

2 **SSB 6487** - S AMD - 099

3 By Senators Long, Costa and Hargrove

4 ADOPTED 2/14/00

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 enhance and facilitate the ability of the department of corrections to
9 carry out its responsibility of planning and ensuring community
10 protection with respect to persons subject to sentencing under chapter
11 9.94A RCW by authorizing access to, and release or disclosure of,
12 necessary information related to mental health services. This includes
13 accessing and releasing or disclosing information of persons who
14 received mental health services as a minor. The legislature does not
15 intend this act to readdress access to information and records
16 regarding continuity of care.

17 The legislature recognizes that persons with mental illness have a
18 right to the confidentiality of information related to mental health
19 services, including the fact of their receiving such services, unless
20 there is a state interest that supersedes this right. It is the intent
21 of the legislature to balance that right of the individual with the
22 state interest to enhance public safety.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.34 RCW
24 to read as follows:

25 (1) The definitions in this subsection apply throughout this
26 section unless the context clearly requires otherwise.

27 (a) "Information related to mental health services" means all
28 information and records compiled, obtained, or maintained in the course
29 of providing services to either voluntary or involuntary recipients of
30 services by a mental health service provider. This may include
31 documents of legal proceedings under this chapter or chapter 71.05 or
32 10.77 RCW, or somatic health care information.

33 (b) "Mental health service provider" means a public or private
34 agency that provides services to persons with mental disorders as
35 defined under RCW 71.34.020 and receives funding from public sources.

1 This includes evaluation and treatment facilities as defined in RCW
2 71.34.020, community mental health service delivery systems, or
3 community mental health programs, as defined in RCW 71.24.025, and
4 facilities conducting competency evaluations and restoration under
5 chapter 10.77 RCW.

6 (2) Information related to mental health services delivered to a
7 person subject to chapter 9.94A RCW shall be released, upon request, by
8 a mental health service provider to department of corrections personnel
9 for whom the information is necessary to carry out the responsibilities
10 of their office. The information must be provided only for the purpose
11 of completing presentence investigations, supervision of an
12 incarcerated person, planning for and provision of supervision of a
13 person, or assessment of a person's risk to the community. The request
14 shall be in writing and shall not require the consent of the subject of
15 the records.

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

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

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

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

36 (5) The information received by the department of corrections under
37 this section shall remain confidential and subject to the limitations
38 on disclosure outlined in RCW 71.34.200, except as provided in section
39 4 of this act.

1 (6) No mental health service provider or individual employed by a
2 mental health service provider shall be held responsible for
3 information released to or used by the department of corrections under
4 the provisions of this section or rules adopted under this section.

5 (7) Whenever federal law or federal regulations restrict the
6 release of information contained in the treatment records of any
7 patient who receives treatment for alcoholism or drug dependency, the
8 release of the information may be restricted as necessary to comply
9 with federal law and regulations.

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

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05 RCW
14 to read as follows:

15 (1) The definitions in this subsection apply throughout this
16 section unless the context clearly requires otherwise.

17 (a) "Information related to mental health services" means all
18 information and records compiled, obtained, or maintained in the course
19 of providing services to either voluntary or involuntary recipients of
20 services by a mental health service provider. This may include
21 documents of legal proceedings under this chapter or chapter 71.34 or
22 10.77 RCW, or somatic health care information.

23 (b) "Mental health service provider" means a public or private
24 agency that provides services to persons with mental disorders as
25 defined under RCW 71.05.020 and receives funding from public sources.
26 This includes evaluation and treatment facilities as defined in RCW
27 71.05.020, community mental health service delivery systems, or
28 community mental health programs as defined in RCW 71.24.025, and
29 facilities conducting competency evaluations and restoration under
30 chapter 10.77 RCW.

31 (2) Information related to mental health services delivered to a
32 person subject to chapter 9.94A RCW shall be released, upon request, by
33 a mental health service provider to department of corrections personnel
34 for whom the information is necessary to carry out the responsibilities
35 of their office. The information must be provided only for the purpose
36 of completing presentence investigations, supervision of an
37 incarcerated person, planning for and provision of supervision of a
38 person, or assessment of a person's risk to the community. The request

1 shall be in writing and shall not require the consent of the subject of
2 the records.

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

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

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

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

23 (5) The information received by the department of corrections under
24 this section shall remain confidential and subject to the limitations
25 on disclosure outlined in chapter 71.05 RCW, except as provided in
26 section 4 of this act.

27 (6) No mental health service provider or individual employed by a
28 mental health service provider shall be held responsible for
29 information released to or used by the department of corrections under
30 the provisions of this section or rules adopted under this section
31 except under RCW 71.05.670 and 71.05.440.

32 (7) Whenever federal law or federal regulations restrict the
33 release of information contained in the treatment records of any
34 patient who receives treatment for alcoholism or drug dependency, the
35 release of the information may be restricted as necessary to comply
36 with federal law and regulations.

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

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW
2 to read as follows:

3 (1) The information received by the department under section 2 or
4 3 of this act may be released to the indeterminate sentence review
5 board as relevant to carry out its responsibility of planning and
6 ensuring community protection with respect to persons under its
7 jurisdiction. Further disclosure by the indeterminate sentence review
8 board is subject to the limitations set forth in subsections (3) and
9 (4) of this section and must be consistent with the written policy of
10 the indeterminate sentence review board. The decision to disclose or
11 not shall not result in civil liability for the indeterminate sentence
12 review board or its employees provided that the decision was reached in
13 good faith and without gross negligence.

14 (2) The information received by the department under section 2 or
15 3 of this act may be used to meet the statutory duties of the
16 department to provide evidence or report to the court. Disclosure to
17 the public of information provided to the court by the department
18 related to mental health services may be limited in accordance with RCW
19 9.94A.110 or this section.

20 (3) The information received by the department under section 2 or
21 3 of this act may be disclosed by the department to other state and
22 local agencies as relevant to plan for and provide offenders
23 transition, treatment, and supervision services, or as relevant and
24 necessary to protect the public and counteract the danger created by a
25 particular offender, and in a manner consistent with the written policy
26 established by the secretary. The decision to disclose or not shall
27 not result in civil liability for the department or its employees so
28 long as the decision was reached in good faith and without gross
29 negligence. The information received by a state or local agency from
30 the department shall remain confidential and subject to the limitations
31 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,
32 subject to these limitations, may be released only as relevant and
33 necessary to counteract the danger created by a particular offender.

34 (4) The information received by the department under section 2 or
35 3 of this act may be disclosed by the department to individuals only
36 with respect to offenders who have been determined by the department to
37 have a high risk of reoffending by a risk assessment, as defined in RCW
38 9.94A.030, only as relevant and necessary for those individuals to take
39 reasonable steps for the purpose of self-protection, or as provided in

1 RCW 72.09.370(2). The information may not be disclosed for the purpose
2 of engaging the public in a system of supervision, monitoring, and
3 reporting offender behavior to the department. The department must
4 limit the disclosure of information related to mental health services
5 to the public to descriptions of an offender's behavior, risk he or she
6 may present to the community, and need for mental health treatment,
7 including medications, and shall not disclose or release to the public
8 copies of treatment documents or records, except as otherwise provided
9 by law. All disclosure of information to the public must be done in a
10 manner consistent with the written policy established by the secretary.
11 The decision to disclose or not shall not result in civil liability for
12 the department or its employees so long as the decision was reached in
13 good faith and without gross negligence. Nothing in this subsection
14 prevents any person from reporting to law enforcement or the department
15 behavior that he or she believes creates a public safety risk.

16 **Sec. 5.** RCW 71.05.630 and 1989 c 205 s 13 are each amended to read
17 as follows:

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

22 (2) Treatment records of an individual may be released without
23 informed written consent in the following circumstances:

24 (a) To an individual, organization, or agency as necessary for
25 management or financial audits, or program monitoring and evaluation.
26 Information obtained under this subsection shall remain confidential
27 and may not be used in a manner that discloses the name or other
28 identifying information about the individual whose records are being
29 released.

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

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

35 (d) Pursuant to lawful order of a court.

36 (e) To qualified staff members of the department, to the director
37 of regional support networks, to resource management services
38 responsible for serving a patient, or to service providers designated

1 by resource management services as necessary to determine the progress
2 and adequacy of treatment and to determine whether the person should be
3 transferred to a less restrictive or more appropriate treatment
4 modality or facility. The information shall remain confidential.

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

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

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

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

27 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a
28 correctional facility or a corrections officer who is responsible for
29 the supervision of an individual who is receiving inpatient or
30 outpatient evaluation or treatment. (~~Every person who is under the~~
31 ~~supervision of the department of corrections who receives evaluation or~~
32 ~~treatment under chapter 9.94A RCW shall be notified of the provisions~~
33 ~~of this section by the individual's corrections officer.)) Except as
34 provided in sections 2 and 3 of this act, release of records under this
35 section is limited to:~~

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

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

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

7 (iv) Any information necessary to establish or implement changes in
8 the individual's treatment plan or the level or kind of supervision as
9 determined by resource management services. In cases involving a
10 person transferred back to a correctional facility, disclosure shall be
11 made to clinical staff only. (~~(In cases involving a person under
12 supervision of the department of corrections, disclosure shall be made
13 to the supervising corrections officer only.)~~)

14 (k) To the individual'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 (~~l) ((To a corrections officer of the department who has custody of
20 or is responsible for the supervision of an individual who is
21 transferred or discharged from a treatment facility.~~

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

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

6 **Sec. 6.** RCW 71.05.390 and 1999 c 12 s 1 are each amended to read
7 as follows:

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

12 Information and records may be disclosed only:

13 (1) In communications between qualified professional persons to
14 meet the requirements of this chapter, in the provision of services or
15 appropriate referrals, or in the course of guardianship proceedings.
16 The consent of the patient, or his or her guardian, shall be obtained
17 before information or records may be disclosed by a professional person
18 employed by a facility unless provided to a professional person: (a)
19 Employed by the facility; (b) who has medical responsibility for the
20 patient's care; (c) who is a county designated mental health
21 professional; (d) who is providing services under chapter 71.24 RCW;
22 (e) who is employed by a state or local correctional facility where the
23 person is confined; or (f) who is providing evaluation, treatment, or
24 follow-up services under chapter 10.77 RCW.

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

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

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

36 (5) For either program evaluation or research, or both: PROVIDED,
37 That the secretary adopts rules for the conduct of the evaluation or
38 research, or both. Such rules shall include, but need not be limited

1 to, the requirement that all evaluators and researchers must sign an
2 oath of confidentiality substantially as follows:

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

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

12 /s/ "

13 (6) To the courts as necessary to the administration of this
14 chapter.

15 (7) To law enforcement officers, public health officers, or
16 personnel of the department of corrections or the indeterminate
17 sentence review board for persons who are the subject of the records
18 and who are committed to the custody of the department of corrections
19 or indeterminate sentence review board which information or records are
20 necessary to carry out the responsibilities of their office. Except
21 for dissemination of information released pursuant to RCW 71.05.425 and
22 4.24.550, regarding persons committed under this chapter under RCW
23 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
24 defined in RCW 9.94A.030, the extent of information that may be
25 released is limited as follows:

26 (a) Only the fact, place, and date of involuntary admission, the
27 fact and date of discharge, and the last known address shall be
28 disclosed upon request; and

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

33 (c) Additional information shall be disclosed only after giving
34 notice to said person and his or her counsel and upon a showing of
35 clear, cogent, and convincing evidence that such information is
36 necessary and that appropriate safeguards for strict confidentiality
37 are and will be maintained. However, in the event the said person has
38 escaped from custody, said notice prior to disclosure is not necessary

1 and that the facility from which the person escaped shall include an
2 evaluation as to whether the person is of danger to persons or property
3 and has a propensity toward violence.

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

5 (9) To the prosecuting attorney as necessary to carry out the
6 responsibilities of the office under RCW 71.05.330(2) and
7 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
8 to records regarding the committed person's treatment and prognosis,
9 medication, behavior problems, and other records relevant to the issue
10 of whether treatment less restrictive than inpatient treatment is in
11 the best interest of the committed person or others. Information shall
12 be disclosed only after giving notice to the committed person and the
13 person's counsel.

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

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

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

34 (~~(12)~~) (13) Civil liability and immunity for the release of
35 information about a particular person who is committed to the
36 department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal
37 of a sex offense as defined in RCW 9.94A.030, is governed by RCW
38 4.24.550.

1 (~~(13)~~) (14) To a patient's next of kin, guardian, or conservator,
2 if any, in the event of death, as provided in RCW 71.05.400.

3 (~~(14)~~) (15) To the department of health (~~(of)~~) for the purposes
4 of determining compliance with state or federal licensure,
5 certification, or registration rules or laws. However, the information
6 and records obtained under this subsection are exempt from public
7 inspection and copying pursuant to chapter 42.17 RCW.

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

24 **Sec. 7.** RCW 71.34.200 and 1985 c 354 s 18 are each amended to read
25 as follows:

26 The fact of admission and all information obtained through
27 treatment under this chapter is confidential. Confidential information
28 may be disclosed only:

29 (1) In communications between mental health professionals to meet
30 the requirements of this chapter, in the provision of services to the
31 minor, or in making appropriate referrals;

32 (2) In the course of guardianship or dependency proceedings;

33 (3) To persons with medical responsibility for the minor's care;

34 (4) To the minor, the minor's parent, and the minor's attorney,
35 subject to RCW 13.50.100;

36 (5) When the minor or the minor's parent (~~(designate[s])~~)
37 designates in writing the persons to whom information or records may be
38 released;

1 (6) To the extent necessary to make a claim for financial aid,
2 insurance, or medical assistance to which the minor may be entitled or
3 for the collection of fees or costs due to providers for services
4 rendered under this chapter;

5 (7) To the courts as necessary to the administration of this
6 chapter;

7 (8) To law enforcement officers or public health officers as
8 necessary to carry out the responsibilities of their office. However,
9 only the fact and date of admission, and the date of discharge, the
10 name and address of the treatment provider, if any, and the last known
11 address shall be disclosed upon request;

12 (9) To law enforcement officers, public health officers, relatives,
13 and other governmental law enforcement agencies, if a minor has escaped
14 from custody, disappeared from an evaluation and treatment facility,
15 violated conditions of a less restrictive treatment order, or failed to
16 return from an authorized leave, and then only such information as may
17 be necessary to provide for public safety or to assist in the
18 apprehension of the minor. The officers are obligated to keep the
19 information confidential in accordance with this chapter;

20 (10) To the secretary for assistance in data collection and program
21 evaluation or research, provided that the secretary adopts rules for
22 the conduct of such evaluation and research. The rules shall include,
23 but need not be limited to, the requirement that all evaluators and
24 researchers sign an oath of confidentiality substantially as follows:

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

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

34 /s/ "

35 (11) To appropriate law enforcement agencies, upon request, all
36 necessary and relevant information in the event of a crisis or emergent
37 situation that poses a significant and imminent risk to the public.
38 The decision to disclose or not shall not result in civil liability for

1 the mental health service provider or its employees so long as the
2 decision was reached in good faith and without gross negligence;

3 ~~(12)~~ (12) To appropriate law enforcement agencies and to a person, when
4 the identity of the person is known to the public or private agency,
5 whose health and safety has been threatened, or who is known to have
6 been repeatedly harassed, by the patient. The person may designate a
7 representative to receive the disclosure. The disclosure shall be made
8 by the professional person in charge of the public or private agency or
9 his or her designee and shall include the dates of admission,
10 discharge, authorized or unauthorized absence from the agency's
11 facility, and only such other information that is pertinent to the
12 threat or harassment. The decision to disclose or not shall not result
13 in civil liability for the agency or its employees so long as the
14 decision was reached in good faith and without gross negligence;

15 ~~((12))~~ (13) To a minor's next of kin, attorney, guardian, or
16 conservator, if any, the information that the minor is presently in the
17 facility or that the minor is seriously physically ill and a statement
18 evaluating the mental and physical condition of the minor as well as a
19 statement of the probable duration of the minor's confinement;

20 ~~((13))~~ (14) Upon the death of a minor, to the minor's next of
21 kin;

22 ~~((14))~~ (15) To a facility in which the minor resides or will
23 reside.

24 This section shall not be construed to prohibit the compilation and
25 publication of statistical data for use by government or researchers
26 under standards, including standards to assure maintenance of
27 confidentiality, set forth by the secretary. The fact of admission and
28 all information obtained pursuant to this chapter are not admissible as
29 evidence in any legal proceeding outside this chapter, except
30 guardianship or dependency, without the written consent of the minor or
31 the minor's parent.

32 **Sec. 8.** RCW 9.94A.110 and 1999 c 197 s 3 and 1999 c 196 s 4 are
33 each reenacted and amended to read as follows:

34 (1) Before imposing a sentence upon a defendant, the court shall
35 conduct a sentencing hearing. The sentencing hearing shall be held
36 within forty court days following conviction. Upon the motion of
37 either party for good cause shown, or on its own motion, the court may
38 extend the time period for conducting the sentencing hearing.

1 Except in cases where the defendant shall be sentenced to a term of
2 total confinement for life without the possibility of release or, when
3 authorized by RCW 10.95.030 for the crime of aggravated murder in the
4 first degree, sentenced to death, the court may order the department to
5 complete a risk assessment report. If available before sentencing, the
6 report shall be provided to the court.

7 Unless specifically waived by the court, the court shall order the
8 department to complete a chemical dependency screening report before
9 imposing a sentence upon a defendant who has been convicted of a
10 violation of the uniform controlled substances act under chapter 69.50
11 RCW or a criminal solicitation to commit such a violation under chapter
12 9A.28 RCW where the court finds that the offender has a chemical
13 dependency that has contributed to his or her offense. In addition,
14 the court shall, at the time of plea or conviction, order the
15 department to complete a presentence report before imposing a sentence
16 upon a defendant who has been convicted of a felony sexual offense.
17 The department of corrections shall give priority to presentence
18 investigations for sexual offenders. If the court determines that the
19 defendant may be a mentally ill person as defined in RCW 71.24.025,
20 although the defendant has not established that at the time of the
21 crime he or she lacked the capacity to commit the crime, was
22 incompetent to commit the crime, or was insane at the time of the
23 crime, the court shall order the department to complete a presentence
24 report before imposing a sentence.

25 The court shall consider the risk assessment report and presentence
26 reports, if any, including any victim impact statement and criminal
27 history, and allow arguments from the prosecutor, the defense counsel,
28 the offender, the victim, the survivor of the victim, or a
29 representative of the victim or survivor, and an investigative law
30 enforcement officer as to the sentence to be imposed.

31 If the court is satisfied by a preponderance of the evidence that
32 the defendant has a criminal history, the court shall specify the
33 convictions it has found to exist. All of this information shall be
34 part of the record. Copies of all risk assessment reports and
35 presentence reports presented to the sentencing court and all written
36 findings of facts and conclusions of law as to sentencing entered by
37 the court shall be sent to the department by the clerk of the court at
38 the conclusion of the sentencing and shall accompany the offender if
39 the offender is committed to the custody of the department. Court

1 clerks shall provide, without charge, certified copies of documents
2 relating to criminal convictions requested by prosecuting attorneys.

3 (2) To prevent wrongful disclosure of information related to mental
4 health services, as defined in sections 2 and 3 of this act, a court
5 may take only those steps necessary during a sentencing hearing or any
6 hearing in which the department presents information related to mental
7 health services to the court. The steps may be taken on motion of the
8 defendant, the prosecuting attorney, or on the court's own motion. The
9 court may seal the portion of the record relating to information
10 relating to mental health services, exclude the public from the hearing
11 during presentation or discussion of information relating to mental
12 health services, or grant other relief to achieve the result intended
13 by this subsection, but nothing in this subsection shall be construed
14 to prevent the subsequent release of information related to mental
15 health services as authorized by sections 2 through 4 of this act. Any
16 person who otherwise is permitted to attend any hearing pursuant to
17 chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely
18 because the department intends to disclose or discloses information
19 related to mental health services."

20 **SSB 6487** - S AMD - 099

21 By Senators Long, Costa and Hargrove

22 ADOPTED 2/14/00

23 On page 1, line 2 of the title, after "offenders;" strike the
24 remainder of the title and insert "amending RCW 71.05.630, 71.05.390,
25 and 71.34.200; reenacting and amending RCW 9.94A.110; adding a new
26 section to chapter 71.34 RCW; adding a new section to chapter 71.05
27 RCW; adding a new section to chapter 72.09 RCW; and creating a new
28 section."

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