CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763

Chapter 504, Laws of 2005

(partial veto)

59th Legislature
2005 Regular Session

MENTAL AND SUBSTANCE ABUSE DISORDERS

EFFECTIVE DATE: 7/01/05 - Except section 503, which becomes effective 7/01/06.

Passed by the Senate April 22, 2005
YEAS 32  NAYS 16

BRAD OWEN
President of the Senate

Passed by the House April 21, 2005
YEAS 67  NAYS 31

FRANK CHOPP
Speaker of the House of Representatives

Approved May 17, 2005, with the exception of Sections 402, 603, 604 and 806, which are vetoed.

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

FILED
May 17, 2005 - 2:07 p.m.

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to the omnibus treatment of mental and substance abuse disorders act of 2005; amending RCW 71.05.020, 71.24.025, 10.77.010, 71.05.360, 71.05.420, 71.05.620, 71.05.630, 71.05.640, 71.05.660, 71.05.550, 2.28.170, 71.05.157, 5.60.060, 18.83.110, 18.225.105, 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640, 71.05.680, and 71.05.690; reenacting and amending RCW 71.05.390 and 71.24.035; adding new sections to chapter 71.05 RCW; adding new sections to chapter 70.96A RCW; adding a new section to chapter 13.34 RCW; adding new sections to chapter 2.28 RCW; adding a new section to chapter 26.12 RCW; adding new sections to chapter 71.24 RCW; adding a new section to chapter 71.02 RCW; adding new sections to chapter 71A.12 RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 82.14 RCW; adding new chapters to Title 70 RCW; creating new sections; recodifying RCW 71.05.370 and 71.05.035; repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250, 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155, 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and 71.05.670; repealing 2005 c ... (E2SSB 1290) s 5; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

PART I
GENERAL PROVISIONS

NEW SECTION. Sec. 101. The legislature finds that persons with mental disorders, chemical dependency disorders, or co-occurring mental and substance abuse disorders are disproportionately more likely to be confined in a correctional institution, become homeless, become involved with child protective services or involved in a dependency proceeding, or lose those state and federal benefits to which they may be entitled as a result of their disorders. The legislature finds that prior state policy of addressing mental health and chemical dependency in isolation from each other has not been cost-effective and has often resulted in longer-term, more costly treatment that may be less effective over time. The legislature finds that a substantial number of persons have co-occurring mental and substance abuse disorders and that identification and integrated treatment of co-occurring disorders is critical to successful outcomes and recovery. Consequently, the legislature intends, to the extent of available funding, to:

(1) Establish a process for determining which persons with mental disorders and substance abuse disorders have co-occurring disorders;

(2) Reduce the gap between available chemical dependency treatment and the documented need for treatment;

(3) Improve treatment outcomes by shifting treatment, where possible, to evidence-based, research-based, and consensus-based treatment practices and by removing barriers to the use of those practices;

(4) Expand the authority for and use of therapeutic courts including drug courts, mental health courts, and therapeutic courts for dependency proceedings;

(5) Improve access to treatment for persons who are not enrolled in medicaid by improving and creating consistency in the application processes, and by minimizing the numbers of eligible confined persons who leave confinement without medical assistance;

(6) Improve access to inpatient treatment by creating expanded services facilities for persons needing intensive treatment in a secure
setting who do not need inpatient care, but are unable to access treatment under current licensing restrictions in other settings;
(7) Establish secure detoxification centers for persons involuntarily detained as gravely disabled or presenting a likelihood of serious harm due to chemical dependency and authorize combined crisis responders for both mental disorders and chemical dependency disorders on a pilot basis and study the outcomes;
(8) Slow or stop the loss of inpatient and intensive residential beds and children's long-term inpatient placements and refine the balance of state hospital and community inpatient and residential beds;
(9) Improve cross-system collaboration including collaboration with first responders and hospital emergency rooms, schools, primary care, developmental disabilities, law enforcement and corrections, and federally funded and licensed programs;
(10) Following the receipt of outcomes from the pilot programs in Part II of this act, if directed by future legislative enactment, implement a single, comprehensive, involuntary treatment act with a unified set of standards, rights, obligations, and procedures for adults and children with mental disorders, chemical dependency disorders, and co-occurring disorders; and
(11) Amend existing state law to address organizational and structural barriers to effective use of state funds for treating persons with mental and substance abuse disorders, minimize internal inconsistencies, clarify policy and requirements, and maximize the opportunity for effective and cost-effective outcomes.

NEW SECTION. Sec. 102. (1) The department of social and health services shall explore and report to the appropriate committees of the legislature by December 1, 2005, on the feasibility, costs, benefits, and time frame to access federal medicaid funds for mental health and substance abuse treatment under the following provisions:
(a) The optional clinic provisions;
(b) Children's mental health treatment or co-occurring disorders treatment under the early periodic screening, diagnosis, and treatment provisions.
(2) The department shall provide the appropriate committees of the legislature with a clear and concise explanation of the reasons for
reducing state hospital capacity and the differences in costs and
benefits of treatment in state and community hospital treatment.

(3) The department may not reduce the capacity of either state
hospital until at least an equal number of skilled nursing,
residential, expanded services facility, or supported housing
placements are available in the community to the persons displaced by
the capacity reduction.

Mental Health Treatment

NEW SECTION. Sec. 103. A new section is added to chapter 71.05
RCW to read as follows:

(1) Not later than January 1, 2007, all persons providing treatment
under this chapter shall also implement the integrated comprehensive
screening and assessment process for chemical dependency and mental
disorders adopted pursuant to section 601 of this act and shall
document the numbers of clients with co-occurring mental and substance
abuse disorders based on a quadrant system of low and high needs.

(2) Treatment providers and regional support networks who fail to
implement the integrated comprehensive screening and assessment process
for chemical dependency and mental disorders by July 1, 2007, shall be
subject to contractual penalties established under section 601 of this
act.

Sec. 104. RCW 71.05.020 and 2000 c 94 s 1 are each amended to read
as follows:

The definitions in this section apply throughout this chapter
unless the context clearly requires otherwise.

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

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

(3) "Attending staff" means any person on the staff of a public or
private agency having responsibility for the care and treatment of a
patient;
"Commitment" means the determination by a court that a person
should be detained for a period of either evaluation or treatment, or
both, in an inpatient or a less restrictive setting;
(5) "Conditional release" means a revocable modification of a
commitment, which may be revoked upon violation of any of its terms;
(6) "County designated mental health professional" means a mental
health professional appointed by the county to perform the duties
specified in this chapter;
(7) "Custody" means involuntary detention under the provisions of
this chapter or chapter 10.77 RCW, uninterrupted by any period of
unconditional release from commitment from a facility providing
involuntary care and treatment;
(8) "Department" means the department of social and health
services;
(9) "Designated chemical dependency specialist" means a
person designated by the county alcoholism and other drug addiction
program coordinator designated under RCW 70.96A.310 to perform the
commitment duties described in chapter 70.96A RCW and sections 202
through 216 of this act;
(10) "Designated mental health professional" means a mental health
professional designated by the county or other authority authorized in
rule to perform the duties specified in this chapter;
(11) "Detention" or "detain" means the lawful confinement of a
person, under the provisions of this chapter;
(12) "Developmental disabilities professional" means a
person who has specialized training and three years of experience in
directly treating or working with persons with developmental
disabilities and is a psychiatrist, psychologist, or social worker, and
such other developmental disabilities professionals as may be defined
by rules adopted by the secretary;
(13) "Developmental disability" means that condition
defined in RCW 71A.10.020(3);
(14) "Discharge" means the termination of hospital medical
authority. The commitment may remain in place, be terminated, or be
amended by court order;
"Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

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

"Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

"History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

"Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;
(b) The conditions and strategies necessary to achieve the purposes of habilitation;

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

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

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

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

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

((18)) (20) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

((19)) (21) "Likelihood of serious harm" means:

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

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

((20)) (22) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on ((an individual's)) a person's cognitive or volitional functions;

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

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

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

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

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

"Psychologist" means a person who has been licensed
as a psychologist pursuant to chapter 18.83 RCW;

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

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

"Release" means legal termination of the commitment under the
provisions of this chapter;

"Resource management services" has the meaning given
in chapter 71.24 RCW;

"Secretary" means the secretary of the department of
social and health services, or his or her designee;
"Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

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

"Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 105. RCW 71.24.025 and 2001 c 323 s 8 are each amended to read as follows:

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

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

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

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

or

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

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs (under RCW 71.24.045), federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals, except as negotiated according to RCW 71.24.300(1)(e).
(3) "Child" means a person under the age of eighteen years.

(4) "Chronically mentally ill adult" means an adult who has a mental disorder and meets at least one of the following criteria:
   (a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or
   (b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or
   (c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

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

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

(7) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for mentally ill persons being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for acutely mentally ill and severely emotionally disturbed children discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

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

(9) "Department" means the department of social and health
services.

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

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

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

("(11)" (13) "Mental health services" means all services provided
by regional support networks and other services provided by the state
for the mentally ill.

("(12)" (14) "Mentally ill persons" and "the mentally ill" mean
persons and conditions defined in subsections (1), (4), ("(17)") (23),
and ("(18)") (24) of this section.

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

(16) "Regional support network" means a county authority or group
of county authorities or other entity recognized by the secretary
((that enter into joint operating agreements to contract with the
secretary pursuant to this chapter)) in contract in a defined area.

("(14)" (17) "Registration records" include all the records of the
department, regional support networks, treatment facilities, and other
persons providing services to the department, county departments, or
facilities which identify persons who are receiving or who at any time
have received services for mental illness.
"Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for acutely mentally ill persons, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service mentally ill persons in nursing homes, boarding homes, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

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

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

"Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Acutely mentally ill adults and children; (b) chronically mentally ill adults; (c) severely emotionally disturbed children; or (d) seriously disturbed adults determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding mentally ill adults' and children's enrollment in services and their individual service plan to
designated mental health professionals, evaluation and
treatment facilities, and others as determined by the regional support
network.

"Secretary" means the secretary of social and health
services.

"Seriously disturbed person" means a person who:
(a) Is gravely disabled or presents a likelihood of serious harm to
himself or herself or others, or to the property of others, as a result
of a mental disorder as defined in chapter 71.05 RCW;
(b) Has been on conditional release status, or under a less
restrictive alternative order, at some time during the preceding two
years from an evaluation and treatment facility or a state mental
health hospital;
(c) Has a mental disorder which causes major impairment in several
areas of daily living;
(d) Exhibits suicidal preoccupation or attempts; or
(e) Is a child diagnosed by a mental health professional, as
defined in chapter 71.34 RCW, as experiencing a mental disorder which
is clearly interfering with the child's functioning in family or school
or with peers or is clearly interfering with the child's personality
development and learning.

"Severely emotionally disturbed child" means a child
who has been determined by the regional support network to be
experiencing a mental disorder as defined in chapter 71.34 RCW,
including those mental disorders that result in a behavioral or conduct
disorder, that is clearly interfering with the child's functioning in
family or school or with peers and who meets at least one of the
following criteria:
(a) Has undergone inpatient treatment or placement outside of the
home related to a mental disorder within the last two years;
(b) Has undergone involuntary treatment under chapter 71.34 RCW
within the last two years;
(c) Is currently served by at least one of the following child-
serving systems: Juvenile justice, child-protection/welfare, special
education, or developmental disabilities;
(d) Is at risk of escalating maladjustment due to:
(i) Chronic family dysfunction involving a mentally ill or
inadequate caretaker;
(ii) Changes in custodial adult;

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

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

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

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

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

Sec. 106. RCW 10.77.010 and 2004 c 157 s 2 are each amended to read as follows:

As used in this chapter:

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

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

(3) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.
(4) "County designated mental health professional" has the same meaning as provided in RCW 71.05.020.

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

((6+)) (5) "Department" means the state department of social and health services.

(6) "Designated mental health professional" has the same meaning as provided in RCW 71.05.020.

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

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

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(3).

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

(11) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

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

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

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

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

(16) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

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

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

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

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

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

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

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

(17) "Professional person" means:

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

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

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

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

(19) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

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

(21) "Treatment" means any currently standardized medical or mental health procedure including medication.

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

(23) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.
Sec. 107. RCW 71.05.360 and 1997 c 112 s 30 are each amended to read as follows:

(1) **(a)** Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license.

**(b)** No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, under this chapter or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.97 or 11.88 RCW.

**(c)** Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services.

(5) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

**(a)** A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is
probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated pursuant to this chapter;

(c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) When proceedings are initiated under RCW 71.05.150 (2), (3), or (4)(b), no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(7) The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(8) At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

(a) To present evidence on his or her behalf;

(b) To cross-examine witnesses who testify against him or her;

(c) To be proceeded against by the rules of evidence;

(d) To remain silent;

(e) To view and copy all petitions and reports in the court file.
(9) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(10) Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;
(g) To discuss treatment plans and decisions with professional persons;

(h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW 71.05.370 (as recodified by this act) or pursuant to an administrative hearing under RCW 71.05.215;

(i) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court under RCW 71.05.370 (as recodified by this act);

(j) Not to have psychosurgery performed on him or her under any circumstances;

(k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.

(l) Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

(12) A person challenging his or her detention or his or her attorney, shall have the right to designate and have the court appoint a reasonably available independent physician or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert information, otherwise such expert examination shall be at public expense.

(13) Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release.

(14) Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and
sentence or an active condition of supervision by the department of corrections.

NEW SECTION. Sec. 108. RCW 71.05.370 is recodified as a new section in chapter 71.05 RCW to be codified in proximity to RCW 71.05.215.

Sec. 109. RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and 2004 c 33 s 2 are each reenacted and amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the ((patient)) person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

   (a) Employed by the facility;
   (b) Who has medical responsibility for the patient's care;
   (c) Who is a ((county)) designated mental health professional;
   (d) Who is providing services under chapter 71.24 RCW;
   (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
   (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing ((outpatient)) services to the operator of a ((care)) facility in which the patient resides or will reside.

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

(b) A public or private agency shall release to a person's next of
kin, attorney, personal representative, guardian, or conservator, if
any:

(i) The information that the person is presently a patient in the
facility or that the person is seriously physically ill;

(ii) A statement evaluating the mental and physical condition of
the patient, and a statement of the probable duration of the patient's
confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Such other information requested by the next of kin or
attorney as may be necessary to decide whether or not proceedings
should be instituted to appoint a guardian or conservator.

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

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

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

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

/s/ ...................

(b) Nothing in this chapter shall be construed to prohibit the
(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation under RCW 71.05.150, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

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

((a)) (i) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;
(b) (ii) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter;

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

(iv) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and

(v) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

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

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

(11) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(12) To the persons designated in RCW 71.05.425 for the purposes described in that section.

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

((To a patient's next of kin, guardian, or conservator, if any, in the event of death, as provided in RCW 71.05.400.)) Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

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

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of
death of patients buried in state hospital cemeteries fifty years after
the death of a patient.

(17) When a patient would otherwise be subject to the provisions of
RCW 71.05.390 and disclosure is necessary for the protection of the
patient or others due to his or her unauthorized disappearance from the
facility, and his or her whereabouts is unknown, notice of such
disappearance, along with relevant information, may be made to
relatives, the department of corrections when the person is under the
supervision of the department, and governmental law enforcement
agencies designated by the physician in charge of the patient or the
professional person in charge of the facility, or his or her
professional designee.

Except as otherwise provided in this chapter, the uniform health
care information act, chapter 70.02 RCW, applies to all records and
information compiled, obtained, or maintained in the course of
providing services.

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

Sec. 110. RCW 71.05.420 and 1990 c 3 s 113 are each amended to
read as follows:

Except as provided in RCW 71.05.425, when any disclosure of
information or records is made as authorized by RCW 71.05.390 ((through
the physician in charge of the patient or the professional
person in charge of the facility shall promptly cause to be entered
into the patient’s medical record the date and circumstances under
which said disclosure was made, the names and relationships to the
patient, if any, of the persons or agencies to whom such disclosure was
made, and the information disclosed.

Sec. 111. RCW 71.05.620 and 1989 c 205 s 12 are each amended to
read as follows:

((1)) Informed consent for disclosure of information from court or
treatment records to an individual, agency, or organization must be in
writing and must contain the following information:

(a) The name of the individual, agency, or organization to which
the disclosure is to be made;
(b) The name of the individual whose treatment record is being
disclosed;
(c) The purpose or need for the disclosure;
(d) The specific type of information to be disclosed;
(e) The time period during which the consent is effective;
(f) The date on which the consent is signed; and
(g) The signature of the individual or person legally authorized to
give consent for the individual.

((2))) The files and records of court proceedings under this chapter
and chapters ((71.05)) 70.96A, 71.34, and 70.-- (sections 202 through
216 of this act) RCW shall be closed but shall be accessible to any
((individual)) person who is the subject of a petition and to the
((individual’s)) person’s attorney, guardian ad litem, resource
management services, or service providers authorized to receive such
information by resource management services.

Sec. 112. RCW 71.05.630 and 2000 c 75 s 5 are each amended to read
as follows:

(1) Except as otherwise provided by law, all treatment records
shall remain confidential ((Treatment records)) and may be released
only to the persons designated in this section, or to other persons
designated in an informed written consent of the patient.

(2) Treatment records of ((an individual)) a person may be released
without informed written consent in the following circumstances:
(a) To ((an individual)) a person, organization, or agency as necessary for management or financial audits, or program monitoring and evaluation. Information obtained under this subsection shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the ((individual)) person whose records are being released.

(b) To the department, the director of regional support networks, or a qualified staff member designated by the director only when necessary to be used for billing or collection purposes. The information shall remain confidential.

(c) For purposes of research as permitted in chapter 42.48 RCW.

(d) Pursuant to lawful order of a court.

(e) To qualified staff members of the department, to the director of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. The information shall remain confidential.

(f) Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to ((individuals)) persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties.

(g) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of ((individuals)) persons who are under the supervision of the department.

(h) To a licensed physician who has determined that the life or health of the ((individual)) person is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Disclosure shall be limited to the portions of the records necessary to meet the medical emergency.

(i) To a facility that is to receive ((an individual)) a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the ((individual)) person from one treatment facility to another. The release of records under this subsection shall be limited to the treatment records required by law, a record or summary of all somatic
treatments, and a discharge summary. The discharge summary may include
a statement of the patient's problem, the treatment goals, the type of
treatment which has been provided, and recommendation for future
treatment, but may not include the patient's complete treatment record.

(j) Notwithstanding the provisions of RCW 71.05.390(7), to a
correctional facility or a corrections officer who is responsible for
the supervision of (an individual) a person who is receiving
inpatient or outpatient evaluation or treatment. Except as provided in
RCW 71.05.445 and 71.34.225, release of records under this section is
limited to:

(i) An evaluation report provided pursuant to a written supervision
plan.

(ii) The discharge summary, including a record or summary of all
somatic treatments, at the termination of any treatment provided as
part of the supervision plan.

(iii) When (an individual) a person is returned from a treatment
facility to a correctional facility, the information provided under
(j)(iv) of this subsection.

(iv) Any information necessary to establish or implement changes in
the (individual's) person's treatment plan or the level or kind of
supervision as determined by resource management services. In cases
involving a person transferred back to a correctional facility,
disclosure shall be made to clinical staff only.

(k) To the (individual's) person's counsel or guardian ad litem,
without modification, at any time in order to prepare for involuntary
commitment or recommitment proceedings, reexaminations, appeals, or
other actions relating to detention, admission, commitment, or
patient's rights under chapter 71.05 RCW.

(l) To staff members of the protection and advocacy agency or to
staff members of a private, nonprofit corporation for the purpose of
protecting and advocating the rights of persons with mental (illness)
disorders or developmental disabilities. Resource management services
may limit the release of information to the name, birthdate, and county
of residence of the patient, information regarding whether the patient
was voluntarily admitted, or involuntarily committed, the date and
place of admission, placement, or commitment, the name and address of
a guardian of the patient, and the date and place of the guardian's
appointment. Any staff member who wishes to obtain additional
information shall notify the patient's resource management services in
writing of the request and of the resource management services' right
to object. The staff member shall send the notice by mail to the
 guardian's address. If the guardian does not object in writing within
fifteen days after the notice is mailed, the staff member may obtain
the additional information. If the guardian objects in writing within
fifteen days after the notice is mailed, the staff member may not
obtain the additional information.

(3) Whenever federal law or federal regulations restrict the
release of information contained in the treatment records of any
patient who receives treatment for ((alcoholism or drug)) chemical
dependency, the department may restrict the release of the information
as necessary to comply with federal law and regulations.

Sec. 113. RCW 71.05.640 and 2000 c 94 s 11 are each amended to
read as follows:

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

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

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

(4) At the time of discharge all ((individuals)) persons shall be
informed by resource management services of their rights as provided in
RCW ((71.05.610)) 71.05.390 and 71.05.620 through 71.05.690.

Sec. 114. RCW 71.05.660 and 1989 c 205 s 16 are each amended to
read as follows:
Nothing in this chapter ((205, Laws of 1989)) or chapter 70.96A,
71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall
be construed to interfere with communications between physicians or
psychologists and patients and attorneys and clients.

NEW SECTION. Sec. 115. A new section is added to chapter 71.05
RCW to read as follows:
A petition for commitment under this chapter may be joined with a
petition for commitment under chapter 70.96A RCW.

PART II
PILOT PROGRAMS

NEW SECTION. Sec. 201. Sections 202 through 216 of this act
constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 202. The definitions in this section apply
throughout this chapter unless the context clearly requires otherwise.
(1) "Admission" or "admit" means a decision by a physician that a
person should be examined or treated as a patient in a hospital, an
evaluation and treatment facility, or other inpatient facility, or a
decision by a professional person in charge or his or her designee that
a person should be detained as a patient for evaluation and treatment
in a secure detoxification facility or other certified chemical
dependency provider.
(2) "Antipsychotic medications" means that class of drugs primarily
used to treat serious manifestations of mental illness associated with
thought disorders, which includes but is not limited to atypical
antipsychotic medications.
(3) "Approved treatment program" means a discrete program of
chemical dependency treatment provided by a treatment program certified
by the department as meeting standards adopted under chapter 70.96A
RCW.
(4) "Attending staff" means any person on the staff of a public or
private agency having responsibility for the care and treatment of a
patient.
(5) "Chemical dependency" means:
(a) Alcoholism;
(b) Drug addiction; or
(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

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

(8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.

(9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(10) "Department" means the department of social and health services.

(11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and this chapter, and qualified to do so by meeting standards adopted by the department.

(12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.

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

(14) "Detention" or "detain" means the lawful confinement of a person under this chapter, or chapter 70.96A or 71.05 RCW.

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

(16) "Developmental disability" means that condition defined in RCW 71A.10.020.
(17) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

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

(19) "Facility" means either an evaluation and treatment facility or a secure detoxification facility.

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:
   (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or
   (b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(22) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(23) "Judicial commitment" means a commitment by a court under this chapter.

(24) "Licensed physician" means a person licensed to practice
(25) "Likelihood of serious harm" means:
(a) A substantial risk that:
   (i) Physical harm will be inflicted by a person upon his or her own
   person, as evidenced by threats or attempts to commit suicide or
   inflict physical harm on oneself;
   (ii) Physical harm will be inflicted by a person upon another, as
   evidenced by behavior that has caused such harm or that places another
   person or persons in reasonable fear of sustaining such harm; or
   (iii) Physical harm will be inflicted by a person upon the property
   of others, as evidenced by behavior that has caused substantial loss or
   damage to the property of others; or
   (b) The person has threatened the physical safety of another and
   has a history of one or more violent acts.

(26) "Mental disorder" means any organic, mental, or emotional
impairment that has substantial adverse effects on a person's cognitive
or volitional functions.

(27) "Mental health professional" means a psychiatrist,
psychologist, psychiatric nurse, or social worker, and such other
mental health professionals as may be defined by rules adopted by the
secretary under the authority of chapter 71.05 RCW.

(28) "Peace officer" means a law enforcement official of a public
agency or governmental unit, and includes persons specifically given
peace officer powers by any state law, local ordinance, or judicial
order of appointment.

(29) "Person in charge" means a physician or chemical dependency
counselor as defined in rule by the department, who is empowered by a
certified treatment program with authority to make assessment,
admission, continuing care, and discharge decisions on behalf of the
certified program.

(30) "Private agency" means any person, partnership, corporation,
or association that is not a public agency, whether or not financed in
whole or in part by public funds, that constitutes an evaluation and
treatment facility or private institution, or hospital, or approved
treatment program, that is conducted for, or includes a department or
ward conducted for, the care and treatment of persons who are mentally
ill and/or chemically dependent.
(31) "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

(32) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

(33) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

(34) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

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

(36) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

(37) "Secretary" means the secretary of the department or the secretary's designee.

(38) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

(39) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

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

(41) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

NEW SECTION. Sec. 203. (1) The secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the pilot areas. In selecting the two regional support networks or counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to section 220 of this act, to the extent necessary to facilitate evaluation of pilot project results.

(2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:

(a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

(b) Provide training to the crisis responders as required by the department;

(c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;

(d) Provide the administrative and court-related staff, resources, and processes necessary to facilitate the legal requirements of the
initial detention and the commitment hearings for persons with a
chemical dependency;

(e) Participate in the evaluation and report to assess the outcomes
of the pilot programs including providing data and information as
requested;

(f) Provide the other services necessary to the implementation of
the pilot programs, consistent with this chapter as determined by the
secretary in contract; and

(g) Collaborate with the department of corrections where persons
detained or committed are also subject to supervision by the department
of corrections.

(3) The pilot programs established by this section shall begin
providing services by March 1, 2006.

NEW SECTION. Sec. 204. To qualify as a designated crisis
responder, a person must have received chemical dependency training as
determined by the department and be a:

(1) Psychiatrist, psychologist, psychiatric nurse, or social
worker;

(2) Person with a master's degree or further advanced degree in
counseling or one of the social sciences from an accredited college or
university and who have, in addition, at least two years of experience
in direct treatment of persons with mental illness or emotional
disturbance, such experience gained under the direction of a mental
health professional;

(3) Person who meets the waiver criteria of RCW 71.24.260, which
waiver was granted before 1986;

(4) Person who had an approved waiver to perform the duties of a
mental health professional that was requested by the regional support
network and granted by the department before July 1, 2001; or

(5) Person who has been granted a time-limited exception of the
minimum requirements of a mental health professional by the department
consistent with rules adopted by the secretary.

NEW SECTION. Sec. 205. In addition to the provisions of this
chapter, a designated crisis responder has all the powers and duties of
a designated mental health professional as well as the powers and
duties of a designated chemical dependency specialist under RCW
70.96A.120.

NEW SECTION. Sec. 206. (1)(a) When a designated crisis responder
receives information alleging that a person, as a result of a mental
disorder, chemical dependency disorder, or both, presents a likelihood
of serious harm or is gravely disabled, the designated crisis responder
may, after investigation and evaluation of the specific facts alleged
and of the reliability and credibility of any person providing
information to initiate detention, if satisfied that the allegations
are true and that the person will not voluntarily seek appropriate
treatment, file a petition for initial detention. Before filing the
petition, the designated crisis responder must personally interview the
person, unless the person refuses an interview, and determine whether
the person will voluntarily receive appropriate evaluation and
treatment at either an evaluation and treatment facility, a
detoxification facility, or other certified chemical dependency
provider.

(b)(i)(A) Whenever it appears, by petition for initial detention,
to the satisfaction of a judge of the superior court that a person
presents as a result of a mental disorder, a likelihood of serious
harm, or is gravely disabled, and that the person has refused or failed
to accept appropriate evaluation and treatment voluntarily, the judge
may issue an order requiring the person to appear within twenty-four
hours after service of the order at a designated evaluation and
treatment facility for not more than a seventy-two hour evaluation and
treatment period; or

(B) Whenever it appears, by petition for initial detention, to the
satisfaction of a judge of the superior court, district court, or other
court permitted by court rule, that a person presents as a result of a
chemical dependency, a likelihood of serious harm, or is gravely
disabled, and that the person has refused or failed to accept
appropriate evaluation and treatment voluntarily, the judge may issue
an order requiring the person to appear within twenty-four hours after
service of the order at a secure detoxification facility or other
certified chemical dependency provider for not more than a seventy-two
hour evaluation and treatment period.
The order issued under this subsection (1)(b) shall state the address of the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider to which the person is to report; whether the required seventy-two hour evaluation and treatment services may be delivered on an outpatient or inpatient basis; and that if the person named in the order fails to appear at the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider at or before the date and time stated in the order, the person may be involuntarily taken into custody for evaluation and treatment. The order shall also designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. The person shall be permitted to remain in his or her home or other place of his or her choosing before the time of evaluation and shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

If the person ordered to appear does appear on or before the date and time specified, the evaluation and treatment facility, secure
1 detoxification facility, or other certified chemical dependency
2 provider may admit the person as required by subsection (3) of this
3 section or may provide treatment on an outpatient basis. If the person
4 ordered to appear fails to appear on or before the date and time
5 specified, the evaluation and treatment facility, secure detoxification
6 facility, or other certified chemical dependency provider shall
7 immediately notify the designated crisis responder who may notify a
8 peace officer to take the person or cause the person to be taken into
9 custody and placed in an evaluation and treatment facility, a secure
detoxification facility, or other certified chemical dependency
10 provider. Should the designated crisis responder notify a peace
11 officer authorizing the officer to take a person into custody under
12 this subsection, the designated crisis responder shall file with the
court a copy of the authorization and a notice of detention. At the
13 time the person is taken into custody there shall commence to be served
14 on the person, his or her guardian, and conservator, if any, a copy of
15 the original order together with a notice of detention, a notice of
16 rights, and a petition for initial detention.
17
18 (2) If a designated crisis responder receives information alleging
19 that a person, as the result of:
20 (a) A mental disorder, presents an imminent likelihood of serious
21 harm, or is in imminent danger because of being gravely disabled, after
22 investigation and evaluation of the specific facts alleged and of the
23 reliability and credibility of the person or persons providing the
24 information if any, the designated crisis responder may take the
25 person, or cause by oral or written order the person to be taken into
26 emergency custody in an evaluation and treatment facility for not more
27 than seventy-two hours as described in this chapter; or
28
29 (b) Chemical dependency, presents an imminent likelihood of serious
30 harm, or is in imminent danger because of being gravely disabled, after
31 investigation and evaluation of the specific facts alleged and of the
32 reliability and credibility of the person or persons providing the
33 information if any, the designated crisis responder may take the
34 person, or cause by oral or written order the person to be taken into
35 emergency custody in a secure detoxification facility for not more than
36 seventy-two hours as described in this chapter.
37
38 (3) If the designated crisis responder petitions for detention of
39 a person whose actions constitute a likelihood of serious harm, or who
is gravely disabled, the evaluation and treatment facility, the secure
detoxification facility, or other certified chemical dependency
provider providing seventy-two hour evaluation and treatment must
immediately accept on a provisional basis the petition and the person.
The evaluation and treatment facility, the secure detoxification
facility, or other certified chemical dependency provider shall then
evaluate the person's condition and admit, detain, transfer, or
discharge such person in accordance with this chapter. The facility
shall notify in writing the court and the designated crisis responder
of the date and time of the initial detention of each person
involuntarily detained so that a probable cause hearing will be held no
later than seventy-two hours after detention.

(4) A peace officer may, without prior notice of the proceedings
provided for in subsection (1) of this section, take or cause the
person to be taken into custody and immediately delivered to an
evaluation and treatment facility, secure detoxification facility,
other certified chemical dependency treatment provider only pursuant to
subsections (1)(d) and (2) of this section.

(5) Nothing in this chapter limits the power of a peace officer to
take a person into custody and immediately deliver the person to the
emergency department of a local hospital or to a detoxification
facility.

NEW SECTION. Sec. 207. (1) A person or public or private entity
employing a person is not civilly or criminally liable for performing
duties under this chapter if the duties were performed in good faith
and without gross negligence.

(2) This section does not relieve a person from giving the required
notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
or to take reasonable precautions to provide protection from violent
behavior where the patient has communicated an actual threat of
physical violence against a reasonably identifiable victim or victims.
The duty to warn or to take reasonable precautions to provide
protection from violent behavior is discharged if reasonable efforts
are made to communicate the threat to the victim or victims and to law
enforcement personnel.
NEW SECTION. Sec. 208. If the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider admits the person, it may detain the person for evaluation and treatment for a period not to exceed seventy-two hours from the time of acceptance. The computation of the seventy-two hour period excludes Saturdays, Sundays, and holidays.

NEW SECTION. Sec. 209. Whenever any person is detained for evaluation and treatment for a mental disorder under section 206 of this act, chapter 71.05 RCW applies.

NEW SECTION. Sec. 210. (1) A person detained for seventy-two hour evaluation and treatment under section 206 of this act or RCW 70.96A.120 may be detained for not more than fourteen additional days of involuntary chemical dependency treatment if there are beds available at the secure detoxification facility and the following conditions are met:

(a) The professional person in charge of the agency or facility or the person's designee providing evaluation and treatment services in a secure detoxification facility has assessed the person's condition and finds that the condition is caused by chemical dependency and either results in a likelihood of serious harm or in the detained person being gravely disabled, and the professional person or his or her designee is prepared to testify those conditions are met;

(b) The person has been advised of the need for voluntary treatment and the professional person in charge of the agency or facility or his or her designee has evidence that he or she has not in good faith volunteered for treatment; and

(c) The professional person in charge of the agency or facility or the person's designee has filed a petition for fourteen-day involuntary detention with the superior court, district court, or other court permitted by court rule. The petition must be signed by the chemical dependency professional who has examined the person.

(2) The petition under subsection (1)(c) of this section shall be accompanied by a certificate of a licensed physician who has examined the person, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the
licensed physician's findings in support of the allegations of the
petition. A physician employed by the petitioning program or the
department is eligible to be the certifying physician.

(3) The petition shall state facts that support the finding that
the person, as a result of chemical dependency, presents a likelihood
of serious harm or is gravely disabled, and that there are no less
restrictive alternatives to detention in the best interest of the
person or others. The petition shall state specifically that less
restrictive alternative treatment was considered and specify why
treatment less restrictive than detention is not appropriate.

(4) A copy of the petition shall be served on the detained person,
his or her attorney, and his or her guardian or conservator, if any,
before the probable cause hearing.

(5)(a) The court shall inform the person whose commitment is sought
of his or her right to contest the petition, be represented by counsel
at every stage of any proceedings relating to his or her commitment,
and have counsel appointed by the court or provided by the court, if he
or she wants the assistance of counsel and is unable to obtain counsel.
If the court believes that the person needs the assistance of counsel,
the court shall require, by appointment if necessary, counsel for him
or her regardless of his or her wishes. The person shall, if he or she
is financially able, bear the costs of such legal service; otherwise
such legal service shall be at public expense. The person whose
commitment is sought shall be informed of his or her right to be
examined by a licensed physician of his or her choice. If the person
is unable to obtain a licensed physician and requests examination by a
physician, the court shall appoint a reasonably available licensed
physician designated by the person.

(b) At the conclusion of the probable cause hearing, if the court
finds by a preponderance of the evidence that the person, as the result
of chemical dependency, presents a likelihood of serious harm or is
gravely disabled and, after considering less restrictive alternatives
to involuntary detention and treatment, finds that no such alternatives
are in the best interest of such person or others, the court shall
order that the person be detained for involuntary chemical dependency
treatment not to exceed fourteen days in a secure detoxification
facility.
NEW SECTION. Sec. 211. If a person is detained for additional treatment beyond fourteen days under section 210 of this act, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.

NEW SECTION. Sec. 212. The prosecuting attorney of the county in which an action under this chapter is taken must represent the petitioner in judicial proceedings under this chapter for the involuntary chemical dependency treatment of a person, including any judicial proceeding where the person sought to be treated for chemical dependency challenges the action.

NEW SECTION. Sec. 213. (1) Every person involuntarily detained or committed under this chapter as a result of a mental disorder is entitled to all the rights set forth in this chapter and in chapter 71.05 RCW, and retains all rights not denied him or her under this chapter or chapter 71.05 RCW.

(2) Every person involuntarily detained or committed under this chapter as a result of a chemical dependency is entitled to all the rights set forth in this chapter and chapter 70.96A RCW, and retains all rights not denied him or her under this chapter or chapter 70.96A RCW.

NEW SECTION. Sec. 214. (1) When a designated crisis responder is notified by a jail that a defendant or offender who was subject to a discharge review under RCW 71.05.232 is to be released to the community, the designated crisis responder shall evaluate the person within seventy-two hours of release.

(2) When an offender is under court-ordered treatment in the community and the supervision of the department of corrections, and the treatment provider becomes aware that the person is in violation of the terms of the court order, the treatment provider shall notify the designated crisis responder of the violation and request an evaluation for purposes of revocation of the less restrictive alternative.

(3) When a designated crisis responder becomes aware that an offender who is under court-ordered treatment in the community and the supervision of the department of corrections is in violation of a treatment order or a condition of supervision that relates to public
safety, or the designated crisis responder detains a person under this chapter, the designated crisis responder shall notify the person's treatment provider and the department of corrections.

(4) When an offender who is confined in a state correctional facility or is under supervision of the department of corrections in the community is subject to a petition for involuntary treatment under this chapter, the petitioner shall notify the department of corrections and the department of corrections shall provide documentation of its risk assessment or other concerns to the petitioner and the court if the department of corrections classified the offender as a high risk or high needs offender.

(5) Nothing in this section creates a duty on any treatment provider or designated crisis responder to provide offender supervision.

NEW SECTION. Sec. 215. The secretary may adopt rules to implement this chapter.

NEW SECTION. Sec. 216. The provisions of RCW 71.05.550 apply to this chapter.


(2) The evaluation of the pilot programs shall include:

(a) Whether the designated crisis responder pilot program:

(i) Has increased efficiency of evaluation and treatment of persons involuntarily detained for seventy-two hours;

(ii) Is cost-effective;

(iii) Results in better outcomes for persons involuntarily detained;

(iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;

(b) The effectiveness of providing a single chapter in the Revised Code of Washington to address initial detention of persons with mental disorders or chemical dependency, in crisis response situations and the
likelihood of effectiveness of providing a single, comprehensive involuntary treatment act.

(3) The reports shall consider the impact of the pilot programs on the existing mental health system and on the persons served by the system.

Sec. 218. RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each amended to read as follows: The department of social and health services, in planning and providing funding to counties pursuant to chapter 71.24 RCW, shall recognize the financial necessities imposed upon counties by implementation of this chapter and chapter 70.-- RCW (sections 202 through 216 of this act), and shall consider needs, if any, for additional community mental health services and facilities and reduction in commitments to state hospitals for the mentally ill accomplished by individual counties, in planning and providing such funding. The state shall provide financial assistance to the counties to enable the counties to meet all increased costs, if any, to the counties resulting from their administration of the provisions of chapter 142, Laws of 1973 1st ex. sess.

NEW SECTION. Sec. 219. Sections 202 through 216 of this act expire July 1, 2008.

NEW SECTION. Sec. 220. A new section is added to chapter 70.96A RCW to read as follows: (1) The secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to section 203 of this act, to the extent necessary to facilitate evaluation of pilot project results.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:
(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under section 601 of this act;
(b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;
(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;
(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;
(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;
(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;
(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;
(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;
(i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and
(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.
(4) This section expires June 30, 2008.
NEW SECTION. Sec. 301. A new section is added to chapter 70.96A RCW to read as follows:

(1) The division of alcohol and substance abuse shall increase its capacity to serve adults who meet chemical dependency treatment criteria and who are enrolled in medicaid as follows:

(a) In fiscal year 2006, the division of alcohol and substance abuse shall serve forty percent of the calculated need; and

(b) In fiscal year 2007, the division of alcohol and substance abuse shall serve sixty percent of the calculated need.

(2) The division of alcohol and substance abuse shall increase its capacity to serve minors who have passed their twelfth birthday and who are not yet eighteen, who are under two hundred percent of the federal poverty level as follows:

(a) In fiscal year 2006, the division of alcohol and substance abuse shall serve forty percent of the calculated need; and

(b) In fiscal year 2007, the division of alcohol and substance abuse shall serve sixty percent of the calculated need.

(3) For purposes of this section, "calculated need" means the percentage of the population under two hundred percent of the federal poverty level in need of chemical dependency services as determined in the 2003 Washington state needs assessment study.

NEW SECTION. Sec. 302. A new section is added to chapter 70.96A RCW to read as follows:

(1) Not later than January 1, 2007, all persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders adopted pursuant to section 601 of this act and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs.

(2) Treatment providers contracted to provide treatment under this chapter who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007, are subject to contractual penalties established under section 601 of this act.
NEW SECTION. Sec. 303. A new section is added to chapter 13.34 RCW to read as follows:

The department of social and health services and the department of health shall develop and expand comprehensive services for drug-affected and alcohol-affected mothers and infants. Subject to funds appropriated for this purpose, the expansion shall be in evidence-based, research-based, or consensus-based practices, as those terms are defined in section 603 of this act, and shall expand capacity in underserved regions of the state.

NEW SECTION. Sec. 304. A new section is added to chapter 70.96A RCW to read as follows:

A petition for commitment under this chapter may be joined with a petition for commitment under chapter 71.05 RCW.

NEW SECTION. Sec. 305. A new section is added to chapter 70.96A RCW to read as follows:

(1) The department of social and health services shall contract for chemical dependency specialist services at each division of children and family services office to enhance the timeliness and quality of child protective services assessments and to better connect families to needed treatment services.

(2) The chemical dependency specialist's duties may include, but are not limited to: Conducting on-site chemical dependency screening and assessment, facilitating progress reports to department social workers, in-service training of department social workers and staff on substance abuse issues, referring clients from the department to treatment providers, and providing consultation on cases to department social workers.

(3) The department of social and health services shall provide training in and ensure that each case-carrying social worker is trained in uniform screening for mental health and chemical dependency.

PART IV
RESOURCES

NEW SECTION. Sec. 401. Sections 402 through 425 of this act constitute a new chapter in Title 70 RCW.
NEW SECTION. Sec. 402. The legislature finds that there are persons with mental disorders, including organic or traumatic brain disorders, and combinations of mental disorders with other medical conditions or behavior histories that result in behavioral and security issues that make these persons ineligible for, or unsuccessful in, existing types of licensed facilities, including adult residential rehabilitation centers, boarding homes, adult family homes, group homes, and skilled nursing facilities. The legislature also finds that many of these persons have been treated on repeated occasions in inappropriate acute care facilities and released without an appropriate placement or have been treated or detained for extended periods in inappropriate settings including state hospitals and correctional facilities. The legislature further finds that some of these persons present complex safety and treatment issues that require security measures that cannot be instituted under most facility licenses or supported housing programs. These include the ability to detain persons under involuntary treatment orders or administer court ordered medications.

Consequently, the legislature intends, to the extent of available funds, to establish a new type of facility licensed by the department of social and health services as an enhanced services facility with standards that will provide a safe, secure treatment environment for a limited population of persons who are not appropriately served in other facilities or programs. The legislature also finds that enhanced services facilities may need to specialize in order to effectively care for a particular segment of the identified population.

An enhanced services facility may only serve individuals that meet the criteria specified in section 405 of this act.

NEW SECTION. Sec. 403. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(2) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.
(3) "Chemical dependency" means alcoholism, drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires and as those terms are defined in chapter 70.96A RCW.

(4) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(5) "Commitment" means the determination by a court that an individual should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

(6) "Conditional release" means a modification of a commitment that may be revoked upon violation of any of its terms.

(7) "Custody" means involuntary detention under chapter 71.05 or 70.96A RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(8) "Department" means the department of social and health services.

(9) "Designated responder" means a designated mental health professional, a designated chemical dependency specialist, or a designated crisis responder as those terms are defined in chapter 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

(10) "Detention" or "detain" means the lawful confinement of an individual under chapter 70.96A or 71.05 RCW.

(11) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

(12) "Enhanced services facility" means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.

(13) "Expanded community services program" means a nonsecure program of enhanced behavioral and residential support provided to long-term and residential care providers serving specifically eligible clients who would otherwise be at risk for hospitalization at state hospital geriatric units.

(14) "Facility" means an enhanced services facility.
"Gravely disabled" means a condition in which an individual, as a result of a mental disorder, as a result of the use of alcohol or other psychoactive chemicals, or both:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

"History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

"Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

"Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by an individual upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

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

"Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

"Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other
mental health professionals as may be defined by rules adopted by the
secretary under the authority of chapter 71.05 RCW.

(21) "Professional person" means a mental health professional and
also means a physician, registered nurse, and such others as may be
defined in rules adopted by the secretary pursuant to the provisions of
this chapter.

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

(23) "Psychologist" means a person who has been licensed as a
psychologist under chapter 18.83 RCW.

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

(25) "Release" means legal termination of the commitment under
chapter 70.96A or 71.05 RCW.

(26) "Resident" means a person admitted to an enhanced services
facility.

(27) "Secretary" means the secretary of the department or the
secretary's designee.

(28) "Significant change" means:
(a) A deterioration in a resident's physical, mental, or
psychosocial condition that has caused or is likely to cause clinical
complications or life-threatening conditions; or
(b) An improvement in the resident's physical, mental, or
psychosocial condition that may make the resident eligible for release
or for treatment in a less intensive or less secure setting.

(29) "Social worker" means a person with a master's or further
advanced degree from an accredited school of social work or a degree
deemed equivalent under rules adopted by the secretary.

(30) "Treatment" means the broad range of emergency,
detoxification, residential, inpatient, and outpatient services and
care, including diagnostic evaluation, mental health or chemical
dependency education and counseling, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to persons with mental disorders, chemical dependency disorders, or both, and their families.

(31) "Treatment records" include registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by an individual providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

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

NEW SECTION. Sec. 404. A facility shall honor an advance directive that was validly executed pursuant to chapter 70.122 RCW and a mental health advance directive that was validly executed pursuant to chapter 71.32 RCW.

NEW SECTION. Sec. 405. A person, eighteen years old or older, may be admitted to an enhanced services facility if he or she meets the criteria in subsections (1) through (3) of this section:

(1) The person requires: (a) Daily care by or under the supervision of a mental health professional, chemical dependency professional, or nurse; or (b) assistance with three or more activities of daily living; and

(2) The person has: (a) A mental disorder, chemical dependency disorder, or both; (b) an organic or traumatic brain injury; or (c) a cognitive impairment that results in symptoms or behaviors requiring supervision and facility services;

(3) The person has two or more of the following:

(a) Self-endangering behaviors that are frequent or difficult to manage;

(b) Aggressive, threatening, or assaultive behaviors that create a risk to the health or safety of other residents or staff, or a
significant risk to property and these behaviors are frequent or
difficult to manage;
(c) Intrusive behaviors that put residents or staff at risk;
(d) Complex medication needs and those needs include psychotropic
medications;
(e) A history of or likelihood of unsuccessful placements in either
a licensed facility or other state facility or a history of rejected
applications for admission to other licensed facilities based on the
person's behaviors, history, or security needs;
(f) A history of frequent or protracted mental health
hospitalizations;
(g) A history of offenses against a person or felony offenses that
created substantial damage to property.

NEW SECTION. Sec. 406. (1)(a) Every person who is a resident of
an enhanced services facility shall be entitled to all the rights set
forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall
retain all rights not denied him or her under these chapters.
(b) No person shall be presumed incompetent as a consequence of
receiving an evaluation or voluntary or involuntary treatment for a
mental disorder, chemical dependency disorder, or both, under this
chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this
state dealing with mental illness. Competency shall not be determined
or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.
(c) At the time of his or her treatment planning meeting, every
resident of an enhanced services facility shall be given a written
statement setting forth the substance of this section. The department
shall by rule develop a statement and process for informing residents
of their rights in a manner that is likely to be understood by the
resident.
(2) Every resident of an enhanced services facility shall have the
right to adequate care and individualized treatment.
(3) The provisions of this chapter shall not be construed to deny
to any person treatment by spiritual means through prayer in accordance
with the tenets and practices of a church or religious denomination.
(4) Persons receiving evaluation or treatment under this chapter
shall be given a reasonable choice of an available physician or other
professional person qualified to provide such services.
(5) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(6) Insofar as danger to the person or others is not created, each resident of an enhanced services facility shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.215 or 71.05.370 (as recodified by this act), or the performance of electroconvulsant therapy, or surgery, except emergency life-saving surgery, unless ordered by a court under RCW 71.05.370 (as recodified by this act);

(h) To discuss and actively participate in treatment plans and decisions with professional persons;

(i) Not to have psychosurgery performed on him or her under any circumstances;

(j) To dispose of property and sign contracts unless such person
has been adjudicated an incompetent in a court proceeding directed to that particular issue; and

(k) To complain about rights violations or conditions and request the assistance of a mental health ombudsman or representative of Washington protection and advocacy. The facility may not prohibit or interfere with a resident's decision to consult with an advocate of his or her choice.

(7) Nothing contained in this chapter shall prohibit a resident from petitioning by writ of habeas corpus for release.

(8) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or active supervision by the department of corrections.

(9) A person has a right to refuse placement, except where subject to commitment, in an enhanced services facility. No person shall be denied other department services solely on the grounds that he or she has made such a refusal.

(10) A person has a right to appeal the decision of the department that he or she is eligible for placement at an enhanced services facility, and shall be given notice of the right to appeal in a format that is accessible to the person with instructions regarding what to do if the person wants to appeal.

NEW SECTION. Sec. 407. A person who is gravely disabled or presents a likelihood of serious harm as a result of a mental or chemical dependency disorder or co-occurring mental and chemical dependency disorders has a right to refuse antipsychotic medication. Antipsychotic medication may be administered over the person's objections only pursuant to RCW 71.05.215 or 71.05.370 (as recodified by this act).

NEW SECTION. Sec. 408. (1)(a) The department shall not license an enhanced services facility that serves any residents under sixty-five years of age for a capacity to exceed sixteen residents.

(b) The department may contract for services for the operation of enhanced services facilities only to the extent that funds are specifically provided for that purpose.

(2) The facility shall provide an appropriate level of security for the characteristics, behaviors, and legal status of the residents.
(3) An enhanced services facility may hold only one license but, to the extent permitted under state and federal law and medicaid requirements, a facility may be located in the same building as another licensed facility, provided that:

(a) The enhanced services facility is in a location that is totally separate and discrete from the other licensed facility; and

(b) The two facilities maintain separate staffing, unless an exception to this is permitted by the department in rule.

(4) Nursing homes under chapter 18.51 RCW, boarding homes under chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that become licensed as facilities under this chapter shall be deemed to meet the applicable state and local rules, regulations, permits, and code requirements. All other facilities are required to meet all applicable state and local rules, regulations, permits, and code requirements.

NEW SECTION. Sec. 409. (1) The enhanced services facility shall complete a comprehensive assessment for each resident within fourteen days of admission, and the assessments shall be repeated upon a significant change in the resident's condition or, at a minimum, every one hundred eighty days if there is no significant change in condition.

(2) The enhanced services facility shall develop an individualized treatment plan for each resident based on the comprehensive assessment and any other information in the person's record. The plan shall be updated as necessary, and shall include a plan for appropriate transfer or discharge and reintegration into the community. Where the person is under the supervision of the department of corrections, the facility shall collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The plan shall maximize the opportunities for independence, recovery, employment, the resident's participation in treatment decisions, and collaboration with peer-supported services, and provide for care and treatment in the least restrictive manner appropriate to the individual resident, and, where relevant, to any court orders with which the resident must comply.

NEW SECTION. Sec. 410. (1) An enhanced services facility must
have sufficient numbers of staff with the appropriate credentials and training to provide residents with the appropriate care and treatment:

(a) Mental health treatment;
(b) Medication services;
(c) Assistance with the activities of daily living;
(d) Medical or habilitative treatment;
(e) Dietary services;
(f) Security; and
(g) Chemical dependency treatment.

Where an enhanced services facility specializes in medically fragile persons with mental disorders, the on-site staff must include at least one licensed nurse twenty-four hours per day. The nurse must be a registered nurse for at least sixteen hours per day. If the nurse is not a registered nurse, a registered nurse or a doctor must be on-call during the remaining eight hours.

(3) Any employee or other individual who will have unsupervised access to vulnerable adults must successfully pass a background inquiry check.

NEW SECTION. Sec. 411. This chapter does not apply to the following residential facilities:
(1) Nursing homes licensed under chapter 18.51 RCW;
(2) Boarding homes licensed under chapter 18.20 RCW;
(3) Adult family homes licensed under chapter 70.128 RCW;
(4) Facilities approved and certified under chapter 71A.22 RCW;
(5) Residential treatment facilities licensed under chapter 71.12 RCW; and
(6) Hospitals licensed under chapter 70.41 RCW.

NEW SECTION. Sec. 412. (1) The department shall establish licensing rules for enhanced services facilities to serve the populations defined in this chapter.

(2) No person or public or private agency may operate or maintain an enhanced services facility without a license, which must be renewed annually.

(3) A licensee shall have the following readily accessible and available for review by the department, residents, families of residents, and the public:
(a) Its license to operate and a copy of the department's most recent inspection report and any recent complaint investigation reports issued by the department;

(b) Its written policies and procedures for all treatment, care, and services provided directly or indirectly by the facility; and

(c) The department's toll-free complaint number, which shall also be posted in a clearly visible place and manner.

(4) Enhanced services facilities shall maintain a grievance procedure that meets the requirements of rules established by the department.

(5) No facility shall discriminate or retaliate in any manner against a resident or employee because the resident, employee, or any other person made a complaint or provided information to the department, the long-term care ombudsman, Washington protection and advocacy system, or a mental health ombudsperson.

(6) Each enhanced services facility will post in a prominent place in a common area a notice by the Washington protection and advocacy system providing contact information.

NEW SECTION. Sec. 413. (1) In any case in which the department finds that a licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee failed or refused to comply with the requirements of this chapter or the rules established under them, the department may take any or all of the following actions:

(a) Suspend, revoke, or refuse to issue or renew a license;

(b) Order stop placement; or

(c) Assess civil monetary penalties.

(2) The department may suspend, revoke, or refuse to renew a license, assess civil monetary penalties, or both, in any case in which it finds that the licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee:

(a) Operated a facility without a license or under a revoked or suspended license;

(b) Knowingly or with reason to know made a false statement of a material fact in the license application or any data attached thereto, or in any matter under investigation by the department;
(c) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the facility;

(d) Willfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter;

(e) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or of the rules adopted under it; or

(f) Failed to pay any civil monetary penalty assessed by the department under this chapter within ten days after the assessment becomes final.

(3)(a) Civil penalties collected under this chapter shall be deposited into a special fund administered by the department.

(b) Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day the facility is or was out of compliance. Civil monetary penalties shall not exceed three thousand dollars per day. Each day upon which the same or a substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(4) The department may use the civil penalty monetary fund for the protection of the health or property of residents of facilities found to be deficient including:

(a) Payment for the cost of relocation of residents to other facilities;

(b) Payment to maintain operation of a facility pending correction of deficiencies or closure; and

(c) Reimbursement of a resident for personal funds or property loss.

(5)(a) The department may issue a stop placement order on a facility, effective upon oral or written notice, when the department determines:

(i) The facility no longer substantially meets the requirements of this chapter; and

(ii) The deficiency or deficiencies in the facility:

(A) Jeopardizes the health and safety of the residents; or

(B) Seriously limits the facility's capacity to provide adequate care.
(b) When the department has ordered a stop placement, the department may approve a readmission to the facility from a hospital, residential treatment facility, or crisis intervention facility when the department determines the readmission would be in the best interest of the individual seeking readmission.

(6) If the department determines that an emergency exists and resident health and safety is immediately jeopardized as a result of a facility's failure or refusal to comply with this chapter, the department may summarily suspend the facility's license and order the immediate closure of the facility, or the immediate transfer of residents, or both.

(7) If the department determines that the health or safety of the residents is immediately jeopardized as a result of a facility's failure or refusal to comply with requirements of this chapter, the department may appoint temporary management to:

(a) Oversee the operation of the facility; and
(b) Ensure the health and safety of the facility's residents while:
(i) Orderly closure of the facility occurs; or
(ii) The deficiencies necessitating temporary management are corrected.

NEW SECTION. Sec. 414. (1) All orders of the department denying, suspending, or revoking the license or assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested.

(2) All orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or summary license suspension shall be effective immediately upon notice, pending any hearing.

(3) Subject to the requirements of subsection (2) of this section, all hearings under this chapter and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 415. Operation of a facility without a license in violation of this chapter and discrimination against medicaid recipients is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.
Operation of an enhanced services facility without a license in violation of this chapter is not reasonable in relation to the development and preservation of business. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

**NEW SECTION. Sec. 416.** A person operating or maintaining a facility without a license under this chapter is guilty of a misdemeanor and each day of a continuing violation after conviction shall be considered a separate offense.

**NEW SECTION. Sec. 417.** Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for an injunction, civil penalty, or other process against a person to restrain or prevent the operation or maintenance of a facility without a license issued under this chapter.

**NEW SECTION. Sec. 418.**

1. The department shall make or cause to be made at least one inspection of each facility prior to licensure and an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

2. Any duly authorized officer, employee, or agent of the department may enter and inspect any facility at any time to determine that the facility is in compliance with this chapter and applicable rules, and to enforce any provision of this chapter. Complaint inspections shall be unannounced and conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection unless authorized or required by federal law.

3. During inspections, the facility must give the department access to areas, materials, and equipment used to provide care or support to residents, including resident and staff records, accounts, and the physical premises, including the buildings, grounds, and equipment. The department has the authority to privately interview the provider, staff, residents, and other individuals familiar with resident care and treatment.
(4) Any public employee giving advance notice of an inspection in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(5) The department shall prepare a written report describing the violations found during an inspection, and shall provide a copy of the inspection report to the facility.

(6) The facility shall develop a written plan of correction for any violations identified by the department and provide a plan of correction to the department within ten working days from the receipt of the inspection report.

NEW SECTION. Sec. 419. The facility shall only admit individuals:

(1) Who are over the age of eighteen;

(2) Who meet the resident eligibility requirements described in section 405 of this act; and

(3) Whose needs the facility can safely and appropriately meet through qualified and trained staff, services, equipment, security, and building design.

NEW SECTION. Sec. 420. If the facility does not employ a qualified professional able to furnish needed services, the facility must have a written contract with a qualified professional or agency outside the facility to furnish the needed services.

NEW SECTION. Sec. 421. At least sixty days before the effective date of any change of ownership, or change of management of a facility, the current operating entity must provide written notification about the proposed change separately and in writing, to the department, each resident of the facility, or the resident's guardian or representative.

NEW SECTION. Sec. 422. The facility shall:

(1) Maintain adequate resident records to enable the provision of necessary treatment, care, and services and to respond appropriately in emergency situations;

(2) Comply with all state and federal requirements related to documentation, confidentiality, and information sharing, including chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and
(3) Where possible, obtain signed releases of information designating the department, the facility, and the department of corrections where the person is under its supervision, as recipients of health care information.

**NEW SECTION. Sec. 423.** (1) Standards for fire protection and the enforcement thereof, with respect to all facilities licensed under this chapter, are the responsibility of the chief of the Washington state patrol, through the director of fire protection, who must adopt recognized standards as applicable to facilities for the protection of life against the cause and spread of fire and fire hazards. If the facility to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, the director of fire protection must submit to the department a written report approving the facility with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall conduct an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

(2) Inspections of facilities by local authorities must be consistent with the requirements adopted by the chief of the Washington state patrol, through the director of fire protection. Findings of a serious nature must be coordinated with the department and the chief of the Washington state patrol, through the director of fire protection, for determination of appropriate actions to ensure a safe environment for residents. The chief of the Washington state patrol, through the director of fire protection, has exclusive authority to determine appropriate corrective action under this section.

**NEW SECTION. Sec. 424.** No facility providing care and treatment for individuals placed in a facility, or agency licensing or placing residents in a facility, acting in the course of its duties, shall be civilly or criminally liable for performing its duties under this chapter, provided that such duties were performed in good faith and without gross negligence.
NEW SECTION. Sec. 425. (1) The secretary shall adopt rules to implement this chapter.

(2) Such rules shall at the minimum: (a) Promote safe treatment and necessary care of individuals residing in the facility and provide for safe and clean conditions; (b) establish licensee qualifications, licensing and enforcement, and license fees sufficient to cover the cost of licensing and enforcement.

PART V
FORENSIC AND CORRECTIONAL

Drug and Mental Health Courts

NEW SECTION. Sec. 501. A new section is added to chapter 2.28 RCW to read as follows:

(1) Counties may establish and operate mental health courts.

(2) For the purposes of this section, "mental health court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and symptoms of mental illness among nonviolent, mentally ill felony and nonfelony offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment including drug treatment for persons with co-occurring disorders; mandatory periodic reviews, including drug testing if indicated; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a mental health court program must first:

(i) Exhaust all federal funding that is available to support the operations of its mental health court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for mental health court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for mental health court operations and associated services.

(b) Any county that establishes a mental health court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The mental health court may adopt local
requirements that are more stringent than the minimum. The minimum
requirements are:

(i) The offender would benefit from psychiatric treatment;
(ii) The offender has not previously been convicted of a serious
    violent offense or sex offense as defined in RCW 9.94A.030; and
(iii) Without regard to whether proof of any of these elements is
    required to convict, the offender is not currently charged with or
    convicted of an offense:

    (A) That is a sex offense;
    (B) That is a serious violent offense;
    (C) During which the defendant used a firearm; or
    (D) During which the defendant caused substantial or great bodily
        harm or death to another person.

NEW SECTION. Sec. 502. A new section is added to chapter 2.28 RCW
to read as follows:

Any county that has established a drug court and a mental health
court under this chapter may combine the functions of both courts into
a single therapeutic court.

NEW SECTION. Sec. 503. A new section is added to chapter 26.12
RCW to read as follows:

(1) Every county that authorizes the tax provided in section 804 of
this act shall, and every county may, establish and operate a
therapeutic court component for dependency proceedings designed to be
effective for the court's size, location, and resources. A county with
a drug court for criminal cases or with a mental health court may
include a therapeutic court for dependency proceedings as a component
of its existing program.

(2) For the purposes of this section, "therapeutic court" means a
court that has special calendars or dockets designed for the intense
judicial supervision, coordination, and oversight of treatment provided
to parents and families who have substance abuse or mental health
problems and who are involved in the dependency and is designed to
achieve a reduction in:

(a) Child abuse and neglect;
(b) Out-of-home placement of children;
(c) Termination of parental rights; and
(d) Substance abuse or mental health symptoms among parents or guardians and their children.

(3) To the extent possible, the therapeutic court shall provide services for parents and families co-located with the court or as near to the court as practicable.

(4) The department of social and health services shall furnish services to the therapeutic court unless a court contracts with providers outside of the department.

(5) Any jurisdiction that receives a state appropriation to fund a therapeutic court must first exhaust all federal funding available for the development and operation of the therapeutic court and associated services.

(6) Moneys allocated by the state for a therapeutic court must be used to supplement, not supplant, other federal, state, local, and private funding for court operations and associated services under this section.

(7) Any county that establishes a therapeutic court or receives funds for an existing court under this section shall:
   (a) Establish minimum requirements for the participation in the program; and
   (b) Develop an evaluation component of the court, including tracking the success rates in graduating from treatment, reunifying parents with their children, and the costs and benefits of the court.

Sec. 504. RCW 2.28.170 and 2002 c 290 s 13 are each amended to read as follows:

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:
   (i) Exhaust all federal funding ((received from the office of

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national drug control policy)) that is available to support the
operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated
for drug court programs with local cash or in-kind resources. Moneys
allocated by the state must be used to supplement, not supplant, other
federal, state, and local funds for drug court operations and
associated services.

(b) Any county that establishes a drug court pursuant to this
section shall establish minimum requirements for the participation of
offenders in the program. The drug court may adopt local requirements
that are more stringent than the minimum. The minimum requirements
are:

(i) The offender would benefit from substance abuse treatment;

(ii) The offender has not previously been convicted of a serious
violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is
required to convict, the offender is not currently charged with or
convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily
harm or death to another person.

Regional Jails

NEW SECTION. Sec. 505. (1) The joint legislative audit and review
committee shall investigate and assess whether there are existing
facilities in the state that could be converted to use as a regional
jail for offenders who have mental or chemical dependency disorders, or
both, that need specialized housing and treatment arrangements.

(2) The joint legislative audit and review committee shall consider
the feasibility of using at least the following facilities or types of
facilities:

(a) State-owned or operated facilities; and

(b) Closed or abandoned nursing homes.

(3) The analysis shall include an assessment of when such
facilities could be available for use as a regional jail and the potential costs, costs avoided, and benefits of at least the following considerations:

(a) Any impact on existing offenders or residents;
(b) The conversion of the facilities;
(c) Infrastructure tied to the facilities;
(d) Whether the facility is, or can be, sized proportionately to the available pool of offenders;
(e) Changes in criminal justice costs, including transport, access to legal assistance, and access to courts;
(f) Reductions in jail populations; and
(g) Changes in treatment costs for these offenders.

(4) The joint legislative audit and review committee shall report its findings and recommendations to the appropriate committees of the legislature not later than December 15, 2005.

Competency and Criminal Insanity

NEW SECTION. Sec. 506. By January 1, 2006, the department of social and health services shall:

(1) Reduce the waiting times for competency evaluation and restoration to the maximum extent possible using funds appropriated for this purpose; and

(2) Report to the legislature with an analysis of several alternative strategies for addressing increases in forensic population and minimizing waiting periods for competency evaluation and restoration. The report shall discuss, at a minimum, the costs and advantages of, and barriers to co-locating professional persons in jails, performing restoration treatment in less restrictive alternatives than the state hospitals, and the use of regional jail facilities to accomplish competency evaluation and restoration.

ESSB 6358 Implementation Issues

Sec. 507. RCW 71.05.157 and 2004 c 166 s 16 are each amended to read as follows:

(1) When a ((county)) designated mental health professional is notified by a jail that a defendant or offender who was subject to a
discharge review under RCW 71.05.232 is to be released to the
community, the ((county)) designated mental health professional shall
evaluate the person within seventy-two hours of release.

(2) When an offender is under court-ordered treatment in the
community and the supervision of the department of corrections, and the
treatment provider becomes aware that the person is in violation of the
terms of the court order, the treatment provider shall notify the
((county)) designated mental health professional and the department of
corrections of the violation and request an evaluation for purposes of
revocation of the less restrictive alternative.

(3) When a ((county)) designated mental health professional becomes
aware that an offender who is under court-ordered treatment in the
community and the supervision of the department of corrections is in
violation of a treatment order or a condition of supervision that
relates to public safety, or the ((county)) designated mental health
professional detains a person under this chapter, the ((county))
designated mental health professional shall notify the person's
treatment provider and the department of corrections.

(4) When an offender who is confined in a state correctional
facility or is under supervision of the department of corrections in
the community is subject to a petition for involuntary treatment under
this chapter, the petitioner shall notify the department of corrections
and the department of corrections shall provide documentation of its
risk assessment or other concerns to the petitioner and the court if
the department of corrections classified the offender as a high risk or
high needs offender.

(5) Nothing in this section creates a duty on any treatment
provider or ((county)) designated mental health professional to provide
offender supervision.

NEW SECTION. Sec. 508. A new section is added to chapter 70.96A
RCW to read as follows:

(1) Treatment providers shall inquire of each person seeking
treatment, at intake, whether the person is subject to court ordered
mental health or chemical dependency treatment, whether civil or
criminal, and document the person's response in his or her record. If
the person is in treatment on the effective date of this section, and
the treatment provider has not inquired whether the person is subject
(2) Treatment providers shall inquire of each person seeking treatment, at intake, whether the person is subject to supervision of any kind by the department of corrections and document the person's response in his or her record. If the person is in treatment on the effective date of this section, and the treatment provider has not inquired whether the person is subject to supervision of any kind by the department of corrections, the treatment provider shall inquire on the person's next treatment session and document the person's response in his or her record.

(3) For all persons who are subject to both court ordered mental health or chemical dependency treatment and supervision by the department of corrections, the treatment provider shall request an authorization to release records and notify the person that, unless expressly excluded by the court order the law requires treatment providers to share information with the department of corrections and the person's mental health treatment provider.

(4) If the treatment provider has reason to believe that a person is subject to supervision by the department of corrections but the person's record does not indicate that he or she is, the treatment provider may call any department of corrections office and provide the person's name and birth date. If the person is subject to supervision, the treatment provider shall request, and the department of corrections shall provide, the name and contact information for the person's community corrections officer.

PART VI
BEST PRACTICES AND COLLABORATION

NEW SECTION. Sec. 601. (1) The department of social and health services, in consultation with the members of the team charged with developing the state plan for co-occurring mental and substance abuse disorders, shall adopt, not later than January 1, 2006, an integrated and comprehensive screening and assessment process for chemical dependency and mental disorders and co-occurring chemical dependency and mental disorders.
(a) The process adopted shall include, at a minimum:
(i) An initial screening tool that can be used by intake personnel system-wide and which will identify the most common types of co-occurring disorders;
(ii) An assessment process for those cases in which assessment is indicated that provides an appropriate degree of assessment for most situations, which can be expanded for complex situations;
(iii) Identification of triggers in the screening that indicate the need to begin an assessment;
(iv) Identification of triggers after or outside the screening that indicate a need to begin or resume an assessment;
(v) The components of an assessment process and a protocol for determining whether part or all of the assessment is necessary, and at what point; and
(vi) Emphasis that the process adopted under this section is to replace and not to duplicate existing intake, screening, and assessment tools and processes.
(b) The department shall consider existing models, including those already adopted by other states, and to the extent possible, adopt an established, proven model.
(c) The integrated, comprehensive screening and assessment process shall be implemented statewide by all chemical dependency and mental health treatment providers as well as all designated mental health professionals, designated chemical dependency specialists, and designated crisis responders not later than January 1, 2007.

(2) The department shall provide adequate training to effect statewide implementation by the dates designated in this section and shall report the rates of co-occurring disorders and the stage of screening or assessment at which the co-occurring disorder was identified to the appropriate committees of the legislature.
(3) The department shall establish contractual penalties to contracted treatment providers, the regional support networks, and their contracted providers for failure to implement the integrated screening and assessment process by July 1, 2007.

NEW SECTION. Sec. 602. The department of corrections shall, to the extent that resources are available for this purpose, utilize the
integrated, comprehensive screening and assessment process for chemical
dependency and mental disorders developed under section 601 of this
act.

*NEW SECTION.* Sec. 603. A new section is added to chapter 71.24
RCW to read as follows:

(1) By June 30, 2006, the department shall develop and implement a
matrix or set of matrices for providing services based on the following
principles:

(a) Maximizing evidence-based practices where these practices
exist; where no evidence-based practice exists, the use of research-
based practices, including but not limited to, the adaptation of
evidence-based practices to new situations; where no evidence-based or
research-based practices exist the use of consensus-based practices;
and, to the extent that funds are available, the use of promising
practices;

(b) Maximizing the person's independence, recovery, and employment
by consideration of the person's strengths and supports in the
community;

(c) Maximizing the person's participation in treatment decisions
including, where possible, the person's awareness of, and technical
assistance in preparing, mental health advance directives; and

(d) Collaboration with consumer-based support programs.

(2) The matrix or set of matrices shall include both adults and
children and persons with co-occurring mental and substance abuse
disorders and shall build on the service intensity quadrant models that
have been developed in this state.

(3)(a) The matrix or set of matrices shall be developed in
collaboration with experts in evidence-based practices for mental
disorders, chemical dependency disorders, and co-occurring mental and
chemical dependency disorders at the University of Washington, and in
consultation with representatives of the regional support networks,
community mental health providers, county chemical dependency
 coordinators, chemical dependency providers, consumers, family
advocates, and community inpatient providers.

(b) The matrix or set of matrices shall, to the extent possible,
adopt or utilize materials already prepared by the department or by
other states.
(4)(a) The department shall require, by contract with the regional support networks, that providers maximize the use of evidence-based, research-based, and consensus-based practices and document the percentage of clients enrolled in evidence-based, research-based, and consensus-based programs by program type.

(b) The department shall establish a schedule by which regional support networks and providers must adopt the matrix or set of matrices and a schedule of penalties for failure to adopt and implement the matrices. The department may act against the regional support networks or providers or both to enforce the provisions of this section and shall provide the appropriate committees of the legislature with the schedules adopted under this subsection by June 30, 2006.

(5) The following definitions apply to this section:

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

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

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

(d) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

*Sec. 603 was vetoed. See message at end of chapter.*

*NEW SECTION. Sec. 604. A new section is added to chapter 71.02 RCW to read as follows:

(1) The department of social and health services shall collaborate with community providers of mental health services, early learning and child care providers, child serving agencies, and child-placing agencies to identify and utilize federal, state, and local services and providers for children in out-of-home care and other populations of vulnerable children who are in need of an evaluation and treatment for
mental health services and do not qualify for medicaid or treatment
services through the regional support networks.

(2) If no appropriate mental health services are available through
federal, state, or local services and providers for a child described
in subsection (1) of this section, the regional support network must
provide a child, at a minimum, with a mental health evaluation
consistent with chapter 71.24 RCW.

(3) The department, in collaboration with the office of the
superintendent of public instruction, local providers, local school
districts, and the regional support networks, shall identify and review
existing programs and services as well as the unmet need for programs
and services serving birth to five and school-aged children who exhibit
early signs of behavioral or mental health disorders and who are not
otherwise eligible for services through the regional support networks.
The review of programs and services shall include, but not be limited
to, the utilization and effectiveness of early intervention or
prevention services and the primary intervention programs.

The department of social and health services shall provide a
briefing on the collaboration's findings and recommendations to the
appropriate committee of the legislature by December 31, 2005.

*Sec. 604 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 605. The Washington state institute for public
policy shall study the net short-run and long-run fiscal savings to
state and local governments of implementing evidence-based treatment of
chemical dependency disorders, mental disorders, and co-occurring
mental and substance abuse disorders. The institute shall use the
results from its 2004 report entitled "Benefits and Costs of Prevention
and Early Intervention Programs for Youth" and its work on effective
adult corrections programs to project total fiscal impacts under
alternative implementation scenarios. In addition to fiscal outcomes,
the institute shall estimate the long-run effects that an evidence-
based strategy could have on statewide education, crime, child abuse
and neglect, substance abuse, and economic outcomes. The institute
shall provide an interim report to the appropriate committees of the

PART VII
NEW SECTION. Sec. 701. The following acts or parts of acts are each repealed on the effective date of section 107 of this act:

1. RCW 71.05.060 (Rights of persons complained against) and 1973 1st ex.s. c 142 s 11;

2. RCW 71.05.070 (Prayer treatment) and 1973 1st ex.s. c 142 s 12;

3. RCW 71.05.090 (Choice of physicians) and 1973 2nd ex.s. c 24 s 3 & 1973 1st ex.s. c 142 s 14;

4. RCW 71.05.200 (Notice and statement of rights--Probable cause hearing) and 1998 c 297 s 11, 1997 c 112 s 14, 1989 c 120 s 5, 1974 ex.s. c 145 s 13, & 1973 1st ex.s. c 142 s 25;

5. RCW 71.05.250 (Probable cause hearing--Detained person's rights--Waiver of privilege--Limitation--Records as evidence) and 1989 c 120 s 7, 1987 c 439 s 6, 1974 ex.s. c 145 s 17, & 1973 1st ex.s. c 142 s 30;

6. RCW 71.05.450 (Competency--Effect--Statement of Washington law) and 1994 sp.s. c 7 s 440 & 1973 1st ex.s. c 142 s 50;

7. RCW 71.05.460 (Right to counsel) and 1997 c 112 s 33 & 1973 1st ex.s. c 142 s 51;

8. RCW 71.05.470 (Right to examination) and 1997 c 112 s 34 & 1973 1st ex.s. c 142 s 52;

9. RCW 71.05.480 (Petitioning for release--Writ of habeas corpus) and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and

10. RCW 71.05.490 (Rights of persons committed before January 1, 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

NEW SECTION. Sec. 702. The following acts or parts of acts are each repealed on the effective date of section 109 of this act:

1. RCW 71.05.155 (Request to mental health professional by law enforcement agency for investigation under RCW 71.05.150--Advisory report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;

2. RCW 71.05.395 (Application of uniform health care information act, chapter 70.02 RCW) and 1993 c 448 s 8;

3. RCW 71.05.400 (Release of information to patient's next of kin, attorney, guardian, conservator--Notification of patient's death) and 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973 1st ex.s. c 142 s 45;
(4) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and
(5) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

NEW SECTION. Sec. 703. RCW 71.05.610 (Treatment records--Definitions) and 1989 c 205 s 11 are each repealed on the effective date of sections 104 through 106 of this act.

NEW SECTION. Sec. 704. The following acts or parts of acts are each repealed:
(1) RCW 71.05.650 (Treatment records--Notation of and access to released data) and 1989 c 205 s 15; and
(2) RCW 71.05.670 (Treatment records--Violations--Civil action) and 1999 c 13 s 10.

Sec. 705. RCW 5.60.060 and 2001 c 286 s 2 are each amended to read as follows:
(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202 through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 70.96A, 70.-- (sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.
(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the
client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy or a priest shall not, without the consent of a person making the confession, be examined as to any confession made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 70.96A.140 or (71.05.250) 71.05.360 (8) and (9), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the law enforcement officer making the communication, be compelled to testify about any communication made to the counselor by the officer while receiving counseling. The counselor must be designated as such by the sheriff, police chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The
privilege does not apply if the counselor was an initial responding 
officer, a witness, or a party to the incident which prompted the 
delivery of peer support group counseling services to the law 
enforcement officer.

(b) For purposes of this section, "peer support group counselor" 
means a:

(i) Law enforcement officer, or civilian employee of a law 
enforcement agency, who has received training to provide emotional and 
moral support and counseling to an officer who needs those services as 
a result of an incident in which the officer was involved while acting 
in his or her official capacity; or

(ii) Nonemployee counselor who has been designated by the sheriff, 
police chief, or chief of the Washington state patrol to provide 
emotional and moral support and counseling to an officer who needs 
those services as a result of an incident in which the officer was 
involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the 
victim, be examined as to any communication made by the victim to the 
sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means 
the employee or volunteer from a rape crisis center, victim assistance 
unit, program, or association, that provides information, medical or 
legal advocacy, counseling, or support to victims of sexual assault, 
who is designated by the victim to accompany the victim to the hospital 
or other health care facility and to proceedings concerning the alleged 
assault, including police and prosecution interviews and court 
proceedings.

(b) A sexual assault advocate may disclose a confidential 
communication without the consent of the victim if failure to disclose 
is likely to result in a clear, imminent risk of serious physical 
injury or death of the victim or another person. Any sexual assault 
advocate participating in good faith in the disclosing of records and 
communications under this section shall have immunity from any 
liability, civil, criminal, or otherwise, that might result from the 
action. In any proceeding, civil or criminal, arising out of a 
disclosure under this section, the good faith of the sexual assault 
advocate who disclosed the confidential communication shall be 
presumed.
Sec. 706. RCW 18.83.110 and 1989 c 271 s 303 are each amended to read as follows:

Confidential communications between a client and a psychologist shall be privileged against compulsory disclosure to the same extent and subject to the same conditions as confidential communications between attorney and client, but this exception is subject to the limitations under RCW 70.96A.140 and 71.05.360 (8) and (9).

Sec. 707. RCW 18.225.105 and 2003 c 204 s 1 are each amended to read as follows:

A person licensed under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.225.100, nor any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

1. With the written authorization of that person or, in the case of death or disability, the person's personal representative;
2. If the person waives the privilege by bringing charges against the person licensed under this chapter;
3. In response to a subpoena from the secretary. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;
4. As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360 (8) and (9); or
5. To any individual if the person licensed under this chapter reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.

Sec. 708. RCW 71.05.235 and 2000 c 74 s 6 are each amended to read as follows:

1. If an individual is referred to a designated mental health professional under RCW 10.77.090(1)(d)(iii)(A), the designated mental health professional shall examine the individual within forty-eight hours. If the designated mental health professional determines it is not appropriate to detain the individual
or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the \((\text{county})\) designated mental health professional not later than the next judicial day. At the hearing the superior court shall review the determination of the \((\text{county})\) designated mental health professional and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than seventy-two hours.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under chapter 71.05 RCW. Before expiration of the seventy-two hour evaluation period authorized under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety-day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation
and treatment facility to be brought before the court the next judicial
day after detention. Upon the individual's first appearance in court
after a petition has been filed, proceedings under RCW 71.05.310 and
71.05.320 shall commence. For an individual subject to this
subsection, the prosecutor or professional person may directly file a
petition for ninety-day inpatient or outpatient treatment and no
petition for initial detention or fourteen-day detention is required
before such a petition may be filed.

The court shall conduct the hearing on the petition filed under
this subsection within five judicial days of the date the petition is
filed. The court may continue the hearing upon the written request of
the person named in the petition or the person's attorney, for good
cause shown, which continuance shall not exceed five additional
judicial days. If the person named in the petition requests a jury
trial, the trial shall commence within ten judicial days of the date of
the filing of the petition. The burden of proof shall be by clear,
cogent, and convincing evidence and shall be upon the petitioner. The
person shall be present at such proceeding, which shall in all respects
accord with the constitutional guarantees of due process of law and the
rules of evidence pursuant to RCW ((71.05.250)) 71.05.360 (8) and (9).

During the proceeding the person named in the petition shall
continue to be detained and treated until released by order of the
court. If no order has been made within thirty days after the filing
of the petition, not including any extensions of time requested by the
detained person or his or her attorney, the detained person shall be
released.

(3) If a ((county)) designated mental health professional or the
professional person and prosecuting attorney for the county in which
the criminal charge was dismissed or attorney general, as appropriate,
stipulate that the individual does not present a likelihood of serious
harm or is not gravely disabled, the hearing under this section is not
required and the individual, if in custody, shall be released.

(4) The individual shall have the rights specified in RCW
((71.05.250)) 71.05.360 (8) and (9).

Sec. 709. RCW 71.05.310 and 1987 c 439 s 9 are each amended to
read as follows:

The court shall conduct a hearing on the petition for ninety day
treatment within five judicial days of the first court appearance after the probable cause hearing. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the first court appearance after the probable cause hearing. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his or her attorney, the detained person shall be released.

Sec. 710. RCW 71.05.425 and 2000 c 94 s 10 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4) to the following:

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

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

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4):
(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.090(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin if the crime was a homicide;

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

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

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

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

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.090(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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

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

(5) For purposes of this section the following terms have the
following meanings:
(a) "Violent offense" means a violent offense under RCW 9.94A.030;
(b) "Sex offense" means a sex offense under RCW 9.94A.030;
(c) "Next of kin" means a person's spouse, parents, siblings, and
children;
(d) "Felony harassment offense" means a crime of harassment as
defined in RCW 9A.46.060 that is a felony.

Sec. 711. RCW 71.05.445 and 2004 c 166 s 4 are each amended to
read as follows:
(1) The definitions in this subsection apply throughout this
section unless the context clearly requires otherwise.
(a) "Information related to mental health services" means all
information and records compiled, obtained, or maintained in the course
of providing services to either voluntary or involuntary recipients of
services by a mental health service provider. This may include
documents of legal proceedings under this chapter or chapter 71.34 or
10.77 RCW, or somatic health care information.
(b) "Mental health service provider" means a public or private
agency that provides services to persons with mental disorders as
defined under RCW 71.05.020 and receives funding from public sources.
This includes evaluation and treatment facilities as defined in RCW
71.05.020, community mental health service delivery systems, or
community mental health programs as defined in RCW 71.24.025, and
facilities conducting competency evaluations and restoration under
chapter 10.77 RCW.
(2)(a) Information related to mental health services delivered to
a person subject to chapter 9.94A or 9.95 RCW shall be released, upon
request, by a mental health service provider to department of
corrections personnel for whom the information is necessary to carry
out the responsibilities of their office. The information must be
provided only for the purposes of completing presentence investigations
or risk assessment reports, supervision of an incarcerated offender or
offender under supervision in the community, planning for and provision

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of supervision of an offender, or assessment of an offender's risk to
the community. The request shall be in writing and shall not require
the consent of the subject of the records.

(b) If an offender subject to chapter 9.94A or 9.95 RCW has failed
to report for department of corrections supervision or in the event of
an emergent situation that poses a significant risk to the public or
the offender, information related to mental health services delivered
to the offender and, if known, information regarding where the offender
is likely to be found shall be released by the mental health services
provider to the department of corrections upon request. The initial
request may be written or oral. All oral requests must be subsequently
confirmed in writing. Information released in response to an oral
request is limited to a statement as to whether the offender is or is
not being treated by the mental health services provider and the
address or information about the location or whereabouts of the
offender. Information released in response to a written request may
include information identified by rule as provided in subsections (4)
and (5) of this section. For purposes of this subsection a written
request includes requests made by e-mail or facsimile so long as the
requesting person at the department of corrections is clearly
identified. The request must specify the information being requested.
Disclosure of the information requested does not require the consent of
the subject of the records unless the offender has received relief from
disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.

(3) (a) When a mental health service provider conducts its initial
assessment for a person receiving court-ordered treatment, the service
provider shall inquire and shall be told by the offender whether he or
she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment
ordered by the department of corrections discloses to his or her mental
health service provider that he or she is subject to supervision by the
department of corrections, the mental health services provider shall
notify the department of corrections that he or she is treating the
offender and shall notify the offender that his or her community
corrections officer will be notified of the treatment, provided that if
the offender has received relief from disclosure pursuant to RCW
9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
mental health services provider with a copy of the order granting
relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the mental health services provider is not required to notify the department of corrections that the mental health services provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by e-mail or facsimile, so long as the notifying mental health service provider is clearly identified.

(4) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (2) of this section.

(5) The department and the department of corrections, in consultation with regional support networks, mental health service providers as defined in subsection (1) of this section, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(6) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in chapter 71.05 RCW, except as provided in RCW 72.09.585.

(7) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section except under RCW ((71.05.670 and)) 71.05.440.
(8) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(9) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(10) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

Sec. 712. RCW 71.05.640 and 2000 c 94 s 11 are each amended to read as follows:

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

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

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

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

Sec. 713. RCW 71.05.680 and 1999 c 13 s 11 are each amended to read as follows:
Any person who requests or obtains confidential information pursuant to RCW ((71.05.610)) 71.05.620 through 71.05.690 under false pretenses shall be guilty of a gross misdemeanor.

Sec. 714. RCW 71.05.690 and 1999 c 13 s 12 are each amended to read as follows:

The department shall adopt rules to implement RCW ((71.05.610)) 71.05.620 through 71.05.680.

Sec. 715. RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the county authority if a county fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates county biennial needs assessments and county mental health service plans and state services for mentally ill adults and children. The secretary may also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the county's residents in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed children; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;
Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in mentally ill persons becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

Consultation and education services; and

Community support services;

Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

Licensed service providers. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

Regional support networks; and

Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this section;

Establish a standard contract or contracts, consistent with state minimum standards, which shall be used in contracting with regional support networks or counties. The standard contract shall include a maximum fund balance, which shall not exceed ten percent;

Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of county authorities.
and licensed service providers. The audit procedure shall focus on the
outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the
state, counties, and regional support networks that includes a tracking
method which allows the department and regional support networks to
identify mental health clients' participation in any mental health
service or public program on an immediate basis. The information
system shall not include individual patient's case history files.
Confidentiality of client information and records shall be maintained
as provided in this chapter and in RCW 71.05.390, (71.05.400,
71.05.410,) 71.05.420, (71.05.430,) and 71.05.440. The design of
the system and the data elements to be collected shall be reviewed by
the work group appointed by the secretary under section 5(1) of this
act and representing the department, regional support networks, service
providers, consumers, and advocates. The data elements shall be
designed to provide information that is needed to measure performance
and achieve the service outcomes ((identified in section 5 of this
act));

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum
standards;

(j) Periodically monitor the compliance of certified regional
support networks and their network of licensed service providers for
compliance with the contract between the department, the regional
support network, and federal and state rules at reasonable times and in
a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the
secretary for the required inspections;

(l) Monitor and audit counties, regional support networks, and
licensed service providers as needed to assure compliance with
contractual agreements authorized by this chapter; and

(m) Adopt such rules as are necessary to implement the department's
responsibilities under this chapter.

(6) The secretary shall use available resources only for regional
support networks.

(7) Each certified regional support network and licensed service
provider shall file with the secretary, on request, such data,
statistics, schedules, and information as the secretary reasonably
requires. A certified regional support network or licensed service
provider which, without good cause, fails to furnish any data, 
statistics, schedules, or information as requested, or files fraudulent 
reports thereof, may have its certification or license revoked or 
suspended.

(8) The secretary may suspend, revoke, limit, or restrict a 
certification or license, or refuse to grant a certification or license 
for failure to conform to: (a) The law; (b) applicable rules and 
regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or 
service provider from operating without certification or a license or 
any other violation of this section. The court may also review, 
pursuant to procedures contained in chapter 34.05 RCW, any denial, 
suspension, limitation, restriction, or revocation of certification or 
license, and grant other relief required to enforce the provisions of 
this chapter.

(10) Upon petition by the secretary, and after hearing held upon 
reasonable notice to the facility, the superior court may issue a 
warrant to an officer or employee of the secretary authorizing him or 
er her to enter at reasonable times, and examine the records, books, and 
accounts of any regional support network or service provider refusing 
to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, 
the secretary may file an action for an injunction or other process 
against any person or governmental unit to restrain or prevent the 
establishment, conduct, or operation of a regional support network or 
service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment 
facilities shall include standards relating to maintenance of good 
physical and mental health and other services to be afforded persons 
pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall 
otherwise assure the effectuation of the purposes of these chapters.

(13)(a) The department, in consultation with affected parties, 
shall establish a distribution formula that reflects county needs 
assessments based on the number of persons who are acutely mentally 
ill, chronically mentally ill, severely emotionally disturbed children, 
and seriously disturbed. The formula shall take into consideration the 
impact on counties of demographic factors in counties which result in
concentrations of priority populations as set forth in subsection (5)(b) of this section. These factors shall include the population concentrations resulting from commitments under chapters 71.05 and 71.34 RCW to state psychiatric hospitals, as well as concentration in urban areas, at border crossings at state boundaries, and other significant demographic and workload factors.

(b) The formula shall also include a projection of the funding allocations that will result for each county, which specifies allocations according to priority populations, including the allocation for services to children and other underserved populations.

(c) After July 1, 2003, the department may allocate up to two percent of total funds to be distributed to the regional support networks for incentive payments to reward the achievement of superior outcomes, or significantly improved outcomes, as measured by a statewide performance measurement system consistent with the framework recommended in the joint legislative audit and review committee's performance audit of the mental health system. The department shall annually report to the legislature on its criteria and allocation of the incentives provided under this subsection.

(14) The secretary shall assume all duties assigned to the nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties under regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(15) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward
meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Allocate one hundred percent of available resources to the regional support networks in accordance with subsection (13) of this section. Incentive payments authorized under subsection (13) of this section may be allocated separately from other available resources.

(d) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(e) Deny funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Written notice and at least thirty days for corrective action must precede any such action. In such cases, regional support networks shall have full rights to appeal under chapter 34.05 RCW.

(16) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

PART VIII
MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 801. RCW 71.05.035 is recodified as a new section in chapter 71A.12 RCW.

NEW SECTION. Sec. 802. A new section is added to chapter 43.20A RCW to read as follows:

Beginning July 1, 2007, the secretary shall require, in the contracts the department negotiates pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate increases provided for mental health and chemical dependency treatment providers or programs who are parties to the contract or subcontractors of any party to the contract shall be prioritized to those providers and programs that maximize the use of
evidence-based and research-based practices, as those terms are defined in section 603 of this act, unless otherwise designated by the legislature.

NEW SECTION. Sec. 803. A new section is added to chapter 71.24 RCW to read as follows:

The department shall require each regional support network to provide for a separately funded mental health ombudsman office in each regional support network that is independent of the regional support network. The ombudsman office shall maximize the use of consumer advocates.

NEW SECTION. Sec. 804. A new section is added to chapter 82.14 RCW to read as follows:

(1) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall equal one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section shall be used solely for the purpose of providing new or expanded chemical dependency or mental health treatment services and for the operation of new or expanded therapeutic court programs. Moneys collected under this section shall not be used to supplant existing funding for these purposes.

NEW SECTION. Sec. 805. A new section is added to chapter 71.24 RCW to read as follows:

The department may establish new regional support network boundaries in any part of the state where more than one network chooses not to respond to, or is unable to substantially meet the requirements of, the request for qualifications under 2005 c . . . (Engrossed Second Substitute House Bill No. 1290, as amended by the Senate) s 4 or where a regional support network is subject to reprocurement under 2005 c . . . (Engrossed Second Substitute House Bill No. 1290, as amended by the Senate) s 6. The department may establish no fewer than eight and
no more than fourteen regional support networks under this chapter. No
entity shall be responsible for more than three regional support
networks.

*NEW SECTION. Sec. 806. 2005 c ... (Engrossed Second Substitute
House Bill No. 1290, as amended by the Senate) s 5 is hereby repealed.
*Sec. 806 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 807. If any provision of this act or its
application to any person or circumstance is held invalid, the
remainder of the act or the application of the provision to other
persons or circumstances is not affected.

NEW SECTION. Sec. 808. This act shall be so applied and construed
as to effectuate its general purpose to make uniform the law with
respect to the subject of this act among those states which enact it.

NEW SECTION. Sec. 809. Captions, part headings, and subheadings
used in this act are not part of the law.

NEW SECTION. Sec. 810. If specific funding for the purposes of
sections 203, 217, 220, 301, 303, 305, 505, 601, and 605 of this act,
referencing the section by section number and by bill or chapter
number, is not provided by June 30, 2005, each section not referenced
is null and void.

NEW SECTION. Sec. 811. (1) The code reviser shall alphabetize and
renumber the definitions, and correct any internal references affected
by this act.

(2) The code reviser shall replace all references to "county
designated mental health professional" with "designated mental health
professional" in the Revised Code of Washington.

NEW SECTION. Sec. 812. (1) The secretary of the department of
social and health services may adopt rules as necessary to implement
the provisions of this act.

(2) The secretary of corrections may adopt rules as necessary to
implement the provisions of this act.
NEW SECTION. Sec. 813. (1) Except for section 503 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.

(2) Section 503 of this act takes effect July 1, 2006.

Passed by the Senate April 22, 2005.
Passed by the House April 21, 2005.
Approved by the Governor May 17, 2005, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State May 17, 2005.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 402, 603, 604 and 806, Engrossed Second Substitute Senate Bill No. 5763 entitled:

"AN ACT Relating to the omnibus treatment of mental and substance abuse disorders act of 2005."

Section 402 describes the Legislature's intent to authorize the Department of Social and Health Services (DSHS) to license a new type of facility called Enhanced Services Facilities. This section states that some clients have been repeatedly served in inappropriate settings or discharged without an appropriate placement. Although the development of a new facility type may well afford service providers an opportunity to deliver more effective services to persons with mental disorders, it is not reasonable to assume that such services were or are being provided inappropriately.

Although the Legislature appropriated funds in the 2005-2007 operating budget to fund many of the activities included in this bill, no funds were appropriated to implement Sections 603 and 604. Section 603 directs the DSHS to undertake a project, in collaboration with a broad array of stakeholders, to develop a set of matrices of service best practices. Section 604 directs the DSHS to undertake two collaboration projects with different groups of stakeholders to identify ways to provide mental health services to children who are not eligible for the state's Medicaid funded mental health services.

With the passage of both this bill and Engrossed Second Substitute House Bill 1290, the DSHS' Mental Health Division will have many large projects to implement over the next biennium. I do not believe it is reasonable to include several additional unfunded smaller projects to DSHS' already large project list.

Section 806 repeals Section 5 in Engrossed Second Substitute House Bill No. 1290. Section 806 is unnecessary as I vetoed Section 5 in Engrossed Second Substitute House Bill No. 1290 today.

For these reasons, I have vetoed Sections 402, 603, 604 and 806 of Engrossed Second Substitute Senate Bill No. 5763.

With the exception of Sections 402, 603, 604 and 806, Engrossed Second Substitute Senate Bill No. 5763 is approved."