

E2SHB 2536 - S COMM AMD

By Committee on Human Services & Corrections

OUT OF ORDER 03/01/2012

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the use
4 of evidence-based practices plays a very important role in the delivery
5 of services to children and juveniles. Especially in times of
6 diminished resources, it is critical to fund practices which are known
7 to provide desired outcomes rather than continue to expend moneys on
8 programs that may be familiar but less effective.

9 (2) Evidence-based practices or programs are those that are
10 cost-effective and include at least two randomized or statistically
11 controlled evaluations demonstrating that the program or practice is
12 effective in obtaining improved outcomes for its intended population.

13 (3) The legislature intends that prevention and intervention
14 services delivered to children and juveniles in the areas of mental
15 health, child welfare, and juvenile justice must be primarily evidence-
16 based, and it is anticipated that such services will be provided in a
17 manner that is culturally competent.

18 (4) The legislature also acknowledges that the availability of
19 evidence-based practices in each of the areas of mental health, child
20 welfare, juvenile justice, and in different geographic areas of the
21 state may vary. Thus, it would be unwise to require one hundred
22 percent use of evidence-based practices. It is the intention of the
23 legislature to require a graduated approach for each of these areas,
24 the use of emerging best practices or promising practices, rather than
25 evidence-based practices, is also necessary to the graduated goals of
26 increasing the number of evidence-based practices.

27 (5) It is the intent of the legislature that the department of
28 social and health services will ensure that an expansion of the use of
29 evidence-based practices be accomplished using existing resources by
30 coordinating the purchase of evidence-based services, the development

1 of a trained workforce and the implementation of a system of care that
2 supports evidence-based practices by the juvenile rehabilitation
3 administration, the division of behavioral health and recovery
4 services, and the children's administration.

5 (6) It is the intent of the legislature that agencies that provide
6 children's mental health and child welfare services and services within
7 the juvenile justice system must meet their goals regarding the use of
8 evidence-based practices in contracted programs within six years.

9 (7) The legislature recognizes that in order to effectively provide
10 evidence-based practices, contractors must have a workforce trained in
11 these programs, and there must be an evaluation of the outcomes from
12 their use. For purposes of this act, "contractors" does not include
13 county probation staff that provide evidence-based programs.

14 **Sec. 2.** RCW 13.40.020 and 2010 c 181 s 10 are each amended to read
15 as follows:

16 For the purposes of this chapter:

17 (1) "Community-based rehabilitation" means one or more of the
18 following: Employment; attendance of information classes; literacy
19 classes; counseling, outpatient substance abuse treatment programs,
20 outpatient mental health programs, anger management classes, education
21 or outpatient treatment programs to prevent animal cruelty, or other
22 services; or attendance at school or other educational programs
23 appropriate for the juvenile as determined by the school district.
24 Placement in community-based rehabilitation programs is subject to
25 available funds;

26 (2) "Community-based sanctions" may include one or more of the
27 following:

28 (a) A fine, not to exceed five hundred dollars;

29 (b) Community restitution not to exceed one hundred fifty hours of
30 community restitution;

31 (3) "Community restitution" means compulsory service, without
32 compensation, performed for the benefit of the community by the
33 offender as punishment for committing an offense. Community
34 restitution may be performed through public or private organizations or
35 through work crews;

36 (4) "Community supervision" means an order of disposition by the
37 court of an adjudicated youth not committed to the department or an

1 order granting a deferred disposition. A community supervision order
2 for a single offense may be for a period of up to two years for a sex
3 offense as defined by RCW 9.94A.030 and up to one year for other
4 offenses. As a mandatory condition of any term of community
5 supervision, the court shall order the juvenile to refrain from
6 committing new offenses. As a mandatory condition of community
7 supervision, the court shall order the juvenile to comply with the
8 mandatory school attendance provisions of chapter 28A.225 RCW and to
9 inform the school of the existence of this requirement. Community
10 supervision is an individualized program comprised of one or more of
11 the following:

12 (a) Community-based sanctions;

13 (b) Community-based rehabilitation;

14 (c) Monitoring and reporting requirements;

15 (d) Posting of a probation bond;

16 (5) "Confinement" means physical custody by the department of
17 social and health services in a facility operated by or pursuant to a
18 contract with the state, or physical custody in a detention facility
19 operated by or pursuant to a contract with any county. The county may
20 operate or contract with vendors to operate county detention
21 facilities. The department may operate or contract to operate
22 detention facilities for juveniles committed to the department.
23 Pretrial confinement or confinement of less than thirty-one days
24 imposed as part of a disposition or modification order may be served
25 consecutively or intermittently, in the discretion of the court;

26 (6) "Court," when used without further qualification, means the
27 juvenile court judge(s) or commissioner(s);

28 (7) "Criminal history" includes all criminal complaints against the
29 respondent for which, prior to the commission of a current offense:

30 (a) The allegations were found correct by a court. If a respondent
31 is convicted of two or more charges arising out of the same course of
32 conduct, only the highest charge from among these shall count as an
33 offense for the purposes of this chapter; or

34 (b) The criminal complaint was diverted by a prosecutor pursuant to
35 the provisions of this chapter on agreement of the respondent and after
36 an advisement to the respondent that the criminal complaint would be
37 considered as part of the respondent's criminal history. A

1 successfully completed deferred adjudication that was entered before
2 July 1, 1998, or a deferred disposition shall not be considered part of
3 the respondent's criminal history;

4 (8) "Department" means the department of social and health
5 services;

6 (9) "Detention facility" means a county facility, paid for by the
7 county, for the physical confinement of a juvenile alleged to have
8 committed an offense or an adjudicated offender subject to a
9 disposition or modification order. "Detention facility" includes
10 county group homes, inpatient substance abuse programs, juvenile basic
11 training camps, and electronic monitoring;

12 (10) "Diversion unit" means any probation counselor who enters into
13 a diversion agreement with an alleged youthful offender, or any other
14 person, community accountability board, youth court under the
15 supervision of the juvenile court, or other entity except a law
16 enforcement official or entity, with whom the juvenile court
17 administrator has contracted to arrange and supervise such agreements
18 pursuant to RCW 13.40.080, or any person, community accountability
19 board, or other entity specially funded by the legislature to arrange
20 and supervise diversion agreements in accordance with the requirements
21 of this chapter. For purposes of this subsection, "community
22 accountability board" means a board comprised of members of the local
23 community in which the juvenile offender resides. The superior court
24 shall appoint the members. The boards shall consist of at least three
25 and not more than seven members. If possible, the board should include
26 a variety of representatives from the community, such as a law
27 enforcement officer, teacher or school administrator, high school
28 student, parent, and business owner, and should represent the cultural
29 diversity of the local community;

30 (11) "Foster care" means temporary physical care in a foster family
31 home or group care facility as defined in RCW 74.15.020 and licensed by
32 the department, or other legally authorized care;

33 (12) "Institution" means a juvenile facility established pursuant
34 to chapters 72.05 and 72.16 through 72.20 RCW;

35 (13) "Intensive supervision program" means a parole program that
36 requires intensive supervision and monitoring, offers an array of
37 individualized treatment and transitional services, and emphasizes

1 community involvement and support in order to reduce the likelihood a
2 juvenile offender will commit further offenses;

3 (14) "Juvenile," "youth," and "child" mean any individual who is
4 under the chronological age of eighteen years and who has not been
5 previously transferred to adult court pursuant to RCW 13.40.110, unless
6 the individual was convicted of a lesser charge or acquitted of the
7 charge for which he or she was previously transferred pursuant to RCW
8 13.40.110 or who is not otherwise under adult court jurisdiction;

9 (15) "Juvenile offender" means any juvenile who has been found by
10 the juvenile court to have committed an offense, including a person
11 eighteen years of age or older over whom jurisdiction has been extended
12 under RCW 13.40.300;

13 (16) "Labor" means the period of time before a birth during which
14 contractions are of sufficient frequency, intensity, and duration to
15 bring about effacement and progressive dilation of the cervix;

16 (17) "Local sanctions" means one or more of the following: (a) 0-
17 30 days of confinement; (b) 0-12 months of community supervision; (c)
18 0-150 hours of community restitution; or (d) \$0-\$500 fine;

19 (18) "Manifest injustice" means a disposition that would either
20 impose an excessive penalty on the juvenile or would impose a serious,
21 and clear danger to society in light of the purposes of this chapter;

22 (19) "Monitoring and reporting requirements" means one or more of
23 the following: Curfews; requirements to remain at home, school, work,
24 or court-ordered treatment programs during specified hours;
25 restrictions from leaving or entering specified geographical areas;
26 requirements to report to the probation officer as directed and to
27 remain under the probation officer's supervision; and other conditions
28 or limitations as the court may require which may not include
29 confinement;

30 (20) "Offense" means an act designated a violation or a crime if
31 committed by an adult under the law of this state, under any ordinance
32 of any city or county of this state, under any federal law, or under
33 the law of another state if the act occurred in that state;

34 (21) "Physical restraint" means the use of any bodily force or
35 physical intervention to control a juvenile offender or limit a
36 juvenile offender's freedom of movement in a way that does not involve
37 a mechanical restraint. Physical restraint does not include momentary

1 periods of minimal physical restriction by direct person-to-person
2 contact, without the aid of mechanical restraint, accomplished with
3 limited force and designed to:

4 (a) Prevent a juvenile offender from completing an act that would
5 result in potential bodily harm to self or others or damage property;

6 (b) Remove a disruptive juvenile offender who is unwilling to leave
7 the area voluntarily; or

8 (c) Guide a juvenile offender from one location to another;

9 (22) "Postpartum recovery" means (a) the entire period a woman or
10 youth is in the hospital, birthing center, or clinic after giving birth
11 and (b) an additional time period, if any, a treating physician
12 determines is necessary for healing after the youth leaves the
13 hospital, birthing center, or clinic;

14 (23) "Probation bond" means a bond, posted with sufficient security
15 by a surety justified and approved by the court, to secure the
16 offender's appearance at required court proceedings and compliance with
17 court-ordered community supervision or conditions of release ordered
18 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
19 cash or posting of other collateral in lieu of a bond if approved by
20 the court;

21 (24) "Respondent" means a juvenile who is alleged or proven to have
22 committed an offense;

23 (25) "Restitution" means financial reimbursement by the offender to
24 the victim, and shall be limited to easily ascertainable damages for
25 injury to or loss of property, actual expenses incurred for medical
26 treatment for physical injury to persons, lost wages resulting from
27 physical injury, and costs of the victim's counseling reasonably
28 related to the offense. Restitution shall not include reimbursement
29 for damages for mental anguish, pain and suffering, or other intangible
30 losses. Nothing in this chapter shall limit or replace civil remedies
31 or defenses available to the victim or offender;

32 (26) "Restraints" means anything used to control the movement of a
33 person's body or limbs and includes:

34 (a) Physical restraint; or

35 (b) Mechanical device including but not limited to: Metal
36 handcuffs, plastic ties, ankle restraints, leather cuffs, other
37 hospital-type restraints, tasers, or batons;

1 (27) "Secretary" means the secretary of the department of social
2 and health services. "Assistant secretary" means the assistant
3 secretary for juvenile rehabilitation for the department;

4 (28) "Services" means services which provide alternatives to
5 incarceration for those juveniles who have pleaded or been adjudicated
6 guilty of an offense or have signed a diversion agreement pursuant to
7 this chapter;

8 (29) "Sex offense" means an offense defined as a sex offense in RCW
9 9.94A.030;

10 (30) "Sexual motivation" means that one of the purposes for which
11 the respondent committed the offense was for the purpose of his or her
12 sexual gratification;

13 (31) "Surety" means an entity licensed under state insurance laws
14 or by the state department of licensing, to write corporate, property,
15 or probation bonds within the state, and justified and approved by the
16 superior court of the county having jurisdiction of the case;

17 (32) "Transportation" means the conveying, by any means, of an
18 incarcerated pregnant youth from the institution or detention facility
19 to another location from the moment she leaves the institution or
20 detention facility to the time of arrival at the other location, and
21 includes the escorting of the pregnant incarcerated youth from the
22 institution or detention facility to a transport vehicle and from the
23 vehicle to the other location;

24 (33) "Violation" means an act or omission, which if committed by an
25 adult, must be proven beyond a reasonable doubt, and is punishable by
26 sanctions which do not include incarceration;

27 (34) "Violent offense" means a violent offense as defined in RCW
28 9.94A.030;

29 (35) "Youth court" means a diversion unit under the supervision of
30 the juvenile court;

31 (36) "Evidence-based" means a program or practice that is cost-
32 effective and includes at least two randomized or statistically
33 controlled evaluations that have demonstrated improved outcomes for its
34 intended population.

35 (37) "Prevention and treatment services" means services and
36 programs for children and youth and their families that are
37 specifically directed to address behaviors that have resulted or may
38 result in truancy, abuse or neglect, out-of-home placements, chemical

1 dependency, substance abuse, sexual aggressiveness, delinquency,
2 aggression, family dysfunction, recidivism, or mental or emotional
3 disorders.

4 (38) "Outcome-based" means a program or practice that is cost-
5 effective and has been assessed as demonstrating effectiveness in
6 improving outcomes for its intended population.

7 NEW SECTION. Sec. 3. A new section is added to chapter 13.40 RCW
8 to read as follows:

9 (1) The department, and any other state agency that administers
10 funds related to juvenile offenders under this chapter, shall, in
11 accordance with the graduated requirements of subsection (3) of this
12 section:

13 (a) Expend state funds on prevention and treatment programs for
14 juvenile offenders that are evidence-based or outcome-based, as
15 identified by the Washington state institute of public policy; and

16 (b) In consultation with the Washington state institute for public
17 policy, initiate or continue the review of sound promising, outcome-
18 based and research-based practices with the goal of identifying and
19 expanding the number and type of available evidence-based programs that
20 are cost-beneficial and effective at reducing criminal recidivism of
21 the program participants. In its review of practices, the department
22 shall work to identify programs that have been utilized with a diverse
23 set of clients as well as consult with tribal governments, experts
24 within ethnically diverse communities, and community organizations that
25 service diverse communities.

26 (2) When necessary to meet the requirements of subsection (3) of
27 this section, the department shall include in its contracts with
28 providers of prevention and treatment services for juvenile offenders
29 a provision affirming that the provider shall provide evidence-based
30 services, that the services must be provided by staff who are trained
31 in providing evidence-based services, and that the services must be
32 accompanied by monitoring and quality control procedures that ensure
33 that they are delivered according to the applicable standards and in a
34 manner that is culturally competent and effective within ethnically
35 diverse populations. The department may use performance requirements
36 or incentives in determining the amounts payable in contracts or
37 grants.

1 (3)(a) In order to prevent undue disturbance to existing department
2 programs, the department shall ensure that: (i) No less than sixty
3 percent of the funds expended for prevention and treatment services to
4 juvenile offenders meet the requirements of this section during fiscal
5 years 2014 and 2015; (ii) no less than sixty-five percent of the funds
6 expended meet the requirements of this section during fiscal years 2016
7 and 2017; and (iii) no less than seventy-five percent of the funds
8 expended meet the requirements of this section during fiscal years 2018
9 and 2019.

10 (b) The requirements of (a) of this subsection apply only to
11 treatment or service needs for which evidence-based practices have been
12 identified.

13 (c) The department shall prioritize spending on evidence-based
14 prevention and treatment services to juvenile offenders in a manner
15 that maximizes the cost benefit to the state, in collaboration with the
16 Washington association of juvenile court administrators.

17 (d) If the department is unable to meet the requirements of (a) of
18 this subsection in any fiscal year, it must report to the legislature
19 regarding its efforts and plans to bring the department into compliance
20 with the requirements of this act.

21 (e) The determination of the amount of funds expended for evidence-
22 based prevention and treatment services must include program costs
23 necessary to directly implement evidence-based programs, including
24 discrete staffing and training costs which would not have been incurred
25 but for implementation of an evidence-based program. Funds expended
26 for indirect administrative costs may not be included in the
27 determination of amounts expended for evidence-based services.

28 (f) Nothing in this section requires the department to take actions
29 that are in conflict with the Presidential Executive Order 13175 or
30 that adversely impact tribal-state consultation protocols or
31 contractual relations.

32 **Sec. 4.** RCW 71.24.025 and 2008 c 261 s 2 are each amended to read
33 as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout this chapter.

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

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

3 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
4 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
5 or

6 (c) Presenting a likelihood of serious harm as defined in RCW
7 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

8 (2) "Available resources" means funds appropriated for the purpose
9 of providing community mental health programs, federal funds, except
10 those provided according to Title XIX of the Social Security Act, and
11 state funds appropriated under this chapter or chapter 71.05 RCW by the
12 legislature during any biennium for the purpose of providing
13 residential services, resource management services, community support
14 services, and other mental health services. This does not include
15 funds appropriated for the purpose of operating and administering the
16 state psychiatric hospitals.

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

18 (4) "Chronically mentally ill adult" or "adult who is chronically
19 mentally ill" means an adult who has a mental disorder and meets at
20 least one of the following criteria:

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

23 (b) Has experienced a continuous psychiatric hospitalization or
24 residential treatment exceeding six months' duration within the
25 preceding year; or

26 (c) Has been unable to engage in any substantial gainful activity
27 by reason of any mental disorder which has lasted for a continuous
28 period of not less than twelve months. "Substantial gainful activity"
29 shall be defined by the department by rule consistent with Public Law
30 92-603, as amended.

31 (5) "Clubhouse" means a community-based program that provides
32 rehabilitation services and is certified by the department of social
33 and health services.

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

36 (7) "Community mental health service delivery system" means public
37 or private agencies that provide services specifically to persons with

1 mental disorders as defined under RCW 71.05.020 and receive funding
2 from public sources.

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

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

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

29 (11) "Department" means the department of social and health
30 services.

31 (12) "Designated mental health professional" means a mental health
32 professional designated by the county or other authority authorized in
33 rule to perform the duties specified in this chapter.

34 (13) "Emerging best practice" or "promising practice" means a
35 practice that presents, based on preliminary information, potential for
36 becoming a research-based or consensus-based practice.

37 (14) "Evidence-based" means a program or practice that (~~has had~~
38 ~~multiple site random controlled trials across heterogeneous populations~~

1 ~~demonstrating that the program or practice is effective for the~~) is
2 cost-effective and includes at least two randomized or statistically
3 controlled evaluations that have demonstrated improved outcomes for its
4 intended population.

5 (15) "Licensed service provider" means an entity licensed according
6 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
7 minimum standards as a result of accreditation by a recognized
8 behavioral health accrediting body recognized and having a current
9 agreement with the department, that meets state minimum standards or
10 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
11 applies to registered nurses and advanced registered nurse
12 practitioners.

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

22 (17) "Mental health services" means all services provided by
23 regional support networks and other services provided by the state for
24 persons who are mentally ill.

25 (18) "Mentally ill persons," "persons who are mentally ill," and
26 "the mentally ill" mean persons and conditions defined in subsections
27 (1), (4), (27), and (28) of this section.

28 (19) "Outcome-based" means a program or practice that is cost-
29 effective and has been assessed as demonstrating effectiveness in
30 improving outcomes for its intended population.

31 (20) "Recovery" means the process in which people are able to live,
32 work, learn, and participate fully in their communities.

33 ~~((+20+))~~ (21) "Regional support network" means a county authority
34 or group of county authorities or other entity recognized by the
35 secretary in contract in a defined region.

36 ~~((+21+))~~ (22) "Registration records" include all the records of the
37 department, regional support networks, treatment facilities, and other

1 persons providing services to the department, county departments, or
2 facilities which identify persons who are receiving or who at any time
3 have received services for mental illness.

4 ~~((+22+))~~ (23) "Research-based" means a program or practice that has
5 some research demonstrating effectiveness, but that does not yet meet
6 the standard of evidence-based practices.

7 ~~((+23+))~~ (24) "Residential services" means a complete range of
8 residences and supports authorized by resource management services and
9 which may involve a facility, a distinct part thereof, or services
10 which support community living, for persons who are acutely mentally
11 ill, adults who are chronically mentally ill, children who are severely
12 emotionally disturbed, or adults who are seriously disturbed and
13 determined by the regional support network to be at risk of becoming
14 acutely or chronically mentally ill. The services shall include at
15 least evaluation and treatment services as defined in chapter 71.05
16 RCW, acute crisis respite care, long-term adaptive and rehabilitative
17 care, and supervised and supported living services, and shall also
18 include any residential services developed to service persons who are
19 mentally ill in nursing homes, boarding homes, and adult family homes,
20 and may include outpatient services provided as an element in a package
21 of services in a supported housing model. Residential services for
22 children in out-of-home placements related to their mental disorder
23 shall not include the costs of food and shelter, except for children's
24 long-term residential facilities existing prior to January 1, 1991.

25 ~~((+24+))~~ (25) "Resilience" means the personal and community
26 qualities that enable individuals to rebound from adversity, trauma,
27 tragedy, threats, or other stresses, and to live productive lives.

28 ~~((+25+))~~ (26) "Resource management services" mean the planning,
29 coordination, and authorization of residential services and community
30 support services administered pursuant to an individual service plan
31 for: (a) Adults and children who are acutely mentally ill; (b) adults
32 who are chronically mentally ill; (c) children who are severely
33 emotionally disturbed; or (d) adults who are seriously disturbed and
34 determined solely by a regional support network to be at risk of
35 becoming acutely or chronically mentally ill. Such planning,
36 coordination, and authorization shall include mental health screening
37 for children eligible under the federal Title XIX early and periodic
38 screening, diagnosis, and treatment program. Resource management

1 services include seven day a week, twenty-four hour a day availability
2 of information regarding enrollment of adults and children who are
3 mentally ill in services and their individual service plan to
4 designated mental health professionals, evaluation and treatment
5 facilities, and others as determined by the regional support network.

6 ~~((+26+))~~ (27) "Secretary" means the secretary of social and health
7 services.

8 ~~((+27+))~~ (28) "Seriously disturbed person" means a person who:

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

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

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

18 (d) Exhibits suicidal preoccupation or attempts; or

19 (e) Is a child diagnosed by a mental health professional, as
20 defined in chapter 71.34 RCW, as experiencing a mental disorder which
21 is clearly interfering with the child's functioning in family or school
22 or with peers or is clearly interfering with the child's personality
23 development and learning.

24 ~~((+28+))~~ (29) "Severely emotionally disturbed child" or "child who
25 is severely emotionally disturbed" means a child who has been
26 determined by the regional support network to be experiencing a mental
27 disorder as defined in chapter 71.34 RCW, including those mental
28 disorders that result in a behavioral or conduct disorder, that is
29 clearly interfering with the child's functioning in family or school or
30 with peers and who meets at least one of the following criteria:

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

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

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

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

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

3 (ii) Changes in custodial adult;

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

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

9 (v) Drug or alcohol abuse; or

10 (vi) Homelessness.

11 ~~((+29+))~~ (30) "State minimum standards" means minimum requirements
12 established by rules adopted by the secretary and necessary to
13 implement this chapter for: (a) Delivery of mental health services;
14 (b) licensed service providers for the provision of mental health
15 services; (c) residential services; and (d) community support services
16 and resource management services.

17 ~~((+30+))~~ (31) "Treatment records" include registration and all
18 other records concerning persons who are receiving or who at any time
19 have received services for mental illness, which are maintained by the
20 department, by regional support networks and their staffs, and by
21 treatment facilities. Treatment records do not include notes or
22 records maintained for personal use by a person providing treatment
23 services for the department, regional support networks, or a treatment
24 facility if the notes or records are not available to others.

25 ~~((+31+))~~ (32) "Tribal authority," for the purposes of this section
26 and RCW 71.24.300 only, means: The federally recognized Indian tribes
27 and the major Indian organizations recognized by the secretary insofar
28 as these organizations do not have a financial relationship with any
29 regional support network that would present a conflict of interest.

30 (33) "Prevention and treatment services" means services and
31 programs for children and youth and their families that are
32 specifically directed to address behaviors that have resulted or may
33 result in truancy, abuse or neglect, out-of-home placements, chemical
34 dependency, substance abuse, sexual aggressiveness, delinquency,
35 aggression, family dysfunction, recidivism, or mental or emotional
36 disorders.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 71.24 RCW
2 to read as follows:

3 (1) The department, and any other state agency that administers
4 funds related to prevention, treatment, and care of recipients of
5 children's mental health services under this chapter, shall, in
6 accordance with the graduated requirements of subsection (3) of this
7 section:

8 (a) Expend state funds on children's mental health prevention and
9 treatment programs that are evidence-based or outcome-based, as
10 identified by the Washington state institute of public policy, in
11 consultation with a university-based evidence-based practice institute
12 entity in Washington state;

13 (b) In consultation with the Washington state institute for public
14 policy and the University of Washington evidence-based practice
15 institute, initiate or continue the ongoing review of sound promising,
16 outcome-based, and research-based practices with the goal of
17 identifying and expanding the number and type of available evidence-
18 based programs that are cost-beneficial and effective at improving
19 mental health outcomes for participants. In its review of practices,
20 the department shall work to identify programs that have been utilized
21 with a diverse set of clients as well as consult with tribal
22 governments, experts within ethnically diverse communities, and
23 community organizations that service diverse communities.

24 (2) When necessary to meet the requirements of subsection (3) of
25 this section, the department shall to the extent that funding is
26 available for this purpose without diminishing availability of other
27 mandatory medicaid services include in its contracts with regional
28 support networks a provision requiring that contracted providers of
29 children's mental health prevention and treatment services provide
30 evidence-based and outcome-based services, that the services be
31 provided by staff who are trained in providing evidence-based and
32 outcome-based services, and that the services must be accompanied by
33 monitoring and quality control procedures that ensure that they are
34 delivered according to the applicable standards and in a manner that is
35 culturally competent and effective within ethnically diverse
36 populations. The department may use performance requirements or
37 incentives in determining the amounts payable in contracts or grants.

1 (3)(a) In order to prevent undue disturbance to existing department
2 programs, and to the extent that the requirements of this subsection do
3 not conflict with any department obligations under a court order or
4 court-approved agreement, the department shall:

5 (i) Establish a baseline of evidence-based practice, research-based
6 practice, and outcome-based practice utilization within the
7 department's managed mental health program by June 30, 2013. The
8 baseline will include the number of children receiving evidence-based,
9 research-based, and outcome-based practices, the percentage of children
10 served who are receiving evidence-based, research-based, and outcome-
11 based practices, the number of encounters of evidence-based, research-
12 based, and outcome-based practice and the types of evidence-based,
13 research-based, and outcome-based practices, and the percentage of
14 encounters delivered to children served that are evidence-based,
15 research-based, and outcome-based practices;

16 (ii) By July 1, 2012, document a descriptive baseline of evidence-
17 based, research-based, and outcome-based practice implementation within
18 the department's prepaid inpatient health plans contracted network of
19 community mental health providers;

20 (iii) By July 1, 2012, seek federal technical assistance regarding
21 the medicaid financing of evidence-based practices;

22 (iv) By October 1, 2012, implement changes in the prepaid inpatient
23 health plans contract and information systems that support
24 implementation of client level reporting of participation in evidence-
25 based, research-based, and outcome-based and promising practices;
26 include contract language in prepaid inpatient health plans contracts;
27 and modify data reporting instructions to insure consistency in the
28 reporting of client level participation in evidence-based, research-
29 based, and outcome-based services;

30 (v) By October 1, 2012, match identified evidence-based and
31 outcome-based practices to the medicaid mental health state plan to
32 provide guidance to prepaid inpatient health plans to begin
33 implementation and encounter reporting of evidence-based practices
34 within existing resources; and

35 (vi) By October 1, 2012, review the medicaid mental health state
36 plan for opportunities to increase federal financial participation in
37 the delivery of evidence-based practices;

1 (b) For the 2013-2015 biennium, at least twenty-five percent of the
2 encounters delivered to children served by regional support networks
3 must be evidence-based, research-based, and outcome-based practices.
4 For each subsequent biennium, the percentage of encounters using
5 evidence-based, research-based, and outcome-based practices shall
6 increase by fifteen percent above the applicable target for the
7 previous biennium up at a maximum of seventy-five percent. If the
8 department is unable to meet the requirements of this subsection in any
9 biennium, it must report to the legislature regarding its efforts and
10 plans to bring the department into compliance with the requirements of
11 this act.

12 (c) Over a five-year period, ending June 30, 2019, and with
13 incremental increases each fiscal year, the department shall:

14 (i) Subject to the appropriation of funds to support it, implement
15 a standardized assessment tool that will direct children toward
16 available evidence-based and outcome-based practices as appropriate;

17 (ii) To the extent that funds are available, reinforce standardized
18 implementation of evidence-based practices for which training and
19 workforce development has already occurred but which are not yet fully
20 implemented statewide;

21 (iii) To the extent funds are available, initiate statewide
22 workforce development for at least one additional evidence-based
23 practice within a period of two fiscal years and sustain training and
24 dissemination activities for existing evidence-based programs
25 implemented by the department. The department shall prioritize
26 evidence-based practices for adoption that maximize the ability to
27 secure federal financial participation through its medicaid mental
28 health managed care program; and

29 (iv) Place language in prepaid inpatient health plan contracts
30 requiring implementation of evidence-based and outcome-based practices
31 for which workforce development is provided; and

32 (d) The department shall prioritize evidence-based and outcome-
33 based practices for adoption that maximize its ability to secure
34 federal financial participation through its medicaid mental health
35 managed care program.

36 (4) The requirements of (a) of this subsection apply only to
37 treatment or service needs for which evidence-based practices have been
38 identified.

1 (5) Nothing in this section requires the department to:

2 (a) Take actions that are in conflict with Presidential Executive
3 Order 13175 or that adversely impact tribal-state consultation
4 protocols or contractual relations; or

5 (b) Redirect funds in a manner that conflicts with the requirements
6 of the department's section 1915(b) medicaid mental health waiver or
7 that would substantially reduce federal financial participation in
8 services provided under the department's section 1915(b) medicaid
9 mental health waiver and impair access to appropriate and effective
10 services for a substantial number of medical clients.

11 **Sec. 6.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and
12 amended to read as follows:

13 For purposes of this chapter:

14 (1) "Case management" means the management of services delivered to
15 children and families in the child welfare system, including permanency
16 services, caseworker-child visits, family visits, the convening of
17 family group conferences, the development and revision of the case
18 plan, the coordination and monitoring of services needed by the child
19 and family, and the assumption of court-related duties, excluding legal
20 representation, including preparing court reports, attending judicial
21 hearings and permanency hearings, and ensuring that the child is
22 progressing toward permanency within state and federal mandates,
23 including the Indian child welfare act.

24 (2) "Child" means:

25 (a) A person less than eighteen years of age; or

26 (b) A person age eighteen to twenty-one years who is eligible to
27 receive the extended foster care services authorized under RCW
28 74.13.031.

29 (3) "Child protective services" has the same meaning as in RCW
30 26.44.020.

31 (4) "Child welfare services" means social services including
32 voluntary and in-home services, out-of-home care, case management, and
33 adoption services which strengthen, supplement, or substitute for,
34 parental care and supervision for the purpose of:

35 (a) Preventing or remedying, or assisting in the solution of
36 problems which may result in families in conflict, or the neglect,
37 abuse, exploitation, or criminal behavior of children;

1 (b) Protecting and caring for dependent, abused, or neglected
2 children;

3 (c) Assisting children who are in conflict with their parents, and
4 assisting parents who are in conflict with their children, with
5 services designed to resolve such conflicts;

6 (d) Protecting and promoting the welfare of children, including the
7 strengthening of their own homes where possible, or, where needed;

8 (e) Providing adequate care of children away from their homes in
9 foster family homes or day care or other child care agencies or
10 facilities.

11 "Child welfare services" does not include child protection
12 services.

13 (5) "Committee" means the child welfare transformation design
14 committee.

15 (6) "Department" means the department of social and health
16 services.

17 (7) "Extended foster care services" means residential and other
18 support services the department is authorized to provide to foster
19 children. These services include, but are not limited to, placement in
20 licensed, relative, or otherwise approved care, or supervised
21 independent living settings; assistance in meeting basic needs;
22 independent living services; medical assistance; and counseling or
23 treatment.

24 (8) "Measurable effects" means a statistically significant change
25 which occurs as a result of the service or services a supervising
26 agency is assigned in a performance-based contract, in time periods
27 established in the contract.

28 (9) "Out-of-home care services" means services provided after the
29 shelter care hearing to or for children in out-of-home care, as that
30 term is defined in RCW 13.34.030, and their families, including the
31 recruitment, training, and management of foster parents, the
32 recruitment of adoptive families, and the facilitation of the adoption
33 process, family reunification, independent living, emergency shelter,
34 residential group care, and foster care, including relative placement.

35 (10) "Performance-based contracting" means the structuring of all
36 aspects of the procurement of services around the purpose of the work
37 to be performed and the desired results with the contract requirements

1 set forth in clear, specific, and objective terms with measurable
2 outcomes. Contracts shall also include provisions that link the
3 performance of the contractor to the level and timing of reimbursement.

4 (11) "Permanency services" means long-term services provided to
5 secure a child's safety, permanency, and well-being, including foster
6 care services, family reunification services, adoption services, and
7 preparation for independent living services.

8 (12) "Primary prevention services" means services which are
9 designed and delivered for the primary purpose of enhancing child and
10 family well-being and are shown, by analysis of outcomes, to reduce the
11 risk to the likelihood of the initial need for child welfare services.

12 (13) "Supervising agency" means an agency licensed by the state
13 under RCW 74.15.090, or licensed by a federally recognized Indian tribe
14 located in this state under RCW 74.15.190, that has entered into a
15 performance-based contract with the department to provide case
16 management for the delivery and documentation of child welfare
17 services, as defined in this section.

18 (14) "Evidence-based" means a program or practice that is cost-
19 effective and includes at least two randomized or statistically
20 controlled evaluations that have demonstrated improved outcomes for its
21 intended population.

22 (15) "Prevention and treatment services" means services and
23 programs for children and youth and their families that are
24 specifically directed to address behaviors that have resulted or may
25 result in truancy, abuse or neglect, out-of-home placements, chemical
26 dependency, substance abuse, sexual aggressiveness, delinquency,
27 aggression, family dysfunction, recidivism, or mental or emotional
28 disorders.

29 (16) "Research-based" means a program or practice that has some
30 research demonstrating effectiveness, but that does not yet meet the
31 standard of evidence-based practices.

32 (17) "Outcome-based" means a program or practice that is cost-
33 effective and has been assessed as demonstrating effectiveness in
34 improving outcomes for its intended population.

35 NEW SECTION. Sec. 7. A new section is added to chapter 74.13 RCW
36 to read as follows:

37 (1) The department, and any other state agency that administers

1 funds related to prevention, treatment, and care of recipients of child
2 welfare services under this chapter, shall, in accordance with the
3 graduated requirements of subsection (3) of this section:

4 (a) Expend state funds on prevention and treatment programs for
5 recipients of child welfare services that are outcome-based, research-
6 based, or evidence-based, as identified by the Washington state
7 institute for public policy, in consultation with a university-based
8 evidence-based practice entity in Washington state; and

9 (b) In consultation with the Washington state institute for public
10 policy and a university-based evidence-based practice entity in
11 Washington state, initiate and continue the review of sound promising,
12 outcome-based and research-based practices with the goal of identifying
13 and expanding the number and type of available evidence-based programs
14 that are cost-beneficial and effective at reducing abuse and neglect,
15 safely reducing rates of out-of-home placement, decreasing the length
16 of time required to obtain permanency for children in out-of-home care,
17 or improving child well-being for participants. In its review of
18 practices, the department shall work to identify programs that have
19 been utilized with a diverse set of clients as well as consult with
20 tribal governments, experts within ethnically diverse communities, and
21 community organizations that service diverse communities.

22 (2) When necessary to meet the requirements of subsection (3) of
23 this section, the department shall include in any contracts with
24 providers of prevention and treatment services for recipients of child
25 welfare services a provision affirming that the provider shall provide
26 research-based and evidence-based services, and that the services must
27 be provided by staff who are trained in providing evidence-based
28 services, and the services must be accompanied by monitoring and
29 quality control procedures that ensure that they are delivered
30 according to the applicable standards and in a manner that is
31 culturally competent and effective within ethnically diverse
32 populations. The department may use performance requirements or
33 incentives in determining the amounts payable in contracts or grants.

34 (3)(a) In order to prevent undue disturbance to existing department
35 programs and to allow time for a workforce to be sufficiently trained
36 in evidence-based practices, the requirements of this section are
37 graduated. To the extent that these requirements do not conflict with

1 the department's obligations under any court order or court-approved
2 agreement, the department shall ensure that:

3 (i)(A) During fiscal years 2014 and 2015, no less than thirty-five
4 percent of the funds expended for prevention and treatment services for
5 recipients of child welfare services meet the requirements of this
6 section;

7 (B) No less than thirty-five percent of families open for services
8 have one or more members receiving evidence-based, outcome-based, or
9 research-based programs; and

10 (C) No less than thirty-five percent of child welfare service
11 contractors provide evidence-based, outcome-based, or research-based
12 programs;

13 (ii)(A) During fiscal years 2016 and 2017, no less than fifty
14 percent of the funds expended for recipients of child welfare services
15 meet the requirements of this section;

16 (B) No less than fifty percent of families open for services have
17 one or more members receiving evidence-based, outcome-based, or
18 research-based programs; and

19 (C) No less than fifty percent of child welfare service contractors
20 provide evidence-based, outcome-based, or research-based programs; and

21 (iii)(A) During fiscal years 2018 and 2019, no less than seventy-
22 five percent of the funds expended for recipients of child welfare
23 services meet the requirements of this section;

24 (B) No less than seventy-five percent of families open for services
25 have one or more members receiving evidence-based, outcome-based, or
26 research-based programs; and

27 (C) No less than seventy-five percent of child welfare service
28 contractors provide evidence-based, outcome-based, or research-based
29 programs.

30 (b) Nothing in this section shall require the department to take
31 actions that are in conflict with the Presidential Executive Order
32 13175 or that adversely impact tribal-state consultation protocols or
33 contractual relations.

34 (c) The requirements of (a) of this subsection apply only to
35 treatment or service needs for which research-based, outcome-based, or
36 evidence-based practices have been identified.

37 (d) If the department is unable to meet the requirements of (a) of

1 this subsection in any fiscal year, it must report to the legislature
2 regarding its efforts and plans to bring the department into compliance
3 with the requirements of this act.

4 NEW SECTION. **Sec. 8.** (1) In order to achieve the requirements of
5 sections 5 and 7 of this act, the department shall, to the extent
6 practicable:

7 (a) Redirect existing funding resources as necessary to coordinate
8 the purchase of evidence-based prevention and treatment services and
9 the development of a workforce trained to implement evidence-based
10 practices;

11 (b) Utilize existing data reporting systems and quality management
12 processes at the state and local level for monitoring the quality
13 control and fidelity of the implementation of evidence-based practices;

14 (c) Identify components of evidence-based practices for which
15 federal matching funds might be claimed and seek such matching funds to
16 support implementation of evidence-based practices.

17 (2) The department to avoid duplication and maximize the efficient
18 use of funds shall designate a lead agency to coordinate training for
19 the delivery of evidence-based programs pursuant to sections 3 and 5 of
20 this act.

21 (3) All training of the child welfare workforce will be delivered
22 through the alliance for workforce excellence at the University of
23 Washington school of social work in accordance with their existing
24 agreement with the children's administration. Any such training will
25 be offered as funds are available and in a manner that optimizes
26 federal reimbursement.

27 (4) By June 30, 2013, the department must complete an initial
28 report with baseline data regarding funds expended for evidence-based
29 practices and report to the appropriate legislative committees.
30 Thereafter, the department shall report to the legislature regarding
31 its progress in the coordination of the purchase of evidence-based
32 prevention and treatment services and of the development of a workforce
33 trained to implement evidence-based practices. The first report must
34 be completed no later than December 31, 2013, and the department shall
35 report annually, thereafter.

36 (5) Nothing in this act requires the department to:

1 (a) Take actions that are in conflict with Presidential Executive
2 Order 13175 or that adversely impact tribal-state consultation
3 protocols or contractual relations; or

4 (b) Redirect funds in a manner that:

5 (i) Conflicts with the requirements of the department's section
6 1915(b) medicaid mental health waiver; or

7 (ii) Would substantially reduce federal financial participation in
8 mental health, child welfare, or other health care services provided
9 through department programs, resulting in impaired access to
10 appropriate and effective services for a substantial number of eligible
11 clients.

12 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.20A RCW
13 to read as follows:

14 The department, in consultation with a university-based evidence-
15 based practice institute entity in Washington, the Washington
16 partnership council on juvenile justice, the child mental health
17 systems of care planning committee, the children, youth, and family
18 advisory committee, the Washington state racial disproportionality
19 advisory committee, a university-based child welfare research entity in
20 Washington state, the Washington association of juvenile court
21 administrators, and the Washington state institute for public policy,
22 shall:

23 (1) Develop an integrated and accountable system of care for the
24 coordination and the delivery of research-based, outcome-based, and
25 evidence-based prevention and treatment services to children and youth
26 and their families in the areas of mental health, child welfare, and
27 juvenile justice;

28 (2) Ensure that implementation of research-based, outcome-based,
29 and evidence-based prevention and treatment programs are accompanied by
30 monitoring and quality control procedures designed to ensure that they
31 are delivered with fidelity to the program and that corrective action
32 is taken when these standards are not met; and

33 (3) Acknowledge any existing system of quality control for the
34 juvenile justice system and shall work within that system in meeting
35 the graduated requirements set forth in section 3 of this act.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.20A
2 RCW to read as follows:

3 (1) The department of social and health services shall track and
4 document compliance with sections 3, 5, and 7 of this act.

5 (2) The Washington state institute for public policy, in
6 consultation with a university-based evidence-based practice entity in
7 Washington state, and with any necessary assistance from the
8 department, shall work collaboratively to prepare a report to the
9 appropriate legislative committees. The report must include:

10 (a) An assessment of the amount of funds expended for the evidence-
11 based, outcome-based, and research-based prevention and treatment
12 services;

13 (b) An assessment of program fidelity to the evidence-based,
14 outcome-based, and research-based prevention and treatment models;

15 (c) An assessment of outcomes for children and youth who receive
16 evidence-based, outcome-based, and research-based prevention and
17 treatment services, including an analysis that is disaggregated by
18 race, ethnicity, and gender; and

19 (d) A description of the method of the documentation of the
20 department's compliance with the requirements of sections 3, 5, and 7
21 of this act.

22 (3) The first report must be completed no later than July 1, 2013;
23 the second report must be completed no later than July 1, 2015; and the
24 final report must be completed no later than December 1, 2019.

25 NEW SECTION. **Sec. 11.** The Washington state institute for public
26 policy and the University of Washington evidence based practice
27 institute are encouraged to seek matching philanthropic and federal
28 funds to meet the requirements of this act."

E2SHB 2536 - S COMM AMD
By Committee on Human Services & Corrections

OUT OF ORDER 03/01/2012

29 On page 1, line 2 of the title, after "juveniles;" strike the

1 remainder of the title and insert "amending RCW 13.40.020 and
2 71.24.025; reenacting and amending RCW 74.13.020; adding a new section
3 to chapter 13.40 RCW; adding a new section to chapter 71.24 RCW; adding
4 a new section to chapter 74.13 RCW; adding new sections to chapter
5 43.20A RCW; and creating new sections."

--- END ---