

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1477**

65th Legislature  
2017 Regular Session

Passed by the House April 20, 2017  
Yeas 74 Nays 22

---

**Speaker of the House of Representatives**

Passed by the Senate April 19, 2017  
Yeas 48 Nays 1

---

**President of the Senate**

Approved

---

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1477** as passed by House of Representatives and the Senate on the dates hereon set forth.

---

**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

---

**SUBSTITUTE HOUSE BILL 1477**

---

AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

**State of Washington                      65th Legislature                      2017 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Kilduff, Muri, Lytton, Stambaugh, Orwall, McDonald, Robinson, Lovick, Goodman, Sells, Appleton, and Fey)

READ FIRST TIME 02/17/17.

1            AN ACT Relating to disclosure of health-related information with  
2 persons with a close relationship with a patient; amending RCW  
3 70.02.050, 70.02.200, 70.02.220, and 70.02.230; reenacting and  
4 amending RCW 70.02.230; adding a new section to chapter 70.02 RCW;  
5 providing an effective date; and providing an expiration date.

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

7            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 70.02  
8 RCW to read as follows:

9            (1)(a) A health care provider or health care facility may use or  
10 disclose the health care information of a patient without obtaining  
11 an authorization from the patient or the patient's personal  
12 representative if the conditions in (b) of this subsection are met  
13 and:

14            (i) The disclosure is to a family member, including a patient's  
15 state registered domestic partner, other relative, a close personal  
16 friend, or other person identified by the patient, and the health  
17 care information is directly relevant to the person's involvement  
18 with the patient's health care or payment related to the patient's  
19 health care; or

20            (ii) The use or disclosure is for the purpose of notifying, or  
21 assisting in the notification of, including identifying or locating,

1 a family member, a personal representative of the patient, or another  
2 person responsible for the care of the patient of the patient's  
3 location, general condition, or death.

4 (b) A health care provider or health care facility may make the  
5 uses and disclosures described in (a) of this subsection if:

6 (i) The patient is not present or obtaining the patient's  
7 authorization or providing the opportunity to agree or object to the  
8 use or disclosure is not practicable due to the patient's incapacity  
9 or an emergency circumstance, the health care provider or health care  
10 facility may in the exercise of professional judgment, determine  
11 whether the use or disclosure is in the best interests of the patient  
12 and, if so, disclose only the health care information that is  
13 directly relevant to the person's involvement with the patient's  
14 health care or payment related to the patient's health care; or

15 (ii) The patient is present for, or otherwise available prior to,  
16 the use or disclosure and has the capacity to make health care  
17 decisions, the health care provider or health care facility may use  
18 or disclose the information if it:

19 (A) Obtains the patient's agreement;

20 (B) Provides the patient with the opportunity to object to the  
21 use or disclosure, and the patient does not express an objection; or

22 (C) Reasonably infers from the circumstances, based on the  
23 exercise of professional judgment, that the patient does not object  
24 to the use or disclosure.

25 (2) With respect to information and records related to mental  
26 health services provided to a patient by a health care provider, the  
27 health care information disclosed under this section may include, to  
28 the extent consistent with the health care provider's professional  
29 judgment and standards of ethical conduct:

30 (a) The patient's diagnoses and the treatment recommendations;

31 (b) Issues concerning the safety of the patient, including risk  
32 factors for suicide, steps that can be taken to make the patient's  
33 home safer, and a safety plan to monitor and support the patient;

34 (c) Information about resources that are available in the  
35 community to help the patient, such as case management and support  
36 groups; and

37 (d) The process to ensure that the patient safely transitions to  
38 a higher or lower level of care, including an interim safety plan.

1 (3) Any use or disclosure of health care information under this  
2 section must be limited to the minimum necessary to accomplish the  
3 purpose of the use or disclosure.

4 (4) A health care provider or health care facility is not subject  
5 to any civil liability for making or not making a use or disclosure  
6 in accordance with this section.

7 **Sec. 2.** RCW 70.02.050 and 2014 c 220 s 6 are each amended to  
8 read as follows:

9 (1) A health care provider or health care facility may disclose  
10 health care information, except for information and records related  
11 to sexually transmitted diseases which are addressed in RCW  
12 70.02.220, about a patient without the patient's authorization to the  
13 extent a recipient needs to know the information, if the disclosure  
14 is:

15 (a) To a person who the provider or facility reasonably believes  
16 is providing health care to the patient;

17 (b) To any other person who requires health care information for  
18 health care education, or to provide planning, quality assurance,  
19 peer review, or administrative, legal, financial, actuarial services  
20 to, or other health care operations for or on behalf of the health  
21 care provider or health care facility; or for assisting the health  
22 care provider or health care facility in the delivery of health care  
23 and the health care provider or health care facility reasonably  
24 believes that the person:

25 (i) Will not use or disclose the health care information for any  
26 other purpose; and

27 (ii) Will take appropriate steps to protect the health care  
28 information;

29 (c) To any person if the health care provider or health care  
30 facility (~~reasonably~~) believes, in good faith, that use or  
31 disclosure (~~((will avoid or minimize an imminent danger))~~) is necessary  
32 to prevent or lessen a serious and imminent threat to the health or  
33 safety of (~~((the patient or any other individual, however))~~) a person  
34 or the public, and the information is disclosed only to a person or  
35 persons reasonably able to prevent or lessen the threat, including  
36 the target of the threat. There is no obligation under this chapter  
37 on the part of the provider or facility to so disclose(~~((The fact of~~  
38 ~~admission to a provider for mental health services and all~~  
39 ~~information and records compiled, obtained, or maintained in the~~

1 ~~course of providing mental health services to either voluntary or~~  
2 ~~involuntary recipients of services at public or private agencies is~~  
3 ~~not subject to disclosure unless disclosure is permitted in RCW~~  
4 ~~70.02.230)); or~~

5 (d) For payment, including information necessary for a recipient  
6 to make a claim, or for a claim to be made on behalf of a recipient  
7 for aid, insurance, or medical assistance to which he or she may be  
8 entitled.

9 (2) A health care provider shall disclose health care  
10 information, except for information and records related to sexually  
11 transmitted diseases, unless otherwise authorized in RCW 70.02.220,  
12 about a patient without the patient's authorization if the disclosure  
13 is:

14 (a) To federal, state, or local public health authorities, to the  
15 extent the health care provider is required by law to report health  
16 care information; when needed to determine compliance with state or  
17 federal licensure, certification or registration rules or laws, or to  
18 investigate unprofessional conduct or ability to practice with  
19 reasonable skill and safety under chapter 18.130 RCW. Any health care  
20 information obtained under this subsection is exempt from public  
21 inspection and copying pursuant to chapter 42.56 RCW; or

22 (b) When needed to protect the public health.

23 **Sec. 3.** RCW 70.02.200 and 2015 c 267 s 7 are each amended to  
24 read as follows:

25 (1) In addition to the disclosures authorized by RCW 70.02.050  
26 and 70.02.210, a health care provider or health care facility may  
27 disclose health care information, except for information and records  
28 related to sexually transmitted diseases and information related to  
29 mental health services which are addressed by RCW 70.02.220 through  
30 70.02.260, about a patient without the patient's authorization, to:

31 (a) Any other health care provider or health care facility  
32 reasonably believed to have previously provided health care to the  
33 patient, to the extent necessary to provide health care to the  
34 patient, unless the patient has instructed the health care provider  
35 or health care facility in writing not to make the disclosure;

36 (b) ~~((Immediate family members of the patient, including a~~  
37 ~~patient's state registered domestic partner, or any other individual~~  
38 ~~with whom the patient is known to have a close personal relationship,~~  
39 ~~if made in accordance with good medical or other professional~~

1 ~~practice, unless the patient has instructed the health care provider~~  
2 ~~or health care facility in writing not to make the disclosure;))~~  
3 Persons under section 1 of this act if the conditions in section 1 of  
4 this act are met;

5 (c) A health care provider or health care facility who is the  
6 successor in interest to the health care provider or health care  
7 facility maintaining the health care information;

8 (d) A person who obtains information for purposes of an audit, if  
9 that person agrees in writing to:

10 (i) Remove or destroy, at the earliest opportunity consistent  
11 with the purpose of the audit, information that would enable the  
12 patient to be identified; and

13 (ii) Not to disclose the information further, except to  
14 accomplish the audit or report unlawful or improper conduct involving  
15 fraud in payment for health care by a health care provider or  
16 patient, or other unlawful conduct by the health care provider;

17 (e) Provide directory information, unless the patient has  
18 instructed the health care provider or health care facility not to  
19 make the disclosure;

20 (f) Fire, police, sheriff, or other public authority, that  
21 brought, or caused to be brought, the patient to the health care  
22 facility or health care provider if the disclosure is limited to the  
23 patient's name, residence, sex, age, occupation, condition,  
24 diagnosis, estimated or actual discharge date, or extent and location  
25 of injuries as determined by a physician, and whether the patient was  
26 conscious when admitted;

27 (g) Federal, state, or local law enforcement authorities and the  
28 health care provider, health care facility, or third-party payor  
29 believes in good faith that the health care information disclosed  
30 constitutes evidence of criminal conduct that occurred on the  
31 premises of the health care provider, health care facility, or third-  
32 party payor;

33 (h) Another health care provider, health care facility, or third-  
34 party payor for the health care operations of the health care  
35 provider, health care facility, or third-party payor that receives  
36 the information, if each entity has or had a relationship with the  
37 patient who is the subject of the health care information being  
38 requested, the health care information pertains to such relationship,  
39 and the disclosure is for the purposes described in RCW 70.02.010(17)

40 (a) and (b);

1 (i) An official of a penal or other custodial institution in  
2 which the patient is detained; and

3 (j) Any law enforcement officer, corrections officer, or guard  
4 supplied by a law enforcement or corrections agency who is  
5 accompanying a patient pursuant to RCW 10.110.020, only to the extent  
6 the disclosure is incidental to the fulfillment of the role of the  
7 law enforcement officer, corrections officer, or guard under RCW  
8 10.110.020.

9 (2) In addition to the disclosures required by RCW 70.02.050 and  
10 70.02.210, a health care provider shall disclose health care  
11 information, except for information related to sexually transmitted  
12 diseases and information related to mental health services which are  
13 addressed by RCW 70.02.220 through 70.02.260, about a patient without  
14 the patient's authorization if the disclosure is:

15 (a) To federal, state, or local law enforcement authorities to  
16 the extent the health care provider is required by law;

17 (b) To federal, state, or local law enforcement authorities, upon  
18 receipt of a written or oral request made to a nursing supervisor,  
19 administrator, or designated privacy official, in a case in which the  
20 patient is being treated or has been treated for a bullet wound,  
21 gunshot wound, powder burn, or other injury arising from or caused by  
22 the discharge of a firearm, or an injury caused by a knife, an ice  
23 pick, or any other sharp or pointed instrument which federal, state,  
24 or local law enforcement authorities reasonably believe to have been  
25 intentionally inflicted upon a person, or a blunt force injury that  
26 federal, state, or local law enforcement authorities reasonably  
27 believe resulted from a criminal act, the following information, if  
28 known:

29 (i) The name of the patient;

30 (ii) The patient's residence;

31 (iii) The patient's sex;

32 (iv) The patient's age;

33 (v) The patient's condition;

34 (vi) The patient's diagnosis, or extent and location of injuries  
35 as determined by a health care provider;

36 (vii) Whether the patient was conscious when admitted;

37 (viii) The name of the health care provider making the  
38 determination in (b)(v), (vi), and (vii) of this subsection;

39 (ix) Whether the patient has been transferred to another  
40 facility; and

- 1 (x) The patient's discharge time and date;  
2 (c) Pursuant to compulsory process in accordance with RCW  
3 70.02.060.

4 **Sec. 4.** RCW 70.02.220 and 2013 c 200 s 6 are each amended to  
5 read as follows:

6 (1) No person may disclose or be compelled to disclose the  
7 identity of any person who has investigated, considered, or requested  
8 a test or treatment for a sexually transmitted disease, except as  
9 authorized by this section, RCW 70.02.210, or chapter 70.24 RCW.

10 (2) No person may disclose or be compelled to disclose  
11 information and records related to sexually transmitted diseases,  
12 except as authorized by this section, RCW 70.02.210, section 1 of  
13 this act, or chapter 70.24 RCW. A person may disclose information  
14 related to sexually transmitted diseases about a patient without the  
15 patient's authorization, to the extent a recipient needs to know the  
16 information, if the disclosure is to:

17 (a) The subject of the test or the subject's legal representative  
18 for health care decisions in accordance with RCW 7.70.065, with the  
19 exception of such a representative of a minor fourteen years of age  
20 or over and otherwise competent;

21 (b) The state public health officer as defined in RCW 70.24.017,  
22 a local public health officer, or the centers for disease control of  
23 the United States public health service in accordance with reporting  
24 requirements for a diagnosed case of a sexually transmitted disease;

25 (c) A health facility or health care provider that procures,  
26 processes, distributes, or uses: (i) A human body part, tissue, or  
27 blood from a deceased person with respect to medical information  
28 regarding that person; (ii) semen, including that was provided prior  
29 to March 23, 1988, for the purpose of artificial insemination; or  
30 (iii) blood specimens;

31 (d) Any state or local public health officer conducting an  
32 investigation pursuant to RCW 70.24.024, so long as the record was  
33 obtained by means of court-ordered HIV testing pursuant to RCW  
34 70.24.340 or 70.24.024;

35 (e) A person allowed access to the record by a court order  
36 granted after application showing good cause therefor. In assessing  
37 good cause, the court shall weigh the public interest and the need  
38 for disclosure against the injury to the patient, to the physician-  
39 patient relationship, and to the treatment services. Upon the



1 granting of the order, the court, in determining the extent to which  
2 any disclosure of all or any part of the record of any such test is  
3 necessary, shall impose appropriate safeguards against unauthorized  
4 disclosure. An order authorizing disclosure must: (i) Limit  
5 disclosure to those parts of the patient's record deemed essential to  
6 fulfill the objective for which the order was granted; (ii) limit  
7 disclosure to those persons whose need for information is the basis  
8 for the order; and (iii) include any other appropriate measures to  
9 keep disclosure to a minimum for the protection of the patient, the  
10 physician-patient relationship, and the treatment services;

11 (f) Persons who, because of their behavioral interaction with the  
12 infected individual, have been placed at risk for acquisition of a  
13 sexually transmitted disease, as provided in RCW 70.24.022, if the  
14 health officer or authorized representative believes that the exposed  
15 person was unaware that a risk of disease exposure existed and that  
16 the disclosure of the identity of the infected person is necessary;

17 (g) A law enforcement officer, firefighter, health care provider,  
18 health care facility staff person, department of correction's staff  
19 person, jail staff person, or other persons as defined by the board  
20 of health in rule pursuant to RCW 70.24.340(4), who has requested a  
21 test of a person whose bodily fluids he or she has been substantially  
22 exposed to, pursuant to RCW 70.24.340(4), if a state or local public  
23 health officer performs the test;

24 (h) Claims management personnel employed by or associated with an  
25 insurer, health care service contractor, health maintenance  
26 organization, self-funded health plan, state administered health care  
27 claims payer, or any other payer of health care claims where such  
28 disclosure is to be used solely for the prompt and accurate  
29 evaluation and payment of medical or related claims. Information  
30 released under this subsection must be confidential and may not be  
31 released or available to persons who are not involved in handling or  
32 determining medical claims payment; and

33 (i) A department of social and health services worker, a child  
34 placing agency worker, or a guardian ad litem who is responsible for  
35 making or reviewing placement or case-planning decisions or  
36 recommendations to the court regarding a child, who is less than  
37 fourteen years of age, has a sexually transmitted disease, and is in  
38 the custody of the department of social and health services or a  
39 licensed child placing agency. This information may also be received  
40 by a person responsible for providing residential care for such a

1 child when the department of social and health services or a licensed  
2 child placing agency determines that it is necessary for the  
3 provision of child care services.

4 (3) No person to whom the results of a test for a sexually  
5 transmitted disease have been disclosed pursuant to subsection (2) of  
6 this section may disclose the test results to another person except  
7 as authorized by that subsection.

8 (4) The release of sexually transmitted disease information  
9 regarding an offender or detained person, except as provided in  
10 subsection (2)(d) of this section, is governed as follows:

11 (a) The sexually transmitted disease status of a department of  
12 corrections offender who has had a mandatory test conducted pursuant  
13 to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available  
14 by department of corrections health care providers and local public  
15 health officers to the department of corrections health care  
16 administrator or infection control coordinator of the facility in  
17 which the offender is housed. The information made available to the  
18 health care administrator or the infection control coordinator under  
19 this subsection (4)(a) may be used only for disease prevention or  
20 control and for protection of the safety and security of the staff,  
21 offenders, and the public. The information may be submitted to  
22 transporting officers and receiving facilities, including facilities  
23 that are not under the department of corrections' jurisdiction  
24 according to the provisions of (d) and (e) of this subsection.

25 (b) The sexually transmitted disease status of a person detained  
26 in a jail who has had a mandatory test conducted pursuant to RCW  
27 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the  
28 local public health officer to a jail health care administrator or  
29 infection control coordinator. The information made available to a  
30 health care administrator under this subsection (4)(b) may be used  
31 only for disease prevention or control and for protection of the  
32 safety and security of the staff, offenders, detainees, and the  
33 public. The information may be submitted to transporting officers and  
34 receiving facilities according to the provisions of (d) and (e) of  
35 this subsection.

36 (c) Information regarding the sexually transmitted disease status  
37 of an offender or detained person is confidential and may be  
38 disclosed by a correctional health care administrator or infection  
39 control coordinator or local jail health care administrator or  
40 infection control coordinator only as necessary for disease

1 prevention or control and for protection of the safety and security  
2 of the staff, offenders, and the public. Unauthorized disclosure of  
3 this information to any person may result in disciplinary action, in  
4 addition to the penalties prescribed in RCW 70.24.080 or any other  
5 penalties as may be prescribed by law.

6 (d) Notwithstanding the limitations on disclosure contained in  
7 (a), (b), and (c) of this subsection, whenever any member of a jail  
8 staff or department of corrections staff has been substantially  
9 exposed to the bodily fluids of an offender or detained person, then  
10 the results of any tests conducted pursuant to RCW 70.24.340(1),  
11 70.24.360, or 70.24.370, must be immediately disclosed to the staff  
12 person in accordance with the Washington Administrative Code rules  
13 governing employees' occupational exposure to blood-borne pathogens.  
14 Disclosure must be accompanied by appropriate counseling for the  
15 staff member, including information regarding follow-up testing and  
16 treatment. Disclosure must also include notice that subsequent  
17 disclosure of the information in violation of this chapter or use of  
18 the information to harass or discriminate against the offender or  
19 detainee may result in disciplinary action, in addition to the  
20 penalties prescribed in RCW 70.24.080, and imposition of other  
21 penalties prescribed by law.

22 (e) The staff member must also be informed whether the offender  
23 or detained person had any other communicable disease, as defined in  
24 RCW 72.09.251(3), when the staff person was substantially exposed to  
25 the offender's or detainee's bodily fluids.

26 (f) The test results of voluntary and anonymous HIV testing or  
27 HIV-related condition, as defined in RCW 70.24.017, may not be  
28 disclosed to a staff person except as provided in this section and  
29 RCW 70.02.050(1)(~~e~~) (d) and 70.24.340(4). A health care  
30 administrator or infection control coordinator may provide the staff  
31 member with information about how to obtain the offender's or  
32 detainee's test results under this section and RCW 70.02.050(1)  
33 (~~e~~) (d) and 70.24.340(4).

34 (5) The requirements of this section do not apply to the  
35 customary methods utilized for the exchange of medical information  
36 among health care providers in order to provide health care services  
37 to the patient, nor do they apply within health care facilities where  
38 there is a need for access to confidential medical information to  
39 fulfill professional duties.

1 (6) Upon request of the victim, disclosure of test results under  
2 this section to victims of sexual offenses under chapter 9A.44 RCW  
3 must be made if the result is negative or positive. The county  
4 prosecuting attorney shall notify the victim of the right to such  
5 disclosure. The disclosure must be accompanied by appropriate  
6 counseling, including information regarding follow-up testing.

7 (7) A person, including a health care facility or health care  
8 provider, shall disclose the identity of any person who has  
9 investigated, considered, or requested a test or treatment for a  
10 sexually transmitted disease and information and records related to  
11 sexually transmitted diseases to federal, state, or local public  
12 health authorities, to the extent the health care provider is  
13 required by law to report health care information; when needed to  
14 determine compliance with state or federal certification or  
15 registration rules or laws; or when needed to protect the public  
16 health. Any health care information obtained under this subsection is  
17 exempt from public inspection and copying pursuant to chapter 42.56  
18 RCW.

19 **Sec. 5.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9 are  
20 each reenacted and amended to read as follows:

21 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
22 (~~(70.96A.150,)~~) 74.09.295, 70.02.210, 70.02.240, 70.02.250, and  
23 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,  
24 the fact of admission to a provider for mental health services and  
25 all information and records compiled, obtained, or maintained in the  
26 course of providing mental health services to either voluntary or  
27 involuntary recipients of services at public or private agencies must  
28 be confidential.

29 (2) Information and records related to mental health services,  
30 other than those obtained through treatment under chapter 71.34 RCW,  
31 may be disclosed only:

32 (a) In communications between qualified professional persons to  
33 meet the requirements of chapter 71.05 RCW, in the provision of  
34 services or appropriate referrals, or in the course of guardianship  
35 proceedings if provided to a professional person:

- 36 (i) Employed by the facility;
- 37 (ii) Who has medical responsibility for the patient's care;
- 38 (iii) Who is a designated mental health professional;
- 39 (iv) Who is providing services under chapter 71.24 RCW;

1 (v) Who is employed by a state or local correctional facility  
2 where the person is confined or supervised; or

3 (vi) Who is providing evaluation, treatment, or follow-up  
4 services under chapter 10.77 RCW;

5 (b) When the communications regard the special needs of a patient  
6 and the necessary circumstances giving rise to such needs and the  
7 disclosure is made by a facility providing services to the operator  
8 of a facility in which the patient resides or will reside;

9 (c)(i) When the person receiving services, or his or her  
10 guardian, designates persons to whom information or records may be  
11 released, or if the person is a minor, when his or her parents make  
12 such a designation;

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

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

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

23 (iii) Other information requested by the next of kin or attorney  
24 as may be necessary to decide whether or not proceedings should be  
25 instituted to appoint a guardian or conservator;

26 (d)(i) To the courts as necessary to the administration of  
27 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
28 under chapter 10.77 RCW solely for the purpose of preventing the  
29 entry of any evaluation or treatment order that is inconsistent with  
30 any order entered under chapter 71.05 RCW.

31 (ii) To a court or its designee in which a motion under chapter  
32 10.77 RCW has been made for involuntary medication of a defendant for  
33 the purpose of competency restoration.

34 (iii) Disclosure under this subsection is mandatory for the  
35 purpose of the federal health insurance portability and  
36 accountability act;

37 (e)(i) When a mental health professional is requested by a  
38 representative of a law enforcement or corrections agency, including  
39 a police officer, sheriff, community corrections officer, a municipal  
40 attorney, or prosecuting attorney to undertake an investigation or

1 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the  
2 mental health professional shall, if requested to do so, advise the  
3 representative in writing of the results of the investigation  
4 including a statement of reasons for the decision to detain or  
5 release the person investigated. The written report must be submitted  
6 within seventy-two hours of the completion of the investigation or  
7 the request from the law enforcement or corrections representative,  
8 whichever occurs later.

9 (ii) Disclosure under this subsection is mandatory for the  
10 purposes of the federal health insurance portability and  
11 accountability act;

12 (f) To the attorney of the detained person;

13 (g) To the prosecuting attorney as necessary to carry out the  
14 responsibilities of the office under RCW 71.05.330(2),  
15 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
16 access to records regarding the committed person's treatment and  
17 prognosis, medication, behavior problems, and other records relevant  
18 to the issue of whether treatment less restrictive than inpatient  
19 treatment is in the best interest of the committed person or others.  
20 Information must be disclosed only after giving notice to the  
21 committed person and the person's counsel;

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

35 (ii) Disclosure under this subsection is mandatory for the  
36 purposes of the federal health insurance portability and  
37 accountability act;

38 (i)(i) To appropriate corrections and law enforcement agencies  
39 all necessary and relevant information in the event of a crisis or  
40 emergent situation that poses a significant and imminent risk to the

1 public. The mental health service agency or its employees are not  
2 civilly liable for the decision to disclose or not so long as the  
3 decision was reached in good faith and without gross negligence.

4 (ii) Disclosure under this subsection is mandatory for the  
5 purposes of the health insurance portability and accountability act;

6 (j) To the persons designated in RCW 71.05.425 for the purposes  
7 described in those sections;

8 (k) Upon the death of a person. The person's next of kin,  
9 personal representative, guardian, or conservator, if any, must be  
10 notified. Next of kin who are of legal age and competent must be  
11 notified under this section in the following order: Spouse, parents,  
12 children, brothers and sisters, and other relatives according to the  
13 degree of relation. Access to all records and information compiled,  
14 obtained, or maintained in the course of providing services to a  
15 deceased patient are governed by RCW 70.02.140;

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

21 (m) To law enforcement officers and to prosecuting attorneys as  
22 are necessary to enforce RCW 9.41.040(2)(a)((~~ii~~)) (iii). The extent  
23 of information that may be released is limited as follows:

24 (i) Only the fact, place, and date of involuntary commitment, an  
25 official copy of any order or orders of commitment, and an official  
26 copy of any written or oral notice of ineligibility to possess a  
27 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
28 must be disclosed upon request;

29 (ii) The law enforcement and prosecuting attorneys may only  
30 release the information obtained to the person's attorney as required  
31 by court rule and to a jury or judge, if a jury is waived, that  
32 presides over any trial at which the person is charged with violating  
33 RCW 9.41.040(2)(a)((~~ii~~)) (iii);

34 (iii) Disclosure under this subsection is mandatory for the  
35 purposes of the federal health insurance portability and  
36 accountability act;

37 (n) When a patient would otherwise be subject to the provisions  
38 of this section and disclosure is necessary for the protection of the  
39 patient or others due to his or her unauthorized disappearance from  
40 the facility, and his or her whereabouts is unknown, notice of the

1 disappearance, along with relevant information, may be made to  
2 relatives, the department of corrections when the person is under the  
3 supervision of the department, and governmental law enforcement  
4 agencies designated by the physician or psychiatric advanced  
5 registered nurse practitioner in charge of the patient or the  
6 professional person in charge of the facility, or his or her  
7 professional designee;

8 (o) Pursuant to lawful order of a court;

9 (p) To qualified staff members of the department, to the director  
10 of behavioral health organizations, to resource management services  
11 responsible for serving a patient, or to service providers designated  
12 by resource management services as necessary to determine the  
13 progress and adequacy of treatment and to determine whether the  
14 person should be transferred to a less restrictive or more  
15 appropriate treatment modality or facility;

16 (q) Within the mental health service agency where the patient is  
17 receiving treatment, confidential information may be disclosed to  
18 persons employed, serving in bona fide training programs, or  
19 participating in supervised volunteer programs, at the facility when  
20 it is necessary to perform their duties;

21 (r) Within the department as necessary to coordinate treatment  
22 for mental illness, developmental disabilities, alcoholism, or drug  
23 abuse of persons who are under the supervision of the department;

24 (s) To a licensed physician or psychiatric advanced registered  
25 nurse practitioner who has determined that the life or health of the  
26 person is in danger and that treatment without the information and  
27 records related to mental health services could be injurious to the  
28 patient's health. Disclosure must be limited to the portions of the  
29 records necessary to meet the medical emergency;

30 (t) Consistent with the requirements of the federal health  
31 information portability and accountability act, to a licensed mental  
32 health professional or a health care professional licensed under  
33 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is  
34 providing care to a person, or to whom a person has been referred for  
35 evaluation or treatment, to assure coordinated care and treatment of  
36 that person. Psychotherapy notes may not be released without  
37 authorization of the person who is the subject of the request for  
38 release of information;



1 (u) To administrative and office support staff designated to  
2 obtain medical records for those licensed professionals listed in (t)  
3 of this subsection;

4 (v) To a facility that is to receive a person who is  
5 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
6 the person from one evaluation and treatment facility to another. The  
7 release of records under this subsection is limited to the  
8 information and records related to mental health services required by  
9 law, a record or summary of all somatic treatments, and a discharge  
10 summary. The discharge summary may include a statement of the  
11 patient's problem, the treatment goals, the type of treatment which  
12 has been provided, and recommendation for future treatment, but may  
13 not include the patient's complete treatment record;

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

19 (x) To staff members of the protection and advocacy agency or to  
20 staff members of a private, nonprofit corporation for the purpose of  
21 protecting and advocating the rights of persons with mental disorders  
22 or developmental disabilities. Resource management services may limit  
23 the release of information to the name, birthdate, and county of  
24 residence of the patient, information regarding whether the patient  
25 was voluntarily admitted, or involuntarily committed, the date and  
26 place of admission, placement, or commitment, the name and address of  
27 a guardian of the patient, and the date and place of the guardian's  
28 appointment. Any staff member who wishes to obtain additional  
29 information must notify the patient's resource management services in  
30 writing of the request and of the resource management services' right  
31 to object. The staff member shall send the notice by mail to the  
32 guardian's address. If the guardian does not object in writing within  
33 fifteen days after the notice is mailed, the staff member may obtain  
34 the additional information. If the guardian objects in writing within  
35 fifteen days after the notice is mailed, the staff member may not  
36 obtain the additional information;

37 (y) To all current treating providers of the patient with  
38 prescriptive authority who have written a prescription for the  
39 patient within the last twelve months. For purposes of coordinating  
40 health care, the department may release without written authorization

1 of the patient, information acquired for billing and collection  
2 purposes as described in RCW 70.02.050(1)(d). The department shall  
3 notify the patient that billing and collection information has been  
4 released to named providers, and provide the substance of the  
5 information released and the dates of such release. The department  
6 may not release counseling, inpatient psychiatric hospitalization, or  
7 drug and alcohol treatment information without a signed written  
8 release from the client;

9 (z)(i) To the secretary of social and health services for either  
10 program evaluation or research, or both so long as the secretary  
11 adopts rules for the conduct of the evaluation or research, or both.  
12 Such rules must include, but need not be limited to, the requirement  
13 that all evaluators and researchers sign an oath of confidentiality  
14 substantially as follows:

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

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

25 (ii) Nothing in this chapter may be construed to prohibit the  
26 compilation and publication of statistical data for use by government  
27 or researchers under standards, including standards to assure  
28 maintenance of confidentiality, set forth by the secretary;

29 (aa) To any person if the conditions in section 1 of this act are  
30 met.

31 (3) Whenever federal law or federal regulations restrict the  
32 release of information contained in the information and records  
33 related to mental health services of any patient who receives  
34 treatment for chemical dependency, the department may restrict the  
35 release of the information as necessary to comply with federal law  
36 and regulations.

37 (4) Civil liability and immunity for the release of information  
38 about a particular person who is committed to the department of  
39 social and health services under RCW 71.05.280(3) and

1 71.05.320(~~(+3)~~) (4)(c) after dismissal of a sex offense as defined  
2 in RCW 9.94A.030, is governed by RCW 4.24.550.

3 (5) The fact of admission to a provider of mental health  
4 services, as well as all records, files, evidence, findings, or  
5 orders made, prepared, collected, or maintained pursuant to chapter  
6 71.05 RCW are not admissible as evidence in any legal proceeding  
7 outside that chapter without the written authorization of the person  
8 who was the subject of the proceeding except as provided in RCW  
9 70.02.260, in a subsequent criminal prosecution of a person committed  
10 pursuant to RCW 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) on charges  
11 that were dismissed pursuant to chapter 10.77 RCW due to incompetency  
12 to stand trial, in a civil commitment proceeding pursuant to chapter  
13 71.09 RCW, or, in the case of a minor, a guardianship or dependency  
14 proceeding. The records and files maintained in any court proceeding  
15 pursuant to chapter 71.05 RCW must be confidential and available  
16 subsequent to such proceedings only to the person who was the subject  
17 of the proceeding or his or her attorney. In addition, the court may  
18 order the subsequent release or use of such records or files only  
19 upon good cause shown if the court finds that appropriate safeguards  
20 for strict confidentiality are and will be maintained.

21 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
22 an action against an individual who has willfully released  
23 confidential information or records concerning him or her in  
24 violation of the provisions of this section, for the greater of the  
25 following amounts:

26 (i) One thousand dollars; or

27 (ii) Three times the amount of actual damages sustained, if any.

28 (b) It is not a prerequisite to recovery under this subsection  
29 that the plaintiff suffered or was threatened with special, as  
30 contrasted with general, damages.

31 (c) Any person may bring an action to enjoin the release of  
32 confidential information or records concerning him or her or his or  
33 her ward, in violation of the provisions of this section, and may in  
34 the same action seek damages as provided in this subsection.

35 (d) The court may award to the plaintiff, should he or she  
36 prevail in any action authorized by this subsection, reasonable  
37 attorney fees in addition to those otherwise provided by law.

38 (e) If an action is brought under this subsection, no action may  
39 be brought under RCW 70.02.170.

1       **Sec. 6.** RCW 70.02.230 and 2016 sp.s. c 29 s 417 are each amended  
2 to read as follows:

3       (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
4 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or  
5 pursuant to a valid authorization under RCW 70.02.030, the fact of  
6 admission to a provider for mental health services and all  
7 information and records compiled, obtained, or maintained in the  
8 course of providing mental health services to either voluntary or  
9 involuntary recipients of services at public or private agencies must  
10 be confidential.

11       (2) Information and records related to mental health services,  
12 other than those obtained through treatment under chapter 71.34 RCW,  
13 may be disclosed only:

14       (a) In communications between qualified professional persons to  
15 meet the requirements of chapter 71.05 RCW, in the provision of  
16 services or appropriate referrals, or in the course of guardianship  
17 proceedings if provided to a professional person:

18       (i) Employed by the facility;

19       (ii) Who has medical responsibility for the patient's care;

20       (iii) Who is a designated crisis responder;

21       (iv) Who is providing services under chapter 71.24 RCW;

22       (v) Who is employed by a state or local correctional facility  
23 where the person is confined or supervised; or

24       (vi) Who is providing evaluation, treatment, or follow-up  
25 services under chapter 10.77 RCW;

26       (b) When the communications regard the special needs of a patient  
27 and the necessary circumstances giving rise to such needs and the  
28 disclosure is made by a facility providing services to the operator  
29 of a facility in which the patient resides or will reside;

30       (c)(i) When the person receiving services, or his or her  
31 guardian, designates persons to whom information or records may be  
32 released, or if the person is a minor, when his or her parents make  
33 such a designation;

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

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

39       (B) A statement evaluating the mental and physical condition of  
40 the patient, and a statement of the probable duration of the

1 patient's confinement, if such information is requested by the next  
2 of kin, attorney, personal representative, guardian, or conservator;  
3 and

4 (iii) Other information requested by the next of kin or attorney  
5 as may be necessary to decide whether or not proceedings should be  
6 instituted to appoint a guardian or conservator;

7 (d)(i) To the courts as necessary to the administration of  
8 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
9 under chapter 10.77 RCW solely for the purpose of preventing the  
10 entry of any evaluation or treatment order that is inconsistent with  
11 any order entered under chapter 71.05 RCW.

12 (ii) To a court or its designee in which a motion under chapter  
13 10.77 RCW has been made for involuntary medication of a defendant for  
14 the purpose of competency restoration.

15 (iii) Disclosure under this subsection is mandatory for the  
16 purpose of the federal health insurance portability and  
17 accountability act;

18 (e)(i) When a mental health professional or designated crisis  
19 responder is requested by a representative of a law enforcement or  
20 corrections agency, including a police officer, sheriff, community  
21 corrections officer, a municipal attorney, or prosecuting attorney to  
22 undertake an investigation or provide treatment under RCW 71.05.150,  
23 10.31.110, or 71.05.153, the mental health professional or designated  
24 crisis responder shall, if requested to do so, advise the  
25 representative in writing of the results of the investigation  
26 including a statement of reasons for the decision to detain or  
27 release the person investigated. The written report must be submitted  
28 within seventy-two hours of the completion of the investigation or  
29 the request from the law enforcement or corrections representative,  
30 whichever occurs later.

31 (ii) Disclosure under this subsection is mandatory for the  
32 purposes of the federal health insurance portability and  
33 accountability act;

34 (f) To the attorney of the detained person;

35 (g) To the prosecuting attorney as necessary to carry out the  
36 responsibilities of the office under RCW 71.05.330(2),  
37 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
38 access to records regarding the committed person's treatment and  
39 prognosis, medication, behavior problems, and other records relevant  
40 to the issue of whether treatment less restrictive than inpatient

1 treatment is in the best interest of the committed person or others.  
2 Information must be disclosed only after giving notice to the  
3 committed person and the person's counsel;

4 (h)(i) To appropriate law enforcement agencies and to a person,  
5 when the identity of the person is known to the public or private  
6 agency, whose health and safety has been threatened, or who is known  
7 to have been repeatedly harassed, by the patient. The person may  
8 designate a representative to receive the disclosure. The disclosure  
9 must be made by the professional person in charge of the public or  
10 private agency or his or her designee and must include the dates of  
11 commitment, admission, discharge, or release, authorized or  
12 unauthorized absence from the agency's facility, and only any other  
13 information that is pertinent to the threat or harassment. The agency  
14 or its employees are not civilly liable for the decision to disclose  
15 or not, so long as the decision was reached in good faith and without  
16 gross negligence.

17 (ii) Disclosure under this subsection is mandatory for the  
18 purposes of the federal health insurance portability and  
19 accountability act;

20 (i)(i) To appropriate corrections and law enforcement agencies  
21 all necessary and relevant information in the event of a crisis or  
22 emergent situation that poses a significant and imminent risk to the  
23 public. The mental health service agency or its employees are not  
24 civilly liable for the decision to disclose or not so long as the  
25 decision was reached in good faith and without gross negligence.

26 (ii) Disclosure under this subsection is mandatory for the  
27 purposes of the health insurance portability and accountability act;

28 (j) To the persons designated in RCW 71.05.425 for the purposes  
29 described in those sections;

30 (k) Upon the death of a person. The person's next of kin,  
31 personal representative, guardian, or conservator, if any, must be  
32 notified. Next of kin who are of legal age and competent must be  
33 notified under this section in the following order: Spouse, parents,  
34 children, brothers and sisters, and other relatives according to the  
35 degree of relation. Access to all records and information compiled,  
36 obtained, or maintained in the course of providing services to a  
37 deceased patient are governed by RCW 70.02.140;

38 (l) To mark headstones or otherwise memorialize patients interred  
39 at state hospital cemeteries. The department of social and health  
40 services shall make available the name, date of birth, and date of

1 death of patients buried in state hospital cemeteries fifty years  
2 after the death of a patient;

3 (m) To law enforcement officers and to prosecuting attorneys as  
4 are necessary to enforce RCW 9.41.040(2)(a)(iii). The extent of  
5 information that may be released is limited as follows:

6 (i) Only the fact, place, and date of involuntary commitment, an  
7 official copy of any order or orders of commitment, and an official  
8 copy of any written or oral notice of ineligibility to possess a  
9 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
10 must be disclosed upon request;

11 (ii) The law enforcement and prosecuting attorneys may only  
12 release the information obtained to the person's attorney as required  
13 by court rule and to a jury or judge, if a jury is waived, that  
14 presides over any trial at which the person is charged with violating  
15 RCW 9.41.040(2)(a)(iii);

16 (iii) Disclosure under this subsection is mandatory for the  
17 purposes of the federal health insurance portability and  
18 accountability act;

19 (n) When a patient would otherwise be subject to the provisions  
20 of this section and disclosure is necessary for the protection of the  
21 patient or others due to his or her unauthorized disappearance from  
22 the facility, and his or her whereabouts is unknown, notice of the  
23 disappearance, along with relevant information, may be made to  
24 relatives, the department of corrections when the person is under the  
25 supervision of the department, and governmental law enforcement  
26 agencies designated by the physician or psychiatric advanced  
27 registered nurse practitioner in charge of the patient or the  
28 professional person in charge of the facility, or his or her  
29 professional designee;

30 (o) Pursuant to lawful order of a court;

31 (p) To qualified staff members of the department, to the director  
32 of behavioral health organizations, to resource management services  
33 responsible for serving a patient, or to service providers designated  
34 by resource management services as necessary to determine the  
35 progress and adequacy of treatment and to determine whether the  
36 person should be transferred to a less restrictive or more  
37 appropriate treatment modality or facility;

38 (q) Within the mental health service agency where the patient is  
39 receiving treatment, confidential information may be disclosed to  
40 persons employed, serving in bona fide training programs, or

1 participating in supervised volunteer programs, at the facility when  
2 it is necessary to perform their duties;

3 (r) Within the department as necessary to coordinate treatment  
4 for mental illness, developmental disabilities, alcoholism, or drug  
5 abuse of persons who are under the supervision of the department;

6 (s) To a licensed physician or psychiatric advanced registered  
7 nurse practitioner who has determined that the life or health of the  
8 person is in danger and that treatment without the information and  
9 records related to mental health services could be injurious to the  
10 patient's health. Disclosure must be limited to the portions of the  
11 records necessary to meet the medical emergency;

12 (t) Consistent with the requirements of the federal health  
13 information portability and accountability act, to a licensed mental  
14 health professional or a health care professional licensed under  
15 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is  
16 providing care to a person, or to whom a person has been referred for  
17 evaluation or treatment, to assure coordinated care and treatment of  
18 that person. Psychotherapy notes may not be released without  
19 authorization of the person who is the subject of the request for  
20 release of information;

21 (u) To administrative and office support staff designated to  
22 obtain medical records for those licensed professionals listed in (t)  
23 of this subsection;

24 (v) To a facility that is to receive a person who is  
25 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
26 the person from one evaluation and treatment facility to another. The  
27 release of records under this subsection is limited to the  
28 information and records related to mental health services required by  
29 law, a record or summary of all somatic treatments, and a discharge  
30 summary. The discharge summary may include a statement of the  
31 patient's problem, the treatment goals, the type of treatment which  
32 has been provided, and recommendation for future treatment, but may  
33 not include the patient's complete treatment record;

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

39 (x) To staff members of the protection and advocacy agency or to  
40 staff members of a private, nonprofit corporation for the purpose of



1 protecting and advocating the rights of persons with mental disorders  
2 or developmental disabilities. Resource management services may limit  
3 the release of information to the name, birthdate, and county of  
4 residence of the patient, information regarding whether the patient  
5 was voluntarily admitted, or involuntarily committed, the date and  
6 place of admission, placement, or commitment, the name and address of  
7 a guardian of the patient, and the date and place of the guardian's  
8 appointment. Any staff member who wishes to obtain additional  
9 information must notify the patient's resource management services in  
10 writing of the request and of the resource management services' right  
11 to object. The staff member shall send the notice by mail to the  
12 guardian's address. If the guardian does not object in writing within  
13 fifteen days after the notice is mailed, the staff member may obtain  
14 the additional information. If the guardian objects in writing within  
15 fifteen days after the notice is mailed, the staff member may not  
16 obtain the additional information;

17 (y) To all current treating providers of the patient with  
18 prescriptive authority who have written a prescription for the  
19 patient within the last twelve months. For purposes of coordinating  
20 health care, the department may release without written authorization  
21 of the patient, information acquired for billing and collection  
22 purposes as described in RCW 70.02.050(1)(d). The department shall  
23 notify the patient that billing and collection information has been  
24 released to named providers, and provide the substance of the  
25 information released and the dates of such release. The department  
26 may not release counseling, inpatient psychiatric hospitalization, or  
27 drug and alcohol treatment information without a signed written  
28 release from the client;

29 (z)(i) To the secretary of social and health services for either  
30 program evaluation or research, or both so long as the secretary  
31 adopts rules for the conduct of the evaluation or research, or both.  
32 Such rules must include, but need not be limited to, the requirement  
33 that all evaluators and researchers sign an oath of confidentiality  
34 substantially as follows:

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

1 regarding persons who have received services such that the person who  
2 received such services is identifiable.

3 I recognize that unauthorized release of confidential information  
4 may subject me to civil liability under the provisions of state law.  
5 /s/ . . . . ."

6 (ii) Nothing in this chapter may be construed to prohibit the  
7 compilation and publication of statistical data for use by government  
8 or researchers under standards, including standards to assure  
9 maintenance of confidentiality, set forth by the secretary;

10 (aa) To any person if the conditions in section 1 of this act are  
11 met.

12 (3) Whenever federal law or federal regulations restrict the  
13 release of information contained in the information and records  
14 related to mental health services of any patient who receives  
15 treatment for chemical dependency, the department may restrict the  
16 release of the information as necessary to comply with federal law  
17 and regulations.

18 (4) Civil liability and immunity for the release of information  
19 about a particular person who is committed to the department of  
20 social and health services under RCW 71.05.280(3) and 71.05.320(4)(c)  
21 after dismissal of a sex offense as defined in RCW 9.94A.030, is  
22 governed by RCW 4.24.550.

23 (5) The fact of admission to a provider of mental health  
24 services, as well as all records, files, evidence, findings, or  
25 orders made, prepared, collected, or maintained pursuant to chapter  
26 71.05 RCW are not admissible as evidence in any legal proceeding  
27 outside that chapter without the written authorization of the person  
28 who was the subject of the proceeding except as provided in RCW  
29 70.02.260, in a subsequent criminal prosecution of a person committed  
30 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
31 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
32 trial, in a civil commitment proceeding pursuant to chapter 71.09  
33 RCW, or, in the case of a minor, a guardianship or dependency  
34 proceeding. The records and files maintained in any court proceeding  
35 pursuant to chapter 71.05 RCW must be confidential and available  
36 subsequent to such proceedings only to the person who was the subject  
37 of the proceeding or his or her attorney. In addition, the court may  
38 order the subsequent release or use of such records or files only

1 upon good cause shown if the court finds that appropriate safeguards  
2 for strict confidentiality are and will be maintained.

3 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
4 an action against an individual who has willfully released  
5 confidential information or records concerning him or her in  
6 violation of the provisions of this section, for the greater of the  
7 following amounts:

8 (i) One thousand dollars; or

9 (ii) Three times the amount of actual damages sustained, if any.

10 (b) It is not a prerequisite to recovery under this subsection  
11 that the plaintiff suffered or was threatened with special, as  
12 contrasted with general, damages.

13 (c) Any person may bring an action to enjoin the release of  
14 confidential information or records concerning him or her or his or  
15 her ward, in violation of the provisions of this section, and may in  
16 the same action seek damages as provided in this subsection.

17 (d) The court may award to the plaintiff, should he or she  
18 prevail in any action authorized by this subsection, reasonable  
19 attorney fees in addition to those otherwise provided by law.

20 (e) If an action is brought under this subsection, no action may  
21 be brought under RCW 70.02.170.

22 NEW SECTION. **Sec. 7.** Section 6 of this act takes effect April  
23 1, 2018.

24 NEW SECTION. **Sec. 8.** Section 5 of this act expires April 1,  
25 2018.

--- END ---