
SENATE BILL 5223

State of Washington

58th Legislature

2003 Regular Session

By Senators Keiser, Parlette, Hargrove, Deccio and Kline

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1 AN ACT Relating to mental health advance directives; amending RCW
2 11.94.010 and 7.70.065; reenacting and amending RCW 9.94A.515 and
3 9.94A.515; adding a new section to chapter 11.94 RCW; adding a new
4 section to chapter 7.70 RCW; adding a new section to chapter 9A.60 RCW;
5 adding a new chapter to Title 71 RCW; prescribing penalties; providing
6 an effective date; and providing an expiration date.

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

8 **PART I**

9 **General Provisions**

10 NEW SECTION. **Sec. 1.** (1) The legislature declares that an
11 individual with capacity has the ability to control decisions relating
12 to his or her own mental health care. The legislature finds that:

13 (a) Some mental illnesses cause individuals to fluctuate between
14 capacity and incapacity;

15 (b) During periods when an individual's capacity is unclear, the
16 individual may be unable to access needed treatment because the
17 individual may be unable to give informed consent;

1 (c) Early treatment may prevent an individual from becoming so ill
2 that involuntary treatment is necessary; and

3 (d) Mentally ill individuals need some method of expressing their
4 instructions and preferences for treatment and providing advance
5 consent to or refusal of treatment.

6 The legislature recognizes that a mental health advance directive
7 can be an essential tool for an individual to express his or her
8 choices at a time when the effects of mental illness have not deprived
9 him or her of the power to express his or her instructions or
10 preferences.

11 (2) The legislature further finds that:

12 (a) A mental health advance directive must provide the individual
13 with a full range of choices;

14 (b) Mentally ill individuals have varying perspectives on whether
15 they want to be able to revoke a directive during periods of
16 incapacity;

17 (c) For a mental health advance directive to be an effective tool,
18 individuals must be able to choose how they want their directives
19 treated during periods of incapacity; and

20 (d) There must be clear standards so that treatment providers can
21 readily discern an individual's treatment choices.

22 Consequently, the legislature affirms that, pursuant to other
23 provisions of law, a validly executed mental health advance directive
24 is to be respected by agents, guardians, and other surrogate decision
25 makers, health care providers, professional persons, and health care
26 facilities.

27 NEW SECTION. **Sec. 2.** The definitions in this section apply
28 throughout this chapter unless the context clearly requires otherwise.

29 (1) "Adult" means any individual who has attained the age of
30 majority or is an emancipated minor.

31 (2) "Agent" has the same meaning as an attorney-in-fact or agent as
32 provided in chapter 11.94 RCW.

33 (3) "Capacity" means that an adult has not been found to be
34 incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

35 (4) "Court" means a superior court under chapter 2.08 RCW.

36 (5) "Health care facility" means a hospital, as defined in RCW

1 70.41.020; a nursing home, as defined in RCW 18.51.010; or a clinic
2 that is part of a community mental health service delivery system, as
3 defined in RCW 71.24.025.

4 (6) "Health care provider" means an osteopathic physician or
5 osteopathic physician's assistant licensed under chapter 18.57 or
6 18.57A RCW, a physician or physician's assistant licensed under chapter
7 18.71 or 18.71A RCW, or an advanced registered nurse practitioner
8 licensed under RCW 18.79.050.

9 (7) "Incapacitated" means an adult who is unable to: Understand
10 the nature, character, and anticipated results of proposed treatment or
11 alternatives; understand the recognized serious possible risks,
12 complications, and anticipated benefits in treatments and alternatives,
13 including nontreatment; or communicate his or her understanding or
14 treatment decisions.

15 (8) "Informed consent" means consent that is given after the
16 person: (a) Is provided with material facts constituting a description
17 of the nature, character, and anticipated results of proposed
18 treatments and alternatives, and the recognized serious possible risks,
19 complications, and anticipated benefits in the treatments and
20 alternatives, including nontreatment, in language that the person can
21 reasonably be expected to understand; or (b) elects not to be given the
22 information included in (a) of this subsection.

23 (9) "Long-term care facility" has the same meaning as defined in
24 RCW 43.190.020.

25 (10) "Mental disorder" means any organic, mental, or emotional
26 impairment which has substantial adverse effects on an individual's
27 cognitive or volitional functions.

28 (11) "Mental health advance directive" or "directive" means a
29 written document in which the principal makes a declaration of
30 instructions or preferences or appoints an agent to make decisions on
31 behalf of the principal regarding the principal's mental health
32 treatment, or both, and that is consistent with the provisions of this
33 chapter.

34 (12) "Mental health professional" means a psychiatrist,
35 psychologist, psychiatric nurse, or social worker, and such other
36 mental health professionals as may be defined by rules adopted by the
37 secretary pursuant to the provisions of chapter 71.05 RCW.

1 (13) "Principal" means an adult who has executed a mental health
2 advance directive.

3 (14) "Professional person" means a mental health professional and
4 shall also mean a physician, registered nurse, and such others as may
5 be defined by rules adopted by the secretary pursuant to the provisions
6 of chapter 71.05 RCW.

7 NEW SECTION. **Sec. 3.** (1) The definition of informed consent is to
8 be construed to be consistent with that term as it is used in chapter
9 7.70 RCW.

10 (2) The definitions of mental disorder, mental health professional,
11 and professional person are to be construed to be consistent with those
12 terms as they are defined in RCW 71.05.020.

13 NEW SECTION. **Sec. 4.** For the purposes of this chapter, an adult
14 is presumed to have capacity.

15 **PART II**
16 **The Document:**
17 **Creation, Contents, Revocation**

18 NEW SECTION. **Sec. 5.** (1) An adult with capacity may execute a
19 mental health advance directive.

20 (2) A directive executed in accordance with this chapter is
21 presumed to be valid. The inability to honor one or more provisions of
22 a directive does not affect the validity of the remaining provisions.

23 (3) A directive may include any provision relating to mental health
24 treatment or the care of the principal or the principal's personal
25 affairs. Without limitation, a directive may include:

26 (a) The principal's preferences and instructions for mental health
27 treatment;

28 (b) Consent to specific types of mental health treatment;

29 (c) Refusal to consent to specific types of mental health
30 treatment;

31 (d) Consent to admission to and retention in a facility for mental
32 health treatment for up to fourteen days;

33 (e) Descriptions of situations that may cause the principal to
34 experience a mental health crisis;

1 (f) Suggested alternative responses that may supplement or be in
2 lieu of direct mental health treatment, such as treatment approaches
3 from other providers;

4 (g) Appointment of an agent pursuant to chapter 11.94 RCW to make
5 mental health treatment decisions on the principal's behalf, including
6 authorizing the agent to provide consent on the principal's behalf to
7 voluntary admission to inpatient mental health treatment; and

8 (h) The principal's nomination of a guardian or limited guardian as
9 provided in RCW 11.94.010 for consideration by the court if
10 guardianship proceedings are commenced.

11 (4) A directive may be combined with or be independent of a
12 nomination of a guardian or other durable power of attorney under
13 chapter 11.94 RCW, so long as the processes for each are executed in
14 accordance with its own statutes.

15 NEW SECTION. **Sec. 6.** (1) A directive shall:

16 (a) Be in writing;

17 (b) Contain language that clearly indicates that the principal
18 intends to create a directive;

19 (c) Be dated and signed by the principal or at the principal's
20 direction in the principal's presence if the principal is unable to
21 sign;

22 (d) Designate whether the principal wishes to be able to revoke the
23 directive during any period of incapacity or wishes to be unable to
24 revoke the directive during any period of incapacity; and

25 (e) Be witnessed in writing by at least two adults, each of whom
26 shall declare that he or she personally knows the principal, was
27 present when the principal dated and signed the directive, and that the
28 principal did not appear to be incapacitated or acting under fraud,
29 undue influence, or duress.

30 (2) A directive that includes the appointment of an agent under
31 chapter 11.94 RCW shall contain the words "This power of attorney shall
32 not be affected by the incapacity of the principal," or "This power of
33 attorney shall become effective upon the incapacity of the principal,"
34 or similar words showing the principal's intent that the authority
35 conferred shall be exercisable notwithstanding the principal's
36 incapacity.

1 (3) A directive is valid upon execution, but all or part of the
2 directive may take effect at a later time as designated by the
3 principal in the directive.

4 (4) A directive may:

5 (a) Be revoked, in whole or in part, pursuant to the provisions of
6 section 8 of this act; or

7 (b) Expire under its own terms.

8 NEW SECTION. **Sec. 7.** A directive may not:

9 (1) Create an entitlement to mental health or medical treatment or
10 supersede a determination of medical necessity;

11 (2) Obligate any health care provider, professional person, or
12 health care facility to pay the costs associated with the treatment
13 requested;

14 (3) Obligate any health care provider, professional person, or
15 health care facility to be responsible for the nontreatment personal
16 care of the principal or the principal's personal affairs outside the
17 scope of services the facility normally provides;

18 (4) Replace or supersede the provisions of any will or testamentary
19 document or supersede the provisions of intestate succession; or

20 (5) Be revoked by an incapacitated principal unless that principal
21 selected the option to permit revocation while incapacitated at the
22 time his or her directive was executed.

23 NEW SECTION. **Sec. 8.** (1)(a) A principal with capacity may, by
24 written statement by the principal or at the principal's direction in
25 the principal's presence, revoke a directive in whole or in part.

26 (b) An incapacitated principal may revoke a directive only if he or
27 she elected at the time of executing the directive to be able to revoke
28 when incapacitated.

29 (2) The revocation need not follow any specific form so long as it
30 is written and the intent of the principal can be discerned.

31 (3) The principal shall provide a copy of his or her written
32 statement of revocation to his or her agent, if any, and to each health
33 care provider, professional person, or health care facility that
34 received a copy of the directive from the principal.

35 (4) The written statement of revocation is effective:

1 (a) As to a health care provider, professional person, or health
2 care facility, upon receipt. The professional person, health care
3 provider, or health care facility, or persons acting under their
4 direction shall make the statement of revocation part of the
5 principal's medical record; and

6 (b) As to the principal's agent, upon receipt. The principal's
7 agent shall notify the principal's health care provider, professional
8 person, or health care facility of the revocation and provide them with
9 a copy of the written statement of revocation.

10 (5) A directive also may:

11 (a) Be revoked, in whole or in part, expressly or to the extent of
12 any inconsistency, by a subsequent directive; or

13 (b) Be superseded or revoked by a court order, including any order
14 entered in a criminal matter. To the extent a directive is not in
15 conflict with a court order, the directive remains effective. A

16 directive shall not be interpreted in a manner that interferes with:

17 (i) Incarceration or detention by the department of corrections, in a
18 city or county jail, or by the department of social and health
19 services; or (ii) supervision of a principal who is subject to
20 involuntary treatment pursuant to chapter 10.77, 70.96A, 71.05, 71.09,
21 or 71.34 RCW.

22 (6) A directive that would have otherwise expired but is effective
23 because the principal is incapacitated remains effective until the
24 principal is no longer incapacitated unless the principal has elected
25 to be able to revoke while incapacitated and has revoked the directive.

26 (7) When a principal with capacity consents to treatment that
27 differs from, or refuses treatment consented to in, the provisions of
28 his or her directive, the consent or refusal constitutes a waiver of
29 that provision and does not constitute a revocation of the provision or
30 directive unless the principal also revokes the directive or provision.

31 NEW SECTION. **Sec. 9.** A witness may not be any of the following:

32 (1) A person designated to make health care decisions on the
33 principal's behalf;

34 (2) A health care provider or professional person directly involved
35 with the provision of care to the principal at the time the directive
36 is executed;

1 (3) An owner, operator, employee, or relative of an owner or
2 operator of a health care facility or long-term care facility in which
3 the principal is a patient or resident;

4 (4) A person who is related by blood, marriage, or adoption to the
5 person or with whom the principal has a dating relationship, as defined
6 in RCW 26.50.010;

7 (5) A person who is declared to be an incapacitated person; or

8 (6) A person who would benefit financially if the principal making
9 the directive undergoes mental health treatment.

10 NEW SECTION. **Sec. 10.** (1) If a directive authorizes the
11 appointment of an agent, the provisions of chapter 11.94 RCW and RCW
12 7.70.065 shall apply unless otherwise stated in this chapter.

13 (2) The principal who appoints an agent must notify the agent in
14 writing of the appointment.

15 (3) An agent must act in good faith.

16 (4) An agent may make decisions on behalf of the principal only
17 pursuant to the terms of the directive, unless the principal has
18 revoked the directive. The decisions must be consistent with the
19 instructions and preferences the principal has expressed in the
20 directive, or if not expressed, as otherwise known to the agent. If
21 the principal's instructions or preferences are not known, the agent
22 shall make a decision he or she determines is in the best interest of
23 the principal.

24 (5) Except to the extent the right is limited by the appointment or
25 any federal or state law, the agent has the same right as the principal
26 to receive, review, and authorize the use and disclosure of the
27 principal's health care information when the agent is acting on behalf
28 of the principal and to the extent required for the agent to carry out
29 his or her duties. This subsection shall be construed to be consistent
30 with chapters 70.02, 70.24, 70.96A, 71.05, and 71.34 RCW, and with
31 federal law regarding health care information.

32 (6) Unless otherwise provided in the appointment and agreed to in
33 writing by the agent, the agent is not, as a result of acting in the
34 capacity of agent, personally liable for the cost of treatment provided
35 to the principal.

36 (7) An agent may resign or withdraw at any time by giving written
37 notice to the principal. The agent must also give written notice to

1 any health care provider, professional person, or health care facility
2 providing treatment to the principal. The resignation or withdrawal is
3 effective upon receipt unless otherwise specified in the resignation or
4 withdrawal.

5 (8) If the directive gives the agent authority to act while the
6 principal has capacity, the decisions of the principal supersede those
7 of the agent at any time the principal has capacity.

8 (9) Unless otherwise provided in the durable power of attorney, the
9 principal may revoke the agent's appointment as provided under other
10 state law.

11 **PART III**
12 **Capacity and Process for Incapacitated Persons**

13 NEW SECTION. **Sec. 11.** (1) For the purposes of this chapter, a
14 principal, agent, professional person, or health care provider may seek
15 a determination whether the principal is incapacitated or has regained
16 capacity.

17 (2)(a) For the purposes of this chapter, no adult may be declared
18 an incapacitated person except by:

19 (i) A court, if the request is made by the principal or the
20 principal's agent;

21 (ii) One mental health professional and one health care provider;
22 or

23 (iii) Two health care providers.

24 (b) One of the persons making the determination under (a)(ii) or
25 (iii) of this subsection must be a psychiatrist, psychologist, or an
26 advanced registered psychiatric nurse.

27 (3) When a professional person or health care provider requests a
28 capacity determination, he or she shall promptly inform the principal
29 that:

30 (a) A request for capacity determination has been made; and

31 (b) The principal may request that the determination be made by a
32 court.

33 (4) At least one mental health professional or health care provider
34 must personally examine the principal prior to making a capacity
35 determination.

1 (5)(a) When a court makes a determination whether a principal has
2 capacity, the court shall, at a minimum, be informed by the testimony
3 of one mental health professional familiar with the principal and
4 shall, except for good cause, give the principal an opportunity to
5 appear in court prior to the court making its determination.

6 (b) To the extent that local court rules permit, any party or
7 witness may testify telephonically.

8 (6) When a court has made a determination regarding a principal's
9 capacity and there is a subsequent change in the principal's condition,
10 subsequent determinations whether the principal is incapacitated may be
11 made in accordance with any of the provisions of subsection (2) of this
12 section.

13 NEW SECTION. **Sec. 12.** A principal may bring an action to contest
14 the validity of his or her directive. If an action under this section
15 is commenced while an action to determine the principal's capacity is
16 pending, the court shall consolidate the actions and decide the issues
17 simultaneously.

18 NEW SECTION. **Sec. 13.** (1) An initial determination of capacity
19 must be completed within forty-eight hours of a request made by a
20 person authorized in section 11 of this act. During the period between
21 the request for an initial determination of the principal's capacity
22 and completion of that determination, the principal may not be treated
23 unless he or she consents at the time or treatment is otherwise
24 authorized by state or federal law.

25 (2)(a)(i) When an incapacitated principal is admitted to inpatient
26 treatment pursuant to the provisions of his or her directive, his or
27 her capacity must be reevaluated within seventy-two hours or when there
28 has been a change in the principal's condition that indicates that he
29 or she appears to have regained capacity, whichever occurs first.

30 (ii) When an incapacitated principal has been admitted to and
31 remains in inpatient treatment for more than seventy-two hours pursuant
32 to the provisions of his or her directive, the principal's capacity
33 must be reevaluated when there has been a change in his or her
34 condition that indicates that he or she appears to have regained
35 capacity.

1 (iii) When a principal who is being treated on an inpatient basis
2 and has been determined to be incapacitated requests, or his or her
3 agent requests, a redetermination of the principal's capacity the
4 redetermination must be made within seventy-two hours.

5 (b) When a principal who has been determined to be incapacitated is
6 being treated on an outpatient basis and there is a request for a
7 redetermination of his or her capacity, the redetermination must be
8 made within five days of the first request following a determination.

9 (3)(a) When a principal who has appointed an agent for mental
10 health treatment decisions requests a determination or redetermination
11 of capacity, the agent must make reasonable efforts to obtain the
12 determination.

13 (b) When a principal who does not have an agent for mental health
14 treatment decisions is being treated in an inpatient facility and
15 requests a determination or redetermination of capacity, the mental
16 health professional or health care provider must complete the
17 determination or, if the principal is seeking a determination from a
18 court, must make reasonable efforts to notify the person authorized to
19 make decisions for the principal under RCW 7.70.065 of the principal's
20 request.

21 (c) When a principal who does not have an agent for mental health
22 treatment decisions is being treated on an outpatient basis, the person
23 requesting a capacity determination must arrange for the determination.

24 (4) If no determination has been made within the time frames
25 established in subsection (1) or (2) of this section, the principal
26 shall be considered to have capacity.

27 (5) When an incapacitated principal is being treated pursuant to
28 his or her directive, a request for a redetermination of capacity does
29 not prevent treatment.

30 NEW SECTION. **Sec. 14.** (1) A principal who:

31 (a) Chose not to be able to revoke his or her directive during any
32 period of incapacity;

33 (b) Consented to voluntary admission to inpatient mental health
34 treatment, or authorized an agent to consent on the principal's behalf;
35 and

36 (c) At the time of admission to inpatient treatment, refuses to be
37 admitted,

1 may only be admitted into inpatient mental health treatment under
2 subsection (2) of this section.

3 (2) A principal may only be admitted to inpatient mental health
4 treatment under his or her directive if, prior to admission, a
5 physician member of the treating facility's professional staff:

6 (a) Evaluates the principal's mental condition, including a review
7 of reasonably available psychiatric and psychological history,
8 diagnosis, and treatment needs, and determines, in conjunction with
9 another health care provider or mental health professional, that the
10 principal is incapacitated;

11 (b) Obtains the informed consent of the agent, if any, designated
12 in the directive;

13 (c) Makes a written determination that the principal needs an
14 inpatient evaluation or is in need of inpatient treatment and that the
15 evaluation or treatment cannot be accomplished in a less restrictive
16 setting; and

17 (d) Documents in the principal's medical record a summary of the
18 physician's findings and recommendations for treatment or evaluation.

19 (3) In the event the admitting physician is not a psychiatrist, the
20 principal shall receive a complete psychological assessment by a mental
21 health professional within twenty-four hours of admission to determine
22 the continued need for inpatient evaluation or treatment.

23 (4)(a) If it is determined that the principal has capacity, then
24 the principal may only be admitted to, or remain in, inpatient
25 treatment if he or she consents at the time or is detained under the
26 involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34
27 RCW.

28 (b) If a principal who is determined by two health care providers
29 or one mental health professional and one health care provider to be
30 incapacitated continues to refuse inpatient treatment, the principal
31 may immediately seek injunctive relief for release from the facility.

32 (5) If, at the end of the period of time that the principal or the
33 principal's agent, if any, has consented to voluntary inpatient
34 treatment, but no more than fourteen days after admission, the
35 principal has not regained capacity or has regained capacity but
36 refuses to consent to remain for additional treatment, the principal
37 must be released during reasonable daylight hours, unless detained
38 under chapter 70.96A, 71.05, or 71.34 RCW.

1 (6)(a) Except as provided in (b) of this subsection, any principal
2 who is voluntarily admitted to inpatient mental health treatment under
3 this chapter shall have all the rights provided to individuals who are
4 voluntarily admitted to inpatient treatment under chapter 71.05, 71.34,
5 or 72.23 RCW.

6 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
7 treatment for a specified length of time, the choices an incapacitated
8 principal expressed in his or her directive shall control.

9 (7) Consent to inpatient admission in a directive is effective only
10 while the professional person, health care provider, and health care
11 facility are in substantial compliance with the material provisions of
12 the directive related to inpatient treatment.

13 **PART IV**

14 **Provider Responsibilities and Immunities**

15 NEW SECTION. **Sec. 15.** (1) Upon receiving a directive, a health
16 care provider, professional person, or health care facility providing
17 treatment to the principal, or persons acting under the direction of
18 the health care provider, professional person, or health care facility,
19 shall make the directive a part of the principal's medical record and
20 shall be deemed to have actual knowledge of the directive's contents.

21 (2) When acting under authority of a directive, a health care
22 provider, professional person, or health care facility shall act in
23 accordance with the provisions of the directive to the fullest extent
24 possible, unless in the determination of the health care provider,
25 professional person, or health care facility:

26 (a) Compliance with the provision would violate the accepted
27 standard of care established in RCW 7.70.040;

28 (b) The requested treatment is not available;

29 (c) Compliance with the provision would violate applicable law; or

30 (d) It is an emergency situation and compliance would endanger any
31 person's life or health.

32 (3) In the case of a principal committed under chapters 10.77,
33 70.96A, 71.05, 71.09, and 71.34 RCW, treatment measures other than
34 those requiring a court order may be given despite the refusal of the
35 principal or the provisions of the directive:

36 (a) For any reason under subsection (2) of this section; or

1 (b) If, without the benefit of the specific treatment measure,
2 there is a significant possibility that the person will harm self or
3 others before an improvement of the person's condition occurs.

4 Nothing in this subsection (3) should be read to discourage a
5 treatment provider from following a civilly committed principal's
6 directive to the greatest extent possible under the commitment.

7 (4) In the case of a principal who is incarcerated in a state or
8 local correctional facility, provisions of the principal's directive
9 that are inconsistent with reasonable penological objectives or
10 administrative hearings regarding involuntary medication are invalid
11 during the period of incarceration.

12 (5)(a) If the health care provider, professional person, or health
13 care facility is, at the time of receiving the directive, unable or
14 unwilling to comply with any part or parts of the directive for any
15 reason, the health care provider, professional person, or health care
16 facility shall promptly notify the principal and, if applicable, his or
17 her agent and shall document the reason in the principal's medical
18 record.

19 (b) If the health care provider, professional person, or health
20 care facility is acting under authority of a directive and is unable to
21 comply with any part or parts of the directive for the reasons listed
22 in subsection (2) or (3) of this section, the health care provider,
23 professional person, or health care facility shall promptly notify the
24 principal and if applicable, his or her agent, and shall document the
25 reason in the principal's medical record.

26 (6) In the event that one part of the directive is unable to be
27 followed because of one or more of the reasons set forth in subsections
28 (2) through (4) of this section, all other parts of the directive shall
29 be followed.

30 (7) If no physician-patient relationship has previously been
31 established, nothing in this chapter requires the establishment of a
32 provider-patient relationship.

33 NEW SECTION. **Sec. 16.** Where a principal consents in a directive
34 to electroconvulsive therapy, the health care provider, professional
35 person, or health care facility, or persons acting under the direction
36 of the health care provider, professional person, or health care

1 facility, shall document the treatment and the reason it was used in
2 the principal's medical record.

3 NEW SECTION. **Sec. 17.** (1) For the purposes of this section,
4 "provider" means a private or public agency, government entity, health
5 care provider, professional person, health care facility, or person
6 acting under the direction of a health care provider or professional
7 person, health care facility, or long-term care facility.

8 (2) A provider is not subject to civil liability or sanctions for
9 unprofessional conduct under the uniform disciplinary act, chapter
10 18.130 RCW, when in good faith and without negligence:

11 (a) The provider provides treatment to a principal in the absence
12 of actual knowledge of the existence of a directive, or provides
13 treatment pursuant to a directive in the absence of actual knowledge of
14 the revocation of the directive;

15 (b) A health care provider or mental health professional determines
16 that the principal is or is not incapacitated for the purpose of
17 deciding whether to proceed according to a directive, and acts upon
18 that determination;

19 (c) The provider administers or does not administer mental health
20 treatment according to the principal's directive in good faith reliance
21 upon the validity of the directive and the directive is subsequently
22 found to be invalid;

23 (d) The provider does not provide treatment according to the
24 directive for one of the reasons authorized under section 14 of this
25 act; or

26 (e) The provider provides treatment according to the principal's
27 directive.

28 **PART V**

29 **Interpretive Provisions**

30 NEW SECTION. **Sec. 18.** (1) Where an incapacitated principal has
31 executed more than one valid directive and has not revoked any of the
32 directives:

33 (a) The directive most recently created shall be treated as the
34 principal's mental health treatment preferences and instructions as to

1 any inconsistent or conflicting provisions, unless provided otherwise
2 in either document.

3 (b) Where a directive executed under this chapter is inconsistent
4 with a directive executed under any other chapter, the most recently
5 created directive controls as to the inconsistent provisions.

6 (2) Where an incapacitated principal has appointed more than one
7 agent under chapter 11.94 RCW with authority to make mental health
8 treatment decisions, RCW 11.94.010 controls.

9 NEW SECTION. **Sec. 19.** (1) Directives validly executed before the
10 effective date of this section shall be given full force and effect
11 until revoked, superseded, or expired.

12 (2) A directive validly executed in another political jurisdiction
13 is valid to the extent permitted by Washington state law.

14 NEW SECTION. **Sec. 20.** Any person with reasonable cause to believe
15 that a directive has been created or revoked under circumstances
16 amounting to fraud, duress, or undue influence may petition the court
17 for appointment of a guardian for the person or to review the actions
18 of the agent or person alleged to be involved in improper conduct under
19 RCW 11.94.090 or 74.34.110.

20 NEW SECTION. **Sec. 21.** The fact that a person has executed a
21 directive does not constitute an indication of mental disorder or that
22 the person is not capable of providing informed consent.

23 NEW SECTION. **Sec. 22.** A person shall not be required to execute
24 or to refrain from executing a directive, nor shall the existence of a
25 directive be used as a criterion for insurance, as a condition for
26 receiving mental or physical health services, or as a condition of
27 admission to or discharge from a health care facility or long-term care
28 facility.

29 NEW SECTION. **Sec. 23.** No person or health care facility may use
30 or threaten abuse, neglect, financial exploitation, or abandonment of
31 the principal, as those terms are defined in RCW 74.34.020, to carry
32 out the directive.

1 NEW SECTION. **Sec. 24.** A directive does not limit any authority
2 otherwise provided in Title 10, 70, or 71 RCW, or any other applicable
3 state or federal laws to detain a person, take a person into custody,
4 or to admit, retain, or treat a person in a health care facility.

5 NEW SECTION. **Sec. 25.** (1) If a principal who is a resident of a
6 long-term care facility is admitted to inpatient mental health
7 treatment pursuant to his or her directive, the principal shall be
8 allowed to be readmitted to the same long-term care facility if his or
9 her inpatient admission had been for a physical condition on the same
10 basis that the principal would be readmitted under state or federal
11 statute or rule when:

12 (a) The treating facility's professional staff determine that
13 inpatient mental health treatment is no longer medically necessary for
14 the resident. The determination shall be made in writing by a
15 psychiatrist or by a mental health professional and a physician; or

16 (b) The person's consent to admission in his or her directive has
17 expired.

18 (2)(a) If the long-term care facility does not have a bed available
19 at the time of discharge, the treating facility may discharge the
20 resident, in consultation with the resident and agent if any, and in
21 accordance with a medically appropriate discharge plan, to another
22 long-term care facility.

23 (b) This section shall apply to inpatient mental health treatment
24 admission of long-term care facility residents, regardless of whether
25 the admission is directly from a facility, hospital emergency room, or
26 other location.

27 (c) This section does not restrict the right of the resident to an
28 earlier release from the inpatient treatment facility. This section
29 does not restrict the right of a long-term care facility to initiate
30 transfer or discharge of a resident who is readmitted pursuant to this
31 section, provided that the facility has complied with the laws
32 governing the transfer or discharge of a resident.

33 NEW SECTION. **Sec. 26.** Nothing in this chapter creates a legal
34 right or cause of action. Nothing in this act denies or alters any
35 existing legal right or cause of action nor may it be relied upon to
36 compel the establishment of any program or special entitlement.

1 **PART VI**
2 **The Form**

3 NEW SECTION. **Sec. 27.** The directive shall be in substantially the
4 following form:

5 Mental Health Advance Directive

6 **NOTICE TO PERSONS**

7 **CREATING A MENTAL HEALTH ADVANCE DIRECTIVE**

8 This is an important legal document. It creates an advance directive for mental health treatment. Before signing this
9 document you should know these important facts:

10 (1) This document is called an advance directive and allows you to make decisions in advance about your mental health
11 treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

12 **YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.**

13 **IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.**

14 If you choose to complete and sign this document, you may still decide to leave some items blank.

15 (2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your
16 agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with
17 your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in
18 your best interest. Your agent has the right to withdraw from the appointment at any time.

19 (3) The instructions you include with this advance directive and the authority you give your agent to act will only
20 become effective under the conditions you select in this document. You may choose to limit this directive and your
21 agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior
22 that you specify. You may also make this directive effective immediately. No matter when you choose to make
23 this directive effective, your treatment providers must still seek your informed consent at all times that you have
24 capacity to give informed consent.

25 (4) You have the right to revoke this document in writing at any time you have capacity.

26 **YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE**

27 **INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU**

28 **WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.**

29 (5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an
30 expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to
31 make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke
32 the directive.

33 (6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance
34 directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a
35 different process.

36 (7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

- 1 (8) You should be aware that there are some circumstances where your provider may not have to follow your directive.
- 2 (9) You should discuss any treatment decisions in your directive with your provider.
- 3 (10) You may ask the court to rule on the validity of your directive.

4 **PART I.**

5 **STATEMENT OF INTENT TO CREATE A**
6 **MENTAL HEALTH ADVANCE DIRECTIVE**

7 I, being a person with capacity, willfully and voluntarily execute this mental health advance directive
8 so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express
9 my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental
10 health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

11 The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all
12 completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she
13 determines is in my best interest. I intend this directive to take precedence over any other directives I have previously
14 executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either
15 document.

16 I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I
17 cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care
18 provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this
19 directive while incapacitated.

20 I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in
21 this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider,
22 professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect,
23 financial exploitation, or abandonment to carry out my directive.

24 I understand that there are some circumstances where my provider may not have to follow my directive.

25 **PART II.**

26 **WHEN THIS DIRECTIVE IS EFFECTIVE**

27 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

28 I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

29 Immediately upon my signing of this directive.

30 If I become incapacitated.

31 When the following circumstances, symptoms, or behaviors occur:

32

33

34 **PART III.**

35 **DURATION OF THIS DIRECTIVE**

36 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

37 I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

1 Remain valid and in effect for an indefinite period of time.
2 Automatically expire years from the date it was created.

3 **PART IV.**

4 **WHEN I MAY REVOKE THIS DIRECTIVE**

5 *YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.*

6 I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

7 Only when I have capacity.

8 I understand that choosing this option means I may only revoke this directive if I have capacity. I further
9 understand that if I choose this option and become incapacitated while this directive is in effect, I may receive
10 treatment that I specify in this directive, even if I object at the time.

11 Even if I am incapacitated.

12 I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further
13 understand that if I choose this option and revoke this directive while I am incapacitated I may not receive
14 treatment that I specify in this directive, even if I want the treatment.

15 **PART V.**

16 **PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS**

17 **A. Preferences and Instructions About Physician(s) to be Involved in My Treatment**

18 I would like the physician(s) named below to be involved in my treatment decisions:

19 Dr. Contact information:

20 Dr. Contact information:

21 I do not wish to be treated by Dr.

22 **B. Preferences and Instructions About Other Providers**

23 I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would
24 like the following treatment provider(s) to be contacted when this directive is effective:

25 Name Profession Contact information

26 Name Profession Contact information

27 **C. Preferences and Instructions About Medications for Psychiatric Treatment** (*initial and complete all that
28 apply*)

29 I consent, and authorize my agent (if appointed) to consent, to the following
30 medications:

31 I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the
32 following medications:

33 I am willing to take the medications excluded above if my only reason for excluding them is the side effects
34 which include

35 and these side effects can be eliminated by dosage adjustment or other means

36 I am willing to try any other medication the hospital doctor recommends

37 I am willing to try any other medications my outpatient doctor recommends

1 I do not want to try any other medications.

2 **Medication Allergies**

3 I have allergies to, or severe side effects from, the following:
4

5 **Other Medication Preferences or Instructions**

6 I have the following other preferences or instructions about medications
7

8 **D. Preferences and Instructions About Hospitalization and Alternatives**

9 *(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)*

10 In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical
11 conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities
12 designed as alternatives to psychiatric hospitalizations.

13 I would also like the interventions below to be tried before hospitalization is considered:

14 Calling someone or having someone call me when needed.

15 Name: Telephone:

16 Staying overnight with someone

17 Name: Telephone:

18 Having a mental health service provider come to see me

19 Going to a crisis triage center or emergency room

20 Staying overnight at a crisis respite (temporary) bed

21 Seeing a service provider for help with psychiatric medications

22 Other, specify:

23 **Authority to Consent to Inpatient Treatment**

24 I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health
25 treatment for days *(not to exceed 14 days)*

26 (Sign one):

27 If deemed appropriate by my agent (if appointed) and treating physician

28

29 (Signature)

30 or

31 Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for
32 hospitalization)

33

34 (Signature)

35 I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

36

37 (Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:

I do not consent to be admitted to the following hospitals:

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(initial all that apply):

- "Talk me down" one-on-one
- More medication
- Time out/privacy
- Show of authority/force
- Shift my attention to something else
- Set firm limits on my behavior
- Help me to discuss/vent feelings
- Decrease stimulation
- Offer to have neutral person settle dispute
- Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice, and so on*):

- Seclusion
- Seclusion and physical restraint (combined)
- Medication by injection
- Medication in pill or liquid form

In the event that my attending physician decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy

(ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (*sign one*):

..... I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

.....

(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

1

2 (Signature)

3 I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy,
4 but only under the following conditions:

5

6

7 (Signature)

8 **H. Preferences and Instructions About Who is Permitted to Visit**

9 If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

10 Name:

11 Name:

12 Name:

13 I understand that persons not listed above may be permitted to visit me.

14 **I. Additional Instructions About My Mental Health Care**

15 Other instructions about my mental health care:

16

17 In case of emergency, please contact:

18 Name: Address:

19 Work telephone: Home telephone:

20 Physician: Address:

21 Telephone:

22 The following may help me to avoid a hospitalization:

23

24 I generally react to being hospitalized as follows:

25

26 Staff of the hospital or crisis unit can help me by doing the following:

27

28

29 **J. Refusal of Treatment**

30 I do not consent to any mental health treatment.

31

32 (Signature)

33 **PART VI.**

34 **DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)**

35 *(Fill out this part only if you wish to appoint an agent or nominate a guardian.)*

1 I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent
2 includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or
3 procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those
4 decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not
5 expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make
6 the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity.
7 Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

8 **A. Designation of an Agent**

9 I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this
10 document and request that this person be notified immediately when this directive becomes effective:

11 Name: Address:
12 Work telephone: Home telephone:
13 Relationship:

14 **B. Designation of Alternate Agent**

15 If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to
16 serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified
17 immediately when this directive becomes effective or when my original agent is no longer my agent:

18 Name: Address:
19 Work telephone: Home telephone:
20 Relationship:

21 **C. When My Spouse is My Agent** (*initial if desired*)

22 If my spouse is my agent, that person shall remain my agent even if we become legally separated or our
23 marriage is dissolved, unless there is a court order to the contrary or I have remarried.

24 **D. Limitations on My Agent's Authority**

25 I do not grant my agent the authority to consent on my behalf to the following:

26
27

28 **E. Limitations on My Ability to Revoke this Durable Power of Attorney**

29 I choose to limit my ability to revoke this durable power of attorney as follows:

30
31

32 **F. Preference as to Court-Appointed Guardian**

33 In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate**
34 the following person **as my guardian**:

35 Name: Address:
36 Work telephone: Home telephone:
37 Relationship:

1 The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or
2 decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as
3 authorized by law.

4
5 (Signature required if nomination is made)

6 **PART VII.**
7 **OTHER DOCUMENTS**

8 *(Initial all that apply)*

9 I have executed the following documents that include the power to make decisions regarding health care services for
10 myself:

11 Health care power of attorney (chapter 11.94 RCW)

12 "Living will" (Health care directive; chapter 70.122 RCW)

13 I have appointed more than one agent. I understand that the most recently appointed agent controls except as
14 stated below:

15

16 **PART VIII.**
17 **NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS**

18 *(Fill out this part only if you wish to provide nontreatment instructions.)*

19 I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that
20 no treatment provider is required to act on them.

21 **A. Who Should Be Notified**

22 I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

23 Name: Address:

24 Day telephone: Evening telephone:

25 Name: Address:

26 Day telephone: Evening telephone:

27 **B. Preferences or Instructions About Personal Affairs**

28 I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I
29 am admitted to a mental health treatment facility:

30

31

32 **C. Additional Preferences and Instructions:**

33

34

35

36

1 **PART IX.**
2 **SIGNATURE**

3 By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my
4 informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in
5 this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed
6 consent under chapter 7.70 RCW.

7 Signature: Date:
8 Printed Name:

9 This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her
10 request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the
11 Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does
12 not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

13 (A) A person designated to make medical decisions on the principal's behalf;

14 (B) A health care provider or professional person directly involved with the provision of care to the principal at the
15 time the directive is executed;

16 (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care
17 facility in which the principal is a patient or resident;

18 (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating
19 relationship as defined in RCW 26.50.010;

20 (E) An incapacitated person;

21 (F) A person who would benefit financially if the principal undergoes mental health treatment; or

22 (G) A minor.

23 Witness 1: Signature: Date:

24 Printed Name:

25 Telephone: Address:

26 Witness 2: Signature: Date:

27 Printed Name:

28 Telephone: Address:

29 **PART X.**
30 **RECORD OF DIRECTIVE**

31 I have given a copy of this directive to the following persons:
32

33 DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE

34 THIS DIRECTIVE IN PART OR IN WHOLE

35 **PART XI.**
36 **REVOCATION OF THIS DIRECTIVE**

37 *(Initial any that apply):*

1 I am revoking the following part(s) of this directive (specify):

2

3 I am revoking all of this directive.

4 By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by
5 any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked
6 provision(s).

7 Signature: Date:

8 Printed Name:

9 **DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS**
10 **DIRECTIVE IN PART OR IN WHOLE**

11 **PART VII**

12 **Amendatory Sections**

13 **Sec. 28.** RCW 11.94.010 and 1995 c 297 s 9 are each amended to read
14 as follows:

15 (1) Whenever a principal designates another as his or her attorney
16 in fact or agent, by a power of attorney in writing, and the writing
17 contains the words "This power of attorney shall not be affected by
18 disability of the principal," or "This power of attorney shall become
19 effective upon the disability of the principal," or similar words
20 showing the intent of the principal that the authority conferred shall
21 be exercisable notwithstanding the principal's disability, the
22 authority of the attorney in fact or agent is exercisable on behalf of
23 the principal as provided notwithstanding later disability or
24 incapacity of the principal at law or later uncertainty as to whether
25 the principal is dead or alive. All acts done by the attorney in fact
26 or agent pursuant to the power during any period of disability or
27 incompetence or uncertainty as to whether the principal is dead or
28 alive have the same effect and inure to the benefit of and bind the
29 principal or the principal's guardian or heirs, devisees, and personal
30 representative as if the principal were alive, competent, and not
31 disabled. A principal may nominate, by a durable power of attorney,
32 the guardian or limited guardian of his or her estate or person for
33 consideration by the court if protective proceedings for the
34 principal's person or estate are thereafter commenced. The court shall
35 make its appointment in accordance with the principal's most recent
36 nomination in a durable power of attorney except for good cause or

1 disqualification. If a guardian thereafter is appointed for the
2 principal, the attorney in fact or agent, during the continuance of the
3 appointment, shall account to the guardian rather than the principal.
4 The guardian has the same power the principal would have had if the
5 principal were not disabled or incompetent, to revoke, suspend or
6 terminate all or any part of the power of attorney or agency.

7 (2) Persons shall place reasonable reliance on any determination of
8 disability or incompetence as provided in the instrument that specifies
9 the time and the circumstances under which the power of attorney
10 document becomes effective.

11 (3)(a) A principal may authorize his or her attorney-in-fact to
12 provide informed consent for health care decisions on the principal's
13 behalf. If a principal has appointed more than one agent with
14 authority to make mental health treatment decisions in accordance with
15 a directive under chapter 71.-- RCW (sections 1 through 27 of this
16 act), to the extent of any conflict, the most recently appointed agent
17 shall be treated as the principal's agent for mental health treatment
18 decisions unless provided otherwise in either appointment.

19 (b) Unless he or she is the spouse, or adult child or brother or
20 sister of the principal, none of the following persons may act as the
21 attorney-in-fact for the principal: Any of the principal's physicians,
22 the physicians' employees, or the owners, administrators, or employees
23 of the health care facility or long-term care facility as defined in
24 RCW 43.190.020 where the principal resides or receives care. Except
25 when the principal has consented in a mental health advance directive
26 executed under chapter 71.-- RCW (sections 1 through 27 of this act),
27 this authorization is subject to the same limitations as those that
28 apply to a guardian under RCW 11.92.043(5) (a) through (c).

29 NEW SECTION. Sec. 29. A new section is added to chapter 11.94 RCW
30 to read as follows:

31 No person appointed by a principal as an agent to make mental
32 health treatment decisions pursuant to a mental health advance
33 directive under chapter 71.-- RCW (sections 1 through 27 of this act)
34 shall be compensated for the performance of his or her duties as an
35 agent to make mental health treatment decisions. This section does not
36 prohibit an agent from receiving reimbursement for reasonable expenses

1 incurred in the performance of his or her duties under chapter 71.--
2 RCW (sections 1 through 27 of this act).

3 **Sec. 30.** RCW 7.70.065 and 1987 c 162 s 1 are each amended to read
4 as follows:

5 (1) Informed consent for health care for a patient who is not
6 competent, as defined in RCW 11.88.010(1)((~~b~~)) (e), to consent may be
7 obtained from a person authorized to consent on behalf of such patient.
8 Persons authorized to provide informed consent to health care on behalf
9 of a patient who is not competent to consent shall be a member of one
10 of the following classes of persons in the following order of priority:

11 (a) The appointed guardian of the patient, if any;

12 (b) The individual, if any, to whom the patient has given a durable
13 power of attorney that encompasses the authority to make health care
14 decisions;

15 (c) The patient's spouse;

16 (d) Children of the patient who are at least eighteen years of age;

17 (e) Parents of the patient; and

18 (f) Adult brothers and sisters of the patient.

19 (2) If the physician seeking informed consent for proposed health
20 care of the patient who is not competent to consent makes reasonable
21 efforts to locate and secure authorization from a competent person in
22 the first or succeeding class and finds no such person available,
23 authorization may be given by any person in the next class in the order
24 of descending priority. However, no person under this section may
25 provide informed consent to health care:

26 (a) If a person of higher priority under this section has refused
27 to give such authorization; or

28 (b) If there are two or more individuals in the same class and the
29 decision is not unanimous among all available members of that class.

30 (3) Before any person authorized to provide informed consent on
31 behalf of a patient not competent to consent exercises that authority,
32 the person must first determine in good faith that that patient, if
33 competent, would consent to the proposed health care. If such a
34 determination cannot be made, the decision to consent to the proposed
35 health care may be made only after determining that the proposed health
36 care is in the patient's best interests.

1 NEW SECTION. **Sec. 31.** A new section is added to chapter 7.70 RCW
2 to read as follows:

3 Consent to treatment or admission contained in a validly executed
4 mental health advance directive constitutes informed consent for
5 purposes of this chapter.

6 NEW SECTION. **Sec. 32.** A new section is added to chapter 9A.60 RCW
7 to read as follows:

8 (1) For purposes of this section "mental health advance directive"
9 means a written document that is a "mental health advance directive" as
10 defined in section 2 of this act.

11 (2) A person is guilty of fraudulent creation or revocation of a
12 mental health advance directive if he or she knowingly:

13 (a) Makes, completes, alters, or revokes the mental health advance
14 directive of another and without the principal's consent;

15 (b) Possesses, utters, offers, or puts off as true a mental health
16 advance directive that he or she knows to be forged; or

17 (c) Obtains or prevents the signature of a principal or witness to
18 a mental health advance directive by deception or duress.

19 (3) Fraudulent creation or revocation of a mental health advance
20 directive is a class C felony.

21 **Sec. 33.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
22 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
23 s 4 are each reenacted and amended to read as follows:

	TABLE 2
	CRIMES INCLUDED WITHIN
	EACH SERIOUSNESS LEVEL
24	
25	
26	
27	XVI Aggravated Murder 1 (RCW
28	10.95.020)
29	XV Homicide by abuse (RCW 9A.32.055)
30	Malicious explosion 1 (RCW
31	70.74.280(1))
32	Murder 1 (RCW 9A.32.030)
33	XIV Murder 2 (RCW 9A.32.050)

1 XIII Malicious explosion 2 (RCW
2 70.74.280(2))
3 Malicious placement of an explosive 1
4 (RCW 70.74.270(1))
5 XII Assault 1 (RCW 9A.36.011)
6 Assault of a Child 1 (RCW 9A.36.120)
7 Malicious placement of an imitation
8 device 1 (RCW 70.74.272(1)(a))
9 Rape 1 (RCW 9A.44.040)
10 Rape of a Child 1 (RCW 9A.44.073)
11 XI Manslaughter 1 (RCW 9A.32.060)
12 Rape 2 (RCW 9A.44.050)
13 Rape of a Child 2 (RCW 9A.44.076)
14 X Child Molestation 1 (RCW 9A.44.083)
15 Indecent Liberties (with forcible
16 compulsion) (RCW
17 9A.44.100(1)(a))
18 Kidnapping 1 (RCW 9A.40.020)
19 Leading Organized Crime (RCW
20 9A.82.060(1)(a))
21 Malicious explosion 3 (RCW
22 70.74.280(3))
23 Manufacture of methamphetamine
24 (RCW 69.50.401(a)(1)(ii))
25 Over 18 and deliver heroin,
26 methamphetamine, a narcotic
27 from Schedule I or II, or
28 flunitrazepam from Schedule IV
29 to someone under 18 (RCW
30 69.50.406)
31 Sexually Violent Predator Escape
32 (RCW 9A.76.115)
33 IX Assault of a Child 2 (RCW 9A.36.130)
34 Controlled Substance Homicide (RCW
35 69.50.415)
36 Explosive devices prohibited (RCW
37 70.74.180)

1 Hit and Run--Death (RCW
2 46.52.020(4)(a))
3 Homicide by Watercraft, by being
4 under the influence of intoxicating
5 liquor or any drug (RCW
6 79A.60.050)
7 Inciting Criminal Profiteering (RCW
8 9A.82.060(1)(b))
9 Malicious placement of an explosive 2
10 (RCW 70.74.270(2))
11 Over 18 and deliver narcotic from
12 Schedule III, IV, or V or a
13 nonnarcotic, except flunitrazepam
14 or methamphetamine, from
15 Schedule I-V to someone under 18
16 and 3 years junior (RCW
17 69.50.406)
18 Robbery 1 (RCW 9A.56.200)
19 Sexual Exploitation (RCW 9.68A.040)
20 Vehicular Homicide, by being under
21 the influence of intoxicating
22 liquor or any drug (RCW
23 46.61.520)
24 VIII Arson 1 (RCW 9A.48.020)
25 Deliver or possess with intent to
26 deliver methamphetamine (RCW
27 69.50.401(a)(1)(ii))
28 Homicide by Watercraft, by the
29 operation of any vessel in a
30 reckless manner (RCW
31 79A.60.050)
32 Manslaughter 2 (RCW 9A.32.070)
33 Manufacture, deliver, or possess with
34 intent to deliver amphetamine
35 (RCW 69.50.401(a)(1)(ii))

1 Manufacture, deliver, or possess with
2 intent to deliver heroin or cocaine
3 (when the offender has a criminal
4 history in this state or any other
5 state that includes a sex offense or
6 serious violent offense or the
7 Washington equivalent) (RCW
8 69.50.401(a)(1)(i))
9 Possession of Ephedrine or any of its
10 Salts or Isomers or Salts of
11 Isomers, Pseudoephedrine or any
12 of its Salts or Isomers or Salts of
13 Isomers, Pressurized Ammonia
14 Gas, or Pressurized Ammonia Gas
15 Solution with intent to
16 manufacture methamphetamine
17 (RCW 69.50.440)
18 Promoting Prostitution 1 (RCW
19 9A.88.070)
20 Selling for profit (controlled or
21 counterfeit) any controlled
22 substance (RCW 69.50.410)
23 Theft of Ammonia (RCW 69.55.010)
24 Vehicular Homicide, by the operation
25 of any vehicle in a reckless
26 manner (RCW 46.61.520)
27 VII Burglary 1 (RCW 9A.52.020)
28 Child Molestation 2 (RCW 9A.44.086)
29 Civil Disorder Training (RCW
30 9A.48.120)
31 Dealing in depictions of minor
32 engaged in sexually explicit
33 conduct (RCW 9.68A.050)
34 Drive-by Shooting (RCW 9A.36.045)
35 Homicide by Watercraft, by disregard
36 for the safety of others (RCW
37 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Involving a minor in drug dealing
7 (RCW 69.50.401(f))
8 Malicious placement of an explosive 3
9 (RCW 70.74.270(3))
10 Manufacture, deliver, or possess with
11 intent to deliver heroin or cocaine
12 (except when the offender has a
13 criminal history in this state or
14 any other state that includes a sex
15 offense or serious violent offense
16 or the Washington equivalent)
17 (RCW 69.50.401(a)(1)(i))
18 Sending, bringing into state depictions
19 of minor engaged in sexually
20 explicit conduct (RCW
21 9.68A.060)
22 Unlawful Possession of a Firearm in
23 the first degree (RCW
24 9.41.040(1)(a))
25 Use of a Machine Gun in Commission
26 of a Felony (RCW 9.41.225)
27 Vehicular Homicide, by disregard for
28 the safety of others (RCW
29 46.61.520)
30 VI Bail Jumping with Murder 1 (RCW
31 9A.76.170(3)(a))
32 Bribery (RCW 9A.68.010)
33 Incest 1 (RCW 9A.64.020(1))
34 Intimidating a Judge (RCW
35 9A.72.160)
36 Intimidating a Juror/Witness (RCW
37 9A.72.110, 9A.72.130)

1 Malicious placement of an imitation
2 device 2 (RCW 70.74.272(1)(b))
3 Manufacture, deliver, or possess with
4 intent to deliver narcotics from
5 Schedule I or II (except heroin or
6 cocaine) or flunitrazepam from
7 Schedule IV (RCW
8 69.50.401(a)(1)(i))
9 Rape of a Child 3 (RCW 9A.44.079)
10 Theft of a Firearm (RCW 9A.56.300)
11 Unlawful Storage of Ammonia (RCW
12 69.55.020)
13 V Abandonment of dependent person 1
14 (RCW 9A.42.060)
15 Advancing money or property for
16 extortionate extension of credit
17 (RCW 9A.82.030)
18 Bail Jumping with class A Felony
19 (RCW 9A.76.170(3)(b))
20 Child Molestation 3 (RCW 9A.44.089)
21 Criminal Mistreatment 1 (RCW
22 9A.42.020)
23 Custodial Sexual Misconduct 1 (RCW
24 9A.44.160)
25 Delivery of imitation controlled
26 substance by person eighteen or
27 over to person under eighteen
28 (RCW 69.52.030(2))
29 Domestic Violence Court Order
30 Violation (RCW 10.99.040,
31 10.99.050, 26.09.300, 26.10.220,
32 26.26.138, 26.50.110, 26.52.070,
33 or 74.34.145)
34 Extortion 1 (RCW 9A.56.120)
35 Extortionate Extension of Credit
36 (RCW 9A.82.020)

1 Extortionate Means to Collect
2 Extensions of Credit (RCW
3 9A.82.040)
4 Incest 2 (RCW 9A.64.020(2))
5 Kidnapping 2 (RCW 9A.40.030)
6 Perjury 1 (RCW 9A.72.020)
7 Persistent prison misbehavior (RCW
8 9.94.070)
9 Possession of a Stolen Firearm (RCW
10 9A.56.310)
11 Rape 3 (RCW 9A.44.060)
12 Rendering Criminal Assistance 1
13 (RCW 9A.76.070)
14 Sexual Misconduct with a Minor 1
15 (RCW 9A.44.093)
16 Sexually Violating Human Remains
17 (RCW 9A.44.105)
18 Stalking (RCW 9A.46.110)
19 Taking Motor Vehicle Without
20 Permission 1 (RCW
21 9A.56.070(1))
22 IV Arson 2 (RCW 9A.48.030)
23 Assault 2 (RCW 9A.36.021)
24 Assault by Watercraft (RCW
25 79A.60.060)
26 Bribing a Witness/Bribe Received by
27 Witness (RCW 9A.72.090,
28 9A.72.100)
29 Cheating 1 (RCW 9.46.1961)
30 Commercial Bribery (RCW
31 9A.68.060)
32 Counterfeiting (RCW 9.16.035(4))
33 Endangerment with a Controlled
34 Substance (RCW 9A.42.100)
35 Escape 1 (RCW 9A.76.110)
36 Hit and Run--Injury (RCW
37 46.52.020(4)(b))

1 Hit and Run with Vessel--Injury
2 Accident (RCW 79A.60.200(3))
3 Identity Theft 1 (RCW 9.35.020(2)(a))
4 Indecent Exposure to Person Under
5 Age Fourteen (subsequent sex
6 offense) (RCW 9A.88.010)
7 Influencing Outcome of Sporting
8 Event (RCW 9A.82.070)
9 Knowingly Trafficking in Stolen
10 Property (RCW 9A.82.050(2))
11 Malicious Harassment (RCW
12 9A.36.080)
13 Manufacture, deliver, or possess with
14 intent to deliver narcotics from
15 Schedule III, IV, or V or
16 nonnarcotics from Schedule I-V
17 (except marijuana, amphetamine,
18 methamphetamines, or
19 flunitrazepam) (RCW
20 69.50.401(a)(1) (iii) through (v))
21 Residential Burglary (RCW
22 9A.52.025)
23 Robbery 2 (RCW 9A.56.210)
24 Theft of Livestock 1 (RCW 9A.56.080)
25 Threats to Bomb (RCW 9.61.160)
26 Use of Proceeds of Criminal
27 Profiteering (RCW 9A.82.080 (1)
28 and (2))
29 Vehicular Assault, by being under the
30 influence of intoxicating liquor or
31 any drug, or by the operation or
32 driving of a vehicle in a reckless
33 manner (RCW 46.61.522)
34 Willful Failure to Return from
35 Furlough (RCW 72.66.060)
36 III Abandonment of dependent person 2
37 (RCW 9A.42.070)

1 Assault 3 (RCW 9A.36.031)
2 Assault of a Child 3 (RCW 9A.36.140)
3 Bail Jumping with class B or C Felony
4 (RCW 9A.76.170(3)(c))
5 Burglary 2 (RCW 9A.52.030)
6 Communication with a Minor for
7 Immoral Purposes (RCW
8 9.68A.090)
9 Criminal Gang Intimidation (RCW
10 9A.46.120)
11 Criminal Mistreatment 2 (RCW
12 9A.42.030)
13 Custodial Assault (RCW 9A.36.100)
14 Delivery of a material in lieu of a
15 controlled substance (RCW
16 69.50.401(c))
17 Escape 2 (RCW 9A.76.120)
18 Extortion 2 (RCW 9A.56.130)
19 Harassment (RCW 9A.46.020)
20 Intimidating a Public Servant (RCW
21 9A.76.180)
22 Introducing Contraband 2 (RCW
23 9A.76.150)
24 Maintaining a Dwelling or Place for
25 Controlled Substances (RCW
26 69.50.402(a)(6))
27 Malicious Injury to Railroad Property
28 (RCW 81.60.070)
29 Manufacture, deliver, or possess with
30 intent to deliver marijuana (RCW
31 69.50.401(a)(1)(iii))
32 Manufacture, distribute, or possess
33 with intent to distribute an
34 imitation controlled substance
35 (RCW 69.52.030(1))
36 Patronizing a Juvenile Prostitute
37 (RCW 9.68A.100)

1 Perjury 2 (RCW 9A.72.030)
2 Possession of Incendiary Device (RCW
3 9.40.120)
4 Possession of Machine Gun or Short-
5 Barreled Shotgun or Rifle (RCW
6 9.41.190)
7 Promoting Prostitution 2 (RCW
8 9A.88.080)
9 Recklessly Trafficking in Stolen
10 Property (RCW 9A.82.050(1))
11 Securities Act violation (RCW
12 21.20.400)
13 Tampering with a Witness (RCW
14 9A.72.120)
15 Telephone Harassment (subsequent
16 conviction or threat of death)
17 (RCW 9.61.230)
18 Theft of Livestock 2 (RCW 9A.56.080)
19 Unlawful Imprisonment (RCW
20 9A.40.040)
21 Unlawful possession of firearm in the
22 second degree (RCW
23 9.41.040(1)(b))
24 Unlawful Use of Building for Drug
25 Purposes (RCW 69.53.010)
26 Vehicular Assault, by the operation or
27 driving of a vehicle with disregard
28 for the safety of others (RCW
29 46.61.522)
30 Willful Failure to Return from Work
31 Release (RCW 72.65.070)
32 II Computer Trespass 1 (RCW
33 9A.52.110)
34 Counterfeiting (RCW 9.16.035(3))
35 Create, deliver, or possess a counterfeit
36 controlled substance (RCW
37 69.50.401(b))

1 Escape from Community Custody
2 (RCW 72.09.310)
3 Health Care False Claims (RCW
4 48.80.030)
5 Identity Theft 2 (RCW 9.35.020(2)(b))
6 Improperly Obtaining Financial
7 Information (RCW 9.35.010)
8 Malicious Mischief 1 (RCW
9 9A.48.070)
10 Possession of controlled substance that
11 is either heroin or narcotics from
12 Schedule I or II or flunitrazepam
13 from Schedule IV (RCW
14 69.50.401(d))
15 Possession of phencyclidine (PCP)
16 (RCW 69.50.401(d))
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Theft of Rental, Leased, or Lease-
21 purchased Property (valued at one
22 thousand five hundred dollars or
23 more) (RCW 9A.56.096(4))
24 Trafficking in Insurance Claims (RCW
25 48.30A.015)
26 Unlawful Practice of Law (RCW
27 2.48.180)
28 Unlicensed Practice of a Profession or
29 Business (RCW 18.130.190(7))
30 I Attempting to Elude a Pursuing Police
31 Vehicle (RCW 46.61.024)
32 False Verification for Welfare (RCW
33 74.08.055)
34 Forged Prescription (RCW 69.41.020)
35 Forged Prescription for a Controlled
36 Substance (RCW 69.50.403)
37 Forgery (RCW 9A.60.020)

1 Fraudulent Creation or Revocation of a
2 Mental Health Advance Directive
3 (section 32 of this act)
4 Malicious Mischief 2 (RCW
5 9A.48.080)
6 Possess Controlled Substance that is a
7 Narcotic from Schedule III, IV, or
8 V or Non-narcotic from Schedule
9 I-V (except phencyclidine or
10 flunitrazepam) (RCW
11 69.50.401(d))
12 Possession of Stolen Property 2 (RCW
13 9A.56.160)
14 Reckless Burning 1 (RCW 9A.48.040)
15 Taking Motor Vehicle Without
16 Permission 2 (RCW
17 9A.56.070(2))
18 Theft 2 (RCW 9A.56.040)
19 Theft of Rental, Leased, or Lease-
20 purchased Property (valued at two
21 hundred fifty dollars or more but
22 less than one thousand five
23 hundred dollars) (RCW
24 9A.56.096(4))
25 Unlawful Issuance of Checks or Drafts
26 (RCW 9A.56.060)
27 Unlawful Use of Food Stamps (RCW
28 9.91.140 (2) and (3))
29 Vehicle Prowl 1 (RCW 9A.52.095)

30 **Sec. 34.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
31 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
32 s 4 are each reenacted and amended to read as follows:

33 TABLE 2
34 CRIMES INCLUDED WITHIN
35 EACH SERIOUSNESS LEVEL

1 XVI Aggravated Murder 1 (RCW
2 10.95.020)
3 XV Homicide by abuse (RCW 9A.32.055)
4 Malicious explosion 1 (RCW
5 70.74.280(1))
6 Murder 1 (RCW 9A.32.030)
7 XIV Murder 2 (RCW 9A.32.050)
8 XIII Malicious explosion 2 (RCW
9 70.74.280(2))
10 Malicious placement of an explosive 1
11 (RCW 70.74.270(1))
12 XII Assault 1 (RCW 9A.36.011)
13 Assault of a Child 1 (RCW 9A.36.120)
14 Malicious placement of an imitation
15 device 1 (RCW 70.74.272(1)(a))
16 Rape 1 (RCW 9A.44.040)
17 Rape of a Child 1 (RCW 9A.44.073)
18 XI Manslaughter 1 (RCW 9A.32.060)
19 Rape 2 (RCW 9A.44.050)
20 Rape of a Child 2 (RCW 9A.44.076)
21 X Child Molestation 1 (RCW 9A.44.083)
22 Indecent Liberties (with forcible
23 compulsion) (RCW
24 9A.44.100(1)(a))
25 Kidnapping 1 (RCW 9A.40.020)
26 Leading Organized Crime (RCW
27 9A.82.060(1)(a))
28 Malicious explosion 3 (RCW
29 70.74.280(3))
30 Sexually Violent Predator Escape
31 (RCW 9A.76.115)
32 IX Assault of a Child 2 (RCW 9A.36.130)
33 Explosive devices prohibited (RCW
34 70.74.180)
35 Hit and Run--Death (RCW
36 46.52.020(4)(a))

1 Homicide by Watercraft, by being
2 under the influence of intoxicating
3 liquor or any drug (RCW
4 79A.60.050)
5 Inciting Criminal Profiteering (RCW
6 9A.82.060(1)(b))
7 Malicious placement of an explosive 2
8 (RCW 70.74.270(2))
9 Robbery 1 (RCW 9A.56.200)
10 Sexual Exploitation (RCW 9.68A.040)
11 Vehicular Homicide, by being under
12 the influence of intoxicating
13 liquor or any drug (RCW
14 46.61.520)
15 VIII Arson 1 (RCW 9A.48.020)
16 Homicide by Watercraft, by the
17 operation of any vessel in a
18 reckless manner (RCW
19 79A.60.050)
20 Manslaughter 2 (RCW 9A.32.070)
21 Promoting Prostitution 1 (RCW
22 9A.88.070)
23 Theft of Ammonia (RCW 69.55.010)
24 Vehicular Homicide, by the operation
25 of any vehicle in a reckless
26 manner (RCW 46.61.520)
27 VII Burglary 1 (RCW 9A.52.020)
28 Child Molestation 2 (RCW 9A.44.086)
29 Civil Disorder Training (RCW
30 9A.48.120)
31 Dealing in depictions of minor
32 engaged in sexually explicit
33 conduct (RCW 9.68A.050)
34 Drive-by Shooting (RCW 9A.36.045)
35 Homicide by Watercraft, by disregard
36 for the safety of others (RCW
37 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Malicious placement of an explosive 3
7 (RCW 70.74.270(3))
8 Sending, bringing into state depictions
9 of minor engaged in sexually
10 explicit conduct (RCW
11 9.68A.060)
12 Unlawful Possession of a Firearm in
13 the first degree (RCW
14 9.41.040(1)(a))
15 Use of a Machine Gun in Commission
16 of a Felony (RCW 9.41.225)
17 Vehicular Homicide, by disregard for
18 the safety of others (RCW
19 46.61.520)
20 VI Bail Jumping with Murder 1 (RCW
21 9A.76.170(3)(a))
22 Bribery (RCW 9A.68.010)
23 Incest 1 (RCW 9A.64.020(1))
24 Intimidating a Judge (RCW
25 9A.72.160)
26 Intimidating a Juror/Witness (RCW
27 9A.72.110, 9A.72.130)
28 Malicious placement of an imitation
29 device 2 (RCW 70.74.272(1)(b))
30 Rape of a Child 3 (RCW 9A.44.079)
31 Theft of a Firearm (RCW 9A.56.300)
32 Unlawful Storage of Ammonia (RCW
33 69.55.020)
34 V Abandonment of dependent person 1
35 (RCW 9A.42.060)

1 Advancing money or property for
2 extortionate extension of credit
3 (RCW 9A.82.030)
4 Bail Jumping with class A Felony
5 (RCW 9A.76.170(3)(b))
6 Child Molestation 3 (RCW 9A.44.089)
7 Criminal Mistreatment 1 (RCW
8 9A.42.020)
9 Custodial Sexual Misconduct 1 (RCW
10 9A.44.160)
11 Domestic Violence Court Order
12 Violation (RCW 10.99.040,
13 10.99.050, 26.09.300, 26.10.220,
14 26.26.138, 26.50.110, 26.52.070,
15 or 74.34.145)
16 Extortion 1 (RCW 9A.56.120)
17 Extortionate Extension of Credit
18 (RCW 9A.82.020)
19 Extortionate Means to Collect
20 Extensions of Credit (RCW
21 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 Perjury 1 (RCW 9A.72.020)
25 Persistent prison misbehavior (RCW
26 9.94.070)
27 Possession of a Stolen Firearm (RCW
28 9A.56.310)
29 Rape 3 (RCW 9A.44.060)
30 Rendering Criminal Assistance 1
31 (RCW 9A.76.070)
32 Sexual Misconduct with a Minor 1
33 (RCW 9A.44.093)
34 Sexually Violating Human Remains
35 (RCW 9A.44.105)
36 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without
2 Permission 1 (RCW
3 9A.56.070(1))
4 IV Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW
13 9A.68.060)
14 Counterfeiting (RCW 9.16.035(4))
15 Endangerment with a Controlled
16 Substance (RCW 9A.42.100)
17 Escape 1 (RCW 9A.76.110)
18 Hit and Run--Injury (RCW
19 46.52.020(4)(b))
20 Hit and Run with Vessel--Injury
21 Accident (RCW 79A.60.200(3))
22 Identity Theft 1 (RCW 9.35.020(2)(a))
23 Indecent Exposure to Person Under
24 Age Fourteen (subsequent sex
25 offense) (RCW 9A.88.010)
26 Influencing Outcome of Sporting
27 Event (RCW 9A.82.070)
28 Knowingly Trafficking in Stolen
29 Property (RCW 9A.82.050(2))
30 Malicious Harassment (RCW
31 9A.36.080)
32 Residential Burglary (RCW
33 9A.52.025)
34 Robbery 2 (RCW 9A.56.210)
35 Theft of Livestock 1 (RCW 9A.56.080)
36 Threats to Bomb (RCW 9.61.160)

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicular Assault, by being under the
5 influence of intoxicating liquor or
6 any drug, or by the operation or
7 driving of a vehicle in a reckless
8 manner (RCW 46.61.522)
9 Willful Failure to Return from
10 Furlough (RCW 72.66.060)
11 III Abandonment of dependent person 2
12 (RCW 9A.42.070)
13 Assault 3 (RCW 9A.36.031)
14 Assault of a Child 3 (RCW 9A.36.140)
15 Bail Jumping with class B or C Felony
16 (RCW 9A.76.170(3)(c))
17 Burglary 2 (RCW 9A.52.030)
18 Communication with a Minor for
19 Immoral Purposes (RCW
20 9.68A.090)
21 Criminal Gang Intimidation (RCW
22 9A.46.120)
23 Criminal Mistreatment 2 (RCW
24 9A.42.030)
25 Custodial Assault (RCW 9A.36.100)
26 Escape 2 (RCW 9A.76.120)
27 Extortion 2 (RCW 9A.56.130)
28 Harassment (RCW 9A.46.020)
29 Intimidating a Public Servant (RCW
30 9A.76.180)
31 Introducing Contraband 2 (RCW
32 9A.76.150)
33 Malicious Injury to Railroad Property
34 (RCW 81.60.070)
35 Patronizing a Juvenile Prostitute
36 (RCW 9.68A.100)
37 Perjury 2 (RCW 9A.72.030)

1 Possession of Incendiary Device (RCW
2 9.40.120)
3 Possession of Machine Gun or Short-
4 Barreled Shotgun or Rifle (RCW
5 9.41.190)
6 Promoting Prostitution 2 (RCW
7 9A.88.080)
8 Recklessly Trafficking in Stolen
9 Property (RCW 9A.82.050(1))
10 Securities Act violation (RCW
11 21.20.400)
12 Tampering with a Witness (RCW
13 9A.72.120)
14 Telephone Harassment (subsequent
15 conviction or threat of death)
16 (RCW 9.61.230)
17 Theft of Livestock 2 (RCW 9A.56.080)
18 Unlawful Imprisonment (RCW
19 9A.40.040)
20 Unlawful possession of firearm in the
21 second degree (RCW
22 9.41.040(1)(b))
23 Vehicular Assault, by the operation or
24 driving of a vehicle with disregard
25 for the safety of others (RCW
26 46.61.522)
27 Willful Failure to Return from Work
28 Release (RCW 72.65.070)
29 II Computer Trespass 1 (RCW
30 9A.52.110)
31 Counterfeiting (RCW 9.16.035(3))
32 Escape from Community Custody
33 (RCW 72.09.310)
34 Health Care False Claims (RCW
35 48.80.030)
36 Identity Theft 2 (RCW 9.35.020(2)(b))

1 Improperly Obtaining Financial
2 Information (RCW 9.35.010)
3 Malicious Mischief 1 (RCW
4 9A.48.070)
5 Possession of Stolen Property 1 (RCW
6 9A.56.150)
7 Theft 1 (RCW 9A.56.030)
8 Theft of Rental, Leased, or Lease-
9 purchased Property (valued at one
10 thousand five hundred dollars or
11 more) (RCW 9A.56.096(4))
12 Trafficking in Insurance Claims (RCW
13 48.30A.015)
14 Unlawful Practice of Law (RCW
15 2.48.180)
16 Unlicensed Practice of a Profession or
17 Business (RCW 18.130.190(7))
18 I Attempting to Elude a Pursuing Police
19 Vehicle (RCW 46.61.024)
20 False Verification for Welfare (RCW
21 74.08.055)
22 Forgery (RCW 9A.60.020)
23 Fraudulent Creation or Revocation of a
24 Mental Health Advance Directive
25 (section 32 of this act)
26 Malicious Mischief 2 (RCW
27 9A.48.080)
28 Possession of Stolen Property 2 (RCW
29 9A.56.160)
30 Reckless Burning 1 (RCW 9A.48.040)
31 Taking Motor Vehicle Without
32 Permission 2 (RCW
33 9A.56.070(2))
34 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at two
3 hundred fifty dollars or more but
4 less than one thousand five
5 hundred dollars) (RCW
6 9A.56.096(4))
7 Unlawful Issuance of Checks or Drafts
8 (RCW 9A.56.060)
9 Unlawful Use of Food Stamps (RCW
10 9.91.140 (2) and (3))
11 Vehicle Prowl 1 (RCW 9A.52.095)

12 **PART VIII**
13 **Miscellaneous Provisions**

14 NEW SECTION. **Sec. 35.** Sections 1 through 27 of this act
15 constitute a new chapter in Title 71 RCW.

16 NEW SECTION. **Sec. 36.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 37.** Section 33 of this act expires July 1,
21 2004.

22 NEW SECTION. **Sec. 38.** Section 34 of this act takes effect July 1,
23 2004.

--- END ---