
HOUSE BILL 2035

State of Washington

67th Legislature

2022 Regular Session

By Representatives Davis, Valdez, Ortiz-Self, Orwall, Senn, Taylor, Wicks, Harris, Ryu, Simmons, Walen, Dolan, and Callan

Read first time 01/18/22. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to establishing a behavioral health prevention
2 and equity impact framework for the Washington state liquor and
3 cannabis board; amending RCW 34.05.030; reenacting and amending RCW
4 43.376.020; adding a new chapter to Title 66 RCW; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
8 finds that many behavioral health disorders are preventable. There
9 are three factors that, when taken together, will frequently result
10 in a person developing substance use disorder: (a) A susceptible
11 organism; (b) stress; and (c) the introduction of an addictive
12 substance. While it is imperative that the state address all three
13 factors, there is one state agency that plays a central role
14 regarding (c) of this subsection. The liquor and cannabis board
15 develops and implements the policies that dictate access and exposure
16 to addictive substances.

17 (2) The legislature also finds that while different racial groups
18 use substances at similar rates, behavioral health treatment
19 penetration rates in communities of color are lower than in white
20 communities. People of color experience lower rates of participation
21 in behavioral health treatment and shorter treatment duration. There

1 are a myriad of reasons for this, including practical barriers such
2 as transportation and child care, and a lack of culturally
3 appropriate behavioral health providers. Washington state has a long
4 history of concentrating the sale of addictive substances in
5 communities of color. This is true for tobacco, it was true for
6 alcohol before liquor sales were privatized, and it is true for
7 cannabis. Communities of color face the greatest exposure to sales
8 and advertising of addictive substances and yet are the furthest from
9 access to treatment for the behavioral health conditions that
10 frequently result from the use of those substances.

11 (3) Therefore, the legislature intends to advance prevention and
12 address health disparities by requiring the liquor and cannabis board
13 to apply a behavioral health prevention and equity impact framework
14 regarding the regulation of alcohol, cannabis, tobacco, and vapor
15 products. The legislature further intends to ensure the meaningful
16 participation of overburdened communities, vulnerable populations,
17 communities of color, youth, families, and the prevention community
18 in the development of policies governing the sale, use, and
19 advertising of addictive substances.

20 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
21 section apply throughout this chapter unless the context clearly
22 requires otherwise.

23 (1) "Behavioral health prevention" means the prevention of mental
24 health and substance use disorders.

25 (2) "Board" means the Washington state liquor and cannabis board.

26 (3) "Council" means the behavioral health prevention and equity
27 impact council established in section 11 of this act.

28 (4) "Equitable distribution" means a fair and just, but not
29 necessarily equal, allocation intended to mitigate disparities in
30 benefits and burdens that are based on current conditions, including
31 existing legacy and cumulative impacts.

32 (5) "Equity impact" means the fair treatment and meaningful
33 involvement of all people regardless of race, color, national origin,
34 or income with respect to the development, implementation, and
35 enforcement of laws, rules, and policies. Equity impact includes
36 addressing disproportionate legal and health impacts in all
37 applicable laws, rules, and policies by prioritizing vulnerable
38 populations and overburdened communities, the equitable distribution
39 of resources and benefits, and eliminating harm.

1 (6) "Evidence-based" means a process that is conducted by a
2 systematic review of available data based on a well-established and
3 widely used hierarchy of data in current use by other state and
4 national programs, selected by the board, the department of health,
5 and the health care authority. The behavioral health prevention and
6 equity impact council may provide input on the development of the
7 process.

8 (7) "Overburdened community" means a geographic area where
9 vulnerable populations face combined, a high concentration of
10 alcohol, cannabis, tobacco, and/or vapor product retailers, a high
11 concentration of cannabis advertising, lack of access to behavioral
12 health treatment, and includes, but is not limited to, highly
13 impacted communities as defined in RCW 19.405.020.

14 (8) "Significant agency action" means the following actions as
15 identified at the beginning of the board's consideration of
16 significant agency action or at the time when a behavioral health
17 prevention and equity impact assessment would normally be initiated
18 in conjunction with an agency action:

19 (a) The development and adoption of rules;

20 (b) The development and adoption of interpretative policy
21 statements;

22 (c) The submission of agency request legislation to the office of
23 the governor or the office of financial management for approval; and

24 (d) Any other board action deemed significant by the board
25 consistent with section 6 of this act.

26 (9) "Tribal lands" has the same meaning as "Indian country" as
27 provided in 18 U.S.C. Sec. 1151, and also includes sacred sites,
28 traditional cultural properties, burial grounds, and other tribal
29 sites protected by federal or state law.

30 (10)(a) "Vulnerable populations" means population groups that are
31 more likely to be at higher risk of developing a mental health or
32 substance use disorder.

33 (b) "Vulnerable populations" includes, but is not limited to:

34 (i) Populations with high rates of substance use disorders and
35 mental health challenges;

36 (ii) Populations that disproportionately experience barriers to
37 accessing behavioral health treatment and related services;

38 (iii) Communities with high rates of self-reported substance
39 misuse among youth; and

1 (iv) Communities with high rates of self-reported mental health
2 symptoms and suicidality among youth.

3 (11) "Washington behavioral health disparities map" means the
4 data and information developed under section 10 of this act.

5 NEW SECTION. **Sec. 3.** BEHAVIORAL HEALTH PREVENTION AND EQUITY
6 IMPACT OBLIGATIONS FOR THE WASHINGTON STATE LIQUOR AND CANNABIS
7 BOARD. The board is required to comply with all provisions of this
8 chapter.

9 NEW SECTION. **Sec. 4.** INCORPORATING BEHAVIORAL HEALTH PREVENTION
10 AND EQUITY IMPACT INTO THE BOARD'S STRATEGIC PLAN. (1) By January 1,
11 2024, the board shall include a behavioral health prevention and
12 equity impact implementation plan within its strategic plan. The
13 board may additionally incorporate a behavioral health prevention and
14 equity impact implementation plan into other significant board
15 planning documents. The behavioral health prevention and equity
16 impact implementation plan must describe how the board plans to apply
17 behavioral health prevention and equity impact principles to the
18 board's activities and must guide the board in its implementation of
19 its obligations under this chapter.

20 (2) In its implementation plan, the board must include:

21 (a) Agency-specific goals and actions to increase equity and
22 mitigate behavioral health impacts of agency actions;

23 (b) Metrics to track and measure accomplishments of the agency
24 goals and actions;

25 (c) Methods to embed equitable community engagement with, and
26 equitable participation from, members of the public, into agency
27 practices for soliciting and receiving public comment;

28 (d) Strategies to ensure compliance with existing federal and
29 state laws and policies prohibiting discrimination and promoting
30 equality;

31 (e) The plan for community engagement required under section 5 of
32 this act; and

33 (f) Specific plans and timelines for incorporating behavioral
34 health prevention and equity impact principles and considerations
35 into agency activities as required under this chapter.

36 (3) In developing and updating its plan, the board must consider
37 any guidance developed by the council under section 11 of this act.

1 NEW SECTION. **Sec. 5.** EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC
2 PARTICIPATION. (1) By July 1, 2023, the board must create and adopt a
3 community engagement plan that describes how it will engage with
4 overburdened communities, vulnerable populations, communities of
5 color, youth, families, and the prevention community as the board
6 evaluates new and existing activities and programs. This plan must
7 describe how the board plans to facilitate equitable participation
8 and support meaningful and direct involvement of vulnerable
9 populations, overburdened communities, communities of color, youth,
10 families, and the prevention community. The plan must include:

11 (a) How the board will identify and prioritize these populations
12 and communities for purposes of this chapter;

13 (b) Best practices for outreach and communication to overcome
14 barriers to engagement;

15 (c) Use of special screening tools that integrate equity and
16 public health disparities data such as the behavioral health
17 disparities map, to evaluate and understand the nature and needs of
18 the people and communities who the board expects to be impacted by
19 significant agency actions under section 6 of this act and processes
20 under section 7 of this act to overcome barriers to participation;

21 (d) Processes that facilitate and support the inclusion of
22 members of communities affected by agency decision making including,
23 to the extent legal and practicable, but not limited to, child care
24 and reimbursement for travel and other expenses;

25 (e) Methods for outreach and communication with those who face
26 barriers, language or otherwise, to participation; and

27 (f) Methods to ensure individuals with disabilities can actively
28 participate.

29 (2) The board must regularly review its compliance with existing
30 laws and policies that guide community engagement and must comply
31 with the following:

32 (a) Title VI of the civil rights act, prohibiting discrimination
33 based on race, color, or national origin and requiring meaningful
34 access to people with limited English proficiency and disability;

35 (b) Executive Order 05-03, requiring plain talk when
36 communicating with the public; and

37 (c) Guidance related to Executive Order 13166, requiring
38 meaningful access to agency programs and services for people with
39 limited English proficiency.

1 (3) In developing and updating its plan, the board must consider
2 any guidance developed by the council under section 11 of this act.

3 (4) The board may coordinate with the office of equity to
4 identify policy and system barriers to meaningful engagement with
5 communities and ways to overcome those barriers, as conducted by the
6 office under RCW 43.06D.040(1)(b).

7 NEW SECTION. **Sec. 6.** BEHAVIORAL HEALTH PREVENTION AND EQUITY
8 IMPACT ASSESSMENTS. (1)(a) When considering a significant agency
9 action initiated after July 1, 2024, the board must conduct a
10 behavioral health prevention and equity impact assessment in
11 accordance with this section to inform and support the board's
12 consideration of overburdened communities, vulnerable populations,
13 communities of color, youth, families, and the prevention community,
14 and to assist with the reduction of substance-related harms and the
15 identification and reduction of behavioral health disparities.

16 (b) The board must aspire to complete the behavioral health
17 prevention and equity impact assessment for a significant agency
18 action without delaying the completion of the underlying agency
19 action.

20 (2)(a) Consistent with section 2(8)(d) of this act, for the
21 purpose of preparing behavioral health prevention and equity impact
22 assessments, the board may deem actions significant that are
23 additional to the significant agency actions identified in section
24 2(8) (a) through (c) of this act, in iterative consultation with the
25 council and interagency work group established under section 11 of
26 this act. By July 1, 2025, the board must consider its activities and
27 identify and apply behavioral health prevention and equity impact
28 assessments to any actions that the board identifies as significant
29 that are in addition to the significant agency actions identified in
30 section 2(8) (a) through (c) of this act. Significant agency actions
31 designated by the board under this subsection must be actions that
32 may negatively impact vulnerable populations or overburdened
33 communities.

34 (b) In the identification of significant agency actions, the
35 board must consider guidance issued by the council established in
36 section 11 of this act. The board must periodically review and update
37 its identified types of significant agency actions for which a
38 behavioral health prevention and equity impact assessment is required
39 under this section, and the relevant factors to the board's

1 assessments that result from the unique mission, authorities, and
2 priorities of the board.

3 (3) By July 1, 2024, and periodically thereafter, after an
4 opportunity for public comment on its determinations, the board must:

5 (a) Publish on its website the types of agency actions that the
6 board has determined are significant agency actions that require a
7 behavioral health prevention and equity impact assessment under this
8 section, including any significant agency actions identified under
9 subsection (2)(a) of this section;

10 (b) Provide notification of the determination of the types of
11 significant agency actions in the Washington State Register; and

12 (c) Prepare a behavioral health prevention and equity impact
13 assessment when considering a listed action, after publication of the
14 list of any additional significant agency actions identified under
15 (a) of this subsection.

16 (4) The assessment obligation of the board for a significant
17 agency action under this section is satisfied by the completion by
18 the board of a checklist developed by the board that directs the
19 board to at a minimum:

20 (a) Consider guidance prepared by the council under section 11 of
21 this act relating to best practices on behavioral health prevention
22 and equity impact assessments and when and how to use cumulative
23 health impact analysis;

24 (b) Where applicable, use cumulative health impact analysis, such
25 as the behavioral health disparities map or other data that considers
26 the effects of a proposed action on overburdened communities,
27 vulnerable populations, communities of color, youth, and families;

28 (c) Identify overburdened communities and vulnerable populations
29 who are expected to be affected by the proposed action and the
30 potential behavioral health and equity impacts;

31 (d) Pursuant to the consultation process in section 9 of this act
32 and RCW 43.376.020, identify if the proposed action is expected to
33 have any local or regional impacts to federally reserved tribal
34 rights and resources including, but not limited to, those protected
35 by treaty, executive order, or federal law;

36 (e) Summarize community input and describe how the board can
37 further involve overburdened communities, vulnerable populations,
38 communities of color, affected tribes, and indigenous populations in
39 development of the proposed action; and

1 (f) Describe options for the board to reduce, mitigate, or
2 eliminate identified probable impacts on overburdened communities,
3 vulnerable populations, communities of color, youth, and families or
4 provide a justification for not reducing, mitigating, or eliminating
5 identified probable impacts.

6 (5) (a) To obtain information for the purposes of assessments, the
7 board must solicit feedback from members of overburdened communities,
8 vulnerable populations, communities of color, youth, and families to
9 assist in the accurate assessment of the potential impact of the
10 action and in developing the means to reduce or eliminate the impact
11 on overburdened communities, vulnerable populations, communities of
12 color, youth, and families.

13 (b) The board may include items in the checklist required under
14 subsection (4) of this section that are not specified in subsection
15 (4) of this section.

16 (c) The completion of a behavioral health prevention and equity
17 impact checklist under subsection (4) of this section is not required
18 to be a comprehensive or an exhaustive examination of all potential
19 impacts of a significant agency action and does not require the board
20 to conduct novel quantitative or economic analysis of the proposed
21 significant agency action.

22 (6) Based on the behavioral health prevention and equity impact
23 assessment, the board must seek, to the extent legal and feasible and
24 consistent with the underlying statute being implemented, to reduce
25 or eliminate any behavioral health-related harms. Consistent with the
26 board's authority, mission, and statutory responsibilities, the board
27 must consider each of the following methods for reducing harms or
28 increasing equity:

29 (a) Reducing behavioral health impacts on overburdened
30 communities, vulnerable populations, communities of color, youth, and
31 families;

32 (b) Preventing the action from adding to the cumulative
33 behavioral health impacts on overburdened communities, vulnerable
34 populations, communities of color, youth, and families;

35 (c) Providing equitable participation and meaningful engagement
36 of vulnerable populations, overburdened communities, communities of
37 color, youth, families, and the prevention community in the
38 development of the significant agency action;

1 (d) Prioritizing equitable distribution of resources and benefits
2 to overburdened communities, vulnerable populations, and communities
3 of color;

4 (e) Meeting community needs identified by the affected
5 overburdened communities, vulnerable populations, and communities of
6 color;

7 (f) Modifying substantive regulatory or policy requirements; and

8 (g) Any other mitigation techniques, including those suggested by
9 the council, the office of equity, or representatives of overburdened
10 communities, vulnerable populations, communities of color, youth,
11 families, and the prevention community.

12 (7) If the board determines it does not have the ability or
13 authority to avoid or reduce any estimated harm of the significant
14 agency action on overburdened communities, vulnerable populations,
15 communities of color, youth, or families, the board must provide a
16 clear explanation of why it has made that determination and provide
17 notice of that explanation to members of the public who participated
18 in the process for the significant agency action or the process for
19 the behavioral health prevention and equity impact assessment and who
20 provided contact information to the board.

21 (8) In developing a process for conducting behavioral health
22 prevention and equity impact assessments, the board must consider any
23 guidance developed by the council under section 11 of this act.

24 NEW SECTION. **Sec. 7.** BEHAVIORAL HEALTH PREVENTION AND EQUITY
25 IMPACT OBLIGATIONS OF THE BOARD RELATING TO BUDGETS AND FUNDING. (1)
26 With consideration of the guidelines issued by the council under
27 section 11 of this act, and in iterative consultation with the
28 council, the board must incorporate behavioral health prevention and
29 equity impact principles into its decision processes for budget
30 development, making expenditures, and granting or withholding
31 benefits. Through the incorporation of behavioral health prevention
32 and equity impact principles into its decision processes, including
33 by conducting behavioral health prevention and equity impact
34 assessments where required under section 6 of this act, the board, to
35 the extent allowed by law and consistent with legislative
36 appropriations, must equitably distribute funding and expenditures
37 related to programs that address or may cause harm or provide
38 benefits towards overburdened communities, vulnerable populations,
39 communities of color, youth, or families.

1 (2) Beginning on or before July 1, 2024, the board must, where
2 practicable, take the following actions when making expenditure
3 decisions or developing budget requests to the office of financial
4 management and the legislature for programs impacting behavioral
5 health prevention or equity impact goals:

6 (a) Focus applicable expenditures on creating benefits that are
7 experienced by overburdened communities, vulnerable populations,
8 communities of color, youth, and families, including creating
9 community and population resilience, increasing protective factors,
10 and improving the quality of life of overburdened communities,
11 vulnerable populations, communities of color, youth, and families;

12 (b) Create opportunities for overburdened communities, vulnerable
13 populations, communities of color, youth, and families to
14 meaningfully participate in agency expenditure decisions;

15 (c) Clearly articulate behavioral health prevention and equity
16 impact goals and performance metrics to communicate the basis for
17 agency expenditures; and

18 (d) Consider a broad scope of contracting opportunities that
19 effectuate behavioral health prevention and equity impact principles.

20 (3) The board may adopt rules or guidelines for criteria and
21 procedures applicable to incorporating behavioral health prevention
22 and equity impact principles in expenditure decisions, granting or
23 withholding benefits, and processes for budget development.

24 (4) In incorporating behavioral health prevention and equity
25 impact principles into its decision processes for budget development,
26 making expenditures, and granting or withholding benefits, the board
27 must consider any guidance developed by the council under section 11
28 of this act.

29 (5) The board may not take actions or make expenditures under
30 this section that are inconsistent with or conflict with other
31 statutes or with conditions or limitations on the board's
32 appropriations.

33 (6) If the board, due to the breadth of its programs and funding
34 opportunities, determines it is not practicable to take the actions
35 listed under subsection (2) of this section for all applicable
36 expenditure decisions and budget requests developed, the board is
37 encouraged to prioritize taking the actions listed under subsection
38 (2) of this section for those budget requests and expenditure
39 decisions that are primarily directed at addressing behavioral health
40 and equity impacts. By July 1, 2024, the board must publish on its

1 website the types of decision processes for budget development,
2 making expenditures, and granting or withholding benefits for which
3 the board will take the actions listed under subsection (2) of this
4 section.

5 NEW SECTION. **Sec. 8.** REPORTING REQUIREMENTS. (1) By September
6 1st of each year, the board must annually update the behavioral
7 health prevention and equity impact council on the development and
8 implementation of the behavioral health prevention and equity impact
9 framework in the board's strategic plan under section 4 of this act,
10 budgeting and funding criteria for making budgeting and funding
11 decisions under section 7 of this act, and the community engagement
12 plan under section 5 of this act.

13 (2) (a) Beginning in 2025, as part of the board's annual update to
14 the council under subsection (1) of this section, the board must
15 include updates on its implementation status with respect to the
16 behavioral health prevention and equity impact assessments under
17 section 6 of this act.

18 (b) By September 1st of each year beginning in 2025, the board
19 must publish or update a dashboard report, in a uniform dashboard
20 format on the board's website, describing the board's progress on:

21 (i) Incorporating behavioral health prevention and equity impact
22 principles in its strategic plan;

23 (ii) The obligations of the board relating to budgets and funding
24 under section 7 of this act; and

25 (iii) The board's behavioral health prevention and equity impact
26 assessments of proposed significant agency actions, including
27 logistical metrics related to the board's completion of the
28 assessments.

29 (3) The board must publish notice on its website of significant
30 agency actions for which the board is initiating a behavioral health
31 prevention and equity impact assessment under section 6 of this act.
32 The notice must include a brief description of the significant agency
33 action and the methods for providing public comment for the board's
34 consideration as part of the behavioral health prevention and equity
35 impact assessment.

36 (4) The board must identify overburdened communities, as required
37 by section 5 of this act, in such a way that the performance
38 effectiveness of the duties created by this chapter can be measured,
39 including the effectiveness of behavioral health prevention and

1 equity impact assessments required by section 6 of this act. The
2 board may identify and prioritize overburdened communities as needed
3 to accomplish the purposes of this chapter.

4 NEW SECTION. **Sec. 9.** TRIBAL CONSULTATION. (1) The board shall
5 develop a consultation framework in coordination with tribal
6 governments that includes best practices, protocols for
7 communication, and collaboration with federally recognized Indian
8 tribes. Consistent with this framework, the board must offer
9 consultation with federally recognized Indian tribes on:

10 (a) The inclusion or updating of a behavioral health prevention
11 and equity impact implementation plan within the board's strategic
12 plan required under section 4 of this act;

13 (b) The creation and adoption or updating of a community
14 engagement plan required under section 5 of this act; and

15 (c) Significant agency actions under section 6 of this act that
16 affect federally recognized Indian tribes' rights and interests in
17 their tribal lands.

18 (2) The board and the department of health must offer
19 consultation with federally recognized Indian tribes on the
20 development of the Washington behavioral health disparities map under
21 section 10 of this act.

22 (3) The consultation under subsections (1) and (2) of this
23 section must be independent of any public participation process
24 required by state law, or by the board, and regardless of whether the
25 board receives a request for consultation from an Indian tribe.

26 (4) Nothing in this chapter is intended to direct, authorize, or
27 encourage the board to collect, maintain, or provide data related to
28 sacred sites, traditional cultural properties, burial grounds, and
29 other tribal sites protected by federal or state law.

30 NEW SECTION. **Sec. 10.** WASHINGTON BEHAVIORAL HEALTH DISPARITIES
31 MAP. (1) In consultation with the behavioral health prevention and
32 equity impact council established in section 11 of this act, the
33 department of health must develop and maintain a behavioral health
34 disparities map. The department of health shall consult with other
35 interested partners, members of overburdened communities and
36 vulnerable populations, communities of color, and other agencies. The
37 Washington behavioral health disparities map must include:

1 (a) The location of alcohol, tobacco, cannabis, and vapor product
2 licensees and especially areas of high concentration of those
3 licensees;

4 (b) The location of cannabis advertising, including billboards;

5 (c) Available data on the prevalence rate of mental health and
6 substance use disorders;

7 (d) Data from the healthy youth survey, including rates of youth
8 use across substances, rates of access to substances, and youth
9 perception of harm associated with substances;

10 (e) Proximity to behavioral health treatment;

11 (f) Socioeconomic factors, including race, English language
12 proficiency, education level, poverty rate, and unemployment rate;

13 (g) Access to protective factors for youth, including community
14 centers and after school programs;

15 (h) The location of community prevention and wellness initiative
16 coalitions; and

17 (i) The location of schools that have a drug and alcohol
18 prevention and intervention specialist.

19 (2) The Washington behavioral health disparities map must include
20 tools to:

21 (a) Track changes in mental health and substance use disorder
22 disparities over time in an interactive, regularly updated display;
23 and

24 (b) Measure the link between overall behavioral health disparity
25 map ranks, behavioral health prevalence data, vulnerable populations
26 characteristics, socioeconomic data, and human health data.

27 (3) In further developing and maintaining the behavioral health
28 disparities map, the department of health must:

29 (a) Solicit feedback from representatives from overburdened
30 communities, vulnerable populations, and communities of color through
31 community engagement and listening sessions in all regions of the
32 state and provide opportunities for public comment; and

33 (b) Request assistance from:

34 (i) State universities;

35 (ii) Other academic researchers, such as the Washington state
36 institute for public policy, to perform modeling and create evidence-
37 based indicators and to conduct sensitivity analyses to assess the
38 impact of new indicators on communities and determinations of
39 overburdened communities; and

40 (iii) Other state agencies to provide applicable statewide data.

1 (4) The department of health must:

2 (a) Document and publish a summary of the regular updates and
3 revisions to the Washington behavioral health disparities map that
4 happen over time as the new data becomes available, in order to help
5 the public understand different versions of the map as they are
6 published;

7 (b) At least every three years, perform a comprehensive
8 evaluation of the map to ensure that the most current modeling and
9 methods available to evaluate impacts are being used to develop and
10 update the map's indicators;

11 (c) Develop technical guidance for the board and other interested
12 agencies that includes an online training video detailing a
13 description of how to use the behavioral health disparities map's
14 features, access source data, and explanation of map and indicator
15 limitations; and

16 (d) Provide support and consultation to the board and other
17 interested agencies on the use of the Washington behavioral health
18 disparities map by Washington tracking network staff.

19 NEW SECTION. **Sec. 11.** BEHAVIORAL HEALTH PREVENTION AND EQUITY
20 IMPACT COUNCIL. (1) The behavioral health prevention and equity
21 impact council is established to advise the board on incorporating
22 behavioral health prevention and equity impact principles into agency
23 activities.

24 (2) The council consists of 15 members appointed by the secretary
25 of the health care authority. The councilmembers must be persons who
26 are well-informed regarding, and committed to, behavioral health
27 prevention and equity impact principles who, to the greatest extent
28 practicable, represent diversity in race, ethnicity, age, gender,
29 sexuality, and geography. At least five members shall be appointed
30 primarily for their expertise related to the prevention of mental
31 health and substance use disorders and at least five members shall be
32 selected primarily for their expertise related to equity impact
33 analysis. The council shall include no more than one representative
34 of a business that is regulated by the board and whose ordinary
35 business conditions are significantly affected by the actions of the
36 board. The members of the council shall elect two members to serve as
37 cochairs for two-year terms. The board shall serve as a nonvoting, ex
38 officio liaison to the council. The board must identify an executive
39 team level staff person to participate on behalf of the board.

1 (3) Nongovernmental members of the council must be compensated
2 and reimbursed in accordance with RCW 43.03.050, 43.03.060, and
3 43.03.220.

4 (4) The health care authority must:

5 (a) Hire a manager who is responsible for overseeing all staffing
6 and administrative duties in support of the council; and

7 (b) Provide all administrative and staff support for the council.

8 (5) In collaboration with the office of equity, the office of
9 financial management, the council, the department of health, and the
10 board, the health care authority must:

11 (a) Establish standards for the collection, analysis, and
12 reporting of disaggregated data as it pertains to tracking population
13 level outcomes of communities;

14 (b) Create statewide and agency-specific process and outcome
15 measures to show performance:

16 (i) Using outcome-based methodology to determine the
17 effectiveness of agency programs and services on reducing behavioral
18 health disparities; and

19 (ii) Taking into consideration community feedback from the
20 council on whether the performance measures established accurately
21 measure the effectiveness of the board's programs and services in the
22 communities served; and

23 (c) Create an online performance dashboard to publish performance
24 measures and outcomes as required in section 8 of this act for the
25 state and the board.

26 (6)(a) With input and assistance from the council, the health
27 care authority must establish an interagency work group to assist the
28 board in incorporating behavioral health prevention and equity impact
29 principles into agency decision making. The work group must include
30 staff from the board directed to implement behavioral health
31 prevention and equity impact provisions under this chapter and may
32 include members from the council. The health care authority shall
33 provide assistance to the interagency work group by:

34 (i) Facilitating information sharing on behavioral health
35 prevention and equity impact issues between agencies and the council;

36 (ii) Developing and providing assessment tools for the board to
37 use in the development and evaluation of programs, services,
38 policies, and budgets;

39 (iii) Providing technical assistance and compiling and creating
40 resources for the board to use; and

1 (iv) Training board staff on effectively using data and tools for
2 behavioral health prevention and equity impact assessments.

3 (b) The duties of the interagency work group include:

4 (i) Providing technical assistance to support the board's
5 compliance with the integration of behavioral health prevention and
6 equity impact principles into its strategic plan, behavioral health
7 prevention and equity impact obligations for budgeting and funding
8 criteria and decisions, behavioral health prevention and equity
9 impact assessments, and the board's community engagement plan;

10 (ii) Assisting the council in developing a suggested schedule and
11 timeline for sequencing the types of: (A) Funding and expenditure
12 decisions subject to rules; and (B) criteria incorporating behavioral
13 health prevention and equity impact principles;

14 (iii) Identifying other policies, priorities, and projects for
15 the council's review and guidance development;

16 (iv) Identifying goals and metrics that the council may use to
17 assess the board's performance in meeting the requirements of this
18 act for purposes of communicating progress to the public, the
19 governor, and the legislature; and

20 (v) Developing the guidance under subsection (7)(c) of this
21 section in coordination with the council.

22 (7) The council:

23 (a) Shall provide a forum for the public to:

24 (i) Provide written or oral testimony on their behavioral health
25 prevention and equity impact concerns;

26 (ii) Assist the council in understanding behavioral health
27 prevention and equity impact priorities across the state in order to
28 develop council recommendations to the board for issues to
29 prioritize; and

30 (iii) Identify points of contact for their specific behavioral
31 health prevention and equity impact concerns and questions;

32 (b) Shall work in an iterative fashion with the interagency work
33 group to develop guidance for the behavioral health prevention and
34 equity impact implementation plan into the board's strategic plan
35 under section 4 of this act, behavioral health prevention and equity
36 impact assessments under section 6 of this act, budgeting and funding
37 criteria for making budgeting and funding decisions under section 7
38 of this act, and the community engagement plan under section 5 of
39 this act;

40 (c) In consultation with the interagency work group:

1 (i) Shall regularly update its guidance under (b) of this
2 subsection;

3 (ii) Shall provide guidance to the board on developing behavioral
4 health prevention and equity impact assessments under section 6 of
5 this act for significant agency actions;

6 (iii) Shall make recommendations to the board on which board
7 actions may cause behavioral health-related harm or may
8 disproportionately affect an overburdened community, a vulnerable
9 population, or a community of color and therefore should be
10 considered significant agency actions that require a behavioral
11 health prevention and equity impact assessment under section 6 of
12 this act;

13 (iv) Shall make recommendations to the board and the health care
14 authority:

15 (A) On the identification and prioritization of overburdened
16 communities under this chapter; and

17 (B) Related to the use by the board and the department of health
18 of the Washington behavioral health disparities map in the board's
19 efforts to identify and prioritize overburdened communities;

20 (v) May make recommendations to the board on the timing and
21 sequencing of the board's efforts to implement this chapter; and

22 (vi) May make recommendations to the governor and the legislature
23 regarding ways to improve agency compliance with the requirements of
24 this chapter; and

25 (d) By December 1, 2024, and biennially thereafter, and with
26 consideration of the information shared on September 1st each year in
27 the board's annual updates to the council required under section 8 of
28 this act, must:

29 (i) Evaluate the progress of the board in applying council
30 guidance, and update guidance as needed; and

31 (ii) Communicate the board's progress to the public, the
32 governor, and the legislature. This communication is not required to
33 be a report and may take the form of a presentation or other format
34 that communicates the progress of the board meeting its goals related
35 to behavioral health prevention and equity impact in compliance with
36 this chapter, and summarizing the work of the council under this
37 subsection, and subsection (9) of this section.

38 (8) By November 30, 2024, and in compliance with RCW 43.01.036,
39 the council must submit a report to the governor and the appropriate
40 committees of the house of representatives and the senate on:

1 (a) The council's recommendations to the board on the
2 identification of significant agency actions requiring a behavioral
3 health prevention and equity impact assessment under subsection
4 (7)(c)(iii) of this section;

5 (b) The summary of the board's progress reports provided to the
6 council under section 8 of this act, including the status of the
7 board's plans for performing behavioral health prevention and equity
8 impact assessments required by section 6 of this act; and

9 (c) Guidance for the behavioral health prevention and equity
10 impact implementation plan into the board's strategic plan,
11 behavioral health prevention and equity impact assessments, budgeting
12 and funding criteria, and the community engagement plan under
13 subsection (7)(c)(ii) of this section.

14 (9) The council may:

15 (a) Review incorporation of the behavioral health prevention and
16 equity impact implementation plan into the board's strategic plan
17 under section 4 of this act, behavioral health prevention and equity
18 impact assessments under section 6 of this act, budgeting and funding
19 criteria for making budgeting and funding decisions under section 7
20 of this act, and the community engagement plan under section 5 of
21 this act;

22 (b) Make recommendations for amendments to this chapter or other
23 legislation to promote and achieve the behavioral health prevention
24 and equity impact goals of the state;

25 (c) Review existing laws and make recommendations for amendments
26 that will further the behavioral health prevention and equity impact
27 goals;

28 (d) Recommend to the board or other specific agencies, or both,
29 that they create behavioral health prevention and equity impact-
30 focused, agency-requested legislation;

31 (e) Provide requested assistance to the board and other agencies
32 that wish to incorporate behavioral health prevention and equity
33 impact principles into agency activities; and

34 (f) Recommend funding strategies and allocations to build
35 capacity in vulnerable populations, overburdened communities, and
36 communities of color to address behavioral health prevention.

37 (10) The role of the council is purely advisory and council
38 decisions are not binding on the board, another agency, individual,
39 or organization.

1 (11) The health care authority must convene the first meeting of
2 the council by January 1, 2024.

3 (12) All council meetings are subject to the open public meetings
4 requirements of chapter 42.30 RCW and a public comment period must be
5 provided at every meeting of the council.

6 NEW SECTION. **Sec. 12.** APPEALS. (1) Except as specified in
7 subsection (2) of this section, the actions and duties set forth in
8 this chapter are not subject to appeal.

9 (2)(a) Only the following agency actions undertaken under this
10 chapter are subject to appeal:

11 (i) Decisions related to the designation of significant agency
12 actions under section 6(3)(a) of this act; and

13 (ii) Behavioral health prevention and equity impact assessments
14 prepared under section 6 of this act, only for behavioral health
15 prevention and equity impact assessments for which there is an
16 associated agency action that is appealable.

17 (b) Appeals of behavioral health prevention and equity impact
18 assessments allowed under (a)(ii) of this subsection must be of the
19 behavioral health prevention and equity impact assessment together
20 with the accompanying agency action, as defined in RCW 34.05.010.

21 (3) Nothing in this chapter may be construed to create a new
22 private right of action, other than as described in this section, on
23 the part of any individual, entity, or agency against any state
24 agency.

25 (4) Nothing in this chapter may be construed to expand, contract,
26 or otherwise modify any rights of appeal, or procedures for appeal,
27 under other laws other than the availability of the appeal process
28 described in this section.

29 **Sec. 13.** RCW 43.376.020 and 2021 c 316 s 40 and 2021 c 314 s 23
30 are each reenacted and amended to read as follows:

31 In establishing a government-to-government relationship with
32 Indian tribes, state agencies must:

33 (1) Make reasonable efforts to collaborate with Indian tribes in
34 the development of policies, agreements, and program implementation
35 that directly affect Indian tribes and develop a consultation process
36 that is used by the agency for issues involving specific Indian
37 tribes. Covered agencies, as defined in RCW 70A.02.010, subject to
38 the requirements of chapter 70A.02 RCW, must offer consultation with

1 Indian tribes on the actions specified in RCW 70A.02.100. (~~State~~
2 ~~agencies described in section 6 of this act~~) The Washington state
3 liquor and cannabis board, subject to the requirements of chapter
4 66.--- RCW (the new chapter created in section 15 of this act), must
5 offer consultation with Indian tribes on the actions specified in
6 section ((6)) 9 of this act;

7 (2) Designate a tribal liaison who reports directly to the head
8 of the state agency;

9 (3) Ensure that tribal liaisons who interact with Indian tribes
10 and the executive directors of state agencies receive training as
11 described in RCW 43.376.040; and

12 (4) Submit an annual report to the governor on activities of the
13 state agency involving Indian tribes and on implementation of this
14 chapter.

15 **Sec. 14.** RCW 34.05.030 and 2021 c 314 s 24 are each amended to
16 read as follows:

17 (1) This chapter shall not apply to:

18 (a) The state militia, or

19 (b) The (~~board of~~) clemency and pardons (~~{clemency and pardons~~
20 ~~board}~~) board, or

21 (c) The department of corrections or the indeterminate sentencing
22 review board with respect to persons who are in their custody or are
23 subject to the jurisdiction of those agencies.

24 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
25 apply:

26 (a) To adjudicative proceedings of the board of industrial
27 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

28 (b) Except for actions pursuant to chapter 46.29 RCW, to the
29 denial, suspension, or revocation of a driver's license by the
30 department of licensing;

31 (c) To the department of labor and industries where another
32 statute expressly provides for review of adjudicative proceedings of
33 a department action, order, decision, or award before the board of
34 industrial insurance appeals;

35 (d) To actions of the Washington personnel resources board, the
36 director of financial management, and the department of enterprise
37 services when carrying out their duties under chapter 41.06 RCW;

38 (e) To adjustments by the department of revenue of the amount of
39 the surcharge imposed under RCW 82.04.261;

1 (f) To actions to implement the provisions of chapter 70A.02 RCW,
2 except as specified in RCW 70A.02.130; (~~(e)~~)

3 (g) To actions to implement the provisions of chapter 66.--- RCW
4 (the new chapter created in section 15 of this act), except as
5 specified in section 12 of this act; or

6 (h) To the extent they are inconsistent with any provisions of
7 chapter 43.43 RCW.

8 (3) Unless a party makes an election for a formal hearing
9 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through
10 34.05.598 do not apply to a review hearing conducted by the board of
11 tax appeals.

12 (4) The rule-making provisions of this chapter do not apply to:

13 (a) Reimbursement unit values, fee schedules, arithmetic
14 conversion factors, and similar arithmetic factors used to determine
15 payment rates that apply to goods and services purchased under
16 contract for clients eligible under chapter 74.09 RCW; and

17 (b) Adjustments by the department of revenue of the amount of the
18 surcharge imposed under RCW 82.04.261.

19 (5) All other agencies, whether or not formerly specifically
20 excluded from the provisions of all or any part of the administrative
21 procedure act, shall be subject to the entire act.

22 NEW SECTION. Sec. 15. Sections 1 through 12 of this act
23 constitute a new chapter in Title 66 RCW.

24 NEW SECTION. Sec. 16. If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. Sec. 17. If any part of this act is found to be in
29 conflict with federal requirements that are a prescribed condition to
30 the allocation of federal funds to the state, the conflicting part of
31 this act is inoperative solely to the extent of the conflict and with
32 respect to the agencies directly affected, and this finding does not
33 affect the operation of the remainder of this act in its application
34 to the agencies concerned. Rules adopted under this act must meet

1 federal requirements that are a necessary condition to the receipt of
2 federal funds by the state.

--- **END** ---