

CHAPTER 223.

[H. B. 436.]

COMMITMENT AND RELEASE OF SEXUAL PSYCHOPATHIC PERSONS AND PSYCHOPATHIC DELINQUENTS.

AN ACT relating to the commitment, detention, confinement and release of sexual psychopathic persons and psychopathic delinquents; adding a new chapter to Title 71, R.C.W., and repealing sections 71.12.210 to 71.12.450, both inclusive, R.C.W., and sections 70.86.010 to 70.86.100, both inclusive, R.C.W.

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

SECTION 1. This act shall constitute a new chapter under title 71, R.C.W. New chapter.

SEC. 2. As used in this chapter, the following terms shall have the following meanings: "Psycho-pathic personality."

"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 by 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, and who is not mentally ill or mentally deficient. "Sexual psychopath."

"Sex offense" means one or more of the following: "Sex offense."
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.

"Psycho-pathic delinquent."

"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, to a state school for the mentally deficient as a mentally deficient person, or to a state hospital as a mentally ill person.

"Minor."

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

"Department."

"Department" means department of public institutions.

"Court."

"Court" means the superior court of the state of Washington.

"Superintendent."

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

Persons charged with a sex offense; petition alleging person to be a sexual psychopath.

SEC. 3. 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.

Hearings.

SEC. 4. The court may proceed to hear the criminal charge. If the defendant is convicted or has previously plead 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.

Preliminary hearing.

SEC. 5. 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 of public institutions.

Order of confinement for observation.

SEC. 6. 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.

Defendant returned after observation with report.

SEC. 7. 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 of public institutions 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.

Determination by the court.

SEC. 8. A sexual psychopath committed pursuant to section 7 shall be retained by the superintendent of the institution involved until in his opinion he is safe to be at large, whereupon:

Person committed until safe, whereupon:

(1) If the sexual psychopath had been convicted of, or had plead 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.

Maximum sentence unexpired, superintendent's opinion certified to board.

Where maximum sentence expired, person to be paroled.

(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.

Person returned to committing court, when.

(3) If the maximum sentence for the criminal charge has not expired and the sexual psychopath has not plead 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.

Where person certified as safe; board to set sentence.

SEC. 9. Where pursuant to section 8 (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.

Same; board or court to be furnished copies of medical record.

SEC. 10. Where under section 8 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.

State hospitals.

SEC. 11. The department may designate one or more state hospitals for the care and treatment of sexual psychopaths.

After five years on parole person may be discharged.

SEC. 12. 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.

Credit for time in hospital.

SEC. 13. 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. 14. 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.

Sexual psychopathy; demand for jury.

SEC. 15. Nothing in this act shall be construed as to affect the procedure for the ordinary conduct of criminal trials as otherwise set up by law. Nothing in this act 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 act shall be construed as affecting the laws relating to the criminally insane or the insane criminal, nor shall this act be construed as preventing the defendant from raising the defense of insanity as in other criminal cases.

Rights and matters not affected by act.

SEC. 16. 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:

Psychopathic delinquent; petition.

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

Persons who may file:

Parent or guardian,

(2) Any county prosecuting attorney.

Prosecuting attorneys,

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

school district representatives,

welfare officials.

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

superintendent.

(5) Any superintendent of a state institution.

persons directed by court.

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

Person under juvenile court jurisdiction.

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.

Time for preliminary hearing fixed.

SEC. 17. 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.

Hearing may be closed.

Warrant of apprehension.

SEC. 18. 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.

Detention facilities.

Preliminary hearing.

SEC. 19. 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

Testimony of physicians required.

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.

Other
witnesses.

SEC. 20. 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.

Psychopathic
delinquency;
minor
detained for
observation.

Return and
report.

SEC. 21. 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 17. 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 of public institutions 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.

Hearing on
petition.

Notice.

Commitment
where minor
found to be a
psychopathic
delinquent.

Psychopathic delinquency; jury trial.

SEC. 22. 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 21. Such minor may be detained pending jury trial as provided for in section 18.

Jury to determine issue.

Psychopathic delinquents; parole.

SEC. 23. Any persons committed under the provisions of this act 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.

Discharge, when.

Minor charged with a crime; petition of psychopathic delinquency.

SEC. 24. 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 proba-

tion 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.

Finding of psychopathic delinquency.

Finding of no psychopathic delinquency.

SEC. 25. The director of the department of public institutions 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.

Director may designate institution to care for minor.

SEC. 26. Hearings held under the provisions of this act relative to psychopathic delinquents shall be handled as probate matters.

Hearings as probate matter.

SEC. 27. At the time any person is committed as a sexual psychopath or psychopathic delinquent the court shall 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 public 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.

Relative responsibility for cost of hospitalization; judgment.

Repealing
clause.

SEC. 28. Sections 71.12.210 to 71.12.450, R.C.W., as derived from sections 26 to 50, both inclusive, chapter 198, Laws of 1949, and sections 70.86.010 to 70.86.100, both inclusive, R.C.W., as derived from chapter 273, Laws of 1947, are repealed.

[R.C.W. 71.12.210 to 71.12.450 is Rem. Supp. 1949, §§ 6953-26 to 6953-51 incl.; R.C.W. 70.86.010 to 70.86.100 is Rem. Supp. 1947, §§ 2252-10 to 2252-15 incl.]

Passed the House March 2, 1951.

Passed the Senate March 6, 1951.

Approved by the Governor March 17, 1951.

CHAPTER 224.

[H. B. 490.]

PLATTING SUBDIVISION AND DEDICATION OF LAND.

AN ACT relating to the platting, subdivision and dedication of land, and amending section 58.16.100, R.C.W.

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

Amendment.

SECTION 1. Section 58.16.100, R.C.W., as derived from section 11, chapter 186, Laws of 1937, is amended to read as follows:

Penalty for
sale of land
by use of
plat before
plat
approved.

The owner or agent of the owner of land located in a plat or subdivision, who transfers or sells, or agrees to sell or option any land by reference to or exhibition of or by any other use of a plat or map of a subdivision, before it has been approved and filed shall forfeit and pay a penalty of one hundred dollars for each lot or parcel so transferred, or sold or agreed or optioned to be sold. The description of the lot by metes and bounds in the instrument of transfer, agreeing or optioning, shall not exempt the transaction from the penalty, or from the remedies herein provided. The city, town, or county authority may enjoin the transfer, sale agreement, or option by action in the superior court, or may recover the

Sale may be
enjoined.