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SENATE BILL 5732

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Carrell, Darneille, Keiser, and Pearson

Read first time 02/12/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to improving behavioral health services provided to  
2 adults in Washington state; amending RCW 71.24.025; adding a new  
3 section to chapter 43.20A RCW; adding a new section to chapter 70.97  
4 RCW; adding a new section to chapter 71.05 RCW; creating a new section;  
5 providing an effective date; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** (1)(a) The legislature shall convene a task  
8 force to examine reform of the adult behavioral health system, with  
9 voting members as provided in this subsection.

10 (i) The president of the senate shall appoint one member from each  
11 of the two largest caucuses of the senate.

12 (ii) The speaker of the house of representatives shall appoint one  
13 member from each of the two largest caucuses in the house of  
14 representatives.

15 (iii) The president of the senate and the speaker of the house of  
16 representatives jointly shall appoint five members consisting of the  
17 secretary of the department of social and health services or the  
18 secretary's designee, the director of the health care authority or the

1 director's designee, the director of the office of financial management  
2 or the director's designee, a representative of the governor and a  
3 representative of tribal governments.

4 (b) The task force shall choose two cochairs from among its  
5 legislative members.

6 (c) The task force shall adopt a bottom-up approach and welcome  
7 input and participation from all stakeholders interested in the  
8 improvement of the adult behavioral health system. To that end, the  
9 task force must invite participation from, at a minimum, the following:  
10 Behavioral health service recipients and their families; local  
11 government; representatives of regional support networks;  
12 representatives of county coordinators; law enforcement; city and  
13 county jails; tribal representatives; behavioral health service  
14 providers; housing providers; labor representatives; counties with  
15 state hospitals; mental health advocates; public defenders with  
16 involuntary mental health commitment or mental health court experience;  
17 medicaid managed care plan representatives; long-term care service  
18 providers; the Washington state hospital association; and individuals  
19 with expertise in evidence-based and research-based behavioral health  
20 service practices. Leadership of subcommittees formed by the task  
21 force may be drawn from this body of invited participants.

22 (2) The task force shall undertake a systemwide review of the adult  
23 behavioral health system and make recommendations for reform  
24 concerning, but not limited to, the following:

25 (a) The means by which services are delivered for adults with  
26 mental illness and chemical dependency disorders;

27 (b) Availability of effective means to promote recovery and prevent  
28 harm associated with mental illness;

29 (c) Crisis services, including boarding of mental health patients  
30 outside of regularly certified treatment beds;

31 (d) Best practices for cross-system collaboration between  
32 behavioral health treatment providers, medical care providers, long-  
33 term care service providers, entities providing health home services to  
34 high-risk medicaid clients, law enforcement, and criminal justice  
35 agencies; and

36 (e) Public safety practices involving persons with mental illness  
37 with forensic involvement.

1 (3) Staff support for the task force must be provided by the senate  
2 committee services and the house of representatives office of program  
3 research.

4 (4) Legislative members of the task force must be reimbursed for  
5 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
6 members, except those representing an employer or organization, are  
7 entitled to be reimbursed for travel expenses in accordance with RCW  
8 43.03.050 and 43.03.060.

9 (5) The expenses of the task force must be paid jointly by the  
10 senate and house of representatives. Task force expenditures are  
11 subject to approval by the senate facilities and operations committee  
12 and the house of representatives executive rules committee, or their  
13 successor committees.

14 (6) The task force shall report its findings and recommendations to  
15 the governor and the appropriate committees of the legislature by  
16 January 1, 2014.

17 (7) This section expires June 1, 2014.

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

20 (1) The systems responsible for financing, administration, and  
21 delivery of publicly funded mental health and chemical dependency  
22 services to adults must be designed and administered to achieve  
23 improved outcomes for adult clients who face challenges related to  
24 mental illness or chemical dependency through increased use and  
25 development of evidence-based, research-based, and promising practices,  
26 as defined in RCW 71.24.025. For purposes of this section, client  
27 outcomes include: Improved health status; increased participation in  
28 employment and education; reduced involvement with the criminal justice  
29 system; enhanced safety and access to treatment for forensic patients;  
30 reduction in avoidable utilization of and costs associated with  
31 hospital, emergency room, and crisis services; increased housing  
32 stability; improved quality of life, including measures of recovery and  
33 resilience; and decreased population level disparities in access to  
34 treatment and treatment outcomes.

35 (2) The department and the health care authority must implement a  
36 strategy for the improvement of the adult behavioral health system.  
37 The adult behavioral health system improvement strategy must include:

1 (a) An assessment of the capacity of the current publicly funded  
2 behavioral health services system to provide evidence-based, research-  
3 based, and promising practices;

4 (b) Identification, development, and increased use of evidence-  
5 based, research-based, and promising practices;

6 (c) Design and implementation of a transparent quality management  
7 system, including analysis of current system capacity to implement  
8 outcomes reporting, and development of baseline and performance  
9 improvement targets for each outcome measure provided in this section;  
10 and

11 (d) Identification and phased implementation of service delivery,  
12 financing or other strategies that will promote improvement of the  
13 behavioral health system described in this section and incentivize the  
14 medical care, behavioral health, and long-term care service delivery  
15 systems to achieve the improvements described in this section and  
16 collaborate across systems. The strategies must include phased  
17 implementation of public reporting of outcome and performance measures  
18 in a form that allows for comparison of performance and levels of  
19 improvement between geographic regions of Washington. Design of  
20 strategies should include consideration of any legal or practical  
21 barriers and federal funding requirements that would need to be  
22 addressed to fully implement the system.

23 (3) The department must seek private foundation and federal grant  
24 funding to support the adult behavioral health system improvement  
25 strategy.

26 (4) By August 1, 2014, the department must report to the governor  
27 and the relevant fiscal and policy committees of the legislature on the  
28 status of implementation of the behavioral health improvement strategy,  
29 including strategies developed or implemented to date, timelines, and  
30 costs to accomplish phased implementation of the adult behavioral  
31 health system improvement strategy.

32 (5) By November 30, 2013, the department and the health care  
33 authority must report to the governor and the relevant fiscal and  
34 policy committees of the legislature a plan that establishes a tribal-  
35 centric behavioral health system incorporating both mental health and  
36 chemical dependency services. The plan must ensure that child, adult,  
37 and older adult American Indians and Alaskan Natives eligible for

1    medicaid have increased access to culturally appropriate mental health  
2    and chemical dependence services. The plan must:

3       (a) Include implementation dates, major milestones, and fiscal  
4    estimates as needed;

5       (b) Emphasize the use of culturally appropriate evidence-based and  
6    promising practices;

7       (c) Address equitable access to crisis services, outpatient care,  
8    voluntary and involuntary hospitalization, and behavioral health care  
9    coordination;

10      (d) Identify statutory changes necessary to implement the tribal-  
11    centric behavioral health system; and

12      (e) Be developed with the department's Indian policy advisory  
13    committee and the American Indian health commission, in consultation  
14    with Washington's federally recognized tribes.

15      (6) The department shall enter into agreements with the tribes and  
16    urban Indian health programs and modify regional support network  
17    contracts as necessary to develop a tribal-centric behavioral health  
18    system that better serves the needs of the tribes.

19      NEW SECTION.   **Sec. 3.** A new section is added to chapter 70.97 RCW  
20    to read as follows:

21       (1) To the extent that funds are specifically appropriated for this  
22    purpose, the department must issue a request for a proposal for  
23    enhanced services facility services by June 1, 2014, and complete the  
24    procurement process by January 1, 2015.

25       (2) This section expires August 1, 2015.

26      NEW SECTION.   **Sec. 4.** A new section is added to chapter 71.05 RCW  
27    to read as follows:

28       When a person has been involuntarily committed for treatment to a  
29    hospital for a period of ninety or one hundred eighty days, and the  
30    superintendent or professional person in charge of the hospital  
31    determines that the person no longer requires active psychiatric  
32    treatment at an inpatient level of care, the regional support network  
33    responsible for resource management services for the person must work  
34    together with the hospital to develop an individualized discharge plan  
35    and arrange for a transition to the community in accordance with the

1 person's individualized discharge plan within twenty-one days of the  
2 determination.

3 **Sec. 5.** RCW 71.24.025 and 2012 c 10 s 59 are each amended to read  
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

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

14 (c) Presenting a likelihood of serious harm as defined in RCW  
15 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

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

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

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

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

34 (c) Has been unable to engage in any substantial gainful activity  
35 by reason of any mental disorder which has lasted for a continuous  
36 period of not less than twelve months. "Substantial gainful activity"

1 shall be defined by the department by rule consistent with Public Law  
2 92-603, as amended.

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

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

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

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

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

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

1 (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~~  
8 ~~for becoming a research-based or consensus-based practice~~) program or  
9 practice that, based on statistical analyses or a well-established  
10 theory of change, shows potential for meeting the evidence-based or  
11 research-based criteria, which may include the use of a program that is  
12 evidence-based for outcomes other than those described in subsection  
13 (14) of this section.

14 (14) "Evidence-based" means a program or practice that has (~~had~~  
15 ~~multiple site random controlled trials across heterogeneous populations~~  
16 ~~demonstrating that the program or practice is effective for the~~  
17 ~~population~~) been tested in heterogeneous or intended populations with  
18 multiple randomized, or statistically controlled evaluations, or both;  
19 or one large multiple-site randomized, or statistically controlled  
20 evaluation, or both, where the weight of the evidence from a systemic  
21 review demonstrates sustained improvements in at least one outcome.  
22 "Evidence-based" also means a program or practice that can be  
23 implemented with a set of procedures to allow successful replication in  
24 Washington and, when possible, is determined to be cost-beneficial.

25 (15) "Licensed service provider" means an entity licensed according  
26 to this chapter or chapter 71.05 RCW or an entity deemed to meet state  
27 minimum standards as a result of accreditation by a recognized  
28 behavioral health accrediting body recognized and having a current  
29 agreement with the department, that meets state minimum standards or  
30 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
31 applies to registered nurses and advanced registered nurse  
32 practitioners.

33 (16) "Long-term inpatient care" means inpatient services for  
34 persons committed for, or voluntarily receiving intensive treatment  
35 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-  
36 term inpatient care" as used in this chapter does not include: (a)  
37 Services for individuals committed under chapter 71.05 RCW who are  
38 receiving services pursuant to a conditional release or a court-ordered

1 less restrictive alternative to detention; or (b) services for  
2 individuals voluntarily receiving less restrictive alternative  
3 treatment on the grounds of the state hospital.

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

7 (18) "Mentally ill persons," "persons who are mentally ill," and  
8 "the mentally ill" mean persons and conditions defined in subsections  
9 (1), (4), (27), and (28) of this section.

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

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

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

20 (22) "Research-based" means a program or practice that has (~~some~~  
21 ~~research demonstrating effectiveness, but that does not yet meet the~~  
22 ~~standard of evidence-based practices~~) been tested with a single  
23 randomized, or statistically controlled evaluation, or both,  
24 demonstrating sustained desirable outcomes; or where the weight of the  
25 evidence from a systemic review supports sustained outcomes as  
26 described in subsection (14) of this section but does not meet the full  
27 criteria for evidence-based.

28 (23) "Residential services" means a complete range of residences  
29 and supports authorized by resource management services and which may  
30 involve a facility, a distinct part thereof, or services which support  
31 community living, for persons who are acutely mentally ill, adults who  
32 are chronically mentally ill, children who are severely emotionally  
33 disturbed, or adults who are seriously disturbed and determined by the  
34 regional support network to be at risk of becoming acutely or  
35 chronically mentally ill. The services shall include at least  
36 evaluation and treatment services as defined in chapter 71.05 RCW,  
37 acute crisis respite care, long-term adaptive and rehabilitative care,  
38 and supervised and supported living services, and shall also include

1 any residential services developed to service persons who are mentally  
2 ill in nursing homes, assisted living facilities, and adult family  
3 homes, and may include outpatient services provided as an element in a  
4 package of services in a supported housing model. Residential services  
5 for children in out-of-home placements related to their mental disorder  
6 shall not include the costs of food and shelter, except for children's  
7 long-term residential facilities existing prior to January 1, 1991.

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

11 (25) "Resource management services" mean the planning,  
12 coordination, and authorization of residential services and community  
13 support services administered pursuant to an individual service plan  
14 for: (a) Adults and children who are acutely mentally ill; (b) adults  
15 who are chronically mentally ill; (c) children who are severely  
16 emotionally disturbed; or (d) adults who are seriously disturbed and  
17 determined solely by a regional support network to be at risk of  
18 becoming acutely or chronically mentally ill. Such planning,  
19 coordination, and authorization shall include mental health screening  
20 for children eligible under the federal Title XIX early and periodic  
21 screening, diagnosis, and treatment program. Resource management  
22 services include seven day a week, twenty-four hour a day availability  
23 of information regarding enrollment of adults and children who are  
24 mentally ill in services and their individual service plan to  
25 designated mental health professionals, evaluation and treatment  
26 facilities, and others as determined by the regional support network.

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

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

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

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

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

38 (d) Exhibits suicidal preoccupation or attempts; or

1 (e) Is a child diagnosed by a mental health professional, as  
2 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
3 is clearly interfering with the child's functioning in family or school  
4 or with peers or is clearly interfering with the child's personality  
5 development and learning.

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

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

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

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

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

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

23 (ii) Changes in custodial adult;

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

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

29 (v) Drug or alcohol abuse; or

30 (vi) Homelessness.

31 (29) "State minimum standards" means minimum requirements  
32 established by rules adopted by the secretary and necessary to  
33 implement this chapter for: (a) Delivery of mental health services;  
34 (b) licensed service providers for the provision of mental health  
35 services; (c) residential services; and (d) community support services  
36 and resource management services.

37 (30) "Treatment records" include registration and all other records  
38 concerning persons who are receiving or who at any time have received

1 services for mental illness, which are maintained by the department, by  
2 regional support networks and their staffs, and by treatment  
3 facilities. Treatment records do not include notes or records  
4 maintained for personal use by a person providing treatment services  
5 for the department, regional support networks, or a treatment facility  
6 if the notes or records are not available to others.

7 (31) "Tribal authority," for the purposes of this section and RCW  
8 71.24.300 only, means: The federally recognized Indian tribes and the  
9 major Indian organizations recognized by the secretary insofar as these  
10 organizations do not have a financial relationship with any regional  
11 support network that would present a conflict of interest.

12 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect July 1,  
13 2018.

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