superior court of the state of Washington.

“Superintendent” means the superintendent of a state institution designated for the custody, care and treatment of sexual psychopaths or psychopathic delinquents.

SEC. 71.06.020 *Sexual Psychopaths — Petition.* Where any person is charged in the superior court in this state with a sex offense and it appears that such person is a sexual psychopath, the prosecuting attorney may file a petition in the criminal proceeding, alleging that the defendant is a sexual psychopath and stating sufficient facts to support such allegation. Such petition must be filed and served on the defendant or his attorney at least ten days prior to hearing on the criminal charge.

SEC. 71.06.030 *Procedure on Petition—Effect of Acquittal on Criminal Charge.* The court may proceed to hear the criminal charge. If the defendant is convicted or has previously pleaded guilty to such charge, sentence shall be pronounced, and the court shall then proceed to hear and determine the allegation of sexual psychopathy. Acquittal on the criminal charge shall not operate to suspend the hearing on the allegation of sexual psychopathy.

SEC. 71.06.040 *Preliminary Hearing—Evidence—Detention in Hospital for Observation.* At a preliminary hearing upon the charge of sexual psychopathy, the court may require the testimony of two duly licensed physicians who have examined the defendant. If the court finds that there are reasonable grounds to believe the defendant is a sexual



psychopath, the court shall order said defendant confined at the nearest state hospital for observation as to the existence of sexual psychopathy. Such observation shall be for a period of not to exceed ninety days. The defendant shall be detained in the county jail or other county facilities pending execution of such observation order by the department.

SEC. 71.06.050 ————*Report of Findings.* Upon completion of said observation period the superintendent of the state hospital shall return the defendant to the court, together with a written report of his findings as to whether or not the defendant is a sexual psychopath and the facts upon which his opinion is based.

SEC. 71.06.060 ————*Commitment, or Other Disposition of Charge.* After the superintendent's report has been filed, the court shall determine whether or not the defendant is a sexual psychopath. If said defendant is found to be a sexual psychopath, the court shall commit him to such facility as may be designated by the department for the care and treatment of sexual psychopaths. If the defendant is found not to be a sexual psychopath, the court shall order the sentence to be executed, or may proceed to hear the criminal charge, or may discharge the defendant as the case may merit.

SEC. 71.06.070 *Jury Trial.* A jury may be demanded to determine the question of sexual psychopathy upon hearing after return of the superintendent's report. Such demand must be in writing and filed with the court within ten days after filing of the petition alleging the defendant to be a sexual psychopath.

SEC. 71.06.080 *Construction of Chapter—Trial, Evidence, Law Relating to Criminally Insane.* Nothing in this chapter shall be construed as to affect

the procedure for the ordinary conduct of criminal trials as otherwise set up by law. Nothing in this chapter shall be construed to prevent the defendant, his attorney or the court of its own motion, from producing evidence and witnesses at the hearing on the probable existence of sexual psychopathy or at the hearing after the return of the superintendent's report. Nothing in this chapter shall be construed as affecting the laws relating to the criminally insane or the insane criminal, nor shall this chapter be construed as preventing the defendant from raising the defense of insanity as in other criminal cases.

SEC. 71.06.090 *Termination of Commitment—Further Dispositions.* A sexual psychopath committed pursuant to section 71.06.060 shall be retained by the superintendent of the institution involved until in his opinion he is safe to be at large, whereupon:

(1) If the sexual psychopath had been convicted of, or had pleaded guilty to the criminal charge, and the maximum sentence for such crime has not expired, the superintendent shall certify his opinion to the board of prison terms and paroles.

(2) If the maximum sentence for the criminal charge has expired, the superintendent shall parole such sexual psychopath under terms and conditions as he may deem advisable.

(3) If the maximum sentence for the criminal charge has not expired and the sexual psychopath has not pleaded guilty to or been convicted of such charge, the superintendent shall return the sexual psychopath to the committing court, which court may thereupon proceed to hear and determine the criminal charge.

SEC. 71.06.100 ————*Hospital Record to be Furnished Court or Parole Board.* Where under section 71.06.090 the superintendent certifies his opinion

that the sexual psychopath is safe to be at large, he shall provide the board of prison terms and paroles, or the committing court, with a copy of the hospital medical record concerning the sexual psychopath so certified.

SEC. 71.06.110 ————*Imprisonment or Parole.* Where pursuant to section 71.06.090 (1) the superintendent certifies his opinion that the sexual psychopath is safe to be at large to the board of prison terms and paroles, such board shall proceed to determine the minimum sentence as in other criminal cases, and shall order the defendant transferred to the proper penal institution or released on parole, as the case may merit.

SEC. 71.06.120 *Credit for the Time Served in Hospital.* Time served by a sexual psychopath in a state hospital shall count as part of his sentence whether such sentence is pronounced before or after adjudication of his sexual psychopathy.

SEC. 71.06.130 *Discharge.* Where a sexual psychopath has been paroled by the superintendent for a period of five years, the superintendent shall review his hospital record and when the superintendent is satisfied that the sexual psychopath remains safe to be at large, said sexual psychopath shall be discharged.

SEC. 71.06.140 *State Hospitals for Care of Sexual Psychopaths.* The department may designate one or more state hospitals for the care and treatment of sexual psychopaths.

SEC. 71.06.150 *Psychopathic Delinquents—Petition—Filing.* A petition alleging that a person is a psychopathic delinquent and requesting that such person be brought before the court for hearing may be filed in the superior court of the county wherein such person is found. Such petition shall be made under oath and shall state the facts upon which the

allegation is based. Such petition may be filed by any of the following persons:

(1) The parent, guardian, or other person charged with the support of the alleged psychopathic delinquent.

(2) Any county prosecuting attorney.

(3) Any duly appointed representative of the school district in which the alleged psychopathic delinquent resides.

(4) Any official of a public or private welfare agency.

(5) Any superintendent of a state institution.

(6) Any person when so directed by the juvenile court or the criminal department of the superior court.

Where the person alleged to be a psychopathic delinquent is under the jurisdiction of the juvenile court, such petition shall be filed only under the order of such juvenile court.

**SEC. 71.06.160 *Petition—Court May Order Filing.*** If a minor is brought before the juvenile court or is charged with a crime in a superior court and it appears to such court at any time prior to the execution of sentence that such minor is a psychopathic delinquent, the superior court or juvenile court may suspend proceedings, and, if a superior court, may direct the prosecuting attorney to file a petition under the provisions of this chapter, or if a juvenile court, may direct the juvenile court probation officer to file a petition under the provisions of this chapter. If the minor is found to be a psychopathic delinquent under this chapter, the court ordering such petition to be filed shall dismiss other pending proceedings. If the minor is found not to be a psychopathic delinquent, he shall be returned to the superior court or juvenile court ordering filing of such petition for further proceedings.

SEC. 71.06.170 *Preliminary Hearing—Time and Place—Privacy.* Upon filing of such petition the court shall fix a time and place for preliminary hearing, which shall give opportunity for the service of notice and the production and examination of witnesses. For the purpose of conducting hearings under this chapter, the court may be convened at any time and place within the county wherein the court resides and such hearing may be closed to the general public unless the guardian, attorney or guardian ad litem representing the alleged psychopathic delinquent demands an open hearing as in other civil actions.

SEC. 71.06.180 *Detention Pending Preliminary Hearing.* The court at its discretion may issue a warrant of apprehension ordering the alleged psychopathic delinquent to be apprehended and detained pending preliminary hearing, which warrant shall be executed by the sheriff or other person designated by the court. Alleged psychopathic delinquents may be detained in county juvenile detention facilities or in the custody of some suitable person or agency at the discretion of the court.

SEC. 71.06.190 *Preliminary Hearing—Scope of Inquiry—Evidence.* Upon preliminary hearing the court shall inquire into the mental condition, delinquency record, character, and personality of the alleged psychopathic delinquent, and for this purpose shall require the testimony of two duly licensed physicians who shall have examined the alleged psychopathic delinquent. Such physicians shall file a written report of their examination and shall testify as to whether or not the minor is a psychopathic delinquent, and the facts upon which such findings are based. The court, petitioner, or guardian, or guardian ad litem representing the alleged psychopathic

delinquent may produce such witnesses as they may desire and subpoenas may issue for such purposes.

SEC. 71.06.200 *Observation at State Hospital—Report of Superintendent.* If the court finds that there are reasonable grounds to believe that the minor filed against is a psychopathic delinquent, it shall order such person to be detained at the nearest state hospital for the purpose of observation and examination by the superintendent thereof. Such observation shall be for a period not to exceed ninety days. Upon completion of such observation and examination the superintendent of such state hospital shall so notify the committing court, which shall cause the return of the alleged psychopathic delinquent and the superintendent shall file as promptly as possible his written report setting forth the facts upon which he bases his conclusion that the minor is or is not a psychopathic delinquent.

SEC. 71.06.210 *Hearing on Petition—Evidence—Commitment.* The court shall thereupon set a date for hearing on the petition, at which hearing the guardian, petitioner, attorney, or the court of its own motion, may produce additional witnesses and evidence and may require the attendance of the superintendent as a witness. Notice of such hearing shall be given pursuant to the provisions of section 71.06-.170. If the court finds that the minor is a psychopathic delinquent, the court shall order such person committed to such institution as may be designated by the department for the custody, care and treatment of psychopathic delinquents, until released by the superintendent thereof, which order shall be executed by the sheriff or other person designated by the court.

SEC. 71.06.220 *Hearings Are Probate Matters.* Hearings held under the provisions of this chapter relative to psychopathic delinquents shall be handled as probate matters.

SEC. 71.06.230 *Jury Trial.* The alleged psychopathic delinquent shall have the right to trial by jury, but demand for such trial must be filed by the guardian or attorney representing the minor on or before the date of preliminary hearing. Where such demand is filed, the court shall set a date for trial and the jury shall determine the question of psychopathic delinquency but such jury trial shall be had only after return of the superintendent's report following the preliminary period of observation. If the jury finds the minor to be a psychopathic delinquent, the court shall order such minor committed as provided for in section 71.06.210. Such minor may be detained pending jury trial as provided for in section 71.06.180.

SEC. 71.06.240 *Parole and Discharge.* Any persons committed under the provisions of this chapter may be paroled by the superintendent of the institution wherein such person is confined whenever the superintendent is of the opinion that such person has improved to an extent that he is no longer a menace to the health, lives or property of himself or others. Such opinion shall be certified to the committing court and unless within thirty days the court orders the return of such person, the superintendent may parole him upon such conditions as the superintendent may deem advisable. After five years the superintendent shall review the record of such psychopathic delinquent, and if in his opinion such psychopathic delinquent remains safe to be at large, he shall discharge him. In addition, the superintendent may grant temporary visit paroles to psychopathic delinquents; such temporary visit paroles shall not exceed sixty days in duration, and at the expiration of such period the superintendent shall either return the psychopathic delinquent to the institution or grant a parole, as otherwise provided herein. The superintendent may grant temporary

visit paroles on such conditions as he may deem advisable, but notice of such temporary visit parole shall be given to the sheriff of the county in which the psychopathic delinquent will be on temporary visit parole and the chief of police of any city or town said delinquent may be visiting.

SEC. 71.06.250 *State Hospitals for Care of Psychopathic Delinquents—Treatment—Laws Applicable.* The director may designate any existing state institutions or portion thereof for the care and treatment of psychopathic delinquents: *Provided, however,* That such institution shall provide psychiatric care and treatment. Psychopathic delinquents committed under this chapter shall be subject to all laws pertaining to the administration of the institution in which confined.

SEC. 71.06.260 *Hospitalization Costs—Sexual Psychopaths, Psychopathic Delinquents—By Whom Paid.* At any time any person is committed as a sexual psychopath or psychopathic delinquent the court shall, after reasonable notice of the time, place and purpose of the hearing has been given to persons subject to liability under this section, inquire into and determine the financial ability of said person, or his parents if he is a minor, or other relatives to pay the cost of care, meals and lodging during his period of hospitalization. Such cost shall be determined by the department of institutions. Findings of fact shall be made relative to the ability to pay such cost and a judgment entered against the person or persons found to be financially responsible and directing the payment of said cost or such part thereof as the court may direct. The person committed, or his parents or relatives, may apply for modification of said judgment, or the order last entered by the court, if a proper showing of equitable grounds is made therefor.



## Chapter 71.08

## INTOXICATION AND DRUNKARDS

SEC. 71.08.010 *Punishment for Intoxication in Public Place.* Every person who shall become intoxicated by voluntarily drinking intoxicating liquors, and who, while intoxicated shall loiter about any place where intoxicating liquors are sold or kept for sale, or create any disturbance or use any profane or indecent language in any public place, street or meeting, or commit any assault or breach of the peace, shall be guilty of a misdemeanor.

SEC. 71.08.020 *Common drunkard, Who May be Adjudged.* Every person who shall be three times convicted of a violation of section 71.08.010, or of any municipal ordinance defining and punishing drunkenness or of any crime of which drunkenness shall be an element, or who shall squander his property in drink, or who, as a result of the use of intoxicating liquors shall abuse or fail properly to support or care for his wife or any minor child lawfully in his custody, shall be a common drunkard, and shall be adjudged so to be by any magistrate before whom he may be brought on a charge of committing any crime of which drunkenness is an element, in addition to any other punishment inflicted therefor.

SEC. 71.08.030 *Habitual Drunkard, Who May Be Adjudged.* Any person addicted to the use of intoxicating liquors may, upon complaint thereof, or upon certificate of a justice of the peace, as hereinafter provided, be adjudged a habitual drunkard.

SEC. 71.08.040 *Complaint, Who May Make.* Either the father, husband, mother, wife, son or daughter of any person addicted to the excessive use of intoxicating liquors, or any person in the interest of the relative aggrieved, or of the general public, may make complaint to the superior court judge of the

county wherein such person, so addicted, resides, that the person complained of is a habitual drunkard, and that in consequence thereof, such person is squandering his earnings or property, or that he neglects his business, or that he abuses or maltreats his family, which complaint must be verified by the oath of the complainant, to the effect that the same is true. And every justice of the peace in whose court any person shall have been convicted twice on a charge of being drunk, or drunk and disorderly, shall certify to the superior court judge, of the county in which he resides, that said person has thus twice been convicted.

SEC. 71.08.050 *Summons—Hearing—Determination.* Upon filing of the complaint, duly verified, the superior court judge shall cause a copy thereof to be served upon the accused forthwith and shall summon him to appear and answer, giving at least ten days' notice; and if, upon the hearing of the evidence, the allegations of the complaint are sustained, or upon filing a certificate of justice of the peace, as above provided, such judge shall, in open court, declare the accused to be a habitual drunkard, and shall cause the proceeding to be entered in full upon the records of the court.

SEC. 71.08.060 *Fees of Officers—Costs.* The same fees shall be allowed to the clerk of the superior court, justice of the peace, and the sheriff, or constable, in all proceedings under this chapter, as are allowed by law for like processes and services, and like fees for witnesses as in other cases; and if the complaint is not sustained, the person making the complaint shall pay the costs; and in case the complaint is sustained, the person accused shall pay the costs.

SEC. 71.08.070 *Penalty for Furnishing Intoxicants to Habitual Drunkard.* Any person who shall sell or

give any intoxicating liquors to any person who has been adjudged a habitual drunkard under the provisions of this chapter, shall be deemed guilty of a misdemeanor and on conviction thereof, by any court having criminal jurisdiction, shall be fined in any sum not less than fifty dollars or more than three hundred dollars, or be imprisoned in the county jail, not less than one or more than six months, at the discretion of the court.

SEC. 71.08.080 *Civil Liability for Furnishing Intoxicants to Habitual Drunkard.* Any person who shall be injured in person or property or means of support, by any person who has been adjudged a habitual drunkard under the provisions of this chapter, while in a state of intoxication, or in consequence of such intoxication, shall have a right of action in his or her own name, severally or jointly, against any person or persons who shall, by selling or giving intoxicating liquors to such habitual drunkard, have caused his intoxication in whole or in part, and such person selling or giving such intoxicating liquors as aforesaid, shall be liable severally or jointly for all damages sustained, and the same may be recovered in a civil action. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use, and all damages recovered by a minor under this section, shall be paid either to such minor or to such person in trust for him or her, as the court may direct.

SEC. 71.08.090 *Vacation of Court Order.* Any person so declared to be a habitual drunkard may, at any time after the expiration of two years from the time he was so declared to be such, by petition addressed to the judge of the court in which he was so adjudged, have a hearing in such court, upon a day which shall be by such court set, which day shall not be more than ten days after the filing of such petition in such court, which petition may contain

a statement of facts tending to show the improved condition and habits of such petitioner and to establish his character for sobriety, and a prayer that the order on record so declaring him to be such habitual drunkard be vacated and he be released from the effects thereof; which petition shall be duly verified by the petitioner. And if upon the hearing of such petition and the evidence in support thereof it appears to the judge that such petitioner is entitled to have such record vacated and be so released, then he shall make an order so declaring that such record be vacated and annulled and that the petitioner be thereafter released from the effects thereof.

#### Chapter 71.12

##### PRIVATE ESTABLISHMENTS

SEC. 71.12.455 *Definitions.* As used in this chapter, "establishment" and "institution" mean and include every private hospital, sanitarium, home, or other place receiving or caring for any insane, alleged insane, mentally ill, or mentally incompetent person, or alcoholic.

SEC. 71.12.460 *License to Be Obtained—Penalty.* No person, association, or corporation, shall establish or keep, for compensation or hire, an establishment as defined in this chapter without first having obtained a license therefor from the department of health, and having paid the license fee provided in this chapter. Any person who carries on, conducts, or attempts to carry on or conduct an establishment as defined in this chapter without first having obtained a license from the department of health, as in this chapter provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. The managing

and executive officers of any corporation violating the provisions of this chapter shall be liable under the provisions of this chapter in the same manner and to the same effect as a private individual violating the same.

SEC. 71.12.470 *License Application—Fees.* Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee. The amount of the license fee for each fiscal year is fixed by the following schedule:

(1) For establishments licensed to receive not more than six patients, the fee is five dollars;

(2) For establishments licensed to receive more than six but not more than twenty-five patients, the fee is twenty-five dollars;

(3) For establishments licensed to receive more than twenty-five but not more than fifty patients, the fee is fifty dollars;

(4) For establishments licensed to receive more than fifty patients, the fee is seventy-five dollars.

In the case of the issuance of a license on or after the first day of January next succeeding the beginning of the fiscal year, the license fee for the remainder of the fiscal year is one-half the sum fixed for the entire fiscal year. The department shall require a license fee in situations where licensed establishments increase their number of patients during any fiscal year, based on a pro rata charge under the schedule set forth herein. No additional fee will be required in the event of an application for transfer of a license to another person to operate the same establishment. No additional license fee shall be re-

quired for the transfer of the license issued in the name of one person to operate an establishment at a certain location where an application is received to transfer that license to the same person to operate an establishment at a different location.

SEC. 71.12.480 *Examination of Premises Before Granting License.* The department of health shall not grant any such license until it has made an examination of the premises proposed to be licensed and is satisfied that they are substantially as described, and are otherwise fit and suitable for the purposes for which they are designed to be used, and that such license should be granted.

SEC. 71.12.490 *Expiration and Renewal of License.* All licenses issued under the provisions of this chapter shall expire on the first day of July next succeeding the date of issue. Application for renewal of the license, accompanied by the necessary fee, shall be filed with the department of health annually, not less than ten days prior to its expiration and if application is not so filed, the license shall be automatically canceled.

SEC. 71.12.500 *Examination of Premises As to Compliance with License—Revocation, Suspension of License.* The department of health may at any time examine and ascertain how far a licensed establishment is conducted in compliance with the license therefor. If the interests of the patients of the establishment so demand, the department may, for just and reasonable cause, suspend or revoke any such license after notice and hearing.

SEC. 71.12.510 *Examination and Visitation in General.* The department may at any time cause any establishment as defined in this chapter to be visited and examined.

SEC. 71.12.520 *Scope of Examination.* Each such visit may include an inspection of every part of each

establishment. The representatives of the department of health may make an examination of all records, methods of administration, the general and special dietary, the stores and methods of supply, and may cause an examination and diagnosis to be made of any person confined therein. The representatives of the department may examine to determine their fitness for their duties the officers, attendants, and other employees, and may talk with any of the patients apart from the officers and attendants.

SEC. 71.12.530 *Conference with Management—Improvement.* The representatives of the department of health may, from time to time, at times and places designated by the department, meet the managers or responsible authorities of such establishments in conference, and consider in detail all questions of management and improvement of the establishments, and may send to them, from time to time, written recommendations in regard thereto.

SEC. 71.12.540 *Recommendations to Be Kept on File—Records of Inmates.* The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician, diagnosis, and date of discharge.

SEC. 71.12.550 *Local Authorities May Also Prescribe Standards.* This chapter shall not prevent local authorities of any city, or city and county, within the reasonable exercise of the police power, from

adopting rules and regulations, by ordinance or resolution, prescribing standards of sanitation, health and hygiene for establishments as defined in this chapter, which are not in conflict with the provisions of this chapter, and requiring a certificate by the local health officer, that the local health, sanitation and hygiene laws have been complied with before maintaining or conducting any such institution within such city or city and county.

SEC. 71.12.560 *Voluntary Patients—Report—Release of Patient.* The person in charge of any private institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged may receive and detain therein as a voluntary patient any person suffering from mental illness or derangement who is a suitable person for care and treatment in the institution, hospital, or sanitarium, who voluntarily makes a written application to the person in charge for admission into the institution, hospital or sanitarium, and who is at the time of making the application mentally competent to make the application. Upon the admission of a voluntary patient to a private institution, hospital, or sanitarium, the person in charge shall immediately forward to the office of the department of health a record of the voluntary patient showing the name, residence, age, sex, place of birth, occupation, marital status, date of admission to the institution, hospital or sanitarium, and such other information as may be required by rule of the department of health. No voluntary patient in a private institution, hospital, or sanitarium shall be detained therein for more than ten days after having given notice, in writing, to the person in charge of the institution, hospital, or sanitarium of his desire to leave the institution, hospital, or sanitarium.



SEC. 71.12.570 *Notification of Detention of Patient—Duty of Prosecuting Attorney.* No person in an establishment as defined in this chapter shall be restrained from sending written communications of the fact of his detention in such establishment to a friend, relative, or other person. The physician in charge of such person and the person in charge of such establishment shall send each such communication to the person to whom it is addressed. If, however, the person in charge finds it inadvisable to send any such communication because it contains other matter which would do harm to the reputation of, and would later cause mental anguish to the person detained, or if the physician finds it impossible to send any such communication within twenty-four hours, then both the physician in charge of the patient and the person in charge of the establishment shall give notice of the detention of such patient to the prosecuting attorney of the county from which the patient came at the time of admission and the prosecuting attorney of the county in which the establishment is located, and the person to whom such communication was addressed, and to the department of health, giving the name and address of the patient and the names and addresses of the person or persons who arranged for his admission and stating the facts of the attempted communication and the reason for withholding it. Such prosecuting attorney or prosecuting attorneys shall investigate the detention of such patient and advise the patient concerning his legal rights and shall report in full concerning said patient to the department of health. The person in charge of the establishment may detain a patient only when there has been compliance with the provisions of this section.

SEC. 71.12.580 *Proceedings As to Mental Condition of Patient—Representation of Patient—Examination.* No court proceeding shall be had in relation

to the mental condition of a patient in a private institution, hospital, sanitarium, department or ward for the care of or treatment of the mentally ill unless the patient is either present or represented by an attorney. The judge of the superior court before whom the proceedings are to be heard shall appoint two licensed medical examiners who are not connected with any private psychopathic institution to make a personal examination of the patient and to testify before the judge as to the results of such examinations. The provisions of this section shall not be applicable to proceedings for the appointment of a guardian under general law of this state.

SEC. 71.12.590 *Revocation of License for Noncompliance—Exemption As to Christian Science Establishments.* Failure to comply with any of the provisions of sections 71.12.550 through 71.12.580 shall constitute grounds for revocation of license: *Provided, however,* That nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any establishment, as defined in this chapter conducted in accordance with the practice and principles of the body known as Church of Christ, Scientist.

SEC. 71.12.640 *Prosecuting Attorney Shall Prosecute Violations.* The prosecuting attorney of every county shall, upon application by the department of health or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this chapter.

#### Chapter 71.98

#### CONSTRUCTION

SEC. 71.98.010 *Continuation of Existing Law.* The provisions of this title insofar as they are substan-

tially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

SEC. 71.98.020 *Title, Chapter, Section Headings Not Part of Law.* Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

SEC. 71.98.030 *Invalidity of Part of Title Not to Affect Remainder.* If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

SEC. 71.98.040 *Repeals and Saving.* The following acts or parts of acts are repealed:

(1) Sections 1 through 7, pages 113 and 114, Laws of 1879;

(2) Sections 1 through 4, pages 13 and 14, Laws of 1881;

(3) Sections 1671 through 1677, chapter 113, Code 1881;

(4) Sections 1, 6 and 7, pages 32 and 33, Laws of 1883;

(5) Sections 416 and 417, chapter 249, Laws of 1909;

(6) Chapter 105, Laws of 1915;

(7) Chapter 109, Laws of 1915;

(8) Chapter 145, Laws of 1923;

(9) Chapter 42, Laws of 1939;

(10) Chapter 179, Laws of 1947;

(11) Sections 1 through 19, 21 through 51 and 53 through 69, chapter 198, Laws of 1949;

(12) Sections 1 through 5, 17 through 39, and 51 through 64, chapter 139, Laws of 1951;

(13) Chapter 223, Laws of 1951;

(14) Chapter 24, Laws of 1957;

(15) Chapter 26, Laws of 1957;

- (16) Chapter 28, Laws of 1957;
- (17) Chapter 35, Laws of 1957;
- (18) Chapter 49, Laws of 1957;
- (19) Chapter 184, Laws of 1957.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder.

SEC. 71.98.050 *Emergency*. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House January 20, 1959.

Passed the Senate January 27, 1959.

Approved by the Governor January 30, 1959.

*(The above measure, being remedial legislation introduced at the request of the Statute Law Committee, was accompanied by the following explanatory note.)*

Explanatory  
note.

#### I. Introductory.

Title 71 RCW is presently entitled "Insane, Feeble-minded, Mentally Ill Persons, and Inebriates". Since the adoption of RCW in 1951, in fact commencing with the 1951 session, the law on this subject has been extensively amended, to the point that it is deemed advantageous to include a portion of this material in Title 72 which relates to state institutions.

In preparing the bills for the reenactment of Titles 71 and 72, RCW, those provisions which are presently contained in Title 71 but which primarily relate to state institutions, are proposed for reenactment as part of Title 72. Such provisions are (1) those portions of 1951 Mental Illness Hospitalization Act which provide for the creation and administration of the state hospitals for the mentally ill; (2) chapter 71.04 relating to nonresident insane, feeble-minded, etc., persons and (3) chapter 71.16 relating to the division on alcoholism of the state department of institutions.

A detailed explanation of each section included for reenactment in Title 71 is set forth in Part II of this note.

#### II. Section comment.

##### Chapter 71.02 Mental Illness—Commitment Procedure

The mental illness hospitalization act (1951 c 139, presently codified as chapter 71.02 RCW) contains the general procedure for mental illness commitment to any institution, as well as provisions for the

Explanatory  
note.

- establishment and administration of the state mental hospitals. In the instant bill, and the companion bill relating to Title 72, the 1951 act is divided and the commitment provisions are retained in Title 71 while the administrative provisions relating to the state institutions are moved to Title 72 as a part of the public institutions code. The definitions section of the 1951 act is carried in both bills, as sections 71.02.010 and 72.23.010. Sections 1 and 4 of the 1951 act, relating to statutory construction are likewise carried in both bills, as sections 71.02.900, 72.23.900 and 71.02.020, 72.23.910, respectively.
- 71.02.010 Source—1951 c 139 sec. 2.  
“department of public institutions” changed to “department of institutions”. See 1957 c 215 secs. 19, 20 (chapter 43.17) and 1955 c 195 sec. 4 (RCW 43.28. 020).
- 71.02.020 Source—1951 c 139 sec. 4.  
“act” to “chapter”
- 71.02.090 Source—1957 c 28 sec. 1; 1951 c 139 sec. 17.
- 71.02.100 Source—1951 c 139 sec. 31.
- 71.02.110 Source—1951 c 139 sec. 39.  
“act” to “chapter”
- 71.02.120 Source—1951 c 139 sec. 18. Prior: 1949 c 198 secs. 4, 8, part.
- 71.02.130 Source—1957 c 49 sec. 1; 1951 c 139 sec. 28.
- 71.02.140 Source—1951 c 139 sec. 15. Prior: 1949 c 198 sec. 5.
- 71.02.150 Source—1951 c 139 sec. 32. Prior: 1949 c 198 sec. 6, part.  
“act” to “chapter”
- 71.02.160 Source—1951 c 139 sec. 33. Prior: 1949 c 198 sec. 9, part.  
“act” to “chapter”  
“or in chapter 72.23 RCW” added after “chapter”, to make this section applicable to any hearings required under chapter 72.23 which likewise is derived from 1951 c 1939. See particularly section 72.23.150 of the companion bill, relating to orders for the return of parolees.
- 71.02.170 Source—1951 c 139 sec. 21. Prior: 1949 c 198 sec. 10, part.
- 71.02.180 Source—1951 c 139 sec. 34. Prior: 1949 c 198 sec. 10, part.
- 71.02.190 Source—1951 c 139 sec. 22. Prior: 1949 c 198 sec. 11.
- 71.02.200 Source—1951 c 139 sec. 20.
- 71.02.210 Source—1951 c 139 sec. 23. Prior: 1949 c 198 sec. 8.
- 71.02.220 Source—1951 c 139 sec. 24.
- 71.02.230 Source—1957 c 24 sec. 1; 1951 c 139 sec. 51.
- 71.02.240 Source—1951 c 139 sec. 25.
- 71.02.250 Source—1951 c 139 sec. 38. Prior: 1949 c 198 sec. 13.
- 71.02.260 Source—1951 c 139 sec. 30.
- 71.02.270 Source—1951 c 139 sec. 35.  
“of public institutions” deleted from phrase “department of public institutions”.
- 71.02.280 Source—1951 c 139 sec. 37.
- 71.02.290 Source—1951 c 139 sec. 36.  
“of public institutions” deleted from phrase “department of public institutions”.
- 71.02.300 Source—1951 c 139 sec. 27.
- 71.02.310 Source—1951 c 139 sec. 53.  
“act” to “chapter”
- 71.02.320 Source—1951 c 139 sec. 56.
- 71.02.330 Source—1951 c 139 sec. 58.
- 71.02.340 Source—1951 c 139 sec. 59.
- 71.02.350 Source—1951 c 139 sec. 60.
- 71.02.360 Source—1951 c 139 sec. 61.
- 71.02.370 Source—1951 c 139 sec. 64.
- 71.02.380 Source—1951 c 139 sec. 62.
- 71.02.390 Source—1951 c 139 sec. 57.
- 71.02.400 Source—1951 c 139 sec. 63.
- 71.02.410 Source—1951 c 139 sec. 52.

- 71.02.420 Source—1951 c 139 sec. 54. Explanatory  
71.02.430 Source—1951 c 139 sec. 55. note.  
71.02.450 Source—1951 c 139 sec. 29.  
“of public institutions” deleted from phrase “department of  
public institutions”.
- 71.02.490 Source—1951 c 139 sec. 26.  
71.02.650 Source—1951 c 139 sec. 3. Prior: 1949 c 198 sec. 16.  
71.02.900 Source—1951 c 139 sec. 1.

Chapter 71.06 Sexual Psychopaths and Psychopathic  
Delinquents

- 71.06.010 Source—1957 c 184 sec. 1; 1951 c 223 sec. 2.  
“department of public institutions” changed to “department of  
institutions”.
- 71.06.020 Source—1951 c 223 sec. 3.  
71.06.030 Source—1951 c 223 sec. 4.  
71.06.040 Source—1951 c 223 sec. 5.  
“of public institutions” deleted from phrase “department of  
public institutions”.
- 71.06.050 Source—1951 c 223 sec. 6.  
71.06.060 Source—1951 c 223 sec. 7.  
“of public institutions” deleted from phrase “department of  
public institutions”.
- 71.06.070 Source—1951 c 223 sec. 14.  
71.06.080 Source—1951 c 223 sec. 15.  
71.06.090 Source—1951 c 223 sec. 8.  
71.06.100 Source—1951 c 223 sec. 10.  
71.06.110 Source—1951 c 223 sec. 9.  
71.06.120 Source—1951 c 223 sec. 13.  
71.06.130 Source—1951 c 223 sec. 12.  
71.06.140 Source—1951 c 223 sec. 11.  
71.06.150 Source—1951 c 223 sec. 16.  
71.06.160 Source—1951 c 223 sec. 24.  
71.06.170 Source—1951 c 223 sec. 17.  
71.06.180 Source—1951 c 223 sec. 18.  
71.06.190 Source—1951 c 223 sec. 19.  
71.06.200 Source—1951 c 223 sec. 20.  
71.06.210 Source—1951 c 223 sec. 21.  
“of public institutions” deleted from phrase “department of  
public institutions”.
- 71.06.220 Source—1951 c 223 sec. 26.  
71.06.230 Source—1951 c 223 sec. 22.  
71.06.240 Source—1957 c 35 sec. 1; 1951 c. 223 sec. 23.  
71.06.250 Source—1951 c 223 sec. 25.  
“of the department of public institutions” deleted from phrase  
“director of the department of public institutions”.
- 71.06.260 Source—1957 c 26 sec. 1; 1951 c 223 sec. 27.

Chapter 71.08 Intoxication and Drunkards

- 71.08.010 Source—1909 c 249 sec. 416; RRS sec. 2668.  
Session law caption “Drunkeness” removed as being inade-  
quate.
- 71.08.020 Source—1909 c 249 sec. 417; RRS sec. 2669.  
Session law caption “Common drunkard” removed as being  
inadequate.
- 71.08.030 Source—1883 p 32 sec. 1 (paragraph “first”); Code 1881 sec.  
1673; RRS sec. 1708. Prior: 1879 p 113 sec. 1.
- 71.08.040 Source—1883 p 32 sec. 1 (paragraph “second”); Code 1881 sec.  
1674; RRS sec. 1709. Prior: 1881 p 13 sec. 1; 1879 p 113 sec. 2.  
“probate” judge changed to “superior court” judge.

Explanatory note.

- 71.08.050 Source—1883 p 32 sec. 1 (paragraph “third”); Code 1881 sec. 1672; RRS sec. 1710. Prior: 1881 p 13 sec. 2; 1879 p 114 sec. 3. “probate” judge changed to “superior court” judge.
- 71.08.060 Source—1883 p 33 sec. 1 (paragraph “fourth”); Code 1881 sec. 1673; RRS sec. 1711.  
 “The same fees shall be allowed to the probate judge . . .” changed to “The same fees shall be allowed to the clerk of the superior court . . .” The powers and duties of the probate judges passed to the judges of the superior court by State Constitution, Art. 27 sec. 10.  
 As for fees of witnesses, there seems to be no distinction between those fees allowed for witnesses in the justice courts and in other courts as is provided for in this section. Witnesses are given a flat fee for each day that they appear (RCW 2.40.010). Hence we have deleted following “and like fees for witnesses”, the phrase, “as in civil cases before the justice of the peace” and inserted instead “as in other cases”.
- 71.08.070 Source—Code 1881 sec. 1674; RRS sec. 1712. Prior: 1879 p 114 sec. 5.  
 The first part of 1881 sec. 1674 reads “Any person who shall sell or give any intoxicating liquor to any habitual drunkard, as defined in the foregoing section of this act,”. The phrase “under the foregoing section of this act” first appeared in 1879 p 114 sec. 5 and sec. 4 which is the “foregoing” section contains no definition of “habitual drunkard”. In fact there appears to be no express definition of the term anywhere in the chapter. We have therefore changed the language to read “Any person who shall sell or give any intoxicating liquors to any person who has been adjudged a habitual drunkard under the provisions of this chapter,”.
- 71.08.080 Source—Code 1881 sec. 1675; RRS sec. 1713. Prior: 1879 p 114 sec. 6.  
 We have changed the language from “Any person who shall be injured in person or property or means of support, by any habitual drunkard, as defined by this act” to read “Any person who shall be injured in person or property or means of support, by any person who has been adjudged a habitual drunkard under the provisions of this chapter,”. This has been done for the same reason as the change made in section 71.08.070.  
 “act” has been changed to “chapter” where it appears except in the last sentence of this section where “act” has been changed to “section”.
- 71.08.090 Source—Code 1881 sec. 1677; RRS sec. 1715. Prior: 1881 p 14 sec. 4.

Chapter 71.12 Private Establishments for the Mentally Ill

Introductory comment: The source of this chapter is 1949 c 198 secs. 52-68 which relate to private establishments for the mentally ill. The other portions of the 1949 act deal with care by public institutions, with psychopathic delinquents and sexual psychopaths, and with chronic alcoholics. The public institutions provisions appear to have been repealed and superseded by 1951 c 139, the analogous provisions of which appear in chapter 72.23 in the companion bill which proposes the reenactment of Title 72. The provisions relating to psychopathic delinquents and sexual psychopaths appear to have been repealed by 1951 c 223, set forth herein as chapter 71.06. The provisions relating to chronic alcoholics were repealed by 1957 c 136 sec. 21 and the subject of alcoholism is dealt with in chapter 72.03 of the companion bill.

- 71.12.010 Three definition sections were formerly codified herein, 1949 c 198 secs. 25, 40 and 53. Explanatory note.
- Sections 25 and 40, definitions relating to the sexual psychopathic provisions, are repealed without reenactment since chapter 71.06 contains similar definitions.
- Section 53 specifically pertains to "sec. 53 through 68" which sections are still in force. They are codified as RCW 71.12.460 through 71.12.590 and 71.12.640. Therefore, section 53 is contained herein as section 71.12.455.
- 71.12.455 Source—1949 c 198 sec. 53; RRS sec. 6953-52a.
- "As used in sections 53 through 68 of this act" to "As used in this chapter" since sections 53 through 68 appear in chapter 71.12, alone.
- "private" added before "hospital" as it is apparent from the licensing provisions in this chapter that private establishments, alone, are the object of the legislation.
- "any insane, alleged insane, mentally ill, or other incompetent person referred to in this division" to "any insane, alleged insane, mentally ill or mentally incompetent person, or alcoholic".
- The phrase "or other incompetent person referred to in this division" appears to have reference to 1949 c 198 secs. 21-24 relating to the involuntary confinement of chronic alcoholics. Although such sections were repealed by chapter 136, Laws of 1957 which created a division of alcoholism in the department of institutions, such repeal would not seem to affect the power of the department of health to inspect and license private establishments for the care and treatment of alcoholics under the provisions of this and succeeding sections of chapter 71.12.
- 71.12.460 Source—1949 c 198 sec. 54; RRS sec. 6953-53.
- "establishment as defined in this chapter" substituted for "establishment for the care, custody, or treatment of the insane, alleged insane, or mentally ill, or other incompetent persons referred to in this act" to correspond with the change in the definition of "establishment" in section 71.12.455.
- "Department of Public Health" changed to "department of health" as it is so described in the administrative code of 1921.
- "act" to "chapter"
- 71.12.470 Source—1949 c 198 sec. 56; RRS sec. 6953-55.
- 71.12.480 Source—1949 c 198 sec. 57; RRS sec. 6953-56.
- Word "public" in "department of public health" omitted.
- 71.12.490 Source—1949 c 198 sec. 59; RRS sec. 6953-58.
- Word "public" omitted from "public health".
- "act" to "chapter"
- 71.12.500 Source—1949 c 198 sec. 58; RRS sec. 6953-57.
- "public" omitted from "public health".
- 71.12.510 Source—1949 c 198 sec. 60; RRS sec. 6953-59.
- Concerning phrase "or incompetent persons" see notes to 71.12.455.
- 71.12.520 Source—1949 c 198 sec. 61; RRS sec. 6953-60.
- "public" omitted from "public health".
- 71.12.530 Source—1949 c 198 sec. 62; RRS sec. 6953-61.
- "public" omitted from "public health".
- 71.12.540 Source—1949 c 198 sec. 63; RRS sec. 6953-62.
- "public" omitted from "public health".
- "or other incompetents" and "or other incompetent persons referred to in this act", see notes to 71.12.455.
- 71.12.550 Source—1949 c 198 sec. 64; RRS sec. 6953-63.
- "act" to "chapter"
- "or other incompetent", see notes to 71.12.455.
- 71.12.560 Source—1949 c 198 sec. 65; RRS sec. 6953-64.
- "public" omitted from "public health".



- Explanatory note.
- 71.12.570 Source—1949 c 198 sec. 66; RRS sec. 6953-65. “act” to “chapter”  
“public” omitted from “public health”.
  - 71.12.580 Source—1949 c 198 sec. 67; RRS sec. 6953-66.
  - 71.12.590 Source—1949 c 198 sec. 68; RRS sec. 6953-67. “act” to “chapter”
  - 71.12.640 Source—1949 c 198 sec. 55; RRS sec. 6953-54. “public” omitted from “public health”  
“act” to “chapter”

Chapter 71.98 Construction

- 71.98.010 This section has been added to preserve continuity with the laws which this bill reenacts.
- 71.98.020 Provides that chapter, etc., headings are not part of the law.
- 71.98.030 Severability.
- 71.98.040 Repeals and saving.  
Except as noted below, the laws set forth in the schedule of repeals were either repealed previously, or are substantially reenacted in this bill. The numbers in parentheses correspond with the like numbered subdivisions of the repealer schedule.
  - (3) Section 1671 relates to who may make complaint in habitual drunkard cases. Repealed without reenactment as the subject is covered by 1883 p 32 sec. 1 (section 71.08.040).
  - (11) Sections 25 and 40, see notes to 71.12.010.
  - (12) Section 5 defines the short title of 1951 c 139. Repealed without reenactment as 1951 c 139 has been divided for reenactment in Titles 71 and 72.
- 71.98.050 Effective date.

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CHAPTER 26.

[ H. B. 3. ]

PUBLIC ASSISTANCE—TITLE 74 RCW REENACTMENT.

AN ACT relating to public assistance; enacting a public assistance code to be known as Title 74 of the Revised Code of Washington; providing penalties; repealing sections 1 through 11, pages 395 through 397, Laws of 1854; section 19, page 422, Laws of 1854; sections 2680 and 2696 through 2706, Code of 1881; chapter 135, Laws of 1915; chapter 72, Laws of 1921; chapter 8, Laws of 1933; chapter 29, Laws of 1933; chapter 65, Laws of 1933; chapter 102, Laws of 1933; sections 2 through 7, chapter 172, Laws of 1933; chapter 77, Laws of 1935; chapter 106, Laws of 1935; chapter 110, Laws of 1935; chapter 118, Laws of 1935; sections 1 through 29, and 31, chapter 182, Laws of 1935; chapter 111, Laws of 1937; chapter 114, Laws of 1937; chapter 132, Laws of 1937; chapter 156, Laws of 1937; chapter 180, Laws of 1937; chapter 25, Laws of 1939; chapter 75, Laws of 1939; chapter 216, Laws of 1939; chapter 1, Laws of 1941; chapter 128, Laws of 1941; chapter 170, Laws of 1941; chapter 242, Laws of 1941; chapter 159, Laws of 1943; chapter 172, Laws of 1943; chapter 7, Laws of 1945; chapter 80, Laws of 1945; chapter