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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2536

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State of Washington

62nd Legislature

2012 Regular Session

By House Ways & Means (originally sponsored by Representatives Dickerson, Johnson, Goodman, Hinkle, Kretz, Pettigrew, Warnick, Cody, Harris, Kenney, Kagi, Darneille, Orwall, Condotta, Ladenburg, Appleton, Jinkins, and Maxwell)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to the use of evidence-based practices for the  
2 delivery of services to children and juveniles; amending RCW 13.40.020  
3 and 71.24.025; reenacting and amending RCW 74.13.020; adding a new  
4 section to chapter 13.40 RCW; adding a new section to chapter 71.24  
5 RCW; adding a new section to chapter 74.13 RCW; adding new sections to  
6 chapter 43.20A RCW; and creating new sections.

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

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

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

18 (3) The legislature intends that prevention and intervention  
19 services delivered to children and juveniles in the areas of mental

1 health, child welfare, and juvenile justice must be primarily evidence-  
2 based, and it is anticipated that such services will be provided in a  
3 manner that is culturally competent.

4 (4) The legislature also acknowledges that the availability of  
5 evidence-based practices in each of the areas of mental health, child  
6 welfare, juvenile justice, and in different geographic areas of the  
7 state may vary. Thus, it would be unwise to require one hundred  
8 percent use of evidence-based practices. It is the intention of the  
9 legislature to require a graduated approach for each of these areas,  
10 the use of emerging best practices or promising practices, rather than  
11 evidence-based practices, is also necessary to the graduated goals of  
12 increasing the number of evidence-based practices.

13 (5) It is the intent of the legislature that the department of  
14 social and health services will ensure that an expansion of the use of  
15 evidence-based practices be accomplished using existing resources by  
16 coordinating the purchase of evidence-based services, the development  
17 of a trained workforce and the implementation of a system of care that  
18 supports evidence-based practices by the juvenile rehabilitation  
19 administration, the division of behavioral health and recovery  
20 services, and the children's administration.

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

25 (7) The legislature recognizes that in order to effectively provide  
26 evidence-based practices, contractors must have a workforce trained in  
27 these programs, and there must be an evaluation of the outcomes from  
28 their use.

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

31 For the purposes of this chapter:

32 (1) "Community-based rehabilitation" means one or more of the  
33 following: Employment; attendance of information classes; literacy  
34 classes; counseling, outpatient substance abuse treatment programs,  
35 outpatient mental health programs, anger management classes, education  
36 or outpatient treatment programs to prevent animal cruelty, or other  
37 services; or attendance at school or other educational programs

1 appropriate for the juvenile as determined by the school district.  
2 Placement in community-based rehabilitation programs is subject to  
3 available funds;

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

- 6 (a) A fine, not to exceed five hundred dollars;
- 7 (b) Community restitution not to exceed one hundred fifty hours of  
8 community restitution;

9 (3) "Community restitution" means compulsory service, without  
10 compensation, performed for the benefit of the community by the  
11 offender as punishment for committing an offense. Community  
12 restitution may be performed through public or private organizations or  
13 through work crews;

14 (4) "Community supervision" means an order of disposition by the  
15 court of an adjudicated youth not committed to the department or an  
16 order granting a deferred disposition. A community supervision order  
17 for a single offense may be for a period of up to two years for a sex  
18 offense as defined by RCW 9.94A.030 and up to one year for other  
19 offenses. As a mandatory condition of any term of community  
20 supervision, the court shall order the juvenile to refrain from  
21 committing new offenses. As a mandatory condition of community  
22 supervision, the court shall order the juvenile to comply with the  
23 mandatory school attendance provisions of chapter 28A.225 RCW and to  
24 inform the school of the existence of this requirement. Community  
25 supervision is an individualized program comprised of one or more of  
26 the following:

- 27 (a) Community-based sanctions;
- 28 (b) Community-based rehabilitation;
- 29 (c) Monitoring and reporting requirements;
- 30 (d) Posting of a probation bond;

31 (5) "Confinement" means physical custody by the department of  
32 social and health services in a facility operated by or pursuant to a  
33 contract with the state, or physical custody in a detention facility  
34 operated by or pursuant to a contract with any county. The county may  
35 operate or contract with vendors to operate county detention  
36 facilities. The department may operate or contract to operate  
37 detention facilities for juveniles committed to the department.

1 Pretrial confinement or confinement of less than thirty-one days  
2 imposed as part of a disposition or modification order may be served  
3 consecutively or intermittently, in the discretion of the court;

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

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

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

12 (b) The criminal complaint was diverted by a prosecutor pursuant to  
13 the provisions of this chapter on agreement of the respondent and after  
14 an advisement to the respondent that the criminal complaint would be  
15 considered as part of the respondent's criminal history. A  
16 successfully completed deferred adjudication that was entered before  
17 July 1, 1998, or a deferred disposition shall not be considered part of  
18 the respondent's criminal history;

19 (8) "Department" means the department of social and health  
20 services;

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

27 (10) "Diversion unit" means any probation counselor who enters into  
28 a diversion agreement with an alleged youthful offender, or any other  
29 person, community accountability board, youth court under the  
30 supervision of the juvenile court, or other entity except a law  
31 enforcement official or entity, with whom the juvenile court  
32 administrator has contracted to arrange and supervise such agreements  
33 pursuant to RCW 13.40.080, or any person, community accountability  
34 board, or other entity specially funded by the legislature to arrange  
35 and supervise diversion agreements in accordance with the requirements  
36 of this chapter. For purposes of this subsection, "community  
37 accountability board" means a board comprised of members of the local  
38 community in which the juvenile offender resides. The superior court

1 shall appoint the members. The boards shall consist of at least three  
2 and not more than seven members. If possible, the board should include  
3 a variety of representatives from the community, such as a law  
4 enforcement officer, teacher or school administrator, high school  
5 student, parent, and business owner, and should represent the cultural  
6 diversity of the local community;

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

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

12 (13) "Intensive supervision program" means a parole program that  
13 requires intensive supervision and monitoring, offers an array of  
14 individualized treatment and transitional services, and emphasizes  
15 community involvement and support in order to reduce the likelihood a  
16 juvenile offender will commit further offenses;

17 (14) "Juvenile," "youth," and "child" mean any individual who is  
18 under the chronological age of eighteen years and who has not been  
19 previously transferred to adult court pursuant to RCW 13.40.110, unless  
20 the individual was convicted of a lesser charge or acquitted of the  
21 charge for which he or she was previously transferred pursuant to RCW  
22 13.40.110 or who is not otherwise under adult court jurisdiction;

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

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

30 (17) "Local sanctions" means one or more of the following: (a) 0-  
31 30 days of confinement; (b) 0-12 months of community supervision; (c)  
32 0-150 hours of community restitution; or (d) \$0-\$500 fine;

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

36 (19) "Monitoring and reporting requirements" means one or more of  
37 the following: Curfews; requirements to remain at home, school, work,  
38 or court-ordered treatment programs during specified hours;

1 restrictions from leaving or entering specified geographical areas;  
2 requirements to report to the probation officer as directed and to  
3 remain under the probation officer's supervision; and other conditions  
4 or limitations as the court may require which may not include  
5 confinement;

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

10 (21) "Physical restraint" means the use of any bodily force or  
11 physical intervention to control a juvenile offender or limit a  
12 juvenile offender's freedom of movement in a way that does not involve  
13 a mechanical restraint. Physical restraint does not include momentary  
14 periods of minimal physical restriction by direct person-to-person  
15 contact, without the aid of mechanical restraint, accomplished with  
16 limited force and designed to:

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

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

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

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

27 (23) "Probation bond" means a bond, posted with sufficient security  
28 by a surety justified and approved by the court, to secure the  
29 offender's appearance at required court proceedings and compliance with  
30 court-ordered community supervision or conditions of release ordered  
31 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
32 cash or posting of other collateral in lieu of a bond if approved by  
33 the court;

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

36 (25) "Restitution" means financial reimbursement by the offender to  
37 the victim, and shall be limited to easily ascertainable damages for  
38 injury to or loss of property, actual expenses incurred for medical

1 treatment for physical injury to persons, lost wages resulting from  
2 physical injury, and costs of the victim's counseling reasonably  
3 related to the offense. Restitution shall not include reimbursement  
4 for damages for mental anguish, pain and suffering, or other intangible  
5 losses. Nothing in this chapter shall limit or replace civil remedies  
6 or defenses available to the victim or offender;

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

9 (a) Physical restraint; or

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

13 (27) "Secretary" means the secretary of the department of social  
14 and health services. "Assistant secretary" means the assistant  
15 secretary for juvenile rehabilitation for the department;

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

20 (29) "Sex offense" means an offense defined as a sex offense in RCW  
21 9.94A.030;

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

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

29 (32) "Transportation" means the conveying, by any means, of an  
30 incarcerated pregnant youth from the institution or detention facility  
31 to another location from the moment she leaves the institution or  
32 detention facility to the time of arrival at the other location, and  
33 includes the escorting of the pregnant incarcerated youth from the  
34 institution or detention facility to a transport vehicle and from the  
35 vehicle to the other location;

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

1 (34) "Violent offense" means a violent offense as defined in RCW  
2 9.94A.030;

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

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

9 (37) "Prevention and treatment services" means services and  
10 programs for children and youth and their families that are  
11 specifically directed to address behaviors that have resulted or may  
12 result in truancy, abuse or neglect, out-of-home placements, chemical  
13 dependency, substance abuse, sexual aggressiveness, or mental or  
14 emotional disorders.

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

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

21 (a) Expend state funds on prevention and treatment programs for  
22 juvenile offenders that are evidence-based, as identified by the  
23 Washington state institute of public policy, in consultation with a  
24 university-based evidence-based practice entity in Washington state;  
25 and

26 (b) In consultation with the Washington state institute for public  
27 policy and the University of Washington evidence-based practice  
28 institute, initiate or continue the review of sound promising and  
29 research-based practices with the goal of identifying and expanding the  
30 number and type of available evidence-based programs that are cost-  
31 beneficial and effective at reducing criminal recidivism of the program  
32 participants. In its review of practices, the department shall work to  
33 identify programs that have been utilized with a diverse set of clients  
34 as well as consult with tribal governments, experts within ethnically  
35 diverse communities, and community organizations that service diverse  
36 communities.



1           (2) When necessary to meet the requirements of subsection (3) of  
2 this section, the department shall include in its contracts with  
3 providers of prevention and treatment services for juvenile offenders  
4 a provision affirming that the provider shall provide evidence-based  
5 services, that the services must be provided by staff who are trained  
6 in providing evidence-based services, and that the services must be  
7 accompanied by monitoring and quality control procedures that ensure  
8 that they are delivered according to the applicable standards and in a  
9 manner that is culturally competent and effective within ethnically  
10 diverse populations. The department may use performance requirements  
11 or incentives in determining the amounts payable in contracts or  
12 grants.

13           (3)(a) In order to prevent undue disturbance to existing department  
14 programs, the department shall ensure that: (i) No less than sixty  
15 percent of the funds expended for prevention and treatment services to  
16 juvenile offenders meet the requirements of this section during fiscal  
17 years 2014 and 2015; (ii) no less than sixty-five percent of the funds  
18 expended meet the requirements of this section during fiscal years 2016  
19 and 2017; and (iii) no less than seventy-five percent of the funds  
20 expended meet the requirements of this section during fiscal years 2018  
21 and 2019.

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

25           (c) The department shall prioritize spending on evidence-based  
26 prevention and treatment services to juvenile offenders in a manner  
27 that maximizes the cost benefit to the state.

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

32           (e) The determination of the amount of funds expended for evidence-  
33 based prevention and treatment services must include program costs  
34 necessary to directly implement evidence-based programs, including  
35 discrete staffing and training costs which would not have been incurred  
36 but for implementation of an evidence-based program. Funds expended  
37 for indirect administrative costs may not be included in the  
38 determination of amounts expended for evidence-based services.

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

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

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

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

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

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

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

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

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

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

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

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

36 (c) Has been unable to engage in any substantial gainful activity  
37 by reason of any mental disorder which has lasted for a continuous

1 period of not less than twelve months. "Substantial gainful activity"  
2 shall be defined by the department by rule consistent with Public Law  
3 92-603, as amended.

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

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

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

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

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

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

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

3 (12) "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 (13) "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 (14) "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~~) is  
12 cost-effective and includes at least two randomized or statistically  
13 controlled evaluations that have demonstrated improved outcomes for its  
14 intended population.

15 (15) "Licensed service provider" means an entity licensed according  
16 to this chapter or chapter 71.05 RCW or an entity deemed to meet state  
17 minimum standards as a result of accreditation by a recognized  
18 behavioral health accrediting body recognized and having a current  
19 agreement with the department, that meets state minimum standards or  
20 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
21 applies to registered nurses and advanced registered nurse  
22 practitioners.

23 (16) "Long-term inpatient care" means inpatient services for  
24 persons committed for, or voluntarily receiving intensive treatment  
25 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-  
26 term inpatient care" as used in this chapter does not include: (a)  
27 Services for individuals committed under chapter 71.05 RCW who are  
28 receiving services pursuant to a conditional release or a court-ordered  
29 less restrictive alternative to detention; or (b) services for  
30 individuals voluntarily receiving less restrictive alternative  
31 treatment on the grounds of the state hospital.

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

35 (18) "Mentally ill persons," "persons who are mentally ill," and  
36 "the mentally ill" mean persons and conditions defined in subsections  
37 (1), (4), (27), and (28) of this section.

1 (19) "Recovery" means the process in which people are able to live,  
2 work, learn, and participate fully in their communities.

3 (20) "Regional support network" means a county authority or group  
4 of county authorities or other entity recognized by the secretary in  
5 contract in a defined region.

6 (21) "Registration records" include all the records of the  
7 department, regional support networks, treatment facilities, and other  
8 persons providing services to the department, county departments, or  
9 facilities which identify persons who are receiving or who at any time  
10 have received services for mental illness.

11 (22) "Research-based" means a program or practice that has some  
12 research demonstrating effectiveness, but that does not yet meet the  
13 standard of evidence-based practices.

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

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

35 (25) "Resource management services" mean the planning,  
36 coordination, and authorization of residential services and community  
37 support services administered pursuant to an individual service plan  
38 for: (a) Adults and children who are acutely mentally ill; (b) adults

1 who are chronically mentally ill; (c) children who are severely  
2 emotionally disturbed; or (d) adults who are seriously disturbed and  
3 determined solely by a regional support network to be at risk of  
4 becoming acutely or chronically mentally ill. Such planning,  
5 coordination, and authorization shall include mental health screening  
6 for children eligible under the federal Title XIX early and periodic  
7 screening, diagnosis, and treatment program. Resource management  
8 services include seven day a week, twenty-four hour a day availability  
9 of information regarding enrollment of adults and children who are  
10 mentally ill in services and their individual service plan to  
11 designated mental health professionals, evaluation and treatment  
12 facilities, and others as determined by the regional support network.

13 (26) "Secretary" means the secretary of social and health services.

14 (27) "Seriously disturbed person" means a person who:

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

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

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

24 (d) Exhibits suicidal preoccupation or attempts; or

25 (e) Is a child diagnosed by a mental health professional, as  
26 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
27 is clearly interfering with the child's functioning in family or school  
28 or with peers or is clearly interfering with the child's personality  
29 development and learning.

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

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

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

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

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

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

9 (ii) Changes in custodial adult;

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

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

15 (v) Drug or alcohol abuse; or

16 (vi) Homelessness.

17 (29) "State minimum standards" means minimum requirements  
18 established by rules adopted by the secretary and necessary to  
19 implement this chapter for: (a) Delivery of mental health services;  
20 (b) licensed service providers for the provision of mental health  
21 services; (c) residential services; and (d) community support services  
22 and resource management services.

23 (30) "Treatment records" include registration and all other records  
24 concerning persons who are receiving or who at any time have received  
25 services for mental illness, which are maintained by the department, by  
26 regional support networks and their staffs, and by treatment  
27 facilities. Treatment records do not include notes or records  
28 maintained for personal use by a person providing treatment services  
29 for the department, regional support networks, or a treatment facility  
30 if the notes or records are not available to others.

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

36 (32) "Prevention and treatment services" means services and  
37 programs for children and youth and their families that are  
38 specifically directed to address behaviors that have resulted or may

1 result in truancy, abuse or neglect, out-of-home placements, chemical  
2 dependency, substance abuse, sexual aggressiveness, or mental or  
3 emotional disorders.

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

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

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

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

27 (2) When necessary to meet the requirements of subsection (3) of  
28 this section, the department shall include in its contracts with  
29 regional support networks a provision requiring that the regional  
30 support network contracted providers of children's mental health  
31 prevention and treatment services provide evidence-based services, that  
32 the services must be provided by staff who are trained in providing  
33 evidence-based services, and, to the extent that funding is available,  
34 that the services must be accompanied by monitoring and quality control  
35 procedures that ensure that they are delivered according to the  
36 applicable standards and in a manner that is culturally competent and



1 effective within ethnically diverse populations. The department may  
2 use performance requirements or incentives in determining the amounts  
3 payable in contracts or grants.

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

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

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

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

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

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

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

35 (b) For the 2013-2015 biennium, at least twenty-five percent of the  
36 encounters delivered to children served by regional support networks  
37 must be evidence-based practices. For each subsequent biennium, the  
38 percentage of encounters using evidence-based practices shall increase

1 by fifteen percent above the applicable target for the previous  
2 biennium up at a maximum of seventy-five percent. If the department is  
3 unable to meet the requirements of this subsection in any biennium, it  
4 must report to the legislature regarding its efforts and plans to bring  
5 the department into compliance with the requirements of this act.

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

8 (i) Subject to the appropriation of funds to support it, implement  
9 a standardized assessment tool that will direct children toward  
10 available evidence-based practices as appropriate;

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

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

23 (iv) Place language in prepaid inpatient health plan contracts  
24 requiring implementation of evidence-based practices for which  
25 workforce development is provided; and

26 (d) The department shall prioritize evidence-based practices for  
27 adoption that maximize its ability to secure federal financial  
28 participation through its medicaid mental health managed care program.

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

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

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

36 (b) Redirect funds in a manner that conflicts with the requirements  
37 of the department's section 1915(b) medicaid mental health waiver or  
38 that would substantially reduce federal financial participation in

1 services provided under the department's section 1915(b) medicaid  
2 mental health waiver and impair access to appropriate and effective  
3 services for a substantial number of medical clients.

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

6 For purposes of this chapter:

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

17 (2) "Child" means:

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

19 (b) A person age eighteen to twenty-one years who is eligible to  
20 receive the extended foster care services authorized under RCW  
21 74.13.031.

22 (3) "Child protective services" has the same meaning as in RCW  
23 26.44.020.

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

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

31 (b) Protecting and caring for dependent, abused, or neglected  
32 children;

33 (c) Assisting children who are in conflict with their parents, and  
34 assisting parents who are in conflict with their children, with  
35 services designed to resolve such conflicts;

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

1 (e) Providing adequate care of children away from their homes in  
2 foster family homes or day care or other child care agencies or  
3 facilities.

4 "Child welfare services" does not include child protection  
5 services.

6 (5) "Committee" means the child welfare transformation design  
7 committee.

8 (6) "Department" means the department of social and health  
9 services.

10 (7) "Extended foster care services" means residential and other  
11 support services the department is authorized to provide to foster  
12 children. These services include, but are not limited to, placement in  
13 licensed, relative, or otherwise approved care, or supervised  
14 independent living settings; assistance in meeting basic needs;  
15 independent living services; medical assistance; and counseling or  
16 treatment.

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

21 (9) "Out-of-home care services" means services provided after the  
22 shelter care hearing to or for children in out-of-home care, as that  
23 term is defined in RCW 13.34.030, and their families, including the  
24 recruitment, training, and management of foster parents, the  
25 recruitment of adoptive families, and the facilitation of the adoption  
26 process, family reunification, independent living, emergency shelter,  
27 residential group care, and foster care, including relative placement.

28 (10) "Performance-based contracting" means the structuring of all  
29 aspects of the procurement of services around the purpose of the work  
30 to be performed and the desired results with the contract requirements  
31 set forth in clear, specific, and objective terms with measurable  
32 outcomes. Contracts shall also include provisions that link the  
33 performance of the contractor to the level and timing of reimbursement.

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

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

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

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

15 (15) "Prevention and treatment services" means services and  
16 programs for children and youth and their families that are  
17 specifically directed to address behaviors that have resulted or may  
18 result in truancy, abuse or neglect, out-of-home placements, chemical  
19 dependency, substance abuse, sexual aggressiveness, or mental or  
20 emotional disorders.

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

24 **NEW SECTION. Sec. 7.** A new section is added to chapter 74.13 RCW  
25 to read as follows:

26 (1) The department, and any other state agency that administers  
27 funds related to prevention, treatment, and care of recipients of child  
28 welfare services under this chapter, shall, in accordance with the  
29 graduated requirements of subsection (3) of this section:

30 (a) Expend state funds on prevention and treatment programs for  
31 recipients of child welfare services that are research-based or  
32 evidence-based, as identified by the Washington state institute for  
33 public policy, in consultation with a university-based evidence-based  
34 practice entity in Washington state; and

35 (b) In consultation with the Washington state institute for public  
36 policy and a university-based evidence-based practice entity in  
37 Washington state, initiate and continue the review of sound promising

1 and research-based practices with the goal of identifying and expanding  
2 the number and type of available evidence-based programs that are cost-  
3 beneficial and effective at reducing abuse and neglect, safely reducing  
4 rates of out-of-home placement, decreasing the length of time required  
5 to obtain permanency for children in out-of-home care, or improving  
6 child well-being for participants. In its review of practices, the  
7 department shall work to identify programs that have been utilized with  
8 a diverse set of clients as well as consult with tribal governments,  
9 experts within ethnically diverse communities, and community  
10 organizations that service diverse communities.

11 (2) When necessary to meet the requirements of subsection (3) of  
12 this section, the department shall include in any contracts with  
13 providers of prevention and treatment services for recipients of child  
14 welfare services a provision affirming that the provider shall provide  
15 research-based and evidence-based services, and that the services must  
16 be provided by staff who are trained in providing evidence-based  
17 services, and the services must be accompanied by monitoring and  
18 quality control procedures that ensure that they are delivered  
19 according to the applicable standards and in a manner that is  
20 culturally competent and effective within ethnically diverse  
21 populations. The department may use performance requirements or  
22 incentives in determining the amounts payable in contracts or grants.

23 (3)(a) In order to prevent undue disturbance to existing department  
24 programs and to allow time for a workforce to be sufficiently trained  
25 in evidence-based practices, the requirements of this section are  
26 graduated. To the extent that these requirements do not conflict with  
27 the department's obligations under any court order or court-approved  
28 agreement, the department shall ensure that:

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

33 (B) No less than thirty-five percent of families open for services  
34 have one or more members receiving evidence-based or research-based  
35 programs; and

36 (C) No less than thirty-five percent of child welfare service  
37 contractors provide evidence-based or research-based programs;

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

4 (B) No less than fifty percent of families open for services have  
5 one or more members receiving evidence-based or research-based  
6 programs; and

7 (C) No less than fifty percent of child welfare service contractors  
8 provide evidence-based or research-based programs; and

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

12 (B) No less than seventy-five percent of families open for services  
13 have one or more members receiving evidence-based or research-based  
14 programs; and

15 (C) No less than seventy-five percent of child welfare service  
16 contractors provide evidence-based or research-based programs.

17 (b) Nothing in this section shall require the department to take  
18 actions that are in conflict with the Presidential Executive Order  
19 13175 or that adversely impact tribal-state consultation protocols or  
20 contractual relations.

21 (c) The requirements of (a) of this subsection apply only to  
22 treatment or service needs for which research-based or evidence-based  
23 practices have been identified.

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

28 NEW SECTION. **Sec. 8.** (1) In order to achieve the requirements of  
29 sections 3, 5, and 7 of this act, the department shall, to the extent  
30 practicable:

31 (a) Redirect existing funding resources as necessary to coordinate  
32 the purchase of evidence-based prevention and treatment services and  
33 the development of a workforce trained to implement evidence-based  
34 practices;

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

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

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

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

14 (4) By June 30, 2013, the department must complete an initial  
15 report with baseline data regarding funds expended for evidence-based  
16 practices and report to the appropriate legislative committees.  
17 Thereafter, the department shall report to the legislature regarding  
18 its progress in the coordination of the purchase of evidence-based  
19 prevention and treatment services and of the development of a workforce  
20 trained to implement evidence-based practices. The first report must  
21 be completed no later than December 31, 2013, and the department shall  
22 report annually, thereafter.

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

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

27 (b) Redirect funds in a manner that:

28 (i) Conflicts with the requirements of the department's section  
29 1915(b) medicaid mental health waiver; or

30 (ii) Would substantially reduce federal financial participation in  
31 mental health, child welfare, or other health care services provided  
32 through department programs, resulting in impaired access to  
33 appropriate and effective services for a substantial number of eligible  
34 clients.

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

37 The department, in consultation with a university-based evidence-



1 based practice institute entity in Washington, the Washington  
2 partnership council on juvenile justice, the child mental health  
3 systems of care planning committee, the children, youth, and family  
4 advisory committee, the Washington state racial disproportionality  
5 advisory committee, a university-based child welfare research entity in  
6 Washington state, and the Washington state institute for public policy,  
7 shall:

8 (1) Develop an integrated and accountable system of care for the  
9 coordination and the delivery of research-based and evidence-based  
10 prevention and treatment services to children and youth and their  
11 families in the areas of mental health, child welfare, and juvenile  
12 justice;

13 (2) Ensure that implementation of research-based and evidence-based  
14 prevention and treatment programs are accompanied by monitoring and  
15 quality control procedures designed to ensure that they are delivered  
16 with fidelity to the program and that corrective action is taken when  
17 these standards are not met; and

18 (3) Acknowledge any existing system of quality control for the  
19 juvenile justice system in place on the effective date of this section  
20 and shall work within that system in meeting the graduated requirements  
21 set forth in section 3 of this act.

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

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

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

31 (a) An assessment of the amount of funds expended for the evidence-  
32 based prevention and treatment services;

33 (b) An assessment of program fidelity to the evidence-based  
34 prevention and treatment models;

35 (c) An assessment of outcomes for children and youth who receive  
36 evidence-based prevention and treatment services, including an analysis  
37 that is disaggregated by race, ethnicity, and gender; and

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

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

7 NEW SECTION. **Sec. 11.** The Washington state institute for public  
8 policy and the University of Washington evidence based practice  
9 institute are encouraged to seek matching philanthropic and federal  
10 funds to meet the requirements of this act.

--- END ---