

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2520**

Chapter 94, Laws of 2000

56th Legislature  
2000 Regular Session

MENTAL HOSPITAL PATIENTS--TERMINOLOGY

EFFECTIVE DATE: 6/8/00

Passed by the House March 5, 2000  
Yeas 81 Nays 0

CLYDE BALLARD  
**Speaker of the House of Representatives**

FRANK CHOPP  
**Speaker of the House of Representatives**

Passed by the Senate March 2, 2000  
Yeas 48 Nays 0

BRAD OWEN  
**President of the Senate**

Approved March 24, 2000

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2520** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

CYNTHIA ZEHNDER  
**Chief Clerk**

FILED

March 24, 2000 - 2:45 p.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 2520

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Passed Legislature - 2000 Regular Session

AS AMENDED BY THE SENATE

State of Washington

56th Legislature

2000 Regular Session

By Representatives Schual-Berke, Parlette and Cody; by request of  
Department of Social and Health Services

Read first time 01/14/2000. Referred to Committee on Health Care.

1 AN ACT Relating to consistent use of terms regarding state hospital  
2 patient status; amending RCW 71.05.020, 71.05.025, 71.05.050,  
3 71.05.120, 71.05.170, 71.05.210, 71.05.325, 71.05.340, 71.05.390,  
4 71.05.425, 71.05.640, 10.77.025, 10.77.110, 10.77.120, 10.77.200,  
5 10.77.205, and 49.19.010; and reenacting and amending RCW 10.77.010.

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

7 **Sec. 1.** RCW 71.05.020 and 1999 c 13 s 5 are each amended to read  
8 as follows:

9 ~~((For the purposes of))~~ The definitions in this section apply  
10 throughout this chapter((+)) unless the context clearly requires  
11 otherwise.

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

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

1       (~~(2)~~) (3) "Attending staff" means any person on the staff of a  
2 public or private agency having responsibility for the care and  
3 treatment of a patient;

4       (~~(3)~~) (4) "Commitment" means the determination by a court that a  
5 person should be detained for a period of either evaluation or  
6 treatment, or both, in an inpatient or a less restrictive setting;

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

9       (6) "County designated mental health professional" means a mental  
10 health professional appointed by the county to perform the duties  
11 specified in this chapter;

12       (~~(4)~~) (7) "Custody" means involuntary detention under the  
13 provisions of this chapter or chapter 10.77 RCW, uninterrupted by any  
14 period of unconditional release from commitment from a facility  
15 providing involuntary care and treatment;

16       (~~(5)~~) (8) "Department" means the department of social and health  
17 services;

18       (~~(6)~~) (9) "Detention" or "detain" means the lawful confinement of  
19 a person, under the provisions of this chapter;

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

26       (~~(7)~~) (11) "Developmental disability" means that condition  
27 defined in RCW 71A.10.020(3);

28       (~~(8)~~) (12) "Discharge" means the termination of hospital medical  
29 authority. The commitment may remain in place, be terminated, or be  
30 amended by court order;

31       (13) "Evaluation and treatment facility" means any facility which  
32 can provide directly, or by direct arrangement with other public or  
33 private agencies, emergency evaluation and treatment, outpatient care,  
34 and timely and appropriate inpatient care to persons suffering from a  
35 mental disorder, and which is certified as such by the department. A  
36 physically separate and separately operated portion of a state hospital  
37 may be designated as an evaluation and treatment facility. A facility  
38 which is part of, or operated by, the department or any federal agency  
39 will not require certification. No correctional institution or

1 facility, or jail, shall be an evaluation and treatment facility within  
2 the meaning of this chapter;

3 ~~((+9))~~ (14) "Gravely disabled" means a condition in which a  
4 person, as a result of a mental disorder: (a) Is in danger of serious  
5 physical harm resulting from a failure to provide for his or her  
6 essential human needs of health or safety; or (b) manifests severe  
7 deterioration in routine functioning evidenced by repeated and  
8 escalating loss of cognitive or volitional control over his or her  
9 actions and is not receiving such care as is essential for his or her  
10 health or safety;

11 ~~((+10))~~ (15) "Habilitative services" means those services provided  
12 by program personnel to assist persons in acquiring and maintaining  
13 life skills and in raising their levels of physical, mental, social,  
14 and vocational functioning. Habilitative services include education,  
15 training for employment, and therapy. The habilitative process shall  
16 be undertaken with recognition of the risk to the public safety  
17 presented by the individual being assisted as manifested by prior  
18 charged criminal conduct;

19 ~~((+11))~~ (16) "History of one or more violent acts" refers to the  
20 period of time ten years prior to the filing of a petition under this  
21 chapter, excluding any time spent, but not any violent acts committed,  
22 in a mental health facility or in confinement as a result of a criminal  
23 conviction;

24 ~~((+12))~~ (17) "Individualized service plan" means a plan prepared  
25 by a developmental disabilities professional with other professionals  
26 as a team, for an individual with developmental disabilities, which  
27 shall state:

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

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

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

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

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

37 (f) Where relevant in light of past criminal behavior and due  
38 consideration for public safety, the criteria for proposed movement to  
39 less-restrictive settings, criteria for proposed eventual discharge

1 ((~~from involuntary confinement~~)) or release, and a projected possible  
2 date for discharge ((~~from involuntary confinement~~)) or release; and  
3 (g) The type of residence immediately anticipated for the person  
4 and possible future types of residences;  
5 ((~~13~~)) (18) "Judicial commitment" means a commitment by a court  
6 pursuant to the provisions of this chapter;  
7 ((~~14~~)) (19) "Likelihood of serious harm" means:  
8 (a) A substantial risk that: (i) Physical harm will be inflicted  
9 by an individual upon his or her own person, as evidenced by threats or  
10 attempts to commit suicide or inflict physical harm on oneself; (ii)  
11 physical harm will be inflicted by an individual upon another, as  
12 evidenced by behavior which has caused such harm or which places  
13 another person or persons in reasonable fear of sustaining such harm;  
14 or (iii) physical harm will be inflicted by an individual upon the  
15 property of others, as evidenced by behavior which has caused  
16 substantial loss or damage to the property of others; or  
17 (b) The individual has threatened the physical safety of another  
18 and has a history of one or more violent acts;  
19 ((~~15~~)) (20) "Mental disorder" means any organic, mental, or  
20 emotional impairment which has substantial adverse effects on an  
21 individual's cognitive or volitional functions;  
22 ((~~16~~)) (21) "Mental health professional" means a psychiatrist,  
23 psychologist, psychiatric nurse, or social worker, and such other  
24 mental health professionals as may be defined by rules adopted by the  
25 secretary pursuant to the provisions of this chapter;  
26 ((~~17~~)) (22) "Peace officer" means a law enforcement official of  
27 a public agency or governmental unit, and includes persons specifically  
28 given peace officer powers by any state law, local ordinance, or  
29 judicial order of appointment;  
30 ((~~18~~)) (23) "Private agency" means any person, partnership,  
31 corporation, or association that is not a public agency, whether or not  
32 financed in whole or in part by public funds, which constitutes an  
33 evaluation and treatment facility or private institution, hospital, or  
34 sanitarium, which is conducted for, or includes a department or ward  
35 conducted for, the care and treatment of persons who are mentally ill;  
36 ((~~19~~)) (24) "Professional person" means a mental health  
37 professional and shall also mean a physician, registered nurse, and  
38 such others as may be defined by rules adopted by the secretary  
39 pursuant to the provisions of this chapter;

1       (~~(20)~~) (25) "Psychiatrist" means a person having a license as a  
2 physician and surgeon in this state who has in addition completed three  
3 years of graduate training in psychiatry in a program approved by the  
4 American medical association or the American osteopathic association  
5 and is certified or eligible to be certified by the American board of  
6 psychiatry and neurology;

7       (~~(21)~~) (26) "Psychologist" means a person who has been licensed  
8 as a psychologist pursuant to chapter 18.83 RCW;

9       (~~(22)~~) (27) "Public agency" means any evaluation and treatment  
10 facility or institution, hospital, or sanitarium which is conducted  
11 for, or includes a department or ward conducted for, the care and  
12 treatment of persons who are mentally ill; if the agency is operated  
13 directly by, federal, state, county, or municipal government, or a  
14 combination of such governments;

15       (~~(23)~~) (28) "Release" means legal termination of the commitment  
16 under the provisions of this chapter;

17       (29) "Resource management services" has the meaning given in  
18 chapter 71.24 RCW;

19       (~~(24)~~) (30) "Secretary" means the secretary of the department of  
20 social and health services, or his or her designee;

21       (~~(25)~~) (31) "Social worker" means a person with a master's or  
22 further advanced degree from an accredited school of social work or a  
23 degree deemed equivalent under rules adopted by the secretary;

24       (~~(26)~~) (32) "Violent act" means behavior that resulted in  
25 homicide, attempted suicide, nonfatal injuries, or substantial damage  
26 to property.

27       **Sec. 2.** RCW 71.05.025 and 1989 c 205 s 9 are each amended to read  
28 as follows:

29       The legislature intends that the procedures and services authorized  
30 in this chapter be integrated with those in chapter 71.24 RCW to the  
31 maximum extent necessary to assure a continuum of care to persons who  
32 are mentally ill or who have mental disorders, as defined in either or  
33 both this chapter and chapter 71.24 RCW. To this end, regional support  
34 networks established in accordance with chapter 71.24 RCW shall  
35 institute procedures which require timely consultation with resource  
36 management services by county-designated mental health professionals  
37 and evaluation and treatment facilities to assure that determinations  
38 to admit, detain, commit, treat, discharge, or release persons with

1 mental disorders under this chapter are made only after appropriate  
2 information regarding such person's treatment history and current  
3 treatment plan has been sought from resource management services.

4 **Sec. 3.** RCW 71.05.050 and 1998 c 297 s 6 are each amended to read  
5 as follows:

6 Nothing in this chapter shall be construed to limit the right of  
7 any person to apply voluntarily to any public or private agency or  
8 practitioner for treatment of a mental disorder, either by direct  
9 application or by referral. Any person voluntarily admitted for  
10 inpatient treatment to any public or private agency shall be released  
11 immediately upon his or her request. Any person voluntarily admitted  
12 for inpatient treatment to any public or private agency shall orally be  
13 advised of the right to immediate ~~((release))~~ discharge, and further  
14 advised of such rights in writing as are secured to them pursuant to  
15 this chapter and their rights of access to attorneys, courts, and other  
16 legal redress. Their condition and status shall be reviewed at least  
17 once each one hundred eighty days for evaluation as to the need for  
18 further treatment ~~((and/or))~~ or possible ~~((release))~~ discharge, at  
19 which time they shall again be advised of their right to ~~((release))~~  
20 discharge upon request: PROVIDED HOWEVER, That if the professional  
21 staff of any public or private agency or hospital regards a person  
22 voluntarily admitted who requests ~~((release))~~ discharge as presenting,  
23 as a result of a mental disorder, an imminent likelihood of serious  
24 harm, or is gravely disabled, they may detain such person for  
25 sufficient time to notify the county designated mental health  
26 professional of such person's condition to enable the county designated  
27 mental health professional to authorize such person being further held  
28 in custody or transported to an evaluation and treatment center  
29 pursuant to the provisions of this chapter, which shall in ordinary  
30 circumstances be no later than the next judicial day: PROVIDED  
31 FURTHER, That if a person is brought to the emergency room of a public  
32 or private agency or hospital for observation or treatment, the person  
33 refuses voluntary admission, and the professional staff of the public  
34 or private agency or hospital regard such person as presenting as a  
35 result of a mental disorder an imminent likelihood of serious harm, or  
36 as presenting an imminent danger because of grave disability, they may  
37 detain such person for sufficient time to notify the county designated  
38 mental health professional of such person's condition to enable the

1 county designated mental health professional to authorize such person  
2 being further held in custody or transported to an evaluation treatment  
3 center pursuant to the conditions in this chapter, but which time shall  
4 be no more than six hours from the time the professional staff  
5 determine that an evaluation by the county designated mental health  
6 professional is necessary.

7 **Sec. 4.** RCW 71.05.120 and 1991 c 105 s 2 are each amended to read  
8 as follows:

9 (1) No officer of a public or private agency, nor the  
10 superintendent, professional person in charge, his or her professional  
11 designee, or attending staff of any such agency, nor any public  
12 official performing functions necessary to the administration of this  
13 chapter, nor peace officer responsible for detaining a person pursuant  
14 to this chapter, nor any county designated mental health professional,  
15 nor the state, a unit of local government, or an evaluation and  
16 treatment facility shall be civilly or criminally liable for performing  
17 duties pursuant to this chapter with regard to the decision of whether  
18 to admit, discharge, release, administer antipsychotic medications, or  
19 detain a person for evaluation and treatment: PROVIDED, That such  
20 duties were performed in good faith and without gross negligence.

21 (2) This section does not relieve a person from giving the required  
22 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn  
23 or to take reasonable precautions to provide protection from violent  
24 behavior where the patient has communicated an actual threat of  
25 physical violence against a reasonably identifiable victim or victims.  
26 The duty to warn or to take reasonable precautions to provide  
27 protection from violent behavior is discharged if reasonable efforts  
28 are made to communicate the threat to the victim or victims and to law  
29 enforcement personnel.

30 **Sec. 5.** RCW 71.05.170 and 1998 c 297 s 10 are each amended to read  
31 as follows:

32 Whenever the county designated mental health professional petitions  
33 for detention of a person whose actions constitute a likelihood of  
34 serious harm, or who is gravely disabled, the facility providing  
35 seventy-two hour evaluation and treatment must immediately accept on a  
36 provisional basis the petition and the person. The facility shall then  
37 evaluate the person's condition and admit, detain, transfer, or



1 ((release)) discharge such person in accordance with RCW 71.05.210.  
2 The facility shall notify in writing the court and the county  
3 designated mental health professional of the date and time of the  
4 initial detention of each person involuntarily detained in order that  
5 a probable cause hearing shall be held no later than seventy-two hours  
6 after detention.

7 The duty of a state hospital to accept persons for evaluation and  
8 treatment under this section shall be limited by chapter 71.24 RCW.

9 **Sec. 6.** RCW 71.05.210 and 1998 c 297 s 12 are each amended to read  
10 as follows:

11 Each person involuntarily ((admitted to)) detained and accepted or  
12 admitted at an evaluation and treatment facility shall, within twenty-  
13 four hours of his or her admission or acceptance at the facility, be  
14 examined and evaluated by a licensed physician who may be assisted by  
15 a physician assistant according to chapter 18.71A RCW or an advanced  
16 registered nurse practitioner according to chapter 18.79 RCW and a  
17 mental health professional, and shall receive such treatment and care  
18 as his or her condition requires including treatment on an outpatient  
19 basis for the period that he or she is detained, except that, beginning  
20 twenty-four hours prior to a trial or hearing pursuant to RCW  
21 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.340, or 71.05.370,  
22 the individual may refuse psychiatric medications, but may not refuse:  
23 (1) Any other medication previously prescribed by a person licensed  
24 under Title 18 RCW; or (2) emergency lifesaving treatment, and the  
25 individual shall be informed at an appropriate time of his or her right  
26 of such refusal. The person shall be detained up to seventy-two hours,  
27 if, in the opinion of the professional person in charge of the  
28 facility, or his or her professional designee, the person presents a  
29 likelihood of serious harm, or is gravely disabled. A person who has  
30 been detained for seventy-two hours shall no later than the end of such  
31 period be released, unless referred for further care on a voluntary  
32 basis, or detained pursuant to court order for further treatment as  
33 provided in this chapter.

34 If, after examination and evaluation, the licensed physician and  
35 mental health professional determine that the initial needs of the  
36 person would be better served by placement in a chemical dependency  
37 treatment facility, then the person shall be referred to an approved  
38 treatment program defined under RCW 70.96A.020.

1 An evaluation and treatment center admitting or accepting any  
2 person pursuant to this chapter whose physical condition reveals the  
3 need for hospitalization shall assure that such person is transferred  
4 to an appropriate hospital for evaluation or admission for treatment.  
5 Notice of such fact shall be given to the court, the designated  
6 attorney, and the county designated mental health professional and the  
7 court shall order such continuance in proceedings under this chapter as  
8 may be necessary, but in no event may this continuance be more than  
9 fourteen days.

10 **Sec. 7.** RCW 71.05.325 and 1994 c 129 s 8 are each amended to read  
11 as follows:

12 (1) Before a person committed under grounds set forth in RCW  
13 71.05.280(3) is released (~~((from involuntary treatment))~~) because a new  
14 petition for involuntary treatment has not been filed under RCW  
15 71.05.320(2), the superintendent, professional person, or designated  
16 mental health professional responsible for the decision whether to file  
17 a new petition shall in writing notify the prosecuting attorney of the  
18 county in which the criminal charges against the committed person were  
19 dismissed, of the decision not to file a new petition for involuntary  
20 treatment. Notice shall be provided at least forty-five days before  
21 the period of commitment expires.

22 (2)(a) Before a person committed under grounds set forth in RCW  
23 71.05.280(3) is permitted temporarily to leave a treatment facility  
24 pursuant to RCW 71.05.270 for any period of time without constant  
25 accompaniment by facility staff, the superintendent, professional  
26 person in charge of a treatment facility, or his or her professional  
27 designee shall in writing notify the prosecuting attorney of any county  
28 (~~((to which the person is to be released))~~) of the person's destination  
29 and the prosecuting attorney of the county in which the criminal  
30 charges against the committed person were dismissed(~~((, of the decision~~  
31 ~~conditionally to release the person))~~). The notice shall be provided at  
32 least forty-five days before the anticipated (~~((release))~~) leave and  
33 shall describe the conditions under which the (~~((release))~~) leave is to  
34 occur.

35 (b) The provisions of RCW 71.05.330(2) apply to proposed  
36 (~~((temporary releases))~~) leaves, and either or both prosecuting attorneys  
37 receiving notice under this subsection may petition the court under RCW  
38 71.05.330(2).

1 (3) Nothing in this section shall be construed to authorize  
2 detention of a person unless a valid order of commitment is in effect.

3 (4) The existence of the notice requirements in this section will  
4 not require any extension of the (~~release~~) leave date in the event  
5 the (~~release~~) leave plan changes after notification.

6 (5) The notice requirements contained in this section shall not  
7 apply to emergency medical (~~furloughs~~) transfers.

8 (6) The notice provisions of this section are in addition to those  
9 provided in RCW 71.05.425.

10 **Sec. 8.** RCW 71.05.340 and 1998 c 297 s 21 are each amended to read  
11 as follows:

12 (1)(a) When, in the opinion of the superintendent or the  
13 professional person in charge of the hospital or facility providing  
14 involuntary treatment, the committed person can be appropriately served  
15 by outpatient treatment prior to or at the expiration of the period of  
16 commitment, then such outpatient care may be required as a (~~condition~~  
17 ~~for early~~) term of conditional release for a period which, when added  
18 to the inpatient treatment period, shall not exceed the period of  
19 commitment. If the hospital or facility designated to provide  
20 outpatient treatment is other than the facility providing involuntary  
21 treatment, the outpatient facility so designated must agree in writing  
22 to assume such responsibility. A copy of the (~~conditions for early~~)  
23 terms of conditional release shall be given to the patient, the county  
24 designated mental health professional in the county in which the  
25 patient is to receive outpatient treatment, and to the court of  
26 original commitment.

27 (b) Before a person committed under grounds set forth in RCW  
28 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of  
29 this subsection, the superintendent or professional person in charge of  
30 the hospital or facility providing involuntary treatment shall in  
31 writing notify the prosecuting attorney of the county in which the  
32 criminal charges against the committed person were dismissed, of the  
33 decision to conditionally release the person. Notice and a copy of the  
34 (~~conditions for early~~) terms of conditional release shall be provided  
35 at least thirty days before the person is released from inpatient care.  
36 Within twenty days after receiving notice, the prosecuting attorney may  
37 petition the court in the county that issued the commitment order to  
38 hold a hearing to determine whether the person may be conditionally

1 released and the terms of the conditional release. The prosecuting  
2 attorney shall provide a copy of the petition to the superintendent or  
3 professional person in charge of the hospital or facility providing  
4 involuntary treatment, the attorney, if any, and guardian or  
5 conservator of the committed person, and the court of original  
6 commitment. If the county in which the committed person is to receive  
7 outpatient treatment is the same county in which the criminal charges  
8 against the committed person were dismissed, then the court shall, upon  
9 the motion of the prosecuting attorney, transfer the proceeding to the  
10 court in that county. The court shall conduct a hearing on the  
11 petition within ten days of the filing of the petition. The committed  
12 person shall have the same rights with respect to notice, hearing, and  
13 counsel as for an involuntary treatment proceeding, except as set forth  
14 in this subsection and except that there shall be no right to jury  
15 trial. The issue to be determined at the hearing is whether or not the  
16 person may be conditionally released without substantial danger to  
17 other persons, or substantial likelihood of committing criminal acts  
18 jeopardizing public safety or security. If the court disapproves of  
19 the conditional release, it may do so only on the basis of substantial  
20 evidence. Pursuant to the determination of the court upon the hearing,  
21 the conditional release of the person shall be approved by the court on  
22 the same or modified conditions or the person shall be returned for  
23 involuntary treatment on an inpatient basis subject to release at the  
24 end of the period for which he or she was committed, or otherwise in  
25 accordance with the provisions of this chapter.

26 (2) The hospital or facility designated to provide outpatient care  
27 or the secretary may modify the conditions for continued release when  
28 such modification is in the best interest of the person. Notification  
29 of such changes shall be sent to all persons receiving a copy of the  
30 original conditions.

31 (3)(a) If the hospital or facility designated to provide outpatient  
32 care, the county designated mental health professional, or the  
33 secretary determines that:

34 (i) A conditionally released person is failing to adhere to the  
35 terms and conditions of his or her release;

36 (ii) Substantial deterioration in a conditionally released person's  
37 functioning has occurred;

1 (iii) There is evidence of substantial decompensation with a  
2 reasonable probability that the decompensation can be reversed by  
3 further inpatient treatment; or

4 (iv) The person poses a likelihood of serious harm.

5 Upon notification by the hospital or facility designated to provide  
6 outpatient care, or on his or her own motion, the county designated  
7 mental health professional or the secretary may order that the  
8 conditionally released person be apprehended and taken into custody and  
9 temporarily detained in an evaluation and treatment facility in or near  
10 the county in which he or she is receiving outpatient treatment.

11 (b) The hospital or facility designated to provide outpatient  
12 treatment shall notify the secretary or county designated mental health  
13 professional when a conditionally released person fails to adhere to  
14 terms and conditions of his or her conditional release or experiences  
15 substantial deterioration in his or her condition and, as a result,  
16 presents an increased likelihood of serious harm. The county  
17 designated mental health professional or secretary shall order the  
18 person apprehended and temporarily detained in an evaluation and  
19 treatment facility in or near the county in which he or she is  
20 receiving outpatient treatment.

21 (c) A person detained under this subsection (3) shall be held until  
22 such time, not exceeding five days, as a hearing can be scheduled to  
23 determine whether or not the person should be returned to the hospital  
24 or facility from which he or she had been conditionally released. The  
25 county designated mental health professional or the secretary may  
26 modify or rescind such order at any time prior to commencement of the  
27 court hearing.

28 (d) The court that originally ordered commitment shall be notified  
29 within two judicial days of a person's detention under the provisions  
30 of this section, and the county designated mental health professional  
31 or the secretary shall file his or her petition and order of  
32 apprehension and detention with the court and serve them upon the  
33 person detained. His or her attorney, if any, and his or her guardian  
34 or conservator, if any, shall receive a copy of such papers as soon as  
35 possible. Such person shall have the same rights with respect to  
36 notice, hearing, and counsel as for an involuntary treatment  
37 proceeding, except as specifically set forth in this section and except  
38 that there shall be no right to jury trial. The issues to be  
39 determined shall be: (i) Whether the conditionally released person did

1 or did not adhere to the terms and conditions of his or her conditional  
2 release; (ii) that substantial deterioration in the person's  
3 functioning has occurred; (iii) there is evidence of substantial  
4 decompensation with a reasonable probability that the decompensation  
5 can be reversed by further inpatient treatment; or (iv) there is a  
6 likelihood of serious harm; and, if any of the conditions listed in  
7 this subsection (3)(d) have occurred, whether the ~~((conditions of))~~  
8 terms of conditional release should be modified or the person should be  
9 returned to the facility.

10 (e) Pursuant to the determination of the court upon such hearing,  
11 the conditionally released person shall either continue to be  
12 conditionally released on the same or modified conditions or shall be  
13 returned for involuntary treatment on an inpatient basis subject to  
14 release at the end of the period for which he or she was committed for  
15 involuntary treatment, or otherwise in accordance with the provisions  
16 of this chapter. Such hearing may be waived by the person and his or  
17 her counsel and his or her guardian or conservator, if any, but shall  
18 not be waivable unless all such persons agree to waive, and upon such  
19 waiver the person may be returned for involuntary treatment or  
20 continued on conditional release on the same or modified conditions.

21 (4) The proceedings set forth in subsection (3) of this section may  
22 be initiated by the county designated mental health professional or the  
23 secretary on the same basis set forth therein without requiring or  
24 ordering the apprehension and detention of the conditionally released  
25 person, in which case the court hearing shall take place in not less  
26 than five days from the date of service of the petition upon the  
27 conditionally released person.

28 Upon expiration of the period of commitment, or when the person is  
29 released from outpatient care, notice in writing to the court which  
30 committed the person for treatment shall be provided.

31 (5) The grounds and procedures for revocation of less restrictive  
32 alternative treatment shall be the same as those set forth in this  
33 section for conditional releases.

34 (6) In the event of a revocation of a conditional release, the  
35 subsequent treatment period may be for no longer than the actual period  
36 authorized in the original court order.

37 **Sec. 9.** RCW 71.05.390 and 1999 c 12 s 1 are each amended to read  
38 as follows:

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

5 Information and records may be disclosed only:

6 (1) In communications between qualified professional persons to  
7 meet the requirements of this chapter, in the provision of services or  
8 appropriate referrals, or in the course of guardianship proceedings.  
9 The consent of the patient, or his or her guardian, shall be obtained  
10 before information or records may be disclosed by a professional person  
11 employed by a facility unless provided to a professional person: (a)  
12 Employed by the facility; (b) who has medical responsibility for the  
13 patient's care; (c) who is a county designated mental health  
14 professional; (d) who is providing services under chapter 71.24 RCW;  
15 (e) who is employed by a state or local correctional facility where the  
16 person is confined; or (f) who is providing evaluation, treatment, or  
17 follow-up services under chapter 10.77 RCW.

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

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

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

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

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

1 regarding persons who have received services such that the person who  
2 received such services is identifiable.

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

5 /s/ . . . . . "

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

8 (7) To law enforcement officers, public health officers, or  
9 personnel of the department of corrections or the indeterminate  
10 sentence review board for persons who are the subject of the records  
11 and who are committed to the custody of the department of corrections  
12 or indeterminate sentence review board which information or records are  
13 necessary to carry out the responsibilities of their office. Except  
14 for dissemination of information released pursuant to RCW 71.05.425 and  
15 4.24.550, regarding persons committed under this chapter under RCW  
16 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
17 defined in RCW 9.94A.030, the extent of information that may be  
18 released is limited as follows:

19 (a) Only the fact, place, and date of involuntary ((admission))  
20 commitment, the fact and date of discharge or release, and the last  
21 known address shall be disclosed upon request; and

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

26 (c) Additional information shall be disclosed only after giving  
27 notice to said person and his or her counsel and upon a showing of  
28 clear, cogent and convincing evidence that such information is  
29 necessary and that appropriate safeguards for strict confidentiality  
30 are and will be maintained. However, in the event the said person has  
31 escaped from custody, said notice prior to disclosure is not necessary  
32 and that the facility from which the person escaped shall include an  
33 evaluation as to whether the person is of danger to persons or property  
34 and has a propensity toward violence.

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

36 (9) To the prosecuting attorney as necessary to carry out the  
37 responsibilities of the office under RCW 71.05.330(2) and  
38 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access



1 to records regarding the committed person's treatment and prognosis,  
2 medication, behavior problems, and other records relevant to the issue  
3 of whether treatment less restrictive than inpatient treatment is in  
4 the best interest of the committed person or others. Information shall  
5 be disclosed only after giving notice to the committed person and the  
6 person's counsel.

7 (10) To appropriate law enforcement agencies and to a person, when  
8 the identity of the person is known to the public or private agency,  
9 whose health and safety has been threatened, or who is known to have  
10 been repeatedly harassed, by the patient. The person may designate a  
11 representative to receive the disclosure. The disclosure shall be made  
12 by the professional person in charge of the public or private agency or  
13 his or her designee and shall include the dates of commitment,  
14 admission, discharge, or release, authorized or unauthorized absence  
15 from the agency's facility, and only such other information that is  
16 pertinent to the threat or harassment. The decision to disclose or not  
17 shall not result in civil liability for the agency or its employees so  
18 long as the decision was reached in good faith and without gross  
19 negligence.

20 (11) To the persons designated in RCW 71.05.425 for the purposes  
21 described in that section.

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

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

28 (14) To the department of health of the purposes of determining  
29 compliance with state or federal licensure, certification, or  
30 registration rules or laws. However, the information and records  
31 obtained under this subsection are exempt from public inspection and  
32 copying pursuant to chapter 42.17 RCW.

33 The fact of admission, as well as all records, files, evidence,  
34 findings, or orders made, prepared, collected, or maintained pursuant  
35 to this chapter shall not be admissible as evidence in any legal  
36 proceeding outside this chapter without the written consent of the  
37 person who was the subject of the proceeding except in a subsequent  
38 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)  
39 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter

1 10.77 RCW due to incompetency to stand trial or in a civil commitment  
2 proceeding pursuant to chapter 71.09 RCW. The records and files  
3 maintained in any court proceeding pursuant to this chapter shall be  
4 confidential and available subsequent to such proceedings only to the  
5 person who was the subject of the proceeding or his or her attorney.  
6 In addition, the court may order the subsequent release or use of such  
7 records or files only upon good cause shown if the court finds that  
8 appropriate safeguards for strict confidentiality are and will be  
9 maintained.

10 **Sec. 10.** RCW 71.05.425 and 1999 c 13 s 8 are each amended to read  
11 as follows:

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

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

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

25 (b) The same notice as required by (a) of this subsection shall be  
26 sent to the following, if such notice has been requested in writing  
27 about a specific person committed under RCW 71.05.280(3) or  
28 71.05.320(2)(c) following dismissal of a sex, violent, or felony  
29 harassment offense pursuant to RCW 10.77.090(4):

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

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

36 (iii) Any person specified in writing by the prosecuting attorney.  
37 Information regarding victims, next of kin, or witnesses requesting the  
38 notice, information regarding any other person specified in writing by

1 the prosecuting attorney to receive the notice, and the notice are  
2 confidential and shall not be available to the person committed under  
3 this chapter.

4 (c) The thirty-day notice requirements contained in this subsection  
5 shall not apply to emergency medical (~~furloughs~~) transfers.

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

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

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

28 (4) The superintendent shall send the notices required by this  
29 chapter to the last address provided to the department by the  
30 requesting party. The requesting party shall furnish the department  
31 with a current address.

32 (5) For purposes of this section the following terms have the  
33 following meanings:

34 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

35 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

36 (c) "Next of kin" means a person's spouse, parents, siblings, and  
37 children;

38 (d) "Felony harassment offense" means a crime of harassment as  
39 defined in RCW 9A.46.060 that is a felony.

1       **Sec. 11.** RCW 71.05.640 and 1999 c 13 s 9 are each amended to read  
2 as follows:

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

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

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

17       (4) At the time of discharge all individuals shall be informed by  
18 resource management services of their rights as provided in RCW  
19 71.05.610 through 71.05.690.

20       **Sec. 12.** RCW 10.77.010 and 1999 c 143 s 49 and 1999 c 13 s 2 are  
21 each reenacted and amended to read as follows:

22       As used in this chapter:

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

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

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

30       (4) "County designated mental health professional" has the same  
31 meaning as provided in RCW 71.05.020.

32       (~~(+2)~~) (5) A "criminally insane" person means any person who has  
33 been acquitted of a crime charged by reason of insanity, and thereupon  
34 found to be a substantial danger to other persons or to present a  
35 substantial likelihood of committing criminal acts jeopardizing public  
36 safety or security unless kept under further control by the court or  
37 other persons or institutions.

1       (~~(3)~~) (6) "Department" means the state department of social and  
2 health services.

3       (~~(4)~~) (7) "Detention" or "detain" means the lawful confinement of  
4 a person, under the provisions of this chapter, pending evaluation.

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

11       (~~(5)~~) (9) "Developmental disability" means the condition as  
12 defined in RCW 71A.10.020(3).

13       (~~(6)~~) (10) "Discharge" means the termination of hospital medical  
14 authority. The commitment may remain in place, be terminated, or be  
15 amended by court order.

16       (11) "Furlough" means an authorized leave of absence for a resident  
17 of a state institution operated by the department designated for the  
18 custody, care, and treatment of the criminally insane, consistent with  
19 an order of conditional release from the court under this chapter,  
20 without any requirement that the resident be accompanied by, or be in  
21 the custody of, any law enforcement or institutional staff, while on  
22 such unescorted leave.

23       (~~(7)~~) (12) "Habilitative services" means those services provided  
24 by program personnel to assist persons in acquiring and maintaining  
25 life skills and in raising their levels of physical, mental, social,  
26 and vocational functioning. Habilitative services include education,  
27 training for employment, and therapy. The habilitative process shall  
28 be undertaken with recognition of the risk to the public safety  
29 presented by the individual being assisted as manifested by prior  
30 charged criminal conduct.

31       (~~(8)~~) (13) "History of one or more violent acts" means violent  
32 acts committed during: (a) The ten-year period of time prior to the  
33 filing of criminal charges; plus (b) the amount of time equal to time  
34 spent during the ten-year period in a mental health facility or in  
35 confinement as a result of a criminal conviction.

36       (~~(9)~~) (14) "Incompetency" means a person lacks the capacity to  
37 understand the nature of the proceedings against him or her or to  
38 assist in his or her own defense as a result of mental disease or  
39 defect.

1       (~~(10)~~) (15) "Indigent" means any person who is financially unable  
2 to obtain counsel or other necessary expert or professional services  
3 without causing substantial hardship to the person or his or her  
4 family.

5       (~~(11)~~) (16) "Individualized service plan" means a plan prepared  
6 by a developmental disabilities professional with other professionals  
7 as a team, for an individual with developmental disabilities, which  
8 shall state:

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

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

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

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

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

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

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

25       (~~(12)~~) (17) "Professional person" means:

26       (a) A psychiatrist licensed as a physician and surgeon in this  
27 state who has, in addition, completed three years of graduate training  
28 in psychiatry in a program approved by the American medical association  
29 or the American osteopathic association and is certified or eligible to  
30 be certified by the American board of psychiatry and neurology or the  
31 American osteopathic board of neurology and psychiatry;

32       (b) A psychologist licensed as a psychologist pursuant to chapter  
33 18.83 RCW; or

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

37       (~~(13)~~) (18) "Release" means legal termination of the court  
38 ordered commitment under the provisions of this chapter.

1       (19) "Secretary" means the secretary of the department of social  
2 and health services or his or her designee.

3       (~~((14))~~) (20) "Treatment" means any currently standardized medical  
4 or mental health procedure including medication.

5       (~~((15))~~) (21) "Violent act" means behavior that: (a)(i) Resulted  
6 in; (ii) if completed as intended would have resulted in; or (iii) was  
7 threatened to be carried out by a person who had the intent and  
8 opportunity to carry out the threat and would have resulted in,  
9 homicide, nonfatal injuries, or substantial damage to property; or (b)  
10 recklessly creates an immediate risk of serious physical injury to  
11 another person.

12       **Sec. 13.** RCW 10.77.025 and 1998 c 297 s 31 are each amended to  
13 read as follows:

14       (1) Whenever any person has been: (a) Committed to a correctional  
15 facility or inpatient treatment under any provision of this chapter; or  
16 (b) ordered to undergo alternative treatment following his or her  
17 acquittal by reason of insanity of a crime charged, such commitment or  
18 treatment cannot exceed the maximum possible penal sentence for any  
19 offense charged for which the person was committed, or was acquitted by  
20 reason of insanity.

21       (2) Whenever any person committed under any provision of this  
22 chapter has not been (~~(finally discharged)~~) released within seven days  
23 of the maximum possible penal sentence under subsection (1) of this  
24 section, and the professional person in charge of the facility believes  
25 (~~(it more likely than not that the person will not be finally~~  
26 ~~discharged)~~) that the person presents a likelihood of serious harm or  
27 is gravely disabled due to a mental disorder, the professional person  
28 shall, prior to the (~~(person's release from the facility)~~) expiration  
29 of the maximum penal sentence, notify the appropriate county designated  
30 mental health professional of the impending (~~(release)~~) expiration and  
31 provide a copy of all relevant information regarding the person,  
32 including the likely release date and shall indicate why (~~(final~~  
33 ~~discharge was not made)~~) the person should not be released.

34       (3) A county designated mental health professional who receives  
35 notice and records under subsection (2) of this section shall, prior to  
36 the date of (~~(probable release)~~) the expiration of the maximum  
37 sentence, determine whether to initiate proceedings under chapter 71.05  
38 RCW.

1       **Sec. 14.** RCW 10.77.110 and 1998 c 297 s 39 are each amended to  
2 read as follows:

3       (1) If a defendant is acquitted of a crime by reason of insanity,  
4 and it is found that he or she is not a substantial danger to other  
5 persons, and does not present a substantial likelihood of committing  
6 criminal acts jeopardizing public safety or security, unless kept under  
7 further control by the court or other persons or institutions, the  
8 court shall direct the defendant's (~~final discharge~~) release. If it  
9 is found that such defendant is a substantial danger to other persons,  
10 or presents a substantial likelihood of committing criminal acts  
11 jeopardizing public safety or security, unless kept under further  
12 control by the court or other persons or institutions, the court shall  
13 order his or her hospitalization, or any appropriate alternative  
14 treatment less restrictive than detention in a state mental hospital,  
15 pursuant to the terms of this chapter.

16       (2) If the defendant has been found not guilty by reason of  
17 insanity and a substantial danger, or presents a substantial likelihood  
18 of committing criminal acts jeopardizing public safety or security, so  
19 as to require treatment then the secretary shall immediately cause the  
20 defendant to be evaluated to ascertain if the defendant is  
21 developmentally disabled. When appropriate, and subject to available  
22 funds, the defendant may be committed to a program specifically  
23 reserved for the treatment and training of developmentally disabled  
24 persons. A person so committed shall receive habilitation services  
25 according to an individualized service plan specifically developed to  
26 treat the behavior which was the subject of the criminal proceedings.  
27 The treatment program shall be administered by developmental  
28 disabilities professionals and others trained specifically in the needs  
29 of developmentally disabled persons. The treatment program shall  
30 provide physical security to a degree consistent with the finding that  
31 the defendant is dangerous and may incorporate varying conditions of  
32 security and alternative sites when the dangerousness of any particular  
33 defendant makes this necessary. The department may limit admissions to  
34 this specialized program in order to ensure that expenditures for  
35 services do not exceed amounts appropriated by the legislature and  
36 allocated by the department for such services. The department may  
37 establish admission priorities in the event that the number of eligible  
38 persons exceeds the limits set by the department.



1 (3) If it is found that such defendant is not a substantial danger  
2 to other persons, and does not present a substantial likelihood of  
3 committing criminal acts jeopardizing public safety or security, but  
4 that he or she is in need of control by the court or other persons or  
5 institutions, the court shall direct the defendant's conditional  
6 release.

7 **Sec. 15.** RCW 10.77.120 and 1989 c 420 s 7 are each amended to read  
8 as follows:

9 The secretary shall forthwith provide adequate care and  
10 individualized treatment at one or several of the state institutions or  
11 facilities under his or her direction and control wherein persons  
12 committed as criminally insane may be confined. Such persons shall be  
13 under the custody and control of the secretary to the same extent as  
14 are other persons who are committed to the secretary's custody, but  
15 such provision shall be made for their control, care, and treatment as  
16 is proper in view of their condition. In order that the secretary may  
17 adequately determine the nature of the mental illness or developmental  
18 disability of the person committed to him or her as criminally insane,  
19 and in order for the secretary to place such individuals in a proper  
20 facility, all persons who are committed to the secretary as criminally  
21 insane shall be promptly examined by qualified personnel in such a  
22 manner as to provide a proper evaluation and diagnosis of such  
23 individual. The examinations of all developmentally disabled persons  
24 committed under this chapter shall be performed by developmental  
25 disabilities professionals. Any person so committed shall not be  
26 (~~discharged~~) released from the control of the secretary save upon the  
27 order of a court of competent jurisdiction made after a hearing and  
28 judgment of (~~discharge~~) release.

29 Whenever there is a hearing which the committed person is entitled  
30 to attend, the secretary shall send him or her in the custody of one or  
31 more department employees to the county where the hearing is to be held  
32 at the time the case is called for trial. During the time the person  
33 is absent from the facility, he or she shall be confined in a facility  
34 designated by and arranged for by the department, and shall at all  
35 times be deemed to be in the custody of the department employee and  
36 provided necessary treatment. If the decision of the hearing remits  
37 the person to custody, the department employee shall forthwith return  
38 the person to such institution or facility designated by the secretary.

1 If the state appeals an order of ((~~discharge~~)) release, such appeal  
2 shall operate as a stay, and the person in custody shall so remain and  
3 be forthwith returned to the institution or facility designated by the  
4 secretary until a final decision has been rendered in the cause.

5 **Sec. 16.** RCW 10.77.200 and 1998 c 297 s 44 are each amended to  
6 read as follows:

7 (1) Upon application by the committed or conditionally released  
8 person, the secretary shall determine whether or not reasonable grounds  
9 exist for ((~~final discharge~~)) release. In making this determination,  
10 the secretary may consider the reports filed under RCW 10.77.060,  
11 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations  
12 provided by professionals familiar with the case. If the secretary  
13 approves the ((~~final discharge~~)) release he or she then shall authorize  
14 the person to petition the court.

15 (2) The petition shall be served upon the court and the prosecuting  
16 attorney. The court, upon receipt of the petition for ((~~final~~  
17 ~~discharge~~)) release, shall within forty-five days order a hearing.  
18 Continuance of the hearing date shall only be allowed for good cause  
19 shown. The prosecuting attorney shall represent the state, and shall  
20 have the right to have the petitioner examined by an expert or  
21 professional person of the prosecuting attorney's choice. If the  
22 petitioner is indigent, and the person so requests, the court shall  
23 appoint a qualified expert or professional person to examine him or  
24 her. If the petitioner is developmentally disabled, the examination  
25 shall be performed by a developmental disabilities professional. The  
26 hearing shall be before a jury if demanded by either the petitioner or  
27 the prosecuting attorney. The burden of proof shall be upon the  
28 petitioner to show by a preponderance of the evidence that the  
29 petitioner no longer presents, as a result of a mental disease or  
30 defect, a substantial danger to other persons, or a substantial  
31 likelihood of committing criminal acts jeopardizing public safety or  
32 security, unless kept under further control by the court or other  
33 persons or institutions.

34 (3) Nothing contained in this chapter shall prohibit the patient  
35 from petitioning the court for ((~~final discharge~~)) release or  
36 conditional release from the institution in which he or she is  
37 committed. The issue to be determined on such proceeding is whether  
38 the petitioner, as a result of a mental disease or defect, is a

1 substantial danger to other persons, or presents a substantial  
2 likelihood of committing criminal acts jeopardizing public safety or  
3 security, unless kept under further control by the court or other  
4 persons or institutions.

5 Nothing contained in this chapter shall prohibit the committed  
6 person from petitioning for release by writ of habeas corpus.

7 **Sec. 17.** RCW 10.77.205 and 1994 c 129 s 5 are each amended to read  
8 as follows:

9 (1)(a) At the earliest possible date, and in no event later than  
10 thirty days before conditional release, (~~final discharge~~) release,  
11 authorized furlough pursuant to RCW 10.77.163, or transfer to a less-  
12 restrictive facility than a state mental hospital, the superintendent  
13 shall send written notice of the conditional release, (~~final~~  
14 ~~discharge~~) release, authorized furlough, or transfer of a person who  
15 has been found not guilty of a sex, violent, or felony harassment  
16 offense by reason of insanity and who is now in the custody of the  
17 department pursuant to this chapter, to the following:

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

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

21 (b) The same notice as required by (a) of this subsection shall be  
22 sent to the following, if such notice has been requested in writing  
23 about a specific person committed under this chapter:

24 (i) The victim of the crime for which the person was committed or  
25 the victim's next of kin if the crime was a homicide;

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

28 (iii) Any person specified in writing by the prosecuting attorney.  
29 Information regarding victims, next of kin, or witnesses requesting the  
30 notice, information regarding any other person specified in writing by  
31 the prosecuting attorney to receive the notice, and the notice are  
32 confidential and shall not be available to the person committed under  
33 this chapter.

34 (c) In addition to the notice requirements of (a) and (b) of this  
35 subsection, the superintendent shall comply with RCW 10.77.163.

36 (d) The thirty-day notice requirement contained in (a) and (b) of  
37 this subsection shall not apply to emergency medical furloughs.

1 (e) The existence of the notice requirements in (a) and (b) of this  
2 subsection shall not require any extension of the release date in the  
3 event the release plan changes after notification.

4 (2) If a person who has been found not guilty of a sex, violent, or  
5 felony harassment offense by reason of insanity and who is committed  
6 under this chapter escapes, the superintendent shall immediately  
7 notify, by the most reasonable and expedient means available, the chief  
8 of police of the city and the sheriff of the county in which the person  
9 resided immediately before the person's arrest. If previously  
10 requested, the superintendent shall also notify the witnesses and the  
11 victim, if any, of the crime for which the person was committed or the  
12 victim's next of kin if the crime was a homicide. The superintendent  
13 shall also notify appropriate persons pursuant to RCW 10.77.165. If  
14 the person is recaptured, the secretary shall send notice to the  
15 persons designated in this subsection as soon as possible but in no  
16 event later than two working days after the department learns of such  
17 recapture.

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

21 (4) The department shall send the notices required by this chapter  
22 to the last address provided to the department by the requesting party.  
23 The requesting party shall furnish the department with a current  
24 address.

25 (5) For purposes of this section the following terms have the  
26 following meanings:

27 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

28 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

29 (c) "Next of kin" means a person's spouse, parents, siblings, and  
30 children;

31 (d) "Authorized furlough" means a furlough granted after compliance  
32 with RCW 10.77.163;

33 (e) "Felony harassment offense" means a crime of harassment as  
34 defined in RCW 9A.46.060 that is a felony.

35 **Sec. 18.** RCW 49.19.010 and 1999 c 377 s 2 are each amended to read  
36 as follows:

37 For purposes of this chapter:

38 (1) "Health care setting" means:

1 (a) Hospitals as defined in RCW 70.41.020;  
2 (b) Home health, hospice, and home care agencies under chapter  
3 70.127 RCW, subject to RCW 49.19.070;

4 (c) Evaluation and treatment facilities as defined in RCW  
5 71.05.020(~~(+8)~~) (12); and

6 (d) Community mental health programs as defined in RCW  
7 71.24.025(~~(+8)~~) (5).

8 (2) "Department" means the department of labor and industries.

9 (3) "Employee" means an employee as defined in RCW 49.17.020.

10 (4) "Violence" or "violent act" means any physical assault or  
11 verbal threat of physical assault against an employee of a health care  
12 setting.

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