

2 **HB 2520** - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 3/2/00

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 71.05.020 and 1999 c 13 s 5 are each amended to read
8 as follows:

9 ~~((For the purposes of))~~ The definitions in this section apply
10 throughout this chapter((+)) unless the context clearly requires
11 otherwise.

12 (1) "Admission" or "admit" means a decision by a physician that a
13 person should be examined or treated as a patient in a hospital;

14 (2) "Antipsychotic medications" means that class of drugs primarily
15 used to treat serious manifestations of mental illness associated with
16 thought disorders, which includes, but is not limited to atypical
17 antipsychotic medications;

18 ~~((+2))~~ (3) "Attending staff" means any person on the staff of a
19 public or private agency having responsibility for the care and
20 treatment of a patient;

21 ~~((+3))~~ (4) "Commitment" means the determination by a court that a
22 person should be detained for a period of either evaluation or
23 treatment, or both, in an inpatient or a less restrictive setting;

24 (5) "Conditional release" means a revocable modification of a
25 commitment, which may be revoked upon violation of any of its terms;

26 (6) "County designated mental health professional" means a mental
27 health professional appointed by the county to perform the duties
28 specified in this chapter;

29 ~~((+4))~~ (7) "Custody" means involuntary detention under the
30 provisions of this chapter or chapter 10.77 RCW, uninterrupted by any
31 period of unconditional release from commitment from a facility
32 providing involuntary care and treatment;

33 ~~((+5))~~ (8) "Department" means the department of social and health
34 services;

35 ~~((+6))~~ (9) "Detention" or "detain" means the lawful confinement of
36 a person, under the provisions of this chapter;

1 (10) "Developmental disabilities professional" means a person who
2 has specialized training and three years of experience in directly
3 treating or working with persons with developmental disabilities and is
4 a psychiatrist, psychologist, or social worker, and such other
5 developmental disabilities professionals as may be defined by rules
6 adopted by the secretary;

7 ~~((+7))~~ (11) "Developmental disability" means that condition
8 defined in RCW 71A.10.020(3);

9 ~~((+8))~~ (12) "Discharge" means the termination of hospital medical
10 authority. The commitment may remain in place, be terminated, or be
11 amended by court order;

12 (13) "Evaluation and treatment facility" means any facility which
13 can provide directly, or by direct arrangement with other public or
14 private agencies, emergency evaluation and treatment, outpatient care,
15 and timely and appropriate inpatient care to persons suffering from a
16 mental disorder, and which is certified as such by the department. A
17 physically separate and separately operated portion of a state hospital
18 may be designated as an evaluation and treatment facility. A facility
19 which is part of, or operated by, the department or any federal agency
20 will not require certification. No correctional institution or
21 facility, or jail, shall be an evaluation and treatment facility within
22 the meaning of this chapter;

23 ~~((+9))~~ (14) "Gravely disabled" means a condition in which a
24 person, as a result of a mental disorder: (a) Is in danger of serious
25 physical harm resulting from a failure to provide for his or her
26 essential human needs of health or safety; or (b) manifests severe
27 deterioration in routine functioning evidenced by repeated and
28 escalating loss of cognitive or volitional control over his or her
29 actions and is not receiving such care as is essential for his or her
30 health or safety;

31 ~~((+10))~~ (15) "Habilitative services" means those services provided
32 by program personnel to assist persons in acquiring and maintaining
33 life skills and in raising their levels of physical, mental, social,
34 and vocational functioning. Habilitative services include education,
35 training for employment, and therapy. The habilitative process shall
36 be undertaken with recognition of the risk to the public safety
37 presented by the individual being assisted as manifested by prior
38 charged criminal conduct;

1 (~~(11)~~) (16) "History of one or more violent acts" refers to the
2 period of time ten years prior to the filing of a petition under this
3 chapter, excluding any time spent, but not any violent acts committed,
4 in a mental health facility or in confinement as a result of a criminal
5 conviction;

6 (~~(12)~~) (17) "Individualized service plan" means a plan prepared
7 by a developmental disabilities professional with other professionals
8 as a team, for an individual with developmental disabilities, which
9 shall state:

10 (a) The nature of the person's specific problems, prior charged
11 criminal behavior, and habilitation needs;

12 (b) The conditions and strategies necessary to achieve the purposes
13 of habilitation;

14 (c) The intermediate and long-range goals of the habilitation
15 program, with a projected timetable for the attainment;

16 (d) The rationale for using this plan of habilitation to achieve
17 those intermediate and long-range goals;

18 (e) The staff responsible for carrying out the plan;

19 (f) Where relevant in light of past criminal behavior and due
20 consideration for public safety, the criteria for proposed movement to
21 less-restrictive settings, criteria for proposed eventual discharge
22 (~~(from involuntary confinement)~~) or release, and a projected possible
23 date for discharge (~~(from involuntary confinement)~~) or release; and

24 (g) The type of residence immediately anticipated for the person
25 and possible future types of residences;

26 (~~(13)~~) (18) "Judicial commitment" means a commitment by a court
27 pursuant to the provisions of this chapter;

28 (~~(14)~~) (19) "Likelihood of serious harm" means:

29 (a) A substantial risk that: (i) Physical harm will be inflicted
30 by an individual upon his or her own person, as evidenced by threats or
31 attempts to commit suicide or inflict physical harm on oneself; (ii)
32 physical harm will be inflicted by an individual upon another, as
33 evidenced by behavior which has caused such harm or which places
34 another person or persons in reasonable fear of sustaining such harm;
35 or (iii) physical harm will be inflicted by an individual upon the
36 property of others, as evidenced by behavior which has caused
37 substantial loss or damage to the property of others; or

38 (b) The individual has threatened the physical safety of another
39 and has a history of one or more violent acts;

1 (~~(15)~~) (20) "Mental disorder" means any organic, mental, or
2 emotional impairment which has substantial adverse effects on an
3 individual's cognitive or volitional functions;

4 (~~(16)~~) (21) "Mental health professional" means a psychiatrist,
5 psychologist, psychiatric nurse, or social worker, and such other
6 mental health professionals as may be defined by rules adopted by the
7 secretary pursuant to the provisions of this chapter;

8 (~~(17)~~) (22) "Peace officer" means a law enforcement official of
9 a public agency or governmental unit, and includes persons specifically
10 given peace officer powers by any state law, local ordinance, or
11 judicial order of appointment;

12 (~~(18)~~) (23) "Private agency" means any person, partnership,
13 corporation, or association that is not a public agency, whether or not
14 financed in whole or in part by public funds, which constitutes an
15 evaluation and treatment facility or private institution, hospital, or
16 sanitarium, which is conducted for, or includes a department or ward
17 conducted for, the care and treatment of persons who are mentally ill;

18 (~~(19)~~) (24) "Professional person" means a mental health
19 professional and shall also mean a physician, registered nurse, and
20 such others as may be defined by rules adopted by the secretary
21 pursuant to the provisions of this chapter;

22 (~~(20)~~) (25) "Psychiatrist" means a person having a license as a
23 physician and surgeon in this state who has in addition completed three
24 years of graduate training in psychiatry in a program approved by the
25 American medical association or the American osteopathic association
26 and is certified or eligible to be certified by the American board of
27 psychiatry and neurology;

28 (~~(21)~~) (26) "Psychologist" means a person who has been licensed
29 as a psychologist pursuant to chapter 18.83 RCW;

30 (~~(22)~~) (27) "Public agency" means any evaluation and treatment
31 facility or institution, hospital, or sanitarium which is conducted
32 for, or includes a department or ward conducted for, the care and
33 treatment of persons who are mentally ill; if the agency is operated
34 directly by, federal, state, county, or municipal government, or a
35 combination of such governments;

36 (~~(23)~~) (28) "Release" means legal termination of the commitment
37 under the provisions of this chapter;

38 (29) "Resource management services" has the meaning given in
39 chapter 71.24 RCW;

1 (~~(24)~~) (30) "Secretary" means the secretary of the department of
2 social and health services, or his or her designee;

3 (~~(25)~~) (31) "Social worker" means a person with a master's or
4 further advanced degree from an accredited school of social work or a
5 degree deemed equivalent under rules adopted by the secretary;

6 (~~(26)~~) (32) "Violent act" means behavior that resulted in
7 homicide, attempted suicide, nonfatal injuries, or substantial damage
8 to property.

9 **Sec. 2.** RCW 71.05.025 and 1989 c 205 s 9 are each amended to read
10 as follows:

11 The legislature intends that the procedures and services authorized
12 in this chapter be integrated with those in chapter 71.24 RCW to the
13 maximum extent necessary to assure a continuum of care to persons who
14 are mentally ill or who have mental disorders, as defined in either or
15 both this chapter and chapter 71.24 RCW. To this end, regional support
16 networks established in accordance with chapter 71.24 RCW shall
17 institute procedures which require timely consultation with resource
18 management services by county-designated mental health professionals
19 and evaluation and treatment facilities to assure that determinations
20 to admit, detain, commit, treat, discharge, or release persons with
21 mental disorders under this chapter are made only after appropriate
22 information regarding such person's treatment history and current
23 treatment plan has been sought from resource management services.

24 **Sec. 3.** RCW 71.05.050 and 1998 c 297 s 6 are each amended to read
25 as follows:

26 Nothing in this chapter shall be construed to limit the right of
27 any person to apply voluntarily to any public or private agency or
28 practitioner for treatment of a mental disorder, either by direct
29 application or by referral. Any person voluntarily admitted for
30 inpatient treatment to any public or private agency shall be released
31 immediately upon his or her request. Any person voluntarily admitted
32 for inpatient treatment to any public or private agency shall orally be
33 advised of the right to immediate (~~release~~) discharge, and further
34 advised of such rights in writing as are secured to them pursuant to
35 this chapter and their rights of access to attorneys, courts, and other
36 legal redress. Their condition and status shall be reviewed at least
37 once each one hundred eighty days for evaluation as to the need for

1 further treatment ((and/or)) or possible ((release)) discharge, at
2 which time they shall again be advised of their right to ((release))
3 discharge upon request: PROVIDED HOWEVER, That if the professional
4 staff of any public or private agency or hospital regards a person
5 voluntarily admitted who requests ((release)) discharge as presenting,
6 as a result of a mental disorder, an imminent likelihood of serious
7 harm, or is gravely disabled, they may detain such person for
8 sufficient time to notify the county designated mental health
9 professional of such person's condition to enable the county designated
10 mental health professional to authorize such person being further held
11 in custody or transported to an evaluation and treatment center
12 pursuant to the provisions of this chapter, which shall in ordinary
13 circumstances be no later than the next judicial day: PROVIDED
14 FURTHER, That if a person is brought to the emergency room of a public
15 or private agency or hospital for observation or treatment, the person
16 refuses voluntary admission, and the professional staff of the public
17 or private agency or hospital regard such person as presenting as a
18 result of a mental disorder an imminent likelihood of serious harm, or
19 as presenting an imminent danger because of grave disability, they may
20 detain such person for sufficient time to notify the county designated
21 mental health professional of such person's condition to enable the
22 county designated mental health professional to authorize such person
23 being further held in custody or transported to an evaluation treatment
24 center pursuant to the conditions in this chapter, but which time shall
25 be no more than six hours from the time the professional staff
26 determine that an evaluation by the county designated mental health
27 professional is necessary.

28 **Sec. 4.** RCW 71.05.120 and 1991 c 105 s 2 are each amended to read
29 as follows:

30 (1) No officer of a public or private agency, nor the
31 superintendent, professional person in charge, his or her professional
32 designee, or attending staff of any such agency, nor any public
33 official performing functions necessary to the administration of this
34 chapter, nor peace officer responsible for detaining a person pursuant
35 to this chapter, nor any county designated mental health professional,
36 nor the state, a unit of local government, or an evaluation and
37 treatment facility shall be civilly or criminally liable for performing
38 duties pursuant to this chapter with regard to the decision of whether

1 to admit, discharge, release, administer antipsychotic medications, or
2 detain a person for evaluation and treatment: PROVIDED, That such
3 duties were performed in good faith and without gross negligence.

4 (2) This section does not relieve a person from giving the required
5 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
6 or to take reasonable precautions to provide protection from violent
7 behavior where the patient has communicated an actual threat of
8 physical violence against a reasonably identifiable victim or victims.
9 The duty to warn or to take reasonable precautions to provide
10 protection from violent behavior is discharged if reasonable efforts
11 are made to communicate the threat to the victim or victims and to law
12 enforcement personnel.

13 **Sec. 5.** RCW 71.05.170 and 1998 c 297 s 10 are each amended to read
14 as follows:

15 Whenever the county designated mental health professional petitions
16 for detention of a person whose actions constitute a likelihood of
17 serious harm, or who is gravely disabled, the facility providing
18 seventy-two hour evaluation and treatment must immediately accept on a
19 provisional basis the petition and the person. The facility shall then
20 evaluate the person's condition and admit, detain, transfer, or
21 (~~release~~) discharge such person in accordance with RCW 71.05.210.
22 The facility shall notify in writing the court and the county
23 designated mental health professional of the date and time of the
24 initial detention of each person involuntarily detained in order that
25 a probable cause hearing shall be held no later than seventy-two hours
26 after detention.

27 The duty of a state hospital to accept persons for evaluation and
28 treatment under this section shall be limited by chapter 71.24 RCW.

29 **Sec. 6.** RCW 71.05.210 and 1998 c 297 s 12 are each amended to read
30 as follows:

31 Each person involuntarily (~~admitted to~~) detained and accepted or
32 admitted at an evaluation and treatment facility shall, within twenty-
33 four hours of his or her admission or acceptance at the facility, be
34 examined and evaluated by a licensed physician who may be assisted by
35 a physician assistant according to chapter 18.71A RCW or an advanced
36 registered nurse practitioner according to chapter 18.79 RCW and a
37 mental health professional, and shall receive such treatment and care

1 as his or her condition requires including treatment on an outpatient
2 basis for the period that he or she is detained, except that, beginning
3 twenty-four hours prior to a trial or hearing pursuant to RCW
4 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.340, or 71.05.370,
5 the individual may refuse psychiatric medications, but may not refuse:
6 (1) Any other medication previously prescribed by a person licensed
7 under Title 18 RCW; or (2) emergency lifesaving treatment, and the
8 individual shall be informed at an appropriate time of his or her right
9 of such refusal. The person shall be detained up to seventy-two hours,
10 if, in the opinion of the professional person in charge of the
11 facility, or his or her professional designee, the person presents a
12 likelihood of serious harm, or is gravely disabled. A person who has
13 been detained for seventy-two hours shall no later than the end of such
14 period be released, unless referred for further care on a voluntary
15 basis, or detained pursuant to court order for further treatment as
16 provided in this chapter.

17 If, after examination and evaluation, the licensed physician and
18 mental health professional determine that the initial needs of the
19 person would be better served by placement in a chemical dependency
20 treatment facility, then the person shall be referred to an approved
21 treatment program defined under RCW 70.96A.020.

22 An evaluation and treatment center admitting or accepting any
23 person pursuant to this chapter whose physical condition reveals the
24 need for hospitalization shall assure that such person is transferred
25 to an appropriate hospital for evaluation or admission for treatment.
26 Notice of such fact shall be given to the court, the designated
27 attorney, and the county designated mental health professional and the
28 court shall order such continuance in proceedings under this chapter as
29 may be necessary, but in no event may this continuance be more than
30 fourteen days.

31 **Sec. 7.** RCW 71.05.325 and 1994 c 129 s 8 are each amended to read
32 as follows:

33 (1) Before a person committed under grounds set forth in RCW
34 71.05.280(3) is released (~~((from involuntary treatment))~~) because a new
35 petition for involuntary treatment has not been filed under RCW
36 71.05.320(2), the superintendent, professional person, or designated
37 mental health professional responsible for the decision whether to file
38 a new petition shall in writing notify the prosecuting attorney of the

1 county in which the criminal charges against the committed person were
2 dismissed, of the decision not to file a new petition for involuntary
3 treatment. Notice shall be provided at least forty-five days before
4 the period of commitment expires.

5 (2)(a) Before a person committed under grounds set forth in RCW
6 71.05.280(3) is permitted temporarily to leave a treatment facility
7 pursuant to RCW 71.05.270 for any period of time without constant
8 accompaniment by facility staff, the superintendent, professional
9 person in charge of a treatment facility, or his or her professional
10 designee shall in writing notify the prosecuting attorney of any county
11 (~~(to which the person is to be released)~~) of the person's destination
12 and the prosecuting attorney of the county in which the criminal
13 charges against the committed person were dismissed(~~(, of the decision~~
14 ~~conditionally to release the person)~~). The notice shall be provided at
15 least forty-five days before the anticipated (~~(release)~~) leave and
16 shall describe the conditions under which the (~~(release)~~) leave is to
17 occur.

18 (b) The provisions of RCW 71.05.330(2) apply to proposed
19 (~~(temporary releases)~~) leaves, and either or both prosecuting attorneys
20 receiving notice under this subsection may petition the court under RCW
21 71.05.330(2).

22 (3) Nothing in this section shall be construed to authorize
23 detention of a person unless a valid order of commitment is in effect.

24 (4) The existence of the notice requirements in this section will
25 not require any extension of the (~~(release)~~) leave date in the event
26 the (~~(release)~~) leave plan changes after notification.

27 (5) The notice requirements contained in this section shall not
28 apply to emergency medical (~~(furloughs)~~) transfers.

29 (6) The notice provisions of this section are in addition to those
30 provided in RCW 71.05.425.

31 **Sec. 8.** RCW 71.05.340 and 1998 c 297 s 21 are each amended to read
32 as follows:

33 (1)(a) When, in the opinion of the superintendent or the
34 professional person in charge of the hospital or facility providing
35 involuntary treatment, the committed person can be appropriately served
36 by outpatient treatment prior to or at the expiration of the period of
37 commitment, then such outpatient care may be required as a (~~(condition~~
38 ~~for early)~~) term of conditional release for a period which, when added

1 to the inpatient treatment period, shall not exceed the period of
2 commitment. If the hospital or facility designated to provide
3 outpatient treatment is other than the facility providing involuntary
4 treatment, the outpatient facility so designated must agree in writing
5 to assume such responsibility. A copy of the (~~conditions for early~~)
6 terms of conditional release shall be given to the patient, the county
7 designated mental health professional in the county in which the
8 patient is to receive outpatient treatment, and to the court of
9 original commitment.

10 (b) Before a person committed under grounds set forth in RCW
11 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of
12 this subsection, the superintendent or professional person in charge of
13 the hospital or facility providing involuntary treatment shall in
14 writing notify the prosecuting attorney of the county in which the
15 criminal charges against the committed person were dismissed, of the
16 decision to conditionally release the person. Notice and a copy of the
17 (~~conditions for early~~) terms of conditional release shall be provided
18 at least thirty days before the person is released from inpatient care.
19 Within twenty days after receiving notice, the prosecuting attorney may
20 petition the court in the county that issued the commitment order to
21 hold a hearing to determine whether the person may be conditionally
22 released and the terms of the conditional release. The prosecuting
23 attorney shall provide a copy of the petition to the superintendent or
24 professional person in charge of the hospital or facility providing
25 involuntary treatment, the attorney, if any, and guardian or
26 conservator of the committed person, and the court of original
27 commitment. If the county in which the committed person is to receive
28 outpatient treatment is the same county in which the criminal charges
29 against the committed person were dismissed, then the court shall, upon
30 the motion of the prosecuting attorney, transfer the proceeding to the
31 court in that county. The court shall conduct a hearing on the
32 petition within ten days of the filing of the petition. The committed
33 person shall have the same rights with respect to notice, hearing, and
34 counsel as for an involuntary treatment proceeding, except as set forth
35 in this subsection and except that there shall be no right to jury
36 trial. The issue to be determined at the hearing is whether or not the
37 person may be conditionally released without substantial danger to
38 other persons, or substantial likelihood of committing criminal acts
39 jeopardizing public safety or security. If the court disapproves of

1 the conditional release, it may do so only on the basis of substantial
2 evidence. Pursuant to the determination of the court upon the hearing,
3 the conditional release of the person shall be approved by the court on
4 the same or modified conditions or the person shall be returned for
5 involuntary treatment on an inpatient basis subject to release at the
6 end of the period for which he or she was committed, or otherwise in
7 accordance with the provisions of this chapter.

8 (2) The hospital or facility designated to provide outpatient care
9 or the secretary may modify the conditions for continued release when
10 such modification is in the best interest of the person. Notification
11 of such changes shall be sent to all persons receiving a copy of the
12 original conditions.

13 (3)(a) If the hospital or facility designated to provide outpatient
14 care, the county designated mental health professional, or the
15 secretary determines that:

16 (i) A conditionally released person is failing to adhere to the
17 terms and conditions of his or her release;

18 (ii) Substantial deterioration in a conditionally released person's
19 functioning has occurred;

20 (iii) There is evidence of substantial decompensation with a
21 reasonable probability that the decompensation can be reversed by
22 further inpatient treatment; or

23 (iv) The person poses a likelihood of serious harm.

24 Upon notification by the hospital or facility designated to provide
25 outpatient care, or on his or her own motion, the county designated
26 mental health professional or the secretary may order that the
27 conditionally released person be apprehended and taken into custody and
28 temporarily detained in an evaluation and treatment facility in or near
29 the county in which he or she is receiving outpatient treatment.

30 (b) The hospital or facility designated to provide outpatient
31 treatment shall notify the secretary or county designated mental health
32 professional when a conditionally released person fails to adhere to
33 terms and conditions of his or her conditional release or experiences
34 substantial deterioration in his or her condition and, as a result,
35 presents an increased likelihood of serious harm. The county
36 designated mental health professional or secretary shall order the
37 person apprehended and temporarily detained in an evaluation and
38 treatment facility in or near the county in which he or she is
39 receiving outpatient treatment.

1 (c) A person detained under this subsection (3) shall be held until
2 such time, not exceeding five days, as a hearing can be scheduled to
3 determine whether or not the person should be returned to the hospital
4 or facility from which he or she had been conditionally released. The
5 county designated mental health professional or the secretary may
6 modify or rescind such order at any time prior to commencement of the
7 court hearing.

8 (d) The court that originally ordered commitment shall be notified
9 within two judicial days of a person's detention under the provisions
10 of this section, and the county designated mental health professional
11 or the secretary shall file his or her petition and order of
12 apprehension and detention with the court and serve them upon the
13 person detained. His or her attorney, if any, and his or her guardian
14 or conservator, if any, shall receive a copy of such papers as soon as
15 possible. Such person shall have the same rights with respect to
16 notice, hearing, and counsel as for an involuntary treatment
17 proceeding, except as specifically set forth in this section and except
18 that there shall be no right to jury trial. The issues to be
19 determined shall be: (i) Whether the conditionally released person did
20 or did not adhere to the terms and conditions of his or her conditional
21 release; (ii) that substantial deterioration in the person's
22 functioning has occurred; (iii) there is evidence of substantial
23 decompensation with a reasonable probability that the decompensation
24 can be reversed by further inpatient treatment; or (iv) there is a
25 likelihood of serious harm; and, if any of the conditions listed in
26 this subsection (3)(d) have occurred, whether the ~~((conditions of))~~
27 terms of conditional release should be modified or the person should be
28 returned to the facility.

29 (e) Pursuant to the determination of the court upon such hearing,
30 the conditionally released person shall either continue to be
31 conditionally released on the same or modified conditions or shall be
32 returned for involuntary treatment on an inpatient basis subject to
33 release at the end of the period for which he or she was committed for
34 involuntary treatment, or otherwise in accordance with the provisions
35 of this chapter. Such hearing may be waived by the person and his or
36 her counsel and his or her guardian or conservator, if any, but shall
37 not be waivable unless all such persons agree to waive, and upon such
38 waiver the person may be returned for involuntary treatment or
39 continued on conditional release on the same or modified conditions.

1 (4) The proceedings set forth in subsection (3) of this section may
2 be initiated by the county designated mental health professional or the
3 secretary on the same basis set forth therein without requiring or
4 ordering the apprehension and detention of the conditionally released
5 person, in which case the court hearing shall take place in not less
6 than five days from the date of service of the petition upon the
7 conditionally released person.

8 Upon expiration of the period of commitment, or when the person is
9 released from outpatient care, notice in writing to the court which
10 committed the person for treatment shall be provided.

11 (5) The grounds and procedures for revocation of less restrictive
12 alternative treatment shall be the same as those set forth in this
13 section for conditional releases.

14 (6) In the event of a revocation of a conditional release, the
15 subsequent treatment period may be for no longer than the actual period
16 authorized in the original court order.

17 **Sec. 9.** RCW 71.05.390 and 1999 c 12 s 1 are each amended to read
18 as follows:

19 Except as provided in this section, the fact of admission and all
20 information and records compiled, obtained, or maintained in the course
21 of providing services to either voluntary or involuntary recipients of
22 services at public or private agencies shall be confidential.

23 Information and records may be disclosed only:

24 (1) In communications between qualified professional persons to
25 meet the requirements of this chapter, in the provision of services or
26 appropriate referrals, or in the course of guardianship proceedings.
27 The consent of the patient, or his or her guardian, shall be obtained
28 before information or records may be disclosed by a professional person
29 employed by a facility unless provided to a professional person: (a)
30 Employed by the facility; (b) who has medical responsibility for the
31 patient's care; (c) who is a county designated mental health
32 professional; (d) who is providing services under chapter 71.24 RCW;
33 (e) who is employed by a state or local correctional facility where the
34 person is confined; or (f) who is providing evaluation, treatment, or
35 follow-up services under chapter 10.77 RCW.

36 (2) When the communications regard the special needs of a patient
37 and the necessary circumstances giving rise to such needs and the

1 disclosure is made by a facility providing outpatient services to the
2 operator of a care facility in which the patient resides.

3 (3) When the person receiving services, or his or her guardian,
4 designates persons to whom information or records may be released, or
5 if the person is a minor, when his or her parents make such
6 designation.

7 (4) To the extent necessary for a recipient to make a claim, or for
8 a claim to be made on behalf of a recipient for aid, insurance, or
9 medical assistance to which he or she may be entitled.

10 (5) For either program evaluation or research, or both: PROVIDED,
11 That the secretary adopts rules for the conduct of the evaluation or
12 research, or both. Such rules shall include, but need not be limited
13 to, the requirement that all evaluators and researchers must sign an
14 oath of confidentiality substantially as follows:

15 "As a condition of conducting evaluation or research concerning
16 persons who have received services from (fill in the facility, agency,
17 or person) I,, agree not to divulge, publish, or
18 otherwise make known to unauthorized persons or the public any
19 information obtained in the course of such evaluation or research
20 regarding persons who have received services such that the person who
21 received such services is identifiable.

22 I recognize that unauthorized release of confidential information
23 may subject me to civil liability under the provisions of state law.

24 /s/ "

25 (6) To the courts as necessary to the administration of this
26 chapter.

27 (7) To law enforcement officers, public health officers, or
28 personnel of the department of corrections or the indeterminate
29 sentence review board for persons who are the subject of the records
30 and who are committed to the custody of the department of corrections
31 or indeterminate sentence review board which information or records are
32 necessary to carry out the responsibilities of their office. Except
33 for dissemination of information released pursuant to RCW 71.05.425 and
34 4.24.550, regarding persons committed under this chapter under RCW
35 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
36 defined in RCW 9.94A.030, the extent of information that may be
37 released is limited as follows:

1 (a) Only the fact, place, and date of involuntary ((admission))
2 commitment, the fact and date of discharge or release, and the last
3 known address shall be disclosed upon request; and

4 (b) The law enforcement and public health officers or personnel of
5 the department of corrections or indeterminate sentence review board
6 shall be obligated to keep such information confidential in accordance
7 with this chapter; and

8 (c) Additional information shall be disclosed only after giving
9 notice to said person and his or her counsel and upon a showing of
10 clear, cogent and convincing evidence that such information is
11 necessary and that appropriate safeguards for strict confidentiality
12 are and will be maintained. However, in the event the said person has
13 escaped from custody, said notice prior to disclosure is not necessary
14 and that the facility from which the person escaped shall include an
15 evaluation as to whether the person is of danger to persons or property
16 and has a propensity toward violence.

17 (8) To the attorney of the detained person.

18 (9) To the prosecuting attorney as necessary to carry out the
19 responsibilities of the office under RCW 71.05.330(2) and
20 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
21 to records regarding the committed person's treatment and prognosis,
22 medication, behavior problems, and other records relevant to the issue
23 of whether treatment less restrictive than inpatient treatment is in
24 the best interest of the committed person or others. Information shall
25 be disclosed only after giving notice to the committed person and the
26 person's counsel.

27 (10) To appropriate law enforcement agencies and to a person, when
28 the identity of the person is known to the public or private agency,
29 whose health and safety has been threatened, or who is known to have
30 been repeatedly harassed, by the patient. The person may designate a
31 representative to receive the disclosure. The disclosure shall be made
32 by the professional person in charge of the public or private agency or
33 his or her designee and shall include the dates of commitment,
34 admission, discharge, or release, authorized or unauthorized absence
35 from the agency's facility, and only such other information that is
36 pertinent to the threat or harassment. The decision to disclose or not
37 shall not result in civil liability for the agency or its employees so
38 long as the decision was reached in good faith and without gross
39 negligence.

1 (11) To the persons designated in RCW 71.05.425 for the purposes
2 described in that section.

3 (12) Civil liability and immunity for the release of information
4 about a particular person who is committed to the department under RCW
5 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
6 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

7 (13) To a patient's next of kin, guardian, or conservator, if any,
8 in the event of death, as provided in RCW 71.05.400.

9 (14) To the department of health of the purposes of determining
10 compliance with state or federal licensure, certification, or
11 registration rules or laws. However, the information and records
12 obtained under this subsection are exempt from public inspection and
13 copying pursuant to chapter 42.17 RCW.

14 The fact of admission, as well as all records, files, evidence,
15 findings, or orders made, prepared, collected, or maintained pursuant
16 to this chapter shall not be admissible as evidence in any legal
17 proceeding outside this chapter without the written consent of the
18 person who was the subject of the proceeding except in a subsequent
19 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
20 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
21 10.77 RCW due to incompetency to stand trial or in a civil commitment
22 proceeding pursuant to chapter 71.09 RCW. The records and files
23 maintained in any court proceeding pursuant to this chapter shall be
24 confidential and available subsequent to such proceedings only to the
25 person who was the subject of the proceeding or his or her attorney.
26 In addition, the court may order the subsequent release or use of such
27 records or files only upon good cause shown if the court finds that
28 appropriate safeguards for strict confidentiality are and will be
29 maintained.

30 **Sec. 10.** RCW 71.05.425 and 1999 c 13 s 8 are each amended to read
31 as follows:

32 (1)(a) Except as provided in subsection (2) of this section, at the
33 earliest possible date, and in no event later than thirty days before
34 conditional release, final ~~((discharge))~~ release, authorized leave
35 under RCW 71.05.325(2), or transfer to a ~~((less-restrictive))~~ facility
36 other than a state mental hospital, the superintendent shall send
37 written notice of conditional release, ~~((final-discharge))~~ release,
38 authorized leave, or transfer of a person committed under RCW

1 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent,
2 or felony harassment offense pursuant to RCW 10.77.090(4) to the
3 following:

4 (i) The chief of police of the city, if any, in which the person
5 will reside; and

6 (ii) The sheriff of the county in which the person will reside.

7 (b) The same notice as required by (a) of this subsection shall be
8 sent to the following, if such notice has been requested in writing
9 about a specific person committed under RCW 71.05.280(3) or
10 71.05.320(2)(c) following dismissal of a sex, violent, or felony
11 harassment offense pursuant to RCW 10.77.090(4):

12 (i) The victim of the sex, violent, or felony harassment offense
13 that was dismissed pursuant to RCW 10.77.090(4) preceding commitment
14 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin
15 if the crime was a homicide;

16 (ii) Any witnesses who testified against the person in any court
17 proceedings; and

18 (iii) Any person specified in writing by the prosecuting attorney.
19 Information regarding victims, next of kin, or witnesses requesting the
20 notice, information regarding any other person specified in writing by
21 the prosecuting attorney to receive the notice, and the notice are
22 confidential and shall not be available to the person committed under
23 this chapter.

24 (c) The thirty-day notice requirements contained in this subsection
25 shall not apply to emergency medical (~~furloughs~~) transfers.

26 (d) The existence of the notice requirements in this subsection
27 will not require any extension of the release date in the event the
28 release plan changes after notification.

29 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)
30 following dismissal of a sex, violent, or felony harassment offense
31 pursuant to RCW 10.77.090(4) escapes, the superintendent shall
32 immediately notify, by the most reasonable and expedient means
33 available, the chief of police of the city and the sheriff of the
34 county in which the person resided immediately before the person's
35 arrest. If previously requested, the superintendent shall also notify
36 the witnesses and the victim of the sex, violent, or felony harassment
37 offense that was dismissed pursuant to RCW 10.77.090(4) preceding
38 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next
39 of kin if the crime was a homicide. In addition, the secretary shall

1 also notify appropriate parties pursuant to RCW 71.05.410. If the
2 person is recaptured, the superintendent shall send notice to the
3 persons designated in this subsection as soon as possible but in no
4 event later than two working days after the department learns of such
5 recapture.

6 (3) If the victim, the victim's next of kin, or any witness is
7 under the age of sixteen, the notice required by this section shall be
8 sent to the parent or legal guardian of the child.

9 (4) The superintendent shall send the notices required by this
10 chapter to the last address provided to the department by the
11 requesting party. The requesting party shall furnish the department
12 with a current address.

13 (5) For purposes of this section the following terms have the
14 following meanings:

15 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

16 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

17 (c) "Next of kin" means a person's spouse, parents, siblings, and
18 children;

19 (d) "Felony harassment offense" means a crime of harassment as
20 defined in RCW 9A.46.060 that is a felony.

21 **Sec. 11.** RCW 71.05.640 and 1999 c 13 s 9 are each amended to read
22 as follows:

23 (1) Procedures shall be established by resource management services
24 to provide reasonable and timely access to individual treatment
25 records. However, access may not be denied at any time to records of
26 all medications and somatic treatments received by the individual.

27 (2) Following discharge, the individual shall have a right to a
28 complete record of all medications and somatic treatments prescribed
29 during evaluation, admission, or commitment and to a copy of the
30 discharge summary prepared at the time of his or her discharge. A
31 reasonable and uniform charge for reproduction may be assessed.

32 (3) Treatment records may be modified prior to inspection to
33 protect the confidentiality of other patients or the names of any other
34 persons referred to in the record who gave information on the condition
35 that his or her identity remain confidential. Entire documents may not
36 be withheld to protect such confidentiality.

1 (4) At the time of discharge all individuals shall be informed by
2 resource management services of their rights as provided in RCW
3 71.05.610 through 71.05.690.

4 **Sec. 12.** RCW 10.77.010 and 1999 c 143 s 49 and 1999 c 13 s 2 are
5 each reenacted and amended to read as follows:

6 As used in this chapter:

7 (1) "Admission" means acceptance based on medical necessity, of a
8 person as a patient.

9 (2) "Commitment" means the determination by a court that a person
10 should be detained for a period of either evaluation or treatment, or
11 both, in an inpatient or a less-restrictive setting.

12 (3) "Conditional release" means modification of a court-ordered
13 commitment, which may be revoked upon violation of any of its terms.

14 (4) "County designated mental health professional" has the same
15 meaning as provided in RCW 71.05.020.

16 ~~((+2))~~ (5) A "criminally insane" person means any person who has
17 been acquitted of a crime charged by reason of insanity, and thereupon
18 found to be a substantial danger to other persons or to present a
19 substantial likelihood of committing criminal acts jeopardizing public
20 safety or security unless kept under further control by the court or
21 other persons or institutions.

22 ~~((+3))~~ (6) "Department" means the state department of social and
23 health services.

24 ~~((+4))~~ (7) "Detention" or "detain" means the lawful confinement of
25 a person, under the provisions of this chapter, pending evaluation.

26 (8) "Developmental disabilities professional" means a person who
27 has specialized training and three years of experience in directly
28 treating or working with persons with developmental disabilities and is
29 a psychiatrist or psychologist, or a social worker, and such other
30 developmental disabilities professionals as may be defined by rules
31 adopted by the secretary.

32 ~~((+5))~~ (9) "Developmental disability" means the condition as
33 defined in RCW 71A.10.020(3).

34 ~~((+6))~~ (10) "Discharge" means the termination of hospital medical
35 authority. The commitment may remain in place, be terminated, or be
36 amended by court order.

37 (11) "Furlough" means an authorized leave of absence for a resident
38 of a state institution operated by the department designated for the

1 custody, care, and treatment of the criminally insane, consistent with
2 an order of conditional release from the court under this chapter,
3 without any requirement that the resident be accompanied by, or be in
4 the custody of, any law enforcement or institutional staff, while on
5 such unescorted leave.

6 ~~((+7))~~ (12) "Habilitative services" means those services provided
7 by program personnel to assist persons in acquiring and maintaining
8 life skills and in raising their levels of physical, mental, social,
9 and vocational functioning. Habilitative services include education,
10 training for employment, and therapy. The habilitative process shall
11 be undertaken with recognition of the risk to the public safety
12 presented by the individual being assisted as manifested by prior
13 charged criminal conduct.

14 ~~((+8))~~ (13) "History of one or more violent acts" means violent
15 acts committed during: (a) The ten-year period of time prior to the
16 filing of criminal charges; plus (b) the amount of time equal to time
17 spent during the ten-year period in a mental health facility or in
18 confinement as a result of a criminal conviction.

19 ~~((+9))~~ (14) "Incompetency" means a person lacks the capacity to
20 understand the nature of the proceedings against him or her or to
21 assist in his or her own defense as a result of mental disease or
22 defect.

23 ~~((+10))~~ (15) "Indigent" means any person who is financially unable
24 to obtain counsel or other necessary expert or professional services
25 without causing substantial hardship to the person or his or her
26 family.

27 ~~((+11))~~ (16) "Individualized service plan" means a plan prepared
28 by a developmental disabilities professional with other professionals
29 as a team, for an individual with developmental disabilities, which
30 shall state:

31 (a) The nature of the person's specific problems, prior charged
32 criminal behavior, and habilitation needs;

33 (b) The conditions and strategies necessary to achieve the purposes
34 of habilitation;

35 (c) The intermediate and long-range goals of the habilitation
36 program, with a projected timetable for the attainment;

37 (d) The rationale for using this plan of habilitation to achieve
38 those intermediate and long-range goals;

39 (e) The staff responsible for carrying out the plan;

1 (f) Where relevant in light of past criminal behavior and due
2 consideration for public safety, the criteria for proposed movement to
3 less-restrictive settings, criteria for proposed eventual (~~(discharge~~
4 ~~from involuntary confinement)~~) release, and a projected possible date
5 for (~~(discharge from involuntary confinement)~~) release; and

6 (g) The type of residence immediately anticipated for the person
7 and possible future types of residences.

8 (~~(12)~~) (17) "Professional person" means:

9 (a) A psychiatrist licensed as a physician and surgeon in this
10 state who has, in addition, completed three years of graduate training
11 in psychiatry in a program approved by the American medical association
12 or the American osteopathic association and is certified or eligible to
13 be certified by the American board of psychiatry and neurology or the
14 American osteopathic board of neurology and psychiatry;

15 (b) A psychologist licensed as a psychologist pursuant to chapter
16 18.83 RCW; or

17 (c) A social worker with a master's or further advanced degree from
18 an accredited school of social work or a degree deemed equivalent under
19 rules adopted by the secretary.

20 (~~(13)~~) (18) "Release" means legal termination of the court
21 ordered commitment under the provisions of this chapter.

22 (19) "Secretary" means the secretary of the department of social
23 and health services or his or her designee.

24 (~~(14)~~) (20) "Treatment" means any currently standardized medical
25 or mental health procedure including medication.

26 (~~(15)~~) (21) "Violent act" means behavior that: (a)(i) Resulted
27 in; (ii) if completed as intended would have resulted in; or (iii) was
28 threatened to be carried out by a person who had the intent and
29 opportunity to carry out the threat and would have resulted in,
30 homicide, nonfatal injuries, or substantial damage to property; or (b)
31 recklessly creates an immediate risk of serious physical injury to
32 another person.

33 **Sec. 13.** RCW 10.77.025 and 1998 c 297 s 31 are each amended to
34 read as follows:

35 (1) Whenever any person has been: (a) Committed to a correctional
36 facility or inpatient treatment under any provision of this chapter; or
37 (b) ordered to undergo alternative treatment following his or her
38 acquittal by reason of insanity of a crime charged, such commitment or

1 treatment cannot exceed the maximum possible penal sentence for any
2 offense charged for which the person was committed, or was acquitted by
3 reason of insanity.

4 (2) Whenever any person committed under any provision of this
5 chapter has not been (~~((finally discharged))~~) released within seven days
6 of the maximum possible penal sentence under subsection (1) of this
7 section, and the professional person in charge of the facility believes
8 (~~((it more likely than not that the person will not be finally~~
9 ~~discharged))~~) that the person presents a likelihood of serious harm or
10 is gravely disabled due to a mental disorder, the professional person
11 shall, prior to the (~~((person's release from the facility))~~) expiration
12 of the maximum penal sentence, notify the appropriate county designated
13 mental health professional of the impending (~~((release))~~) expiration and
14 provide a copy of all relevant information regarding the person,
15 including the likely release date and shall indicate why (~~((final~~
16 ~~discharge was not made))~~) the person should not be released.

17 (3) A county designated mental health professional who receives
18 notice and records under subsection (2) of this section shall, prior to
19 the date of (~~((probable release))~~) the expiration of the maximum
20 sentence, determine whether to initiate proceedings under chapter 71.05
21 RCW.

22 **Sec. 14.** RCW 10.77.110 and 1998 c 297 s 39 are each amended to
23 read as follows:

24 (1) If a defendant is acquitted of a crime by reason of insanity,
25 and it is found that he or she is not a substantial danger to other
26 persons, and does not present a substantial likelihood of committing
27 criminal acts jeopardizing public safety or security, unless kept under
28 further control by the court or other persons or institutions, the
29 court shall direct the defendant's (~~((final discharge))~~) release. If it
30 is found that such defendant is a substantial danger to other persons,
31 or presents a substantial likelihood of committing criminal acts
32 jeopardizing public safety or security, unless kept under further
33 control by the court or other persons or institutions, the court shall
34 order his or her hospitalization, or any appropriate alternative
35 treatment less restrictive than detention in a state mental hospital,
36 pursuant to the terms of this chapter.

37 (2) If the defendant has been found not guilty by reason of
38 insanity and a substantial danger, or presents a substantial likelihood

1 of committing criminal acts jeopardizing public safety or security, so
2 as to require treatment then the secretary shall immediately cause the
3 defendant to be evaluated to ascertain if the defendant is
4 developmentally disabled. When appropriate, and subject to available
5 funds, the defendant may be committed to a program specifically
6 reserved for the treatment and training of developmentally disabled
7 persons. A person so committed shall receive habilitation services
8 according to an individualized service plan specifically developed to
9 treat the behavior which was the subject of the criminal proceedings.
10 The treatment program shall be administered by developmental
11 disabilities professionals and others trained specifically in the needs
12 of developmentally disabled persons. The treatment program shall
13 provide physical security to a degree consistent with the finding that
14 the defendant is dangerous and may incorporate varying conditions of
15 security and alternative sites when the dangerousness of any particular
16 defendant makes this necessary. The department may limit admissions to
17 this specialized program in order to ensure that expenditures for
18 services do not exceed amounts appropriated by the legislature and
19 allocated by the department for such services. The department may
20 establish admission priorities in the event that the number of eligible
21 persons exceeds the limits set by the department.

22 (3) If it is found that such defendant is not a substantial danger
23 to other persons, and does not present a substantial likelihood of
24 committing criminal acts jeopardizing public safety or security, but
25 that he or she is in need of control by the court or other persons or
26 institutions, the court shall direct the defendant's conditional
27 release.

28 **Sec. 15.** RCW 10.77.120 and 1989 c 420 s 7 are each amended to read
29 as follows:

30 The secretary shall forthwith provide adequate care and
31 individualized treatment at one or several of the state institutions or
32 facilities under his or her direction and control wherein persons
33 committed as criminally insane may be confined. Such persons shall be
34 under the custody and control of the secretary to the same extent as
35 are other persons who are committed to the secretary's custody, but
36 such provision shall be made for their control, care, and treatment as
37 is proper in view of their condition. In order that the secretary may
38 adequately determine the nature of the mental illness or developmental

1 disability of the person committed to him or her as criminally insane,
2 and in order for the secretary to place such individuals in a proper
3 facility, all persons who are committed to the secretary as criminally
4 insane shall be promptly examined by qualified personnel in such a
5 manner as to provide a proper evaluation and diagnosis of such
6 individual. The examinations of all developmentally disabled persons
7 committed under this chapter shall be performed by developmental
8 disabilities professionals. Any person so committed shall not be
9 (~~discharged~~) released from the control of the secretary save upon the
10 order of a court of competent jurisdiction made after a hearing and
11 judgment of (~~discharge~~) release.

12 Whenever there is a hearing which the committed person is entitled
13 to attend, the secretary shall send him or her in the custody of one or
14 more department employees to the county where the hearing is to be held
15 at the time the case is called for trial. During the time the person
16 is absent from the facility, he or she shall be confined in a facility
17 designated by and arranged for by the department, and shall at all
18 times be deemed to be in the custody of the department employee and
19 provided necessary treatment. If the decision of the hearing remits
20 the person to custody, the department employee shall forthwith return
21 the person to such institution or facility designated by the secretary.
22 If the state appeals an order of (~~discharge~~) release, such appeal
23 shall operate as a stay, and the person in custody shall so remain and
24 be forthwith returned to the institution or facility designated by the
25 secretary until a final decision has been rendered in the cause.

26 **Sec. 16.** RCW 10.77.200 and 1998 c 297 s 44 are each amended to
27 read as follows:

28 (1) Upon application by the committed or conditionally released
29 person, the secretary shall determine whether or not reasonable grounds
30 exist for (~~final discharge~~) release. In making this determination,
31 the secretary may consider the reports filed under RCW 10.77.060,
32 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations
33 provided by professionals familiar with the case. If the secretary
34 approves the (~~final discharge~~) release he or she then shall authorize
35 the person to petition the court.

36 (2) The petition shall be served upon the court and the prosecuting
37 attorney. The court, upon receipt of the petition for (~~final
38 discharge~~) release, shall within forty-five days order a hearing.

1 Continuance of the hearing date shall only be allowed for good cause
2 shown. The prosecuting attorney shall represent the state, and shall
3 have the right to have the petitioner examined by an expert or
4 professional person of the prosecuting attorney's choice. If the
5 petitioner is indigent, and the person so requests, the court shall
6 appoint a qualified expert or professional person to examine him or
7 her. If the petitioner is developmentally disabled, the examination
8 shall be performed by a developmental disabilities professional. The
9 hearing shall be before a jury if demanded by either the petitioner or
10 the prosecuting attorney. The burden of proof shall be upon the
11 petitioner to show by a preponderance of the evidence that the
12 petitioner no longer presents, as a result of a mental disease or
13 defect, a substantial danger to other persons, or a substantial
14 likelihood of committing criminal acts jeopardizing public safety or
15 security, unless kept under further control by the court or other
16 persons or institutions.

17 (3) Nothing contained in this chapter shall prohibit the patient
18 from petitioning the court for (~~final discharge~~) release or
19 conditional release from the institution in which he or she is
20 committed. The issue to be determined on such proceeding is whether
21 the petitioner, as a result of a mental disease or defect, is a
22 substantial danger to other persons, or presents a substantial
23 likelihood of committing criminal acts jeopardizing public safety or
24 security, unless kept under further control by the court or other
25 persons or institutions.

26 Nothing contained in this chapter shall prohibit the committed
27 person from petitioning for release by writ of habeas corpus.

28 **Sec. 17.** RCW 10.77.205 and 1994 c 129 s 5 are each amended to read
29 as follows:

30 (1)(a) At the earliest possible date, and in no event later than
31 thirty days before conditional release, (~~final discharge~~) release,
32 authorized furlough pursuant to RCW 10.77.163, or transfer to a less-
33 restrictive facility than a state mental hospital, the superintendent
34 shall send written notice of the conditional release, (~~final~~
35 ~~discharge~~) release, authorized furlough, or transfer of a person who
36 has been found not guilty of a sex, violent, or felony harassment
37 offense by reason of insanity and who is now in the custody of the
38 department pursuant to this chapter, to the following:

1 (i) The chief of police of the city, if any, in which the person
2 will reside; and

3 (ii) The sheriff of the county in which the person will reside.

4 (b) The same notice as required by (a) of this subsection shall be
5 sent to the following, if such notice has been requested in writing
6 about a specific person committed under this chapter:

7 (i) The victim of the crime for which the person was committed or
8 the victim's next of kin if the crime was a homicide;

9 (ii) Any witnesses who testified against the person in any court
10 proceedings; and

11 (iii) Any person specified in writing by the prosecuting attorney.
12 Information regarding victims, next of kin, or witnesses requesting the
13 notice, information regarding any other person specified in writing by
14 the prosecuting attorney to receive the notice, and the notice are
15 confidential and shall not be available to the person committed under
16 this chapter.

17 (c) In addition to the notice requirements of (a) and (b) of this
18 subsection, the superintendent shall comply with RCW 10.77.163.

19 (d) The thirty-day notice requirement contained in (a) and (b) of
20 this subsection shall not apply to emergency medical furloughs.

21 (e) The existence of the notice requirements in (a) and (b) of this
22 subsection shall not require any extension of the release date in the
23 event the release plan changes after notification.

24 (2) If a person who has been found not guilty of a sex, violent, or
25 felony harassment offense by reason of insanity and who is committed
26 under this chapter escapes, the superintendent shall immediately
27 notify, by the most reasonable and expedient means available, the chief
28 of police of the city and the sheriff of the county in which the person
29 resided immediately before the person's arrest. If previously
30 requested, the superintendent shall also notify the witnesses and the
31 victim, if any, of the crime for which the person was committed or the
32 victim's next of kin if the crime was a homicide. The superintendent
33 shall also notify appropriate persons pursuant to RCW 10.77.165. If
34 the person is recaptured, the secretary shall send notice to the
35 persons designated in this subsection as soon as possible but in no
36 event later than two working days after the department learns of such
37 recapture.

1 (3) If the victim, the victim's next of kin, or any witness is
2 under the age of sixteen, the notice required by this section shall be
3 sent to the parents or legal guardian of the child.

4 (4) The department shall send the notices required by this chapter
5 to the last address provided to the department by the requesting party.
6 The requesting party shall furnish the department with a current
7 address.

8 (5) For purposes of this section the following terms have the
9 following meanings:

10 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

11 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

12 (c) "Next of kin" means a person's spouse, parents, siblings, and
13 children;

14 (d) "Authorized furlough" means a furlough granted after compliance
15 with RCW 10.77.163;

16 (e) "Felony harassment offense" means a crime of harassment as
17 defined in RCW 9A.46.060 that is a felony.

18 **Sec. 18.** RCW 49.19.010 and 1999 c 377 s 2 are each amended to read
19 as follows:

20 For purposes of this chapter:

21 (1) "Health care setting" means:

22 (a) Hospitals as defined in RCW 70.41.020;

23 (b) Home health, hospice, and home care agencies under chapter
24 70.127 RCW, subject to RCW 49.19.070;

25 (c) Evaluation and treatment facilities as defined in RCW
26 71.05.020(~~(+8)~~) (12); and

27 (d) Community mental health programs as defined in RCW
28 71.24.025(~~(+8)~~) (5).

29 (2) "Department" means the department of labor and industries.

30 (3) "Employee" means an employee as defined in RCW 49.17.020.

31 (4) "Violence" or "violent act" means any physical assault or
32 verbal threat of physical assault against an employee of a health care
33 setting."

1 **HB 2520** - S COMM AMD
2 By Committee on Human Services & Corrections

ADOPTED 3/2/00

3
4 On page 1, line 2 of the title, after "status;" strike the
5 remainder of the title and insert "amending RCW 71.05.020, 71.05.025,
6 71.05.050, 71.05.120, 71.05.170, 71.05.210, 71.05.325, 71.05.340,
7 71.05.390, 71.05.425, 71.05.640, 10.77.025, 10.77.110, 10.77.120,
8 10.77.200, 10.77.205, and 49.19.010; and reenacting and amending RCW
9 10.77.010."

--- END ---