

**E2SSB 5763** - H AMD  
By Representative Cody

ADOPTED AS AMENDED 04/14/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "PART I

4 GENERAL PROVISIONS

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

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

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

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

28 (4) Expand the authority for and use of therapeutic courts

1 including drug courts, mental health courts, and therapeutic courts for  
2 dependency proceedings;

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

7 (6) Improve access to inpatient treatment by creating expanded  
8 services facilities for persons needing intensive treatment in a secure  
9 setting who do not need inpatient care, but are unable to access  
10 treatment under current licensing restrictions in other settings;

11 (7) Establish secure detoxification centers for persons  
12 involuntarily detained as gravely disabled or presenting a likelihood  
13 of serious harm due to chemical dependency and authorize combined  
14 crisis responders for both mental disorders and chemical dependency  
15 disorders on a pilot basis and study the outcomes;

16 (8) Slow or stop the loss of inpatient and intensive residential  
17 beds and children's long-term inpatient placements and refine the  
18 balance of state hospital and community inpatient and residential beds;

19 (9) Improve cross-system collaboration including collaboration with  
20 first responders and hospital emergency rooms, schools, primary care,  
21 developmental disabilities, law enforcement and corrections, and  
22 federally funded and licensed programs;

23 (10) Following the receipt of outcomes from the pilot programs in  
24 Part II of this act, if directed by future legislative enactment,  
25 implement a single, comprehensive, involuntary treatment act with a  
26 unified set of standards, rights, obligations, and procedures for  
27 adults and children with mental disorders, chemical dependency  
28 disorders, and co-occurring disorders; and

29 (11) Amend existing state law to address organizational and  
30 structural barriers to effective use of state funds for treating  
31 persons with mental and substance abuse disorders, minimize internal  
32 inconsistencies, clarify policy and requirements, and maximize the  
33 opportunity for effective and cost-effective outcomes.

34 NEW SECTION. **Sec. 102.** (1) The department of social and health  
35 services shall explore and report to the appropriate committees of the  
36 legislature by December 1, 2005, on the feasibility, costs, benefits,

1 and time frame to access federal medicaid funds for mental health and  
2 substance abuse treatment under the following provisions:

3 (a) The optional clinic provisions;

4 (b) Children's mental health treatment or co-occurring disorders  
5 treatment under the early periodic screening, diagnosis, and treatment  
6 provisions.

7 (2) The department shall provide the appropriate committees of the  
8 legislature with a clear and concise explanation of the reasons for  
9 reducing state hospital capacity and the differences in costs and  
10 benefits of treatment in state and community hospital treatment.

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

#### 16 **Mental Health Treatment**

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

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

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

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

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

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

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

5 (3) "Attending staff" means any person on the staff of a public or  
6 private agency having responsibility for the care and treatment of a  
7 patient;

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

11 (5) "Conditional release" means a revocable modification of a  
12 commitment, which may be revoked upon violation of any of its terms;

13 ~~(6) ("County designated mental health professional" means a mental  
14 health professional appointed by the county to perform the duties  
15 specified in this chapter;~~

16 ~~(7))~~ "Custody" means involuntary detention under the provisions of  
17 this chapter or chapter 10.77 RCW, uninterrupted by any period of  
18 unconditional release from commitment from a facility providing  
19 involuntary care and treatment;

20 ~~((8))~~ (7) "Department" means the department of social and health  
21 services;

22 ~~((9))~~ (8) "Designated chemical dependency specialist" means a  
23 person designated by the county alcoholism and other drug addiction  
24 program coordinator designated under RCW 70.96A.310 to perform the  
25 commitment duties described in chapter 70.96A RCW and sections 202  
26 through 216 of this act;

27 (9) "Designated crisis responder" means a mental health  
28 professional appointed by the county or the regional support network to  
29 perform the duties specified in this chapter;

30 (10) "Designated mental health professional" means a mental health  
31 professional certified by the department per rules adopted by the  
32 secretary and employed by or contracted with a regional support network  
33 established under chapter 71.24 RCW to perform duties specified in this  
34 chapter;

35 (11) "Detention" or "detain" means the lawful confinement of a  
36 person, under the provisions of this chapter;

37 ~~((10))~~ (12) "Developmental disabilities professional" means a  
38 person who has specialized training and three years of experience in

1 directly treating or working with persons with developmental  
2 disabilities and is a psychiatrist, psychologist, or social worker, and  
3 such other developmental disabilities professionals as may be defined  
4 by rules adopted by the secretary;

5 ((+11+)) (13) "Developmental disability" means that condition  
6 defined in RCW 71A.10.020(3);

7 ((+12+)) (14) "Discharge" means the termination of hospital medical  
8 authority. The commitment may remain in place, be terminated, or be  
9 amended by court order;

10 ((+13+)) (15) "Evaluation and treatment facility" means any  
11 facility which can provide directly, or by direct arrangement with  
12 other public or private agencies, emergency evaluation and treatment,  
13 outpatient care, and timely and appropriate inpatient care to persons  
14 suffering from a mental disorder, and which is certified as such by the  
15 department. A physically separate and separately operated portion of  
16 a state hospital may be designated as an evaluation and treatment  
17 facility. A facility which is part of, or operated by, the department  
18 or any federal agency will not require certification. No correctional  
19 institution or facility, or jail, shall be an evaluation and treatment  
20 facility within the meaning of this chapter;

21 ((+14+)) (16) "Gravely disabled" means a condition in which a  
22 person, as a result of a mental disorder: (a) Is in danger of serious  
23 physical harm resulting from a failure to provide for his or her  
24 essential human needs of health or safety; or (b) manifests severe  
25 deterioration in routine functioning evidenced by repeated and  
26 escalating loss of cognitive or volitional control over his or her  
27 actions and is not receiving such care as is essential for his or her  
28 health or safety;

29 ((+15+)) (17) "Habilitative services" means those services provided  
30 by program personnel to assist persons in acquiring and maintaining  
31 life skills and in raising their levels of physical, mental, social,  
32 and vocational functioning. Habilitative services include education,  
33 training for employment, and therapy. The habilitative process shall  
34 be undertaken with recognition of the risk to the public safety  
35 presented by the ((~~individual~~) person being assisted as manifested by  
36 prior charged criminal conduct;

37 ((+16+)) (18) "History of one or more violent acts" refers to the  
38 period of time ten years prior to the filing of a petition under this

1 chapter, excluding any time spent, but not any violent acts committed,  
2 in a mental health facility or in confinement as a result of a criminal  
3 conviction;

4 ~~((+17))~~ (19) "Individualized service plan" means a plan prepared  
5 by a developmental disabilities professional with other professionals  
6 as a team, for ~~((an individual))~~ a person with developmental  
7 disabilities, which shall state:

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

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

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

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

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

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

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

23 ~~((+18))~~ (20) "Judicial commitment" means a commitment by a court  
24 pursuant to the provisions of this chapter;

25 ~~((+19))~~ (21) "Likelihood of serious harm" means:

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

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

1        ~~((+20+))~~ (22) "Mental disorder" means any organic, mental, or  
2 emotional impairment which has substantial adverse effects on ~~((an~~  
3 ~~individual's))~~ a person's cognitive or volitional functions;

4        ~~((+21+))~~ (23) "Mental health professional" means a psychiatrist,  
5 psychologist, psychiatric nurse, or social worker, and such other  
6 mental health professionals as may be defined by rules adopted by the  
7 secretary pursuant to the provisions of this chapter;

8        ~~((+22+))~~ (24) "Peace officer" means a law enforcement official of  
9 a public agency or governmental unit, and includes persons specifically  
10 given peace officer powers by any state law, local ordinance, or  
11 judicial order of appointment;

12        ~~((+23+))~~ (25) "Private agency" means any person, partnership,  
13 corporation, or association that is not a public agency, whether or not  
14 financed in whole or in part by public funds, which constitutes an  
15 evaluation and treatment facility or private institution, or  
16 hospital(~~(, or sanitarium))~~), which is conducted for, or includes a  
17 department or ward conducted for, the care and treatment of persons who  
18 are mentally ill;

19        ~~((+24+))~~ (26) "Professional person" means a mental health  
20 professional and shall also mean a physician, registered nurse, and  
21 such others as may be defined by rules adopted by the secretary  
22 pursuant to the provisions of this chapter;

23        ~~((+25+))~~ (27) "Psychiatrist" means a person having a license as a  
24 physician and surgeon in this state who has in addition completed three  
25 years of graduate training in psychiatry in a program approved by the  
26 American medical association or the American osteopathic association  
27 and is certified or eligible to be certified by the American board of  
28 psychiatry and neurology;

29        ~~((+26+))~~ (28) "Psychologist" means a person who has been licensed  
30 as a psychologist pursuant to chapter 18.83 RCW;

31        ~~((+27+))~~ (29) "Public agency" means any evaluation and treatment  
32 facility or institution, or hospital(~~(, or sanitarium))~~ which is  
33 conducted for, or includes a department or ward conducted for, the care  
34 and treatment of persons who are mentally ill(~~(+{,+})~~), if the agency is  
35 operated directly by, federal, state, county, or municipal government,  
36 or a combination of such governments;

37        ~~((+28+))~~ (30) "Registration records" include all the records of the  
38 department, regional support networks, treatment facilities, and other

1 persons providing services to the department, county departments, or  
2 facilities which identify persons who are receiving or who at any time  
3 have received services for mental illness;

4 (31) "Release" means legal termination of the commitment under the  
5 provisions of this chapter;

6 ((+29+)) (32) "Resource management services" has the meaning given  
7 in chapter 71.24 RCW;

8 ((+30+)) (33) "Secretary" means the secretary of the department of  
9 social and health services, or his or her designee;

10 ((+31+)) (34) "Social worker" means a person with a master's or  
11 further advanced degree from an accredited school of social work or a  
12 degree deemed equivalent under rules adopted by the secretary;

13 ((+32+)) (35) "Treatment records" include registration and all  
14 other records concerning persons who are receiving or who at any time  
15 have received services for mental illness, which are maintained by the  
16 department, by regional support networks and their staffs, and by  
17 treatment facilities. Treatment records do not include notes or  
18 records maintained for personal use by a person providing treatment  
19 services for the department, regional support networks, or a treatment  
20 facility if the notes or records are not available to others;

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

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

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

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

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

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

35 (c) Presenting a likelihood of serious harm as defined in RCW  
36 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.



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

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

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

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

16 (b) Has experienced a continuous psychiatric hospitalization or  
17 residential treatment exceeding six months' duration within the  
18 preceding year; or

19 (c) Has been unable to engage in any substantial gainful activity  
20 by reason of any mental disorder which has lasted for a continuous  
21 period of not less than twelve months. "Substantial gainful activity"  
22 shall be defined by the department by rule consistent with Public Law  
23 92-603, as amended.

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

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

30 (7) "Community support services" means services authorized,  
31 planned, and coordinated through resource management services  
32 including, at a minimum, assessment, diagnosis, emergency crisis  
33 intervention available twenty-four hours, seven days a week,  
34 prescreening determinations for mentally ill persons being considered  
35 for placement in nursing homes as required by federal law, screening  
36 for patients being considered for admission to residential services,  
37 diagnosis and treatment for acutely mentally ill and severely  
38 emotionally disturbed children discovered under screening through the

1 federal Title XIX early and periodic screening, diagnosis, and  
2 treatment program, investigation, legal, and other nonresidential  
3 services under chapter 71.05 RCW, case management services, psychiatric  
4 treatment including medication supervision, counseling, psychotherapy,  
5 assuring transfer of relevant patient information between service  
6 providers, recovery services, and other services determined by regional  
7 support networks.

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

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

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

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

22 (12) "Licensed service provider" means an entity licensed according  
23 to this chapter or chapter 71.05 RCW or an entity deemed to meet state  
24 minimum standards as a result of accreditation by a recognized  
25 behavioral health accrediting body recognized and having a current  
26 agreement with the department, that meets state minimum standards or  
27 ((individuals)) persons licensed under chapter 18.57, 18.71, 18.83, or  
28 18.79 RCW, as it applies to registered nurses and advanced registered  
29 nurse practitioners.

30 ((11)) (13) "Mental health services" means all services provided  
31 by regional support networks and other services provided by the state  
32 for the mentally ill.

33 ((12)) (14) "Mentally ill persons" and "the mentally ill" mean  
34 persons and conditions defined in subsections (1), (4), ((17)) (23),  
35 and ((18)) (24) of this section.

36 ((13)) (15) "Recovery" means the process in which people are able  
37 to live, work, learn, and participate fully in their communities.

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

5        ~~((14))~~ (17) "Registration records" include all the records of the  
6 department, regional support networks, treatment facilities, and other  
7 persons providing services to the department, county departments, or  
8 facilities which identify persons who are receiving or who at any time  
9 have received services for mental illness.

10        (18) "Residential services" means a complete range of residences  
11 and supports authorized by resource management services and which may  
12 involve a facility, a distinct part thereof, or services which support  
13 community living, for acutely mentally ill persons, chronically  
14 mentally ill adults, severely emotionally disturbed children, or  
15 seriously disturbed adults determined by the regional support network  
16 to be at risk of becoming acutely or chronically mentally ill. The  
17 services shall include at least evaluation and treatment services as  
18 defined in chapter 71.05 RCW, acute crisis respite care, long-term  
19 adaptive and rehabilitative care, and supervised and supported living  
20 services, and shall also include any residential services developed to  
21 service mentally ill persons in nursing homes, boarding homes, and  
22 adult family homes, and may include outpatient services provided as an  
23 element in a package of services in a supported housing model.  
24 Residential services for children in out-of-home placements related to  
25 their mental disorder shall not include the costs of food and shelter,  
26 except for children's long-term residential facilities existing prior  
27 to January 1, 1991.

28        ~~((15))~~ (19) "Research-based" means a program or practice that has  
29 some research demonstrating effectiveness, but that does not yet meet  
30 the standard of evidence-based practices.

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

34        (21) "Resource management services" mean the planning,  
35 coordination, and authorization of residential services and community  
36 support services administered pursuant to an individual service plan  
37 for: (a) Acutely mentally ill adults and children; (b) chronically  
38 mentally ill adults; (c) severely emotionally disturbed children; or

1 (d) seriously disturbed adults determined solely by a regional support  
2 network to be at risk of becoming acutely or chronically mentally ill.  
3 Such planning, coordination, and authorization shall include mental  
4 health screening for children eligible under the federal Title XIX  
5 early and periodic screening, diagnosis, and treatment program.  
6 Resource management services include seven day a week, twenty-four hour  
7 a day availability of information regarding mentally ill adults' and  
8 children's enrollment in services and their individual service plan to  
9 (~~county~~) designated mental health professionals, evaluation and  
10 treatment facilities, and others as determined by the regional support  
11 network.

12 ((~~16~~)) (22) "Secretary" means the secretary of social and health  
13 services.

14 ((~~17~~)) (23) "Seriously disturbed person" means a person who:

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

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

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

24 (d) Exhibits suicidal preoccupation or attempts; or

25 (e) Is a child diagnosed by a mental health professional, as  
26 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
27 is clearly interfering with the child's functioning in family or school  
28 or with peers or is clearly interfering with the child's personality  
29 development and learning.

30 ((~~18~~)) (24) "Severely emotionally disturbed child" means a child  
31 who has been determined by the regional support network to be  
32 experiencing a mental disorder as defined in chapter 71.34 RCW,  
33 including those mental disorders that result in a behavioral or conduct  
34 disorder, that is clearly interfering with the child's functioning in  
35 family or school or with peers and who meets at least one of the  
36 following criteria:

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

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

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

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

7 (i) Chronic family dysfunction involving a mentally ill or  
8 inadequate caretaker;

9 (ii) Changes in custodial adult;

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

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

15 (v) Drug or alcohol abuse; or

16 (vi) Homelessness.

17 (~~(19)~~) (25) "State minimum standards" means minimum requirements  
18 established by rules adopted by the secretary and necessary to  
19 implement this chapter for: (a) Delivery of mental health services;  
20 (b) licensed service providers for the provision of mental health  
21 services; (c) residential services; and (d) community support services  
22 and resource management services.

23 (~~(20)~~) (26) "Treatment records" include registration and all  
24 other records concerning persons who are receiving or who at any time  
25 have received services for mental illness, which are maintained by the  
26 department, by regional support networks and their staffs, and by  
27 treatment facilities. Treatment records do not include notes or  
28 records maintained for personal use by a person providing treatment  
29 services for the department, regional support networks, or a treatment  
30 facility if the notes or records are not available to others.

31 (27) "Tribal authority," for the purposes of this section and RCW  
32 71.24.300 only, means: The federally recognized Indian tribes and the  
33 major Indian organizations recognized by the secretary insofar as these  
34 organizations do not have a financial relationship with any regional  
35 support network that would present a conflict of interest.

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

1 As used in this chapter:

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

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

7 (3) "Conditional release" means modification of a court-ordered  
8 commitment, which may be revoked upon violation of any of its terms.

9 (4) (~~"County designated mental health professional" has the same  
10 meaning as provided in RCW 71.05.020.~~

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

17 ~~((6))~~ (5) "Department" means the state department of social and  
18 health services.

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

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

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

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

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

34 (11) "Furlough" means an authorized leave of absence for a resident  
35 of a state institution operated by the department designated for the  
36 custody, care, and treatment of the criminally insane, consistent with  
37 an order of conditional release from the court under this chapter,

1 without any requirement that the resident be accompanied by, or be in  
2 the custody of, any law enforcement or institutional staff, while on  
3 such unescorted leave.

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

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

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

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

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

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

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

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

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

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

37 (f) Where relevant in light of past criminal behavior and due

1 consideration for public safety, the criteria for proposed movement to  
2 less-restrictive settings, criteria for proposed eventual release, and  
3 a projected possible date for release; and

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

6 (17) "Professional person" means:

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

13 (b) A psychologist licensed as a psychologist pursuant to chapter  
14 18.83 RCW; or

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

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

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

25 ((+19+)) (20) "Secretary" means the secretary of the department of  
26 social and health services or his or her designee.

27 ((+20+)) (21) "Treatment" means any currently standardized medical  
28 or mental health procedure including medication.

29 ((+21+)) (22) "Treatment records" include registration and all  
30 other records concerning persons who are receiving or who at any time  
31 have received services for mental illness, which are maintained by the  
32 department, by regional support networks and their staffs, and by  
33 treatment facilities. Treatment records do not include notes or  
34 records maintained for personal use by a person providing treatment  
35 services for the department, regional support networks, or a treatment  
36 facility if the notes or records are not available to others.

37 (23) "Violent act" means behavior that: (a)(i) Resulted in; (ii)  
38 if completed as intended would have resulted in; or (iii) was



1 threatened to be carried out by a person who had the intent and  
2 opportunity to carry out the threat and would have resulted in,  
3 homicide, nonfatal injuries, or substantial damage to property; or (b)  
4 recklessly creates an immediate risk of serious physical injury to  
5 another person. As used in this subsection, "nonfatal injuries" means  
6 physical pain or injury, illness, or an impairment of physical  
7 condition. "Nonfatal injuries" shall be construed to be consistent  
8 with the definition of "bodily injury," as defined in RCW 9A.04.110.

9 **Sec. 107.** RCW 71.05.360 and 1997 c 112 s 30 are each amended to  
10 read as follows:

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

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

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

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

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

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

35 (5) Whenever any person is detained for evaluation and treatment  
36 pursuant to this chapter, both the person and, if possible, a  
37 responsible member of his or her immediate family, personal

1 representative, guardian, or conservator, if any, shall be advised as  
2 soon as possible in writing or orally, by the officer or person taking  
3 him or her into custody or by personnel of the evaluation and treatment  
4 facility where the person is detained that unless the person is  
5 released or voluntarily admits himself or herself for treatment within  
6 seventy-two hours of the initial detention:

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

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

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

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

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

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

36 (7) The judicial hearing described in subsection (5) of this  
37 section is hereby authorized, and shall be held according to the

1 provisions of subsection (5) of this section and rules promulgated by  
2 the supreme court.

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

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

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

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

8 (d) To remain silent;

9 (e) To view and copy all petitions and reports in the court file.

10 (9) The physician-patient privilege or the psychologist-client  
11 privilege shall be deemed waived in proceedings under this chapter  
12 relating to the administration of antipsychotic medications. As to  
13 other proceedings under this chapter, the privileges shall be waived  
14 when a court of competent jurisdiction in its discretion determines  
15 that such waiver is necessary to protect either the detained person or  
16 the public.

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

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

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

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

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

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

3 (d) To have visitors at reasonable times;

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

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

10 (g) To discuss treatment plans and decisions with professional  
11 persons;

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

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

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

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

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

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

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

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

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

11       NEW SECTION. Sec. 108. RCW 71.05.370 is recodified as a new  
12 section in chapter 71.05 RCW to be codified in proximity to RCW  
13 71.05.215.

14       **Sec. 109.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and  
15 2004 c 33 s 2 are each reenacted and amended to read as follows:

16       Except as provided in this section, RCW 71.05.445, 71.05.630,  
17 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the  
18 fact of admission and all information and records compiled, obtained,  
19 or maintained in the course of providing services to either voluntary  
20 or involuntary recipients of services at public or private agencies  
21 shall be confidential.

22       Information and records may be disclosed only:

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

- 30       (a) Employed by the facility;  
31       (b) Who has medical responsibility for the patient's care;  
32       (c) Who is a ((county)) designated mental health professional;  
33       (d) Who is providing services under chapter 71.24 RCW;  
34       (e) Who is employed by a state or local correctional facility where  
35 the person is confined or supervised; or

1 (f) Who is providing evaluation, treatment, or follow-up services  
2 under chapter 10.77 RCW.

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

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

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

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

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

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

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

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

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

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

3 /s/ ..... "

4 (b) Nothing in this chapter shall be construed to prohibit the  
5 compilation and publication of statistical data for use by government  
6 or researchers under standards, including standards to assure  
7 maintenance of confidentiality, set forth by the secretary.

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

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

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

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

29 (b) To law enforcement officers, public health officers, or  
30 personnel of the department of corrections or the indeterminate  
31 sentence review board for persons who are the subject of the records  
32 and who are committed to the custody or supervision of the department  
33 of corrections or indeterminate sentence review board which information  
34 or records are necessary to carry out the responsibilities of their  
35 office. Except for dissemination of information released pursuant to

1 RCW 71.05.425 and 4.24.550, regarding persons committed under this  
2 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of  
3 a sex offense as defined in RCW 9.94A.030, the extent of information  
4 that may be released is limited as follows:

5 ~~((a))~~ (i) Only the fact, place, and date of involuntary  
6 commitment, the fact and date of discharge or release, and the last  
7 known address shall be disclosed upon request;

8 ~~((b))~~ (ii) The law enforcement and public health officers or  
9 personnel of the department of corrections or indeterminate sentence  
10 review board shall be obligated to keep such information confidential  
11 in accordance with this chapter;

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

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

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

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

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



1 be disclosed only after giving notice to the committed person and the  
2 person's counsel.

3 (10) 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 commitment,  
10 admission, discharge, or release, authorized or unauthorized absence  
11 from the agency's facility, and only such other information that is  
12 pertinent to the threat or harassment. The decision to disclose or not  
13 shall not result in civil liability for the agency or its employees so  
14 long as the decision was reached in good faith and without gross  
15 negligence.

16 (11) To appropriate corrections and law enforcement agencies 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 the persons designated in RCW 71.05.425 for the purposes  
23 described in that section.

24 (13) Civil liability and immunity for the release of information  
25 about a particular person who is committed to the department under RCW  
26 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
27 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

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

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

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

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

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

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

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

1 use of such records or files only upon good cause shown if the court  
2 finds that appropriate safeguards for strict confidentiality are and  
3 will be maintained.

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

6 Except as provided in RCW 71.05.425, when any disclosure of  
7 information or records is made as authorized by RCW 71.05.390 (~~through~~  
8 ~~71.05.410~~), the physician in charge of the patient or the professional  
9 person in charge of the facility shall promptly cause to be entered  
10 into the patient's medical record the date and circumstances under  
11 which said disclosure was made, the names and relationships to the  
12 patient, if any, of the persons or agencies to whom such disclosure was  
13 made, and the information disclosed.

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

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

19 ~~(a) The name of the individual, agency, or organization to which~~  
20 ~~the disclosure is to be made;~~

21 ~~(b) The name of the individual whose treatment record is being~~  
22 ~~disclosed;~~

23 ~~(c) The purpose or need for the disclosure;~~

24 ~~(d) The specific type of information to be disclosed;~~

25 ~~(e) The time period during which the consent is effective;~~

26 ~~(f) The date on which the consent is signed; and~~

27 ~~(g) The signature of the individual or person legally authorized to~~  
28 ~~give consent for the individual.~~

29 ~~(2))~~ The files and records of court proceedings under this chapter  
30 and chapters (~~(71.05))~~ 70.96A, 71.34, and 70.-- (sections 202 through  
31 216 of this act) RCW shall be closed but shall be accessible to any  
32 ~~((individual))~~ person who is the subject of a petition and to the  
33 ~~((individual's))~~ person's attorney, guardian ad litem, resource  
34 management services, or service providers authorized to receive such  
35 information by resource management services.

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

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

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

9       (a) To (~~(an individual))~~ a person, organization, or agency as  
10 necessary for management or financial audits, or program monitoring and  
11 evaluation. Information obtained under this subsection shall remain  
12 confidential and may not be used in a manner that discloses the name or  
13 other identifying information about the (~~(individual))~~ person whose  
14 records are being 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 persons employed, serving in bona fide training programs, or  
31 participating in supervised volunteer programs, at the facility when it  
32 is necessary to 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))~~ persons who are under the supervision of the  
36 department.

37       (h) To a licensed physician who has determined that the life or  
38 health of the (~~(individual))~~ person is in danger and that treatment

1 without the information contained in the treatment records could be  
2 injurious to the patient's health. Disclosure shall be limited to the  
3 portions of the records necessary to meet the medical emergency.

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

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

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

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

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

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

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

37 (l) To staff members of the protection and advocacy agency or to  
38 staff members of a private, nonprofit corporation for the purpose of

1 protecting and advocating the rights of persons with mental ((~~illness~~))  
2 disorders or developmental disabilities. Resource management services  
3 may limit the release of information to the name, birthdate, and county  
4 of 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 shall 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 (3) Whenever federal law or federal regulations restrict the  
18 release of information contained in the treatment records of any  
19 patient who receives treatment for ((~~alcoholism or drug~~)) chemical  
20 dependency, the department may restrict the release of the information  
21 as necessary to comply with federal law and regulations.

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

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

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

34 (3) Treatment records may be modified prior to inspection to  
35 protect the confidentiality of other patients or the names of any other  
36 persons referred to in the record who gave information on the condition

1 that his or her identity remain confidential. Entire documents may not  
2 be withheld to protect such confidentiality.

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

6 **Sec. 114.** RCW 71.05.660 and 1989 c 205 s 16 are each amended to  
7 read as follows:

8 Nothing in this chapter (~~(205, Laws of 1989)~~) or chapter 70.96A,  
9 71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall  
10 be construed to interfere with communications between physicians or  
11 psychologists and patients and attorneys and clients.

12 NEW SECTION. **Sec. 115.** A new section is added to chapter 71.05  
13 RCW to read as follows:

14 A petition for commitment under this chapter may be joined with a  
15 petition for commitment under chapter 70.96A RCW.

16 **PART II**  
17 **PILOT PROGRAMS**

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

20 NEW SECTION. **Sec. 202.** The definitions in this section apply  
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) "Admission" or "admit" means a decision by a physician that a  
23 person should be examined or treated as a patient in a hospital, an  
24 evaluation and treatment facility, or other inpatient facility, or a  
25 decision by a professional person in charge or his or her designee that  
26 a person should be detained as a patient for evaluation and treatment  
27 in a secure detoxification facility or other certified chemical  
28 dependency provider.

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

1 (3) "Approved treatment program" means a discrete program of  
2 chemical dependency treatment provided by a treatment program certified  
3 by the department as meeting standards adopted under chapter 70.96A  
4 RCW.

5 (4) "Attending staff" means any person on the staff of a public or  
6 private agency having responsibility for the care and treatment of a  
7 patient.

8 (5) "Chemical dependency" means:  
9 (a) Alcoholism;  
10 (b) Drug addiction; or  
11 (c) Dependence on alcohol and one or more other psychoactive  
12 chemicals, as the context requires.

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

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

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

21 (9) "Custody" means involuntary detention under either chapter  
22 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of  
23 unconditional release from commitment from a facility providing  
24 involuntary care and treatment.

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

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

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

36 (13) "Designated mental health professional" means a mental health  
37 professional certified by the department per rules adopted by the



1 secretary and employed by or contracted with a regional support network  
2 established under chapter 71.24 RCW.

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

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

11 (16) "Developmental disability" means that condition defined in RCW  
12 71A.10.020.

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

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

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

29 (20) "Gravely disabled" means a condition in which a person, as a  
30 result of a mental disorder, or as a result of the use of alcohol or  
31 other psychoactive chemicals:

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

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

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

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

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

12 (24) "Licensed physician" means a person licensed to practice  
13 medicine or osteopathic medicine and surgery in the state of  
14 Washington.

15 (25) "Likelihood of serious harm" means:

16 (a) A substantial risk that:

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

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

23 (iii) Physical harm will be inflicted by a person upon the property  
24 of others, as evidenced by behavior that has caused substantial loss or  
25 damage to the property of others; or

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

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

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

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

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

6 (30) "Private agency" means any person, partnership, corporation,  
7 or association that is not a public agency, whether or not financed in  
8 whole or in part by public funds, that constitutes an evaluation and  
9 treatment facility or private institution, or hospital, or approved  
10 treatment program, that is conducted for, or includes a department or  
11 ward conducted for, the care and treatment of persons who are mentally  
12 ill and/or chemically dependent.

13 (31) "Professional person" means a mental health professional or  
14 chemical dependency professional and shall also mean a physician,  
15 registered nurse, and such others as may be defined by rules adopted by  
16 the secretary pursuant to the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 NEW SECTION. **Sec. 205.** In addition to the provisions of this  
10 chapter, a designated crisis responder has all the powers and duties of  
11 a designated mental health professional as well as the powers and  
12 duties of a designated chemical dependency specialist under RCW  
13 70.96A.120.

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

29 (b)(i)(A) Whenever it appears, by petition for initial detention,  
30 to the satisfaction of a judge of the superior court that a person  
31 presents as a result of a mental disorder, a likelihood of serious  
32 harm, or is gravely disabled, and that the person has refused or failed  
33 to accept appropriate evaluation and treatment voluntarily, the judge  
34 may issue an order requiring the person to appear within twenty-four  
35 hours after service of the order at a designated evaluation and

1 treatment facility for not more than a seventy-two hour evaluation and  
2 treatment period; or

3 (B) Whenever it appears, by petition for initial detention, to the  
4 satisfaction of a judge of the superior court, district court, or other  
5 court permitted by court rule, that a person presents as a result of a  
6 chemical dependency, a likelihood of serious harm, or is gravely  
7 disabled, and that the person has refused or failed to accept  
8 appropriate evaluation and treatment voluntarily, the judge may issue  
9 an order requiring the person to appear within twenty-four hours after  
10 service of the order at a secure detoxification facility or other  
11 certified chemical dependency provider for not more than a seventy-two  
12 hour evaluation and treatment period.

13 (ii) The order issued under this subsection (1)(b) shall state the  
14 address of the evaluation and treatment facility, secure detoxification  
15 facility, or other certified chemical dependency provider to which the  
16 person is to report; whether the required seventy-two hour evaluation  
17 and treatment services may be delivered on an outpatient or inpatient  
18 basis; and that if the person named in the order fails to appear at the  
19 evaluation and treatment facility, secure detoxification facility, or  
20 other certified chemical dependency provider at or before the date and  
21 time stated in the order, the person may be involuntarily taken into  
22 custody for evaluation and treatment. The order shall also designate  
23 retained counsel or, if counsel is appointed from a list provided by  
24 the court, the name, business address, and telephone number of the  
25 attorney appointed to represent the person.

26 (c) The designated crisis responder shall then serve or cause to be  
27 served on such person, his or her guardian, and conservator, if any, a  
28 copy of the order to appear, together with a notice of rights and a  
29 petition for initial detention. After service on the person, the  
30 designated crisis responder shall file the return of service in court  
31 and provide copies of all papers in the court file to the evaluation  
32 and treatment facility or secure detoxification facility and the  
33 designated attorney. The designated crisis responder shall notify the  
34 court and the prosecuting attorney that a probable cause hearing will  
35 be held within seventy-two hours of the date and time of outpatient  
36 evaluation or admission to the evaluation and treatment facility,  
37 secure detoxification facility, or other certified chemical dependency  
38 provider. The person shall be permitted to remain in his or her home

1 or other place of his or her choosing before the time of evaluation and  
2 shall be permitted to be accompanied by one or more of his or her  
3 relatives, friends, an attorney, a personal physician, or other  
4 professional or religious advisor to the place of evaluation. An  
5 attorney accompanying the person to the place of evaluation shall be  
6 permitted to be present during the admission evaluation. Any other  
7 person accompanying the person may be present during the admission  
8 evaluation. The facility may exclude the person if his or her presence  
9 would present a safety risk, delay the proceedings, or otherwise  
10 interfere with the evaluation.

11 (d) If the person ordered to appear does appear on or before the  
12 date and time specified, the evaluation and treatment facility, secure  
13 detoxification facility, or other certified chemical dependency  
14 provider may admit the person as required by subsection (3) of this  
15 section or may provide treatment on an outpatient basis. If the person  
16 ordered to appear fails to appear on or before the date and time  
17 specified, the evaluation and treatment facility, secure detoxification  
18 facility, or other certified chemical dependency provider shall  
19 immediately notify the designated crisis responder who may notify a  
20 peace officer to take the person or cause the person to be taken into  
21 custody and placed in an evaluation and treatment facility, a secure  
22 detoxification facility, or other certified chemical dependency  
23 provider. Should the designated crisis responder notify a peace  
24 officer authorizing the officer to take a person into custody under  
25 this subsection, the designated crisis responder shall file with the  
26 court a copy of the authorization and a notice of detention. At the  
27 time the person is taken into custody there shall commence to be served  
28 on the person, his or her guardian, and conservator, if any, a copy of  
29 the original order together with a notice of detention, a notice of  
30 rights, and a petition for initial detention.

31 (2) If a designated crisis responder receives information alleging  
32 that a person, as the result of:

33 (a) A mental disorder, presents an imminent likelihood of serious  
34 harm, or is in imminent danger because of being gravely disabled, after  
35 investigation and evaluation of the specific facts alleged and of the  
36 reliability and credibility of the person or persons providing the  
37 information if any, the designated crisis responder may take the



1 person, or cause by oral or written order the person to be taken into  
2 emergency custody in an evaluation and treatment facility for not more  
3 than seventy-two hours as described in this chapter; or

4 (b) Chemical dependency, presents an imminent likelihood of serious  
5 harm, or is in imminent danger because of being gravely disabled, after  
6 investigation and evaluation of the specific facts alleged and of the  
7 reliability and credibility of the person or persons providing the  
8 information if any, the designated crisis responder may take the  
9 person, or cause by oral or written order the person to be taken into  
10 emergency custody in a secure detoxification facility for not more than  
11 seventy-two hours as described in this chapter.

12 (3) If the designated crisis responder petitions for detention of  
13 a person whose actions constitute a likelihood of serious harm, or who  
14 is gravely disabled, the evaluation and treatment facility, the secure  
15 detoxification facility, or other certified chemical dependency  
16 provider providing seventy-two hour evaluation and treatment must  
17 immediately accept on a provisional basis the petition and the person.  
18 The evaluation and treatment facility, the secure detoxification  
19 facility, or other certified chemical dependency provider shall then  
20 evaluate the person's condition and admit, detain, transfer, or  
21 discharge such person in accordance with this chapter. The facility  
22 shall notify in writing the court and the designated crisis responder  
23 of the date and time of the initial detention of each person  
24 involuntarily detained so that a probable cause hearing will be held no  
25 later than seventy-two hours after detention.

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

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

36 NEW SECTION. **Sec. 207.** (1) A person or public or private entity

1 employing a person is not civilly or criminally liable for performing  
2 duties under this chapter if the duties were performed in good faith  
3 and without gross negligence.

4 (2) This section does not relieve a person from giving the required  
5 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn  
6 or to take reasonable precautions to provide protection from violent  
7 behavior where the patient has communicated an actual threat of  
8 physical violence against a reasonably identifiable victim or victims.  
9 The duty to warn or to take reasonable precautions to provide  
10 protection from violent behavior is discharged if reasonable efforts  
11 are made to communicate the threat to the victim or victims and to law  
12 enforcement personnel.

13 NEW SECTION. **Sec. 208.** If the evaluation and treatment facility,  
14 secure detoxification facility, or other certified chemical dependency  
15 provider admits the person, it may detain the person for evaluation and  
16 treatment for a period not to exceed seventy-two hours from the time of  
17 acceptance. The computation of the seventy-two hour period excludes  
18 Saturdays, Sundays, and holidays.

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

22 NEW SECTION. **Sec. 210.** (1) A person detained for seventy-two hour  
23 evaluation and treatment under section 206 of this act or RCW  
24 70.96A.120 may be detained for not more than fourteen additional days  
25 of involuntary chemical dependency treatment if there are beds  
26 available at the secure detoxification facility and the following  
27 conditions are met:

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

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

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

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

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

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

28 (5)(a) The court shall inform the person whose commitment is sought  
29 of his or her right to contest the petition, be represented by counsel  
30 at every stage of any proceedings relating to his or her commitment,  
31 and have counsel appointed by the court or provided by the court, if he  
32 or she wants the assistance of counsel and is unable to obtain counsel.  
33 If the court believes that the person needs the assistance of counsel,  
34 the court shall require, by appointment if necessary, counsel for him  
35 or her regardless of his or her wishes. The person shall, if he or she  
36 is financially able, bear the costs of such legal service; otherwise  
37 such legal service shall be at public expense. The person whose  
38 commitment is sought shall be informed of his or her right to be

1 examined by a licensed physician of his or her choice. If the person  
2 is unable to obtain a licensed physician and requests examination by a  
3 physician, the court shall appoint a reasonably available licensed  
4 physician designated by the person.

5 (b) At the conclusion of the probable cause hearing, if the court  
6 finds by a preponderance of the evidence that the person, as the result  
7 of chemical dependency, presents a likelihood of serious harm or is  
8 gravely disabled and, after considering less restrictive alternatives  
9 to involuntary detention and treatment, finds that no such alternatives  
10 are in the best interest of such person or others, the court shall  
11 order that the person be detained for involuntary chemical dependency  
12 treatment not to exceed fourteen days in a secure detoxification  
13 facility.

14 NEW SECTION. **Sec. 211.** If a person is detained for additional  
15 treatment beyond fourteen days under section 210 of this act, the  
16 professional staff of the agency or facility may petition for  
17 additional treatment under RCW 70.96A.140.

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

24 NEW SECTION. **Sec. 213.** (1) Every person involuntarily detained or  
25 committed under this chapter as a result of a mental disorder is  
26 entitled to all the rights set forth in this chapter and in chapter  
27 71.05 RCW, and retains all rights not denied him or her under this  
28 chapter or chapter 71.05 RCW.

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

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

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

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

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

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

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

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

34        NEW SECTION.    **Sec. 217.**    (1) The Washington state institute for

1 public policy shall evaluate the pilot programs and make a preliminary  
2 report to appropriate committees of the legislature by December 1,  
3 2007, and a final report by September 30, 2008.

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

5 (a) Whether the designated crisis responder pilot program:

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

8 (ii) Is cost-effective;

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

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

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

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

21 **Sec. 218.** RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each  
22 amended to read as follows:

23 The department of social and health services, in planning and  
24 providing funding to counties pursuant to chapter 71.24 RCW, shall  
25 recognize the financial necessities imposed upon counties by  
26 implementation of this chapter and chapter 70.-- RCW (sections 202  
27 through 216 of this act), and shall consider needs, if any, for  
28 additional community mental health services and facilities and  
29 reduction in commitments to state hospitals for the mentally ill  
30 accomplished by individual counties, in planning and providing such  
31 funding. The state shall provide financial assistance to the counties  
32 to enable the counties to meet all increased costs, if any, to the  
33 counties resulting from their administration of the provisions of  
34 chapter 142, Laws of 1973 1st ex. sess.

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

1        NEW SECTION.    **Sec. 220.**    A new section is added to chapter 70.96A  
2    RCW to read as follows:

3        (1)    The secretary shall select and contract with counties to  
4    provide intensive case management for chemically dependent persons with  
5    histories of high utilization of crisis services at two sites.    In  
6    selecting the two sites, the secretary shall endeavor to site one in an  
7    urban county, and one in a rural county; and to site them in counties  
8    other than those selected pursuant to section 203 of this act, to the  
9    extent necessary to facilitate evaluation of pilot project results.

10       (2)    The contracted sites shall implement the pilot programs by  
11    providing intensive case management to persons with a primary chemical  
12    dependency diagnosis or dual primary chemical dependency and mental  
13    health diagnoses, through the employment of chemical dependency case  
14    managers.    The chemical dependency case managers shall:

15       (a)    Be trained in and use the integrated, comprehensive screening  
16    and assessment process adopted under section 601 of this act;

17       (b)    Reduce the use of crisis medical, chemical dependency and  
18    mental health services, including but not limited to, emergency room  
19    admissions, hospitalizations, detoxification programs, inpatient  
20    psychiatric admissions, involuntary treatment petitions, emergency  
21    medical services, and ambulance services;

22       (c)    Reduce the use of emergency first responder services including  
23    police, fire, emergency medical, and ambulance services;

24       (d)    Reduce the number of criminal justice interventions including  
25    arrests, violations of conditions of supervision, bookings, jail days,  
26    prison sanction day for violations, court appearances, and prosecutor  
27    and defense costs;

28       (e)    Where appropriate and available, work with therapeutic courts  
29    including drug courts and mental health courts to maximize the outcomes  
30    for the individual and reduce the likelihood of reoffense;

31       (f)    Coordinate with local offices of the economic services  
32    administration to assist the person in accessing and remaining enrolled  
33    in those programs to which the person may be entitled;

34       (g)    Where appropriate and available, coordinate with primary care  
35    and other programs operated through the federal government including  
36    federally qualified health centers, Indian health programs, and  
37    veterans' health programs for which the person is eligible to reduce  
38    duplication of services and conflicts in case approach;

1 (h) Where appropriate, advocate for the client's needs to assist  
2 the person in achieving and maintaining stability and progress toward  
3 recovery;

4 (i) Document the numbers of persons with co-occurring mental and  
5 substance abuse disorders and the point of determination of the co-  
6 occurring disorder by quadrant of intensity of need; and

7 (j) Where a program participant is under supervision by the  
8 department of corrections, collaborate with the department of  
9 corrections to maximize treatment outcomes and reduce the likelihood of  
10 reoffense.

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

13 (4) This section expires June 30, 2008.

14 **PART III**  
15 **TREATMENT GAP**

16 NEW SECTION. **Sec. 301.** A new section is added to chapter 70.96A  
17 RCW to read as follows:

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

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

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

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

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

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

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



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

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

9        (2) Treatment providers contracted to provide treatment under this  
10   chapter who fail to implement the integrated comprehensive screening  
11   and assessment process for chemical dependency and mental disorders by  
12   July 1, 2007, are subject to contractual penalties established under  
13   section 601 of this act.

14       NEW SECTION.    **Sec. 303.**    A new section is added to chapter 13.34  
15   RCW to read as follows:

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

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

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

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

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

34        (2) The chemical dependency specialist's duties may include, but  
35   are not limited to: Conducting on-site chemical dependency screening

1 and assessment, facilitating progress reports to department social  
2 workers, in-service training of department social workers and staff on  
3 substance abuse issues, referring clients from the department to  
4 treatment providers, and providing consultation on cases to department  
5 social workers.

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

9 **PART IV**  
10 **RESOURCES**

11 NEW SECTION. **Sec. 401.** Sections 402 through 425 of this act  
12 constitute a new chapter in Title 70 RCW.

13 NEW SECTION. **Sec. 402.** The legislature finds that there are  
14 persons with mental disorders, including organic or traumatic brain  
15 disorders, and combinations of mental disorders with other medical  
16 conditions or behavior histories that result in behavioral and security  
17 issues that make these persons ineligible for, or unsuccessful in,  
18 existing types of licensed facilities, including adult residential  
19 rehabilitation centers, boarding homes, adult family homes, group  
20 homes, and skilled nursing facilities. The legislature also finds that  
21 many of these persons have been treated on repeated occasions in  
22 inappropriate acute care facilities and released without an appropriate  
23 placement or have been treated or detained for extended periods in  
24 inappropriate settings including state hospitals and correctional  
25 facilities. The legislature further finds that some of these persons  
26 present complex safety and treatment issues that require security  
27 measures that cannot be instituted under most facility licenses or  
28 supported housing programs. These include the ability to detain  
29 persons under involuntary treatment orders or administer court ordered  
30 medications.

31 Consequently, the legislature intends, to the extent of available  
32 funds, to establish a new type of facility licensed by the department  
33 of social and health services as an enhanced services facility with  
34 standards that will provide a safe, secure treatment environment for a  
35 limited population of persons who are not appropriately served in other

1 facilities or programs. The legislature also finds that enhanced  
2 services facilities may need to specialize in order to effectively care  
3 for a particular segment of the identified population.

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

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

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

12 (2) "Attending staff" means any person on the staff of a public or  
13 private agency having responsibility for the care and treatment of a  
14 patient.

15 (3) "Chemical dependency" means alcoholism, drug addiction, or  
16 dependence on alcohol and one or more other psychoactive chemicals, as  
17 the context requires and as those terms are defined in chapter 70.96A  
18 RCW.

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

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

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

27 (7) "Custody" means involuntary detention under chapter 71.05 or  
28 70.96A RCW, uninterrupted by any period of unconditional release from  
29 commitment from a facility providing involuntary care and treatment.

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

32 (9) "Designated responder" means a designated mental health  
33 professional, a designated chemical dependency specialist, or a  
34 designated crisis responder as those terms are defined in chapter  
35 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

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

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

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

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

14 (14) "Facility" means an enhanced services facility.

15 (15) "Gravely disabled" means a condition in which an individual,  
16 as a result of a mental disorder, as a result of the use of alcohol or  
17 other psychoactive chemicals, or both:

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

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

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

30 (17) "Licensed physician" means a person licensed to practice  
31 medicine or osteopathic medicine and surgery in the state of  
32 Washington.

33 (18) "Likelihood of serious harm" means:

34 (a) A substantial risk that:

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

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

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

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

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

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

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

21 (22) "Psychiatric nurse" means:

22 (a) A registered nurse who has a bachelor's degree from an  
23 accredited college or university and who has had, in addition, at least  
24 two years of experience in the direct treatment of mentally ill or  
25 emotionally disturbed persons under the supervision of a mental health  
26 professional; or

27 (b) Any other registered nurse who has three years of such  
28 experience.

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

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

37 (25) "Registration records" include all the records of the  
38 department, regional support networks, treatment facilities, and other

1 persons providing services to the department, county departments, or  
2 facilities which identify individuals who are receiving or who at any  
3 time have received services for mental illness.

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

6 (27) "Resident" means a person admitted to an enhanced services  
7 facility.

8 (28) "Secretary" means the secretary of the department or the  
9 secretary's designee.

10 (29) "Significant change" means:

11 (a) A deterioration in a resident's physical, mental, or  
12 psychosocial condition that has caused or is likely to cause clinical  
13 complications or life-threatening conditions; or

14 (b) An improvement in the resident's physical, mental, or  
15 psychosocial condition that may make the resident eligible for release  
16 or for treatment in a less intensive or less secure setting.

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

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

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

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

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

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

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

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

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

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

19        (b) Aggressive, threatening, or assaultive behaviors that create a  
20 risk to the health or safety of other residents or staff, or a  
21 significant risk to property and these behaviors are frequent or  
22 difficult to manage;

23        (c) Intrusive behaviors that put residents or staff at risk;

24        (d) Complex medication needs and those needs include psychotropic  
25 medications;

26        (e) A history of or likelihood of unsuccessful placements in either  
27 a licensed facility or other state facility or a history of rejected  
28 applications for admission to other licensed facilities based on the  
29 person's behaviors, history, or security needs;

30        (f) A history of frequent or protracted mental health  
31 hospitalizations;

32        (g) A history of offenses against a person or felony offenses that  
33 created substantial damage to property.

34        (4) The person has the right to refuse to participate in an  
35 expanded community services program or, except where subject to  
36 commitment, to reside at an enhanced services facility. No person

1 shall be denied other department services on the grounds that he or she  
2 has made such a refusal.

3 (5) Prior to assessment, the department shall notify any person for  
4 whom referral to the enhanced community services program or an enhanced  
5 services facility is under consideration, and shall provide that person  
6 with an opportunity to review and comment on all information that is  
7 included in the assessment. All information considered in the  
8 assessment shall be made available to the person or his or her legal  
9 guardian or other legal representative, where relevant, prior to final  
10 determination.

11 (6) In determining that a person has a history of unsuccessful  
12 placements, the department shall document the reasons for failure, and  
13 possible supports that could be provided that would improve the chances  
14 of success, prior to making a determination regarding the likelihood of  
15 future unsuccessful placement.

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

21 NEW SECTION. **Sec. 406.** (1)(a) Every person who is a resident of  
22 an enhanced services facility shall be entitled to all the rights set  
23 forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall  
24 retain all rights not denied him or her under these chapters.

25 (b) No person shall be presumed incompetent as a consequence of  
26 receiving an evaluation or voluntary or involuntary treatment for a  
27 mental disorder, chemical dependency disorder, or both, under this  
28 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this  
29 state dealing with mental illness. Competency shall not be determined  
30 or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

31 (c) At the time of admission, and at the time of his or her  
32 treatment planning meeting, every resident of an enhanced services  
33 facility shall be given a written statement setting forth the substance  
34 of this section, and if he or she is not able to read or understand the  
35 statement, shall have the statement explained in language that he or  
36 she can understand or presented in a format that is accessible. The



1 department shall by rule develop a statement and process for informing  
2 residents of their rights.

3 (2) Every resident of an enhanced services facility shall have the  
4 right to adequate care and individualized treatment and shall have the  
5 right to actively participate in treatment planning and decision  
6 making.

7 (3) Treatment planning shall include planning for a safe and  
8 successful discharge and reintegration into the community, and shall  
9 commence immediately upon placement at an enhanced services facility.

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

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

16 (6) The physician-patient privilege or the psychologist-client  
17 privilege shall be deemed waived in proceedings under this chapter  
18 relating to the administration of antipsychotic medications. As to  
19 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the  
20 privileges shall be waived when a court of competent jurisdiction in  
21 its discretion determines that such waiver is necessary to protect  
22 either the detained person or the public.

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

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

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

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

35 (d) To have visitors at reasonable times;

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

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

4 (g) Not to consent to the administration of antipsychotic  
5 medications beyond the hearing conducted pursuant to RCW 71.05.215 or  
6 71.05.370 (as recodified by this act), or the performance of  
7 electroconvulsant therapy, or surgery, except emergency life-saving  
8 surgery, unless ordered by a court under RCW 71.05.370 (as recodified  
9 by this act);

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

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

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

17 (k) To complain about rights violations or conditions and request  
18 the assistance of a mental health ombudsman, representative of  
19 Washington protection and advocacy, or other advocate of his or her  
20 choice.

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

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

26 (10) Enhanced services facilities and expanded community services  
27 programs shall maintain a grievance procedure that meets the  
28 requirements of rules established by the department.

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

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

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

7        (2) The facility shall provide an appropriate level of security for  
8 the characteristics, behaviors, and legal status of the residents.

9        (3) An enhanced services facility may hold only one license but, to  
10 the extent permitted under state and federal law and medicaid  
11 requirements, a facility may be located in the same building as another  
12 licensed facility, provided that:

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

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

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

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

29        (2) The enhanced services facility shall develop an individualized  
30 treatment plan for each resident based on the comprehensive assessment  
31 and any other information in the person's record. The plan shall be  
32 updated with a full review every ninety days or sooner if clinically  
33 necessary, and shall include a plan for appropriate transfer or  
34 discharge and supported reintegration into the community. Discharge  
35 planning shall commence immediately upon placement at an enhanced  
36 services facility. Where the person is under the supervision of the

1 department of corrections, the facility shall collaborate with the  
2 department of corrections to maximize treatment outcomes and reduce the  
3 likelihood of reoffense.

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

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

- 13 (a) Mental health treatment;
- 14 (b) Medication services;
- 15 (c) Assistance with the activities of daily living;
- 16 (d) Medical or habilitative treatment;
- 17 (e) Dietary services;
- 18 (f) Security; and
- 19 (g) Chemical dependency treatment.

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

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

29 NEW SECTION. Sec. 411. This chapter does not apply to the  
30 following residential facilities:

- 31 (1) Nursing homes licensed under chapter 18.51 RCW;
- 32 (2) Boarding homes licensed under chapter 18.20 RCW;
- 33 (3) Adult family homes licensed under chapter 70.128 RCW;
- 34 (4) Facilities approved and certified under chapter 71A.22 RCW;
- 35 (5) Residential treatment facilities licensed under chapter 71.12  
36 RCW; and

1 (6) Hospitals licensed under chapter 70.41 RCW.

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

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

8 (3) A licensee shall have the following readily accessible and  
9 available for review by the department, residents, families of  
10 residents, and the public:

11 (a) Its license to operate and a copy of the department's most  
12 recent inspection report and any recent complaint investigation reports  
13 issued by the department;

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

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

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

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

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

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

33 (b) Order stop placement; or

34 (c) Assess civil monetary penalties.

35 (2) The department may suspend, revoke, or refuse to renew a  
36 license, assess civil monetary penalties, or both, in any case in which

1 it finds that the licensee of a facility, or any partner, officer,  
2 director, owner of five percent or more of the assets of the facility,  
3 or managing employee:

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

6 (b) Knowingly or with reason to know made a false statement of a  
7 material fact in the license application or any data attached thereto,  
8 or in any matter under investigation by the department;

9 (c) Refused to allow representatives or agents of the department to  
10 inspect all books, records, and files required to be maintained or any  
11 portion of the premises of the facility;

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

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

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

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

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

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

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

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

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

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

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

6 (ii) The deficiency or deficiencies in the facility:

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

8 (B) Seriously limits the facility's capacity to provide adequate  
9 care.

10 (b) When the department has ordered a stop placement, the  
11 department may approve a readmission to the facility from a hospital,  
12 residential treatment facility, or crisis intervention facility when  
13 the department determines the readmission would be in the best interest  
14 of the individual seeking readmission.

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

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

25 (a) Oversee the operation of the facility; and

26 (b) Ensure the health and safety of the facility's residents while:

27 (i) Orderly closure of the facility occurs; or

28 (ii) The deficiencies necessitating temporary management are  
29 corrected.

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

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

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

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

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

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

25 NEW SECTION. **Sec. 418.** (1) The department shall make or cause to  
26 be made at least one inspection of each facility prior to licensure and  
27 an unannounced full inspection of facilities at least once every  
28 eighteen months. The statewide average interval between full facility  
29 inspections must be fifteen months.

30 (2) Any duly authorized officer, employee, or agent of the  
31 department may enter and inspect any facility at any time to determine  
32 that the facility is in compliance with this chapter and applicable  
33 rules, and to enforce any provision of this chapter. Complaint



1 inspections shall be unannounced and conducted in such a manner as to  
2 ensure maximum effectiveness. No advance notice shall be given of any  
3 inspection unless authorized or required by federal law.

4 (3) During inspections, the facility must give the department  
5 access to areas, materials, and equipment used to provide care or  
6 support to residents, including resident and staff records, accounts,  
7 and the physical premises, including the buildings, grounds, and  
8 equipment. The department has the authority to privately interview the  
9 provider, staff, residents, and other individuals familiar with  
10 resident care and treatment.

11 (4) Any public employee giving advance notice of an inspection in  
12 violation of this section shall be suspended from all duties without  
13 pay for a period of not less than five nor more than fifteen days.

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

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

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

22 (1) Who are over the age of eighteen;

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

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

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

32 NEW SECTION. **Sec. 421.** At least sixty days before the effective  
33 date of any change of ownership, or change of management of a facility,  
34 the current operating entity must provide written notification about

1 the proposed change separately and in writing, to the department, each  
2 resident of the facility, or the resident's guardian or representative.

3 NEW SECTION. **Sec. 422.** The facility shall:

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

7 (2) Comply with all state and federal requirements related to  
8 documentation, confidentiality, and information sharing, including  
9 chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and

10 (3) Where possible, obtain signed releases of information  
11 designating the department, the facility, and the department of  
12 corrections where the person is under its supervision, as recipients of  
13 health care information.

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

29 (2) Inspections of facilities by local authorities must be  
30 consistent with the requirements adopted by the chief of the Washington  
31 state patrol, through the director of fire protection. Findings of a  
32 serious nature must be coordinated with the department and the chief of  
33 the Washington state patrol, through the director of fire protection,  
34 for determination of appropriate actions to ensure a safe environment  
35 for residents. The chief of the Washington state patrol, through the

1 director of fire protection, has exclusive authority to determine  
2 appropriate corrective action under this section.

3 NEW SECTION. **Sec. 424.** No facility providing care and treatment  
4 for individuals placed in a facility, or agency licensing or placing  
5 residents in a facility, acting in the course of its duties, shall be  
6 civilly or criminally liable for performing its duties under this  
7 chapter, provided that such duties were performed in good faith and  
8 without gross negligence.

9 NEW SECTION. **Sec. 425.** (1) The secretary shall adopt rules to  
10 implement this chapter.

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

16 **PART V**  
17 **FORENSIC AND CORRECTIONAL**  
18  
19 **Drug and Mental Health Courts**

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

- 22 (1) Counties may establish and operate mental health courts.  
23 (2) For the purposes of this section, "mental health court" means  
24 a court that has special calendars or dockets designed to achieve a  
25 reduction in recidivism and symptoms of mental illness among  
26 nonviolent, mentally ill felony and nonfelony offenders by increasing  
27 their likelihood for successful rehabilitation through early,  
28 continuous, and intense judicially supervised treatment including drug  
29 treatment for persons with co-occurring disorders; mandatory periodic  
30 reviews, including drug testing if indicated; and the use of  
31 appropriate sanctions and other rehabilitation services.  
32 (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
33 mental health court program must first:

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

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

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

13 (i) The offender would benefit from psychiatric treatment;

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

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

19 (A) That is a sex offense;

20 (B) That is a serious violent offense;

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

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

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

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

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

31 (1) Every county that authorizes the tax provided in section 805 of  
32 this act shall, and every county may, establish and operate a  
33 therapeutic court component for dependency proceedings designed to be  
34 effective for the court's size, location, and resources. A county with  
35 a drug court for criminal cases or with a mental health court may

1 include a therapeutic court for dependency proceedings as a component  
2 of its existing program.

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

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

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

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

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

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

28 (7) Any county that establishes a therapeutic court or receives  
29 funds for an existing court under this section shall:

- 30 (a) Establish minimum requirements for the participation in the  
31 program; and
- 32 (b) Develop an evaluation component of the court, including  
33 tracking the success rates in graduating from treatment, reunifying  
34 parents with their children, and the costs and benefits of the court.

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

37 (1) Counties may establish and operate drug courts.

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

8 (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
9 drug court program must first:

10 (i) Exhaust all federal funding (~~received from the office of~~  
11 ~~national drug control policy~~) that is available to support the  
12 operations of its drug court and associated services; and

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

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

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

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

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

29 (A) That is a sex offense;

30 (B) That is a serious violent offense;

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

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

### 34 **Regional Jails**

35 NEW SECTION. **Sec. 505.** (1) The joint legislative audit and review  
36 committee shall investigate and assess whether there are existing

1 facilities in the state that could be converted to use as a regional  
2 jail for offenders who have mental or chemical dependency disorders, or  
3 both, that need specialized housing and treatment arrangements.

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

7 (a) State-owned or operated facilities; and

8 (b) Closed or abandoned nursing homes.

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

13 (a) Any impact on existing offenders or residents;

14 (b) The conversion of the facilities;

15 (c) Infrastructure tied to the facilities;

16 (d) Whether the facility is, or can be, sized proportionately to  
17 the available pool of offenders;

18 (e) Changes in criminal justice costs, including transport, access  
19 to legal assistance, and access to courts;

20 (f) Reductions in jail populations; and

21 (g) Changes in treatment costs for these offenders.

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

## 25 **Competency and Criminal Insanity**

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

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

31 (2) Report to the legislature with an analysis of several  
32 alternative strategies for addressing increases in forensic population  
33 and minimizing waiting periods for competency evaluation and  
34 restoration. The report shall discuss, at a minimum, the costs and  
35 advantages of, and barriers to co-locating professional persons in

1 jails, performing restoration treatment in less restrictive  
2 alternatives than the state hospitals, and the use of regional jail  
3 facilities to accomplish competency evaluation and restoration.

4 **ESSB 6358 Implementation Issues**

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

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

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

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

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

35 (5) Nothing in this section creates a duty on any treatment



1 provider or ((~~county~~)) designated mental health professional to provide  
2 offender supervision.

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

5 (1) Treatment providers shall inquire of each person seeking  
6 treatment, at intake, whether the person is subject to court ordered  
7 mental health or chemical dependency treatment, whether civil or  
8 criminal, and document the person's response in his or her record. If  
9 the person is in treatment on the effective date of this section, and  
10 the treatment provider has not inquired whether the person is subject  
11 to court ordered mental health or chemical dependency treatment, the  
12 treatment provider shall inquire on the person's next treatment session  
13 and document the person's response in his or her record.

14 (2) Treatment providers shall inquire of each person seeking  
15 treatment, at intake, whether the person is subject to supervision of  
16 any kind by the department of corrections and document the person's  
17 response in his or her record. If the person is in treatment on the  
18 effective date of this section, and the treatment provider has not  
19 inquired whether the person is subject to supervision of any kind by  
20 the department of corrections, the treatment provider shall inquire on  
21 the person's next treatment session and document the person's response  
22 in his or her record.

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

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

1 PART VI

2 BEST PRACTICES AND COLLABORATION

3 NEW SECTION. **Sec. 601.** (1) The department of social and health  
4 services, in consultation with the members of the team charged with  
5 developing the state plan for co-occurring mental and substance abuse  
6 disorders, shall adopt, not later than January 1, 2006, an integrated  
7 and comprehensive screening and assessment process for chemical  
8 dependency and mental disorders and co-occurring chemical dependency  
9 and mental disorders.

10 (a) The process adopted shall include, at a minimum:

11 (i) An initial screening tool that can be used by intake personnel  
12 system-wide and which will identify the most common types of co-  
13 occurring disorders;

14 (ii) An assessment process for those cases in which assessment is  
15 indicated that provides an appropriate degree of assessment for most  
16 situations, which can be expanded for complex situations;

17 (iii) Identification of triggers in the screening that indicate the  
18 need to begin an assessment;

19 (iv) Identification of triggers after or outside the screening that  
20 indicate a need to begin or resume an assessment;

21 (v) The components of an assessment process and a protocol for  
22 determining whether part or all of the assessment is necessary, and at  
23 what point; and

24 (vi) Emphasis that the process adopted under this section is to  
25 replace and not to duplicate existing intake, screening, and assessment  
26 tools and processes.

27 (b) The department shall consider existing models, including those  
28 already adopted by other states, and to the extent possible, adopt an  
29 established, proven model.

30 (c) The integrated, comprehensive screening and assessment process  
31 shall be implemented statewide by all chemical dependency and mental  
32 health treatment providers as well as all designated mental health  
33 professionals, designated chemical dependency specialists, and  
34 designated crisis responders not later than January 1, 2007.

35 (2) The department shall provide adequate training to effect  
36 statewide implementation by the dates designated in this section and

1 shall report the rates of co-occurring disorders and the stage of  
2 screening or assessment at which the co-occurring disorder was  
3 identified to the appropriate committees of the legislature.

4 (3) The department shall establish contractual penalties to  
5 contracted treatment providers, the regional support networks, and  
6 their contracted providers for failure to implement the integrated  
7 screening and assessment process by July 1, 2007.

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

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

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

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

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

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

31 (d) Collaboration with consumer-based support programs.

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

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

9 (b) The matrix or set of matrices shall, to the extent possible,  
10 adopt or utilize materials already prepared by the department or by  
11 other states.

12 (4)(a) The department shall require, by contract with the regional  
13 support networks, that providers maximize the use of evidence-based,  
14 research-based, and consensus-based practices and document the  
15 percentage of clients enrolled in evidence-based, research-based, and  
16 consensus-based programs by program type.

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

24 (5) The following definitions apply to this section:

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

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

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

37 (d) "Promising practice" means a practice that presents, based on

1 preliminary information, potential for becoming a research-based or  
2 consensus-based practice.

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

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

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

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

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

31 **PART VII**

32 **REPEALERS AND CROSS-REFERENCE CORRECTIONS**

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

- 1 (1) RCW 71.05.060 (Rights of persons complained against) and 1973  
2 1st ex.s. c 142 s 11;
- 3 (2) RCW 71.05.070 (Prayer treatment) and 1973 1st ex.s. c 142 s 12;
- 4 (3) RCW 71.05.090 (Choice of physicians) and 1973 2nd ex.s. c 24 s  
5 3 & 1973 1st ex.s. c 142 s 14;
- 6 (4) RCW 71.05.200 (Notice and statement of rights--Probable cause  
7 hearing) and 1998 c 297 s 11, 1997 c 112 s 14, 1989 c 120 s 5, 1974  
8 ex.s. c 145 s 13, & 1973 1st ex.s. c 142 s 25;
- 9 (5) RCW 71.05.250 (Probable cause hearing--Detained person's  
10 rights--Waiver of privilege--Limitation--Records as evidence) and 1989  
11 c 120 s 7, 1987 c 439 s 6, 1974 ex.s. c 145 s 17, & 1973 1st ex.s. c  
12 142 s 30;
- 13 (6) RCW 71.05.450 (Competency--Effect--Statement of Washington law)  
14 and 1994 sp.s. c 7 s 440 & 1973 1st ex.s. c 142 s 50;
- 15 (7) RCW 71.05.460 (Right to counsel) and 1997 c 112 s 33 & 1973 1st  
16 ex.s. c 142 s 51;
- 17 (8) RCW 71.05.470 (Right to examination) and 1997 c 112 s 34 & 1973  
18 1st ex.s. c 142 s 52;
- 19 (9) RCW 71.05.480 (Petitioning for release--Writ of habeas corpus)  
20 and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and
- 21 (10) RCW 71.05.490 (Rights of persons committed before January 1,  
22 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

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

- 25 (1) RCW 71.05.155 (Request to mental health professional by law  
26 enforcement agency for investigation under RCW 71.05.150--Advisory  
27 report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;
- 28 (2) RCW 71.05.395 (Application of uniform health care information  
29 act, chapter 70.02 RCW) and 1993 c 448 s 8;
- 30 (3) RCW 71.05.400 (Release of information to patient's next of kin,  
31 attorney, guardian, conservator--Notification of patient's death) and  
32 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973  
33 1st ex.s. c 142 s 45;
- 34 (4) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c  
35 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and
- 36 (5) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

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

4        NEW SECTION.    **Sec. 704.**    The following acts or parts of acts are  
5    each repealed:

6        (1) RCW 71.05.650 (Treatment records--Notation of and access to  
7    released data) and 1989 c 205 s 15; and

8        (2) RCW 71.05.670 (Treatment records--Violations--Civil action) and  
9    1999 c 13 s 10.

10       **Sec. 705.**    RCW 5.60.060 and 2001 c 286 s 2 are each amended to read  
11    as follows:

12       (1) A husband shall not be examined for or against his wife,  
13    without the consent of the wife, nor a wife for or against her husband  
14    without the consent of the husband; nor can either during marriage or  
15    afterward, be without the consent of the other, examined as to any  
16    communication made by one to the other during marriage. But this  
17    exception shall not apply to a civil action or proceeding by one  
18    against the other, nor to a criminal action or proceeding for a crime  
19    committed by one against the other, nor to a criminal action or  
20    proceeding against a spouse if the marriage occurred subsequent to the  
21    filing of formal charges against the defendant, nor to a criminal  
22    action or proceeding for a crime committed by said husband or wife  
23    against any child of whom said husband or wife is the parent or  
24    guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202  
25    through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the  
26    spouse of a person sought to be detained under chapter 70.96A, 70.--  
27    (sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be  
28    compelled to testify and shall be so informed by the court prior to  
29    being called as a witness.

30       (2)(a) An attorney or counselor shall not, without the consent of  
31    his or her client, be examined as to any communication made by the  
32    client to him or her, or his or her advice given thereon in the course  
33    of professional employment.

34       (b) A parent or guardian of a minor child arrested on a criminal  
35    charge may not be examined as to a communication between the child and

1 his or her attorney if the communication was made in the presence of  
2 the parent or guardian. This privilege does not extend to  
3 communications made prior to the arrest.

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

9 (4) Subject to the limitations under RCW 70.96A.140 or  
10 (~~71.05.250~~) 71.05.360 (8) and (9), a physician or surgeon or  
11 osteopathic physician or surgeon or podiatric physician or surgeon  
12 shall not, without the consent of his or her patient, be examined in a  
13 civil action as to any information acquired in attending such patient,  
14 which was necessary to enable him or her to prescribe or act for the  
15 patient, except as follows:

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

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

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

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



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

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

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

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

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

24 (b) A sexual assault advocate may disclose a confidential  
25 communication without the consent of the victim if failure to disclose  
26 is likely to result in a clear, imminent risk of serious physical  
27 injury or death of the victim or another person. Any sexual assault  
28 advocate participating in good faith in the disclosing of records and  
29 communications under this section shall have immunity from any  
30 liability, civil, criminal, or otherwise, that might result from the  
31 action. In any proceeding, civil or criminal, arising out of a  
32 disclosure under this section, the good faith of the sexual assault  
33 advocate who disclosed the confidential communication shall be  
34 presumed.

35 **Sec. 706.** RCW 18.83.110 and 1989 c 271 s 303 are each amended to  
36 read as follows:

37 Confidential communications between a client and a psychologist

1 shall be privileged against compulsory disclosure to the same extent  
2 and subject to the same conditions as confidential communications  
3 between attorney and client, but this exception is subject to the  
4 limitations under RCW 70.96A.140 and (~~71.05.250~~) 71.05.360 (8) and  
5 (9).

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

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

13 (1) With the written authorization of that person or, in the case  
14 of death or disability, the person's personal representative;

15 (2) If the person waives the privilege by bringing charges against  
16 the person licensed under this chapter;

17 (3) In response to a subpoena from the secretary. The secretary  
18 may subpoena only records related to a complaint or report under RCW  
19 18.130.050;

20 (4) As required under chapter 26.44 or 74.34 RCW or RCW  
21 (~~71.05.250~~) 71.05.360 (8) and (9); or

22 (5) To any individual if the person licensed under this chapter  
23 reasonably believes that disclosure will avoid or minimize an imminent  
24 danger to the health or safety of the individual or any other  
25 individual; however, there is no obligation on the part of the provider  
26 to so disclose.

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

29 (1) If an individual is referred to a (~~county~~) designated mental  
30 health professional under RCW 10.77.090(1)(d)(iii)(A), the (~~county~~)  
31 designated mental health professional shall examine the individual  
32 within forty-eight hours. If the (~~county~~) designated mental health  
33 professional determines it is not appropriate to detain the individual  
34 or petition for a ninety-day less restrictive alternative under RCW  
35 71.05.230(4), that decision shall be immediately presented to the  
36 superior court for hearing. The court shall hold a hearing to consider

1 the decision of the ((county)) designated mental health professional  
2 not later than the next judicial day. At the hearing the superior  
3 court shall review the determination of the ((county)) designated  
4 mental health professional and determine whether an order should be  
5 entered requiring the person to be evaluated at an evaluation and  
6 treatment facility. No person referred to an evaluation and treatment  
7 facility may be held at the facility longer than seventy-two hours.

8 (2) If an individual is placed in an evaluation and treatment  
9 facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall  
10 evaluate the individual for purposes of determining whether to file a  
11 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.  
12 Before expiration of the seventy-two hour evaluation period authorized  
13 under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file  
14 a petition or, if the recommendation of the professional person is to  
15 release the individual, present his or her recommendation to the  
16 superior court of the county in which the criminal charge was  
17 dismissed. The superior court shall review the recommendation not  
18 later than forty-eight hours, excluding Saturdays, Sundays, and  
19 holidays, after the recommendation is presented. If the court rejects  
20 the recommendation to unconditionally release the individual, the court  
21 may order the individual detained at a designated evaluation and  
22 treatment facility for not more than a seventy-two hour evaluation and  
23 treatment period and direct the individual to appear at a surety  
24 hearing before that court within seventy-two hours, or the court may  
25 release the individual but direct the individual to appear at a surety  
26 hearing set before that court within eleven days, at which time the  
27 prosecutor may file a petition under this chapter for ninety-day  
28 inpatient or outpatient treatment. If a petition is filed by the  
29 prosecutor, the court may order that the person named in the petition  
30 be detained at the evaluation and treatment facility that performed the  
31 evaluation under this subsection or order the respondent to be in  
32 outpatient treatment. If a petition is filed but the individual fails  
33 to appear in court for the surety hearing, the court shall order that  
34 a mental health professional or peace officer shall take such person or  
35 cause such person to be taken into custody and placed in an evaluation  
36 and treatment facility to be brought before the court the next judicial  
37 day after detention. Upon the individual's first appearance in court  
38 after a petition has been filed, proceedings under RCW 71.05.310 and

1 71.05.320 shall commence. For an individual subject to this  
2 subsection, the prosecutor or professional person may directly file a  
3 petition for ninety-day inpatient or outpatient treatment and no  
4 petition for initial detention or fourteen-day detention is required  
5 before such a petition may be filed.

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

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

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

30 (4) The individual shall have the rights specified in RCW  
31 (~~71.05.250~~) 71.05.360 (8) and (9).

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

34 The court shall conduct a hearing on the petition for ninety day  
35 treatment within five judicial days of the first court appearance after  
36 the probable cause hearing. The court may continue the hearing upon  
37 the written request of the person named in the petition or the person's

1 attorney, for good cause shown, which continuance shall not exceed five  
2 additional judicial days. If the person named in the petition requests  
3 a jury trial, the trial shall commence within ten judicial days of the  
4 first court appearance after the probable cause hearing. The burden of  
5 proof shall be by clear, cogent, and convincing evidence and shall be  
6 upon the petitioner. The person shall be present at such proceeding,  
7 which shall in all respects accord with the constitutional guarantees  
8 of due process of law and the rules of evidence pursuant to RCW  
9 (~~71.05.250~~) 71.05.360 (8) and (9).

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

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

17 (1)(a) Except as provided in subsection (2) of this section, at the  
18 earliest possible date, and in no event later than thirty days before  
19 conditional release, final release, authorized leave under RCW  
20 71.05.325(2), or transfer to a facility other than a state mental  
21 hospital, the superintendent shall send written notice of conditional  
22 release, release, authorized leave, or transfer of a person committed  
23 under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex,  
24 violent, or felony harassment offense pursuant to RCW 10.77.090(4) to  
25 the following:

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

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

29 (b) The same notice as required by (a) of this subsection shall be  
30 sent to the following, if such notice has been requested in writing  
31 about a specific person committed under RCW 71.05.280(3) or  
32 71.05.320(2)(c) following dismissal of a sex, violent, or felony  
33 harassment offense pursuant to RCW 10.77.090(4):

34 (i) The victim of the sex, violent, or felony harassment offense  
35 that was dismissed pursuant to RCW 10.77.090(4) preceding commitment  
36 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin  
37 if the crime was a homicide;

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

3 (iii) Any person specified in writing by the prosecuting attorney.  
4 Information regarding victims, next of kin, or witnesses requesting the  
5 notice, information regarding any other person specified in writing by  
6 the prosecuting attorney to receive the notice, and the notice are  
7 confidential and shall not be available to the person committed under  
8 this chapter.

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

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

14 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)  
15 following dismissal of a sex, violent, or felony harassment offense  
16 pursuant to RCW 10.77.090(4) escapes, the superintendent shall  
17 immediately notify, by the most reasonable and expedient means  
18 available, the chief of police of the city and the sheriff of the  
19 county in which the person resided immediately before the person's  
20 arrest. If previously requested, the superintendent shall also notify  
21 the witnesses and the victim of the sex, violent, or felony harassment  
22 offense that was dismissed pursuant to RCW 10.77.090(4) preceding  
23 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next  
24 of kin if the crime was a homicide. In addition, the secretary shall  
25 also notify appropriate parties pursuant to RCW ((71.05.410))  
26 71.05.390(18). If the person is recaptured, the superintendent shall  
27 send notice to the persons designated in this subsection as soon as  
28 possible but in no event later than two working days after the  
29 department learns of such recapture.

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

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

37 (5) For purposes of this section the following terms have the  
38 following meanings:

- 1 (a) "Violent offense" means a violent offense under RCW 9.94A.030;
- 2 (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- 3 (c) "Next of kin" means a person's spouse, parents, siblings, and
- 4 children;
- 5 (d) "Felony harassment offense" means a crime of harassment as
- 6 defined in RCW 9A.46.060 that is a felony.

7 **Sec. 711.** RCW 71.05.445 and 2004 c 166 s 4 are each amended to  
8 read as follows:

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

11 (a) "Information related to mental health services" means all  
12 information and records compiled, obtained, or maintained in the course  
13 of providing services to either voluntary or involuntary recipients of  
14 services by a mental health service provider. This may include  
15 documents of legal proceedings under this chapter or chapter 71.34 or  
16 10.77 RCW, or somatic health care information.

17 (b) "Mental health service provider" means a public or private  
18 agency that provides services to persons with mental disorders as  
19 defined under RCW 71.05.020 and receives funding from public sources.  
20 This includes evaluation and treatment facilities as defined in RCW  
21 71.05.020, community mental health service delivery systems, or  
22 community mental health programs as defined in RCW 71.24.025, and  
23 facilities conducting competency evaluations and restoration under  
24 chapter 10.77 RCW.

25 (2)(a) Information related to mental health services delivered to  
26 a person subject to chapter 9.94A or 9.95 RCW shall be released, upon  
27 request, by a mental health service provider to department of  
28 corrections personnel for whom the information is necessary to carry  
29 out the responsibilities of their office. The information must be  
30 provided only for the purposes of completing presentence investigations  
31 or risk assessment reports, supervision of an incarcerated offender or  
32 offender under supervision in the community, planning for and provision  
33 of supervision of an offender, or assessment of an offender's risk to  
34 the community. The request shall be in writing and shall not require  
35 the consent of the subject of the records.

36 (b) If an offender subject to chapter 9.94A or 9.95 RCW has failed  
37 to report for department of corrections supervision or in the event of

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

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

24 (b) When a person receiving court-ordered treatment or treatment  
25 ordered by the department of corrections discloses to his or her mental  
26 health service provider that he or she is subject to supervision by the  
27 department of corrections, the mental health services provider shall  
28 notify the department of corrections that he or she is treating the  
29 offender and shall notify the offender that his or her community  
30 corrections officer will be notified of the treatment, provided that if  
31 the offender has received relief from disclosure pursuant to RCW  
32 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the  
33 mental health services provider with a copy of the order granting  
34 relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or  
35 71.05.132, the mental health services provider is not required to  
36 notify the department of corrections that the mental health services  
37 provider is treating the offender. The notification may be written or  
38 oral and shall not require the consent of the offender. If an oral



1 notification is made, it must be confirmed by a written notification.  
2 For purposes of this section, a written notification includes  
3 notification by e-mail or facsimile, so long as the notifying mental  
4 health service provider is clearly identified.

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

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

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

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

25 (6) The information received by the department of corrections under  
26 this section shall remain confidential and subject to the limitations  
27 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW  
28 72.09.585.

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

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

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

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

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

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

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

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

27 (4) At the time of discharge all individuals shall be informed by  
28 resource management services of their rights as provided in RCW  
29 (~~71.05.610~~) 71.05.620 through 71.05.690.

30 **Sec. 713.** RCW 71.05.680 and 1999 c 13 s 11 are each amended to  
31 read as follows:

32 Any person who requests or obtains confidential information  
33 pursuant to RCW (~~71.05.610~~) 71.05.620 through 71.05.690 under false  
34 pretenses shall be guilty of a gross misdemeanor.

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

3       The department shall adopt rules to implement RCW (~~(71.05.610)~~)  
4 71.05.620 through 71.05.680.

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

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

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

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

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

20       (5) The secretary shall:

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

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

31       (A) Outpatient services;

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

33       (C) Day treatment for mentally ill persons which includes training  
34 in basic living and social skills, supported work, vocational  
35 rehabilitation, and day activities. Such services may include  
36 therapeutic treatment. In the case of a child, day treatment includes

1 age-appropriate basic living and social skills, educational and  
2 prevocational services, day activities, and therapeutic treatment;

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

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

12 (F) Consultation and education services; and

13 (G) Community support services;

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

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

21 (ii) Regional support networks; and

22 (iii) Inpatient services, evaluation and treatment services and  
23 facilities under chapter 71.05 RCW, resource management services, and  
24 community support services;

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

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

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

36 (g) Develop and maintain an information system to be used by the  
37 state, counties, and regional support networks that includes a tracking  
38 method which allows the department and regional support networks to

1 identify mental health clients' participation in any mental health  
2 service or public program on an immediate basis. The information  
3 system shall not include individual patient's case history files.  
4 Confidentiality of client information and records shall be maintained  
5 as provided in this chapter and in RCW 71.05.390, (~~71.05.400,~~  
6 ~~71.05.410,~~) 71.05.420, (~~71.05.430,~~) and 71.05.440. The design of  
7 the system and the data elements to be collected shall be reviewed by  
8 the work group appointed by the secretary under section 5(1) of this  
9 act and representing the department, regional support networks, service  
10 providers, consumers, and advocates. The data elements shall be  
11 designed to provide information that is needed to measure performance  
12 and achieve the service outcomes (~~identified in section 5 of this~~  
13 ~~act~~);

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (13)(a) The department, in consultation with affected parties,  
29 shall establish a distribution formula that reflects county needs  
30 assessments based on the number of persons who are acutely mentally  
31 ill, chronically mentally ill, severely emotionally disturbed children,  
32 and seriously disturbed. The formula shall take into consideration the  
33 impact on counties of demographic factors in counties which result in  
34 concentrations of priority populations as set forth in subsection  
35 (5)(b) of this section. These factors shall include the population  
36 concentrations resulting from commitments under chapters 71.05 and  
37 71.34 RCW to state psychiatric hospitals, as well as concentration in

1 urban areas, at border crossings at state boundaries, and other  
2 significant demographic and workload factors.

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

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

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

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

27 (15) The secretary shall:

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

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

37 (c) Allocate one hundred percent of available resources to the

1 regional support networks in accordance with subsection (13) of this  
2 section. Incentive payments authorized under subsection (13) of this  
3 section may be allocated separately from other available resources.

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

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

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

20 **PART VIII**

21 **MISCELLANEOUS PROVISIONS**

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

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

26 Beginning July 1, 2007, the secretary shall require, in the  
27 contracts the department negotiates pursuant to chapters 71.24 and  
28 70.96A RCW, that any vendor rate increases provided for mental health  
29 and chemical dependency treatment providers or programs who are parties  
30 to the contract or subcontractors of any party to the contract shall be  
31 prioritized to those providers and programs that maximize the use of  
32 evidence-based and research-based practices, as those terms are defined  
33 in section 603 of this act, unless otherwise designated by the  
34 legislature.



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

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

8        NEW SECTION.    **Sec. 804.** If any provision of this act or its  
9    application to any person or circumstance is held invalid, the  
10   remainder of the act or the application of the provision to other  
11   persons or circumstances is not affected.

12       NEW SECTION.    **Sec. 805.** This act shall be so applied and construed  
13   as to effectuate its general purpose to make uniform the law with  
14   respect to the subject of this act among those states which enact it.

15       NEW SECTION.    **Sec. 806.** Captions, part headings, and subheadings  
16   used in this act are not part of the law.

17       NEW SECTION.    **Sec. 807.** If specific funding for the purposes of  
18   sections 203, 217, 220, 301, 303, 305, 505, and 601 of this act,  
19   referencing the section by section number and by bill or chapter  
20   number, is not provided by June 30, 2005, each section not referenced  
21   is null and void.

22       NEW SECTION.    **Sec. 808.** (1) The code reviser shall alphabetize and  
23   renumber the definitions, and correct any internal references affected  
24   by this act.

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

28       NEW SECTION.    **Sec. 809.** (1) The secretary of the department of  
29   social and health services may adopt rules as necessary to implement  
30   the provisions of this act.

31       (2) The secretary of corrections may adopt rules as necessary to  
32   implement the provisions of this act.

1        NEW SECTION.    **Sec. 810.**    (1) Except for section 503 of this act,  
2 this act is necessary for the immediate preservation of the public  
3 peace, health, or safety, or support of the state government and its  
4 existing public institutions, and takes effect July 1, 2005.  
5        (2) Section 503 of this act takes effect July 1, 2006."

**E2SSB 5763** - H AMD  
By Representative Cody

**ADOPTED AS AMENDED 04/14/2005**

6        On page 1, line 2 of the title, after "2005;" strike the remainder  
7 of the title and insert "amending RCW 71.05.020, 71.24.025, 10.77.010,  
8 71.05.360, 71.05.420, 71.05.620, 71.05.630, 71.05.640, 71.05.660,  
9 71.05.550, 2.28.170, 71.05.157, 5.60.060, 18.83.110, 18.225.105,  
10 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640, 71.05.680, and  
11 71.05.690; reenacting and amending RCW 71.05.390 and 71.24.035; adding  
12 new sections to chapter 71.05 RCW; adding new sections to chapter  
13 70.96A RCW; adding a new section to chapter 13.34 RCW; adding new  
14 sections to chapter 2.28 RCW; adding a new section to chapter 26.12  
15 RCW; adding new sections to chapter 71.24 RCW; adding a new section to  
16 chapter 71.02 RCW; adding a new section to chapter 71A.12 RCW; adding  
17 a new section to chapter 43.20A RCW; adding new chapters to Title 70  
18 RCW; creating new sections; recodifying RCW 71.05.370 and 71.05.035;  
19 repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250,  
20 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155,  
21 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and  
22 71.05.670; prescribing penalties; providing effective dates; providing  
23 expiration dates; and declaring an emergency."

--- END ---