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**SUBSTITUTE HOUSE BILL 2513**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Ballasiotes, O'Brien, Koster and Hurst; by request of Department of Social and Health Services and Department of Corrections)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to information concerning mental health services;  
2 amending RCW 71.05.630, 71.05.390, and 71.34.200; reenacting and  
3 amending RCW 9.94A.110; adding a new section to chapter 71.34 RCW;  
4 adding a new section to chapter 71.05 RCW; adding a new section to  
5 chapter 72.09 RCW; and creating a new section.

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

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 for 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

1 there is a state interest that supersedes this right. It is the intent  
2 of the legislature to balance that right of the individual with the  
3 state interest to enhance public safety.

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

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

8 (a) "Information related to mental health services" means 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 by a mental health service provider. This may include  
12 documents of legal proceedings under this chapter or chapter 71.05 or  
13 10.77 RCW, or somatic health care information.

14 (b) "Mental health service provider" means a public or private  
15 agency that provides services to persons with mental disorders as  
16 defined under RCW 71.34.020 and receives funding from public sources.  
17 This includes evaluation and treatment facilities as defined in RCW  
18 71.34.020, community mental health service delivery systems, or  
19 community mental health programs, as defined in RCW 71.24.025, and  
20 facilities conducting competency evaluations and restoration under  
21 chapter 10.77 RCW.

22 (2) Information related to mental health services delivered to a  
23 person subject to chapter 9.94A RCW shall be released, upon request, by  
24 a mental health service provider to department of corrections'  
25 personnel for whom the information is necessary to carry out the  
26 responsibilities of their office. The information must be provided  
27 only for the purpose of completing presentence investigations,  
28 supervision of an incarcerated person, planning for and provision of  
29 supervision of a person, or assessment of a person's risk to the  
30 community. The request shall be in writing and shall not require the  
31 consent of the subject of the records.

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

37 (4) The department and the department of corrections, in  
38 consultation with regional support networks, mental health service

1 providers as defined in subsection (1) of this section, mental health  
2 consumers, and advocates for persons with mental illness, shall adopt  
3 rules to implement the provisions of this section related to the type  
4 and scope of information to be released. These rules shall:

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

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

14 (5) The information received by the department of corrections under  
15 this section shall remain confidential and subject to the limitations  
16 on disclosure outlined in RCW 71.34.200, except as provided in section  
17 4 of this act.

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

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

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

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

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

34 (a) "Information related to mental health services" means all  
35 information and records compiled, obtained, or maintained in the course  
36 of providing services to either voluntary or involuntary recipients of  
37 services by a mental health service provider. This may include

1 documents of legal proceedings under this chapter or chapter 71.34 or  
2 10.77 RCW, or somatic health care information.

3 (b) "Mental health service provider" means a public or private  
4 agency that provides services to persons with mental disorders as  
5 defined under RCW 71.05.020 and receives funding from public sources.  
6 This includes evaluation and treatment facilities as defined in RCW  
7 71.05.020, community mental health service delivery systems, or  
8 community mental health programs as defined in RCW 71.24.025, and  
9 facilities conducting competency evaluations and restoration under  
10 chapter 10.77 RCW.

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

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

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

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

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

4 (5) The information received by the department of corrections under  
5 this section shall remain confidential and subject to the limitations  
6 on disclosure outlined in this chapter, except as provided in section  
7 4 of this act.

8 (6) No mental health service provider or individual employed by a  
9 mental health service provider shall be held responsible for  
10 information released to or used by the department of corrections under  
11 the provisions of this section or rules adopted under this section  
12 except under RCW 71.05.670 and 71.05.440.

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

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

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

23 (1) The information received by the department under section 2 or  
24 3 of this act may be released to the indeterminate sentence review  
25 board as relevant to carry out its responsibility of planning and  
26 ensuring community protection with respect to persons under its  
27 jurisdiction. Further disclosure by the indeterminate sentence review  
28 board is subject to the limitations set forth in subsections (3) and  
29 (4) of this section and must be consistent with the written policy of  
30 the indeterminate sentence review board. The decision to disclose or  
31 not shall not result in civil liability for the indeterminate sentence  
32 review board or its employees provided that the decision was reached in  
33 good faith and without gross negligence.

34 (2) The information received by the department under section 2 or  
35 3 of this act may be used to meet the statutory duties of the  
36 department to provide evidence or report to the court. Disclosure to  
37 the public of information related to mental health services provided to

1 the court by the department may be limited in accordance with RCW  
2 9.94A.110 or this section.

3 (3) The information received by the department under section 2 or  
4 3 of this act may be disclosed by the department to other state and  
5 local agencies as relevant to plan for and provide offenders with  
6 transition, treatment, and supervision services, or as relevant and  
7 necessary to protect the public and counteract the danger created by a  
8 particular offender, and in a manner consistent with the written policy  
9 established by the secretary. The decision to disclose or not shall  
10 not result in civil liability for the department or its employees so  
11 long as the decision was reached in good faith and without gross  
12 negligence. The information received by a state or local agency from  
13 the department shall remain confidential and subject to the limitations  
14 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,  
15 subject to these limitations, may be released only as relevant and  
16 necessary to counteract the danger created by a particular offender.

17 (4) The information received by the department under section 2 or  
18 3 of this act may be disclosed by the department to individuals only  
19 with respect to offenders who have been determined by the department to  
20 have a high risk of reoffending under chapter 9.94A RCW, and only as  
21 necessary for those individuals to take reasonable steps for the  
22 purpose of self-protection, or as provided in RCW 72.09.370(2). The  
23 information may not be disclosed for the purpose of engaging the public  
24 in a system of supervision, monitoring, and reporting offender behavior  
25 to the department. The department must limit the disclosure of  
26 information related to mental health services to the public to  
27 descriptions of an offender's behavior, risk he or she may present to  
28 the community, and need for mental health treatment, including  
29 medications, and shall not disclose or release to the public copies of  
30 treatment documents or records, except as otherwise provided by law.  
31 All disclosure of information to the public must be done in a manner  
32 consistent with the written policy established by the secretary. The  
33 decision to disclose or not shall not result in civil liability for the  
34 department or its employees so long as the decision was reached in good  
35 faith and without gross negligence. Nothing in this subsection  
36 prevents any person from reporting to law enforcement or the department  
37 behavior that he or she believes creates a public safety risk.

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

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

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

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

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

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

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

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

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

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

36       (h) To a licensed physician who has determined that the life or  
37 health of the individual is in danger and that treatment without the  
38 information contained in the treatment records could be injurious to

1 the patient's health. Disclosure shall be limited to the portions of  
2 the records necessary to meet the medical emergency.

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

12 ~~(j) ((Notwithstanding the provisions of RCW 71.05.390(7), to a~~  
13 ~~correctional facility or a corrections officer who is responsible for~~  
14 ~~the supervision of an individual who is receiving inpatient or~~  
15 ~~outpatient evaluation or treatment. Every person who is under the~~  
16 ~~supervision of the department of corrections who receives evaluation or~~  
17 ~~treatment under chapter 9.94A RCW shall be notified of the provisions~~  
18 ~~of this section by the individual's corrections officer. Release of~~  
19 ~~records under this section is limited to:~~

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

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

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

28 ~~(iv) Any information necessary to establish or implement changes in~~  
29 ~~the individual's treatment plan or the level or kind of supervision as~~  
30 ~~determined by resource management services. In cases involving a~~  
31 ~~person transferred back to a correctional facility, disclosure shall be~~  
32 ~~made to clinical staff only. In cases involving a person under~~  
33 ~~supervision of the department of corrections, disclosure shall be made~~  
34 ~~to the supervising corrections officer only.~~

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

1       (~~(l)~~) ~~To a corrections officer of the department who has custody of~~  
2 ~~or is responsible for the supervision of an individual who is~~  
3 ~~transferred or discharged from a treatment facility.~~

4       (~~m~~)) (k) To staff members of the protection and advocacy agency or  
5 to staff members of a private, nonprofit corporation for the purpose of  
6 protecting and advocating the rights of persons with mental illness or  
7 developmental disabilities. Resource management services may limit the  
8 release of information to the name, birthdate, and county of residence  
9 of the patient, information regarding whether the patient was  
10 voluntarily admitted, or involuntarily committed, the date and place of  
11 admission, placement, or commitment, the name and address of a guardian  
12 of the patient, and the date and place of the guardian's appointment.  
13 Any staff member who wishes to obtain additional information shall  
14 notify the patient's resource management services in writing of the  
15 request and of the resource management services' right to object. The  
16 staff member shall send the notice by mail to the guardian's address.  
17 If the guardian does not object in writing within fifteen days after  
18 the notice is mailed, the staff member may obtain the additional  
19 information. If the guardian objects in writing within fifteen days  
20 after the notice is mailed, the staff member may not obtain the  
21 additional information.

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

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

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

33       Information and records may be disclosed only:

34       (1) In communications between qualified professional persons to  
35 meet the requirements of this chapter, in the provision of services or  
36 appropriate referrals, or in the course of guardianship proceedings.  
37 The consent of the patient, or his or her guardian, shall be obtained  
38 before information or records may be disclosed by a professional person

1 employed by a facility unless provided to a professional person: (a)  
2 Employed by the facility; (b) who has medical responsibility for the  
3 patient's care; (c) who is a county designated mental health  
4 professional; (d) who is providing services under chapter 71.24 RCW;  
5 (e) who is employed by a state or local correctional facility where the  
6 person is confined; or (f) who is providing evaluation, treatment, or  
7 follow-up services under chapter 10.77 RCW.

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

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

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

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

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

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

33 /s/ . . . . ."

34 (6) To the courts as necessary to the administration of this  
35 chapter.

36 (7) To law enforcement officers, public health officers, or  
37 personnel of the department of corrections or the indeterminate  
38 sentence review board for persons who are the subject of the records

1 and who are committed to the custody of the department of corrections  
2 or indeterminate sentence review board which information or records are  
3 necessary to carry out the responsibilities of their office. Except  
4 for dissemination of information released pursuant to RCW 71.05.425 and  
5 4.24.550, regarding persons committed under this chapter under RCW  
6 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
7 defined in RCW 9.94A.030, the extent of information that may be  
8 released is limited as follows:

9 (a) Only the fact, place, and date of involuntary admission, the  
10 fact and date of discharge, and the last known address shall be  
11 disclosed upon request; and

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

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

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

26 (9) To the prosecuting attorney as necessary to carry out the  
27 responsibilities of the office under RCW 71.05.330(2) and  
28 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access  
29 to records regarding the committed person's treatment and prognosis,  
30 medication, behavior problems, and other records relevant to the issue  
31 of whether treatment less restrictive than inpatient treatment is in  
32 the best interest of the committed person or others. Information shall  
33 be disclosed only after giving notice to the committed person and the  
34 person's counsel.

35 (10) To appropriate law enforcement agencies and to a person, when  
36 the identity of the person is known to the public or private agency,  
37 whose health and safety has been threatened, or who is known to have  
38 been repeatedly harassed, by the patient. The person may designate a  
39 representative to receive the disclosure. The disclosure shall be made

1 by the professional person in charge of the public or private agency or  
2 his or her designee and shall include the dates of admission,  
3 discharge, authorized or unauthorized absence from the agency's  
4 facility, and only such other information that is pertinent to the  
5 threat or harassment. The decision to disclose or not shall not result  
6 in civil liability for the agency or its employees so long as the  
7 decision was reached in good faith and without gross negligence.

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

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

16 ~~((12))~~ (13) Civil liability and immunity for the release of  
17 information about a particular person who is committed to the  
18 department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal  
19 of a sex offense as defined in RCW 9.94A.030, is governed by RCW  
20 4.24.550.

21 ~~((13))~~ (14) To a patient's next of kin, guardian, or conservator,  
22 if any, in the event of death, as provided in RCW 71.05.400.

23 ~~((14))~~ (15) To the department of health ((ef)) for the purposes  
24 of determining compliance with state or federal licensure,  
25 certification, or registration rules or laws. However, the information  
26 and records obtained under this subsection are exempt from public  
27 inspection and copying pursuant to chapter 42.17 RCW.

28 The fact of admission, as well as all records, files, evidence,  
29 findings, or orders made, prepared, collected, or maintained pursuant  
30 to this chapter shall not be admissible as evidence in any legal  
31 proceeding outside this chapter without the written consent of the  
32 person who was the subject of the proceeding except in a subsequent  
33 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)  
34 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter  
35 10.77 RCW due to incompetency to stand trial or in a civil commitment  
36 proceeding pursuant to chapter 71.09 RCW. The records and files  
37 maintained in any court proceeding pursuant to this chapter shall be  
38 confidential and available subsequent to such proceedings only to the  
39 person who was the subject of the proceeding or his or her attorney.

1 In addition, the court may order the subsequent release or use of such  
2 records or files only upon good cause shown if the court finds that  
3 appropriate safeguards for strict confidentiality are and will be  
4 maintained.

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

7 The fact of admission and all information obtained through  
8 treatment under this chapter is confidential. Confidential information  
9 may be disclosed only:

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

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

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

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

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

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

24 (7) To the courts as necessary to the administration of this  
25 chapter;

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

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

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

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

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

15 /s/ . . . . . "

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

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

34 ~~((12))~~ (13) To a minor's next of kin, attorney, guardian, or  
35 conservator, if any, the information that the minor is presently in the  
36 facility or that the minor is seriously physically ill and a statement  
37 evaluating the mental and physical condition of the minor as well as a  
38 statement of the probable duration of the minor's confinement;

1       (~~(13)~~) (14) Upon the death of a minor, to the minor's next of  
2 kin;

3       (~~(14)~~) (15) To a facility in which the minor resides or will  
4 reside.

5       This section shall not be construed to prohibit the compilation and  
6 publication of statistical data for use by government or researchers  
7 under standards, including standards to assure maintenance of  
8 confidentiality, set forth by the secretary. The fact of admission and  
9 all information obtained pursuant to this chapter are not admissible as  
10 evidence in any legal proceeding outside this chapter, except  
11 guardianship or dependency, without the written consent of the minor or  
12 the minor's parent.

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

15       Before imposing a sentence upon a defendant, the court shall  
16 conduct a sentencing hearing. The sentencing hearing shall be held  
17 within forty court days following conviction. Upon the motion of  
18 either party for good cause shown, or on its own motion, the court may  
19 extend the time period for conducting the sentencing hearing.

20       Except in cases where the defendant shall be sentenced to a term of  
21 total confinement for life without the possibility of release or, when  
22 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
23 first degree, sentenced to death, the court may order the department to  
24 complete a risk assessment report. If available before sentencing, the  
25 report shall be provided to the court.

26       Unless specifically waived by the court, the court shall order the  
27 department to complete a chemical dependency screening report before  
28 imposing a sentence upon a defendant who has been convicted of a  
29 violation of the uniform controlled substances act under chapter 69.50  
30 RCW or a criminal solicitation to commit such a violation under chapter  
31 9A.28 RCW where the court finds that the offender has a chemical  
32 dependency that has contributed to his or her offense. In addition,  
33 the court shall, at the time of plea or conviction, order the  
34 department to complete a presentence report before imposing a sentence  
35 upon a defendant who has been convicted of a felony sexual offense.  
36 The department of corrections shall give priority to presentence  
37 investigations for sexual offenders. If the court determines that the  
38 defendant may be a mentally ill person as defined in RCW 71.24.025,

1 although the defendant has not established that at the time of the  
2 crime he or she lacked the capacity to commit the crime, was  
3 incompetent to commit the crime, or was insane at the time of the  
4 crime, the court shall order the department to complete a presentence  
5 report before imposing a sentence.

6 The court shall consider the risk assessment report and presentence  
7 reports, if any, including any victim impact statement and criminal  
8 history, and allow arguments from the prosecutor, the defense counsel,  
9 the offender, the victim, the survivor of the victim, or a  
10 representative of the victim or survivor, and an investigative law  
11 enforcement officer as to the sentence to be imposed.

12 If the court is satisfied by a preponderance of the evidence that  
13 the defendant has a criminal history, the court shall specify the  
14 convictions it has found to exist. All of this information shall be  
15 part of the record. Copies of all risk assessment reports and  
16 presentence reports presented to the sentencing court and all written  
17 findings of facts and conclusions of law as to sentencing entered by  
18 the court shall be sent to the department by the clerk of the court at  
19 the conclusion of the sentencing and shall accompany the offender if  
20 the offender is committed to the custody of the department. Court  
21 clerks shall provide, without charge, certified copies of documents  
22 relating to criminal convictions requested by prosecuting attorneys.

23 In a sentencing hearing or any other hearing in which the  
24 department may present a risk assessment or make a recommendation to  
25 the court, on motion of the defendant, or on the court's own motion,  
26 the court may exclude the public from the hearing, seal portions of the  
27 hearing record or court file, or grant other relief as may be necessary  
28 to prevent disclosure to the public of information related to mental  
29 health services as defined in either section 2 of this act, or section  
30 3 of this act, or both. Such an order shall not prevent the subsequent  
31 release of the underlying information as authorized in sections 2 and  
32 3 of this act.

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