

**REPORT TO THE LEGISLATURE**

Addressing Delays in Patient Discharge

Operating Budget Bill – SB 5187  
Sec. 202 Subsection (25) Legislative Report

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## **Executive Summary**

The 2023 Washington State Legislature passed SB 5187. Section 202(25) appropriated \$2,233,000 of the general fund for fiscal year 2024, \$4,118,000 of the general fund for fiscal year 2025, and \$297,000 of the general fund for federal appropriation, provided solely for the department to address delays in patient discharge.

The reporting requirement of the bill state:

- (a) The department shall hire staff dedicated to discharge reviews, including psychologists to complete reviews and staff for additional discharge review work, including, but not limited to, scheduling, planning, and providing transportation; and establish and implement a sex offense and problematic behavior program as part of the sex offense review and referral team program.
- (b) Of the amounts provided in this subsection, \$504,000 per year shall be used for bed fees for patients who are not guilty by reason of insanity.
- (c) The department shall track data as it relates to this subsection and, where available, compare it to historical data. The department will provide a report to the appropriate fiscal and policy committees of the legislature. A preliminary report is due by December 1, 2023, and the final report is due by September 15, 2024, and at a minimum must include the:
  - (i) Volume of patients discharged;
  - (ii) Volume of patients in a sex offense or problematic behavior program;
  - (iii) Number of beds held for not guilty by reason of insanity patients;
  - (iv) Average and median duration to complete discharges;
  - (v) Staffing as it relates to this subsection; and
  - (vi) Average discharge evaluation caseload.

## **Addressing Delays in Patient Discharge**

### **Background:**

Patients that are ready to transition out of the state hospitals face a wide variety of barriers that impact the timelines for discharge. For many patients, there are regulatory requirements and legal processes that must be followed before discharge can occur. For some, there are complex discharge related issues that their care teams work to resolve ahead of discharge. In December 2022, the department reached a settlement agreement with Disability Rights Washington to improve discharge planning processes and minimize discharge delays for civilly committed patients at Eastern and Western State Hospital.

The Civil Discharge Settlement Agreement includes the following actions:

- Develop consistent discharge planning processes so civil patients discharging from state hospitals can live in the most integrated community setting. Improving processes through:
  - Stakeholder feedback.
  - Creating clear and timely discharge plans.
  - Updating policies, procedures, processes, and forms to be used for individuals discharging from civil commitment beds operated by BHA.
  - Defining the discharge transition team and components of a timely discharge.
  - Processes for complex case staffing.
  - Development of a Transition and Discharge Planning System.

## **Discharge Reviews:**

Pursuant to RCW 71.05.232, the department is required to complete Discharge Reviews for patients with histories of criminal justice involvement prior to their discharge from the state hospitals. These are patients who are committed under RCW 71.05 with a history of one or more violent acts as defined in RCW 71.05.020 and either (1) have been transferred from a correctional facility (any jail, prison, etc.) or (2) [is now or has ever] been under the authority of the Department of Corrections or the Indeterminate Sentence Reviews Board and have a history of violence. The purpose of this evaluation is to complete a discharge review providing an independent opinion regarding whether the person presents a likelihood of serious harm and whether the person is appropriate for release to a less restrictive alternative, as defined in RCW 71.05.585. Each evaluation requires a detailed review of clinical and criminal history and the amount of time required can range from 8-30 hours to complete, depending on the complexity of the patient's history.

The department currently employs three full-time psychologists at Eastern State Hospital and three full-time psychologists at Western State Hospital to complete discharge reviews for civil patients. Additionally, the department began contracting with private practice psychologists in 2023 to support both hospitals in completing these evaluations given the increasing number of patients that meet the legal requirements. Contractors continue to be used as needed at both State Hospitals and this effort is expected to continue through 2025.

## **Sex Offense and Problematic Sexual Behavior Program:**

### Brief Overview/History:

Since early 2021, BHA has taken active preliminary steps to address identified gaps in patient/resident treatment and evaluation needs when patients/residents have an identified sex offense history and/or problematic sexual behavior within BHA hospitals. Through the use of contractors, interim services were established BHA wide to support referrals for patients/residents to avoid potential delays in discharge, while ensuring needs were addressed to enhance likelihood of success and a safe transition. The use of contractors, while helpful in the interim, still did not address the scope of need because the need for services, issues on timing, and challenges with appropriate placements often exceeded available resources.

Despite no formal program at either Eastern State Hospital or Western State Hospital existing to provide treatment, BHA began the process of identifying what would be needed to create a program that could provide services to patients/residents as a long-term solution for this area of need.

To help facilitate the development of a program, initial steps were taken to begin identifying gaps in current data to support a formal request to the legislature to fund this important area of work, and equally important, for BHA to better understand our current state of patients with this history, as well as what the hospital needs are to support this occurring while inpatient. In 2022, financial support to develop the program and positions were approved.

### Prior Progress update though October 2023:

1. *In 2021, a formal monthly report and quarterly report process was established with RDA to provide more complete numbers of patients who have sex offense histories, and includes*

- demographic information to help inform treatment need conversations, statutory requirements for releases, and assistance to better informing our approaches in program development etc.*
2. *Eastern State Hospital (ESH) and Western State Hospital (WSH) participated separately in a mapping of their respective current states and an assessment of current needs for this population with a LEAN facilitator.*
  3. *In late 2021- early 2022, a combined project group was formed to begin working on the mapping of the future state of the SO program for consistency amongst the two hospitals.*
    - a. *Specific work was 'bucketed' to look at intake, assessment, treatment and discharge, with multiple tasks and action items to be considered in the development of a program.*
    - b. *In the area of Intake, the group has created a referral form to address the initial process of intake and discussed the development of a Sex Offense Review and Referral Team for each hospital. Currently, a manual is in progress that would guide the work of this team's scope and process. The project team also discussed what positions would be needed to support the work of a team.*
    - c. *In the area of Assessment, the project team participated in learning sessions and presentations on various assessments that would support evaluating patients and triaging them into treatment based on the Risk, Need, Responsivity (RNR) model.*
      - i. *Assessments were selected for static & dynamic risk, and protective factors, as well as assessments for individuals with cognitive and intellectual disabilities. The team also discussed approach to assessment in the event a formal tool could not be used based on scoring rules and or lack of norms on the population (e.g., assessment with women, folks whose primary language or country of origin differs from the US)*
    - d. *In late 2022- early 2023 the area of Treatment focus began, and the project team began compiling a menu of what each hospital offers patients, as some programs could potentially support responsivity areas for a patient and would be most cost effective.*
      - i. *In review of programs offered, issues of consistency led the group to consider a smaller group approach which would help identify key programs to work toward consistency as a formal offering of the eventual sex offense program, and support curriculum development of new programs that would be needed.*

Latest progress update as of August 2024:

1. As of late 2023 through August of 2024, the Treatment Subcommittee group continued with key work in the areas of staffing positions to support End of Sentence Review Committee presentations and internal consultation for patients/residents with sexual behavior, policy and procedure work, and curriculum development.
  - a. Staffing and Position Development: To support current facility needs and recent vacancies, focus on Position Description Forms (PDFs) for a Psychologist and Psychology Associate at each hospital occurred. The team worked consistently to ensure job tasks would meet current needs and eventual program vision. The team also conducted ongoing work in clinically consistent practices amongst facilities across BHA. Continuity was established by adding a psychology associate to support work. Prior to this change, organizational structure left it to one staff member, thus leaving a gap in services if the individual was absent and or ended employment with BHA. Once the restructuring was completed, the new positions went out for posting for ESH and WSH.
    - i. In Sept 2023, ESH welcomed a Psychologist 4 in training (not yet licensed) to support this work. ESH is holding on posting the Psychology Associate position until the program begins.
    - ii. In May of 2024, WSH welcomed a Psychology Associate to support this work.

- iii. The Psychologist position for WSH was also posted and interviews began in August of 2024.
  - iv. Current work continues in reviewing the organizational structure of this program with the positions that will be funded on July 1<sup>st</sup> of 2025, with focus currently on development of Position Description Forms for class and compensation review slated for end of 2024.
- b. Policy and Procedure: To support processes and provide guidance to current and future staff, the Treatment subcommittee group has been focused on a few key policies that have required substantial work with Washington Association of Sheriffs and Police Chiefs (WASPC), the End of Sentence Review Committee (ESRC), staff members who support notifications and registration of patients/residents with qualifying offenses, and the Assistant Attorney Generals (AAGs) of the Attorney General's office. With the addition of our new Behavioral Health Treatment Centers (BHTCs), formerly known as Residential Treatment Facilities (RTFs) the Treatment Subcommittee has also worked on clarifying this process when we internally transfer a patient/resident.
- i. In May of 2024, Policy 1.07 Register Sex Offenders was archived and replaced by BHA 1.07 Registration and Notification of Individuals with Kidnapping and Sex Offenses. The work in this area clarified when folks should be taken to register, how information is shared with law enforcement, and added a capacity evaluation by psychiatry.
  - ii. Over the last 6-8 months, the Treatment Subcommittee has also worked on Policy 1.14 Review and Referral Process for the End of Sentence Review Committee which will replace Policy 1.9 Review and Referral for ESRC, once approved. This update has required a review of DSHS forms for notification, and the development of a guide to assist in identifying which patients/residents releasing from ESH, WSH, and the BHTCs require presentation to the ESRC-- which require notifications and what type--and what information should be shared.
  - iii. In April of 2024, the Treatment Subcommittee also began working on Policy 1.06 Duty to Warn, by assisting in the feedback and review as the policy will be renamed and subsuming other policies on notification and victim witness.
- c. Curriculum Development: After initial work of cross walking services from ESH and WSH and identifying programs that address key areas for individuals with sexual behavior and sex offense histories, the team began identifying curriculum in need of development. This included a review of current evidenced-based manualized treatment and feedback of those who deliver treatment. In this review, the Treatment Subcommittee found that some offerings appeared to be more evidenced informed and that current manualized approaches had some deficits in following the protocol as intended given patient/resident challenges in understanding material.
- i. In March of 2024, the Treatment Subcommittee group began curriculum development of an adopted evidence informed approach for Illness Management and Recovery (IMR) and Enhanced Illness Management and Recovery (EIMR) currently in use at ESH and WSH. Final review will likely occur between October and November of 2024.
  - ii. In July of 2024, members of the Treatment Subcommittee group began work on a literature review to develop curriculum for healthy sexuality and relationships. Initial presentation of findings began August of 2024; however, the members are still working on the review and proposal of curriculum. Finalizing curriculum will likely occur by end of year.
  - iii. In August of 2024, the Treatment Subcommittee also started key discussion on naming conventions within the program considering person-first language and

the skeletal structure of the modalities to be used.

The Treatment Subcommittee will continue to meet and focus on program development and will be focused on posting and recruiting positions early next year to support filling by July 1<sup>st</sup>, 2025. Efforts will additionally be focused on advertising as specialized positions often pose challenges for recruitment. Since the work to develop the program is ongoing and funding is not available until mid-2025, there is no current data on the services provided to patients/residents and/or the program to share.

**Bed Fees for NGRI:**

Patients that are found Not Guilty by Reason of Insanity (NGRI) require multiple levels of clinical and legal reviews as they progress through treatment and move towards eventual discharge into the community. A typical conditional release into the community requires, at a minimum, review by the state hospital Risk Review Board, Public Safety Review Panel, BHA Assistant Secretary, and a court order. For patients that will be discharging to residential settings, such as Adult Family Homes, Adult Residential Treatment Facilities (group homes), or Enhanced Services Facilities, the owner/provider of the residential setting must wait for all the legal and clinical review teams to evaluate and approve the proposed discharge plan, a process that can often take 6 months. Many of these residential providers will reserve a bed for an NGRI patient for the entire timeframe, without compensation.

Currently the Department has not implemented bed hold retainers, but we continue to explore mechanisms for reserving a bed at residential facilities. This would help ensure that a bed is available at the time that the discharge plan is approved by all entities, offer financial benefit to the provider, and provide some incentive for providers to continue serving this population. A common bed retainer rate is approximately 75% of the daily rate for the residence. Early estimates indicate that the monthly expense will be \$2,000-\$4,000 per patient from the point that a provider has accepted a patient at their residential setting to the date of discharge. Current barriers to implementing a bed retainer include impacts to state and federal rate standards for residential providers and union and labor concerns.

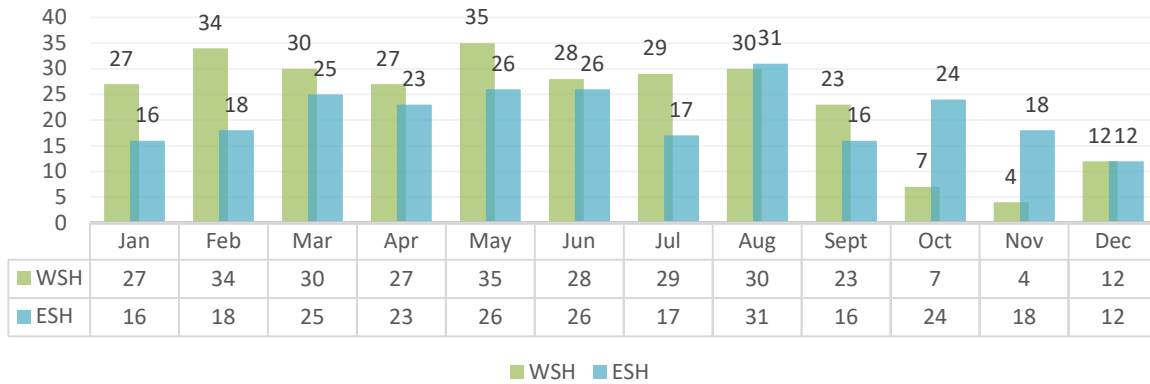
**Reporting Data:**

**Requirement (i) Volume of patients discharged:**

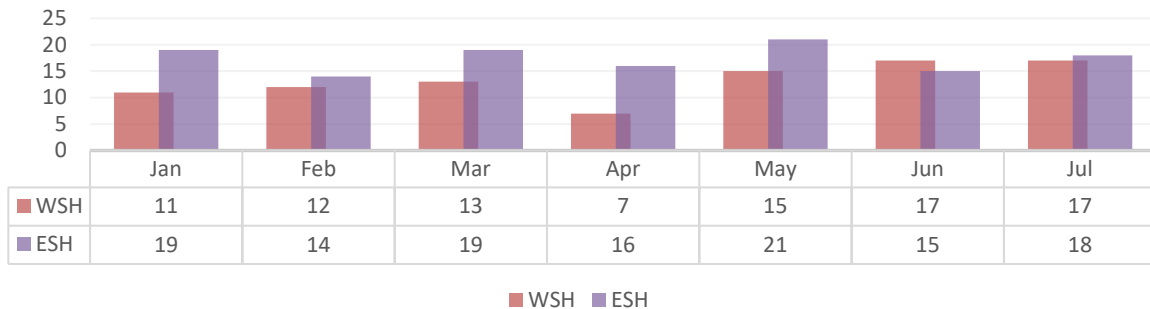
The following charts outline the number of civilly committed patients that have discharged from the state hospitals into community settings from January 2023-July 2024.

<b>2023</b>	<b>2024 (Jan-July)</b>
WSH: 286	WSH: 92
ESH: 92	ESH: 122

## Civil Discharges into Community Settings 2023



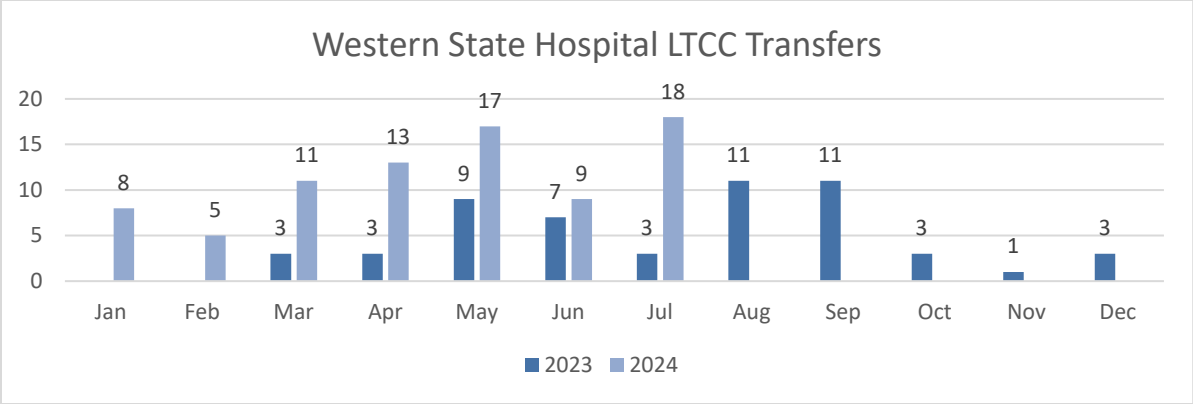
## Civil Discharges into Community Settings Jan 2024-July 2024



In addition to efforts to discharge patients directly into community settings, the Department has also been working with the Health Care Authority (HCA) to identify civilly committed patients that can continue their treatment at facilities other than state hospitals. HCA has developed a contract with Long-Term Civil Commitment (LTCC) facilities that allows these facilities to admit civil conversion patients from the state hospitals to provide ongoing inpatient treatment and facilitate eventual discharge into the community. Current contracted LTCC facilities that are partnering with Western State Hospital include, Navos, Wellfound Behavioral Hospital, Recovery International, Telecare Evaluation & Treatment Centers, and the University of Washington Center for Behavioral Health and Learning. These transfer efforts have become a reliable tool to assist the state hospitals in keeping pace with the number of forensic patients that convert to a civil order.

The following chart outlines the number of civil conversion patients that have transferred from Western State Hospital to LTCC facilities since March 2023. Efforts are underway to develop similar contracts with LTCC facilities in Eastern Washington to support Eastern State Hospital.





**Requirement (ii) Volume of patients in a sex offense or problematic behavior program:**

Currently, the work to develop a sex offense and problematic behavior program and establish position descriptions remains the focus of the project group. With funding beginning in 2025 to hire individuals to provide treatment, the Department does not have any patient data or volume of patients served to report at this time.

**Requirement (iii) Number of beds held for not guilty by reason of insanity patients:**

The following chart outlines the number of Not Guilty by Reason of Insanity (NGRI) beds at Eastern and Western State Hospital.

<b>Eastern State Hospital</b>	<b>70 NGRI Beds</b>
<b>Western State Hospital</b>	<b>121 NGRI Beds</b>

**Requirement (iv) Average and median duration to complete discharges:**

The Department does not currently track the average and median duration to complete discharges and is actively working to develop a consistent way to track and report those numbers. The Civil Discharge Settlement Agreement requires that the Department build an electronic record system to track key discharge timeframes and information. The Transition and Discharge Planning System (TDPS) is scheduled to be implemented at Western State Hospital and Eastern State Hospital in November 2024.

**Requirement (v) Staffing as it relates to this subsection:**

Western State Hospital received funding in FY24 to hire 13 positions. All the positions have been established and filled except for one Psychiatric Social Worker 3. The staffing plan is as follows:

- 3.0 Mental Health Technician 3's
- 4.0 Institutional Counselor 3's
- 6.0 Psychiatric Social Worker 3's

Eastern State Hospital received funding in FY25 to hire 6 positions. They continue to work on

establishing positions. The staffing plan is as follows:

- 2.0 Psychologist 4's
- 1.0 Psychology Associate
- 1.0 Mental Health Technician 3
- 2.0 Institutional Counselor 3's

These staff are needed for discharge related transportation (ex. pre-placement visits, bank, etc.), scheduling and monitoring remote provider visits and discharge evaluations, escorting on-site visits for providers, and managing money access/draws, etc.

**Requirement (vi) Average discharge evaluation caseload:**

ESH	3 Psychologist positions	6 discharge reviews each month per evaluator (average)
WSH	3 Psychologist positions	8 discharge reviews each month per evaluator (average)
Contractors	5 contractors (varied availability)	As-needed