
SUBSTITUTE SENATE BILL 6793

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Brown, Brandland, McAuliffe, Thibaudeau, Rockefeller and Rasmussen)

READ FIRST TIME 02/23/06.

1 AN ACT Relating to specifying roles and responsibilities with
2 respect to the treatment of persons with mental disorders; amending RCW
3 71.24.016, 71.24.045, 71.24.300, 71.24.310, 71.24.320, 71.24.3201,
4 71.24.330, 71.24.360, 72.23.010, 72.23.025, 71.05.120, 71.05.230,
5 71.05.300, and 71.05.320; reenacting and amending RCW 71.24.025 and
6 71.24.035; adding a new section to chapter 71.24 RCW; creating new
7 sections; providing an effective date; providing an expiration date;
8 and declaring an emergency.

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

10 **PART I**

11 **REGIONAL SUPPORT NETWORKS**

12 NEW SECTION. **Sec. 101.** The legislature did not intend to create
13 statutory causes of actions for regional support networks with the
14 provisions of chapters 71.05 and 71.24 RCW. The purpose of this act is
15 to make retroactive, remedial, curative, and technical amendments in
16 order to resolve any ambiguity about the legislature's intent prior to
17 September 9, 2005.

1 **Sec. 102.** RCW 71.24.016 and 2001 c 323 s 4 are each amended to
2 read as follows:

3 (1) The legislature intends that eastern and western state
4 hospitals shall become clinical centers for handling the most
5 complicated long-term care needs of patients with a primary diagnosis
6 of mental disorder. It is further the intent of the legislature that
7 the community mental health service delivery system focus on
8 maintaining mentally ill individuals in the community. The program
9 shall be evaluated and managed through a limited number of performance
10 measures designed to hold each regional support network accountable for
11 program success.

12 (2) The legislature intends to address the needs of people with
13 mental disorders with a targeted, coordinated, and comprehensive set of
14 evidence-based practices that are effective in serving individuals in
15 their community and will reduce the need for placements in state mental
16 hospitals. The legislature further intends to explicitly hold regional
17 support networks accountable for serving people with mental disorders
18 within their geographic boundaries and for not exceeding their
19 allocation of state hospital beds. Within funds appropriated by the
20 legislature for this purpose, regional support networks shall develop
21 the means to serve the needs of people with mental disorders within
22 their geographic boundaries. Elements of the program may include:

23 (a) Crisis triage;

24 (b) Evaluation and treatment and community hospital beds;

25 (c) Residential beds;

26 (d) Program for community treatment teams; and

27 (e) Outpatient services.

28 (3) The regional support network shall have the flexibility, within
29 the funds appropriated by the legislature for this purpose, to design
30 the mix of services that will be most effective within their service
31 area of meeting the needs of people with mental disorders and avoiding
32 placement of such individuals at the state mental hospital. Regional
33 support networks are encouraged to maximize the use of evidence-based
34 practices and alternative resources with the goal of eliminating the
35 use of institutions for mental diseases.

36 NEW SECTION. **Sec. 103.** A new section is added to chapter 71.24
37 RCW to read as follows:

1 Regional support networks have no claim for declaratory relief,
2 injunctive relief, administrative review, civil liability, or other
3 relief against the state, state officials, state agencies, or state
4 employees for actions or inactions performed pursuant to the
5 administration of this chapter.

6 **Sec. 104.** RCW 71.24.025 and 2005 c 504 s 105 and 2005 c 503 s 2
7 are each reenacted and amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

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

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

14 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
15 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
16 or

17 (c) Presenting a likelihood of serious harm as defined in RCW
18 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

19 (2) "Available resources" means funds appropriated for the purpose
20 of providing community mental health programs, federal funds, except
21 those provided according to Title XIX of the Social Security Act, and
22 state funds appropriated under this chapter or chapter 71.05 RCW by the
23 legislature during any biennium for the purpose of providing
24 residential services, resource management services, community support
25 services, and other mental health services. This does not include
26 funds appropriated for the purpose of operating and administering the
27 state psychiatric hospitals(~~(, except as negotiated according to RCW~~
28 ~~71.24.300(1)(d))~~)).

29 (3) "Child" means a person under the age of eighteen years.

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

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

34 (b) Has experienced a continuous psychiatric hospitalization or
35 residential treatment exceeding six months' duration within the
36 preceding year; or

1 (c) Has been unable to engage in any substantial gainful activity
2 by reason of any mental disorder which has lasted for a continuous
3 period of not less than twelve months. "Substantial gainful activity"
4 shall be defined by the department by rule consistent with Public Law
5 92-603, as amended.

6 (5) "Community mental health program" means all mental health
7 services, activities, or programs using available resources.

8 (6) "Community mental health service delivery system" means public
9 or private agencies that provide services specifically to persons with
10 mental disorders as defined under RCW 71.05.020 and receive funding
11 from public sources.

12 (7) "Community support services" means services authorized,
13 planned, and coordinated through resource management services
14 including, at a minimum, assessment, diagnosis, emergency crisis
15 intervention available twenty-four hours, seven days a week,
16 prescreening determinations for mentally ill persons being considered
17 for placement in nursing homes as required by federal law, screening
18 for patients being considered for admission to residential services,
19 diagnosis and treatment for acutely mentally ill and severely
20 emotionally disturbed children discovered under screening through the
21 federal Title XIX early and periodic screening, diagnosis, and
22 treatment program, investigation, legal, and other nonresidential
23 services under chapter 71.05 RCW, case management services, psychiatric
24 treatment including medication supervision, counseling, psychotherapy,
25 assuring transfer of relevant patient information between service
26 providers, recovery services, and other services determined by regional
27 support networks.

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

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

- 1 (10) "Department" means the department of social and health
2 services.
- 3 (11) "Designated mental health professional" means a mental health
4 professional designated by the county or other authority authorized in
5 rule to perform the duties specified in this chapter.
- 6 (12) "Emerging best practice" or "promising practice" means a
7 practice that presents, based on preliminary information, potential for
8 becoming a research-based or consensus-based practice.
- 9 (13) "Evidence-based" means a program or practice that has had
10 multiple site random controlled trials across heterogeneous populations
11 demonstrating that the program or practice is effective for the
12 population.
- 13 (14) "Licensed service provider" means an entity licensed according
14 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
15 minimum standards as a result of accreditation by a recognized
16 behavioral health accrediting body recognized and having a current
17 agreement with the department, that meets state minimum standards or
18 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
19 applies to registered nurses and advanced registered nurse
20 practitioners.
- 21 (15) "Mental health services" means all services provided by
22 regional support networks and other services provided by the state for
23 the mentally ill.
- 24 (16) "Mentally ill persons" and "the mentally ill" mean persons and
25 conditions defined in subsections (1), (4), (25), and (26) of this
26 section.
- 27 (17) "Recovery" means the process in which people are able to live,
28 work, learn, and participate fully in their communities.
- 29 (18) "Regional support network" means a county authority or group
30 of county authorities or other nonprofit entity recognized by the
31 secretary in contract in a defined region.
- 32 (19) "Registration records" include all the records of the
33 department, regional support networks, treatment facilities, and other
34 persons providing services to the department, county departments, or
35 facilities which identify persons who are receiving or who at any time
36 have received services for mental illness.
- 37 (20) "Residential services" means a complete range of residences
38 and supports authorized by resource management services and which may

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

17 (21) "Research-based" means a program or practice that has some
18 research demonstrating effectiveness, but that does not yet meet the
19 standard of evidence-based practices.

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

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

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

1 (25) "Seriously disturbed person" means a person who:
2 (a) Is gravely disabled or presents a likelihood of serious harm to
3 himself or herself or others, or to the property of others, as a result
4 of a mental disorder as defined in chapter 71.05 RCW;
5 (b) Has been on conditional release status, or under a less
6 restrictive alternative order, at some time during the preceding two
7 years from an evaluation and treatment facility or a state mental
8 health hospital;
9 (c) Has a mental disorder which causes major impairment in several
10 areas of daily living;
11 (d) Exhibits suicidal preoccupation or attempts; or
12 (e) Is a child diagnosed by a mental health professional, as
13 defined in chapter 71.34 RCW, as experiencing a mental disorder which
14 is clearly interfering with the child's functioning in family or school
15 or with peers or is clearly interfering with the child's personality
16 development and learning.
17 (26) "Severely emotionally disturbed child" means a child who has
18 been determined by the regional support network to be experiencing a
19 mental disorder as defined in chapter 71.34 RCW, including those mental
20 disorders that result in a behavioral or conduct disorder, that is
21 clearly interfering with the child's functioning in family or school or
22 with peers and who meets at least one of the following criteria:
23 (a) Has undergone inpatient treatment or placement outside of the
24 home related to a mental disorder within the last two years;
25 (b) Has undergone involuntary treatment under chapter 71.34 RCW
26 within the last two years;
27 (c) Is currently served by at least one of the following child-
28 serving systems: Juvenile justice, child-protection/welfare, special
29 education, or developmental disabilities;
30 (d) Is at risk of escalating maladjustment due to:
31 (i) Chronic family dysfunction involving a mentally ill or
32 inadequate caretaker;
33 (ii) Changes in custodial adult;
34 (iii) Going to, residing in, or returning from any placement
35 outside of the home, for example, psychiatric hospital, short-term
36 inpatient, residential treatment, group or foster home, or a
37 correctional facility;
38 (iv) Subject to repeated physical abuse or neglect;

1 (v) Drug or alcohol abuse; or

2 (vi) Homelessness.

3 (27) "State minimum standards" means minimum requirements
4 established by rules adopted by the secretary and necessary to
5 implement this chapter for: (a) Delivery of mental health services;
6 (b) licensed service providers for the provision of mental health
7 services; (c) residential services; and (d) community support services
8 and resource management services.

9 (28) "Treatment records" include registration and all other records
10 concerning persons who are receiving or who at any time have received
11 services for mental illness, which are maintained by the department, by
12 regional support networks and their staffs, and by treatment
13 facilities. Treatment records do not include notes or records
14 maintained for personal use by a person providing treatment services
15 for the department, regional support networks, or a treatment facility
16 if the notes or records are not available to others.

17 (29) "Tribal authority," for the purposes of this section and RCW
18 71.24.300 only, means: The federally recognized Indian tribes and the
19 major Indian organizations recognized by the secretary insofar as these
20 organizations do not have a financial relationship with any regional
21 support network that would present a conflict of interest.

22 **Sec. 105.** RCW 71.24.045 and 2005 c 503 s 8 are each amended to
23 read as follows:

24 The regional support network shall:

25 (1) Contract as needed with licensed service providers. The
26 regional support network may, in the absence of a licensed service
27 provider entity, become a licensed service provider entity pursuant to
28 minimum standards required for licensing by the department for the
29 purpose of providing services not available from licensed service
30 providers;

31 (2) Operate as a licensed service provider if it deems that doing
32 so is more efficient and cost effective than contracting for services.
33 When doing so, the regional support network shall comply with rules
34 promulgated by the secretary that shall provide measurements to
35 determine when a regional support network provided service is more
36 efficient and cost effective;

1 (3) Monitor and perform biennial fiscal audits of licensed service
2 providers who have contracted with the regional support network to
3 provide services required by this chapter. The monitoring and audits
4 shall be performed by means of a formal process which insures that the
5 licensed service providers and professionals designated in this
6 subsection meet the terms of their contracts;

7 (4) Assure that the special needs of minorities, the elderly,
8 disabled, children, and low-income persons are met within the
9 priorities established in this chapter;

10 (5) Maintain patient tracking information in a central location as
11 required for resource management services and the department's
12 information system;

13 ~~((Use not more than two percent of state appropriated community
14 mental health funds, which shall not include federal funds, to
15 administer community mental health programs under RCW 71.24.155:
16 PROVIDED, That county authorities serving a county or combination of
17 counties whose population is one hundred twenty five thousand or more
18 may be entitled to sufficient state appropriated community mental
19 health funds to employ up to one full time employee or the equivalent
20 thereof in addition to the two percent limit established in this
21 subsection when such employee is providing staff services to a county
22 mental health advisory board;~~

23 ~~(7))~~ Collaborate to ensure that policies do not result in an
24 adverse shift of mentally ill persons into state and local correctional
25 facilities;

26 ~~((8))~~ (7) Work with the department to expedite the enrollment or
27 re-enrollment of eligible persons leaving state or local correctional
28 facilities and institutions for mental diseases;

29 ~~((9))~~ (8) If a regional support network is not operated by the
30 county, work closely with the county designated mental health
31 professional or county designated crisis responder to maximize
32 appropriate placement of persons into community services; ~~((and~~

33 ~~(10))~~ (9) Coordinate services for individuals who have received
34 services through the community mental health system and who become
35 patients at a state mental hospital to ensure they are transitioned
36 into the community upon mutual determination by the medical director of
37 the state mental hospital, or designee and the regional support network
38 administration that they no longer need intensive inpatient care; and

1 (10) Review all initial petitions for long-term inpatient care
2 under RCW 71.05.280 to determine whether the needs of the individual
3 can be met through community support services in a less restrictive
4 alternative to detention. Documentation of the review and the less
5 restrictive alternative considered must be provided to the state mental
6 hospital whenever it is determined that a less restrictive alternative
7 is not available. Regional support networks must provide a less
8 restrictive alternative to detention whenever it is determined that the
9 needs of the individual can be met through community support services.

10 **Sec. 106.** RCW 71.24.300 and 2005 c 503 s 11 are each amended to
11 read as follows:

12 (1) Upon the request of a tribal authority or authorities within a
13 regional support network the joint operating agreement or the county
14 authority shall allow for the inclusion of the tribal authority to be
15 represented as a party to the regional support network.

16 (2) The roles and responsibilities of the county and tribal
17 authorities shall be determined by the terms of that agreement
18 including a determination of membership on the governing board and
19 advisory committees, the number of tribal representatives to be party
20 to the agreement, and the provisions of law and shall assure the
21 provision of culturally competent services to the tribes served.

22 (3) The state mental health authority may not determine the roles
23 and responsibilities of county authorities as to each other under
24 regional support networks by rule, except to assure that all duties
25 required of regional support networks are assigned and that counties
26 and the regional support network do not duplicate functions and that a
27 single authority has final responsibility for all available resources
28 and performance under the regional support network's contract with the
29 secretary.

30 (4) If a regional support network is a private nonprofit entity,
31 the department shall allow for the inclusion of the tribal authority to
32 be represented as a party to the regional support network.

33 (5) The roles and responsibilities of the private nonprofit entity
34 and the tribal authorities shall be determined by the department,
35 through negotiation with the tribal authority.

36 ~~((1))~~ (6) Regional support networks shall submit an overall six-

1 year operating and capital plan, timeline, and budget and submit
2 progress reports and an updated two-year plan biennially thereafter, to
3 assume within available resources all of the following duties:

4 (a) Administer and provide for the availability of all resource
5 management services, residential services, and community support
6 services.

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

10 (c) Provide within the boundaries of each regional support network
11 evaluation and treatment services for (~~at least eighty five percent~~
12 ~~of~~) all persons detained or committed for periods up to seventeen days
13 according to chapter 71.05 RCW. Regional support networks (~~with~~
14 ~~populations of less than one hundred fifty thousand~~) may contract to
15 purchase evaluation and treatment services from other networks if they
16 are unable to provide for appropriate less restrictive resources within
17 their boundaries. Insofar as the original intent of serving persons in
18 the community is maintained, the secretary is authorized to approve
19 exceptions on a case-by-case basis to the requirement to provide
20 evaluation and treatment services within the boundaries of each
21 regional support network. Such exceptions are limited to:

22 (i) Contracts with neighboring or contiguous regions; or

23 (ii) Individuals detained or committed for periods up to seventeen
24 days at the state hospitals at the discretion of the secretary.

25 (~~Administer a portion of funds appropriated by the legislature~~
26 ~~to house mentally ill persons in state institutions from counties~~
27 ~~within the boundaries of any regional support network, with the~~
28 ~~exception of persons currently confined at, or under the supervision~~
29 ~~of, a state mental hospital pursuant to chapter 10.77 RCW, and provide~~
30 ~~for the care of all persons needing evaluation and treatment services~~
31 ~~for periods up to seventeen days according to chapter 71.05 RCW in~~
32 ~~appropriate residential services, which may include state institutions.~~
33 ~~The regional support networks shall reimburse the state for use of~~
34 ~~state institutions at a rate equal to that assumed by the legislature~~
35 ~~when appropriating funds for such care at state institutions during the~~
36 ~~biennium when reimbursement occurs. The secretary shall submit a~~
37 ~~report to the appropriate committees of the senate and house of~~
38 ~~representatives on the efforts to implement this section by October 1,~~

1 ~~2002. The duty of a state hospital to accept persons for evaluation~~
2 ~~and treatment under chapter 71.05 RCW is limited by the~~
3 ~~responsibilities assigned to regional support networks under this~~
4 ~~section.~~

5 (e)) Administer and provide for the availability of all other
6 mental health services, which shall include patient counseling, day
7 treatment, consultation, education services, employment services as
8 defined in RCW 71.24.035, and mental health services to children.

9 ((f)) (e) Establish standards and procedures for reviewing
10 individual service plans and determining when that person may be
11 discharged from resource management services.

12 ((2)) (7) A regional support network may request that any state-
13 owned land, building, facility, or other capital asset which was ever
14 purchased, deeded, given, or placed in trust for the care of the
15 mentally ill and which is within the boundaries of a regional support
16 network be made available to support the operations of the regional
17 support network. State agencies managing such capital assets shall
18 give first priority to requests for their use pursuant to this chapter.

19 ((3)) (8) Each regional support network shall appoint a mental
20 health advisory board which shall review and provide comments on plans
21 and policies developed under this chapter, provide local oversight
22 regarding the activities of the regional support network, and work with
23 the regional support network to resolve significant concerns regarding
24 service delivery and outcomes. The department shall establish
25 statewide procedures for the operation of regional advisory committees
26 including mechanisms for advisory board feedback to the department
27 regarding regional support network performance. The composition of the
28 board shall be broadly representative of the demographic character of
29 the region and shall include, but not be limited to, representatives of
30 consumers and families, law enforcement, and where the county is not
31 the regional support network, county elected officials. Composition
32 and length of terms of board members may differ between regional
33 support networks but shall be included in each regional support
34 network's contract and approved by the secretary.

35 ((4)) (9) Regional support networks shall assume all duties
36 specified in their plans and joint operating agreements through
37 biennial contractual agreements with the secretary.

1 ~~((5))~~ (10) Regional support networks may receive technical
2 assistance from the housing trust fund and may identify and submit
3 projects for housing and housing support services to the housing trust
4 fund established under chapter 43.185 RCW. Projects identified or
5 submitted under this subsection must be fully integrated with the
6 regional support network six-year operating and capital plan, timeline,
7 and budget required by subsection ~~((1))~~ (6) of this section.

8 **Sec. 107.** RCW 71.24.310 and 1989 c 205 s 6 are each amended to
9 read as follows:

10 The legislature finds that administration of chapter 71.05 RCW and
11 this chapter can be most efficiently and effectively implemented as
12 part of the regional support network defined in RCW 71.24.025. For
13 this reason, the legislature intends that any enhanced program funding
14 for implementation of chapter 71.05 RCW or this chapter ~~((, except for
15 funds allocated for implementation of mandatory statewide programs as
16 required by federal statute, be made available primarily to those
17 counties participating in regional support networks))~~ shall be used
18 primarily for provision of community alternatives to state and local
19 hospitalization, and administered by regional support networks, in
20 accordance with the following:

21 (1) The department shall establish in rule a formula for allocating
22 intensive long-term treatment resources among the regional support
23 networks. The statewide total allocation shall include (a) all state
24 hospital beds offering long-term inpatient care, as defined in chapter
25 72.23 RCW, for which funding is provided in the biennial appropriations
26 act; plus (b) the estimated equivalent number of beds contracted in
27 accordance with subsection (3) of this section.

28 (2) The primary factor used in the allocation of intensive long-
29 term treatment resources shall be the estimated number of acutely and
30 chronically mentally ill adults in each regional support network area.
31 The allocation formula shall be updated at least every four years to
32 reflect demographic changes and new evidence regarding the incidence of
33 acute and chronic mental illness.

34 (3) The department is encouraged to enter performance-based
35 contracts with regional support networks to provide some or all of the
36 regional support network's allocated intensive long-term treatment
37 capacity in the community, rather than in the state hospital. The

1 performance contracts shall specify the number of patient days of care
2 available for use by the regional support network in the state
3 hospital.

4 (4) If a regional support network uses more state hospital patient
5 days of care than it has been allocated under subsection (1) of this
6 section, or than it has contracted to use under subsection (3) of this
7 section, whichever is less, it shall reimburse the department for that
8 care. The reimbursement rate per day shall be the hospital's total
9 annual budget, divided by the total patient days of care assumed in
10 development of that budget.

11 (5) One-half of any reimbursements received pursuant to subsection
12 (4) of this section shall be used to support the cost of operating the
13 state hospital. The department shall distribute the remaining half of
14 such reimbursements among regional support networks that have used less
15 than their allocated or contracted patient days of care at that
16 hospital, proportional to the number of patient days of care not used.

17 PART II

18 CONTRACTS AND PROCUREMENT PROCESS

19 **Sec. 201.** RCW 71.24.320 and 2005 c 503 s 4 are each amended to
20 read as follows:

21 (1) The secretary shall initiate a procurement process for regional
22 support networks in 2005. In the first step of the procurement
23 process, existing regional support networks may respond to a request
24 for qualifications developed by the department. The secretary shall
25 issue the request for qualifications not later than October 1, 2005.
26 The request for ~~((qualifications))~~ proposals shall be based on: (a)
27 Cost-effectiveness, (b) adequate residential and service capabilities,
28 (c) effective collaboration with criminal justice agencies and the
29 chemical dependency treatment system, ~~((and))~~ (d) the ability to
30 provide the full array of services as stated in the mental health state
31 plan, ~~((and shall))~~ (e) the ability of the entity to supplement the
32 financial resources provided by the state, and (f) the ability of the
33 entity to meet all applicable federal and state regulations and
34 standards.

35 An existing regional support network shall be awarded the contract

1 with the department if it substantially meets the requirements of the
2 request for qualifications developed by the department.

3 (2) If an existing regional support network (~~((chooses not to~~
4 ~~respond to the request for qualifications, or))~~) is unable to
5 substantially meet the requirements of the request for qualifications,
6 the department shall proceed as follows:

7 (a) The department shall first provide any regional support network
8 that has substantially met the requirements of the request for
9 qualifications the opportunity to submit a mutually agreed upon
10 proposal for consolidating with regional support networks that did not
11 substantially meet the requirements of the request for qualifications.

12 (b) If the department does not receive an acceptable proposal for
13 consolidation, for those regional support networks which did not
14 substantially meet the requirements of the request for qualifications,
15 the department shall utilize a procurement process in which (~~(other))~~
16 county authorities and nonprofit entities recognized by the secretary
17 may bid to serve as the regional support network in that region. The
18 procurement process shall begin with a request for proposals issued
19 (~~(March))~~ April 1, 2006.

20 (3) The department shall host a preresponse conference on or about
21 April 24, 2006.

22 (a) Although attendance is not mandatory, all prospective regional
23 support networks are encouraged to attend.

24 (b) If changes to the request for proposals are required as a
25 result of the conference, all amendments must be issued no later than
26 May 31, 2006.

27 (c) Specific questions concerning the request for procurement must
28 be submitted to the designated request for procurement coordinator in
29 writing.

30 (d) In order to provide accurate and consistent information to all
31 potential regional support networks, written responses to all questions
32 must be published.

33 (4) Interested entities shall submit proposals to the designated
34 request for procurement coordinator. Proposals must be delivered or
35 received no later than June 30, 2006.

36 (5) The department shall evaluate the proposals and notify the
37 respondents of the outcome during the month of July 2006. Prospective
38 regional support networks that are unsuccessful shall be provided with

1 a detailed briefing regarding the deficiencies in the proposal and
2 provided with an opportunity to clarify information previously
3 submitted.

4 (6) All documents pertaining to subsections (4) and (5) of this
5 section shall be retained pursuant to a schedule approved under RCW
6 40.14.050. Upon request, evaluations and documentation regarding a
7 prospective regional support network's proposal, and the evaluation
8 thereof, shall be made available to that prospective regional support
9 network.

10 NEW SECTION. Sec. 202. (1) The joint legislative audit and review
11 committee shall conduct a performance audit of the request for
12 qualifications process. The audit should include assessments of: (a)
13 The extent to which the request for qualifications requirements comport
14 with, exceed, or fail to address federal or state law; (b) the
15 consistency of scoring across regional support networks; (c) the extent
16 to which the evaluation criteria were uniformly applied; (d) the extent
17 to which the request for qualifications requirements add new
18 administrative costs not required by federal rules and state law; (e)
19 the extent to which the request for qualifications process impacted the
20 availability of resources for direct resources; (f) the extent to which
21 the implementation of the requirements has impacted the availability of
22 resources for direct resources; and (g) the extent to which the
23 department of social and health services has successfully implemented
24 RCW 71.24.035(5)(f).

25 (2) A preliminary report of the performance audit must be submitted
26 to the legislature by September 30, 2006. A final report must be
27 submitted to the legislature by December 1, 2006.

28 **Sec. 203.** RCW 71.24.3201 and 2005 c 503 s 15 are each amended to
29 read as follows:

30 (1) The department of social and health services shall enter into
31 a contract with regional support networks for the period ending August
32 31, 2006. The department shall issue a request for proposal to the
33 extent required by RCW 71.24.320 ((and the contract shall be effective
34 September 1, 2006)). Contracts between the state and the regional
35 support networks shall include an alternative dispute resolution
36 clause.

1 (2) This section expires June 30, (~~2007~~) 2008.

2 **Sec. 204.** RCW 71.24.330 and 2005 c 503 s 6 are each amended to
3 read as follows:

4 (1) Contracts between a regional support network and the department
5 shall include mechanisms for monitoring performance under the contract
6 and remedies for failure to substantially comply with the requirements
7 of the contract including, but not limited to, financial penalties,
8 termination of the contract, and reprocurement of the contract.

9 (2) The procurement process shall encourage the preservation of
10 infrastructure previously purchased by the community mental health
11 service delivery system, the maintenance of linkages between other
12 services and delivery systems, and maximization of the use of available
13 funds for services versus profits. The procurement process shall
14 provide that public funds appropriated by the legislature shall not be
15 used to promote or deter, encourage, or discourage employees from
16 exercising their rights under Title 29, chapter 7, subchapter II,
17 United States Code or chapter 41.56 RCW.

18 (3) In addition to the requirements of RCW 71.24.035, contracts
19 shall:

20 (a) Define administrative costs and ensure that the regional
21 support network does not exceed an administrative cost of ten percent
22 of available funds;

23 (b) Require effective collaboration with law enforcement, criminal
24 justice agencies, and the chemical dependency treatment system;

25 (c) Require substantial implementation of department adopted
26 integrated screening and assessment process and matrix of best
27 practices; (~~and~~)

28 (d) Maintain the decision-making independence of designated mental
29 health professionals; and

30 (e) Except at the discretion of the secretary or as specified in
31 the biennial budget, require regional support networks to pay the state
32 for the costs associated with individuals who are being served on the
33 grounds of the state hospitals and who are not receiving long-term
34 inpatient care as defined in RCW 72.23.010.

35 **Sec. 205.** RCW 71.24.360 and 2005 c 504 s 805 are each amended to
36 read as follows:

1 The department may establish new regional support network
2 boundaries in any part of the state where (~~more than one~~) a network
3 chooses not to respond to, or is unable to substantially meet the
4 requirements of, the request for qualifications under section 4,
5 chapter 503, Laws of 2005 or where a regional support network is
6 subject to reprocurement under section 6, chapter 503, Laws of 2005.
7 The department may establish no fewer than eight and no more than
8 fourteen regional support networks under this chapter. No entity shall
9 be responsible for more than three regional support networks.

10
11

PART III
MENTAL HEALTH AUTHORITY

12 **Sec. 301.** RCW 71.24.035 and 2005 c 504 s 715 and 2005 c 503 s 7
13 are each reenacted and amended to read as follows:

14 (1) The department is designated as the state mental health
15 authority.

16 (2) The secretary shall provide for public, client, and licensed
17 service provider participation in developing the state mental health
18 program, developing contracts with regional support networks, and any
19 waiver request to the federal government under medicaid.

20 (3) The secretary shall provide for participation in developing the
21 state mental health program for children and other underserved
22 populations, by including representatives on any committee established
23 to provide oversight to the state mental health program.

24 (4) The secretary shall be designated as the regional support
25 network if the regional support network fails to meet state minimum
26 standards or refuses to exercise responsibilities under RCW 71.24.045.

27 (5) The secretary shall:

28 (a) Develop a biennial state mental health program that
29 incorporates regional biennial needs assessments and regional mental
30 health service plans and state services for mentally ill adults and
31 children. The secretary shall also develop a six-year state mental
32 health plan;

33 (b) Assure that any regional or county community mental health
34 program provides access to treatment for the region's residents in the
35 following order of priority: (i) The acutely mentally ill; (ii)

1 chronically mentally ill adults and severely emotionally disturbed
2 children; and (iii) the seriously disturbed. Such programs shall
3 provide:

4 (A) Outpatient services;

5 (B) Emergency care services for twenty-four hours per day;

6 (C) Day treatment for mentally ill persons which includes training
7 in basic living and social skills, supported work, vocational
8 rehabilitation, and day activities. Such services may include
9 therapeutic treatment. In the case of a child, day treatment includes
10 age-appropriate basic living and social skills, educational and
11 prevocational services, day activities, and therapeutic treatment;

12 (D) Screening for patients being considered for admission to state
13 mental health facilities to determine the appropriateness of admission;

14 (E) Employment services, which may include supported employment,
15 transitional work, placement in competitive employment, and other work-
16 related services, that result in mentally ill persons becoming engaged
17 in meaningful and gainful full or part-time work. Other sources of
18 funding such as the division of vocational rehabilitation may be
19 utilized by the secretary to maximize federal funding and provide for
20 integration of services;

21 (F) Consultation and education services; and

22 (G) Community support services;

23 (c) Develop and adopt rules establishing state minimum standards
24 for the delivery of mental health services pursuant to RCW 71.24.037
25 including, but not limited to:

26 (i) Licensed service providers. These rules shall permit a county-
27 operated mental health program to be licensed as a service provider
28 subject to compliance with applicable statutes and rules. The
29 secretary shall provide for deeming of compliance with state minimum
30 standards for those entities accredited by recognized behavioral health
31 accrediting bodies recognized and having a current agreement with the
32 department;

33 (ii) Regional support networks; and

34 (iii) Inpatient services, evaluation and treatment services and
35 facilities under chapter 71.05 RCW, resource management services, and
36 community support services;

37 (d) Assure that the special needs of minorities, the elderly,

1 disabled, children, and low-income persons are met within the
2 priorities established in this section;

3 (e) Establish a standard contract or contracts, consistent with
4 state minimum standards and RCW 71.24.320 (~~and~~), 71.24.330, and
5 71.24.3201, which shall be used in contracting with regional support
6 networks. The standard contract shall include a maximum fund balance,
7 which shall be consistent with that required by federal regulations or
8 waiver stipulations;

9 (f) Establish, to the extent possible, a standardized auditing
10 procedure which minimizes paperwork requirements of regional support
11 networks and licensed service providers. The audit procedure shall
12 focus on the outcomes of service and not the processes for
13 accomplishing them;

14 (g) Develop and maintain an information system to be used by the
15 state and regional support networks that includes a tracking method
16 which allows the department and regional support networks to identify
17 mental health clients' participation in any mental health service or
18 public program on an immediate basis. The information system shall not
19 include individual patient's case history files. Confidentiality of
20 client information and records shall be maintained as provided in this
21 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

22 (h) License service providers who meet state minimum standards;

23 (i) Certify regional support networks that meet state minimum
24 standards;

25 (j) Periodically monitor the compliance of certified regional
26 support networks and their network of licensed service providers for
27 compliance with the contract between the department, the regional
28 support network, and federal and state rules at reasonable times and in
29 a reasonable manner;

30 (k) Fix fees to be paid by evaluation and treatment centers to the
31 secretary for the required inspections;

32 (l) Monitor and audit regional support networks and licensed
33 service providers as needed to assure compliance with contractual
34 agreements authorized by this chapter;

35 (m) Adopt such rules as are necessary to implement the department's
36 responsibilities under this chapter; and

37 (n) Assure the availability of an appropriate amount, as determined

1 by the legislature in the operating budget by amounts appropriated for
2 this specific purpose, of community-based, geographically distributed
3 residential services.

4 (6) The secretary shall use available resources only for regional
5 support networks, except to the extent authorized, and in accordance
6 with any priorities or conditions specified, in the biennial
7 appropriations act.

8 (7) Each certified regional support network and licensed service
9 provider shall file with the secretary, on request, such data,
10 statistics, schedules, and information as the secretary reasonably
11 requires. A certified regional support network or licensed service
12 provider which, without good cause, fails to furnish any data,
13 statistics, schedules, or information as requested, or files fraudulent
14 reports thereof, may have its certification or license revoked or
15 suspended.

16 (8) The secretary may suspend, revoke, limit, or restrict a
17 certification or license, or refuse to grant a certification or license
18 for failure to conform to: (a) The law; (b) applicable rules and
19 regulations; (c) applicable standards; or (d) state minimum standards.

20 (9) The superior court may restrain any regional support network or
21 service provider from operating without certification or a license or
22 any other violation of this section. The court may also review,
23 pursuant to procedures contained in chapter 34.05 RCW, any denial,
24 suspension, limitation, restriction, or revocation of certification or
25 license, and grant other relief required to enforce the provisions of
26 this chapter.

27 (10) Upon petition by the secretary, and after hearing held upon
28 reasonable notice to the facility, the superior court may issue a
29 warrant to an officer or employee of the secretary authorizing him or
30 her to enter at reasonable times, and examine the records, books, and
31 accounts of any regional support network or service provider refusing
32 to consent to inspection or examination by the authority.

33 (11) Notwithstanding the existence or pursuit of any other remedy,
34 the secretary may file an action for an injunction or other process
35 against any person or governmental unit to restrain or prevent the
36 establishment, conduct, or operation of a regional support network or
37 service provider without certification or a license under this chapter.

1 (12) The standards for certification of evaluation and treatment
2 facilities shall include standards relating to maintenance of good
3 physical and mental health and other services to be afforded persons
4 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
5 otherwise assure the effectuation of the purposes of these chapters.

6 (13)(a) The department, in consultation with affected parties,
7 shall establish a distribution formula that reflects regional needs
8 assessments based on the number of persons who are acutely mentally
9 ill, chronically mentally ill, severely emotionally disturbed children,
10 and seriously disturbed. The formula shall take into consideration the
11 impact on regions of demographic factors which result in concentrations
12 of priority populations as set forth in subsection (5)(b) of this
13 section. These factors shall include the population concentrations
14 resulting from commitments under chapters 71.05 and 71.34 RCW to state
15 psychiatric hospitals, as well as concentration in urban areas, at
16 border crossings at state boundaries, and other significant demographic
17 and workload factors.

18 (b) The formula shall also include a projection of the funding
19 allocations that will result for each region, which specifies
20 allocations according to priority populations, including the allocation
21 for services to children and other underserved populations.

22 ~~((c) After July 1, 2003, the department may allocate up to two
23 percent of total funds to be distributed to the regional support
24 networks for incentive payments to reward the achievement of superior
25 outcomes, or significantly improved outcomes, as measured by a
26 statewide performance measurement system consistent with the framework
27 recommended in the joint legislative audit and review committee's
28 performance audit of the mental health system. The department shall
29 annually report to the legislature on its criteria and allocation of
30 the incentives provided under this subsection.))~~

31 (14) The secretary shall assume all duties assigned to the
32 nonparticipating regional support networks under chapters 71.05, 71.34,
33 and 71.24 RCW. Such responsibilities shall include those which would
34 have been assigned to the nonparticipating counties in regions where
35 there are not participating regional support networks.

36 The regional support networks, or the secretary's assumption of all
37 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
38 included in all state and federal plans affecting the state mental

1 health program including at least those required by this chapter, the
2 medicaid program, and P.L. 99-660. Nothing in these plans shall be
3 inconsistent with the intent and requirements of this chapter.

4 (15) The secretary shall:

5 (a) Disburse funds for the regional support networks within sixty
6 days of approval of the biennial contract. The department must either
7 approve or reject the biennial contract within sixty days of receipt.

8 (b) Enter into biennial contracts with regional support networks.
9 The contracts shall be consistent with available resources. No
10 contract shall be approved that does not include progress toward
11 meeting the goals of this chapter by taking responsibility for: (i)
12 Short-term commitments; (ii) residential care; and (iii) emergency
13 response systems.

14 (c) Notify regional support networks of their allocation of
15 available resources at least sixty days prior to the start of a new
16 biennial contract period.

17 (d) Deny all or part of the funding allocations to regional support
18 networks based solely upon formal findings of noncompliance with the
19 terms of the regional support network's contract with the department.
20 (~~Written notice and at least thirty days for corrective action must~~
21 ~~precede any such action. In such cases, regional support networks~~
22 ~~shall have full rights to appeal under chapter 34.05 RCW.)) Regional
23 support networks disputing the decision of the secretary to withhold
24 funding allocations are limited to the remedies provided in the
25 department's contracts with the regional support networks.~~

26 (16) The department, in cooperation with the state congressional
27 delegation, shall actively seek waivers of federal requirements and
28 such modifications of federal regulations as are necessary to allow
29 federal medicaid reimbursement for services provided by free-standing
30 evaluation and treatment facilities certified under chapter 71.05 RCW.
31 The department shall periodically report its efforts to the appropriate
32 committees of the senate and the house of representatives.

33 **Sec. 302.** RCW 72.23.010 and 2000 c 22 s 2 are each amended to read
34 as follows:

35 The definitions in this section apply throughout this chapter,
36 unless the context clearly requires otherwise.

37 (1) "Court" means the superior court of the state of Washington.

1 (2) "Department" means the department of social and health
2 services.

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

4 (4) "Licensed physician" means an individual permitted to practice
5 as a physician under the laws of the state, or a medical officer,
6 similarly qualified, of the government of the United States while in
7 this state in performance of his or her official duties.

8 (5) "Long-term inpatient care" means inpatient services for persons
9 committed for or voluntarily receiving intensive treatment for periods
10 of ninety days or greater under chapter 71.05 RCW. "Long-term
11 inpatient care" as used in this chapter does not include: (a) Services
12 for individuals committed under chapter 71.05 RCW who are receiving
13 services pursuant to a conditional release or a court-ordered less
14 restrictive alternative to detention; or (b) services for individuals
15 voluntarily receiving less restrictive alternative treatment on the
16 grounds of the state hospital.

17 (6) "Mentally ill person" means any person who, pursuant to the
18 definitions contained in RCW 71.05.020, as a result of a mental
19 disorder presents a likelihood of serious harm to others or himself or
20 herself or is gravely disabled.

21 (~~(6)~~) (7) "Patient" means a person under observation, care, or
22 treatment in a state hospital, or a person found mentally ill by the
23 court, and not discharged from a state hospital, or other facility, to
24 which such person had been ordered hospitalized.

25 (~~(7)~~) (8) "Resident" means a resident of the state of Washington.

26 (~~(8)~~) (9) "Secretary" means the secretary of social and health
27 services.

28 (~~(9)~~) (10) "State hospital" means any hospital, including a child
29 study and treatment center, operated and maintained by the state of
30 Washington for the care of the mentally ill.

31 (~~(10)~~) (11) "Superintendent" means the superintendent of a state
32 hospital.

33 (~~(11)~~) (12) "Violence" or "violent act" means any physical
34 assault or attempted physical assault against an employee or patient of
35 a state hospital.

36 Wherever used in this chapter, the masculine shall include the
37 feminine and the singular shall include the plural.

1 **Sec. 303.** RCW 72.23.025 and 1998 c 245 s 141 are each amended to
2 read as follows:

3 (1) It is the intent of the legislature to improve the quality of
4 service at state hospitals, eliminate overcrowding, and more
5 specifically define the role of the state hospitals. The legislature
6 intends that eastern and western state hospitals shall become clinical
7 centers for handling the most complicated long-term care needs of
8 patients with a primary diagnosis of mental disorder. (~~Over the next
9 six years, their involvement in providing short term, acute care, and
10 less complicated long term care shall be diminished in accordance with
11 the revised responsibilities for mental health care under chapter 71.24
12 RCW.~~) To this end, the legislature intends that funds appropriated
13 for mental health programs, including funds for regional support
14 networks and the state hospitals be used for persons with primary
15 diagnosis of mental disorder. The legislature finds that establishment
16 of the eastern state hospital board, the western state hospital board,
17 and institutes for the study and treatment of mental disorders at both
18 eastern state hospital and western state hospital will be instrumental
19 in implementing the legislative intent.

20 (2)(a) The eastern state hospital board and the western state
21 hospital board are each established. Members of the boards shall be
22 appointed by the governor with the consent of the senate. Each board
23 shall include:

24 (i) The director of the institute for the study and treatment of
25 mental disorders established at the hospital;

26 (ii) One family member of a current or recent hospital resident;

27 (iii) One consumer of services;

28 (iv) One community mental health service provider;

29 (v) Two citizens with no financial or professional interest in
30 mental health services;

31 (vi) One representative of the regional support network in which
32 the hospital is located;

33 (vii) One representative from the staff who is a physician;

34 (viii) One representative from the nursing staff;

35 (ix) One representative from the other professional staff;

36 (x) One representative from the nonprofessional staff; and

37 (xi) One representative of a minority community.

1 (b) At least one representative listed in (a)(viii), (ix), or (x)
2 of this subsection shall be a union member.

3 (c) Members shall serve four-year terms. Members of the board
4 shall be reimbursed for travel expenses as provided in RCW 43.03.050
5 and 43.03.060 and shall receive compensation as provided in RCW
6 43.03.240.

7 (3) The boards established under this section shall:

8 (a) Monitor the operation and activities of the hospital;

9 (b) Review and advise on the hospital budget;

10 (c) Make recommendations to the governor and the legislature for
11 improving the quality of service provided by the hospital;

12 (d) Monitor and review the activities of the hospital in
13 implementing the intent of the legislature set forth in this section;
14 and

15 (e) Consult with the secretary regarding persons the secretary may
16 select as the superintendent of the hospital whenever a vacancy occurs.

17 (4)(a) There is established at eastern state hospital and western
18 state hospital, institutes for the study and treatment of mental
19 disorders. The institutes shall be operated by joint operating
20 agreements between state colleges and universities and the department
21 of social and health services. The institutes are intended to conduct
22 training, research, and clinical program development activities that
23 will directly benefit mentally ill persons receiving treatment in
24 Washington state by performing the following activities:

25 (i) Promote recruitment and retention of highly qualified
26 professionals at the state hospitals and community mental health
27 programs;

28 (ii) Improve clinical care by exploring new, innovative, and
29 scientifically based treatment models for persons presenting
30 particularly difficult and complicated clinical syndromes;

31 (iii) Provide expanded training opportunities for existing staff at
32 the state hospitals and community mental health programs;

33 (iv) Promote bilateral understanding of treatment orientation,
34 possibilities, and challenges between state hospital professionals and
35 community mental health professionals.

36 (b) To accomplish these purposes the institutes may, within funds
37 appropriated for this purpose:

1 (i) Enter joint operating agreements with state universities or
2 other institutions of higher education to accomplish the placement and
3 training of students and faculty in psychiatry, psychology, social
4 work, occupational therapy, nursing, and other relevant professions at
5 the state hospitals and community mental health programs;

6 (ii) Design and implement clinical research projects to improve the
7 quality and effectiveness of state hospital services and operations;

8 (iii) Enter into agreements with community mental health service
9 providers to accomplish the exchange of professional staff between the
10 state hospitals and community mental health service providers;

11 (iv) Establish a student loan forgiveness and conditional
12 scholarship program to retain qualified professionals at the state
13 hospitals and community mental health providers when the secretary has
14 determined a shortage of such professionals exists.

15 (c) Notwithstanding any other provisions of law to the contrary,
16 the institutes may enter into agreements with the department or the
17 state hospitals which may involve changes in staffing necessary to
18 implement improved patient care programs contemplated by this section.

19 (d) The institutes are authorized to seek and accept public or
20 private gifts, grants, contracts, or donations to accomplish their
21 purposes under this section.

22 **PART IV**
23 **INVOLUNTARY TREATMENT**

24 **Sec. 401.** RCW 71.05.120 and 2000 c 94 s 4 are each amended to read
25 as follows:

26 (1) No officer of a public or private agency, nor the
27 superintendent, professional person in charge, his or her professional
28 designee, or attending staff of any such agency, nor any public
29 official performing functions necessary to the administration of this
30 chapter, nor peace officer responsible for detaining a person pursuant
31 to this chapter, nor any ((county)) designated mental health
32 professional, nor the state, a unit of local government, or an
33 evaluation and treatment facility shall be civilly or criminally liable
34 for performing duties pursuant to this chapter with regard to the
35 decision of whether to admit, discharge, release, administer

1 antipsychotic medications, or detain a person for evaluation and
2 treatment: PROVIDED, That such duties were performed in good faith and
3 without gross negligence.

4 (2) This section does not relieve a person from giving the required
5 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
6 or to take reasonable precautions to provide protection from violent
7 behavior where the patient has communicated an actual threat of
8 physical violence against a reasonably identifiable victim or victims.
9 The duty to warn or to take reasonable precautions to provide
10 protection from violent behavior is discharged if reasonable efforts
11 are made to communicate the threat to the victim or victims and to law
12 enforcement personnel.

13 (3) Regional support networks have no claim for declaratory relief,
14 injunctive relief, administrative review, civil liability, or other
15 relief against the state, state officials, state agencies, or state
16 employees for actions or inactions performed pursuant to the
17 administration of this chapter.

18 **Sec. 402.** RCW 71.05.230 and 1998 c 297 s 13 are each amended to
19 read as follows:

20 A person detained for seventy-two hour evaluation and treatment may
21 be detained for (~~not more than~~) two consecutive periods of fourteen
22 additional days of involuntary intensive treatment or ninety additional
23 days of a less restrictive alternative to involuntary intensive
24 treatment. There shall be no fee for filing petitions for fourteen
25 days of involuntary intensive treatment. A petition may only be filed
26 if the following conditions are met:

27 (1) The professional staff of the agency or facility providing
28 evaluation services has analyzed the person's condition and finds that
29 the condition is caused by mental disorder and either results in a
30 likelihood of serious harm, or results in the detained person being
31 gravely disabled and are prepared to testify those conditions are met;
32 and

33 (2) The person has been advised of the need for voluntary treatment
34 and the professional staff of the facility has evidence that he or she
35 has not in good faith volunteered; and

36 (3) The facility providing intensive treatment is certified to
37 provide such treatment by the department; and

1 (4) The professional staff of the agency or facility or the
2 ((~~county~~)) designated mental health professional has filed a petition
3 for fourteen day involuntary detention or a ninety day less restrictive
4 alternative with the court. The petition must be signed either by two
5 physicians or by one physician and a mental health professional who
6 have examined the person. If involuntary detention is sought the
7 petition shall state facts that support the finding that such person,
8 as a result of mental disorder, presents a likelihood of serious harm,
9 or is gravely disabled and that there are no less restrictive
10 alternatives to detention in the best interest of such person or
11 others. The petition shall state specifically that less restrictive
12 alternative treatment was considered and specify why treatment less
13 restrictive than detention is not appropriate. If an involuntary less
14 restrictive alternative is sought, the petition shall state facts that
15 support the finding that such person, as a result of mental disorder,
16 presents a likelihood of serious harm, or is gravely disabled and shall
17 set forth the less restrictive alternative proposed by the facility;
18 and

19 (5) A copy of the petition has been served on the detained person,
20 his or her attorney and his or her guardian or conservator, if any,
21 prior to the probable cause hearing; and

22 (6) The court at the time the petition was filed and before the
23 probable cause hearing has appointed counsel to represent such person
24 if no other counsel has appeared; and

25 (7) The court has ordered a fourteen day involuntary intensive
26 treatment or a ninety day less restrictive alternative treatment after
27 a probable cause hearing has been held pursuant to RCW 71.05.240; and

28 (8) At the conclusion of the initial commitment period, the
29 professional staff of the agency or facility or the ((~~county~~))
30 designated mental health professional may petition for an additional
31 period of ((~~either~~)) commitment. The period of the commitment may be
32 for ninety days of less restrictive alternative treatment, an
33 additional fourteen days of involuntary treatment, or ninety days of
34 involuntary intensive treatment as provided in RCW 71.05.290; and

35 (9) If the hospital or facility designated to provide outpatient
36 treatment is other than the facility providing involuntary treatment,
37 the outpatient facility so designated has agreed to assume such
38 responsibility.

1 **Sec. 403.** RCW 71.05.300 and 1998 c 297 s 17 are each amended to
2 read as follows:

3 (1) The petition for ninety day treatment shall be filed with the
4 clerk of the superior court at least three days before expiration of
5 the fourteen-day period of intensive treatment. At the time of filing
6 such petition, the clerk shall set a time for the person to come before
7 the court on the next judicial day after the day of filing unless such
8 appearance is waived by the person's attorney, and the clerk shall
9 notify the ((~~county~~)) designated mental health professional. The
10 ((~~county~~)) designated mental health professional shall immediately
11 notify the person detained, his or her attorney, if any, and his or her
12 guardian or conservator, if any, and the prosecuting attorney, and
13 provide a copy of the petition to such persons as soon as possible.
14 The designated mental health professional shall also immediately
15 provide a copy of the petition and documentation of the less
16 restrictive alternative review to the regional support network and the
17 state hospital pursuant to RCW 71.24.045.

18 (2) At the time set for appearance the detained person shall be
19 brought before the court, unless such appearance has been waived and
20 the court shall advise him or her of his or her right to be represented
21 by an attorney and of his or her right to a jury trial. If the
22 detained person is not represented by an attorney, or is indigent or is
23 unwilling to retain an attorney, the court shall immediately appoint an
24 attorney to represent him or her. The court shall, if requested,
25 appoint a reasonably available licensed physician, psychologist, or
26 psychiatrist, designated by the detained person to examine and testify
27 on behalf of the detained person.

28 (3) The court may, if requested, also appoint a professional person
29 as defined in RCW 71.05.020 to seek less restrictive alternative
30 courses of treatment and to testify on behalf of the detained person.
31 In the case of a developmentally disabled person who has been
32 determined to be incompetent pursuant to RCW 10.77.090(4), then the
33 appointed professional person under this section shall be a
34 developmental disabilities professional.

35 (4) The court shall also set a date for a full hearing on the
36 petition as provided in RCW 71.05.310.

1 **Sec. 404.** RCW 71.05.320 and 1999 c 13 s 7 are each amended to read
2 as follows:

3 (1) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven and that the best interests of the person or
5 others will not be served by a less restrictive treatment which is an
6 alternative to detention, the court shall remand him or her to the
7 custody of the department or to a facility certified for ninety day
8 treatment by the department for a further period of intensive treatment
9 not to exceed ninety days from the date of judgment: PROVIDED, That

10 (a) If the grounds set forth in RCW 71.05.280(3) are the basis of
11 commitment, then the period of treatment may be up to but not exceed
12 one hundred eighty days from the date of judgment in a facility
13 certified for one hundred eighty day treatment by the department.

14 (b) If the committed person is developmentally disabled and has
15 been determined incompetent pursuant to RCW 10.77.090(4), and the best
16 interests of the person or others will not be served by a less-
17 restrictive treatment which is an alternative to detention, the court
18 shall remand him or her to the custody of the department or to a
19 facility certified for one hundred eighty-day treatment by the
20 department. When appropriate and subject to available funds, treatment
21 and training of such persons must be provided in a program specifically
22 reserved for the treatment and training of developmentally disabled
23 persons. A person so committed shall receive habilitation services
24 pursuant to an individualized service plan specifically developed to
25 treat the behavior which was the subject of the criminal proceedings.
26 The treatment program shall be administered by developmental
27 disabilities professionals and others trained specifically in the needs
28 of developmentally disabled persons. The department may limit
29 admissions to this specialized program in order to ensure that
30 expenditures for services do not exceed amounts appropriated by the
31 legislature and allocated by the department for such services. The
32 department may establish admission priorities in the event that the
33 number of eligible persons exceeds the limits set by the department.
34 An order for treatment less restrictive than involuntary detention may
35 include conditions, and if such conditions are not adhered to, the
36 designated mental health professional or developmental disabilities
37 professional may order the person apprehended under the terms and
38 conditions of RCW 71.05.340.

1 (2) If the court or jury finds that grounds set forth in RCW
2 71.05.280 have been proven, but finds that treatment less restrictive
3 than detention will be in the best interest of the person or others,
4 then the court shall remand him or her to the custody of the department
5 or to a facility certified for ninety day treatment by the department
6 or to a less restrictive alternative for a further period of less
7 restrictive treatment not to exceed ninety days from the date of
8 judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3)
9 are the basis of commitment, then the period of treatment may be up to
10 but not exceed one hundred eighty days from the date of judgment.

11 (~~(2)~~) (3) The person shall be released from involuntary treatment
12 at the expiration of the period of commitment imposed under subsection
13 (1) of this section unless the superintendent or professional person in
14 charge of the facility in which he or she is confined, or in the event
15 of a less restrictive alternative, the designated mental health
16 professional or developmental disabilities professional, files a new
17 petition for involuntary treatment on the grounds that the committed
18 person;

19 (a) During the current period of court ordered treatment: (i) Has
20 threatened, attempted, or inflicted physical harm upon the person of
21 another, or substantial damage upon the property of another, and (ii)
22 as a result of mental disorder or developmental disability presents a
23 likelihood of serious harm; or

24 (b) Was taken into custody as a result of conduct in which he or
25 she attempted or inflicted serious physical harm upon the person of
26 another, and continues to present, as a result of mental disorder or
27 developmental disability a likelihood of serious harm; or

28 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of
29 mental disorder or developmental disability presents a substantial
30 likelihood of repeating similar acts considering the charged criminal
31 behavior, life history, progress in treatment, and the public safety;
32 or

33 (d) Continues to be gravely disabled.

34 If the conduct required to be proven in (b) and (c) of this
35 subsection was found by a judge or jury in a prior trial under this
36 chapter, it shall not be necessary to reprove that element. Such new
37 petition for involuntary treatment shall be filed and heard in the
38 superior court of the county of the facility which is filing the new

1 petition for involuntary treatment unless good cause is shown for a
2 change of venue. The cost of the proceedings shall be borne by the
3 state.

4 The hearing shall be held as provided in RCW 71.05.310, and if the
5 court or jury finds that the grounds for additional confinement as set
6 forth in this subsection are present, the court may order the committed
7 person returned for an additional period of treatment not to exceed one
8 hundred eighty days from the date of judgment. At the end of the one
9 hundred eighty day period of commitment, the committed person shall be
10 released unless a petition for another one hundred eighty day period of
11 continued treatment is filed and heard in the same manner as provided
12 in this subsection. Successive one hundred eighty day commitments are
13 permissible on the same grounds and pursuant to the same procedures as
14 the original one hundred eighty day commitment.

15 ~~((+3))~~ (4) No person committed as provided in this section may be
16 detained unless a valid order of commitment is in effect. No order of
17 commitment can exceed one hundred eighty days in length.

18 **PART V**
19 **MISCELLANEOUS PROVISIONS**

20 NEW SECTION. **Sec. 501.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 502.** Part headings used in this act are not
25 part of the law.

26 NEW SECTION. **Sec. 503.** This act takes effect July 1, 2006, except
27 that sections 101 through 103, 201 through 204, and 401 of this act are
28 necessary for the immediate preservation of the public peace, health,
29 or safety, or support of the state government and its existing public
30 institutions, and take effect immediately.

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