

22 WA counties sue the state over lack of mental health care

They say the Department of Social and Health Services is failing people in the criminal legal system who also have mental health issues.

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Crosscut

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Western State Hospital, a psychiatric hospital founded in 1871 in Lakewood, Wash., photographed June 21, 2018. (Matt M. McKnight/Crosscut)

Nearly two dozen Washington counties – including King, Pierce, Snohomish and Spokane – are suing the Washington Department of Social and Health Services for not providing legally mandated behavioral health care.

[The lawsuit](#), announced Wednesday, represents a fresh escalation of the dispute over Washington's mental health system, which has bedeviled state officials and lawmakers for years. Despite two court orders roughly a decade ago requiring better care and hundreds of millions of dollars put into the system since then, the state has struggled to provide care for individuals with mental health issues.

King County Executive Dow Constantine said in the statement that people in the criminal legal system who also have mental health concerns have been failed repeatedly by the state of Washington.

Filed in Pierce County Superior Court, the legal challenge deals with what are known as "civil conversion" patients, criminal defendants whose competency to stand trial can't be restored and who are then handed over to DSHS to evaluate whether they should be civilly committed to a psychiatric facility.

The lawsuit contends that DSHS has "selectively refused admission to civil conversion patients since at least December 2022 and, on information and belief, has refused to admit any civil conversion patients for statutorily required civil commitment evaluations" since July 13.

The counties also contend that DSHS is not providing written notice to law enforcement officials, victims, prosecutors and others at least 30 days before releasing civil conversion patients back into communities, despite a state law requiring such notification.

The plaintiffs are 22 counties from across the state – Thurston, Clallam, Skagit and Yakima, among others – and the Washington State Association of Counties.

In a statement, King County Executive Dow Constantine said DSHS has "a basic legal obligation to provide behavioral health treatment to those involved in the legal system."

"The reality is that people in these circumstances are often failed by multiple systems that, rather than offering hope and restoration, leave them untreated and at risk of reoffending," Constantine continued. "It is the state's responsibility in these

circumstances to provide people treatment and a chance to recover ... Counties cannot now be asked to also shoulder the state's long-time responsibility."

The lawsuit also makes note of the [ambitious plans approved in 2019 by Inslee and lawmakers](#) to reshape the mental health system by building smaller facilities around the state while winding down parts of Washington State Hospital. Located in Lakewood, Pierce County, the state-run hospital has historically housed hundreds of patients, and officials have been working to reduce the number of civil patients there.

"From at least September 2022 through March 2023, DSHS removed beds from and closed wards at Western State Hospital, long before replacement bed space was available, resulting in a decrease in capacity to perform its statutory obligations, including its obligation to 191 evaluate civil conversion patients," according to the lawsuit.

A federal court overseeing the 2015 ruling, known as the *Trueblood* decision, last month found that DSHS had "breached its duty owed a class of pre-trial detainees by failing to provide timely competency and restoration services," according to the new lawsuit. As part of that, the federal court ordered DSHS to stop admitting civil conversation patients to Washington's two psychiatric hospitals. The new lawsuit contends that DSHS is using that order to deny all civil conversation patients, not only the long-term patients who are the focus of the *Trueblood* decision.

In an email, DSHS spokesperson Tyler Hemstreet wrote that the new lawsuit "is in direct conflict with the federal court's order" all while the need for behavioral health services has increased.

"Over the past nine fiscal years, requests for DSHS to provide inpatient evaluations and competency restoration services have increased by roughly 145%," he wrote. "These large and unpredicted increases in the number of county criminal court orders have exceeded the large number of beds already added to the forensic system."

DSHS is working to bring more psychiatric beds online, added Hemstreet, such as those at the former Cascade Behavioral Health facility. The state [purchased that Tukwila privately-run facility](#) recently after its corporate owners closed it down.

Legal counsel for Gov. Jay Inslee's office are still reviewing the lawsuit, according to Inslee spokesperson Mike Faulk.

"These are challenging issues, but we reject any notion that the state is not committed to meeting its obligations under the *Trueblood* order," Faulk wrote in an email. "While we respect all judicial decisions, by ordering DSHS not to admit these patients into state hospitals a federal court has substantially impaired our ability to treat and care for patients such as these ... The counties bring this action as if no such court order exists."

Since 2015, Washington has put more than \$2 billion toward expanding treatment for competency services, according to Faulk, recently adding 278 beds with nearly 700 more in the pipeline.