

SHB 1388 - H AMD 605

By Representative Cody

ADOPTED 05/25/2017

1 Beginning on page 100, line 37, strike all of section 4006 and
2 insert the following:

3 "Sec. 4006. RCW 71.24.037 and 2017 c 330 s 2 are each amended to
4 read as follows:

5 (1) The secretary shall by rule establish state minimum standards
6 for licensed or certified behavioral health service providers and
7 services, whether those service providers and services are licensed
8 or certified to provide solely mental health services, substance use
9 disorder treatment services, or services to persons with co-occurring
10 disorders.

11 (2) Minimum standards for licensed or certified behavioral health
12 service providers shall, at a minimum, establish: Qualifications for
13 staff providing services directly to persons with mental disorders,
14 substance use disorders, or both, the intended result of each
15 service, and the rights and responsibilities of persons receiving
16 behavioral health services pursuant to this chapter. The secretary
17 shall provide for deeming of licensed or certified behavioral health
18 service providers as meeting state minimum standards as a result of
19 accreditation by a recognized behavioral health accrediting body
20 recognized and having a current agreement with the department.

21 (3) Minimum standards for community support services and resource
22 management services shall include at least qualifications for
23 resource management services, client tracking systems, and the
24 transfer of patient information between behavioral health service
25 providers.

26 (4) The department may suspend, revoke, limit, restrict, or
27 modify an approval, or refuse to grant approval, for failure to meet
28 the provisions of this chapter, or the standards adopted under this
29 chapter. RCW (~~(43.20A.205)~~) 43.70.115 governs notice of a license or
30 certification denial, revocation, suspension, or modification and
31 provides the right to an adjudicative proceeding.

1 (5) No licensed or certified behavioral health service provider
2 may advertise or represent itself as a licensed or certified
3 behavioral health service provider if approval has not been granted,
4 has been denied, suspended, revoked, or canceled.

5 (6) Licensure or certification as a behavioral health service
6 provider is effective for one calendar year from the date of issuance
7 of the license or certification. The license or certification must
8 specify the types of services provided by the behavioral health
9 service provider that meet the standards adopted under this chapter.
10 Renewal of a license or certification must be made in accordance with
11 this section for initial approval and in accordance with the
12 standards set forth in rules adopted by the secretary.

13 (7) Licensure or certification as a licensed or certified
14 behavioral health service provider must specify the types of services
15 provided that meet the standards adopted under this chapter. Renewal
16 of a license or certification must be made in accordance with this
17 section for initial approval and in accordance with the standards set
18 forth in rules adopted by the secretary.

19 (8) Licensed or certified behavioral health service providers may
20 not provide types of services for which the licensed or certified
21 behavioral health service provider has not been certified. Licensed
22 or certified behavioral health service providers may provide services
23 for which approval has been sought and is pending, if approval for
24 the services has not been previously revoked or denied.

25 (9) The department periodically shall inspect licensed or
26 certified behavioral health service providers at reasonable times and
27 in a reasonable manner.

28 (10) Upon petition of the department and after a hearing held
29 upon reasonable notice to the facility, the superior court may issue
30 a warrant to an officer or employee of the department authorizing him
31 or her to enter and inspect at reasonable times, and examine the
32 books and accounts of, any licensed or certified behavioral health
33 service provider refusing to consent to inspection or examination by
34 the department or which the department has reasonable cause to
35 believe is operating in violation of this chapter.

36 (11) The department shall maintain and periodically publish a
37 current list of licensed or certified behavioral health service
38 providers.

39 (12) Each licensed or certified behavioral health service
40 provider shall file with the department or the authority upon

1 request, data, statistics, schedules, and information the department
2 or the authority reasonably requires. A licensed or certified
3 behavioral health service provider that without good cause fails to
4 furnish any data, statistics, schedules, or information as requested,
5 or files fraudulent returns thereof, may have its license or
6 certification revoked or suspended.

7 (13) The (~~department~~) authority shall use the data provided in
8 subsection (12) of this section to evaluate each program that admits
9 children to inpatient substance use disorder treatment upon
10 application of their parents. The evaluation must be done at least
11 once every twelve months. In addition, the (~~department~~) authority
12 shall randomly select and review the information on individual
13 children who are admitted on application of the child's parent for
14 the purpose of determining whether the child was appropriately placed
15 into substance use disorder treatment based on an objective
16 evaluation of the child's condition and the outcome of the child's
17 treatment.

18 (14) Any settlement agreement entered into between the department
19 and licensed or certified behavioral health service providers to
20 resolve administrative complaints, license or certification
21 violations, license or certification suspensions, or license or
22 certification revocations may not reduce the number of violations
23 reported by the department unless the department concludes, based on
24 evidence gathered by inspectors, that the licensed or certified
25 behavioral health service provider did not commit one or more of the
26 violations.

27 (15) In cases in which a behavioral health service provider that
28 is in violation of licensing or certification standards attempts to
29 transfer or sell the behavioral health service provider to a family
30 member, the transfer or sale may only be made for the purpose of
31 remedying license or certification violations and achieving full
32 compliance with the terms of the license or certification. Transfers
33 or sales to family members are prohibited in cases in which the
34 purpose of the transfer or sale is to avoid liability or reset the
35 number of license or certification violations found before the
36 transfer or sale. If the department finds that the owner intends to
37 transfer or sell, or has completed the transfer or sale of, ownership
38 of the behavioral health service provider to a family member solely
39 for the purpose of resetting the number of violations found before
40 the transfer or sale, the department may not renew the behavioral

1 health service provider's license or certification or issue a new
2 license or certification to the behavioral health service provider."

3 Beginning on page 111, line 22, strike all of section 4017 and
4 insert the following:

5 "Sec. 4017. RCW 71.24.310 and 2017 c 222 s 1 are each amended to
6 read as follows:

7 The legislature finds that administration of chapter 71.05 RCW
8 and this chapter can be most efficiently and effectively implemented
9 as part of the behavioral health organization defined in RCW
10 71.24.025. For this reason, the legislature intends that the
11 (~~department~~) authority and the behavioral health organizations
12 shall work together to implement chapter 71.05 RCW as follows:

13 (1) (~~By June 1, 2006,~~) Behavioral health organizations shall
14 recommend to the (~~department~~) authority the number of state
15 hospital beds that should be allocated for use by each behavioral
16 health organization. The statewide total allocation shall not exceed
17 the number of state hospital beds offering long-term inpatient care,
18 as defined in this chapter, for which funding is provided in the
19 biennial appropriations act.

20 (2) If there is consensus among the behavioral health
21 organizations regarding the number of state hospital beds that should
22 be allocated for use by each behavioral health organization, the
23 (~~department~~) authority shall contract with each behavioral health
24 organization accordingly.

25 (3) If there is not consensus among the behavioral health
26 organizations regarding the number of beds that should be allocated
27 for use by each behavioral health organization, the (~~department~~)
28 authority shall establish by emergency rule the number of state
29 hospital beds that are available for use by each behavioral health
30 organization. (~~The emergency rule shall be effective September 1,~~
31 ~~2006.~~) The primary factor used in the allocation shall be the
32 estimated number of adults with acute and chronic mental illness in
33 each behavioral health organization area, based upon population-
34 adjusted incidence and utilization.

35 (4) The allocation formula shall be updated at least every three
36 years to reflect demographic changes, and new evidence regarding the
37 incidence of acute and chronic mental illness and the need for long-
38 term inpatient care. In the updates, the statewide total allocation

1 shall include (a) all state hospital beds offering long-term
2 inpatient care for which funding is provided in the biennial
3 appropriations act; plus (b) the estimated equivalent number of beds
4 or comparable diversion services contracted in accordance with
5 subsection (5) of this section.

6 (5) The ~~((department))~~ authority is encouraged to enter
7 performance-based contracts with behavioral health organizations to
8 provide some or all of the behavioral health organization's allocated
9 long-term inpatient treatment capacity in the community, rather than
10 in the state hospital. The performance contracts shall specify the
11 number of patient days of care available for use by the behavioral
12 health organization in the state hospital.

13 (6) If a behavioral health organization uses more state hospital
14 patient days of care than it has been allocated under subsection (3)
15 or (4) of this section, or than it has contracted to use under
16 subsection (5) of this section, whichever is less, it shall reimburse
17 the ~~((department))~~ authority for that care. Reimbursements must be
18 calculated using quarterly average census data to determine an
19 average number of days used in excess of the bed allocation for the
20 quarter. The reimbursement rate per day shall be the hospital's total
21 annual budget for long-term inpatient care, divided by the total
22 patient days of care assumed in development of that budget.

23 (7) One-half of any reimbursements received pursuant to
24 subsection (6) of this section shall be used to support the cost of
25 operating the state hospital ~~((and, during the 2007-2009 fiscal
26 biennium, implementing new services that will enable a behavioral
27 health organization to reduce its utilization of the state
28 hospital))~~. The ~~((department))~~ authority shall distribute the
29 remaining half of such reimbursements among behavioral health
30 organizations that have used less than their allocated or contracted
31 patient days of care at that hospital, proportional to the number of
32 patient days of care not used."

33 On page 150, after line 11, insert the following:

34 "NEW SECTION. **Sec. 4065.** A new section is added to chapter
35 71.24 RCW to read as follows:

36 (1) The authority shall, upon the request of a county authority
37 or authorities within a regional service area, collaborate with
38 counties to create an interlocal leadership structure that includes

1 participation from counties and the managed health care systems
2 serving that regional service area. The interlocal leadership
3 structure must include representation from physical and behavioral
4 health care providers, tribes, and other entities serving the
5 regional service area as necessary.

6 (2) The interlocal leadership structure regional organization
7 must be chaired by the counties and jointly administered by the
8 authority, managed health care systems, and counties. It must design
9 and implement the fully integrated managed care model for that
10 regional service area to assure clients are at the center of care
11 delivery and support integrated delivery of physical and behavioral
12 health care at the provider level.

13 (3) The interlocal leadership structure may address, but is not
14 limited to addressing, the following topics:

15 (a) Alignment of contracting, administrative functions, and other
16 processes to minimize administrative burden at the provider level to
17 achieve outcomes;

18 (b) Monitoring implementation of fully integrated managed care in
19 the regional service area, including design of an early warning
20 system to monitor ongoing success to achieve better outcomes and to
21 make adjustments to the system as necessary;

22 (c) Developing regional coordination processes for capital
23 infrastructure requests, local capacity building, and other community
24 investments;

25 (d) Identifying, using, and building on measures and data
26 consistent with, but not limited to, RCW 70.320.030 and 41.05.690,
27 for tracking and maintaining regional accountability for delivery
28 system performance; and

29 (e) Discussing whether the managed health care systems awarded
30 the contract by the authority for a regional service area should
31 subcontract with a county-based administrative service organization
32 or other local organization, which may include and determine, in
33 partnership with that organization, which value-add services will
34 best support a bidirectional system of care.

35 (4) To ensure an optimal transition, regional service areas that
36 enter as mid-adopters must be allowed a transition period of up to
37 one year during which the interlocal leadership structure develops
38 and implements a local plan, including measurable milestones, to
39 transition to fully integrated managed care. The transition plan may
40 include provisions for the counties' organization to maintain

1 existing contracts during some or all of the transition period if the
2 managed care design begins during 2017 to 2018, with the mid-adopter
3 transition year occurring in 2019.

4 (5) Nothing in this section may be used to compel contracts
5 between a provider, integrated managed health care system, or
6 administrative service organization.

7 (6) The interlocal leadership group expires December 1, 2021,
8 unless the interlocal leadership group decides locally to extend it."

9 Renumber the remaining sections consecutively and correct any
10 internal references accordingly.

11 On page 218, line 31, after "2017" insert "2nd sp. sess."

12 On page 218, line 39, after "2017" insert "2nd sp. sess."

13 Beginning on page 255, line 1, strike all of section 8003 and
14 insert the following:

15 "**Sec. 8003.** RCW 70.02.230 and 2017 c 325 s 1 and 2017 c 298 s 5
16 are each reenacted and amended to read as follows:

17 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
18 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or
19 pursuant to a valid authorization under RCW 70.02.030, the fact of
20 admission to a provider for mental health services and all
21 information and records compiled, obtained, or maintained in the
22 course of providing mental health services to either voluntary or
23 involuntary recipients of services at public or private agencies must
24 be confidential.

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

28 (a) In communications between qualified professional persons to
29 meet the requirements of chapter 71.05 RCW, in the provision of
30 services or appropriate referrals, or in the course of guardianship
31 proceedings if provided to a professional person:

32 (i) Employed by the facility;

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

34 (iii) Who is a designated mental health professional;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (t)(i) Consistent with the requirements of the federal health
32 insurance portability and accountability act, to:

33 (A) A health care provider who is providing care to a patient, or
34 to whom a patient has been referred for evaluation or treatment; or

35 (B) Any other person who is working in a care coordinator role
36 for a health care facility or health care provider or is under an
37 agreement pursuant to the federal health insurance portability and
38 accountability act with a health care facility or a health care
39 provider and requires the information and records to assure
40 coordinated care and treatment of that patient.

1 (ii) A person authorized to use or disclose information and
2 records related to mental health services under this subsection
3 (2)(t) must take appropriate steps to protect the information and
4 records relating to mental health services.

5 (iii) Psychotherapy notes may not be released without
6 authorization of the patient who is the subject of the request for
7 release of information;

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

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

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

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

1 the additional information. If the guardian objects in writing within
2 fifteen days after the notice is mailed, the staff member may not
3 obtain the additional information;

4 (y) To all current treating providers of the patient with
5 prescriptive authority who have written a prescription for the
6 patient within the last twelve months. For purposes of coordinating
7 health care, the department or the authority may release without
8 written authorization of the patient, information acquired for
9 billing and collection purposes as described in RCW 70.02.050(1)(d).
10 The department, or the authority, if applicable, shall notify the
11 patient that billing and collection information has been released to
12 named providers, and provide the substance of the information
13 released and the dates of such release. Neither the department nor
14 the authority may (~~not~~) release counseling, inpatient psychiatric
15 hospitalization, or drug and alcohol treatment information without a
16 signed written release from the client;

17 (z)(i) To the secretary of social and health services and the
18 director of the health care authority for either program evaluation
19 or research, or both so long as the secretary or director, where
20 applicable, adopts rules for the conduct of the evaluation or
21 research, or both. Such rules must include, but need not be limited
22 to, the requirement that all evaluators and researchers sign an oath
23 of confidentiality substantially as follows:

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

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

33 /s/"

34 (ii) Nothing in this chapter may be construed to prohibit the
35 compilation and publication of statistical data for use by government
36 or researchers under standards, including standards to assure
37 maintenance of confidentiality, set forth by the secretary, or
38 director, where applicable;

1 (aa) To any person if the conditions in RCW 70.02.--- (section 1,
2 chapter 298, Laws of 2017) are met.

3 (3) Whenever federal law or federal regulations restrict the
4 release of information contained in the information and records
5 related to mental health services of any patient who receives
6 treatment for chemical dependency, the department or the authority
7 may restrict the release of the information as necessary to comply
8 with federal law and regulations.

9 (4) Civil liability and immunity for the release of information
10 about a particular person who is committed to the department of
11 social and health services or the authority under RCW 71.05.280(3)
12 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
13 RCW 9.94A.030, is governed by RCW 4.24.550.

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

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

37 (i) One thousand dollars; or

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

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

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

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

11 (e) If an action is brought under this subsection, no action may
12 be brought under RCW 70.02.170."

13 Beginning on page 262, line 25, strike all of section 8004 and
14 insert the following:

15 "**Sec. 8004.** RCW 70.02.230 and 2017 c 325 s 2 and 2017 c 298 s 6
16 are each reenacted and amended to read as follows:

17 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
18 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or
19 pursuant to a valid authorization under RCW 70.02.030, the fact of
20 admission to a provider for mental health services and all
21 information and records compiled, obtained, or maintained in the
22 course of providing mental health services to either voluntary or
23 involuntary recipients of services at public or private agencies must
24 be confidential.

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

28 (a) In communications between qualified professional persons to
29 meet the requirements of chapter 71.05 RCW, in the provision of
30 services or appropriate referrals, or in the course of guardianship
31 proceedings if provided to a professional person:

32 (i) Employed by the facility;

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

34 (iii) Who is a designated crisis responder;

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

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

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

3 (b) 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 services to the operator
6 of a facility in which the patient resides or will reside;

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

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

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

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

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

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

29 (ii) To a court or its designee in which a motion under chapter
30 10.77 RCW has been made for involuntary medication of a defendant for
31 the purpose of competency restoration.

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

35 (e)(i) When a mental health professional or designated crisis
36 responder is requested by a representative of a law enforcement or
37 corrections agency, including a police officer, sheriff, community
38 corrections officer, a municipal attorney, or prosecuting attorney to
39 undertake an investigation or provide treatment under RCW 71.05.150,
40 10.31.110, or 71.05.153, the mental health professional or designated

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

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

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

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

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

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

37 (i)(i) To appropriate corrections and law enforcement agencies
38 all necessary and relevant information in the event of a crisis or
39 emergent situation that poses a significant and imminent risk to the
40 public. The mental health service agency or its employees are not

1 civilly liable for the decision to disclose or not so long as the
2 decision was reached in good faith and without gross negligence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (t)(i) Consistent with the requirements of the federal health
31 insurance portability and accountability act, to:

32 (A) A health care provider who is providing care to a patient, or
33 to whom a patient has been referred for evaluation or treatment; or

34 (B) Any other person who is working in a care coordinator role
35 for a health care facility or health care provider or is under an
36 agreement pursuant to the federal health insurance portability and
37 accountability act with a health care facility or a health care
38 provider and requires the information and records to assure
39 coordinated care and treatment of that patient.

1 (ii) A person authorized to use or disclose information and
2 records related to mental health services under this subsection
3 (2)(t) must take appropriate steps to protect the information and
4 records relating to mental health services.

5 (iii) Psychotherapy notes may not be released without
6 authorization of the patient who is the subject of the request for
7 release of information;

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

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

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

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

1 the additional information. If the guardian objects in writing within
2 fifteen days after the notice is mailed, the staff member may not
3 obtain the additional information;

4 (y) To all current treating providers of the patient with
5 prescriptive authority who have written a prescription for the
6 patient within the last twelve months. For purposes of coordinating
7 health care, the department or the authority may release without
8 written authorization of the patient, information acquired for
9 billing and collection purposes as described in RCW 70.02.050(1)(d).
10 The department, or the authority, if applicable, shall notify the
11 patient that billing and collection information has been released to
12 named providers, and provide the substance of the information
13 released and the dates of such release. Neither the department nor
14 the authority may (~~not~~) release counseling, inpatient psychiatric
15 hospitalization, or drug and alcohol treatment information without a
16 signed written release from the client;

17 (z)(i) To the secretary of social and health services and the
18 director of the health care authority for either program evaluation
19 or research, or both so long as the secretary or director, where
20 applicable, adopts rules for the conduct of the evaluation or
21 research, or both. Such rules must include, but need not be limited
22 to, the requirement that all evaluators and researchers sign an oath
23 of confidentiality substantially as follows:

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

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

33 /s/"

34 (ii) Nothing in this chapter may be construed to prohibit the
35 compilation and publication of statistical data for use by government
36 or researchers under standards, including standards to assure
37 maintenance of confidentiality, set forth by the secretary, or
38 director, where applicable;

1 (aa) To any person if the conditions in RCW 70.02.--- (section 1,
2 chapter 298, Laws of 2017) are met.

3 (3) Whenever federal law or federal regulations restrict the
4 release of information contained in the information and records
5 related to mental health services of any patient who receives
6 treatment for chemical dependency, the department or the authority
7 may restrict the release of the information as necessary to comply
8 with federal law and regulations.

9 (4) Civil liability and immunity for the release of information
10 about a particular person who is committed to the department of
11 social and health services or the authority under RCW 71.05.280(3)
12 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
13 RCW 9.94A.030, is governed by RCW 4.24.550.

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

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

37 (i) One thousand dollars; or

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

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

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

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

11 (e) If an action is brought under this subsection, no action may
12 be brought under RCW 70.02.170."

13 Beginning on page 277, line 31, strike all of section 8010 and
14 insert the following:

15 "**Sec. 8010.** RCW 42.56.270 and 2017 c 317 s 17 are each amended
16 to read as follows:

17 The following financial, commercial, and proprietary information
18 is exempt from disclosure under this chapter:

19 (1) Valuable formulae, designs, drawings, computer source code or
20 object code, and research data obtained by any agency within five
21 years of the request for disclosure when disclosure would produce
22 private gain and public loss;

23 (2) Financial information supplied by or on behalf of a person,
24 firm, or corporation for the purpose of qualifying to submit a bid or
25 proposal for (a) a ferry system construction or repair contract as
26 required by RCW 47.60.680 through 47.60.750 or (b) highway
27 construction or improvement as required by RCW 47.28.070;

28 (3) Financial and commercial information and records supplied by
29 private persons pertaining to export services provided under chapters
30 43.163 and 53.31 RCW, and by persons pertaining to export projects
31 under RCW 43.23.035;

32 (4) Financial and commercial information and records supplied by
33 businesses or individuals during application for loans or program
34 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
35 43.168 RCW, or during application for economic development loans or
36 program services provided by any local agency;

37 (5) Financial information, business plans, examination reports,
38 and any information produced or obtained in evaluating or examining a

1 business and industrial development corporation organized or seeking
2 certification under chapter 31.24 RCW;

3 (6) Financial and commercial information supplied to the state
4 investment board by any person when the information relates to the
5 investment of public trust or retirement funds and when disclosure
6 would result in loss to such funds or in private loss to the
7 providers of this information;

8 (7) Financial and valuable trade information under RCW 51.36.120;

9 (8) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the clean Washington
11 center in applications for, or delivery of, program services under
12 chapter 70.95H RCW;

13 (9) Financial and commercial information requested by the public
14 stadium authority from any person or organization that leases or uses
15 the stadium and exhibition center as defined in RCW 36.102.010;

16 (10)(a) Financial information, including but not limited to
17 account numbers and values, and other identification numbers supplied
18 by or on behalf of a person, firm, corporation, limited liability
19 company, partnership, or other entity related to an application for a
20 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
21 marijuana producer, processor, or retailer license, liquor license,
22 gambling license, or lottery retail license;

23 (b) Internal control documents, independent auditors' reports and
24 financial statements, and supporting documents: (i) Of house-banked
25 social card game licensees required by the gambling commission
26 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
27 by tribes with an approved tribal/state compact for class III gaming;

28 (11) Proprietary data, trade secrets, or other information that
29 relates to: (a) A vendor's unique methods of conducting business; (b)
30 data unique to the product or services of the vendor; or (c)
31 determining prices or rates to be charged for services, submitted by
32 any vendor to the department of social and health services or the
33 health care authority for purposes of the development, acquisition,
34 or implementation of state purchased health care as defined in RCW
35 41.05.011;

36 (12)(a) When supplied to and in the records of the department of
37 commerce:

38 (i) Financial and proprietary information collected from any
39 person and provided to the department of commerce pursuant to RCW
40 43.330.050(8); and

1 (ii) Financial or proprietary information collected from any
2 person and provided to the department of commerce or the office of
3 the governor in connection with the siting, recruitment, expansion,
4 retention, or relocation of that person's business and until a siting
5 decision is made, identifying information of any person supplying
6 information under this subsection and the locations being considered
7 for siting, relocation, or expansion of a business;

8 (b) When developed by the department of commerce based on
9 information as described in (a)(i) of this subsection, any work
10 product is not exempt from disclosure;

11 (c) For the purposes of this subsection, "siting decision" means
12 the decision to acquire or not to acquire a site;

13 (d) If there is no written contact for a period of sixty days to
14 the department of commerce from a person connected with siting,
15 recruitment, expansion, retention, or relocation of that person's
16 business, information described in (a)(ii) of this subsection will be
17 available to the public under this chapter;

18 (13) Financial and proprietary information submitted to or
19 obtained by the department of ecology or the authority created under
20 chapter 70.95N RCW to implement chapter 70.95N RCW;

21 (14) Financial, commercial, operations, and technical and
22 research information and data submitted to or obtained by the life
23 sciences discovery fund authority in applications for, or delivery
24 of, grants under chapter 43.350 RCW, to the extent that such
25 information, if revealed, would reasonably be expected to result in
26 private loss to the providers of this information;

27 (15) Financial and commercial information provided as evidence to
28 the department of licensing as required by RCW 19.112.110 or
29 19.112.120, except information disclosed in aggregate form that does
30 not permit the identification of information related to individual
31 fuel licensees;

32 (16) Any production records, mineral assessments, and trade
33 secrets submitted by a permit holder, mine operator, or landowner to
34 the department of natural resources under RCW 78.44.085;

35 (17)(a) Farm plans developed by conservation districts, unless
36 permission to release the farm plan is granted by the landowner or
37 operator who requested the plan, or the farm plan is used for the
38 application or issuance of a permit;

1 (b) Farm plans developed under chapter 90.48 RCW and not under
2 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
3 to RCW 42.56.610 and 90.64.190;

4 (18) Financial, commercial, operations, and technical and
5 research information and data submitted to or obtained by a health
6 sciences and services authority in applications for, or delivery of,
7 grants under RCW 35.104.010 through 35.104.060, to the extent that
8 such information, if revealed, would reasonably be expected to result
9 in private loss to providers of this information;

10 (19) Information gathered under chapter 19.85 RCW or RCW
11 34.05.328 that can be identified to a particular business;

12 (20) Financial and commercial information submitted to or
13 obtained by the University of Washington, other than information the
14 university is required to disclose under RCW 28B.20.150, when the
15 information relates to investments in private funds, to the extent
16 that such information, if revealed, would reasonably be expected to
17 result in loss to the University of Washington consolidated endowment
18 fund or to result in private loss to the providers of this
19 information;

20 (21) Market share data submitted by a manufacturer under RCW
21 70.95N.190(4);

22 (22) Financial information supplied to the department of
23 financial institutions or to a portal under RCW 21.20.883, when filed
24 by or on behalf of an issuer of securities for the purpose of
25 obtaining the exemption from state securities registration for small
26 securities offerings provided under RCW 21.20.880 or when filed by or
27 on behalf of an investor for the purpose of purchasing such
28 securities;

29 (23) Unaggregated or individual notices of a transfer of crude
30 oil that is financial, proprietary, or commercial information,
31 submitted to the department of ecology pursuant to RCW
32 90.56.565(1)(a), and that is in the possession of the department of
33 ecology or any entity with which the department of ecology has shared
34 the notice pursuant to RCW 90.56.565;

35 (24) Financial institution and retirement account information,
36 and building security plan information, supplied to the liquor and
37 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
38 69.50.345, when filed by or on behalf of a licensee or prospective
39 licensee for the purpose of obtaining, maintaining, or renewing a

1 license to produce, process, transport, or sell marijuana as allowed
2 under chapter 69.50 RCW;

3 (25) Marijuana transport information, vehicle and driver
4 identification data, and account numbers or unique access identifiers
5 issued to private entities for traceability system access, submitted
6 by an individual or business to the liquor and cannabis board under
7 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
8 69.50.345 for the purpose of marijuana product traceability.
9 Disclosure to local, state, and federal officials is not considered
10 public disclosure for purposes of this section;

11 (26) Financial and commercial information submitted to or
12 obtained by the retirement board of any city that is responsible for
13 the management of an employees' retirement system pursuant to the
14 authority of chapter 35.39 RCW, when the information relates to
15 investments in private funds, to the extent that such information, if
16 revealed, would reasonably be expected to result in loss to the
17 retirement fund or to result in private loss to the providers of this
18 information except that (a) the names and commitment amounts of the
19 private funds in which retirement funds are invested and (b) the
20 aggregate quarterly performance results for a retirement fund's
21 portfolio of investments in such funds are subject to disclosure;

22 (27) Proprietary financial, commercial, operations, and technical
23 and research information and data submitted to or obtained by the
24 liquor and cannabis board in applications for marijuana research
25 licenses under RCW 69.50.372, or in reports submitted by marijuana
26 research licensees in accordance with rules adopted by the liquor and
27 cannabis board under RCW 69.50.372; and

28 (28) Trade secrets, technology, proprietary information, and
29 financial considerations contained in any agreements or contracts,
30 entered into by a licensed marijuana business under RCW 69.50.---
31 (section 16, chapter 317, Laws of 2017), which may be submitted to or
32 obtained by the state liquor and cannabis board."

33 Beginning on page 302, line 8, strike all of section 9009 and
34 insert the following:

35 "**Sec. 9009.** RCW 46.61.5055 and 2017 c 336 s 6 and 2017 c 335 s 3
36 are each reenacted and amended to read as follows:

37 (1) **No prior offenses in seven years.** Except as provided in RCW
38 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
2 within seven years shall be punished as follows:

3 (a) **Penalty for alcohol concentration less than 0.15.** In the case
4 of a person whose alcohol concentration was less than 0.15, or for
5 whom for reasons other than the person's refusal to take a test
6 offered pursuant to RCW 46.20.308 there is no test result indicating
7 the person's alcohol concentration:

8 (i) By imprisonment for not less than one day nor more than three
9 hundred sixty-four days. Twenty-four consecutive hours of the
10 imprisonment may not be suspended unless the court finds that the
11 imposition of this mandatory minimum sentence would impose a
12 substantial risk to the offender's physical or mental well-being.
13 Whenever the mandatory minimum sentence is suspended, the court shall
14 state in writing the reason for granting the suspension and the facts
15 upon which the suspension is based. In lieu of the mandatory minimum
16 term of imprisonment required under this subsection (1)(a)(i), the
17 court may order not less than fifteen days of electronic home
18 monitoring or a ninety-day period of 24/7 sobriety program
19 monitoring. The court may consider the offender's pretrial 24/7
20 sobriety program monitoring as fulfilling a portion of posttrial
21 sentencing. The offender shall pay the cost of electronic home
22 monitoring. The county or municipality in which the penalty is being
23 imposed shall determine the cost. The court may also require the
24 offender's electronic home monitoring device or other separate
25 alcohol monitoring device to include an alcohol detection
26 breathalyzer, and the court may restrict the amount of alcohol the
27 offender may consume during the time the offender is on electronic
28 home monitoring; and

29 (ii) By a fine of not less than three hundred fifty dollars nor
30 more than five thousand dollars. Three hundred fifty dollars of the
31 fine may not be suspended unless the court finds the offender to be
32 indigent; or

33 (b) **Penalty for alcohol concentration at least 0.15.** In the case
34 of a person whose alcohol concentration was at least 0.15, or for
35 whom by reason of the person's refusal to take a test offered
36 pursuant to RCW 46.20.308 there is no test result indicating the
37 person's alcohol concentration:

38 (i) By imprisonment for not less than two days nor more than
39 three hundred sixty-four days. Forty-eight consecutive hours of the
40 imprisonment may not be suspended unless the court finds that the

1 imposition of this mandatory minimum sentence would impose a
2 substantial risk to the offender's physical or mental well-being.
3 Whenever the mandatory minimum sentence is suspended, the court shall
4 state in writing the reason for granting the suspension and the facts
5 upon which the suspension is based. In lieu of the mandatory minimum
6 term of imprisonment required under this subsection (1)(b)(i), the
7 court may order not less than thirty days of electronic home
8 monitoring or a one hundred twenty day period of 24/7 sobriety
9 program monitoring. The court may consider the offender's pretrial
10 24/7 sobriety program testing as fulfilling a portion of posttrial
11 sentencing. The offender shall pay the cost of electronic home
12 monitoring. The county or municipality in which the penalty is being
13 imposed shall determine the cost. The court may also require the
14 offender's electronic home monitoring device to include an alcohol
15 detection breathalyzer or other separate alcohol monitoring device,
16 and the court may restrict the amount of alcohol the offender may
17 consume during the time the offender is on electronic home
18 monitoring; and

19 (ii) By a fine of not less than five hundred dollars nor more
20 than five thousand dollars. Five hundred dollars of the fine may not
21 be suspended unless the court finds the offender to be indigent.

22 (2) **One prior offense in seven years.** Except as provided in RCW
23 46.61.502(6) or 46.61.504(6), a person who is convicted of a
24 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
25 within seven years shall be punished as follows:

26 (a) **Penalty for alcohol concentration less than 0.15.** In the case
27 of a person whose alcohol concentration was less than 0.15, or for
28 whom for reasons other than the person's refusal to take a test
29 offered pursuant to RCW 46.20.308 there is no test result indicating
30 the person's alcohol concentration:

31 (i) By imprisonment for not less than thirty days nor more than
32 three hundred sixty-four days and sixty days of electronic home
33 monitoring. In lieu of the mandatory term of imprisonment and
34 electronic home monitoring under this subsection (2)(a)(i), the court
35 may order a minimum of four days in jail and either one hundred
36 eighty days of electronic home monitoring or a one hundred twenty-day
37 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300
38 through 36.28A.390. The court may consider the offender's pretrial
39 24/7 sobriety program monitoring as fulfilling a portion of posttrial
40 sentencing. The court shall order an expanded alcohol assessment and

1 treatment, if deemed appropriate by the assessment. The offender
2 shall pay for the cost of the electronic monitoring. The county or
3 municipality where the penalty is being imposed shall determine the
4 cost. The court may also require the offender's electronic home
5 monitoring device include an alcohol detection breathalyzer or other
6 separate alcohol monitoring device, and may restrict the amount of
7 alcohol the offender may consume during the time the offender is on
8 electronic home monitoring. Thirty days of imprisonment and sixty
9 days of electronic home monitoring may not be suspended unless the
10 court finds that the imposition of this mandatory minimum sentence
11 would impose a substantial risk to the offender's physical or mental
12 well-being. Whenever the mandatory minimum sentence is suspended, the
13 court shall state in writing the reason for granting the suspension
14 and the facts upon which the suspension is based; and

15 (ii) By a fine of not less than five hundred dollars nor more
16 than five thousand dollars. Five hundred dollars of the fine may not
17 be suspended unless the court finds the offender to be indigent; or

18 (b) **Penalty for alcohol concentration at least 0.15.** In the case
19 of a person whose alcohol concentration was at least 0.15, or for
20 whom by reason of the person's refusal to take a test offered
21 pursuant to RCW 46.20.308 there is no test result indicating the
22 person's alcohol concentration:

23 (i) By imprisonment for not less than forty-five days nor more
24 than three hundred sixty-four days and ninety days of electronic home
25 monitoring. In lieu of the mandatory minimum term of imprisonment and
26 electronic home monitoring under this subsection (2)(b)(i), the court
27 may order a minimum of six days in jail and either six months of
28 electronic home monitoring or a one hundred twenty-day period of 24/7
29 sobriety program monitoring pursuant to RCW 36.28A.300 through
30 36.28A.390. The court may consider the offender's pretrial 24/7
31 sobriety program monitoring as fulfilling a portion of posttrial
32 sentencing. The court shall order an expanded alcohol assessment and
33 treatment, if deemed appropriate by the assessment. The offender
34 shall pay for the cost of the electronic monitoring. The county or
35 municipality where the penalty is being imposed shall determine the
36 cost. The court may also require the offender's electronic home
37 monitoring device include an alcohol detection breathalyzer or other
38 separate alcohol monitoring device, and may restrict the amount of
39 alcohol the offender may consume during the time the offender is on
40 electronic home monitoring. Forty-five days of imprisonment and

1 ninety days of electronic home monitoring may not be suspended unless
2 the court finds that the imposition of this mandatory minimum
3 sentence would impose a substantial risk to the offender's physical
4 or mental well-being. Whenever the mandatory minimum sentence is
5 suspended, the court shall state in writing the reason for granting
6 the suspension and the facts upon which the suspension is based; and

7 (ii) By a fine of not less than seven hundred fifty dollars nor
8 more than five thousand dollars. Seven hundred fifty dollars of the
9 fine may not be suspended unless the court finds the offender to be
10 indigent.

11 (3) **Two prior offenses in seven years.** Except as provided in RCW
12 46.61.502(6) or 46.61.504(6), a person who is convicted of a
13 violation of RCW 46.61.502 or 46.61.504 and who has two prior
14 offenses within seven years shall be punished as follows:

15 (a) **Penalty for alcohol concentration less than 0.15.** In the case
16 of a person whose alcohol concentration was less than 0.15, or for
17 whom for reasons other than the person's refusal to take a test
18 offered pursuant to RCW 46.20.308 there is no test result indicating
19 the person's alcohol concentration:

20 (i) By imprisonment for not less than ninety days nor more than
21 three hundred sixty-four days, if available in that county or city, a
22 six-month period of 24/7 sobriety program monitoring pursuant to RCW
23 36.28A.300 through 36.28A.390, and one hundred twenty days of
24 electronic home monitoring. In lieu of the mandatory minimum term of
25 one hundred twenty days of electronic home monitoring, the court may
26 order at least an additional eight days in jail. The court shall
27 order an expanded alcohol assessment and treatment, if deemed
28 appropriate by the assessment. The offender shall pay for the cost of
29 the electronic monitoring. The county or municipality where the
30 penalty is being imposed shall determine the cost. The court may also
31 require the offender's electronic home monitoring device include an
32 alcohol detection breathalyzer or other separate alcohol monitoring
33 device, and may restrict the amount of alcohol the offender may
34 consume during the time the offender is on electronic home
35 monitoring. Ninety days of imprisonment and one hundred twenty days
36 of electronic home monitoring may not be suspended unless the court
37 finds that the imposition of this mandatory minimum sentence would
38 impose a substantial risk to the offender's physical or mental well-
39 being. Whenever the mandatory minimum sentence is suspended, the

1 court shall state in writing the reason for granting the suspension
2 and the facts upon which the suspension is based; and

3 (ii) By a fine of not less than one thousand dollars nor more
4 than five thousand dollars. One thousand dollars of the fine may not
5 be suspended unless the court finds the offender to be indigent; or

6 (b) **Penalty for alcohol concentration at least 0.15.** In the case
7 of a person whose alcohol concentration was at least 0.15, or for
8 whom by reason of the person's refusal to take a test offered
9 pursuant to RCW 46.20.308 there is no test result indicating the
10 person's alcohol concentration:

11 (i) By imprisonment for not less than one hundred twenty days nor
12 more than three hundred sixty-four days, if available in that county
13 or city, a six-month period of 24/7 sobriety program monitoring
14 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
15 days of electronic home monitoring. In lieu of the mandatory minimum
16 term of one hundred fifty days of electronic home monitoring, the
17 court may order at least an additional ten days in jail. The offender
18 shall pay for the cost of the electronic monitoring. The court shall
19 order an expanded alcohol assessment and treatment, if deemed
20 appropriate by the assessment. The county or municipality where the
21 penalty is being imposed shall determine the cost. The court may also
22 require the offender's electronic home monitoring device include an
23 alcohol detection breathalyzer or other separate alcohol monitoring
24 device, and may restrict the amount of alcohol the offender may
25 consume during the time the offender is on electronic home
26 monitoring. One hundred twenty days of imprisonment and one hundred
27 fifty days of electronic home monitoring may not be suspended unless
28 the court finds that the imposition of this mandatory minimum
29 sentence would impose a substantial risk to the offender's physical
30 or mental well-being. Whenever the mandatory minimum sentence is
31 suspended, the court shall state in writing the reason for granting
32 the suspension and the facts upon which the suspension is based; and

33 (ii) By a fine of not less than one thousand five hundred dollars
34 nor more than five thousand dollars. One thousand five hundred
35 dollars of the fine may not be suspended unless the court finds the
36 offender to be indigent.

37 (4) **Three or more prior offenses in ten years.** A person who is
38 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be
39 punished under chapter 9.94A RCW if:

1 (a) The person has three or more prior offenses within ten years;
2 or
3 (b) The person has ever previously been convicted of:
4 (i) A violation of RCW 46.61.520 committed while under the
5 influence of intoxicating liquor or any drug;
6 (ii) A violation of RCW 46.61.522 committed while under the
7 influence of intoxicating liquor or any drug;
8 (iii) An out-of-state offense comparable to the offense specified
9 in (b)(i) or (ii) of this subsection; or
10 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).
11 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
12 require any person convicted of a violation of RCW 46.61.502 or
13 46.61.504 or an equivalent local ordinance to comply with the rules
14 and requirements of the department regarding the installation and use
15 of a functioning ignition interlock device installed on all motor
16 vehicles operated by the person.
17 (b) **Monitoring devices.** If the court orders that a person refrain
18 from consuming any alcohol, the court may order the person to submit
19 to alcohol monitoring through an alcohol detection breathalyzer
20 device, transdermal sensor device, or other technology designed to
21 detect alcohol in a person's system. The person shall pay for the
22 cost of the monitoring, unless the court specifies that the cost of
23 monitoring will be paid with funds that are available from an
24 alternative source identified by the court. The county or
25 municipality where the penalty is being imposed shall determine the
26 cost.
27 (c) **24/7 sobriety program monitoring.** In any county or city where
28 a 24/7 sobriety program is available and verified by the Washington
29 association of sheriffs and police chiefs, the court shall:
30 (i) Order the person to install and use a functioning ignition
31 interlock or other device in lieu of such period of 24/7 sobriety
32 program monitoring;
33 (ii) Order the person to a period of 24/7 sobriety program
34 monitoring pursuant to subsections (1) through (3) of this section;
35 or
36 (iii) Order the person to install and use a functioning ignition
37 interlock or other device in addition to a period of 24/7 sobriety
38 program monitoring pursuant to subsections (1) through (3) of this
39 section.

1 (6) **Penalty for having a minor passenger in vehicle.** If a person
2 who is convicted of a violation of RCW 46.61.502 or 46.61.504
3 committed the offense while a passenger under the age of sixteen was
4 in the vehicle, the court shall:

5 (a) Order the use of an ignition interlock or other device for an
6 additional six months;

7 (b) In any case in which the person has no prior offenses within
8 seven years, and except as provided in RCW 46.61.502(6) or
9 46.61.504(6), order an additional twenty-four hours of imprisonment
10 and a fine of not less than one thousand dollars and not more than
11 five thousand dollars. One thousand dollars of the fine may not be
12 suspended unless the court finds the offender to be indigent;

13 (c) In any case in which the person has one prior offense within
14 seven years, and except as provided in RCW 46.61.502(6) or
15 46.61.504(6), order an additional five days of imprisonment and a
16 fine of not less than two thousand dollars and not more than five
17 thousand dollars. One thousand dollars of the fine may not be
18 suspended unless the court finds the offender to be indigent;

19 (d) In any case in which the person has two prior offenses within
20 seven years, and except as provided in RCW 46.61.502(6) or
21 46.61.504(6), order an additional ten days of imprisonment and a fine
22 of not less than three thousand dollars and not more than ten
23 thousand dollars. One thousand dollars of the fine may not be
24 suspended unless the court finds the offender to be indigent.

25 (7) **Other items courts must consider while setting penalties.** In
26 exercising its discretion in setting penalties within the limits
27 allowed by this section, the court shall particularly consider the
28 following:

29 (a) Whether the person's driving at the time of the offense was
30 responsible for injury or damage to another or another's property;

31 (b) Whether at the time of the offense the person was driving or
32 in physical control of a vehicle with one or more passengers;

33 (c) Whether the driver was driving in the opposite direction of
34 the normal flow of traffic on a multiple lane highway, as defined by
35 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
36 or greater; and

37 (d) Whether a child passenger under the age of sixteen was an
38 occupant in the driver's vehicle.

1 (8) **Treatment and information school.** An offender punishable
2 under this section is subject to the alcohol assessment and treatment
3 provisions of RCW 46.61.5056.

4 (9) **Driver's license privileges of the defendant.** The license,
5 permit, or nonresident privilege of a person convicted of driving or
6 being in physical control of a motor vehicle while under the
7 influence of intoxicating liquor or drugs must:

8 (a) **Penalty for alcohol concentration less than 0.15.** If the
9 person's alcohol concentration was less than 0.15, or if for reasons
10 other than the person's refusal to take a test offered under RCW
11 46.20.308 there is no test result indicating the person's alcohol
12 concentration:

13 (i) Where there has been no prior offense within seven years, be
14 suspended or denied by the department for ninety days or until the
15 person is evaluated by an alcoholism agency or probation department
16 pursuant to RCW 46.20.311 and the person completes or is enrolled in
17 a ninety-day period of 24/7 sobriety program monitoring. In no
18 circumstances shall the license suspension be for fewer than two
19 days;

20 (ii) Where there has been one prior offense within seven years,
21 be revoked or denied by the department for two years or until the
22 person is evaluated by an alcoholism agency or probation department
23 pursuant to RCW 46.20.311 and the person completes or is enrolled in
24 a six-month period of 24/7 sobriety program monitoring. In no
25 circumstances shall the license suspension be for less than one year;
26 or

27 (iii) Where there have been two or more prior offenses within
28 seven years, be revoked or denied by the department for three years;

29 (b) **Penalty for alcohol concentration at least 0.15.** If the
30 person's alcohol concentration was at least 0.15:

31 (i) Where there has been no prior offense within seven years, be
32 revoked or denied by the department for one year or until the person
33 is evaluated by an alcoholism agency or probation department pursuant
34 to RCW 46.20.311 and the person completes or is enrolled in a one
35 hundred twenty day period of 24/7 sobriety program monitoring. In no
36 circumstances shall the license revocation be for fewer than four
37 days;

38 (ii) Where there has been one prior offense within seven years,
39 be revoked or denied by the department for nine hundred days; or

1 (iii) Where there have been two or more prior offenses within
2 seven years, be revoked or denied by the department for four years;
3 or

4 (c) **Penalty for refusing to take test.** If by reason of the
5 person's refusal to take a test offered under RCW 46.20.308, there is
6 no test result indicating the person's alcohol concentration:

7 (i) Where there have been no prior offenses within seven years,
8 be revoked or denied by the department for two years;

9 (ii) Where there has been one prior offense within seven years,
10 be revoked or denied by the department for three years; or

11 (iii) Where there have been two or more previous offenses within
12 seven years, be revoked or denied by the department for four years.

13 The department shall grant credit on a day-for-day basis for any
14 portion of a suspension, revocation, or denial already served under
15 this subsection for a suspension, revocation, or denial imposed under
16 RCW 46.20.3101 arising out of the same incident.

17 Upon receipt of a notice from the court under RCW 36.28A.390 that
18 a participant has been removed from a 24/7 sobriety program, the
19 department must resume any suspension, revocation, or denial that had
20 been terminated early under this subsection due to participation in
21 the program, granting credit on a day-for-day basis for any portion
22 of a suspension, revocation, or denial already served under RCW
23 46.20.3101 or this section arising out of the same incident.

24 Upon its own motion or upon motion by a person, a court may find,
25 on the record, that notice to the department under RCW 46.20.270 has
26 been delayed for three years or more as a result of a clerical or
27 court error. If so, the court may order that the person's license,
28 permit, or nonresident privilege shall not be revoked, suspended, or
29 denied for that offense. The court shall send notice of the finding
30 and order to the department and to the person. Upon receipt of the
31 notice from the court, the department shall not revoke, suspend, or
32 deny the license, permit, or nonresident privilege of the person for
33 that offense.

34 For purposes of this subsection (9), the department shall refer
35 to the driver's record maintained under RCW 46.52.120 when
36 determining the existence of prior offenses.

37 (10) **Probation of driving privilege.** After expiration of any
38 period of suspension, revocation, or denial of the offender's
39 license, permit, or privilege to drive required by this section, the

1 department shall place the offender's driving privilege in
2 probationary status pursuant to RCW 46.20.355.

3 (11) **Conditions of probation.** (a) In addition to any
4 nonsuspendable and nondeferrable jail sentence required by this
5 section, whenever the court imposes up to three hundred sixty-four
6 days in jail, the court shall also suspend but shall not defer a
7 period of confinement for a period not exceeding five years. The
8 court shall impose conditions of probation that include: (i) Not
9 driving a motor vehicle within this state without a valid license to
10 drive; (ii) not driving a motor vehicle within this state without
11 proof of liability insurance or other financial responsibility for
12 the future pursuant to RCW 46.30.020; (iii) not driving or being in
13 physical control of a motor vehicle within this state while having an
14 alcohol concentration of 0.08 or more or a THC concentration of 5.00
15 nanograms per milliliter of whole blood or higher, within two hours
16 after driving; (iv) not refusing to submit to a test of his or her
17 breath or blood to determine alcohol or drug concentration upon
18 request of a law enforcement officer who has reasonable grounds to
19 believe the person was driving or was in actual physical control of a
20 motor vehicle within this state while under the influence of
21 intoxicating liquor or drug; and (v) not driving a motor vehicle in
22 this state without a functioning ignition interlock device as
23 required by the department under RCW 46.20.720. The court may impose
24 conditions of probation that include nonrepetition, installation of
25 an ignition interlock device on the probationer's motor vehicle,
26 alcohol or drug treatment, supervised probation, or other conditions
27 that may be appropriate. The sentence may be imposed in whole or in
28 part upon violation of a condition of probation during the suspension
29 period.

30 (b) For each violation of mandatory conditions of probation under
31 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
32 order the convicted person to be confined for thirty days, which
33 shall not be suspended or deferred.

34 (c) For each incident involving a violation of a mandatory
35 condition of probation imposed under this subsection, the license,
36 permit, or privilege to drive of the person shall be suspended by the
37 court for thirty days or, if such license, permit, or privilege to
38 drive already is suspended, revoked, or denied at the time the
39 finding of probation violation is made, the suspension, revocation,
40 or denial then in effect shall be extended by thirty days. The court

1 shall notify the department of any suspension, revocation, or denial
2 or any extension of a suspension, revocation, or denial imposed under
3 this subsection.

4 (12) **Waiver of electronic home monitoring.** A court may waive the
5 electronic home monitoring requirements of this chapter when:

6 (a) The offender does not have a dwelling, telephone service, or
7 any other necessity to operate an electronic home monitoring system.
8 However, if a court determines that an alcohol monitoring device
9 utilizing wireless reporting technology is reasonably available, the
10 court may require the person to obtain such a device during the
11 period of required electronic home monitoring;

12 (b) The offender does not reside in the state of Washington; or

13 (c) The court determines that there is reason to believe that the
14 offender would violate the conditions of the electronic home
15 monitoring penalty.

16 Whenever the mandatory minimum term of electronic home monitoring
17 is waived, the court shall state in writing the reason for granting
18 the waiver and the facts upon which the waiver is based, and shall
19 impose an alternative sentence with similar punitive consequences.
20 The alternative sentence may include, but is not limited to, use of
21 an ignition interlock device, the 24/7 sobriety program monitoring,
22 additional jail time, work crew, or work camp.

23 Whenever the combination of jail time and electronic home
24 monitoring or alternative sentence would exceed three hundred sixty-
25 four days, the offender shall serve the jail portion of the sentence
26 first, and the electronic home monitoring or alternative portion of
27 the sentence shall be reduced so that the combination does not exceed
28 three hundred sixty-four days.

29 (13) **Extraordinary medical placement.** An offender serving a
30 sentence under this section, whether or not a mandatory minimum term
31 has expired, may be granted an extraordinary medical placement by the
32 jail administrator subject to the standards and limitations set forth
33 in RCW 9.94A.728(1)(c).

34 (14) **Definitions.** For purposes of this section and RCW 46.61.502
35 and 46.61.504:

36 (a) A "prior offense" means any of the following:

37 (i) A conviction for a violation of RCW 46.61.502 or an
38 equivalent local ordinance;

39 (ii) A conviction for a violation of RCW 46.61.504 or an
40 equivalent local ordinance;

- 1 (iii) A conviction for a violation of RCW 46.25.110 or an
2 equivalent local ordinance;
- 3 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
4 equivalent local ordinance;
- 5 (v) A conviction for a violation of RCW 79A.60.040(1) or an
6 equivalent local ordinance committed in a reckless manner if the
7 conviction is the result of a charge that was originally filed as a
8 violation of RCW 79A.60.040(2) or an equivalent local ordinance;
- 9 (vi) A conviction for a violation of RCW 47.68.220 or an
10 equivalent local ordinance committed while under the influence of
11 intoxicating liquor or any drug;
- 12 (vii) A conviction for a violation of RCW 47.68.220 or an
13 equivalent local ordinance committed in a careless or reckless manner
14 if the conviction is the result of a charge that was originally filed
15 as a violation of RCW 47.68.220 or an equivalent local ordinance
16 while under the influence of intoxicating liquor or any drug;
- 17 (viii) A conviction for a violation of RCW 46.09.470(2) or an
18 equivalent local ordinance;
- 19 (ix) A conviction for a violation of RCW 46.10.490(2) or an
20 equivalent local ordinance;
- 21 (x) A conviction for a violation of RCW 46.61.520 committed while
22 under the influence of intoxicating liquor or any drug, or a
23 conviction for a violation of RCW 46.61.520 committed in a reckless
24 manner or with the disregard for the safety of others if the
25 conviction is the result of a charge that was originally filed as a
26 violation of RCW 46.61.520 committed while under the influence of
27 intoxicating liquor or any drug;
- 28 (xi) A conviction for a violation of RCW 46.61.522 committed
29 while under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.522 committed in a reckless
31 manner or with the disregard for the safety of others if the
32 conviction is the result of a charge that was originally filed as a
33 violation of RCW 46.61.522 committed while under the influence of
34 intoxicating liquor or any drug;
- 35 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
36 or 9A.36.050 or an equivalent local ordinance, if the conviction is
37 the result of a charge that was originally filed as a violation of
38 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
39 RCW 46.61.520 or 46.61.522;

1 (xiii) An out-of-state conviction for a violation that would have
2 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
3 subsection if committed in this state;

4 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a
5 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
6 equivalent local ordinance;

7 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
8 prosecution for a violation of RCW 46.61.5249, or an equivalent local
9 ordinance, if the charge under which the deferred prosecution was
10 granted was originally filed as a violation of RCW 46.61.502 or
11 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
12 46.61.522;

13 (xvi) A deferred prosecution granted in another state for a
14 violation of driving or having physical control of a vehicle while
15 under the influence of intoxicating liquor or any drug if the out-of-
16 state deferred prosecution is equivalent to the deferred prosecution
17 under chapter 10.05 RCW, including a requirement that the defendant
18 participate in a chemical dependency treatment program; or

19 (xvii) A deferred sentence imposed in a prosecution for a
20 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
21 equivalent local ordinance, if the charge under which the deferred
22 sentence was imposed was originally filed as a violation of RCW
23 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
24 violation of RCW 46.61.520 or 46.61.522;

25 If a deferred prosecution is revoked based on a subsequent
26 conviction for an offense listed in this subsection (14)(a), the
27 subsequent conviction shall not be treated as a prior offense of the
28 revoked deferred prosecution for the purposes of sentencing;

29 (b) "Treatment" means substance use disorder treatment
30 (~~(approved)~~) licensed or certified by the department of (~~social and~~
31 ~~health services~~) health;

32 (c) "Within seven years" means that the arrest for a prior
33 offense occurred within seven years before or after the arrest for
34 the current offense; and

35 (d) "Within ten years" means that the arrest for a prior offense
36 occurred within ten years before or after the arrest for the current
37 offense.

38 (15) All fines imposed by this section apply to adult offenders
39 only."

1 Correct the title.

EFFECT: Updates underlying statutory language to reflect statutory changes that were enacted in the regular session.

Directs the Health Care Authority to collaborate with county authorities within a regional service area, upon the counties' request, to establish an interlocal leadership structure. Requires the interlocal leadership structure to include participation from counties and managed health care systems and representation from physical and behavioral health providers, tribes, and other entities in the regional service area. States that the purpose of the interlocal leadership structure is to design and implement a fully integrated managed care model for the regional service area that places clients at the center of care delivery and supports the integrated delivery of physical and behavioral health care.

Permits the interlocal leadership structure to address: (1) Aligning contracting and administrative functions; (2) monitoring implementation of fully integrated managed care in the regional service area; (3) developing a regional service area process for coordinating capital infrastructure requests, local capacity building, and other community investments; (4) identifying and using measures and data to track and maintain regional service area accountability for delivery system performance; and (5) discussing the possibility of managed health care systems subcontracting with county or local administrative service organizations to provide services to support a bidirectional system of care.

Allows regional service areas that adopt fully integrated managed care after 2016 and prior to 2020 to have one year for the interlocal leadership structure to develop and implement a local plan to transition to fully integrated managed care. Permits the local plan to include provisions for county organizations to maintain existing contracts until 2019.

Provides that the section does not compel contracts between a provider, integrated managed health care system, or administrative service organization.

Expires the interlocal leadership group on December 1, 2021, unless continued by the interlocal leadership group.

--- END ---