

**ESSB 6638** - H COMM AMD

By Committee on Public Safety

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that it is  
4 critical to successful community reintegration and recovery for  
5 persons who are being released from prison, jail, juvenile  
6 rehabilitation, or other state institutions to have access to  
7 supportive services and for those who have behavioral health services  
8 needs to receive targeted assistance. This act employs multiple  
9 strategies to improve reentry services for these individuals. It  
10 provides for suspension of medicaid benefits to end before a person's  
11 release from custody so that medical assistance benefits can be made  
12 available immediately upon the person's release and so that  
13 authorized medicaid services can be provided before the person's  
14 release if the state receives a medicaid waiver. It creates a reentry  
15 services modality within the community behavioral health services act  
16 and directs the Washington state health care authority to apply for a  
17 section 1115 medicaid waiver so that the state can leverage federal  
18 funding to provide reentry services before the person's release. It  
19 provides persons applying for a conditional release under chapter  
20 10.77 RCW with access to the same community support services  
21 available to persons receiving community services under a less  
22 restrictive alternative order under chapter 71.05 RCW. Finally, it  
23 removes stigmatizing language from the program created under RCW  
24 72.09.370 and 71.24.470 and creates a work group to advise the state  
25 how to use strategies based on evidence-based, research-based, and  
26 promising practices to expand the provision of cost-effective reentry  
27 services to new populations.

28 (2) The legislature finds that the support for patients and  
29 communities act, H.R. 6 115th Cong. Sec. 271 (2018), provided federal  
30 recognition of the importance of providing transition services to  
31 persons who are soon to be former inmates of public institutions.

1 This act requires the secretary of health and human services to issue  
2 a state medicaid director letter by October 2019 regarding  
3 opportunities for states to apply for a section 1115 waiver to  
4 improve care transitions by providing medicaid services up to thirty  
5 days before a person's expected release. This guidance has not yet  
6 been released. New York state and the District of Columbia have  
7 already submitted section 1115 waiver applications which remain  
8 pending in the year 2019 in anticipation of this opportunity.

9 **Sec. 2.** RCW 74.09.670 and 2016 c 154 s 2 are each amended to  
10 read as follows:

11 (1) The authority is directed to suspend, rather than terminate,  
12 medical assistance benefits by July 1, 2017, for persons who are  
13 incarcerated or committed to a state hospital or other institution or  
14 facility. This must include the ability for a person to apply for  
15 medical assistance in suspense status during incarceration or civil  
16 commitment, and may not depend upon knowledge of the release date of  
17 the person. The authority must provide a progress report describing  
18 program design and a detailed fiscal estimate to the governor and  
19 relevant committees of the legislature by December 1, 2016.

20 (2) When a release date is scheduled for an individual whose  
21 medical assistance benefits are suspended under this section, the  
22 medical assistance benefits of a person may be restored up to ninety  
23 days prior to the person's release to facilitate reentry services,  
24 provided that no federal funds may be expended during this period for  
25 purposes not permitted by the state's agreements with the federal  
26 government.

27 (3) Starting January 1, 2022, the medical assistance benefits of  
28 a person that have been suspended under this section must be restored  
29 up to ninety days and not less than seven days prior to the person's  
30 scheduled release to facilitate reentry services, provided that no  
31 federal funds may be expended during this period for purposes not  
32 permitted by the state's agreements with the federal government.

33 (4) For the purpose of this section, "reentry services" has the  
34 same meaning as under RCW 71.24.025.

35 **Sec. 3.** RCW 71.24.025 and 2019 c 325 s 1004 and 2019 c 324 s 2  
36 are each reenacted and amended to read as follows:

37 Unless the context clearly requires otherwise, the definitions in  
38 this section apply throughout this chapter.

1 (1) "Acutely mentally ill" means a condition which is limited to  
2 a short-term severe crisis episode of:  
3 (a) A mental disorder as defined in RCW 71.05.020 or, in the case  
4 of a child, as defined in RCW 71.34.020;  
5 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
6 case of a child, a gravely disabled minor as defined in RCW  
7 71.34.020; or  
8 (c) Presenting a likelihood of serious harm as defined in RCW  
9 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.  
10 (2) "Alcoholism" means a disease, characterized by a dependency  
11 on alcoholic beverages, loss of control over the amount and  
12 circumstances of use, symptoms of tolerance, physiological or  
13 psychological withdrawal, or both, if use is reduced or discontinued,  
14 and impairment of health or disruption of social or economic  
15 functioning.  
16 (3) "Approved substance use disorder treatment program" means a  
17 program for persons with a substance use disorder provided by a  
18 treatment program licensed or certified by the department as meeting  
19 standards adopted under this chapter.  
20 (4) "Authority" means the Washington state health care authority.  
21 (5) "Available resources" means funds appropriated for the  
22 purpose of providing community behavioral health programs, federal  
23 funds, except those provided according to Title XIX of the Social  
24 Security Act, and state funds appropriated under this chapter or  
25 chapter 71.05 RCW by the legislature during any biennium for the  
26 purpose of providing residential services, resource management  
27 services, community support services, and other behavioral health  
28 services. This does not include funds appropriated for the purpose of  
29 operating and administering the state psychiatric hospitals.  
30 (6) "Behavioral health administrative services organization"  
31 means an entity contracted with the authority to administer  
32 behavioral health services and programs under RCW 71.24.381,  
33 including crisis services and administration of chapter 71.05 RCW,  
34 the involuntary treatment act, for all individuals in a defined  
35 regional service area.  
36 (7) "Behavioral health provider" means a person licensed under  
37 chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79  
38 RCW, as it applies to registered nurses and advanced registered nurse  
39 practitioners.

1 (8) "Behavioral health services" means mental health services as  
2 described in this chapter and chapter 71.36 RCW and substance use  
3 disorder treatment services as described in this chapter that,  
4 depending on the type of service, are provided by licensed or  
5 certified behavioral health agencies, behavioral health providers, or  
6 integrated into other health care providers.

7 (9) "Child" means a person under the age of eighteen years.

8 (10) "Chronically mentally ill adult" or "adult who is  
9 chronically mentally ill" means an adult who has a mental disorder  
10 and meets at least one of the following criteria:

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

13 (b) Has experienced a continuous psychiatric hospitalization or  
14 residential treatment exceeding six months' duration within the  
15 preceding year; or

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

21 (11) "Clubhouse" means a community-based program that provides  
22 rehabilitation services and is licensed or certified by the  
23 department.

24 (12) "Community behavioral health program" means all  
25 expenditures, services, activities, or programs, including reasonable  
26 administration and overhead, designed and conducted to prevent or  
27 treat substance use disorder, mental illness, or both in the  
28 community behavioral health system.

29 (13) "Community behavioral health service delivery system" means  
30 public, private, or tribal agencies that provide services  
31 specifically to persons with mental disorders, substance use  
32 disorders, or both, as defined under RCW 71.05.020 and receive  
33 funding from public sources.

34 (14) "Community support services" means services authorized,  
35 planned, and coordinated through resource management services  
36 including, at a minimum, assessment, diagnosis, emergency crisis  
37 intervention available twenty-four hours, seven days a week,  
38 prescreening determinations for persons who are mentally ill being  
39 considered for placement in nursing homes as required by federal law,  
40 screening for patients being considered for admission to residential

1 services, diagnosis and treatment for children who are acutely  
2 mentally ill or severely emotionally or behaviorally disturbed  
3 discovered under screening through the federal Title XIX early and  
4 periodic screening, diagnosis, and treatment program, investigation,  
5 legal, and other nonresidential services under chapter 71.05 RCW,  
6 case management services, psychiatric treatment including medication  
7 supervision, counseling, psychotherapy, assuring transfer of relevant  
8 patient information between service providers, recovery services, and  
9 other services determined by behavioral health administrative  
10 services organizations.

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

16 (16) "County authority" means the board of county commissioners,  
17 county council, or county executive having authority to establish a  
18 behavioral health administrative services organization, or two or  
19 more of the county authorities specified in this subsection which  
20 have entered into an agreement to establish a behavioral health  
21 administrative services organization.

22 (17) "Department" means the department of health.

23 (18) "Designated crisis responder" has the same meaning as in RCW  
24 71.05.020.

25 (19) "Director" means the director of the authority.

26 (20) "Drug addiction" means a disease characterized by a  
27 dependency on psychoactive chemicals, loss of control over the amount  
28 and circumstances of use, symptoms of tolerance, physiological or  
29 psychological withdrawal, or both, if use is reduced or discontinued,  
30 and impairment of health or disruption of social or economic  
31 functioning.

32 (21) "Early adopter" means a regional service area for which all  
33 of the county authorities have requested that the authority purchase  
34 medical and behavioral health services through a managed care health  
35 system as defined under RCW 71.24.380(6).

36 (22) "Emerging best practice" or "promising practice" means a  
37 program or practice that, based on statistical analyses or a well  
38 established theory of change, shows potential for meeting the  
39 evidence-based or research-based criteria, which may include the use

1 of a program that is evidence-based for outcomes other than those  
2 listed in subsection (23) of this section.

3 (23) "Evidence-based" means a program or practice that has been  
4 tested in heterogeneous or intended populations with multiple  
5 randomized, or statistically controlled evaluations, or both; or one  
6 large multiple site randomized, or statistically controlled  
7 evaluation, or both, where the weight of the evidence from a systemic  
8 review demonstrates sustained improvements in at least one outcome.  
9 "Evidence-based" also means a program or practice that can be  
10 implemented with a set of procedures to allow successful replication  
11 in Washington and, when possible, is determined to be cost-  
12 beneficial.

13 (24) "Indian health care provider" means a health care program  
14 operated by the Indian health service or by a tribe, tribal  
15 organization, or urban Indian organization as those terms are defined  
16 in the Indian health care improvement act (25 U.S.C. Sec. 1603).

17 (25) "Intensive behavioral health treatment facility" means a  
18 community-based specialized residential treatment facility for  
19 individuals with behavioral health conditions, including individuals  
20 discharging from or being diverted from state and local hospitals,  
21 whose impairment or behaviors do not meet, or no longer meet,  
22 criteria for involuntary inpatient commitment under chapter 71.05  
23 RCW, but whose care needs cannot be met in other community-based  
24 placement settings.

25 (26) "Licensed or certified behavioral health agency" means:

26 (a) An entity licensed or certified according to this chapter or  
27 chapter 71.05 RCW;

28 (b) An entity deemed to meet state minimum standards as a result  
29 of accreditation by a recognized behavioral health accrediting body  
30 recognized and having a current agreement with the department; or

31 (c) An entity with a tribal attestation that it meets state  
32 minimum standards for a licensed or certified behavioral health  
33 agency.

34 (27) "Licensed physician" means a person licensed to practice  
35 medicine or osteopathic medicine and surgery in the state of  
36 Washington.

37 (28) "Long-term inpatient care" means inpatient services for  
38 persons committed for, or voluntarily receiving intensive treatment  
39 for, periods of ninety days or greater under chapter 71.05 RCW.  
40 "Long-term inpatient care" as used in this chapter does not include:

1 (a) Services for individuals committed under chapter 71.05 RCW who  
2 are receiving services pursuant to a conditional release or a court-  
3 ordered less restrictive alternative to detention; or (b) services  
4 for individuals voluntarily receiving less restrictive alternative  
5 treatment on the grounds of the state hospital.

6 (29) "Managed care organization" means an organization, having a  
7 certificate of authority or certificate of registration from the  
8 office of the insurance commissioner, that contracts with the  
9 authority under a comprehensive risk contract to provide prepaid  
10 health care services to enrollees under the authority's managed care  
11 programs under chapter 74.09 RCW.

12 (30) "Mental health peer respite center" means a peer-run program  
13 to serve individuals in need of voluntary, short-term, noncrisis  
14 services that focus on recovery and wellness.

15 (31) Mental health "treatment records" include registration and  
16 all other records concerning persons who are receiving or who at any  
17 time have received services for mental illness, which are maintained  
18 by the department of social and health services or the authority, by  
19 behavioral health administrative services organizations and their  
20 staffs, by managed care organizations and their staffs, or by  
21 treatment facilities. "Treatment records" do not include notes or  
22 records maintained for personal use by a person providing treatment  
23 services for the entities listed in this subsection, or a treatment  
24 facility if the notes or records are not available to others.

25 (32) "Mentally ill persons," "persons who are mentally ill," and  
26 "the mentally ill" mean persons and conditions defined in subsections  
27 (1), (10), (39), and (40) of this section.

28 (33) "Recovery" means a process of change through which  
29 individuals improve their health and wellness, live a self-directed  
30 life, and strive to reach their full potential.

31 (34) "Research-based" means a program or practice that has been  
32 tested with a single randomized, or statistically controlled  
33 evaluation, or both, demonstrating sustained desirable outcomes; or  
34 where the weight of the evidence from a systemic review supports  
35 sustained outcomes as described in subsection (23) of this section  
36 but does not meet the full criteria for evidence-based.

37 (35) "Residential services" means a complete range of residences  
38 and supports authorized by resource management services and which may  
39 involve a facility, a distinct part thereof, or services which  
40 support community living, for persons who are acutely mentally ill,

1 adults who are chronically mentally ill, children who are severely  
2 emotionally disturbed, or adults who are seriously disturbed and  
3 determined by the behavioral health administrative services  
4 organization or managed care organization to be at risk of becoming  
5 acutely or chronically mentally ill. The services shall include at  
6 least evaluation and treatment services as defined in chapter 71.05  
7 RCW, acute crisis respite care, long-term adaptive and rehabilitative  
8 care, and supervised and supported living services, and shall also  
9 include any residential services developed to service persons who are  
10 mentally ill in nursing homes, residential treatment facilities,  
11 assisted living facilities, and adult family homes, and may include  
12 outpatient services provided as an element in a package of services  
13 in a supported housing model. Residential services for children in  
14 out-of-home placements related to their mental disorder shall not  
15 include the costs of food and shelter, except for children's long-  
16 term residential facilities existing prior to January 1, 1991.

17 (36) "Resilience" means the personal and community qualities that  
18 enable individuals to rebound from adversity, trauma, tragedy,  
19 threats, or other stresses, and to live productive lives.

20 (37) "Resource management services" mean the planning,  
21 coordination, and authorization of residential services and community  
22 support services administered pursuant to an individual service plan  
23 for: (a) Adults and children who are acutely mentally ill; (b) adults  
24 who are chronically mentally ill; (c) children who are severely  
25 emotionally disturbed; or (d) adults who are seriously disturbed and  
26 determined by a behavioral health administrative services  
27 organization or managed care organization to be at risk of becoming  
28 acutely or chronically mentally ill. Such planning, coordination, and  
29 authorization shall include mental health screening for children  
30 eligible under the federal Title XIX early and periodic screening,  
31 diagnosis, and treatment program. Resource management services  
32 include seven day a week, twenty-four hour a day availability of  
33 information regarding enrollment of adults and children who are  
34 mentally ill in services and their individual service plan to  
35 designated crisis responders, evaluation and treatment facilities,  
36 and others as determined by the behavioral health administrative  
37 services organization or managed care organization, as applicable.

38 (38) "Secretary" means the secretary of the department of health.

39 (39) "Seriously disturbed person" means a person who:



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

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

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

10 (d) Exhibits suicidal preoccupation or attempts; or

11 (e) Is a child diagnosed by a mental health professional, as  
12 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
13 is clearly interfering with the child's functioning in family or  
14 school or with peers or is clearly interfering with the child's  
15 personality development and learning.

16 (40) "Severely emotionally disturbed child" or "child who is  
17 severely emotionally disturbed" means a child who has been determined  
18 by the behavioral health administrative services organization or  
19 managed care organization, if applicable, to be experiencing a mental  
20 disorder as defined in chapter 71.34 RCW, including those mental  
21 disorders that result in a behavioral or conduct disorder, that is  
22 clearly interfering with the child's functioning in family or school  
23 or with peers and who meets at least one of the following criteria:

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

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

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

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

32 (i) Chronic family dysfunction involving a caretaker who is  
33 mentally ill or inadequate;

34 (ii) Changes in custodial adult;

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

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

40 (v) Drug or alcohol abuse; or

1 (vi) Homelessness.

2 (41) "State minimum standards" means minimum requirements  
3 established by rules adopted and necessary to implement this chapter  
4 by:

5 (a) The authority for:

6 (i) Delivery of mental health and substance use disorder  
7 services; and

8 (ii) Community support services and resource management services;

9 (b) The department of health for:

10 (i) Licensed or certified behavioral health agencies for the  
11 purpose of providing mental health or substance use disorder programs  
12 and services, or both;

13 (ii) Licensed behavioral health providers for the provision of  
14 mental health or substance use disorder services, or both; and

15 (iii) Residential services.

16 (42) "Substance use disorder" means a cluster of cognitive,  
17 behavioral, and physiological symptoms indicating that an individual  
18 continues using the substance despite significant substance-related  
19 problems. The diagnosis of a substance use disorder is based on a  
20 pathological pattern of behaviors related to the use of the  
21 substances.

22 (43) "Tribe," for the purposes of this section, means a federally  
23 recognized Indian tribe.

24 (44) "Reentry services" means targeted services to support  
25 community reintegration and recovery for a person with an identified  
26 behavioral health services need who is scheduled or expected to be  
27 released from a prison, jail, juvenile rehabilitation facility, state  
28 hospital, or other institution or facility within ninety days.  
29 "Reentry services" also means targeted services provided to such a  
30 person following release to support the person's recovery and  
31 stability in the community. "Reentry services" may include:

32 (a) Engagement, assessment, recovery support, and release  
33 planning provided up to ninety days prior to a scheduled or expected  
34 release provided by behavioral health clinicians, certified peer  
35 counselors, or both;

36 (b) Intensive case management, peer bridger services, or both  
37 provided during the period beginning immediately upon the person's  
38 release which may decrease in intensity over time depending on the  
39 specific needs of the individual;

1        (c) Coordination of mental health services, assistance with  
2 unfunded medical expenses, assistance obtaining substance use  
3 disorder treatment, housing, employment services, educational or  
4 vocational training, transportation, independent living skills,  
5 parenting education, anger management services, peer services, and  
6 such other services as the case manager deems necessary; and

7        (d) Provision of services under contract through the reentry  
8 community services program under RCW 72.09.370 and 71.24.470.

9        NEW SECTION.    **Sec. 4.**    (1) The health care authority shall, after  
10 the release of federal guidance, apply for a section 1115 medicaid  
11 waiver to provide reentry services as defined under RCW 71.24.025  
12 through the state medicaid program to persons who are expecting to be  
13 released from a public institution and are otherwise eligible to  
14 receive medical assistance. The authority shall consult with the work  
15 group established under section 10 of this act about the details of  
16 the application and how to maximize support for Washington state  
17 reentry programs within the limitations of what the centers of  
18 medicare and medicaid services are likely to approve.

19        (2) In developing its application, the health care authority must  
20 explicitly consider how to best leverage the 1115 medicaid waiver  
21 application for the following purposes:

22        (a) To provide federal funding support for the state-only  
23 portions of the reentry community services program under RCW  
24 72.09.370 and 71.24.470;

25        (b) To provide sustainable funding for cost-effective or cost-  
26 neutral reentry or diversion services provided by pilot programs  
27 funded by contempt fines in *Trueblood, et al., v. DSHS, et al.*, No.  
28 15-35462; and

29        (c) To accommodate the special needs of persons in jail who tend  
30 to stay for short periods of time and not have access to a documented  
31 anticipated release date.

32        (3) The authority shall consider how evaluations of the reentry  
33 community services program created under RCW 72.09.370 and 71.24.470  
34 conducted by the Washington state institute for public policy may be  
35 used to establish an evidence base for its waiver application  
36 demonstrating the potential for delivering cost-effective reentry  
37 services in the state of Washington.

38        (4) The health care authority shall update the governor and  
39 appropriate committees of the legislature in writing upon submission

1 of its section 1115 medicaid waiver application, at the point at  
2 which such application obtains final approval or denial from the  
3 centers for medicaid and medicare services, and at other critical  
4 junctures at the discretion of the health care authority.

5 **Sec. 5.** RCW 71.24.385 and 2019 c 325 s 1023 and 2019 c 264 s 6  
6 are each reenacted and amended to read as follows:

7 (1) Within funds appropriated by the legislature for this  
8 purpose, behavioral health administrative services organizations and  
9 managed care organizations, as applicable, shall develop the means to  
10 serve the needs of people:

11 (a) With mental disorders residing within the boundaries of their  
12 regional service area. Elements of the program may include:

- 13 (i) Crisis diversion services;
- 14 (ii) Evaluation and treatment and community hospital beds;
- 15 (iii) Residential treatment;
- 16 (iv) Programs for intensive community treatment;
- 17 (v) Outpatient services, including family support;
- 18 (vi) Peer support services;
- 19 (vii) Community support services;
- 20 (viii) Resource management services; (~~and~~)
- 21 (ix) Reentry services; and
- 22 (x) Supported housing and supported employment services.

23 (b) With substance use disorders and their families, people  
24 incapacitated by alcohol or other psychoactive chemicals, and  
25 intoxicated people.

26 (i) Elements of the program shall include, but not necessarily be  
27 limited to, a continuum of substance use disorder treatment services  
28 that includes:

- 29 (A) Withdrawal management;
- 30 (B) Residential treatment; and
- 31 (C) Outpatient treatment.

32 (ii) The program may include peer support, supported housing,  
33 supported employment, crisis diversion, recovery support services,  
34 reentry services, or technology-based recovery supports.

35 (iii) The authority may contract for the use of an approved  
36 substance use disorder treatment program or other individual or  
37 organization if the director considers this to be an effective and  
38 economical course to follow.

1 (2) (a) The managed care organization and the behavioral health  
2 administrative services organization shall have the flexibility,  
3 within the funds appropriated by the legislature for this purpose and  
4 the terms of their contract, to design the mix of services that will  
5 be most effective within their service area of meeting the needs of  
6 people with behavioral health disorders and avoiding placement of  
7 such individuals at the state mental hospital. Managed care  
8 organizations and behavioral health administrative services  
9 organizations are encouraged to maximize the use of evidence-based  
10 practices and alternative resources with the goal of substantially  
11 reducing and potentially eliminating the use of institutions for  
12 mental diseases.

13 (b) Managed care organizations and behavioral health  
14 administrative services organizations may allow reimbursement to  
15 providers for services delivered through a partial hospitalization or  
16 intensive outpatient program. Such payment and services are distinct  
17 from the state's delivery of wraparound with intensive services under  
18 the *T.R. v. Strange and Birch* settlement agreement.

19 (3) (a) Treatment provided under this chapter must be purchased  
20 primarily through managed care contracts.

21 (b) Consistent with RCW 71.24.580, services and funding provided  
22 through the criminal justice treatment account are intended to be  
23 exempted from managed care contracting.

24 **Sec. 6.** RCW 10.77.150 and 2010 c 263 s 5 are each amended to  
25 read as follows:

26 (1) Persons examined pursuant to RCW 10.77.140 may make  
27 application to the secretary for conditional release. The secretary  
28 shall, after considering the reports of experts or professional  
29 persons conducting the examination pursuant to RCW 10.77.140, forward  
30 to the court of the county which ordered the person's commitment the  
31 person's application for conditional release as well as the  
32 secretary's recommendations concerning the application and any  
33 proposed terms and conditions upon which the secretary reasonably  
34 believes the person can be conditionally released. Conditional  
35 release may also contemplate partial release for work, training, or  
36 educational purposes.

37 (2) In instances in which persons examined pursuant to RCW  
38 10.77.140 have not made application to the secretary for conditional  
39 release, but the secretary, after considering the reports of experts

1 or professional persons conducting the examination pursuant to RCW  
2 10.77.140, reasonably believes the person may be conditionally  
3 released, the secretary may submit a recommendation for release to  
4 the court of the county that ordered the person's commitment. The  
5 secretary's recommendation must include any proposed terms and  
6 conditions upon which the secretary reasonably believes the person  
7 may be conditionally released. Conditional release may also include  
8 partial release for work, training, or educational purposes. Notice  
9 of the secretary's recommendation under this subsection must be  
10 provided to the person for whom the secretary has made the  
11 recommendation for release and to his or her attorney.

12 (3) (a) The court of the county which ordered the person's  
13 commitment, upon receipt of an application or recommendation for  
14 conditional release with the secretary's recommendation for  
15 conditional release terms and conditions, shall within thirty days  
16 schedule a hearing. The court may schedule a hearing on applications  
17 recommended for disapproval by the secretary.

18 (b) The prosecuting attorney shall represent the state at such  
19 hearings and shall have the right to have the patient examined by an  
20 expert or professional person of the prosecuting attorney's choice.  
21 If the committed person is indigent, and he or she so requests, the  
22 court shall appoint a qualified expert or professional person to  
23 examine the person on his or her behalf.

24 (c) The issue to be determined at such a hearing is whether or  
25 not the person may be released conditionally without substantial  
26 danger to other persons, or substantial likelihood of committing  
27 criminal acts jeopardizing public safety or security.

28 (d) The court, after the hearing, shall rule on the secretary's  
29 recommendations, and if it disapproves of conditional release, may do  
30 so only on the basis of substantial evidence. The court may modify  
31 the suggested terms and conditions on which the person is to be  
32 conditionally released. Pursuant to the determination of the court  
33 after hearing, the committed person shall thereupon be released on  
34 such conditions as the court determines to be necessary, or shall be  
35 remitted to the custody of the secretary. If the order of conditional  
36 release includes a requirement for the committed person to report to  
37 a community corrections officer, the order shall also specify that  
38 the conditionally released person shall be under the supervision of  
39 the secretary of corrections or such person as the secretary of  
40 corrections may designate and shall follow explicitly the

1 instructions of the secretary of corrections including reporting as  
2 directed to a community corrections officer, remaining within  
3 prescribed geographical boundaries, and notifying the community  
4 corrections officer prior to making any change in the offender's  
5 address or employment. If the order of conditional release includes a  
6 requirement for the committed person to report to a community  
7 corrections officer, the community corrections officer shall notify  
8 the secretary or the secretary's designee, if the person is not in  
9 compliance with the court-ordered conditions of release.

10 (4) If the court determines that receiving regular or periodic  
11 medication or other medical treatment shall be a condition of the  
12 committed person's release, then the court shall require him or her  
13 to report to a physician or other medical or mental health  
14 practitioner for the medication or treatment. In addition to  
15 submitting any report required by RCW 10.77.160, the physician or  
16 other medical or mental health practitioner shall immediately upon  
17 the released person's failure to appear for the medication or  
18 treatment or upon a change in mental health condition that renders  
19 the patient a potential risk to the public report to the court, to  
20 the prosecuting attorney of the county in which the released person  
21 was committed, to the secretary, and to the supervising community  
22 corrections officer.

23 (5) Any person, whose application for conditional release has  
24 been denied, may reapply after a period of six months from the date  
25 of denial.

26 (6) A licensed or certified behavioral health agency as defined  
27 under RCW 71.24.025 that provides community behavioral health  
28 services to a person placed on conditional release under this section  
29 or agrees to provide such services upon the person's conditional  
30 release shall provide equivalent services to the person as it would  
31 provide to a person who is court ordered to receive less restrictive  
32 alternative treatment under RCW 71.05.585. A licensed or certified  
33 behavioral health agency must participate in reentry planning when a  
34 person is recommended for conditional release under this section and  
35 may provide reentry services as defined in RCW 71.24.025 in  
36 coordination with state hospital staff and the person's managed care  
37 organization, behavioral health administrative services organization,  
38 or private insurance carrier.

1       **Sec. 7.** RCW 72.09.370 and 2019 c 325 s 5025 are each amended to  
2 read as follows:

3       (1) The ~~((offender))~~ reentry community ~~((safety))~~ services  
4 program is established to provide intensive services to ~~((offenders))~~  
5 incarcerated persons identified under this subsection and to thereby  
6 promote successful reentry, public safety, and recovery. The  
7 secretary shall identify ~~((offenders))~~ persons in confinement or  
8 partial confinement who: (a) Are reasonably believed to ~~((be~~  
9 dangerous)) present a danger to themselves or others if released to  
10 the community without supportive services; and (b) have a mental  
11 disorder. In determining ~~((an offender's dangerousness))~~ whether an  
12 incarcerated person may meet these criteria, the secretary shall  
13 consider behavior known to the department and factors, based on  
14 research, that are linked to ~~((an increased))~~ risk ~~((for))~~ of  
15 dangerousness ~~((of offenders))~~ for persons with mental illnesses who  
16 are involved with the criminal justice system and shall include  
17 consideration of ~~((an offender's))~~ the person's substance use  
18 disorder or history of substance abuse.

19       (2) Prior to release of ~~((an offender))~~ a person identified under  
20 this section, a team consisting of representatives of the department  
21 of corrections, the health care authority, and, as necessary, the  
22 indeterminate sentence review board, divisions or administrations  
23 within the department of social and health services, specifically  
24 including the division of developmental disabilities, the appropriate  
25 managed care organization ~~((contracted with the health care~~  
26 ~~authority, the appropriate))~~ or behavioral health administrative  
27 services organization, and ~~((the))~~ reentry community services  
28 providers, as appropriate, shall develop a plan, as determined  
29 necessary by the team, for delivery of treatment and support services  
30 to the ~~((offender))~~ incarcerated person upon release. In developing  
31 the plan, the ~~((offender))~~ person shall be offered assistance in  
32 executing a mental health advance directive under chapter 71.32 RCW,  
33 after being fully informed of the benefits, scope, and purposes of  
34 such directive. The team may include a school district representative  
35 for ~~((offenders))~~ incarcerated persons under the age of twenty-one.  
36 The team shall consult with the ~~((offender's))~~ person's counsel, if  
37 any, and, as appropriate, the ~~((offender's))~~ person's family and  
38 community. The team shall notify the crime victim/witness program,  
39 which shall provide notice to all people registered to receive notice  
40 under RCW 72.09.712 of the proposed release plan developed by the



1 team. Victims, witnesses, and other interested people notified by the  
2 department may provide information and comments to the department on  
3 potential safety risk to specific individuals or classes of  
4 individuals posed by the specific ((~~offender~~)) incarcerated person.  
5 The team may recommend: (a) That the ((~~offender~~)) person be evaluated  
6 by ((~~the~~)) a designated crisis responder, as defined in chapter 71.05  
7 RCW; (b) department-supervised community treatment; or (c) voluntary  
8 community mental health or substance use disorder or abuse treatment.

9 (3) Prior to release of an ((~~offender~~)) incarcerated person  
10 identified under this section, the team shall determine whether or  
11 not an evaluation by a designated crisis responder is needed. If an  
12 evaluation is recommended, the supporting documentation shall be  
13 immediately forwarded to the appropriate designated crisis responder.  
14 The supporting documentation shall include the ((~~offender's~~))  
15 person's criminal history, history of judicially required or  
16 administratively ordered involuntary antipsychotic medication while  
17 in confinement, and any known history of involuntary civil  
18 commitment.

19 (4) If an evaluation by a designated crisis responder is  
20 recommended by the team, such evaluation shall occur not more than  
21 ten days, nor less than five days, prior to release.

22 (5) A second evaluation by a designated crisis responder shall  
23 occur on the day of release if requested by the team, based upon new  
24 information or a change in the ((~~offender's~~)) person's mental  
25 condition, and the initial evaluation did not result in an emergency  
26 detention or a summons under chapter 71.05 RCW.

27 (6) If the designated crisis responder determines an emergency  
28 detention under chapter 71.05 RCW is necessary, the department shall  
29 release the ((~~offender~~)) person only to a state hospital or to a  
30 consenting evaluation and treatment facility or secure withdrawal  
31 management and stabilization facility. The department shall arrange  
32 transportation of the ((~~offender~~)) person to the hospital or  
33 facility.

34 (7) If the designated crisis responder believes that a less  
35 restrictive alternative treatment is appropriate, he or she shall  
36 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to  
37 require the ((~~offender~~)) person to appear at an evaluation and  
38 treatment facility or secure withdrawal management and stabilization  
39 facility. If a summons is issued, the ((~~offender~~)) person shall  
40 remain within the corrections facility until completion of his or her

1 term of confinement and be transported, by corrections personnel on  
2 the day of completion, directly to the identified (~~evaluation and~~  
3 ~~treatment~~) facility.

4 (8) The secretary shall adopt rules to implement this section.

5 **Sec. 8.** RCW 71.24.470 and 2019 c 325 s 1030 are each amended to  
6 read as follows:

7 (1) The director shall contract, to the extent that funds are  
8 appropriated for this purpose, for case management services and such  
9 other services as the director deems necessary to assist  
10 (~~offenders~~) incarcerated persons identified under RCW 72.09.370 for  
11 participation in the (~~offender~~) reentry community (~~safety~~)  
12 services program. The contracts may be with any qualified and  
13 appropriate entities.

14 (2) The case manager has the authority to assist these  
15 (~~offenders~~) individuals in obtaining the services, as set forth in  
16 the plan created under RCW 72.09.370(2), for up to five years. The  
17 services may include coordination of mental health services,  
18 assistance with unfunded medical expenses, assistance obtaining  
19 substance use disorder treatment, housing, employment services,  
20 educational or vocational training, independent living skills,  
21 parenting education, anger management services, peer services, and  
22 such other services as the case manager deems necessary.

23 (3) The legislature intends that funds appropriated for the  
24 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section  
25 are to supplement and not to supplant general funding. Funds  
26 appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212,  
27 and this section are not to be considered available resources as  
28 defined in RCW 71.24.025 and are not subject to the priorities,  
29 terms, or conditions in the appropriations act established pursuant  
30 to RCW 71.24.035.

31 (4) The (~~offender~~) reentry community (~~safety~~) services  
32 program was formerly known as the community integration assistance  
33 program.

34 **Sec. 9.** RCW 71.24.480 and 2019 c 325 s 1031 are each amended to  
35 read as follows:

36 (1) A licensed or certified behavioral health agency acting in  
37 the course of the (~~provider's~~) agency's duties under this  
38 chapter(~~, is~~) and its individual employees are not liable for civil

1 damages resulting from the injury or death of another caused by a  
2 participant in the ((~~offender~~)) reentry community ((~~safety~~)) services  
3 program who is a client of the ((~~provider or organization~~)) agency,  
4 unless the act or omission of the ((~~provider or organization~~)) agency  
5 or employee constitutes:

6 (a) Gross negligence;

7 (b) Willful or wanton misconduct; or

8 (c) A breach of the duty to warn of and protect from a client's  
9 threatened violent behavior if the client has communicated a serious  
10 threat of physical violence against a reasonably ascertainable victim  
11 or victims.

12 (2) In addition to any other requirements to report violations,  
13 the licensed or certified behavioral health agency shall report ((~~an~~  
14 ~~offender's~~)) a reentry community services program participant's  
15 expressions of intent to harm or other predatory behavior, regardless  
16 of whether there is an ascertainable victim, in progress reports and  
17 other established processes that enable courts and supervising  
18 entities to assess and address the progress and appropriateness of  
19 treatment.

20 (3) A licensed or certified behavioral health agency's mere act  
21 of treating a participant in the ((~~offender~~)) reentry community  
22 ((~~safety~~)) services program is not negligence. Nothing in this  
23 subsection alters the licensed or certified behavioral health  
24 agency's normal duty of care with regard to the client.

25 (4) The limited liability provided by this section applies only  
26 to the conduct of licensed or certified behavioral health agencies  
27 and their employees and does not apply to conduct of the state.

28 (5) For purposes of this section, "participant in the  
29 ((~~offender~~)) reentry community ((~~safety~~)) services program" means a  
30 person who has been identified under RCW 72.09.370 as ((~~an offender~~))  
31 a person who: (a) Is reasonably believed to ((~~be dangerous~~)) present  
32 a danger to himself or herself or others if released to the community  
33 without supportive services; and (b) has a mental disorder.

34 NEW SECTION. Sec. 10. A new section is added to chapter 71.24  
35 RCW to read as follows:

36 (1) The authority shall convene a reentry services work group to  
37 consider ways to improve reentry services for persons with an  
38 identified behavioral health services need. The work group shall:

1 (a) Advise the authority on its waiver application under section  
2 4 of this act;

3 (b) Consider how to expand, replicate, or adapt the essential  
4 elements of the reentry community services program under RCW  
5 72.09.370 and 71.24.470 while preserving those aspects most essential  
6 to stable reentry and recovery to provide reentry community services  
7 to:

8 (i) A larger set of persons incarcerated in prison including up  
9 to all persons releasing from prison who are reasonably believed to  
10 present either a high risk of violent recidivism, a high risk of  
11 nonviolent recidivism, or both in combination with a mental disorder  
12 or a substance use disorder, or other subsets of persons at the  
13 discretion of the work group;

14 (ii) Persons who are committed to a state hospital or long-term  
15 involuntary behavioral health treatment facility under chapter 10.77  
16 RCW or RCW 71.05.280(3), who are reasonably believed to be ready for  
17 safe discharge to an appropriate community placement;

18 (iii) Persons expecting release from confinement under chapter  
19 13.40 RCW;

20 (iv) Persons expecting release from confinement in jail; and/or

21 (v) Other populations recommended by the work group;

22 (c) Evaluate whether it would be better for administration of  
23 contracts for services under the reentry community services program  
24 remain at the state level or instead be administered by managed care  
25 organizations or behavioral health administrative services  
26 organizations;

27 (d) Identify the costs and savings that could be realized through  
28 expanding or replicating the reentry community services program as  
29 described under (b) of this subsection or through other means of  
30 providing reentry services;

31 (e) Evaluate the sustainability of promising reentry services or  
32 diversion services provided by pilot programs funded by contempt  
33 fines in *Trueblood, et al., v. DSHS, et al.*, No. 15-35462;

34 (f) Recommend means of funding and staffing expanded reentry  
35 services; and

36 (g) Consider how peer services can be incorporated into the  
37 reentry services programs.

38 (2) The authority shall invite participation in the work group by  
39 stakeholders including but not limited to representatives from:  
40 Disability rights Washington; behavioral health advocacy

1 organizations; behavioral health peers; reentry community services  
2 providers; community behavioral health agencies; advocates for  
3 persons with developmental disabilities; the department of  
4 corrections; the department of children, youth, and families; the  
5 Washington association of sheriffs and police chiefs; prosecutors;  
6 defense attorneys; the Washington state association of counties; King  
7 county behavioral health and recovery division; the department of  
8 social and health services; state hospital employees who serve  
9 patients committed under chapters 10.77 and 71.05 RCW; the public  
10 safety review panel under RCW 10.77.270; managed care organizations;  
11 behavioral health administrative services organizations; the  
12 Washington statewide reentry council; the Washington state senate and  
13 house of representatives; and the Washington state institute for  
14 public policy.

15 (3) The work group must provide a progress report to the governor  
16 and appropriate committees of the legislature by December 1, 2020,  
17 and a final report by December 1, 2021.

18 NEW SECTION. **Sec. 11.** The Washington state health care  
19 authority shall revise its contracts with managed care organizations  
20 and behavioral health administrative services organizations to  
21 require those entities to ensure that providers that contract to  
22 provide services through the reentry community services program under  
23 RCW 72.09.370 and 71.24.330 are available to their eligible clients  
24 in every regional service area.

25 NEW SECTION. **Sec. 12.** The Washington state institute for public  
26 policy shall update its previous evaluations of the reentry community  
27 services program under RCW 72.09.370 and 71.24.470, considering  
28 impacts on both recidivism and the use of public services. The  
29 institute shall collaborate with the work group established under  
30 section 10 of this act to determine research parameters and  
31 additional research questions that would support the work of the work  
32 group including, but not limited to, the potential cost, benefit, and  
33 risks to the state of expanding or replicating the reentry community  
34 services program; and what modifications to the program are most and  
35 least likely to prove advantageous based on the current state of  
36 knowledge about evidence-based, research-based, and promising  
37 programs. The department of corrections, health care authority,  
38 administrative office of the courts, King county, and department of

1 social and health services must cooperate with the institute to  
2 facilitate access to data or other resources necessary to complete  
3 this work. The institute must provide a preliminary report by  
4 December 1, 2020, and a final report by November 1, 2021, to the  
5 governor and relevant committees of the legislature.

6 **Sec. 13.** RCW 9.98.010 and 2011 c 336 s 345 are each amended to  
7 read as follows:

8 (1) Whenever a person has entered upon a term of imprisonment in  
9 a penal ~~((or))~~, correctional, or juvenile rehabilitation institution  
10 of this state, and whenever during the continuance of the term of  
11 imprisonment there is pending in this state any untried indictment,  
12 information, or complaint against the ~~((prisoner))~~ person, he or she  
13 shall be brought to trial within one hundred twenty days after he or  
14 she shall have caused to be delivered to the prosecuting attorney and  
15 the ~~((superior))~~ court ~~((of the county))~~ in which the indictment,  
16 information, or complaint is pending written notice of the place of  
17 his or her imprisonment and his or her request for a final  
18 disposition to be made of the indictment, information, or  
19 complaint ~~((: PROVIDED, That for))~~. The following time periods shall  
20 be excluded from the one hundred twenty-day calculation:

21 (a) Arraignment, pretrial proceedings, trial, and sentencing on  
22 an unrelated charge in a different country than the court where the  
23 charge is pending;

24 (b) Proceedings related to competency to stand trial on the  
25 pending charge, from the entry of an evaluation order to the entry of  
26 a court order finding the person competent to proceed; and

27 (c) Time during which the person is detained in a federal jail or  
28 prison and subject to conditions of release not imposed by the state  
29 of Washington.

30 (2) The superintendent who provides the certificate under  
31 subsection (4) of this section shall inform any prosecuting attorney  
32 or court requesting transportation of the person to resolve an  
33 untried indictment, information, or complaint of the person's current  
34 location and availability for trial. If the person is unavailable for  
35 transportation due to court proceedings in another county, the  
36 department shall inform the prosecuting attorney or court when the  
37 person becomes available for transportation and provide a new  
38 certificate containing the information under subsection (4) of this  
39 section.

1        (3) For good cause shown in open court, with the ~~((prisoner))~~  
2 person or his or her counsel ~~((shall have))~~ having the right to be  
3 present, the court having jurisdiction of the matter may grant any  
4 necessary or reasonable continuance.

5        (4) The request of the ~~((prisoner))~~ person shall be accompanied  
6 by a certificate of the superintendent having custody of the  
7 ~~((prisoner))~~ person, stating the term of commitment under which the  
8 ~~((prisoner))~~ person is being held, the time already served, the time  
9 remaining to be served on the sentence, the amount of good time  
10 earned, the ~~((time of parole eligibility))~~ earned release date of the  
11 ~~((prisoner))~~ person, and any decisions of the indeterminate sentence  
12 review board relating to the ~~((prisoner))~~ person.

13        ~~((+2))~~ (5) The written notice and request for final disposition  
14 referred to in subsection (1) of this section shall be given or sent  
15 by the ~~((prisoner))~~ person to the superintendent having custody of  
16 him or her, who shall promptly forward it together with the  
17 certificate to the appropriate prosecuting attorney and superior,  
18 district, municipal, or juvenile court by certified mail, return  
19 receipt requested.

20        ~~((+3))~~ (6) The superintendent having custody of the ~~((prisoner))~~  
21 person shall promptly inform him or her in writing of the source and  
22 contents of any untried indictment, information, or complaint against  
23 him or her concerning which the superintendent has knowledge and of  
24 his or her right to make a request for final disposition thereof.

25        ~~((+4))~~ (7) Escape from custody by the ~~((prisoner))~~ person  
26 subsequent to his or her execution of the request for final  
27 disposition referred to in subsection (1) of this section shall void  
28 the request."

29        Correct the title.

EFFECT: (1) Retains all provisions of the underlying bill.

(2) Adds provisions relating to the current law process for a person incarcerated in a penal or correctional institution to resolve any untried indictment, information, or complaint pending against the person within 120 days and makes the following changes to those provisions:

(a) Expands the applicability of the process to also apply to persons in juvenile rehabilitation facilities;

(b) Excludes certain time periods from the 120-day calculation, including proceedings on unrelated charges in a different county, proceedings related to competency to stand trial on the pending charge, and time during which the person is detained in a federal

jail or prison and subject to conditions of release not imposed by the state;

(c) Requires the superintendent of the institution in which the person is detained to communicate with the prosecuting attorney or court in the untried matter regarding the person's location and availability for trial;

(d) References resolution of matters in district, municipal, and juvenile courts (along with superior courts, in current law); and

(e) Makes other changes to terminology.

--- END ---