
SENATE BILL 5038

State of Washington

66th Legislature

2019 Regular Session

By Senator O'Ban

Prefiled 12/24/18.

1 AN ACT Relating to limiting the placement of institutionalized
2 persons with a history of criminal justice involvement in adult
3 family homes; amending RCW 71.09.092 and 70.97.030; and adding a new
4 section to chapter 71.05 RCW.

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

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

8 (1) The secretary may not discharge a person committed under this
9 chapter in a case where the court has made an affirmative special
10 finding under RCW 71.05.280(3)(b) to an adult family home.

11 (2) For the purposes of this section, "adult family home" has the
12 same meaning as provided under chapter 70.128 RCW.

13 **Sec. 2.** RCW 71.09.092 and 2009 c 409 s 9 are each amended to
14 read as follows:

15 (1) Before the court may enter an order directing conditional
16 release to a less restrictive alternative, it must find the
17 following: ~~((1))~~ (a) The person will be treated by a treatment
18 provider who is qualified to provide such treatment in the state of
19 Washington under chapter 18.155 RCW; ~~((2))~~ (b) the treatment
20 provider has presented a specific course of treatment and has agreed

1 to assume responsibility for such treatment and will report progress
2 to the court on a regular basis, and will report violations
3 immediately to the court, the prosecutor, the supervising community
4 corrections officer, and the superintendent of the special commitment
5 center; ~~((3))~~ (c) housing exists in Washington that is sufficiently
6 secure to protect the community, and the person or agency providing
7 housing to the conditionally released person has agreed in writing to
8 accept the person, to provide the level of security required by the
9 court, and immediately to report to the court, the prosecutor, the
10 supervising community corrections officer, and the superintendent of
11 the special commitment center if the person leaves the housing to
12 which he or she has been assigned without authorization; ~~((4))~~ (d)
13 the person is willing to comply with the treatment provider and all
14 requirements imposed by the treatment provider and by the court; and
15 ~~((5))~~ (e) the person will be under the supervision of the
16 department of corrections and is willing to comply with supervision
17 requirements imposed by the department of corrections.

18 (2) No less restrictive alternative order entered under this
19 chapter after the effective date of this section may be entered
20 placing a person committed as a sexually violent predator in an adult
21 family home. A person subject to a less restrictive order under this
22 section who would otherwise be appropriate for adult family home
23 placement must be placed in an enhanced services facility, or a
24 setting that provides at least an equivalent staffing ratio and level
25 of security and supervision.

26 (3) For the purposes of this section, "adult family home" has the
27 same meaning as provided under chapter 70.128 RCW and "enhanced
28 services facility" has the same meaning as provided under chapter
29 70.97 RCW.

30 **Sec. 3.** RCW 70.97.030 and 2005 c 504 s 405 are each amended to
31 read as follows:

32 A person, eighteen years old or older, may be admitted to an
33 enhanced services facility if he or she meets the criteria in
34 subsections (1) through (3) of this section:

35 (1) The person requires: (a) Daily care by or under the
36 supervision of a mental health professional, chemical dependency
37 professional, or nurse; or (b) assistance with three or more
38 activities of daily living; and

1 (2) The person has: (a) A mental disorder, chemical dependency
2 disorder, or both; (b) an organic or traumatic brain injury; (~~(c)~~)
3 (c) a cognitive impairment that results in symptoms or behaviors
4 requiring supervision and facility services; (~~(and)~~) or (d) been
5 judicially determined to meet the definition of sexually violent
6 predator under RCW 71.09.020; and

7 (3) The person has two or more of the following:

8 (a) Self-endangering behaviors that are frequent or difficult to
9 manage;

10 (b) Aggressive, threatening, or assaultive behaviors that create
11 a risk to the health or safety of other residents or staff, or a
12 significant risk to property and these behaviors are frequent or
13 difficult to manage;

14 (c) Intrusive behaviors that put residents or staff at risk;

15 (d) Complex medication needs and those needs include psychotropic
16 medications;

17 (e) A history of or likelihood of unsuccessful placements in
18 either a licensed facility or other state facility or a history of
19 rejected applications for admission to other licensed facilities
20 based on the person's behaviors, history, or security needs;

21 (f) A history of frequent or protracted mental health
22 hospitalizations;

23 (g) A history of offenses against a person or felony offenses
24 that created substantial damage to property.

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