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**SUBSTITUTE HOUSE BILL 1373**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** House Early Learning & Children's Services (originally sponsored by Representatives Dickerson, Kagi, Green, Cody, Darneille, Dunshee, Roberts, Goodman, Appleton, Kenney, Orwall, Hurst, Moeller, Takko, Chase, Rolfes, Carlyle, Simpson, Nelson, Conway, and Ormsby)

READ FIRST TIME 02/23/09.

1       AN ACT Relating to equitable access to appropriate and effective  
2 children's mental health services; amending RCW 71.24.025, 71.24.055,  
3 and 74.09.521; creating a new section; and providing an effective date.

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

5       **Sec. 1.** RCW 71.24.025 and 2008 c 261 s 2 are each amended to read  
6 as follows:

7       Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9       (1) "Acutely mentally ill" means a condition which is limited to a  
10 short-term severe crisis episode of:

11       (a) A mental disorder as defined in RCW 71.05.020 or, in the case  
12 of a child, as defined in RCW 71.34.020;

13       (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
14 case of a child, a gravely disabled minor as defined in RCW 71.34.020;  
15 or

16       (c) Presenting a likelihood of serious harm as defined in RCW  
17 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

18       (2) "Available resources" means funds appropriated for the purpose  
19 of providing community mental health programs, federal funds, except

1 those provided according to Title XIX of the Social Security Act, and  
2 state funds appropriated under this chapter or chapter 71.05 RCW by the  
3 legislature during any biennium for the purpose of providing  
4 residential services, resource management services, community support  
5 services, and other mental health services. This does not include  
6 funds appropriated for the purpose of operating and administering the  
7 state psychiatric hospitals.

8 (3) "Child" means a person under the age of eighteen years.

9 (4) "Chronically mentally ill adult" or "adult who is chronically  
10 mentally ill" means an adult who has a mental disorder and meets at  
11 least one of the following criteria:

12 (a) Has undergone two or more episodes of hospital care for a  
13 mental disorder within the preceding two years; or

14 (b) Has experienced a continuous psychiatric hospitalization or  
15 residential treatment exceeding six months' duration within the  
16 preceding year; or

17 (c) Has been unable to engage in any substantial gainful activity  
18 by reason of any mental disorder which has lasted for a continuous  
19 period of not less than twelve months. "Substantial gainful activity"  
20 shall be defined by the department by rule consistent with Public Law  
21 92-603, as amended.

22 (5) "Clubhouse" means a community-based program that provides  
23 rehabilitation services and is certified by the department of social  
24 and health services.

25 (6) "Community mental health program" means all mental health  
26 services, activities, or programs using available resources.

27 (7) "Community mental health service delivery system" means public  
28 or private agencies that provide services specifically to persons with  
29 mental disorders as defined under RCW 71.05.020 and receive funding  
30 from public sources.

31 (8) "Community support services" means services authorized,  
32 planned, and coordinated through resource management services  
33 including, at a minimum, assessment, diagnosis, emergency crisis  
34 intervention available twenty-four hours, seven days a week,  
35 prescreening determinations for persons who are mentally ill being  
36 considered for placement in nursing homes as required by federal law,  
37 screening for patients being considered for admission to residential  
38 services, diagnosis and treatment for children who are acutely mentally

1 ill or severely emotionally disturbed discovered under screening  
2 through the federal Title XIX early and periodic screening, diagnosis,  
3 and treatment program, investigation, legal, and other nonresidential  
4 services under chapter 71.05 RCW, case management services, psychiatric  
5 treatment including medication supervision, counseling, psychotherapy,  
6 assuring transfer of relevant patient information between service  
7 providers, recovery services, and other services determined by regional  
8 support networks.

9 (9) "Consensus-based" means a program or practice that has general  
10 support among treatment providers and experts, based on experience or  
11 professional literature, and may have anecdotal or case study support,  
12 or that is agreed but not possible to perform studies with random  
13 assignment and controlled groups.

14 (10) "County authority" means the board of county commissioners,  
15 county council, or county executive having authority to establish a  
16 community mental health program, or two or more of the county  
17 authorities specified in this subsection which have entered into an  
18 agreement to provide a community mental health program.

19 (11) "Department" means the department of social and health  
20 services.

21 (12) "Designated mental health professional" means a mental health  
22 professional designated by the county or other authority authorized in  
23 rule to perform the duties specified in this chapter.

24 (13) "Emerging best practice" or "promising practice" means a  
25 practice that presents, based on preliminary information, potential for  
26 becoming a research-based or consensus-based practice.

27 (14) "Evidence-based" means a program or practice that has had  
28 multiple site random controlled trials across heterogeneous populations  
29 demonstrating that the program or practice is effective for the  
30 population.

31 (15) "Licensed service provider" means an entity licensed according  
32 to this chapter or chapter 71.05 RCW or an entity deemed to meet state  
33 minimum standards as a result of accreditation by a recognized  
34 behavioral health accrediting body recognized and having a current  
35 agreement with the department, that meets state minimum standards or  
36 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
37 applies to registered nurses and advanced registered nurse  
38 practitioners.

1 (16) "Long-term inpatient care" means inpatient services for  
2 persons committed for, or voluntarily receiving intensive treatment  
3 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-  
4 term inpatient care" as used in this chapter does not include: (a)  
5 Services for individuals committed under chapter 71.05 RCW who are  
6 receiving services pursuant to a conditional release or a court-ordered  
7 less restrictive alternative to detention; or (b) services for  
8 individuals voluntarily receiving less restrictive alternative  
9 treatment on the grounds of the state hospital.

10 (17) "Mental health services" means all services provided by  
11 regional support networks and other services provided by the state for  
12 persons who are mentally ill.

13 (18) "Mentally ill persons," "persons who are mentally ill," and  
14 "the mentally ill" mean persons and conditions defined in subsections  
15 (1), (4), (27), and (28) of this section.

16 (19) "Recovery" means the process in which people are able to live,  
17 work, learn, and participate fully in their communities.

18 (20) "Regional support network" means a county authority or group  
19 of county authorities or other entity recognized by the secretary in  
20 contract in a defined region.

21 (21) "Registration records" include all the records of the  
22 department, regional support networks, treatment facilities, and other  
23 persons providing services to the department, county departments, or  
24 facilities which identify persons who are receiving or who at any time  
25 have received services for mental illness.

26 (22) "Research-based" means a program or practice that has some  
27 research demonstrating effectiveness, but that does not yet meet the  
28 standard of evidence-based practices.

29 (23) "Residential services" means a complete range of residences  
30 and supports authorized by resource management services and which may  
31 involve a facility, a distinct part thereof, or services which support  
32 community living, for persons who are acutely mentally ill, adults who  
33 are chronically mentally ill, children who are severely emotionally  
34 disturbed, or adults who are seriously disturbed and determined by the  
35 regional support network to be at risk of becoming acutely or  
36 chronically mentally ill. The services shall include at least  
37 evaluation and treatment services as defined in chapter 71.05 RCW,  
38 acute crisis respite care, long-term adaptive and rehabilitative care,

1 and supervised and supported living services, and shall also include  
2 any residential services developed to service persons who are mentally  
3 ill in nursing homes, boarding homes, and adult family homes, and may  
4 include outpatient services provided as an element in a package of  
5 services in a supported housing model. Residential services for  
6 children in out-of-home placements related to their mental disorder  
7 shall not include the costs of food and shelter, except for children's  
8 long-term residential facilities existing prior to January 1, 1991.

9 (24) "Resilience" means the personal and community qualities that  
10 enable individuals to rebound from adversity, trauma, tragedy, threats,  
11 or other stresses, and to live productive lives.

12 (25) "Resource management services" mean the planning,  
13 coordination, and authorization of residential services and community  
14 support services administered pursuant to an individual service plan  
15 for: (a) Adults and children who are acutely mentally ill; (b) adults  
16 who are chronically mentally ill; (c) children who are severely  
17 emotionally disturbed; or (d) adults who are seriously disturbed and  
18 determined solely by a regional support network to be at risk of  
19 becoming acutely or chronically mentally ill. Such planning,  
20 coordination, and authorization shall include mental health screening  
21 for children eligible under the federal Title XIX early and periodic  
22 screening, diagnosis, and treatment program. Resource management  
23 services include seven day a week, twenty-four hour a day availability  
24 of information regarding enrollment of adults and children who are  
25 mentally ill in services and their individual service plan to  
26 designated mental health professionals, evaluation and treatment  
27 facilities, and others as determined by the regional support network.

28 (26) "Secretary" means the secretary of social and health services.

29 (27) "Seriously disturbed person" means a person who:

30 (a) Is gravely disabled or presents a likelihood of serious harm to  
31 himself or herself or others, or to the property of others, as a result  
32 of a mental disorder as defined in chapter 71.05 RCW;

33 (b) Has been on conditional release status, or under a less  
34 restrictive alternative order, at some time during the preceding two  
35 years from an evaluation and treatment facility or a state mental  
36 health hospital;

37 (c) Has a mental disorder which causes major impairment in several  
38 areas of daily living;

1 (d) Exhibits suicidal preoccupation or attempts; or

2 (e) Is a child diagnosed by a mental health professional, as  
3 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
4 is clearly interfering with the child's functioning in family or school  
5 or with peers or is clearly interfering with the child's personality  
6 development and learning.

7 (28) "Severely emotionally disturbed child" or "child who is  
8 severely emotionally disturbed" means a child who (~~has been determined~~  
9 ~~by the regional support network to be~~) is experiencing a mental  
10 disorder as defined in chapter 71.34 RCW, including those mental  
11 disorders that result in a behavioral or conduct disorder, that is  
12 clearly and substantially interfering with the child's functioning in  
13 family, or school or community, or with peers (~~and who meets at least~~  
14 ~~one of the following criteria:~~

15 ~~(a) Has undergone inpatient treatment or placement outside of the~~  
16 ~~home related to a mental disorder within the last two years;~~

17 ~~(b) Has undergone involuntary treatment under chapter 71.34 RCW~~  
18 ~~within the last two years;~~

19 ~~(c) Is currently served by at least one of the following child-~~  
20 ~~serving systems: Juvenile justice, child protection/welfare, special~~  
21 ~~education, or developmental disabilities;~~

22 ~~(d) Is at risk of escalating maladjustment due to:~~

23 ~~(i) Chronic family dysfunction involving a caretaker who is~~  
24 ~~mentally ill or inadequate;~~

25 ~~(ii) Changes in custodial adult;~~

26 ~~(iii) Going to, residing in, or returning from any placement~~  
27 ~~outside of the home, for example, psychiatric hospital, short term~~  
28 ~~inpatient, residential treatment, group or foster home, or a~~  
29 ~~correctional facility;~~

30 ~~(iv) Subject to repeated physical abuse or neglect;~~

31 ~~(v) Drug or alcohol abuse; or~~

32 ~~(vi) Homelessness)).~~

33 (29) "State minimum standards" means minimum requirements  
34 established by rules adopted by the secretary and necessary to  
35 implement this chapter for: (a) Delivery of mental health services;  
36 (b) licensed service providers for the provision of mental health  
37 services; (c) residential services; and (d) community support services  
38 and resource management services.

1 (30) "Treatment records" include registration and all other records  
2 concerning persons who are receiving or who at any time have received  
3 services for mental illness, which are maintained by the department, by  
4 regional support networks and their staffs, and by treatment  
5 facilities. Treatment records do not include notes or records  
6 maintained for personal use by a person providing treatment services  
7 for the department, regional support networks, or a treatment facility  
8 if the notes or records are not available to others.

9 (31) "Tribal authority," for the purposes of this section and RCW  
10 71.24.300 only, means: The federally recognized Indian tribes and the  
11 major Indian organizations recognized by the secretary insofar as these  
12 organizations do not have a financial relationship with any regional  
13 support network that would present a conflict of interest.

14 **Sec. 2.** RCW 71.24.055 and 2007 c 359 s 4 are each amended to read  
15 as follows:

16 (~~As part of the system transformation initiative,~~) The department  
17 of social and health services, in consultation with the children's  
18 mental health evidence-based practice institute established under RCW  
19 71.24.061, shall undertake the following activities related  
20 specifically to children's mental health services:

21 (1) (~~The development of recommended revisions to the access to~~  
22 ~~care standards for children. The recommended revisions shall reflect~~  
23 ~~the policies and principles set out in RCW 71.36.005, 71.36.010, and~~  
24 ~~71.36.025, and recognize that early identification, intervention and~~  
25 ~~prevention services, and brief intervention services may be provided~~  
26 ~~outside of the regional support network system. Revised access to care~~  
27 ~~standards shall assess a child's need for mental health services based~~  
28 ~~upon the child's diagnosis and its negative impact upon his or her~~  
29 ~~persistent impaired functioning in family, school, or the community,~~  
30 ~~and should not solely condition the receipt of services upon a~~  
31 ~~determination that a child is engaged in high risk behavior or is in~~  
32 ~~imminent need of hospitalization or out-of-home placement. Assessment~~  
33 ~~and diagnosis for children under five years of age shall be determined~~  
34 ~~using a nationally accepted assessment tool designed specifically for~~  
35 ~~children of that age. The recommendations shall also address whether~~  
36 ~~amendments to RCW 71.24.025 (26) and (27) and 71.24.035(5) are~~

1 ~~necessary to implement revised access to care standards;~~) Revisions to  
2 the regional support network access to care standards for children.

3 (a) The revisions shall reflect the definition of severely  
4 emotionally disturbed child in RCW 71.24.025, focusing on the level of  
5 a child's functional impairment, and the policies and principles set  
6 forth in RCW 71.36.005, 71.36.010, and 71.36.025;

7 (b) The access to care standards for children under five years of  
8 age must:

9 (i) Recognize that behaviors that are assessed and demonstrated in  
10 children under age five may differ significantly from those assessed  
11 and demonstrated in school-age children; and

12 (ii) Acknowledge the critical importance of the parent-child dyad,  
13 both with respect to the impact of a parent's emotional difficulties,  
14 such as postpartum or maternal depression or substance abuse, upon a  
15 young child and the need to provide family inclusive therapy in order  
16 to effectively treat the child;

17 (c) The revised access to care standards must be implemented on  
18 July 1, 2011, in consultation with regional support networks, mental  
19 health service providers, consumers, and other interested stakeholders;

20 (2) Development of a revised children's mental health benefit  
21 package. The department shall ensure that services included in the  
22 children's mental health benefit package reflect the policies and  
23 principles included in RCW 71.36.005 and 71.36.025, to the extent  
24 allowable under medicaid, Title XIX of the federal social security act.  
25 Strong consideration shall be given to developmentally appropriate  
26 evidence-based and research-based practices, family-based  
27 interventions, the use of natural and peer supports, and community  
28 support services. This effort shall include a review of other states'  
29 efforts to fund family-centered children's mental health services  
30 through their medicaid programs. (†

31 ~~(3) Consistent with the timeline developed for the system~~  
32 ~~transformation initiative, recommendations for revisions to the~~  
33 ~~children's access to care standards and the children's mental health~~  
34 ~~services benefits package shall be presented to the legislature by~~  
35 ~~January 1, 2009)) The level of services and benefits authorized for  
36 each child should be based upon and clearly related to a child's level  
37 of functional impairment; and~~



1       (3) Development and implementation of minimum standards for  
2 regional support network efforts to collaborate closely with the  
3 department of social and health services children's administration,  
4 division of juvenile rehabilitation, division of developmental  
5 disabilities, and division of alcohol and substance abuse, and with  
6 local school districts, juvenile courts, and medical care providers to  
7 ensure coordinated development of systems of care, and coordinated and  
8 effective purchase and delivery of evidence-based services for children  
9 who are in need of services from multiple child-serving systems. The  
10 standards shall be included in department contracts with regional  
11 support networks, beginning October 1, 2009.

12       **Sec. 3.** RCW 74.09.521 and 2007 c 359 s 11 are each amended to read  
13 as follows:

14       (1) To the extent that funds are specifically appropriated for this  
15 purpose the department shall revise its medicaid healthy options  
16 managed care and fee-for-service program standards under medicaid,  
17 Title XIX of the federal social security act to improve access to  
18 mental health services for children who do not meet the regional  
19 support network access to care standards. Effective July 1, 2008, the  
20 program standards shall be revised to allow outpatient therapy services  
21 to be provided by or under the direct supervision of ((licensed))  
22 mental health professionals, as defined in RCW 71.34.020 and licensed  
23 under Title 18 RCW, and up to twenty outpatient therapy hours per  
24 calendar year, including family therapy visits integral to a child's  
25 treatment. This section shall be administered in a manner consistent  
26 with federal early periodic screening, diagnosis, and treatment  
27 requirements related to the receipt of medically necessary services  
28 when a child's need for such services is identified through  
29 developmental screening.

30       (2) ~~((This section expires July 1, 2010.))~~ The department and the  
31 children's mental health evidence-based practice institute established  
32 in RCW 71.24.061 shall collaborate to encourage and develop incentives  
33 for the use of prescribing practices and evidence-based and research-  
34 based treatment practices developed under RCW 74.09.490 by mental  
35 health professionals serving children under this section.

1        NEW SECTION.    **Sec. 4.**    The modifications to the access to care  
2 standards for children, and the resulting changes in access to care for  
3 children with mental disorders provided in this act shall be  
4 accomplished within the amounts appropriated to the department of  
5 social and health services and allocated to the regional support  
6 networks in the biennial operating budget.    To the extent that  
7 additional children are served by regional support networks, the  
8 additional services shall be provided in a budget neutral manner that  
9 does not result in cumulative expenditures by regional support networks  
10 greater than those that would have occurred in the absence of the  
11 passage of this act.

12        NEW SECTION.    **Sec. 5.**    Section 1 of this act takes effect July 1,  
13 2011.

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