

fund in an identical amount from the Puget Sound capital construction account. After each transfer by the treasurer of funds from the motor vehicle fund to the bond retirement fund and to the extent permitted by RCW 47.60.42C, 47.60.505(3), and 47.60.505(4), the obligation to reimburse the motor vehicle fund as required herein shall constitute a first and prior charge against the funds within and accruing to the Puget Sound capital construction account, including the proceeds of the additional two-tenths of one percent excise tax imposed by RCW 82.44.020, as amended by chapter 332, Laws of 1977 ex. sess. All funds reimbursed to the motor vehicle fund as provided herein shall be distributed to the state for expenditure pursuant to RCW 46.68.130.

NEW SECTION. Sec. 12. The following acts or parts of acts are each repealed:

(1) Section 18, chapter 7, Laws of 1961 ex. sess., section 326, chapter 7, Laws of 1984 and RCW 47.60.350;

(2) Section 19, chapter 7, Laws of 1961 ex. sess., section 5, chapter 85, Laws of 1970 ex. sess. and RCW 47.60.360;

(3) Section 20, chapter 7, Laws of 1961 ex. sess., section 327, chapter 7, Laws of 1984 and RCW 47.60.370;

(4) Section 21, chapter 7, Laws of 1961 ex. sess., section 138, chapter 3, Laws of 1983 and RCW 47.60.380;

(5) Section 22, chapter 7, Laws of 1961 ex. sess., section 328, chapter 7, Laws of 1984 and RCW 47.60.390;

(6) Section 2, chapter 9, Laws of 1961 ex. sess., section 329, chapter 7, Laws of 1984 and RCW 47.60.410; and

(7) Section 1, chapter 184, Laws of 1981 and RCW 47.60.504.

NEW SECTION. Sec. 13. Moneys in the Puget Sound reserve account and ferry improvement fund on the effective date of this act shall be transferred to the Puget Sound capital construction account.

NEW SECTION. Sec. 14. This act shall take effect July 1, 1987. The secretary of transportation may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the House February 13, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 67

[Substitute House Bill No. 1976]

MENTAL ILLNESS—INVOLUNTARY TREATMENT

AN ACT Relating to involuntary treatment; amending RCW 71.05.330, 71.05.280, 71.05.290, 71.05.320, 71.05.340, and 71.05.390; and adding new sections to chapter 71.05 RCW.

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

Sec. 1. Section 38, chapter 142, Laws of 1973 1st ex. sess. and RCW 71.05.330 are each amended to read as follows:

(1) Nothing in this chapter shall prohibit the superintendent or professional person in charge of the hospital or facility in which the person is being involuntarily treated from releasing him prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer presents a likelihood of serious harm to others.

Whenever the superintendent or professional person in charge of a hospital or facility providing involuntary treatment pursuant to this chapter releases a person prior to the expiration of (~~ninety days~~) the period of commitment, the superintendent or professional person in charge shall in writing notify the court which committed the person for treatment.

(2) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is released under this section, the superintendent or professional person in charge shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the release date. Notice shall be provided at least thirty days before the release date. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county in which the person is being involuntarily treated for a hearing to determine whether the person is to be released. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and the guardian or conservator of the committed person. The court shall conduct a hearing on the petition within ten days of filing the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be released without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. If the court disapproves of the release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the committed person shall be released or shall be returned for involuntary treatment subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

Before a person committed under grounds set forth in RCW 71.05.280(3) is released from involuntary treatment because a new petition for involuntary treatment has not been filed under RCW 71.05.320(2), the

superintendent, professional person, or designated mental health professional responsible for the decision whether to file a new petition shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision not to file a new petition for involuntary treatment. Notice shall be provided at least thirty days before the period of commitment expires. Nothing in this section shall be construed to authorize detention of a person unless a valid order of commitment is in effect.

Sec. 3. Section 33, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 14, chapter 215, Laws of 1979 ex. sess. and RCW 71.05.280 are each amended to read as follows:

At the expiration of the fourteen day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 (~~for an additional period, not to exceed ninety days~~) if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm to others or himself; or

(2) Such person was taken into custody as a result of conduct in which he attempted or inflicted physical harm upon the person of another or himself, and continues to present, as a result of mental disorder, a likelihood of serious harm to others or himself; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.090(3), as now or hereafter amended, and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, wilfulness, or state of mind as an element of the felony; or

(4) Such person is gravely disabled.

For the purposes of this chapter "custody" shall mean involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from a facility providing involuntary care and treatment.

Sec. 4. Section 34, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 6, chapter 199, Laws of 1975 1st ex. sess. and RCW 71.05.290 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his professional designee or the designated county mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.090(3) as now existing or hereafter amended, then the professional person in charge of the treatment facility or his professional designee or the county designated mental health professional may directly file a petition for ~~((ninety))~~ one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

Sec. 5. Section 37, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 15, chapter 215, Laws of 1979 ex. sess. and RCW 71.05.320 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services for a further period of intensive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department. An order for treatment less restrictive than involuntary detention may include conditions, and if such conditions are not adhered to, the designated mental health professional may order the person apprehended under the terms and conditions of RCW 71.05.340 as now or hereafter amended.

If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment.

(2) Said person shall be released from involuntary treatment at the expiration of ~~((ninety days))~~ the period of commitment imposed under subsection (1) of this section unless the superintendent or professional person in charge of the facility in which he is confined, or in the event of a less restrictive alternative, the designated mental health professional, files a new petition for involuntary treatment on the grounds that the committed person;

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder presents a likelihood of serious harm to others; or

(b) Was taken into custody as a result of conduct in which he attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder a likelihood of serious harm to others; or

(c) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder presents a substantial likelihood of repeating similar acts; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in subsections (b) and (c) of this section was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the same manner as provided herein above. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment. No person committed as herein provided may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

Sec. 6. Section 39, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 16, chapter 215, Laws of 1979 ex. sess. and RCW 71.05.340 are each amended to read as follows:

(1) (a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment

prior to or at the expiration of the period of commitment, then such outpatient care may be required as a condition for early release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the conditions for early release shall be given to the patient, the designated county mental health professional in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the conditions for early release shall be provided at least thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The hospital or facility designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions.

(3) If the hospital or facility designated to provide outpatient care, the designated county mental health professional or the secretary determines that a conditionally released person is failing to adhere to the terms and conditions of his release, then, upon notification by the hospital or facility designated to provide outpatient care, or on his own motion, the designated county mental health professional or the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he is receiving outpatient treatment until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he had been conditionally released. The designated county mental health professional or the secretary may modify or rescind such order at any time prior to commencement of the court hearing. The court that originally ordered commitment shall be notified within two judicial days of a person's detention under the provisions of this section, and the designated county mental health professional or the secretary shall file his petition and order of apprehension and detention with the court and serve them upon the person detained. His attorney, if any, and his guardian or conservator, if any, shall receive a copy of such papers as soon as possible. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The issues to be determined shall be whether the conditionally released person did or did not adhere to the terms and conditions of his release; and, if he failed to adhere to such terms and conditions, whether the conditions of release should be modified or the person should be returned to the facility. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his counsel and his guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

(4) The proceedings set forth in subsection (3) of this section may be initiated by the designated county mental health professional or the secretary on the same basis set forth therein without requiring or ordering the

apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than fifteen days from the date of service of the petition upon the conditionally released person.

Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided.

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

In any proceeding under this chapter to modify a commitment order of a person committed to inpatient treatment under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) in which the requested relief includes treatment less restrictive than detention, the prosecuting attorney shall be entitled to intervene. The party initiating the motion to modify the commitment order shall serve the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed with written notice and copies of the initiating papers.

Sec. 8. Section 44, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 207, Laws of 1985 and RCW 71.05.390 are each amended to read as follows:

The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person, not employed by the facility, who does not have the medical responsibility for the patient's care or who is not a designated county mental health professional or who is not involved in providing services under the community mental health services act, chapter 71.24 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing outpatient services to the operator of a care facility in which the patient resides.

(3) When the person receiving services, or his guardian, designates persons to whom information or records may be released, or if the person is a minor, when his parents make such designation.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled.

(5) For program evaluation and/or research: PROVIDED, That the secretary of social and health services adopts rules for the conduct of such evaluation and/or research. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/"

(6) To the courts as necessary to the administration of this chapter.

(7) To law enforcement officers, public health officers, or personnel of the department of corrections or the board of prison terms and paroles for persons who are the subject of the records and who are committed to the custody of the department of corrections or board of prison terms and paroles which information or records are necessary to carry out the responsibilities of their office: PROVIDED, That

(a) Only the fact, place, and date of involuntary admission, the fact and date of discharge, and the last known address shall be disclosed upon request; and

(b) The law enforcement and public health officers or personnel of the department of corrections or board of prison terms and paroles shall be obligated to keep such information confidential in accordance with this chapter; and

(c) Additional information shall be disclosed only after giving notice to said person and his counsel and upon a showing of clear, cogent and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained: PROVIDED HOWEVER, That in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and section 7 of this 1986 act. The prosecutor shall be provided access to records

regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Passed the House February 14, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 68

[House Bill No. 1776]

EMERGENCY MEDICAL PROGRAM DIRECTORS

AN ACT Relating to emergency medical program directors; amending RCW 18.71.205, 18.71.210, and 18.71.215; adding new sections to chapter 18.71 RCW; and declaring an emergency.

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

Sec. 1. Section 3, chapter 55, Laws of 1977 as amended by section 2, chapter 112, Laws of 1983 and RCW 18.71.205 are each amended to read as follows: