

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6793

Chapter 333, Laws of 2006

59th Legislature
2006 Regular Session

PEOPLE WITH MENTAL DISORDERS--TREATMENT

EFFECTIVE DATE: 7/1/06 - Except sections 101 through 103, 107,
202, and 301, which become effective 3/29/06.

Passed by the Senate March 8, 2006
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 8, 2006
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6793** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 29, 2006.

FILED

March 29, 2006 - 4:55 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

1 involuntary treatment act, chapter 71.05 RCW. The purpose of this 2006
2 act is to make retroactive, remedial, curative, and technical
3 amendments in order to resolve such ambiguities.

4 (2) In enacting the community mental health services act, the
5 legislature intended the relationship between the state and the
6 regional support networks to be governed solely by the terms of the
7 regional support network contracts and did not intend these
8 relationships to create statutory causes of action not expressly
9 provided for in the contracts. Therefore, the legislature's intent is
10 that, except to the extent expressly provided in contracts entered
11 after the effective date of this section, the department of social and
12 health services and regional support networks shall resolve existing
13 and future disagreements regarding the subject matter identified in
14 sections 103 and 301 of this act through nonjudicial means.

15 **Sec. 102.** RCW 71.24.016 and 2001 c 323 s 4 are each amended to
16 read as follows:

17 (1) The legislature intends that eastern and western state
18 hospitals shall operate as clinical centers for handling the most
19 complicated long-term care needs of patients with a primary diagnosis
20 of mental disorder. It is further the intent of the legislature that
21 the community mental health service delivery system focus on
22 maintaining mentally ill individuals in the community. The program
23 shall be evaluated and managed through a limited number of performance
24 measures designed to hold each regional support network accountable for
25 program success.

26 (2) The legislature intends to address the needs of people with
27 mental disorders with a targeted, coordinated, and comprehensive set of
28 evidence-based practices that are effective in serving individuals in
29 their community and will reduce the need for placements in state mental
30 hospitals. The legislature further intends to explicitly hold regional
31 support networks accountable for serving people with mental disorders
32 within their geographic boundaries and for not exceeding their
33 allocation of state hospital beds. Within funds appropriated by the
34 legislature for this purpose, regional support networks shall develop
35 the means to serve the needs of people with mental disorders within
36 their geographic boundaries. Elements of the program may include:

37 (a) Crisis triage;

1 (b) Evaluation and treatment and community hospital beds;

2 (c) Residential beds;

3 (d) Programs for community treatment teams; and

4 (e) Outpatient services.

5 (3) The regional support network shall have the flexibility, within
6 the funds appropriated by the legislature for this purpose, to design
7 the mix of services that will be most effective within their service
8 area of meeting the needs of people with mental disorders and avoiding
9 placement of such individuals at the state mental hospital. Regional
10 support networks are encouraged to maximize the use of evidence-based
11 practices and alternative resources with the goal of substantially
12 reducing and potentially eliminating the use of institutions for mental
13 diseases.

14 NEW SECTION. Sec. 103. A new section is added to chapter 71.24
15 RCW to read as follows:

16 (1) Except for monetary damage claims which have been reduced to
17 final judgment by a superior court, this section applies to all claims
18 against the state, state agencies, state officials, or state employees
19 that exist on or arise after the effective date of this section.

20 (2) Except as expressly provided in contracts entered into between
21 the department and the regional support networks after the effective
22 date of this section, the entities identified in subsection (3) of this
23 section shall have no claim for declaratory relief, injunctive relief,
24 judicial review under chapter 34.05 RCW, or civil liability against the
25 state or state agencies for actions or inactions performed pursuant to
26 the administration of this chapter with regard to the following: (a)
27 The allocation or payment of federal or state funds; (b) the use or
28 allocation of state hospital beds; or (c) financial responsibility for
29 the provision of inpatient mental health care.

30 (3) This section applies to counties, regional support networks,
31 and entities which contract to provide regional support network
32 services and their subcontractors, agents, or employees.

33 **Sec. 104.** RCW 71.24.025 and 2005 c 504 s 105 and 2005 c 503 s 2
34 are each reenacted and amended to read as follows:

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

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

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

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

8 (c) Presenting a likelihood of serious harm as defined in RCW
9 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

10 (2) "Available resources" means funds appropriated for the purpose
11 of providing community mental health programs, federal funds, except
12 those provided according to Title XIX of the Social Security Act, and
13 state funds appropriated under this chapter or chapter 71.05 RCW by the
14 legislature during any biennium for the purpose of providing
15 residential services, resource management services, community support
16 services, and other mental health services. This does not include
17 funds appropriated for the purpose of operating and administering the
18 state psychiatric hospitals(~~(, except as negotiated according to RCW~~
19 ~~71.24.300(1)(d))~~)).

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

21 (4) "Chronically mentally ill adult" means an adult who has a
22 mental disorder and meets at least one of the following criteria:

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

25 (b) Has experienced a continuous psychiatric hospitalization or
26 residential treatment exceeding six months' duration within the
27 preceding year; or

28 (c) Has been unable to engage in any substantial gainful activity
29 by reason of any mental disorder which has lasted for a continuous
30 period of not less than twelve months. "Substantial gainful activity"
31 shall be defined by the department by rule consistent with Public Law
32 92-603, as amended.

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

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

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

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

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

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

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

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

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

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

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

18 (16) "Mental health services" means all services provided by
19 regional support networks and other services provided by the state for
20 the mentally ill.

21 ((+16+)) (17) "Mentally ill persons" and "the mentally ill" mean
22 persons and conditions defined in subsections (1), (4), ((+25+)) (26),
23 and ((+26+)) (27) of this section.

24 ((+17+)) (18) "Recovery" means the process in which people are able
25 to live, work, learn, and participate fully in their communities.

26 ((+18+)) (19) "Regional support network" means a county authority
27 or group of county authorities or other nonprofit entity recognized by
28 the secretary in contract in a defined region.

29 ((+19+)) (20) "Registration records" include all the records of the
30 department, regional support networks, treatment facilities, and other
31 persons providing services to the department, county departments, or
32 facilities which identify persons who are receiving or who at any time
33 have received services for mental illness.

34 ((+20+)) (21) "Residential services" means a complete range of
35 residences and supports authorized by resource management services and
36 which may involve a facility, a distinct part thereof, or services
37 which support community living, for acutely mentally ill persons,
38 chronically mentally ill adults, severely emotionally disturbed

1 children, or seriously disturbed adults determined by the regional
2 support network to be at risk of becoming acutely or chronically
3 mentally ill. The services shall include at least evaluation and
4 treatment services as defined in chapter 71.05 RCW, acute crisis
5 respite care, long-term adaptive and rehabilitative care, and
6 supervised and supported living services, and shall also include any
7 residential services developed to service mentally ill persons in
8 nursing homes, boarding homes, and adult family homes, and may include
9 outpatient services provided as an element in a package of services in
10 a supported housing model. Residential services for children in out-
11 of-home placements related to their mental disorder shall not include
12 the costs of food and shelter, except for children's long-term
13 residential facilities existing prior to January 1, 1991.

14 ~~((+21+))~~ (22) "Research-based" means a program or practice that has
15 some research demonstrating effectiveness, but that does not yet meet
16 the standard of evidence-based practices.

17 ~~((+22+))~~ (23) "Resilience" means the personal and community
18 qualities that enable individuals to rebound from adversity, trauma,
19 tragedy, threats, or other stresses, and to live productive lives.

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

35 ~~((+24+))~~ (25) "Secretary" means the secretary of social and health
36 services.

37 ~~((+25+))~~ (26) "Seriously disturbed person" means a person who:

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

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

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

10 (d) Exhibits suicidal preoccupation or attempts; or

11 (e) Is a child diagnosed by a mental health professional, as
12 defined in chapter 71.34 RCW, as experiencing a mental disorder which
13 is clearly interfering with the child's functioning in family or school
14 or with peers or is clearly interfering with the child's personality
15 development and learning.

16 ((+26+)) (27) "Severely emotionally disturbed child" means a child
17 who has been determined by the regional support network to be
18 experiencing a mental disorder as defined in chapter 71.34 RCW,
19 including those mental disorders that result in a behavioral or conduct
20 disorder, that is clearly interfering with the child's functioning in
21 family or school or with peers and who meets at least one of the
22 following criteria:

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

25 (b) Has undergone involuntary treatment under chapter 71.34 RCW
26 within the last two years;

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

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

31 (i) Chronic family dysfunction involving a mentally ill or
32 inadequate caretaker;

33 (ii) Changes in custodial adult;

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

38 (iv) Subject to repeated physical abuse or neglect;

1 (v) Drug or alcohol abuse; or

2 (vi) Homelessness.

3 ~~((+27))~~ (28) "State minimum standards" means minimum requirements
4 established by rules adopted by the secretary and necessary to
5 implement this chapter for: (a) Delivery of mental health services;
6 (b) licensed service providers for the provision of mental health
7 services; (c) residential services; and (d) community support services
8 and resource management services.

9 ~~((+28))~~ (29) "Treatment records" include registration and all
10 other records concerning persons who are receiving or who at any time
11 have received services for mental illness, which are maintained by the
12 department, by regional support networks and their staffs, and by
13 treatment facilities. Treatment records do not include notes or
14 records maintained for personal use by a person providing treatment
15 services for the department, regional support networks, or a treatment
16 facility if the notes or records are not available to others.

17 ~~((+29))~~ (30) "Tribal authority," for the purposes of this section
18 and RCW 71.24.300 only, means: The federally recognized Indian tribes
19 and the major Indian organizations recognized by the secretary insofar
20 as these organizations do not have a financial relationship with any
21 regional support network that would present a conflict of interest.

22 **Sec. 105.** RCW 71.24.045 and 2005 c 503 s 8 are each amended to
23 read as follows:

24 The regional support network shall:

25 (1) Contract as needed with licensed service providers. The
26 regional support network may, in the absence of a licensed service
27 provider entity, become a licensed service provider entity pursuant to
28 minimum standards required for licensing by the department for the
29 purpose of providing services not available from licensed service
30 providers;

31 (2) Operate as a licensed service provider if it deems that doing
32 so is more efficient and cost effective than contracting for services.
33 When doing so, the regional support network shall comply with rules
34 promulgated by the secretary that shall provide measurements to
35 determine when a regional support network provided service is more
36 efficient and cost effective;

1 (3) Monitor and perform biennial fiscal audits of licensed service
2 providers who have contracted with the regional support network to
3 provide services required by this chapter. The monitoring and audits
4 shall be performed by means of a formal process which insures that the
5 licensed service providers and professionals designated in this
6 subsection meet the terms of their contracts;

7 (4) Assure that the special needs of minorities, the elderly,
8 disabled, children, and low-income persons are met within the
9 priorities established in this chapter;

10 (5) Maintain patient tracking information in a central location as
11 required for resource management services and the department's
12 information system;

13 ~~(6) ((Use not more than two percent of state appropriated community
14 mental health funds, which shall not include federal funds, to
15 administer community mental health programs under RCW 71.24.155:
16 PROVIDED, That county authorities serving a county or combination of
17 counties whose population is one hundred twenty five thousand or more
18 may be entitled to sufficient state appropriated community mental
19 health funds to employ up to one full time employee or the equivalent
20 thereof in addition to the two percent limit established in this
21 subsection when such employee is providing staff services to a county
22 mental health advisory board;~~

23 ~~(7))~~ Collaborate to ensure that policies do not result in an
24 adverse shift of mentally ill persons into state and local correctional
25 facilities;

26 ~~((8))~~ (7) Work with the department to expedite the enrollment or
27 re-enrollment of eligible persons leaving state or local correctional
28 facilities and institutions for mental diseases;

29 ~~((9))~~ (8) If a regional support network is not operated by the
30 county, work closely with the county designated mental health
31 professional or county designated crisis responder to maximize
32 appropriate placement of persons into community services; and

33 ~~((10))~~ (9) Coordinate services for individuals who have received
34 services through the community mental health system and who become
35 patients at a state mental hospital to ensure they are transitioned
36 into the community in accordance with mutually agreed upon discharge
37 plans and upon determination by the medical director of the state
38 mental hospital that they no longer need intensive inpatient care.

1 **Sec. 106.** RCW 71.24.300 and 2005 c 503 s 11 are each amended to
2 read as follows:

3 (1) Upon the request of a tribal authority or authorities within a
4 regional support network the joint operating agreement or the county
5 authority shall allow for the inclusion of the tribal authority to be
6 represented as a party to the regional support network.

7 (2) The roles and responsibilities of the county and tribal
8 authorities shall be determined by the terms of that agreement
9 including a determination of membership on the governing board and
10 advisory committees, the number of tribal representatives to be party
11 to the agreement, and the provisions of law and shall assure the
12 provision of culturally competent services to the tribes served.

13 (3) The state mental health authority may not determine the roles
14 and responsibilities of county authorities as to each other under
15 regional support networks by rule, except to assure that all duties
16 required of regional support networks are assigned and that counties
17 and the regional support network do not duplicate functions and that a
18 single authority has final responsibility for all available resources
19 and performance under the regional support network's contract with the
20 secretary.

21 (4) If a regional support network is a private nonprofit entity,
22 the department shall allow for the inclusion of the tribal authority to
23 be represented as a party to the regional support network.

24 (5) The roles and responsibilities of the private nonprofit entity
25 and the tribal authorities shall be determined by the department,
26 through negotiation with the tribal authority.

27 ~~((+1))~~ (6) Regional support networks shall submit an overall six-
28 year operating and capital plan, timeline, and budget and submit
29 progress reports and an updated two-year plan biennially thereafter, to
30 assume within available resources all of the following duties:

31 (a) Administer and provide for the availability of all resource
32 management services, residential services, and community support
33 services.

34 (b) Administer and provide for the availability of all
35 investigation, transportation, court-related, and other services
36 provided by the state or counties pursuant to chapter 71.05 RCW.

37 (c) Provide within the boundaries of each regional support network
38 evaluation and treatment services for at least ~~((eighty-five))~~ ninety

1 percent of persons detained or committed for periods up to seventeen
2 days according to chapter 71.05 RCW. Regional support networks (~~with~~
3 ~~populations of less than one hundred fifty thousand~~) may contract to
4 purchase evaluation and treatment services from other networks if they
5 are unable to provide for appropriate resources within their
6 boundaries. Insofar as the original intent of serving persons in the
7 community is maintained, the secretary is authorized to approve
8 exceptions on a case-by-case basis to the requirement to provide
9 evaluation and treatment services within the boundaries of each
10 regional support network. Such exceptions are limited to:

11 (i) Contracts with neighboring or contiguous regions; or
12 (ii) Individuals detained or committed for periods up to seventeen
13 days at the state hospitals at the discretion of the secretary.

14 ~~(d) ((Administer a portion of funds appropriated by the legislature~~
15 ~~to house mentally ill persons in state institutions from counties~~
16 ~~within the boundaries of any regional support network, with the~~
17 ~~exception of persons currently confined at, or under the supervision~~
18 ~~of, a state mental hospital pursuant to chapter 10.77 RCW, and provide~~
19 ~~for the care of all persons needing evaluation and treatment services~~
20 ~~for periods up to seventeen days according to chapter 71.05 RCW in~~
21 ~~appropriate residential services, which may include state institutions.~~
22 ~~The regional support networks shall reimburse the state for use of~~
23 ~~state institutions at a rate equal to that assumed by the legislature~~
24 ~~when appropriating funds for such care at state institutions during the~~
25 ~~biennium when reimbursement occurs. The secretary shall submit a~~
26 ~~report to the appropriate committees of the senate and house of~~
27 ~~representatives on the efforts to implement this section by October 1,~~
28 ~~2002. The duty of a state hospital to accept persons for evaluation~~
29 ~~and treatment under chapter 71.05 RCW is limited by the~~
30 ~~responsibilities assigned to regional support networks under this~~
31 ~~section.~~

32 ~~(e)) Administer and provide for the availability of all other~~
33 ~~mental health services, which shall include patient counseling, day~~
34 ~~treatment, consultation, education services, employment services as~~
35 ~~defined in RCW 71.24.035, and mental health services to children.~~

36 ~~((f))~~ (e) Establish standards and procedures for reviewing
37 individual service plans and determining when that person may be
38 discharged from resource management services.

1 ~~((2))~~ (7) A regional support network may request that any state-
2 owned land, building, facility, or other capital asset which was ever
3 purchased, deeded, given, or placed in trust for the care of the
4 mentally ill and which is within the boundaries of a regional support
5 network be made available to support the operations of the regional
6 support network. State agencies managing such capital assets shall
7 give first priority to requests for their use pursuant to this chapter.

8 ~~((3))~~ (8) Each regional support network shall appoint a mental
9 health advisory board which shall review and provide comments on plans
10 and policies developed under this chapter, provide local oversight
11 regarding the activities of the regional support network, and work with
12 the regional support network to resolve significant concerns regarding
13 service delivery and outcomes. The department shall establish
14 statewide procedures for the operation of regional advisory committees
15 including mechanisms for advisory board feedback to the department
16 regarding regional support network performance. The composition of the
17 board shall be broadly representative of the demographic character of
18 the region and shall include, but not be limited to, representatives of
19 consumers and families, law enforcement, and where the county is not
20 the regional support network, county elected officials. Composition
21 and length of terms of board members may differ between regional
22 support networks but shall be included in each regional support
23 network's contract and approved by the secretary.

24 ~~((4))~~ (9) Regional support networks shall assume all duties
25 specified in their plans and joint operating agreements through
26 biennial contractual agreements with the secretary.

27 ~~((5))~~ (10) Regional support networks may receive technical
28 assistance from the housing trust fund and may identify and submit
29 projects for housing and housing support services to the housing trust
30 fund established under chapter 43.185 RCW. Projects identified or
31 submitted under this subsection must be fully integrated with the
32 regional support network six-year operating and capital plan, timeline,
33 and budget required by subsection ~~((1))~~ (6) of this section.

34 **Sec. 107.** RCW 71.24.310 and 1989 c 205 s 6 are each amended to
35 read as follows:

36 The legislature finds that administration of chapter 71.05 RCW and
37 this chapter can be most efficiently and effectively implemented as

1 part of the regional support network defined in RCW 71.24.025. For
2 this reason, the legislature intends that ~~((any enhanced program
3 funding for implementation of))~~ the department and the regional support
4 networks shall work together to implement chapter 71.05 RCW ~~((or this
5 chapter, except for funds allocated for implementation of mandatory
6 statewide programs as required by federal statute, be made available
7 primarily to those counties participating in regional support
8 networks))~~ as follows:

9 (1) By June 1, 2006, regional support networks shall recommend to
10 the department the number of state hospital beds that should be
11 allocated for use by each regional support network. The statewide
12 total allocation shall not exceed the number of state hospital beds
13 offering long-term inpatient care, as defined in this chapter, for
14 which funding is provided in the biennial appropriations act.

15 (2) If there is consensus among the regional support networks
16 regarding the number of state hospital beds that should be allocated
17 for use by each regional support network, the department shall contract
18 with each regional support network accordingly.

19 (3) If there is not consensus among the regional support networks
20 regarding the number of beds that should be allocated for use by each
21 regional support network, the department shall establish by emergency
22 rule the number of state hospital beds that are available for use by
23 each regional support network. The emergency rule shall be effective
24 September 1, 2006. The primary factor used in the allocation shall be
25 the estimated number of acutely and chronically mentally ill adults in
26 each regional support network area, based upon population-adjusted
27 incidence and utilization.

28 (4) The allocation formula shall be updated at least every three
29 years to reflect demographic changes, and new evidence regarding the
30 incidence of acute and chronic mental illness and the need for long-
31 term inpatient care. In the updates, the statewide total allocation
32 shall include (a) all state hospital beds offering long-term inpatient
33 care for which funding is provided in the biennial appropriations act;
34 plus (b) the estimated equivalent number of beds or comparable
35 diversion services contracted in accordance with subsection (5) of this
36 section.

37 (5) The department is encouraged to enter performance-based
38 contracts with regional support networks to provide some or all of the

1 regional support network's allocated long-term inpatient treatment
2 capacity in the community, rather than in the state hospital. The
3 performance contracts shall specify the number of patient days of care
4 available for use by the regional support network in the state
5 hospital.

6 (6) If a regional support network uses more state hospital patient
7 days of care than it has been allocated under subsection (3) or (4) of
8 this section, or than it has contracted to use under subsection (5) of
9 this section, whichever is less, it shall reimburse the department for
10 that care. The reimbursement rate per day shall be the hospital's
11 total annual budget for long-term inpatient care, divided by the total
12 patient days of care assumed in development of that budget.

13 (7) One-half of any reimbursements received pursuant to subsection
14 (6) of this section shall be used to support the cost of operating the
15 state hospital. The department shall distribute the remaining half of
16 such reimbursements among regional support networks that have used less
17 than their allocated or contracted patient days of care at that
18 hospital, proportional to the number of patient days of care not used.

19 **PART II**

20 **MENTAL HEALTH AUTHORITY**

21 **Sec. 201.** RCW 71.24.035 and 2005 c 504 s 715 and 2005 c 503 s 7
22 are each reenacted and amended to read as follows:

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

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

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

33 (4) The secretary shall be designated as the regional support
34 network if the regional support network fails to meet state minimum
35 standards or refuses to exercise responsibilities under RCW 71.24.045.

36 (5) The secretary shall:

1 (a) Develop a biennial state mental health program that
2 incorporates regional biennial needs assessments and regional mental
3 health service plans and state services for mentally ill adults and
4 children. The secretary shall also develop a six-year state mental
5 health plan;

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

12 (A) Outpatient services;

13 (B) Emergency care services for twenty-four hours per day;

14 (C) Day treatment for mentally ill persons which includes training
15 in basic living and social skills, supported work, vocational
16 rehabilitation, and day activities. Such services may include
17 therapeutic treatment. In the case of a child, day treatment includes
18 age-appropriate basic living and social skills, educational and
19 prevocational services, day activities, and therapeutic treatment;

20 (D) Screening for patients being considered for admission to state
21 mental health facilities to determine the appropriateness of admission;

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

29 (F) Consultation and education services; and

30 (G) Community support services;

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

34 (i) Licensed service providers. These rules shall permit a county-
35 operated mental health program to be licensed as a service provider
36 subject to compliance with applicable statutes and rules. The
37 secretary shall provide for deeming of compliance with state minimum

1 standards for those entities accredited by recognized behavioral health
2 accrediting bodies recognized and having a current agreement with the
3 department;

4 (ii) Regional support networks; and

5 (iii) Inpatient services, evaluation and treatment services and
6 facilities under chapter 71.05 RCW, resource management services, and
7 community support services;

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

11 (e) Establish a standard contract or contracts, consistent with
12 state minimum standards and RCW 71.24.320 (~~and~~), 71.24.330, and
13 71.24.3201, which shall be used in contracting with regional support
14 networks. The standard contract shall include a maximum fund balance,
15 which shall be consistent with that required by federal regulations or
16 waiver stipulations;

17 (f) Establish, to the extent possible, a standardized auditing
18 procedure which minimizes paperwork requirements of regional support
19 networks and licensed service providers. The audit procedure shall
20 focus on the outcomes of service and not the processes for
21 accomplishing them;

22 (g) Develop and maintain an information system to be used by the
23 state and regional support networks that includes a tracking method
24 which allows the department and regional support networks to identify
25 mental health clients' participation in any mental health service or
26 public program on an immediate basis. The information system shall not
27 include individual patient's case history files. Confidentiality of
28 client information and records shall be maintained as provided in this
29 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

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

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

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

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

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

6 (m) Adopt such rules as are necessary to implement the department's
7 responsibilities under this chapter; and

8 (n) Assure the availability of an appropriate amount, as determined
9 by the legislature in the operating budget by amounts appropriated for
10 this specific purpose, of community-based, geographically distributed
11 residential services.

12 (6) The secretary shall use available resources only for regional
13 support networks, except to the extent authorized, and in accordance
14 with any priorities or conditions specified, in the biennial
15 appropriations act.

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

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

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

35 (10) Upon petition by the secretary, and after hearing held upon
36 reasonable notice to the facility, the superior court may issue a
37 warrant to an officer or employee of the secretary authorizing him or

1 her to enter at reasonable times, and examine the records, books, and
2 accounts of any regional support network or service provider refusing
3 to consent to inspection or examination by the authority.

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

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

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

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

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

1 ~~the incentives provided under this subsection.))~~ The department shall
2 distribute appropriated state and federal funds in accordance with any
3 priorities, terms, or conditions specified in the appropriations act.

4 (14) The secretary shall assume all duties assigned to the
5 nonparticipating regional support networks under chapters 71.05, 71.34,
6 and 71.24 RCW. Such responsibilities shall include those which would
7 have been assigned to the nonparticipating counties in regions where
8 there are not participating regional support networks.

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

15 (15) The secretary shall:

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

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

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

28 (d) Deny all or part of the funding allocations to regional support
29 networks based solely upon formal findings of noncompliance with the
30 terms of the regional support network's contract with the department.
31 ~~((Written notice and at least thirty days for corrective action must~~
32 ~~precede any such action. In such cases, regional support networks~~
33 ~~shall have full rights to appeal under chapter 34.05 RCW.))~~ Regional
34 support networks disputing the decision of the secretary to withhold
35 funding allocations are limited to the remedies provided in the
36 department's contracts with the regional support networks.

37 (16) The department, in cooperation with the state congressional
38 delegation, shall actively seek waivers of federal requirements and

1 such modifications of federal regulations as are necessary to allow
2 federal medicaid reimbursement for services provided by free-standing
3 evaluation and treatment facilities certified under chapter 71.05 RCW.
4 The department shall periodically report its efforts to the appropriate
5 committees of the senate and the house of representatives.

6 **Sec. 202.** RCW 71.24.320 and 2005 c 503 s 4 are each amended to
7 read as follows:

8 (1) The secretary shall initiate a procurement process for regional
9 support networks in 2005. In the first step of the procurement
10 process, existing regional support networks may respond to a request
11 for qualifications developed by the department. The secretary shall
12 issue the request for qualifications not later than October 1, 2005.
13 The request for qualifications shall be based on cost-effectiveness,
14 adequate residential and service capabilities, effective collaboration
15 with criminal justice agencies and the chemical dependency treatment
16 system, and the ability to provide the full array of services as stated
17 in the mental health state plan, and shall meet all applicable federal
18 and state regulations and standards. An existing regional support
19 network shall be awarded the contract with the department if it
20 substantially meets the requirements of the request for qualifications
21 developed by the department.

22 (2)(a) If an existing regional support network chooses not to
23 respond to the request for qualifications, or is unable to
24 substantially meet the requirements of the request for qualifications,
25 the department shall utilize a procurement process in which other
26 entities recognized by the secretary may bid to serve as the regional
27 support network in that region. The procurement process shall begin
28 with a request for proposals issued March 1, 2006.

29 (i) The request for proposal shall include a scoring factor for
30 proposals that include additional financial resources beyond that
31 provided by state appropriation or allocation.

32 (ii) Regional support networks that substantially met the
33 requirements of the request for qualifications may bid to serve as the
34 regional support network for other regions of the state that are
35 subject to the request for proposal process. The proposal shall be
36 evaluated on whether the bid meets the threshold requirement for the

1 new region and shall not subject the regional support networks'
2 original region to the request for proposal.

3 (b) Prior to final evaluation and scoring of the proposals all
4 respondents will be provided with an opportunity for a detailed
5 briefing by the department regarding the deficiencies in the proposal
6 and shall be provided an opportunity to clarify information previously
7 submitted.

8 **Sec. 203.** RCW 71.24.330 and 2005 c 503 s 6 are each amended to
9 read as follows:

10 (1) Contracts between a regional support network and the department
11 shall include mechanisms for monitoring performance under the contract
12 and remedies for failure to substantially comply with the requirements
13 of the contract including, but not limited to, financial penalties,
14 termination of the contract, and reprocurement of the contract.

15 (2) The procurement process shall encourage the preservation of
16 infrastructure previously purchased by the community mental health
17 service delivery system, the maintenance of linkages between other
18 services and delivery systems, and maximization of the use of available
19 funds for services versus profits. The procurement process shall
20 provide that public funds appropriated by the legislature shall not be
21 used to promote or deter, encourage, or discourage employees from
22 exercising their rights under Title 29, chapter 7, subchapter II,
23 United States Code or chapter 41.56 RCW.

24 (3) In addition to the requirements of RCW 71.24.035, contracts
25 shall:

26 (a) Define administrative costs and ensure that the regional
27 support network does not exceed an administrative cost of ten percent
28 of available funds;

29 (b) Require effective collaboration with law enforcement, criminal
30 justice agencies, and the chemical dependency treatment system;

31 (c) Require substantial implementation of department adopted
32 integrated screening and assessment process and matrix of best
33 practices; (~~and~~)

34 (d) Maintain the decision-making independence of designated mental
35 health professionals;

36 (e) Except at the discretion of the secretary or as specified in
37 the biennial budget, require regional support networks to pay the state

1 for the costs associated with individuals who are being served on the
2 grounds of the state hospitals and who are not receiving long-term
3 inpatient care as defined in RCW 71.24.025; and

4 (f) Include a negotiated alternative dispute resolution clause.

5 **Sec. 204.** RCW 72.23.025 and 1998 c 245 s 141 are each amended to
6 read as follows:

7 (1) It is the intent of the legislature to improve the quality of
8 service at state hospitals, eliminate overcrowding, and more
9 specifically define the role of the state hospitals. The legislature
10 intends that eastern and western state hospitals shall become clinical
11 centers for handling the most complicated long-term care needs of
12 patients with a primary diagnosis of mental disorder. (~~Over the next~~
13 ~~six years, their involvement in providing short term, acute care, and~~
14 ~~less complicated long term care shall be diminished in accordance with~~
15 ~~the revised responsibilities for mental health care under chapter 71.24~~
16 ~~RCW-)) To this end, the legislature intends that funds appropriated
17 for mental health programs, including funds for regional support
18 networks and the state hospitals be used for persons with primary
19 diagnosis of mental disorder. The legislature finds that establishment
20 of the eastern state hospital board, the western state hospital board,
21 and institutes for the study and treatment of mental disorders at both
22 eastern state hospital and western state hospital will be instrumental
23 in implementing the legislative intent.~~

24 (2)(a) The eastern state hospital board and the western state
25 hospital board are each established. Members of the boards shall be
26 appointed by the governor with the consent of the senate. Each board
27 shall include:

28 (i) The director of the institute for the study and treatment of
29 mental disorders established at the hospital;

30 (ii) One family member of a current or recent hospital resident;

31 (iii) One consumer of services;

32 (iv) One community mental health service provider;

33 (v) Two citizens with no financial or professional interest in
34 mental health services;

35 (vi) One representative of the regional support network in which
36 the hospital is located;

37 (vii) One representative from the staff who is a physician;

- 1 (viii) One representative from the nursing staff;
2 (ix) One representative from the other professional staff;
3 (x) One representative from the nonprofessional staff; and
4 (xi) One representative of a minority community.

5 (b) At least one representative listed in (a)(viii), (ix), or (x)
6 of this subsection shall be a union member.

7 (c) Members shall serve four-year terms. Members of the board
8 shall be reimbursed for travel expenses as provided in RCW 43.03.050
9 and 43.03.060 and shall receive compensation as provided in RCW
10 43.03.240.

11 (3) The boards established under this section shall:

12 (a) Monitor the operation and activities of the hospital;

13 (b) Review and advise on the hospital budget;

14 (c) Make recommendations to the governor and the legislature for
15 improving the quality of service provided by the hospital;

16 (d) Monitor and review the activities of the hospital in
17 implementing the intent of the legislature set forth in this section;
18 and

19 (e) Consult with the secretary regarding persons the secretary may
20 select as the superintendent of the hospital whenever a vacancy occurs.

21 (4)(a) There is established at eastern state hospital and western
22 state hospital, institutes for the study and treatment of mental
23 disorders. The institutes shall be operated by joint operating
24 agreements between state colleges and universities and the department
25 of social and health services. The institutes are intended to conduct
26 training, research, and clinical program development activities that
27 will directly benefit mentally ill persons receiving treatment in
28 Washington state by performing the following activities:

29 (i) Promote recruitment and retention of highly qualified
30 professionals at the state hospitals and community mental health
31 programs;

32 (ii) Improve clinical care by exploring new, innovative, and
33 scientifically based treatment models for persons presenting
34 particularly difficult and complicated clinical syndromes;

35 (iii) Provide expanded training opportunities for existing staff at
36 the state hospitals and community mental health programs;

37 (iv) Promote bilateral understanding of treatment orientation,

1 possibilities, and challenges between state hospital professionals and
2 community mental health professionals.

3 (b) To accomplish these purposes the institutes may, within funds
4 appropriated for this purpose:

5 (i) Enter joint operating agreements with state universities or
6 other institutions of higher education to accomplish the placement and
7 training of students and faculty in psychiatry, psychology, social
8 work, occupational therapy, nursing, and other relevant professions at
9 the state hospitals and community mental health programs;

10 (ii) Design and implement clinical research projects to improve the
11 quality and effectiveness of state hospital services and operations;

12 (iii) Enter into agreements with community mental health service
13 providers to accomplish the exchange of professional staff between the
14 state hospitals and community mental health service providers;

15 (iv) Establish a student loan forgiveness and conditional
16 scholarship program to retain qualified professionals at the state
17 hospitals and community mental health providers when the secretary has
18 determined a shortage of such professionals exists.

19 (c) Notwithstanding any other provisions of law to the contrary,
20 the institutes may enter into agreements with the department or the
21 state hospitals which may involve changes in staffing necessary to
22 implement improved patient care programs contemplated by this section.

23 (d) The institutes are authorized to seek and accept public or
24 private gifts, grants, contracts, or donations to accomplish their
25 purposes under this section.

26 PART III

27 INVOLUNTARY TREATMENT

28 NEW SECTION. **Sec. 301.** A new section is added to chapter 71.05
29 RCW to read as follows:

30 (1) Except for monetary damage claims which have been reduced to
31 final judgment by a superior court, this section applies to all claims
32 against the state, state agencies, state officials, or state employees
33 that exist on or arise after the effective date of this section.

34 (2) Except as expressly provided in contracts entered into between
35 the department and the regional support networks after the effective
36 date of this section, the entities identified in subsection (3) of this

1 section shall have no claim for declaratory relief, injunctive relief,
2 judicial review under chapter 34.05 RCW, or civil liability against the
3 state or state agencies for actions or inactions performed pursuant to
4 the administration of this chapter with regard to the following: (a)
5 The allocation or payment of federal or state funds; (b) the use or
6 allocation of state hospital beds; or (c) financial responsibility for
7 the provision of inpatient mental health care.

8 (3) This section applies to counties, regional support networks,
9 and entities which contract to provide regional support network
10 services and their subcontractors, agents, or employees.

11 **Sec. 302.** RCW 71.05.230 and 1998 c 297 s 13 are each amended to
12 read as follows:

13 A person detained for seventy-two hour evaluation and treatment may
14 be detained for not more than fourteen additional days of involuntary
15 intensive treatment or ninety additional days of a less restrictive
16 alternative to involuntary intensive treatment. There shall be no fee
17 for filing petitions for fourteen days of involuntary intensive
18 treatment. A petition may only be filed if the following conditions
19 are met:

20 (1) The professional staff of the agency or facility providing
21 evaluation services has analyzed the person's condition and finds that
22 the condition is caused by mental disorder and either results in a
23 likelihood of serious harm, or results in the detained person being
24 gravely disabled and are prepared to testify those conditions are met;
25 and

26 (2) The person has been advised of the need for voluntary treatment
27 and the professional staff of the facility has evidence that he or she
28 has not in good faith volunteered; and

29 (3) The facility providing intensive treatment is certified to
30 provide such treatment by the department; and

31 (4) The professional staff of the agency or facility or the
32 ((county)) designated mental health professional has filed a petition
33 for fourteen day involuntary detention or a ninety day less restrictive
34 alternative with the court. The petition must be signed either by two
35 physicians or by one physician and a mental health professional who
36 have examined the person. If involuntary detention is sought the
37 petition shall state facts that support the finding that such person,

1 as a result of mental disorder, presents a likelihood of serious harm,
2 or is gravely disabled and that there are no less restrictive
3 alternatives to detention in the best interest of such person or
4 others. The petition shall state specifically that less restrictive
5 alternative treatment was considered and specify why treatment less
6 restrictive than detention is not appropriate. If an involuntary less
7 restrictive alternative is sought, the petition shall state facts that
8 support the finding that such person, as a result of mental disorder,
9 presents a likelihood of serious harm, or is gravely disabled and shall
10 set forth the less restrictive alternative proposed by the facility;
11 and

12 (5) A copy of the petition has been served on the detained person,
13 his or her attorney and his or her guardian or conservator, if any,
14 prior to the probable cause hearing; and

15 (6) The court at the time the petition was filed and before the
16 probable cause hearing has appointed counsel to represent such person
17 if no other counsel has appeared; and

18 (7) The court has ordered a fourteen day involuntary intensive
19 treatment or a ninety day less restrictive alternative treatment after
20 a probable cause hearing has been held pursuant to RCW 71.05.240; and

21 (8) At the conclusion of the initial commitment period, the
22 professional staff of the agency or facility or the ((county))
23 designated mental health professional may petition for an additional
24 period of either ninety days of less restrictive alternative treatment
25 or ninety days of involuntary intensive treatment as provided in RCW
26 71.05.290; and

27 (9) If the hospital or facility designated to provide outpatient
28 treatment is other than the facility providing involuntary treatment,
29 the outpatient facility so designated has agreed to assume such
30 responsibility.

31 **Sec. 303.** RCW 71.05.300 and 1998 c 297 s 17 are each amended to
32 read as follows:

33 (1) The petition for ninety day treatment shall be filed with the
34 clerk of the superior court at least three days before expiration of
35 the fourteen-day period of intensive treatment. At the time of filing
36 such petition, the clerk shall set a time for the person to come before
37 the court on the next judicial day after the day of filing unless such

1 appearance is waived by the person's attorney, and the clerk shall
2 notify the ((county)) designated mental health professional. The
3 ((county)) designated mental health professional shall immediately
4 notify the person detained, his or her attorney, if any, and his or her
5 guardian or conservator, if any, ((and)) the prosecuting attorney, and
6 the regional support network administrator, and provide a copy of the
7 petition to such persons as soon as possible. The regional support
8 network administrator or designee may review the petition and may
9 appear and testify at the full hearing on the petition.

10 (2) At the time set for appearance the detained person shall be
11 brought before the court, unless such appearance has been waived and
12 the court shall advise him or her of his or her right to be represented
13 by an attorney and of his or her right to a jury trial. If the
14 detained person is not represented by an attorney, or is indigent or is
15 unwilling to retain an attorney, the court shall immediately appoint an
16 attorney to represent him or her. The court shall, if requested,
17 appoint a reasonably available licensed physician, psychologist, or
18 psychiatrist, designated by the detained person to examine and testify
19 on behalf of the detained person.

20 (3) The court may, if requested, also appoint a professional person
21 as defined in RCW 71.05.020 to seek less restrictive alternative
22 courses of treatment and to testify on behalf of the detained person.
23 In the case of a developmentally disabled person who has been
24 determined to be incompetent pursuant to RCW 10.77.090(4), then the
25 appointed professional person under this section shall be a
26 developmental disabilities professional.

27 (4) The court shall also set a date for a full hearing on the
28 petition as provided in RCW 71.05.310.

29 **Sec. 304.** RCW 71.05.320 and 1999 c 13 s 7 are each amended to read
30 as follows:

31 (1) If the court or jury finds that grounds set forth in RCW
32 71.05.280 have been proven and that the best interests of the person or
33 others will not be served by a less restrictive treatment which is an
34 alternative to detention, the court shall remand him or her to the
35 custody of the department or to a facility certified for ninety day
36 treatment by the department for a further period of intensive treatment
37 not to exceed ninety days from the date of judgment: PROVIDED, That

1 (a) If the grounds set forth in RCW 71.05.280(3) are the basis of
2 commitment, then the period of treatment may be up to but not exceed
3 one hundred eighty days from the date of judgment in a facility
4 certified for one hundred eighty day treatment by the department.

5 (b) If the committed person is developmentally disabled and has
6 been determined incompetent pursuant to RCW 10.77.090(4), and the best
7 interests of the person or others will not be served by a less-
8 restrictive treatment which is an alternative to detention, the court
9 shall remand him or her to the custody of the department or to a
10 facility certified for one hundred eighty-day treatment by the
11 department. When appropriate and subject to available funds, treatment
12 and training of such persons must be provided in a program specifically
13 reserved for the treatment and training of developmentally disabled
14 persons. A person so committed shall receive habilitation services
15 pursuant to an individualized service plan specifically developed to
16 treat the behavior which was the subject of the criminal proceedings.
17 The treatment program shall be administered by developmental
18 disabilities professionals and others trained specifically in the needs
19 of developmentally disabled persons. The department may limit
20 admissions to this specialized program in order to ensure that
21 expenditures for services do not exceed amounts appropriated by the
22 legislature and allocated by the department for such services. The
23 department may establish admission priorities in the event that the
24 number of eligible persons exceeds the limits set by the department.
25 An order for treatment less restrictive than involuntary detention may
26 include conditions, and if such conditions are not adhered to, the
27 designated mental health professional or developmental disabilities
28 professional may order the person apprehended under the terms and
29 conditions of RCW 71.05.340.

30 (2) If the court or jury finds that grounds set forth in RCW
31 71.05.280 have been proven, but finds that treatment less restrictive
32 than detention will be in the best interest of the person or others,
33 then the court shall remand him or her to the custody of the department
34 or to a facility certified for ninety day treatment by the department
35 or to a less restrictive alternative for a further period of less
36 restrictive treatment not to exceed ninety days from the date of
37 judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3)

1 are the basis of commitment, then the period of treatment may be up to
2 but not exceed one hundred eighty days from the date of judgment.

3 ~~((+2))~~ (3) The person shall be released from involuntary treatment
4 at the expiration of the period of commitment imposed under subsection
5 (1) or (2) of this section unless the superintendent or professional
6 person in charge of the facility in which he or she is confined, or in
7 the event of a less restrictive alternative, the designated mental
8 health professional or developmental disabilities professional, files
9 a new petition for involuntary treatment on the grounds that the
10 committed person;

11 (a) During the current period of court ordered treatment: (i) Has
12 threatened, attempted, or inflicted physical harm upon the person of
13 another, or substantial damage upon the property of another, and (ii)
14 as a result of mental disorder or developmental disability presents a
15 likelihood of serious harm; or

16 (b) Was taken into custody as a result of conduct in which he or
17 she attempted or inflicted serious physical harm upon the person of
18 another, and continues to present, as a result of mental disorder or
19 developmental disability a likelihood of serious harm; or

20 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of
21 mental disorder or developmental disability presents a substantial
22 likelihood of repeating similar acts considering the charged criminal
23 behavior, life history, progress in treatment, and the public safety;
24 or

25 (d) Continues to be gravely disabled.

26 If the conduct required to be proven in (b) and (c) of this
27 subsection was found by a judge or jury in a prior trial under this
28 chapter, it shall not be necessary to reprove that element. Such new
29 petition for involuntary treatment shall be filed and heard in the
30 superior court of the county of the facility which is filing the new
31 petition for involuntary treatment unless good cause is shown for a
32 change of venue. The cost of the proceedings shall be borne by the
33 state.

34 The hearing shall be held as provided in RCW 71.05.310, and if the
35 court or jury finds that the grounds for additional confinement as set
36 forth in this subsection are present, the court may order the committed
37 person returned for an additional period of treatment not to exceed one
38 hundred eighty days from the date of judgment. At the end of the one

1 hundred eighty day period of commitment, the committed person shall be
2 released unless a petition for another one hundred eighty day period of
3 continued treatment is filed and heard in the same manner as provided
4 in this subsection. Successive one hundred eighty day commitments are
5 permissible on the same grounds and pursuant to the same procedures as
6 the original one hundred eighty day commitment.

7 ~~((3))~~ (4) No person committed as provided in this section may be
8 detained unless a valid order of commitment is in effect. No order of
9 commitment can exceed one hundred eighty days in length.

10
11

PART IV
MISCELLANEOUS PROVISIONS

12 NEW SECTION. **Sec. 401.** RCW 71.05.550 (Recognition of county
13 financial necessities) and 2005 c 504 s 218 & 1973 1st ex.s. c 142 s 60
14 are each repealed.

15 NEW SECTION. **Sec. 402.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 403.** Part headings used in this act are not
20 part of the law.

21 NEW SECTION. **Sec. 404.** This act takes effect July 1, 2006, except
22 that sections 101 through 103, 107, 202, and 301 of this act are
23 necessary for the immediate preservation of the public peace, health,
24 or safety, or support of the state government and its existing public
25 institutions, and take effect immediately.

Passed by the Senate March 8, 2006.
Passed by the House March 8, 2006.
Approved by the Governor March 29, 2006.
Filed in Office of Secretary of State March 29, 2006.