

CERTIFICATION OF ENROLLMENT

SENATE BILL 6408

Chapter 204, Laws of 1994

53rd Legislature
1994 Regular Session

MENTAL HEALTH SYSTEMS--INCLUSION OF TRIBAL AUTHORITIES

EFFECTIVE DATE: 6/9/94

Passed by the Senate March 6, 1994
YEAS 44 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House March 3, 1994
YEAS 95 NAYS 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Approved March 30, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6408** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

March 30, 1994 - 1:54 p.m.

**Secretary of State
State of Washington**

SENATE BILL 6408

AS AMENDED BY THE HOUSE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By Senators Spanel, Owen, Prentice, Sheldon, Fraser and Hargrove

Read first time 01/21/94. Referred to Committee on Health & Human Services.

1 AN ACT Relating to including tribal authorities in mental health
2 systems; and amending RCW 71.24.025 and 71.24.300.

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

4 **Sec. 1.** RCW 71.24.025 and 1991 c 306 s 2 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

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

10 (a) A mental disorder as defined in RCW 71.05.020(2) or, in the
11 case of a child, as defined in RCW 71.34.020(12);

12 (b) Being gravely disabled as defined in RCW 71.05.020(1) or, in
13 the case of a child, as defined in RCW 71.34.020(8); or

14 (c) Presenting a likelihood of serious harm as defined in RCW
15 71.05.020(3) or, in the case of a child, as defined in RCW
16 71.34.020(11).

17 (2) "Available resources" means those funds which shall be
18 appropriated under this chapter by the legislature during any biennium
19 for the purpose of providing community mental health programs under RCW

1 71.24.045. When regional support networks are established or after
2 July 1, 1995, "available resources" means federal funds, except those
3 provided according to Title XIX of the social security act, and state
4 funds appropriated under this chapter or chapter 71.05 RCW by the
5 legislature during any biennium for the purpose of providing
6 residential services, resource management services, community support
7 services, and other mental health services. This does not include
8 funds appropriated for the purpose of operating and administering the
9 state psychiatric hospitals, except as negotiated according to RCW
10 71.24.300(1)(d).

11 (3) "Licensed service provider" means an entity licensed according
12 to this chapter or chapter 71.05 RCW that meets state minimum standards
13 or individuals licensed under chapter 18.57, 18.71, 18.83, or 18.88
14 RCW.

15 (4) "Child" means a person under the age of eighteen years.

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

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

20 (b) Has experienced a continuous psychiatric hospitalization or
21 residential treatment exceeding six months' duration within the
22 preceding year; or

23 (c) Has been unable to engage in any substantial gainful activity
24 by reason of any mental disorder which has lasted for a continuous
25 period of not less than twelve months. "Substantial gainful activity"
26 shall be defined by the department by rule consistent with Public Law
27 92-603, as amended.

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

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

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

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

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

5 (i) Chronic family dysfunction involving a mentally ill or
6 inadequate caretaker;

7 (ii) Changes in custodial adult;

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

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

13 (v) Drug or alcohol abuse; or

14 (vi) Homelessness.

15 (7) "Community mental health program" means all mental health
16 services established by a county authority. After July 1, 1995, or
17 when the regional support networks are established, "community mental
18 health program" means all activities or programs using available
19 resources.

20 (8) "Community support services" means services for acutely
21 mentally ill persons, chronically mentally ill adults, and severely
22 emotionally disturbed children and includes: (a) Discharge planning
23 for clients leaving state mental hospitals, other acute care inpatient
24 facilities, inpatient psychiatric facilities for persons under twenty-
25 one years of age, and other children's mental health residential
26 treatment facilities; (b) sufficient contacts with clients, families,
27 schools, or significant others to provide for an effective program of
28 community maintenance; and (c) medication monitoring. After July 1,
29 1995, or when regional support networks are established, for adults and
30 children "community support services" means services authorized,
31 planned, and coordinated through resource management services
32 including, at least, assessment, diagnosis, emergency crisis
33 intervention available twenty-four hours, seven days a week,
34 prescreening determinations for mentally ill persons being considered
35 for placement in nursing homes as required by federal law, screening
36 for patients being considered for admission to residential services,
37 diagnosis and treatment for acutely mentally ill and severely
38 emotionally disturbed children discovered under screening through the
39 federal Title XIX early and periodic screening, diagnosis, and

1 treatment program, investigation, legal, and other nonresidential
2 services under chapter 71.05 RCW, case management services, psychiatric
3 treatment including medication supervision, counseling, psychotherapy,
4 assuring transfer of relevant patient information between service
5 providers, other services determined by regional support networks, and
6 maintenance of a patient tracking system for chronically mentally ill
7 adults and severely emotionally disturbed children.

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

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

15 (11) "Mental health services" means community services pursuant to
16 RCW 71.24.035(5)(b) and other services provided by the state for the
17 mentally ill. When regional support networks are established, or after
18 July 1, 1995, "mental health services" shall include all services
19 provided by regional support networks.

20 (12) "Mentally ill persons" and "the mentally ill" mean persons and
21 conditions defined in subsections (1), (5), (6), and (16) of this
22 section.

23 (13) "Regional support network" means a county authority or group
24 of county authorities recognized by the secretary that enter into joint
25 operating agreements to contract with the secretary pursuant to this
26 chapter.

27 (14) "Residential services" means a facility or distinct part
28 thereof which provides food and shelter, and may include treatment
29 services.

30 When regional support networks are established, or after July 1,
31 1995, for adults and children "residential services" means a complete
32 range of residences and supports authorized by resource management
33 services and which may involve a facility, a distinct part thereof, or
34 services which support community living, for acutely mentally ill
35 persons, chronically mentally ill adults, severely emotionally
36 disturbed children, or seriously disturbed adults determined by the
37 regional support network to be at risk of becoming acutely or
38 chronically mentally ill. The services shall include at least
39 evaluation and treatment services as defined in chapter 71.05 RCW,

1 acute crisis respite care, long-term adaptive and rehabilitative care,
2 and supervised and supported living services, and shall also include
3 any residential services developed to service mentally ill persons in
4 nursing homes. Residential services for children in out-of-home
5 placements related to their mental disorder shall not include the costs
6 of food and shelter, except for children's long-term residential
7 facilities existing prior to January 1, 1991.

8 (15) "Resource management services" mean the planning,
9 coordination, and authorization of residential services and community
10 support services administered pursuant to an individual service plan
11 for acutely mentally ill adults and children, chronically mentally ill
12 adults, severely emotionally disturbed children, or seriously disturbed
13 adults determined by the regional support network at their sole
14 discretion to be at risk of becoming acutely or chronically mentally
15 ill. Such planning, coordination, and authorization shall include
16 mental health screening for children eligible under the federal Title
17 XIX early and periodic screening, diagnosis, and treatment program.
18 Resource management services include seven day a week, twenty-four hour
19 a day availability of information regarding mentally ill adults' and
20 children's enrollment in services and their individual service plan to
21 county-designated mental health professionals, evaluation and treatment
22 facilities, and others as determined by the regional support network.

23 (16) "Seriously disturbed person" means a person who:

24 (a) Is gravely disabled or presents a likelihood of serious harm to
25 oneself or others as a result of a mental disorder as defined in
26 chapter 71.05 RCW;

27 (b) Has been on conditional release status at some time during the
28 preceding two years from an evaluation and treatment facility or a
29 state mental health hospital;

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

32 (d) Exhibits suicidal preoccupation or attempts; or

33 (e) Is a child diagnosed by a mental health professional, as
34 defined in RCW 71.05.020, as experiencing a mental disorder which is
35 clearly interfering with the child's functioning in family or school or
36 with peers or is clearly interfering with the child's personality
37 development and learning.

38 (17) "Secretary" means the secretary of social and health services.

1 (18) "State minimum standards" means: (a) Minimum requirements for
2 delivery of mental health services as established by departmental rules
3 and necessary to implement this chapter, including but not limited to
4 licensing service providers and services; (b) minimum service
5 requirements for licensed service providers for the provision of mental
6 health services as established by departmental rules pursuant to
7 chapter 34.05 RCW as necessary to implement this chapter, including,
8 but not limited to: Qualifications for staff providing services
9 directly to mentally ill persons; the intended result of each service;
10 and the rights and responsibilities of persons receiving mental health
11 services pursuant to this chapter; (c) minimum requirements for
12 residential services as established by the department in rule based on
13 clients' functional abilities and not solely on their diagnoses,
14 limited to health and safety, staff qualifications, and program
15 outcomes. Minimum requirements for residential services are those
16 developed in collaboration with consumers, families, counties,
17 regulators, and residential providers serving the mentally ill.
18 Minimum requirements encourage the development of broad-range
19 residential programs, including integrated housing and cross-systems
20 programs where appropriate, and do not unnecessarily restrict
21 programming flexibility; and (d) minimum standards for community
22 support services and resource management services, including at least
23 qualifications for resource management services, client tracking
24 systems, and the transfer of patient information between service
25 providers.

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

31 **Sec. 2.** RCW 71.24.300 and 1992 c 230 s 6 are each amended to read
32 as follows:

33 A county authority or a group of county authorities whose combined
34 population is no less than forty thousand may enter into a joint
35 operating agreement to form a regional support network. Upon the
36 request of a tribal authority or authorities within a regional support
37 network the joint operating agreement or the county authority shall
38 allow for the inclusion of the tribal authority to be represented as a

1 party to the regional support network. The roles and responsibilities
2 of the county and tribal authorities shall be determined by the terms
3 of that agreement including a determination of membership on the
4 governing board and advisory committees, the number of tribal
5 representatives to be party to the agreement, and the provisions of law
6 and shall assure the provision of culturally competent services to the
7 tribes served. The state mental health authority may not determine the
8 roles and responsibilities of county authorities as to each other under
9 regional support networks by rule, except to assure that all duties
10 required of regional support networks are assigned and that a single
11 authority has final responsibility for all available resources and
12 performance under the regional support network's contract with the
13 secretary.

14 (1) Regional support networks shall within three months of
15 recognition submit an overall six-year operating and capital plan,
16 timeline, and budget and submit progress reports and an updated
17 two-year plan biennially thereafter, to assume within available
18 resources all of the following duties by July 1, 1995, instead of those
19 presently assigned to counties under RCW 71.24.045(1):

20 (a) Administer and provide for the availability of all resource
21 management services, residential services, and community support
22 services.

23 (b) Administer and provide for the availability of all
24 investigation, transportation, court-related, and other services
25 provided by the state or counties pursuant to chapter 71.05 RCW.

26 (c) By July 1, 1993, provide within the boundaries of each regional
27 support network evaluation and treatment services for at least
28 eighty-five percent of persons detained or committed for periods up to
29 seventeen days according to chapter 71.05 RCW. Regional support
30 networks with populations of less than one hundred fifty thousand may
31 contract to purchase evaluation and treatment services from other
32 networks. Insofar as the original intent of serving persons in the
33 community is maintained, the secretary is authorized to approve
34 exceptions on a case-by-case basis to the requirement to provide
35 evaluation and treatment services within the boundaries of each
36 regional support network. Such exceptions are limited to contracts
37 with neighboring or contiguous regions. For regional support networks
38 that are created after June 30, 1991, the requirements of (c) of this
39 subsection must be met by July 1, 1995.

1 (d) By July 1, 1993, administer a portion of funds appropriated by
2 the legislature to house mentally ill persons in state institutions
3 from counties within the boundaries of any regional support network,
4 with the exception of mentally ill offenders, and provide for the care
5 of all persons needing evaluation and treatment services for periods up
6 to seventeen days according to chapter 71.05 RCW in appropriate
7 residential services, which may include state institutions. The
8 regional support networks shall reimburse the state for use of state
9 institutions at a rate equal to that assumed by the legislature when
10 appropriating funds for such care at state institutions during the
11 biennium when reimbursement occurs. The duty of a state hospital to
12 accept persons for evaluation and treatment under chapter 71.05 RCW is
13 limited by the responsibilities assigned to regional support networks
14 under this section. For regional support networks that are created
15 after June 30, 1991, the requirements of (d) of this subsection must be
16 met by July 1, 1995.

17 (e) Administer and provide for the availability of all other mental
18 health services, which shall include patient counseling, day treatment,
19 consultation, education services, employment services as defined in RCW
20 71.24.035, and mental health services to children as provided in this
21 chapter.

22 (f) Establish standards and procedures for reviewing individual
23 service plans and determining when that person may be discharged from
24 resource management services.

25 (2) Regional support networks shall assume all duties assigned to
26 county authorities by this chapter and chapter 71.05 RCW.

27 (3) A regional support network may request that any state-owned
28 land, building, facility, or other capital asset which was ever
29 purchased, deeded, given, or placed in trust for the care of the
30 mentally ill and which is within the boundaries of a regional support
31 network be made available to support the operations of the regional
32 support network. State agencies managing such capital assets shall
33 give first priority to requests for their use pursuant to this chapter.

34 (4) Each regional support network shall appoint a mental health
35 advisory board which shall review and provide comments on plans and
36 policies developed under this chapter. The composition of the board
37 shall be broadly representative of the demographic character of the
38 region and the mentally ill persons served therein. Length of terms of
39 board members shall be determined by the regional support network.

1 (5) Regional support networks shall assume all duties specified in
2 their plans and joint operating agreements through biennial contractual
3 agreements with the secretary. Such contracts may include agreements
4 to provide periods of stable community living and work or other day
5 activities for specific chronically mentally ill persons who have
6 completed commitments at state hospitals on ninety-day or one hundred
7 eighty-day civil commitments or who have been residents at state
8 hospitals for no less than one hundred eighty days within the previous
9 year. Periods of stable community living may involve acute care in
10 local evaluation and treatment facilities but may not involve use of
11 state hospitals.

12 (6) Counties or groups of counties participating in a regional
13 support network are not subject to RCW 71.24.045(7). The office of
14 financial management shall consider information gathered in studies
15 required in this chapter and information about the experience of other
16 states to propose a mental health services administrative cost lid to
17 the 1993 legislature which shall include administrative costs of
18 licensed service providers, the state psychiatric hospitals and the
19 department.

20 (7) By November 1, 1991, and as part of each biennial plan
21 thereafter, each regional support network shall establish and submit to
22 the state, procedures and agreements to assure access to sufficient
23 additional local evaluation and treatment facilities to meet the
24 requirements of this chapter while reducing short-term admissions to
25 state hospitals. These shall be commitments to construct and operate,
26 or contract for the operation of, freestanding evaluation and treatment
27 facilities or agreements with local evaluation and treatment facilities
28 which shall include (a) required admission and treatment for short-term
29 inpatient care for any person enrolled in community support or
30 residential services, (b) discharge planning procedures, (c)
31 limitations on admissions or transfers to state hospitals, (d) adequate
32 psychiatric supervision, (e) prospective payment methods, and (f)
33 contractual assurances regarding referrals to local evaluation and
34 treatment facilities from regional support networks.

35 (8) Regional support networks may receive technical assistance from
36 the housing trust fund and may identify and submit projects for housing
37 and housing support services to the housing trust fund established
38 under chapter 43.185 RCW. Projects identified or submitted under this
39 subsection must be fully integrated with the regional support network

1 six-year operating and capital plan, timeline, and budget required by
2 subsection (1) of this section.

Passed the Senate March 6, 1994.

Passed the House March 3, 1994.

Approved by the Governor March 30, 1994.

Filed in Office of Secretary of State March 30, 1994.