

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1679

Chapter 200, Laws of 2013

63rd Legislature
2013 Regular Session

HEALTH CARE INFORMATION--DISCLOSURE

EFFECTIVE DATE: 07/01/14 - Except section 5, which becomes
effective 05/10/13.

Passed by the House April 22, 2013
Yeas 88 Nays 7

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 17, 2013
Yeas 47 Nays 1

BRAD OWEN

President of the Senate

Approved May 10, 2013, 10:56 a.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1679** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 10, 2013

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1679

AS AMENDED BY THE SENATE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By House Health Care & Wellness (originally sponsored by
Representatives Cody, Jinkins, and Ryu)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to disclosure of health care information; amending
2 RCW 70.02.010, 70.02.020, 70.02.050, 70.02.900, 71.05.660, 71.05.680,
3 71.05.620, 71.24.035, 43.185C.030, 70.05.070, 70.24.450, 74.13.280,
4 74.13.289, 71.05.425, 71.05.445, 72.09.585, and 9.94A.500; adding new
5 sections to chapter 70.02 RCW; repealing RCW 70.24.105, 71.05.390,
6 71.05.640, 71.05.385, 71.05.420, 71.05.440, 71.05.427, 71.05.630,
7 71.05.690, 71.34.340, 71.34.345, and 71.34.350; prescribing penalties;
8 providing an effective date; and declaring an emergency.

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

10 **Sec. 1.** RCW 70.02.010 and 2006 c 235 s 2 are each amended to read
11 as follows:

12 DEFINITIONS. The definitions in this section apply throughout this
13 chapter unless the context clearly requires otherwise.

14 (1) "Admission" has the same meaning as in RCW 71.05.020.

15 (2) "Audit" means an assessment, evaluation, determination, or
16 investigation of a health care provider by a person not employed by or
17 affiliated with the provider to determine compliance with:

18 (a) Statutory, regulatory, fiscal, medical, or scientific
19 standards;

1 (b) A private or public program of payments to a health care
2 provider; or
3 (c) Requirements for licensing, accreditation, or certification.
4 ~~((+2))~~ (3) "Commitment" has the same meaning as in RCW 71.05.020.
5 (4) "Custody" has the same meaning as in RCW 71.05.020.
6 (5) "Deidentified" means health information that does not identify
7 an individual and with respect to which there is no reasonable basis to
8 believe that the information can be used to identify an individual.
9 (6) "Department" means the department of social and health
10 services.
11 (7) "Designated mental health professional" has the same meaning as
12 in RCW 71.05.020 or 71.34.020, as applicable.
13 (8) "Detention" or "detain" has the same meaning as in RCW
14 71.05.020.
15 (9) "Directory information" means information disclosing the
16 presence, and for the purpose of identification, the name, location
17 within a health care facility, and the general health condition of a
18 particular patient who is a patient in a health care facility or who is
19 currently receiving emergency health care in a health care facility.
20 ~~((+3))~~ (10) "Discharge" has the same meaning as in RCW 71.05.020.
21 (11) "Evaluation and treatment facility" has the same meaning as in
22 RCW 71.05.020 or 71.34.020, as applicable.
23 (12) "Federal, state, or local law enforcement authorities" means
24 an officer of any agency or authority in the United States, a state, a
25 tribe, a territory, or a political subdivision of a state, a tribe, or
26 a territory who is empowered by law to: (a) Investigate or conduct an
27 official inquiry into a potential criminal violation of law; or (b)
28 prosecute or otherwise conduct a criminal proceeding arising from an
29 alleged violation of law.
30 ~~((+4))~~ (13) "General health condition" means the patient's health
31 status described in terms of "critical," "poor," "fair," "good,"
32 "excellent," or terms denoting similar conditions.
33 ~~((+5))~~ (14) "Health care" means any care, service, or procedure
34 provided by a health care provider:
35 (a) To diagnose, treat, or maintain a patient's physical or mental
36 condition; or
37 (b) That affects the structure or any function of the human body.

1 (~~(6)~~) (15) "Health care facility" means a hospital, clinic,
2 nursing home, laboratory, office, or similar place where a health care
3 provider provides health care to patients.

4 (~~(7)~~) (16) "Health care information" means any information,
5 whether oral or recorded in any form or medium, that identifies or can
6 readily be associated with the identity of a patient and directly
7 relates to the patient's health care, including a patient's
8 deoxyribonucleic acid and identified sequence of chemical base pairs.
9 The term includes any required accounting of disclosures of health care
10 information.

11 (~~(8)~~) (17) "Health care operations" means any of the following
12 activities of a health care provider, health care facility, or third-
13 party payor to the extent that the activities are related to functions
14 that make an entity a health care provider, a health care facility, or
15 a third-party payor:

16 (a) Conducting: Quality assessment and improvement activities,
17 including outcomes evaluation and development of clinical guidelines,
18 if the obtaining of generalizable knowledge is not the primary purpose
19 of any studies resulting from such activities; population-based
20 activities relating to improving health or reducing health care costs,
21 protocol development, case management and care coordination, contacting
22 of health care providers and patients with information about treatment
23 alternatives; and related functions that do not include treatment;

24 (b) Reviewing the competence or qualifications of health care
25 professionals, evaluating practitioner and provider performance and
26 third-party payor performance, conducting training programs in which
27 students, trainees, or practitioners in areas of health care learn
28 under supervision to practice or improve their skills as health care
29 providers, training of nonhealth care professionals, accreditation,
30 certification, licensing, or credentialing activities;

31 (c) Underwriting, premium rating, and other activities relating to
32 the creation, renewal, or replacement of a contract of health insurance
33 or health benefits, and ceding, securing, or placing a contract for
34 reinsurance of risk relating to claims for health care, including stop-
35 loss insurance and excess of loss insurance, if any applicable legal
36 requirements are met;

37 (d) Conducting or arranging for medical review, legal services, and

1 auditing functions, including fraud and abuse detection and compliance
2 programs;

3 (e) Business planning and development, such as conducting cost-
4 management and planning-related analyses related to managing and
5 operating the health care facility or third-party payor, including
6 formulary development and administration, development, or improvement
7 of methods of payment or coverage policies; and

8 (f) Business management and general administrative activities of
9 the health care facility, health care provider, or third-party payor
10 including, but not limited to:

11 (i) Management activities relating to implementation of and
12 compliance with the requirements of this chapter;

13 (ii) Customer service, including the provision of data analyses for
14 policy holders, plan sponsors, or other customers, provided that health
15 care information is not disclosed to such policy holder, plan sponsor,
16 or customer;

17 (iii) Resolution of internal grievances;

18 (iv) The sale, transfer, merger, or consolidation of all or part of
19 a health care provider, health care facility, or third-party payor with
20 another health care provider, health care facility, or third-party
21 payor or an entity that following such activity will become a health
22 care provider, health care facility, or third-party payor, and due
23 diligence related to such activity; and

24 (v) Consistent with applicable legal requirements, creating
25 deidentified health care information or a limited dataset (~~and fund-~~
26 ~~raising~~) for the benefit of the health care provider, health care
27 facility, or third-party payor.

28 ~~((+9))~~ (18) "Health care provider" means a person who is licensed,
29 certified, registered, or otherwise authorized by the law of this state
30 to provide health care in the ordinary course of business or practice
31 of a profession.

32 ~~((+10))~~ (19) "Human immunodeficiency virus" or "HIV" has the same
33 meaning as in RCW 70.24.017.

34 (20) "Imminent" has the same meaning as in RCW 71.05.020.

35 (21) "Information and records related to mental health services"
36 means a type of health care information that relates to all information
37 and records, including mental health treatment records, compiled,
38 obtained, or maintained in the course of providing services by a mental

1 health service agency, as defined in this section. This may include
2 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
3 RCW, or somatic health care information. For health care information
4 maintained by a hospital as defined in RCW 70.41.020 or a health care
5 facility or health care provider that participates with a hospital in
6 an organized health care arrangement defined under federal law,
7 "information and records related to mental health services" is limited
8 to information and records of services provided by a mental health
9 professional or information and records of services created by a
10 hospital-operated community mental health program as defined in RCW
11 71.24.025(6).

12 (22) "Information and records related to sexually transmitted
13 diseases" means a type of health care information that relates to the
14 identity of any person upon whom an HIV antibody test or other sexually
15 transmitted infection test is performed, the results of such tests, and
16 any information relating to diagnosis of or treatment for any confirmed
17 sexually transmitted infections.

18 (23) "Institutional review board" means any board, committee, or
19 other group formally designated by an institution, or authorized under
20 federal or state law, to review, approve the initiation of, or conduct
21 periodic review of research programs to assure the protection of the
22 rights and welfare of human research subjects.

23 ((+11+)) (24) "Legal counsel" has the same meaning as in RCW
24 71.05.020.

25 (25) "Local public health officer" has the same meaning as in RCW
26 70.24.017.

27 (26) "Maintain," as related to health care information, means to
28 hold, possess, preserve, retain, store, or control that information.

29 ((+12+)) (27) "Mental health professional" has the same meaning as
30 in RCW 71.05.020.

31 (28) "Mental health service agency" means a public or private
32 agency that provides services to persons with mental disorders as
33 defined under RCW 71.05.020 or 71.34.020 and receives funding from
34 public sources. This includes evaluation and treatment facilities as
35 defined in RCW 71.34.020, community mental health service delivery
36 systems, or community mental health programs, as defined in RCW
37 71.24.025, and facilities conducting competency evaluations and
38 restoration under chapter 10.77 RCW.

1 (29) "Mental health treatment records" include registration
2 records, as defined in RCW 71.05.020, and all other records concerning
3 persons who are receiving or who at any time have received services for
4 mental illness, which are maintained by the department, by regional
5 support networks and their staff, and by treatment facilities. "Mental
6 health treatment records" include mental health information contained
7 in a medical bill including, but not limited to, mental health drugs,
8 a mental health diagnosis, provider name, and dates of service stemming
9 from a medical service. "Mental health treatment records" do not
10 include notes or records maintained for personal use by a person
11 providing treatment services for the department, regional support
12 networks, or a treatment facility if the notes or records are not
13 available to others.

14 (30) "Minor" has the same meaning as in RCW 71.34.020.

15 (31) "Parent" has the same meaning as in RCW 71.34.020.

16 (32) "Patient" means an individual who receives or has received
17 health care. The term includes a deceased individual who has received
18 health care.

19 ~~((13))~~ (33) "Payment" means:

20 (a) The activities undertaken by:

21 (i) A third-party payor to obtain premiums or to determine or
22 fulfill its responsibility for coverage and provision of benefits by
23 the third-party payor; or

24 (ii) A health care provider, health care facility, or third-party
25 payor, to obtain or provide reimbursement for the provision of health
26 care; and

27 (b) The activities in (a) of this subsection that relate to the
28 patient to whom health care is provided and that include, but are not
29 limited to:

30 (i) Determinations of eligibility or coverage, including
31 coordination of benefits or the determination of cost-sharing amounts,
32 and adjudication or subrogation of health benefit claims;

33 (ii) Risk adjusting amounts due based on enrollee health status and
34 demographic characteristics;

35 (iii) Billing, claims management, collection activities, obtaining
36 payment under a contract for reinsurance, including stop-loss insurance
37 and excess of loss insurance, and related health care data processing;

1 (iv) Review of health care services with respect to medical
2 necessity, coverage under a health plan, appropriateness of care, or
3 justification of charges;

4 (v) Utilization review activities, including precertification and
5 preauthorization of services, and concurrent and retrospective review
6 of services; and

7 (vi) Disclosure to consumer reporting agencies of any of the
8 following health care information relating to collection of premiums or
9 reimbursement:

10 (A) Name and address;

11 (B) Date of birth;

12 (C) Social security number;

13 (D) Payment history;

14 (E) Account number; and

15 (F) Name and address of the health care provider, health care
16 facility, and/or third-party payor.

17 ~~((+14))~~ (34) "Person" means an individual, corporation, business
18 trust, estate, trust, partnership, association, joint venture,
19 government, governmental subdivision or agency, or any other legal or
20 commercial entity.

21 ~~((+15))~~ (35) "Professional person" has the same meaning as in RCW
22 71.05.020.

23 (36) "Psychiatric advanced registered nurse practitioner" has the
24 same meaning as in RCW 71.05.020.

25 (37) "Reasonable fee" means the charges for duplicating or
26 searching the record, but shall not exceed sixty-five cents per page
27 for the first thirty pages and fifty cents per page for all other
28 pages. In addition, a clerical fee for searching and handling may be
29 charged not to exceed fifteen dollars. These amounts shall be adjusted
30 biennially in accordance with changes in the consumer price index, all
31 consumers, for Seattle-Tacoma metropolitan statistical area as
32 determined by the secretary of health. However, where editing of
33 records by a health care provider is required by statute and is done by
34 the provider personally, the fee may be the usual and customary charge
35 for a basic office visit.

36 ~~((+16))~~ (38) "Release" has the same meaning as in RCW 71.05.020.

37 (39) "Resource management services" has the same meaning as in RCW
38 71.05.020.

1 (40) "Serious violent offense" has the same meaning as in RCW
2 71.05.020.

3 (41) "Sexually transmitted infection" or "sexually transmitted
4 disease" has the same meaning as "sexually transmitted disease" in RCW
5 70.24.017.

6 (42) "Test for a sexually transmitted disease" has the same meaning
7 as in RCW 70.24.017.

8 (43) "Third-party payor" means an insurer regulated under Title 48
9 RCW authorized to transact business in this state or other
10 jurisdiction, including a health care service contractor, and health
11 maintenance organization; or an employee welfare benefit plan,
12 excluding fitness or wellness plans; or a state or federal health
13 benefit program.

14 ~~((+17))~~ (44) "Treatment" means the provision, coordination, or
15 management of health care and related services by one or more health
16 care providers or health care facilities, including the coordination or
17 management of health care by a health care provider or health care
18 facility with a third party; consultation between health care providers
19 or health care facilities relating to a patient; or the referral of a
20 patient for health care from one health care provider or health care
21 facility to another.

22 **Sec. 2.** RCW 70.02.020 and 2005 c 468 s 2 are each amended to read
23 as follows:

24 DISCLOSURE BY HEALTH CARE PROVIDER--PATIENT WRITTEN AUTHORIZATION
25 REQUIRED. (1) Except as authorized ~~((in RCW 70.02.050))~~ elsewhere in
26 this chapter, a health care provider, an individual who assists a
27 health care provider in the delivery of health care, or an agent and
28 employee of a health care provider may not disclose health care
29 information about a patient to any other person without the patient's
30 written authorization. A disclosure made under a patient's written
31 authorization must conform to the authorization.

32 (2) A patient has a right to receive an accounting of all
33 disclosures of mental health treatment records except disclosures made
34 under RCW 71.05.425.

35 (3) A patient has a right to receive an accounting of disclosures
36 of health care information, except for mental health treatment records

1 which are addressed in subsection (2) of this section, made by a health
2 care provider or a health care facility in the six years before the
3 date on which the accounting is requested, except for disclosures:

4 (a) To carry out treatment, payment, and health care operations;

5 (b) To the patient of health care information about him or her;

6 (c) Incident to a use or disclosure that is otherwise permitted or
7 required;

8 (d) Pursuant to an authorization where the patient authorized the
9 disclosure of health care information about himself or herself;

10 (e) Of directory information;

11 (f) To persons involved in the patient's care;

12 (g) For national security or intelligence purposes if an accounting
13 of disclosures is not permitted by law;

14 (h) To correctional institutions or law enforcement officials if an
15 accounting of disclosures is not permitted by law; and

16 (i) Of a limited data set that excludes direct identifiers of the
17 patient or of relatives, employers, or household members of the
18 patient.

19 **Sec. 3.** RCW 70.02.050 and 2007 c 156 s 12 are each amended to read
20 as follows:

21 DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--NEED-TO-KNOW BASIS.

22 (1) A health care provider or health care facility may disclose health
23 care information, except for information and records related to
24 sexually transmitted diseases which are addressed in section 6 of this
25 act, about a patient without the patient's authorization to the extent
26 a recipient needs to know the information, if the disclosure is:

27 (a) To a person who the provider or facility reasonably believes is
28 providing health care to the patient;

29 (b) To any other person who requires health care information for
30 health care education, or to provide planning, quality assurance, peer
31 review, or administrative, legal, financial, actuarial services to, or
32 other health care operations for or on behalf of the health care
33 provider or health care facility; or for assisting the health care
34 provider or health care facility in the delivery of health care and the
35 health care provider or health care facility reasonably believes that
36 the person:

- 1 (i) Will not use or disclose the health care information for any
2 other purpose; and
- 3 (ii) Will take appropriate steps to protect the health care
4 information;
- 5 (c) ~~((To any other health care provider or health care facility
6 reasonably believed to have previously provided health care to the
7 patient, to the extent necessary to provide health care to the patient,
8 unless the patient has instructed the health care provider or health
9 care facility in writing not to make the disclosure;~~
- 10 (d)) To any person if the health care provider or health care
11 facility reasonably believes that disclosure will avoid or minimize an
12 imminent danger to the health or safety of the patient or any other
13 individual, however there is no obligation under this chapter on the
14 part of the provider or facility to so disclose. The fact of admission
15 to a provider for mental health services and all information and
16 records compiled, obtained, or maintained in the course of providing
17 mental health services to either voluntary or involuntary recipients of
18 services at public or private agencies is not subject to disclosure
19 unless disclosure is permitted in section 7 of this act;
- 20 ~~((e) To immediate family members of the patient, including a
21 patient's state registered domestic partner, or any other individual
22 with whom the patient is known to have a close personal relationship,
23 if made in accordance with good medical or other professional practice,
24 unless the patient has instructed the health care provider or health
25 care facility in writing not to make the disclosure;~~
- 26 (f) ~~To a health care provider or health care facility who is the
27 successor in interest to the health care provider or health care
28 facility maintaining the health care information;~~
- 29 (g) ~~For use in a research project that an institutional review
30 board has determined:~~
- 31 (i) ~~Is of sufficient importance to outweigh the intrusion into the
32 privacy of the patient that would result from the disclosure;~~
- 33 (ii) ~~Is impracticable without the use or disclosure of the health
34 care information in individually identifiable form;~~
- 35 (iii) ~~Contains reasonable safeguards to protect the information
36 from redisclosure;~~
- 37 (iv) ~~Contains reasonable safeguards to protect against identifying,~~

1 directly or indirectly, any patient in any report of the research
2 project; and

3 (v) Contains procedures to remove or destroy at the earliest
4 opportunity, consistent with the purposes of the project, information
5 that would enable the patient to be identified, unless an institutional
6 review board authorizes retention of identifying information for
7 purposes of another research project;

8 (h) To a person who obtains information for purposes of an audit,
9 if that person agrees in writing to:

10 (i) Remove or destroy, at the earliest opportunity consistent with
11 the purpose of the audit, information that would enable the patient to
12 be identified; and

13 (ii) Not to disclose the information further, except to accomplish
14 the audit or report unlawful or improper conduct involving fraud in
15 payment for health care by a health care provider or patient, or other
16 unlawful conduct by the health care provider;

17 (i)) (d) To an official of a penal or other custodial institution
18 in which the patient is detained;

19 ((j) To provide directory information, unless the patient has
20 instructed the health care provider or health care facility not to make
21 the disclosure;

22 (k) To fire, police, sheriff, or another public authority, that
23 brought, or caused to be brought, the patient to the health care
24 facility or health care provider if the disclosure is limited to the
25 patient's name, residence, sex, age, occupation, condition, diagnosis,
26 estimated or actual discharge date, or extent and location of injuries
27 as determined by a physician, and whether the patient was conscious
28 when admitted;

29 (l) To federal, state, or local law enforcement authorities and the
30 health care provider, health care facility, or third party payor
31 believes in good faith that the health care information disclosed
32 constitutes evidence of criminal conduct that occurred on the premises
33 of the health care provider, health care facility, or third party
34 payor;

35 (m) To another health care provider, health care facility, or
36 third party payor for the health care operations of the health care
37 provider, health care facility, or third party payor that receives the
38 information, if each entity has or had a relationship with the patient

1 ~~who is the subject of the health care information being requested, the~~
2 ~~health care information pertains to such relationship, and the~~
3 ~~disclosure is for the purposes described in RCW 70.02.010(8) (a) and~~
4 ~~(b);~~) or

5 ~~((n))~~ (e) For payment, including information necessary for a
6 recipient to make a claim, or for a claim to be made on behalf of a
7 recipient for aid, insurance, or medical assistance to which he or she
8 may be entitled.

9 (2) A health care provider shall disclose health care information,
10 except for information and records related to sexually transmitted
11 diseases, unless otherwise authorized in section 6 of this act, about
12 a patient without the patient's authorization if the disclosure is:

13 (a) To federal, state, or local public health authorities, to the
14 extent the health care provider is required by law to report health
15 care information; when needed to determine compliance with state or
16 federal licensure, certification or registration rules or laws, or to
17 investigate unprofessional conduct or ability to practice with
18 reasonable skill and safety under chapter 18.130 RCW. Any health care
19 information obtained under this subsection is exempt from public
20 inspection and copying pursuant to chapter 42.56 RCW; or

21 (b) When needed to protect the public health;

22 ~~(b) To federal, state, or local law enforcement authorities to the~~
23 ~~extent the health care provider is required by law;~~

24 ~~(c) To federal, state, or local law enforcement authorities, upon~~
25 ~~receipt of a written or oral request made to a nursing supervisor,~~
26 ~~administrator, or designated privacy official, in a case in which the~~
27 ~~patient is being treated or has been treated for a bullet wound,~~
28 ~~gunshot wound, powder burn, or other injury arising from or caused by~~
29 ~~the discharge of a firearm, or an injury caused by a knife, an ice~~
30 ~~pick, or any other sharp or pointed instrument which federal, state, or~~
31 ~~local law enforcement authorities reasonably believe to have been~~
32 ~~intentionally inflicted upon a person, or a blunt force injury that~~
33 ~~federal, state, or local law enforcement authorities reasonably believe~~
34 ~~resulted from a criminal act, the following information, if known:~~

- 35 ~~(i) The name of the patient;~~
- 36 ~~(ii) The patient's residence;~~
- 37 ~~(iii) The patient's sex;~~
- 38 ~~(iv) The patient's age;~~

1 ~~(v) The patient's condition;~~
2 ~~(vi) The patient's diagnosis, or extent and location of injuries as~~
3 ~~determined by a health care provider;~~
4 ~~(vii) Whether the patient was conscious when admitted;~~
5 ~~(viii) — The — name — of — the — health — care — provider — making — the~~
6 ~~determination in (c)(v), (vi), and (vii) of this subsection;~~
7 ~~(ix) Whether the patient has been transferred to another facility;~~
8 and
9 ~~(x) The patient's discharge time and date;~~
10 ~~(d) To county coroners and medical examiners for the investigations~~
11 ~~of deaths;~~
12 ~~(e) — Pursuant — to — compulsory — process — in — accordance — with — RCW~~
13 ~~70.02.060.~~
14 ~~(3) — All — state — or — local — agencies — obtaining — patient — health — care~~
15 ~~information pursuant to this section shall adopt rules establishing~~
16 ~~their record acquisition, retention, and security policies that are~~
17 ~~consistent with this chapter)).~~

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.02 RCW
19 to read as follows:

20 DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--PERMITTED AND MANDATORY
21 DISCLOSURES. (1) In addition to the disclosures authorized by RCW
22 70.02.050 and section 5 of this act, a health care provider or health
23 care facility may disclose health care information, except for
24 information and records related to sexually transmitted diseases and
25 information related to mental health services which are addressed by
26 sections 6 through 10 of this act, about a patient without the
27 patient's authorization, to:

28 (a) Any other health care provider or health care facility
29 reasonably believed to have previously provided health care to the
30 patient, to the extent necessary to provide health care to the patient,
31 unless the patient has instructed the health care provider or health
32 care facility in writing not to make the disclosure;

33 (b) Immediate family members of the patient, including a patient's
34 state registered domestic partner, or any other individual with whom
35 the patient is known to have a close personal relationship, if made in
36 accordance with good medical or other professional practice, unless the

1 patient has instructed the health care provider or health care facility
2 in writing not to make the disclosure;

3 (c) A health care provider or health care facility who is the
4 successor in interest to the health care provider or health care
5 facility maintaining the health care information;

6 (d) A person who obtains information for purposes of an audit, if
7 that person agrees in writing to:

8 (i) Remove or destroy, at the earliest opportunity consistent with
9 the purpose of the audit, information that would enable the patient to
10 be identified; and

11 (ii) Not to disclose the information further, except to accomplish
12 the audit or report unlawful or improper conduct involving fraud in
13 payment for health care by a health care provider or patient, or other
14 unlawful conduct by the health care provider;

15 (e) Provide directory information, unless the patient has
16 instructed the health care provider or health care facility not to make
17 the disclosure;

18 (f) Fire, police, sheriff, or other public authority, that brought,
19 or caused to be brought, the patient to the health care facility or
20 health care provider if the disclosure is limited to the patient's
21 name, residence, sex, age, occupation, condition, diagnosis, estimated
22 or actual discharge date, or extent and location of injuries as
23 determined by a physician, and whether the patient was conscious when
24 admitted;

25 (g) Federal, state, or local law enforcement authorities and the
26 health care provider, health care facility, or third-party payor
27 believes in good faith that the health care information disclosed
28 constitutes evidence of criminal conduct that occurred on the premises
29 of the health care provider, health care facility, or third-party
30 payor; and

31 (h) Another health care provider, health care facility, or third-
32 party payor for the health care operations of the health care provider,
33 health care facility, or third-party payor that receives the
34 information, if each entity has or had a relationship with the patient
35 who is the subject of the health care information being requested, the
36 health care information pertains to such relationship, and the
37 disclosure is for the purposes described in RCW 70.02.010(17) (a) and
38 (b).

1 (2) In addition to the disclosures required by RCW 70.02.050 and
2 section 5 of this act, a health care provider shall disclose health
3 care information, except for information related to sexually
4 transmitted diseases and information related to mental health services
5 which are addressed by sections 6 through 10 of this act, about a
6 patient without the patient's authorization if the disclosure is:

7 (a) To federal, state, or local law enforcement authorities to the
8 extent the health care provider is required by law;

9 (b) To federal, state, or local law enforcement authorities, upon
10 receipt of a written or oral request made to a nursing supervisor,
11 administrator, or designated privacy official, in a case in which the
12 patient is being treated or has been treated for a bullet wound,
13 gunshot wound, powder burn, or other injury arising from or caused by
14 the discharge of a firearm, or an injury caused by a knife, an ice
15 pick, or any other sharp or pointed instrument which federal, state, or
16 local law enforcement authorities reasonably believe to have been
17 intentionally inflicted upon a person, or a blunt force injury that
18 federal, state, or local law enforcement authorities reasonably believe
19 resulted from a criminal act, the following information, if known:

20 (i) The name of the patient;

21 (ii) The patient's residence;

22 (iii) The patient's sex;

23 (iv) The patient's age;

24 (v) The patient's condition;

25 (vi) The patient's diagnosis, or extent and location of injuries as
26 determined by a health care provider;

27 (vii) Whether the patient was conscious when admitted;

28 (viii) The name of the health care provider making the
29 determination in (b)(v), (vi), and (vii) of this subsection;

30 (ix) Whether the patient has been transferred to another facility;
31 and

32 (x) The patient's discharge time and date;

33 (c) Pursuant to compulsory process in accordance with RCW
34 70.02.060.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.02 RCW
36 to read as follows:

37 DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--RESEARCH. (1) A health

1 care provider or health care facility may disclose health care
2 information about a patient without the patient's authorization to the
3 extent a recipient needs to know the information, if the disclosure is
4 for use in a research project that an institutional review board has
5 determined:

6 (a) Is of sufficient importance to outweigh the intrusion into the
7 privacy of the patient that would result from the disclosure;

8 (b) Is impracticable without the use or disclosure of the health
9 care information in individually identifiable form;

10 (c) Contains reasonable safeguards to protect the information from
11 redisclosure;

12 (d) Contains reasonable safeguards to protect against identifying,
13 directly or indirectly, any patient in any report of the research
14 project; and

15 (e) Contains procedures to remove or destroy at the earliest
16 opportunity, consistent with the purposes of the project, information
17 that would enable the patient to be identified, unless an institutional
18 review board authorizes retention of identifying information for
19 purposes of another research project.

20 (2) In addition to the disclosures required by RCW 70.02.050 and
21 section 4 of this act, a health care provider or health care facility
22 shall disclose health care information about a patient without the
23 patient's authorization if:

24 (a) The disclosure is to county coroners and medical examiners for
25 the investigations of deaths;

26 (b) The disclosure is to a procurement organization or person to
27 whom a body part passes for the purpose of examination necessary to
28 assure the medical suitability of the body part; or

29 (c) The disclosure is to a person subject to the jurisdiction of
30 the federal food and drug administration in regards to a food and drug
31 administration-regulated product or activity for which that person has
32 responsibility for quality, safety, or effectiveness of activities.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.02 RCW
34 to read as follows:

35 SEXUALLY TRANSMITTED DISEASES--PERMITTED AND MANDATORY DISCLOSURES.

36 (1) No person may disclose or be compelled to disclose the identity of

1 any person who has investigated, considered, or requested a test or
2 treatment for a sexually transmitted disease, except as authorized by
3 this section, section 5 of this act, or chapter 70.24 RCW.

4 (2) No person may disclose or be compelled to disclose information
5 and records related to sexually transmitted diseases, except as
6 authorized by this section, section 5 of this act, or chapter 70.24
7 RCW. A person may disclose information related to sexually transmitted
8 diseases about a patient without the patient's authorization, to the
9 extent a recipient needs to know the information, if the disclosure is
10 to:

11 (a) The subject of the test or the subject's legal representative
12 for health care decisions in accordance with RCW 7.70.065, with the
13 exception of such a representative of a minor fourteen years of age or
14 over and otherwise competent;

15 (b) The state public health officer as defined in RCW 70.24.017, a
16 local public health officer, or the centers for disease control of the
17 United States public health service in accordance with reporting
18 requirements for a diagnosed case of a sexually transmitted disease;

19 (c) A health facility or health care provider that procures,
20 processes, distributes, or uses: (i) A human body part, tissue, or
21 blood from a deceased person with respect to medical information
22 regarding that person; (ii) semen, including that was provided prior to
23 March 23, 1988, for the purpose of artificial insemination; or (iii)
24 blood specimens;

25 (d) Any state or local public health officer conducting an
26 investigation pursuant to RCW 70.24.024, so long as the record was
27 obtained by means of court-ordered HIV testing pursuant to RCW
28 70.24.340 or 70.24.024;

29 (e) A person allowed access to the record by a court order granted
30 after application showing good cause therefor. In assessing good
31 cause, the court shall weigh the public interest and the need for
32 disclosure against the injury to the patient, to the physician-patient
33 relationship, and to the treatment services. Upon the granting of the
34 order, the court, in determining the extent to which any disclosure of
35 all or any part of the record of any such test is necessary, shall
36 impose appropriate safeguards against unauthorized disclosure. An
37 order authorizing disclosure must: (i) Limit disclosure to those parts
38 of the patient's record deemed essential to fulfill the objective for

1 which the order was granted; (ii) limit disclosure to those persons
2 whose need for information is the basis for the order; and (iii)
3 include any other appropriate measures to keep disclosure to a minimum
4 for the protection of the patient, the physician-patient relationship,
5 and the treatment services;

6 (f) Persons who, because of their behavioral interaction with the
7 infected individual, have been placed at risk for acquisition of a
8 sexually transmitted disease, as provided in RCW 70.24.022, if the
9 health officer or authorized representative believes that the exposed
10 person was unaware that a risk of disease exposure existed and that the
11 disclosure of the identity of the infected person is necessary;

12 (g) A law enforcement officer, firefighter, health care provider,
13 health care facility staff person, department of correction's staff
14 person, jail staff person, or other persons as defined by the board of
15 health in rule pursuant to RCW 70.24.340(4), who has requested a test
16 of a person whose bodily fluids he or she has been substantially
17 exposed to, pursuant to RCW 70.24.340(4), if a state or local public
18 health officer performs the test;

19 (h) Claims management personnel employed by or associated with an
20 insurer, health care service contractor, health maintenance
21 organization, self-funded health plan, state administered health care
22 claims payer, or any other payer of health care claims where such
23 disclosure is to be used solely for the prompt and accurate evaluation
24 and payment of medical or related claims. Information released under
25 this subsection must be confidential and may not be released or
26 available to persons who are not involved in handling or determining
27 medical claims payment; and

28 (i) A department of social and health services worker, a child
29 placing agency worker, or a guardian ad litem who is responsible for
30 making or reviewing placement or case-planning decisions or
31 recommendations to the court regarding a child, who is less than
32 fourteen years of age, has a sexually transmitted disease, and is in
33 the custody of the department of social and health services or a
34 licensed child placing agency. This information may also be received
35 by a person responsible for providing residential care for such a child
36 when the department of social and health services or a licensed child
37 placing agency determines that it is necessary for the provision of
38 child care services.

1 (3) No person to whom the results of a test for a sexually
2 transmitted disease have been disclosed pursuant to subsection (2) of
3 this section may disclose the test results to another person except as
4 authorized by that subsection.

5 (4) The release of sexually transmitted disease information
6 regarding an offender or detained person, except as provided in
7 subsection (2)(d) of this section, is governed as follows:

8 (a) The sexually transmitted disease status of a department of
9 corrections offender who has had a mandatory test conducted pursuant to
10 RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by
11 department of corrections health care providers and local public health
12 officers to the department of corrections health care administrator or
13 infection control coordinator of the facility in which the offender is
14 housed. The information made available to the health care
15 administrator or the infection control coordinator under this
16 subsection (4)(a) may be used only for disease prevention or control
17 and for protection of the safety and security of the staff, offenders,
18 and the public. The information may be submitted to transporting
19 officers and receiving facilities, including facilities that are not
20 under the department of corrections' jurisdiction according to the
21 provisions of (d) and (e) of this subsection.

22 (b) The sexually transmitted disease status of a person detained in
23 a jail who has had a mandatory test conducted pursuant to RCW
24 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the
25 local public health officer to a jail health care administrator or
26 infection control coordinator. The information made available to a
27 health care administrator under this subsection (4)(b) may be used only
28 for disease prevention or control and for protection of the safety and
29 security of the staff, offenders, detainees, and the public. The
30 information may be submitted to transporting officers and receiving
31 facilities according to the provisions of (d) and (e) of this
32 subsection.

33 (c) Information regarding the sexually transmitted disease status
34 of an offender or detained person is confidential and may be disclosed
35 by a correctional health care administrator or infection control
36 coordinator or local jail health care administrator or infection
37 control coordinator only as necessary for disease prevention or control
38 and for protection of the safety and security of the staff, offenders,

1 and the public. Unauthorized disclosure of this information to any
2 person may result in disciplinary action, in addition to the penalties
3 prescribed in RCW 70.24.080 or any other penalties as may be prescribed
4 by law.

5 (d) Notwithstanding the limitations on disclosure contained in (a),
6 (b), and (c) of this subsection, whenever any member of a jail staff or
7 department of corrections staff has been substantially exposed to the
8 bodily fluids of an offender or detained person, then the results of
9 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or
10 70.24.370, must be immediately disclosed to the staff person in
11 accordance with the Washington Administrative Code rules governing
12 employees' occupational exposure to bloodborne pathogens. Disclosure
13 must be accompanied by appropriate counseling for the staff member,
14 including information regarding follow-up testing and treatment.
15 Disclosure must also include notice that subsequent disclosure of the
16 information in violation of this chapter or use of the information to
17 harass or discriminate against the offender or detainee may result in
18 disciplinary action, in addition to the penalties prescribed in RCW
19 70.24.080, and imposition of other penalties prescribed by law.

20 (e) The staff member must also be informed whether the offender or
21 detained person had any other communicable disease, as defined in RCW
22 72.09.251(3), when the staff person was substantially exposed to the
23 offender's or detainee's bodily fluids.

24 (f) The test results of voluntary and anonymous HIV testing or HIV-
25 related condition, as defined in RCW 70.24.017, may not be disclosed to
26 a staff person except as provided in this section and RCW
27 70.02.050(1)(e) and 70.24.340(4). A health care administrator or
28 infection control coordinator may provide the staff member with
29 information about how to obtain the offender's or detainee's test
30 results under this section and RCW 70.02.050(1)(e) and 70.24.340(4).

31 (5) The requirements of this section do not apply to the customary
32 methods utilized for the exchange of medical information among health
33 care providers in order to provide health care services to the patient,
34 nor do they apply within health care facilities where there is a need
35 for access to confidential medical information to fulfill professional
36 duties.

37 (6) Upon request of the victim, disclosure of test results under
38 this section to victims of sexual offenses under chapter 9A.44 RCW must

1 be made if the result is negative or positive. The county prosecuting
2 attorney shall notify the victim of the right to such disclosure. The
3 disclosure must be accompanied by appropriate counseling, including
4 information regarding follow-up testing.

5 (7) A person, including a health care facility or health care
6 provider, shall disclose the identity of any person who has
7 investigated, considered, or requested a test or treatment for a
8 sexually transmitted disease and information and records related to
9 sexually transmitted diseases to federal, state, or local public health
10 authorities, to the extent the health care provider is required by law
11 to report health care information; when needed to determine compliance
12 with state or federal certification or registration rules or laws; or
13 when needed to protect the public health. Any health care information
14 obtained under this subsection is exempt from public inspection and
15 copying pursuant to chapter 42.56 RCW.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.02 RCW
17 to read as follows:

18 MENTAL HEALTH SERVICES, CONFIDENTIALITY OF RECORDS--PERMITTED
19 DISCLOSURES. (1) Except as provided in this section, RCW 70.02.050,
20 71.05.445, 70.96A.150, 74.09.295, sections 5, 8, 9, and 10 of this act,
21 or pursuant to a valid authorization under RCW 70.02.030, the fact of
22 admission to a provider for mental health services and all information
23 and records compiled, obtained, or maintained in the course of
24 providing mental health services to either voluntary or involuntary
25 recipients of services at public or private agencies must be
26 confidential.

27 (2) Information and records related to mental health services,
28 other than those obtained through treatment under chapter 71.34 RCW,
29 may be disclosed only:

30 (a) In communications between qualified professional persons to
31 meet the requirements of chapter 71.05 RCW, in the provision of
32 services or appropriate referrals, or in the course of guardianship
33 proceedings if provided to a professional person:

- 34 (i) Employed by the facility;
- 35 (ii) Who has medical responsibility for the patient's care;
- 36 (iii) Who is a designated mental health professional;
- 37 (iv) Who is providing services under chapter 71.24 RCW;

1 (v) Who is employed by a state or local correctional facility where
2 the person is confined or supervised; or

3 (vi) Who is providing evaluation, treatment, or follow-up services
4 under chapter 10.77 RCW;

5 (b) When the communications regard the special needs of a patient
6 and the necessary circumstances giving rise to such needs and the
7 disclosure is made by a facility providing services to the operator of
8 a facility in which the patient resides or will reside;

9 (c)(i) When the person receiving services, or his or her guardian,
10 designates persons to whom information or records may be released, or
11 if the person is a minor, when his or her parents make such a
12 designation;

13 (ii) A public or private agency shall release to a person's next of
14 kin, attorney, personal representative, guardian, or conservator, if
15 any:

16 (A) The information that the person is presently a patient in the
17 facility or that the person is seriously physically ill;

18 (B) A statement evaluating the mental and physical condition of the
19 patient, and a statement of the probable duration of the patient's
20 confinement, if such information is requested by the next of kin,
21 attorney, personal representative, guardian, or conservator; and

22 (iii) Other information requested by the next of kin or attorney as
23 may be necessary to decide whether or not proceedings should be
24 instituted to appoint a guardian or conservator;

25 (d)(i) To the courts as necessary to the administration of chapter
26 71.05 RCW or to a court ordering an evaluation or treatment under
27 chapter 10.77 RCW solely for the purpose of preventing the entry of any
28 evaluation or treatment order that is inconsistent with any order
29 entered under chapter 71.05 RCW.

30 (ii) To a court or its designee in which a motion under chapter
31 10.77 RCW has been made for involuntary medication of a defendant for
32 the purpose of competency restoration.

33 (iii) Disclosure under this subsection is mandatory for the purpose
34 of the federal health insurance portability and accountability act;

35 (e)(i) When a mental health professional is requested by a
36 representative of a law enforcement or corrections agency, including a
37 police officer, sheriff, community corrections officer, a municipal
38 attorney, or prosecuting attorney to undertake an investigation or

1 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
2 mental health professional shall, if requested to do so, advise the
3 representative in writing of the results of the investigation including
4 a statement of reasons for the decision to detain or release the person
5 investigated. The written report must be submitted within seventy-two
6 hours of the completion of the investigation or the request from the
7 law enforcement or corrections representative, whichever occurs later.

8 (ii) Disclosure under this subsection is mandatory for the purposes
9 of the federal health insurance portability and accountability act;

10 (f) To the attorney of the detained person;

11 (g) To the prosecuting attorney as necessary to carry out the
12 responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b),
13 and 71.05.335. The prosecutor must be provided access to records
14 regarding the committed person's treatment and prognosis, medication,
15 behavior problems, and other records relevant to the issue of whether
16 treatment less restrictive than inpatient treatment is in the best
17 interest of the committed person or others. Information must be
18 disclosed only after giving notice to the committed person and the
19 person's counsel;

20 (h)(i) To appropriate law enforcement agencies and to a person,
21 when the identity of the person is known to the public or private
22 agency, whose health and safety has been threatened, or who is known to
23 have been repeatedly harassed, by the patient. The person may
24 designate a representative to receive the disclosure. The disclosure
25 must be made by the professional person in charge of the public or
26 private agency or his or her designee and must include the dates of
27 commitment, admission, discharge, or release, authorized or
28 unauthorized absence from the agency's facility, and only any other
29 information that is pertinent to the threat or harassment. The agency
30 or its employees are not civilly liable for the decision to disclose or
31 not, so long as the decision was reached in good faith and without
32 gross negligence.

33 (ii) Disclosure under this subsection is mandatory for the purposes
34 of the federal health insurance portability and accountability act;

35 (i)(i) To appropriate corrections and law enforcement agencies all
36 necessary and relevant information in the event of a crisis or emergent
37 situation that poses a significant and imminent risk to the public.

1 The mental health service agency or its employees are not civilly
2 liable for the decision to disclose or not so long as the decision was
3 reached in good faith and without gross negligence.

4 (ii) Disclosure under this subsection is mandatory for the purposes
5 of the health insurance portability and accountability act;

6 (j) To the persons designated in RCW 71.05.425 for the purposes
7 described in those sections;

8 (k) Upon the death of a person. The person's next of kin, personal
9 representative, guardian, or conservator, if any, must be notified.
10 Next of kin who are of legal age and competent must be notified under
11 this section in the following order: Spouse, parents, children,
12 brothers and sisters, and other relatives according to the degree of
13 relation. Access to all records and information compiled, obtained, or
14 maintained in the course of providing services to a deceased patient
15 are governed by RCW 70.02.140;

16 (l) To mark headstones or otherwise memorialize patients interred
17 at state hospital cemeteries. The department of social and health
18 services shall make available the name, date of birth, and date of
19 death of patients buried in state hospital cemeteries fifty years after
20 the death of a patient;

21 (m) To law enforcement officers and to prosecuting attorneys as are
22 necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information
23 that may be released is limited as follows:

24 (i) Only the fact, place, and date of involuntary commitment, an
25 official copy of any order or orders of commitment, and an official
26 copy of any written or oral notice of ineligibility to possess a
27 firearm that was provided to the person pursuant to RCW 9.41.047(1),
28 must be disclosed upon request;

29 (ii) The law enforcement and prosecuting attorneys may only release
30 the information obtained to the person's attorney as required by court
31 rule and to a jury or judge, if a jury is waived, that presides over
32 any trial at which the person is charged with violating RCW
33 9.41.040(2)(a)(ii);

34 (iii) Disclosure under this subsection is mandatory for the
35 purposes of the federal health insurance portability and accountability
36 act;

37 (n) When a patient would otherwise be subject to the provisions of
38 this section and disclosure is necessary for the protection of the

1 patient or others due to his or her unauthorized disappearance from the
2 facility, and his or her whereabouts is unknown, notice of the
3 disappearance, along with relevant information, may be made to
4 relatives, the department of corrections when the person is under the
5 supervision of the department, and governmental law enforcement
6 agencies designated by the physician or psychiatric advanced registered
7 nurse practitioner in charge of the patient or the professional person
8 in charge of the facility, or his or her professional designee;

9 (o) Pursuant to lawful order of a court;

10 (p) To qualified staff members of the department, to the director
11 of regional support networks, to resource management services
12 responsible for serving a patient, or to service providers designated
13 by resource management services as necessary to determine the progress
14 and adequacy of treatment and to determine whether the person should be
15 transferred to a less restrictive or more appropriate treatment
16 modality or facility;

17 (q) Within the treatment facility where the patient is receiving
18 treatment, confidential information may be disclosed to persons
19 employed, serving in bona fide training programs, or participating in
20 supervised volunteer programs, at the facility when it is necessary to
21 perform their duties;

22 (r) Within the department as necessary to coordinate treatment for
23 mental illness, developmental disabilities, alcoholism, or drug abuse
24 of persons who are under the supervision of the department;

25 (s) To a licensed physician or psychiatric advanced registered
26 nurse practitioner who has determined that the life or health of the
27 person is in danger and that treatment without the information
28 contained in the mental health treatment records could be injurious to
29 the patient's health. Disclosure must be limited to the portions of
30 the records necessary to meet the medical emergency;

31 (t) Consistent with the requirements of the federal health
32 information portability and accountability act, to a licensed mental
33 health professional or a health care professional licensed under
34 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
35 providing care to a person, or to whom a person has been referred for
36 evaluation or treatment, to assure coordinated care and treatment of
37 that person. Psychotherapy notes, as defined in 45 C.F.R. Sec.

1 164.501, may not be released without authorization of the person who is
2 the subject of the request for release of information;

3 (u) To administrative and office support staff designated to obtain
4 medical records for those licensed professionals listed in (t) of this
5 subsection;

6 (v) To a facility that is to receive a person who is involuntarily
7 committed under chapter 71.05 RCW, or upon transfer of the person from
8 one treatment facility to another. The release of records under this
9 subsection is limited to the mental health treatment records required
10 by law, a record or summary of all somatic treatments, and a discharge
11 summary. The discharge summary may include a statement of the
12 patient's problem, the treatment goals, the type of treatment which has
13 been provided, and recommendation for future treatment, but may not
14 include the patient's complete treatment record;

15 (w) To the person's counsel or guardian ad litem, without
16 modification, at any time in order to prepare for involuntary
17 commitment or recommitment proceedings, reexaminations, appeals, or
18 other actions relating to detention, admission, commitment, or
19 patient's rights under chapter 71.05 RCW;

20 (x) To staff members of the protection and advocacy agency or to
21 staff members of a private, nonprofit corporation for the purpose of
22 protecting and advocating the rights of persons with mental disorders
23 or developmental disabilities. Resource management services may limit
24 the release of information to the name, birthdate, and county of
25 residence of the patient, information regarding whether the patient was
26 voluntarily admitted, or involuntarily committed, the date and place of
27 admission, placement, or commitment, the name and address of a guardian
28 of the patient, and the date and place of the guardian's appointment.
29 Any staff member who wishes to obtain additional information must
30 notify the patient's resource management services in writing of the
31 request and of the resource management services' right to object. The
32 staff member shall send the notice by mail to the guardian's address.
33 If the guardian does not object in writing within fifteen days after
34 the notice is mailed, the staff member may obtain the additional
35 information. If the guardian objects in writing within fifteen days
36 after the notice is mailed, the staff member may not obtain the
37 additional information;

1 (y) To all current treating providers of the patient with
2 prescriptive authority who have written a prescription for the patient
3 within the last twelve months. For purposes of coordinating health
4 care, the department may release without written authorization of the
5 patient, information acquired for billing and collection purposes as
6 described in RCW 70.02.050(1)(e). The department shall notify the
7 patient that billing and collection information has been released to
8 named providers, and provide the substance of the information released
9 and the dates of such release. The department may not release
10 counseling, inpatient psychiatric hospitalization, or drug and alcohol
11 treatment information without a signed written release from the client;

12 (z)(i) To the secretary of social and health services for either
13 program evaluation or research, or both so long as the secretary adopts
14 rules for the conduct of the evaluation or research, or both. Such
15 rules must include, but need not be limited to, the requirement that
16 all evaluators and researchers sign an oath of confidentiality
17 substantially as follows:

18 "As a condition of conducting evaluation or research concerning
19 persons who have received services from (fill in the facility, agency,
20 or person) I,, agree not to divulge, publish, or otherwise
21 make known to unauthorized persons or the public any information
22 obtained in the course of such evaluation or research regarding persons
23 who have received services such that the person who received such
24 services is identifiable.

25 I recognize that unauthorized release of confidential information
26 may subject me to civil liability under the provisions of state law.
27 /s/"

28 (ii) Nothing in this chapter may be construed to prohibit the
29 compilation and publication of statistical data for use by government
30 or researchers under standards, including standards to assure
31 maintenance of confidentiality, set forth by the secretary.

32 (3) Whenever federal law or federal regulations restrict the
33 release of information contained in the treatment records of any
34 patient who receives treatment for chemical dependency, the department
35 may restrict the release of the information as necessary to comply with
36 federal law and regulations.

37 (4) Civil liability and immunity for the release of information
38 about a particular person who is committed to the department of social

1 and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after
2 dismissal of a sex offense as defined in RCW 9.94A.030, is governed by
3 RCW 4.24.550.

4 (5) The fact of admission to a provider of mental health services,
5 as well as all records, files, evidence, findings, or orders made,
6 prepared, collected, or maintained pursuant to chapter 71.05 RCW are
7 not admissible as evidence in any legal proceeding outside that chapter
8 without the written authorization of the person who was the subject of
9 the proceeding except as provided in section 10 of this act, in a
10 subsequent criminal prosecution of a person committed pursuant to RCW
11 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant
12 to chapter 10.77 RCW due to incompetency to stand trial, in a civil
13 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of
14 a minor, a guardianship or dependency proceeding. The records and
15 files maintained in any court proceeding pursuant to chapter 71.05 RCW
16 must be confidential and available subsequent to such proceedings only
17 to the person who was the subject of the proceeding or his or her
18 attorney. In addition, the court may order the subsequent release or
19 use of such records or files only upon good cause shown if the court
20 finds that appropriate safeguards for strict confidentiality are and
21 will be maintained.

22 (6)(a) Except as provided in RCW 4.24.550, any person may bring an
23 action against an individual who has willfully released confidential
24 information or records concerning him or her in violation of the
25 provisions of this section, for the greater of the following amounts:

- 26 (i) One thousand dollars; or
- 27 (ii) Three times the amount of actual damages sustained, if any.

28 (b) It is not a prerequisite to recovery under this subsection that
29 the plaintiff suffered or was threatened with special, as contrasted
30 with general, damages.

31 (c) Any person may bring an action to enjoin the release of
32 confidential information or records concerning him or her or his or her
33 ward, in violation of the provisions of this section, and may in the
34 same action seek damages as provided in this subsection.

35 (d) The court may award to the plaintiff, should he or she prevail
36 in any action authorized by this subsection, reasonable attorney fees
37 in addition to those otherwise provided by law.

38 (e) If an action is brought under this subsection, no action may

1 be brought under RCW 70.02.170.

2 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.02 RCW
3 to read as follows:

4 MENTAL HEALTH SERVICES--MINORS--PERMITTED DISCLOSURES. The fact of
5 admission and all information and records related to mental health
6 services obtained through treatment under chapter 71.34 RCW is
7 confidential, except as authorized in RCW 70.02.050 and sections 5, 7,
8 9, and 10 of this act. Such confidential information may be disclosed
9 only:

10 (1) In communications between mental health professionals to meet
11 the requirements of chapter 71.34 RCW, in the provision of services to
12 the minor, or in making appropriate referrals;

13 (2) In the course of guardianship or dependency proceedings;

14 (3) To the minor, the minor's parent, and the minor's attorney,
15 subject to RCW 13.50.100;

16 (4) To the courts as necessary to administer chapter 71.34 RCW;

17 (5) To law enforcement officers or public health officers as
18 necessary to carry out the responsibilities of their office. However,
19 only the fact and date of admission, and the date of discharge, the
20 name and address of the treatment provider, if any, and the last known
21 address must be disclosed upon request;

22 (6) To law enforcement officers, public health officers, relatives,
23 and other governmental law enforcement agencies, if a minor has escaped
24 from custody, disappeared from an evaluation and treatment facility,
25 violated conditions of a less restrictive treatment order, or failed to
26 return from an authorized leave, and then only such information as may
27 be necessary to provide for public safety or to assist in the
28 apprehension of the minor. The officers are obligated to keep the
29 information confidential in accordance with this chapter;

30 (7) To the secretary of social and health services for assistance
31 in data collection and program evaluation or research so long as the
32 secretary adopts rules for the conduct of such evaluation and research.
33 The rules must include, but need not be limited to, the requirement
34 that all evaluators and researchers sign an oath of confidentiality
35 substantially as follows:

36 "As a condition of conducting evaluation or research concerning
37 persons who have received services from (fill in the facility, agency,

1 or person) I,, agree not to divulge, publish, or otherwise
2 make known to unauthorized persons or the public any information
3 obtained in the course of such evaluation or research regarding minors
4 who have received services in a manner such that the minor is
5 identifiable.

6 I recognize that unauthorized release of confidential information
7 may subject me to civil liability under state law.

8 /s/ ";

9 (8) To appropriate law enforcement agencies, upon request, all
10 necessary and relevant information in the event of a crisis or emergent
11 situation that poses a significant and imminent risk to the public.
12 The mental health service agency or its employees are not civilly
13 liable for the decision to disclose or not, so long as the decision was
14 reached in good faith and without gross negligence;

15 (9) To appropriate law enforcement agencies and to a person, when
16 the identity of the person is known to the public or private agency,
17 whose health and safety has been threatened, or who is known to have
18 been repeatedly harassed, by the patient. The person may designate a
19 representative to receive the disclosure. The disclosure must be made
20 by the professional person in charge of the public or private agency or
21 his or her designee and must include the dates of admission, discharge,
22 authorized or unauthorized absence from the agency's facility, and only
23 any other information that is pertinent to the threat or harassment.
24 The agency or its employees are not civilly liable for the decision to
25 disclose or not, so long as the decision was reached in good faith and
26 without gross negligence;

27 (10) To a minor's next of kin, attorney, guardian, or conservator,
28 if any, the information that the minor is presently in the facility or
29 that the minor is seriously physically ill and a statement evaluating
30 the mental and physical condition of the minor as well as a statement
31 of the probable duration of the minor's confinement;

32 (11) Upon the death of a minor, to the minor's next of kin;

33 (12) To a facility in which the minor resides or will reside;

34 (13) To law enforcement officers and to prosecuting attorneys as
35 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of
36 information that may be released is limited as follows:

37 (a) Only the fact, place, and date of involuntary commitment, an
38 official copy of any order or orders of commitment, and an official

1 copy of any written or oral notice of ineligibility to possess a
2 firearm that was provided to the person pursuant to RCW 9.41.047(1),
3 must be disclosed upon request;

4 (b) The law enforcement and prosecuting attorneys may only release
5 the information obtained to the person's attorney as required by court
6 rule and to a jury or judge, if a jury is waived, that presides over
7 any trial at which the person is charged with violating RCW
8 9.41.040(2)(a)(ii);

9 (c) Disclosure under this subsection is mandatory for the purposes
10 of the federal health insurance portability and accountability act;

11 (14) This section may not be construed to prohibit the compilation
12 and publication of statistical data for use by government or
13 researchers under standards, including standards to assure maintenance
14 of confidentiality, set forth by the secretary of the department of
15 social and health services. The fact of admission and all information
16 obtained pursuant to chapter 71.34 RCW are not admissible as evidence
17 in any legal proceeding outside chapter 71.34 RCW, except guardianship
18 or dependency, without the written consent of the minor or the minor's
19 parent;

20 (15) For the purpose of a correctional facility participating in
21 the postinstitutional medical assistance system supporting the
22 expedited medical determinations and medical suspensions as provided in
23 RCW 74.09.555 and 74.09.295;

24 (16) Pursuant to a lawful order of a court.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.02 RCW
26 to read as follows:

27 MENTAL HEALTH SERVICES--DEPARTMENT OF CORRECTIONS. (1) Information
28 and records related to mental health services delivered to a person
29 subject to chapter 9.94A or 9.95 RCW must be released, upon request, by
30 a mental health service agency to department of corrections personnel
31 for whom the information is necessary to carry out the responsibilities
32 of their office. The information must be provided only for the purpose
33 of completing presentence investigations, supervision of an
34 incarcerated person, planning for and provision of supervision of a
35 person, or assessment of a person's risk to the community. The request
36 must be in writing and may not require the consent of the subject of
37 the records.

1 (2) The information to be released to the department of corrections
2 must include all relevant records and reports, as defined by rule,
3 necessary for the department of corrections to carry out its duties,
4 including those records and reports identified in subsection (1) of
5 this section.

6 (3) The department shall, subject to available resources,
7 electronically, or by the most cost-effective means available, provide
8 the department of corrections with the names, last dates of services,
9 and addresses of specific regional support networks and mental health
10 service agencies that delivered mental health services to a person
11 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
12 the departments.

13 (4) The department and the department of corrections, in
14 consultation with regional support networks, mental health service
15 agencies as defined in RCW 70.02.010, mental health consumers, and
16 advocates for persons with mental illness, shall adopt rules to
17 implement the provisions of this section related to the type and scope
18 of information to be released. These rules must:

19 (a) Enhance and facilitate the ability of the department of
20 corrections to carry out its responsibility of planning and ensuring
21 community protection with respect to persons subject to sentencing
22 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
23 disclosing information of persons who received mental health services
24 as a minor; and

25 (b) Establish requirements for the notification of persons under
26 the supervision of the department of corrections regarding the
27 provisions of this section.

28 (5) The information received by the department of corrections under
29 this section must remain confidential and subject to the limitations on
30 disclosure outlined in chapter 71.34 RCW, except as provided in RCW
31 72.09.585.

32 (6) No mental health service agency or individual employed by a
33 mental health service agency may be held responsible for information
34 released to or used by the department of corrections under the
35 provisions of this section or rules adopted under this section.

36 (7) Whenever federal law or federal regulations restrict the
37 release of information contained in the treatment records of any

1 patient who receives treatment for alcoholism or drug dependency, the
2 release of the information may be restricted as necessary to comply
3 with federal law and regulations.

4 (8) This section does not modify the terms and conditions of
5 disclosure of information related to sexually transmitted diseases
6 under this chapter.

7 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.02 RCW
8 to read as follows:

9 MENTAL HEALTH SERVICES--REQUESTS FOR INFORMATION AND RECORDS.

10 (1)(a) A mental health service agency shall release to the persons
11 authorized under subsection (2) of this section, upon request:

12 (i) The fact, place, and date of an involuntary commitment, the
13 fact and date of discharge or release, and the last known address of a
14 person who has been committed under chapter 71.05 RCW.

15 (ii) Information and records related to mental health services, in
16 the format determined under subsection (9) of this section, concerning
17 a person who:

18 (A) Is currently committed to the custody or supervision of the
19 department of corrections or the indeterminate sentence review board
20 under chapter 9.94A or 9.95 RCW;

21 (B) Has been convicted or found not guilty by reason of insanity of
22 a serious violent offense; or

23 (C) Was charged with a serious violent offense and the charges were
24 dismissed under RCW 10.77.086.

25 (b) Legal counsel may release such information to the persons
26 authorized under subsection (2) of this section on behalf of the mental
27 health service agency, so long as nothing in this subsection requires
28 the disclosure of attorney work product or attorney-client privileged
29 information.

30 (2) The information subject to release under subsection (1) of this
31 section must be released to law enforcement officers, personnel of a
32 county or city jail, designated mental health professionals, public
33 health officers, therapeutic court personnel as defined in RCW
34 71.05.020, or personnel of the department of corrections, including the
35 indeterminate sentence review board and personnel assigned to perform
36 board-related duties, when such information is requested during the
37 course of business and for the purpose of carrying out the

1 responsibilities of the requesting person's office. No mental health
2 service agency or person employed by a mental health service agency, or
3 its legal counsel, may be liable for information released to or used
4 under the provisions of this section or rules adopted under this
5 section except under RCW 71.05.680.

6 (3) A person who requests information under subsection (1)(a)(ii)
7 of this section must comply with the following restrictions:

8 (a) Information must be requested only for the purposes permitted
9 by this subsection and for the purpose of carrying out the
10 responsibilities of the requesting person's office. Appropriate
11 purposes for requesting information under this section include:

12 (i) Completing presentence investigations or risk assessment
13 reports;

14 (ii) Assessing a person's risk to the community;

15 (iii) Assessing a person's risk of harm to self or others when
16 confined in a city or county jail;

17 (iv) Planning for and provision of supervision of an offender,
18 including decisions related to sanctions for violations of conditions
19 of community supervision; and

20 (v) Responding to an offender's failure to report for department of
21 corrections supervision;

22 (b) Information may not be requested under this section unless the
23 requesting person has reasonable suspicion that the individual who is
24 the subject of the information:

25 (i) Has engaged in activity indicating that a crime or a violation
26 of community custody or parole has been committed or, based upon his or
27 her current or recent past behavior, is likely to be committed in the
28 near future; or

29 (ii) Is exhibiting signs of a deterioration in mental functioning
30 which may make the individual appropriate for civil commitment under
31 chapter 71.05 RCW; and

32 (c) Any information received under this section must be held
33 confidential and subject to the limitations on disclosure outlined in
34 this chapter, except:

35 (i) The information may be shared with other persons who have the
36 right to request similar information under subsection (2) of this
37 section, solely for the purpose of coordinating activities related to

1 the individual who is the subject of the information in a manner
2 consistent with the official responsibilities of the persons involved;

3 (ii) The information may be shared with a prosecuting attorney
4 acting in an advisory capacity for a person who receives information
5 under this section. A prosecuting attorney under this subsection is
6 subject to the same restrictions and confidentiality limitations as the
7 person who requested the information; and

8 (iii) As provided in RCW 72.09.585.

9 (4) A request for information and records related to mental health
10 services under this section does not require the consent of the subject
11 of the records. The request must be provided in writing, except to the
12 extent authorized in subsection (5) of this section. A written request
13 may include requests made by e-mail or facsimile so long as the
14 requesting person is clearly identified. The request must specify the
15 information being requested.

16 (5) In the event of an emergency situation that poses a significant
17 risk to the public or the offender, a mental health service agency, or
18 its legal counsel, shall release information related to mental health
19 services delivered to the offender and, if known, information regarding
20 where the offender is likely to be found to the department of
21 corrections or law enforcement upon request. The initial request may
22 be written or oral. All oral requests must be subsequently confirmed
23 in writing. Information released in response to an oral request is
24 limited to a statement as to whether the offender is or is not being
25 treated by the mental health service agency and the address or
26 information about the location or whereabouts of the offender.

27 (6) Disclosure under this section to state or local law enforcement
28 authorities is mandatory for the purposes of the federal health
29 insurance portability and accountability act.

30 (7) Whenever federal law or federal regulations restrict the
31 release of information contained in the treatment records of any
32 patient who receives treatment for alcoholism or drug dependency, the
33 release of the information may be restricted as necessary to comply
34 with federal law and regulations.

35 (8) This section does not modify the terms and conditions of
36 disclosure of information related to sexually transmitted diseases
37 under this chapter.

1 (9) In collaboration with interested organizations, the department
2 shall develop a standard form for requests for information related to
3 mental health services made under this section and a standard format
4 for information provided in response to the requests. Consistent with
5 the goals of the health information privacy provisions of the federal
6 health insurance portability and accountability act, in developing the
7 standard form for responsive information, the department shall design
8 the form in such a way that the information disclosed is limited to the
9 minimum necessary to serve the purpose for which the information is
10 requested.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.02 RCW
12 to read as follows:

13 HEALTH CARE INFORMATION--USE OR DISCLOSURE PROHIBITED. (1) No
14 person who receives health care information for health care education,
15 or to provide planning, quality assurance, peer review, or
16 administrative, legal, financial, or actuarial services, or other
17 health care operations for or on behalf of a health care provider or
18 health care facility, may use or disclose any health care information
19 received from the health care provider or health care facility in any
20 manner that is inconsistent with the duties of the health care provider
21 or health care facility under this chapter.

22 (2) A health care provider or health care facility that has a
23 contractual relationship with a person to provide services described
24 under subsection (1) of this section must terminate the contractual
25 relationship with the person if the health care provider or health care
26 facility learns that the person has engaged in a pattern of activity
27 that violates the person's duties under subsection (1) of this section,
28 unless the person took reasonable steps to correct the breach of
29 confidentiality or has discontinued the violating activity.

30 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.02 RCW
31 to read as follows:

32 HEALTH CARE PROVIDERS AND FACILITIES--PROHIBITED ACTIONS. A health
33 care provider, health care facility, and their assistants, employees,
34 agents, and contractors may not:

35 (1) Use or disclose health care information for marketing or fund-
36 raising purposes, unless permitted by federal law;

1 (2) Sell health care information to a third party, except in a form
2 that is deidentified and aggregated; or

3 (3) Sell health care information to a third party, except for the
4 following purposes:

5 (a) Treatment or payment;

6 (b) Sale, transfer, merger, or consolidation of a business;

7 (c) Remuneration to a third party for services;

8 (d) Disclosures required by law;

9 (e) Providing access to or accounting of disclosures to an
10 individual;

11 (f) Public health purposes;

12 (g) Research;

13 (h) With an individual's authorization;

14 (i) Where a reasonable cost-based fee is paid to prepare and
15 transmit health information, where authority to disclose the
16 information is provided in this chapter.

17 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.02 RCW
18 to read as follows:

19 AGENCY RULE-MAKING REQUIREMENTS. All state or local agencies
20 obtaining patient health care information pursuant to RCW 70.02.050 and
21 sections 4 through 8 of this act that are not health care facilities or
22 providers shall adopt rules establishing their record acquisition,
23 retention, and security policies that are consistent with this chapter.

24 NEW SECTION. **Sec. 14.** A new section is added to chapter 70.02 RCW
25 to read as follows:

26 SEXUALLY TRANSMITTED DISEASES--REQUIRED STATEMENT UPON DISCLOSURE.
27 Whenever disclosure is made of information and records related to
28 sexually transmitted diseases pursuant to this chapter, except for RCW
29 70.02.050(1)(a) and section 6 (2) (a) and (b) and (7) of this act, it
30 must be accompanied by a statement in writing which includes the
31 following or substantially similar language: "This information has
32 been disclosed to you from records whose confidentiality is protected
33 by state law. State law prohibits you from making any further
34 disclosure of it without the specific written authorization of the
35 person to whom it pertains, or as otherwise permitted by state law. A

1 general authorization for the release of medical or other information
2 is NOT sufficient for this purpose." An oral disclosure must be
3 accompanied or followed by such a notice within ten days.

4 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.02 RCW
5 to read as follows:

6 MENTAL HEALTH SERVICES--RECORDS. (1) Resource management services
7 shall establish procedures to provide reasonable and timely access to
8 individual mental health treatment records. However, access may not be
9 denied at any time to records of all medications and somatic treatments
10 received by the person.

11 (2) Following discharge, a person who has received mental health
12 services has a right to a complete record of all medications and
13 somatic treatments prescribed during evaluation, admission, or
14 commitment and to a copy of the discharge summary prepared at the time
15 of his or her discharge. A reasonable and uniform charge for
16 reproduction may be assessed.

17 (3) Mental health treatment records may be modified prior to
18 inspection to protect the confidentiality of other patients or the
19 names of any other persons referred to in the record who gave
20 information on the condition that his or her identity remain
21 confidential. Entire documents may not be withheld to protect such
22 confidentiality.

23 (4) At the time of discharge resource management services shall
24 inform all persons who have received mental health services of their
25 rights as provided in this chapter and RCW 71.05.620.

26 NEW SECTION. **Sec. 16.** A new section is added to chapter 70.02 RCW
27 to read as follows:

28 MENTAL HEALTH SERVICES--MINORS--NOTE IN RECORD UPON DISCLOSURE.
29 When disclosure of information and records related to mental services
30 pertaining to a minor, as defined in RCW 71.34.020, is made, the date
31 and circumstances under which the disclosure was made, the name or
32 names of the persons or agencies to whom such disclosure was made and
33 their relationship if any, to the minor, and the information disclosed
34 must be entered promptly in the minor's clinical record.

1 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.02 RCW
2 to read as follows:

3 OBTAINING CONFIDENTIAL RECORDS UNDER FALSE PRETENSES--PENALTY. Any
4 person who requests or obtains confidential information and records
5 related to mental health services pursuant to this chapter under false
6 pretenses is guilty of a gross misdemeanor.

7 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.02 RCW
8 to read as follows:

9 MENTAL HEALTH TREATMENT RECORDS--AGENCY RULE-MAKING AUTHORITY. The
10 department of social and health services shall adopt rules related to
11 the disclosure of mental health treatment records in this chapter.

12 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.02 RCW
13 to read as follows:

14 DEPARTMENT OF SOCIAL AND HEALTH SERVICES--RELEASE OF INFORMATION TO
15 PROTECT THE PUBLIC. In addition to any other information required to
16 be released under this chapter, the department of social and health
17 services is authorized, pursuant to RCW 4.24.550, to release relevant
18 information that is necessary to protect the public, concerning a
19 specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c)
20 following dismissal of a sex offense as defined in RCW 9.94A.030.

21 **Sec. 20.** RCW 70.02.900 and 2011 c 305 s 10 are each amended to
22 read as follows:

23 CONFLICTING LAWS. (1) This chapter does not restrict a health care
24 provider, a third-party payor, or an insurer regulated under Title 48
25 RCW from complying with obligations imposed by federal or state health
26 care payment programs or federal or state law.

27 (2) This chapter does not modify the terms and conditions of
28 disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.96A,
29 (~~71.05, 71.34~~) and 74.09 RCW and rules adopted under these
30 provisions.

31 **Sec. 21.** RCW 71.05.660 and 2009 c 217 s 9 are each amended to read
32 as follows:

33 TREATMENT RECORDS--PRIVILEGED COMMUNICATIONS UNAFFECTED. Nothing
34 in this chapter or chapter 70.02, 70.96A, (~~71.05~~) 71.34, or 70.96B

1 RCW shall be construed to interfere with communications between
2 physicians, psychiatric advanced registered nurse practitioners, or
3 psychologists and patients and attorneys and clients.

4 **Sec. 22.** RCW 71.05.680 and 2005 c 504 s 713 are each amended to
5 read as follows:

6 TREATMENT RECORDS--ACCESS UNDER FALSE PRETENSES, PENALTY. Any
7 person who requests or obtains confidential information pursuant to RCW
8 71.05.620 (~~(through 71.05.690)~~) under false pretenses shall be guilty
9 of a gross misdemeanor.

10 **Sec. 23.** RCW 71.05.620 and 2005 c 504 s 111 are each amended to
11 read as follows:

12 COURT FILES AND RECORDS. (1) The files and records of court
13 proceedings under this chapter and chapters 70.96A, 71.34, and 70.96B
14 RCW shall be closed but shall be accessible to any person who is the
15 subject of a petition and to the person's attorney, guardian ad litem,
16 resource management services, or service providers authorized to
17 receive such information by resource management services.

18 (2) The department shall adopt rules to implement this section.

19 **Sec. 24.** RCW 71.24.035 and 2011 c 148 s 4 are each amended to read
20 as follows:

21 STATE MENTAL HEALTH AUTHORITY, PROGRAM. (1) The department is
22 designated as the state mental health authority.

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

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

31 (4) The secretary shall be designated as the regional support
32 network if the regional support network fails to meet state minimum
33 standards or refuses to exercise responsibilities under RCW 71.24.045,
34 until such time as a new regional support network is designated under
35 RCW 71.24.320.

1 (5) The secretary shall:

2 (a) Develop a biennial state mental health program that

3 incorporates regional biennial needs assessments and regional mental

4 health service plans and state services for adults and children with

5 mental illness. The secretary shall also develop a six-year state

6 mental health plan;

7 (b) Assure that any regional or county community mental health

8 program provides access to treatment for the region's residents,

9 including parents who are respondents in dependency cases, in the

10 following order of priority: (i) Persons with acute mental illness;

11 (ii) adults with chronic mental illness and children who are severely

12 emotionally disturbed; and (iii) persons who are seriously disturbed.

13 Such programs shall provide:

14 (A) Outpatient services;

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

16 (C) Day treatment for persons with mental illness which includes

17 training in basic living and social skills, supported work, vocational

18 rehabilitation, and day activities. Such services may include

19 therapeutic treatment. In the case of a child, day treatment includes

20 age-appropriate basic living and social skills, educational and

21 prevocational services, day activities, and therapeutic treatment;

22 (D) Screening for patients being considered for admission to state

23 mental health facilities to determine the appropriateness of admission;

24 (E) Employment services, which may include supported employment,

25 transitional work, placement in competitive employment, and other work-

26 related services, that result in persons with mental illness becoming

27 engaged in meaningful and gainful full or part-time work. Other

28 sources of funding such as the division of vocational rehabilitation

29 may be utilized by the secretary to maximize federal funding and

30 provide for integration of services;

31 (F) Consultation and education services; and

32 (G) Community support services;

33 (c) Develop and adopt rules establishing state minimum standards

34 for the delivery of mental health services pursuant to RCW 71.24.037

35 including, but not limited to:

36 (i) Licensed service providers. These rules shall permit a county-

37 operated mental health program to be licensed as a service provider

38 subject to compliance with applicable statutes and rules. The

1 secretary shall provide for deeming of compliance with state minimum
2 standards for those entities accredited by recognized behavioral health
3 accrediting bodies recognized and having a current agreement with the
4 department;

5 (ii) Regional support networks; and

6 (iii) Inpatient services, evaluation and treatment services and
7 facilities under chapter 71.05 RCW, resource management services, and
8 community support services;

9 (d) Assure that the special needs of persons who are minorities,
10 elderly, disabled, children, low-income, and parents who are
11 respondents in dependency cases are met within the priorities
12 established in this section;

13 (e) Establish a standard contract or contracts, consistent with
14 state minimum standards, RCW 71.24.320 and 71.24.330, which shall be
15 used in contracting with regional support networks. The standard
16 contract shall include a maximum fund balance, which shall be
17 consistent with that required by federal regulations or waiver
18 stipulations;

19 (f) Establish, to the extent possible, a standardized auditing
20 procedure which minimizes paperwork requirements of regional support
21 networks and licensed service providers. The audit procedure shall
22 focus on the outcomes of service and not the processes for
23 accomplishing them;

24 (g) Develop and maintain an information system to be used by the
25 state and regional support networks that includes a tracking method
26 which allows the department and regional support networks to identify
27 mental health clients' participation in any mental health service or
28 public program on an immediate basis. The information system shall not
29 include individual patient's case history files. Confidentiality of
30 client information and records shall be maintained as provided in this
31 chapter and (~~in RCW 71.05.390, 71.05.420, and 71.05.440~~) chapter
32 70.02 RCW;

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

34 (i) Certify regional support networks that meet state minimum
35 standards;

36 (j) Periodically monitor the compliance of certified regional
37 support networks and their network of licensed service providers for

1 compliance with the contract between the department, the regional
2 support network, and federal and state rules at reasonable times and in
3 a reasonable manner;

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

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

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

11 (n) Assure the availability of an appropriate amount, as determined
12 by the legislature in the operating budget by amounts appropriated for
13 this specific purpose, of community-based, geographically distributed
14 residential services;

15 (o) Certify crisis stabilization units that meet state minimum
16 standards;

17 (p) Certify clubhouses that meet state minimum standards; and

18 (q) Certify triage facilities that meet state minimum standards.

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

23 (7) Each certified regional support network and licensed service
24 provider shall file with the secretary, on request, such data,
25 statistics, schedules, and information as the secretary reasonably
26 requires. A certified regional support network or licensed service
27 provider which, without good cause, fails to furnish any data,
28 statistics, schedules, or information as requested, or files fraudulent
29 reports thereof, may have its certification or license revoked or
30 suspended.

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

35 (9) The superior court may restrain any regional support network or
36 service provider from operating without certification or a license or
37 any other violation of this section. The court may also review,
38 pursuant to procedures contained in chapter 34.05 RCW, any denial,

1 suspension, limitation, restriction, or revocation of certification or
2 license, and grant other relief required to enforce the provisions of
3 this chapter.

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

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

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

20 (13) The standards for certification of crisis stabilization units
21 shall include standards that:

22 (a) Permit location of the units at a jail facility if the unit is
23 physically separate from the general population of the jail;

24 (b) Require administration of the unit by mental health
25 professionals who direct the stabilization and rehabilitation efforts;
26 and

27 (c) Provide an environment affording security appropriate with the
28 alleged criminal behavior and necessary to protect the public safety.

29 (14) The standards for certification of a clubhouse shall at a
30 minimum include:

31 (a) The facilities may be peer-operated and must be
32 recovery-focused;

33 (b) Members and employees must work together;

34 (c) Members must have the opportunity to participate in all the
35 work of the clubhouse, including administration, research, intake and
36 orientation, outreach, hiring, training and evaluation of staff, public
37 relations, advocacy, and evaluation of clubhouse effectiveness;

1 (d) Members and staff and ultimately the clubhouse director must be
2 responsible for the operation of the clubhouse, central to this
3 responsibility is the engagement of members and staff in all aspects of
4 clubhouse operations;

5 (e) Clubhouse programs must be comprised of structured activities
6 including but not limited to social skills training, vocational
7 rehabilitation, employment training and job placement, and community
8 resource development;

9 (f) Clubhouse programs must provide in-house educational programs
10 that significantly utilize the teaching and tutoring skills of members
11 and assist members by helping them to take advantage of adult education
12 opportunities in the community;

13 (g) Clubhouse programs must focus on strengths, talents, and
14 abilities of its members;

15 (h) The work-ordered day may not include medication clinics, day
16 treatment, or other therapy programs within the clubhouse.

17 (15) The department shall distribute appropriated state and federal
18 funds in accordance with any priorities, terms, or conditions specified
19 in the appropriations act.

20 (16) The secretary shall assume all duties assigned to the
21 nonparticipating regional support networks under chapters 71.05((~~7~~))
22 and 71.34((~~7~~)) RCW and ((~~71.24 — RCW~~)) this __ chapter. Such
23 responsibilities shall include those which would have been assigned to
24 the nonparticipating counties in regions where there are not
25 participating regional support networks.

26 The regional support networks, or the secretary's assumption of all
27 responsibilities under chapters 71.05((~~7~~)) and 71.34((~~7~~)) RCW and
28 ((~~71.24 — RCW~~)) this chapter, shall be included in all state and federal
29 plans affecting the state mental health program including at least
30 those required by this chapter, the medicaid program, and P.L. 99-660.
31 Nothing in these plans shall be inconsistent with the intent and
32 requirements of this chapter.

33 (17) The secretary shall:

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

37 (b) Enter into biennial contracts with regional support networks.
38 The contracts shall be consistent with available resources. No

1 contract shall be approved that does not include progress toward
2 meeting the goals of this chapter by taking responsibility for: (i)
3 Short-term commitments; (ii) residential care; and (iii) emergency
4 response systems.

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

8 (d) Deny all or part of the funding allocations to regional support
9 networks based solely upon formal findings of noncompliance with the
10 terms of the regional support network's contract with the department.
11 Regional support networks disputing the decision of the secretary to
12 withhold funding allocations are limited to the remedies provided in
13 the department's contracts with the regional support networks.

14 (18) The department, in cooperation with the state congressional
15 delegation, shall actively seek waivers of federal requirements and
16 such modifications of federal regulations as are necessary to allow
17 federal medicaid reimbursement for services provided by freestanding
18 evaluation and treatment facilities certified under chapter 71.05 RCW.
19 The department shall periodically report its efforts to the appropriate
20 committees of the senate and the house of representatives.

21 **Sec. 25.** RCW 43.185C.030 and 2005 c 484 s 6 are each amended to
22 read as follows:

23 WASHINGTON HOMELESS CENSUS OR COUNT. The department shall annually
24 conduct a Washington homeless census or count consistent with the
25 requirements of RCW (~~(43.63A.655)~~) 43.185C.180. The census shall make
26 every effort to count all homeless individuals living outdoors, in
27 shelters, and in transitional housing, coordinated, when reasonably
28 feasible, with already existing homeless census projects including
29 those funded in part by the United States department of housing and
30 urban development under the McKinney-Vento homeless assistance program.
31 The department shall determine, in consultation with local governments,
32 the data to be collected.

33 All personal information collected in the census is confidential,
34 and the department and each local government shall take all necessary
35 steps to protect the identity and confidentiality of each person
36 counted.

1 The department and each local government are prohibited from
2 disclosing any personally identifying information about any homeless
3 individual when there is reason to believe or evidence indicating that
4 the homeless individual is an adult or minor victim of domestic
5 violence, dating violence, sexual assault, or stalking or is the parent
6 or guardian of a child victim of domestic violence, dating violence,
7 sexual assault, or stalking; or revealing other confidential
8 information regarding HIV/AIDS status, as found in (~~RCW 70.24.105~~)
9 section 6 of this act. The department and each local government shall
10 not ask any homeless housing provider to disclose personally
11 identifying information about any homeless individuals when the
12 providers implementing those programs have reason to believe or
13 evidence indicating that those clients are adult or minor victims of
14 domestic violence, dating violence, sexual assault, or stalking or are
15 the parents or guardians of child victims of domestic violence, dating
16 violence, sexual assault, or stalking. Summary data for the provider's
17 facility or program may be substituted.

18 The Washington homeless census shall be conducted annually on a
19 schedule created by the department. The department shall make summary
20 data by county available to the public each year. This data, and its
21 analysis, shall be included in the department's annual updated homeless
22 housing program strategic plan.

23 Based on the annual census and provider information from the local
24 government plans, the department shall, by the end of year four,
25 implement an online information and referral system to enable local
26 governments and providers to identify available housing for a homeless
27 person. The department shall work with local governments and their
28 providers to develop a capacity for continuous case management to
29 assist homeless persons.

30 By the end of year four, the department shall implement an
31 organizational quality management system.

32 **Sec. 26.** RCW 70.05.070 and 2007 c 343 s 10 are each amended to
33 read as follows:

34 LOCAL HEALTH OFFICER. The local health officer, acting under the
35 direction of the local board of health or under direction of the
36 administrative officer appointed under RCW 70.05.040 or 70.05.035, if
37 any, shall:

1 (1) Enforce the public health statutes of the state, rules of the
2 state board of health and the secretary of health, and all local health
3 rules, regulations and ordinances within his or her jurisdiction
4 including imposition of penalties authorized under RCW 70.119A.030 and
5 70.118.130, the confidentiality provisions in (~~RCW 70.24.105~~) section
6 6 of this act and rules adopted to implement those provisions, and
7 filing of actions authorized by RCW 43.70.190;

8 (2) Take such action as is necessary to maintain health and
9 sanitation supervision over the territory within his or her
10 jurisdiction;

11 (3) Control and prevent the spread of any dangerous, contagious or
12 infectious diseases that may occur within his or her jurisdiction;

13 (4) Inform the public as to the causes, nature, and prevention of
14 disease and disability and the preservation, promotion and improvement
15 of health within his or her jurisdiction;

16 (5) Prevent, control or abate nuisances which are detrimental to
17 the public health;

18 (6) Attend all conferences called by the secretary of health or his
19 or her authorized representative;

20 (7) Collect such fees as are established by the state board of
21 health or the local board of health for the issuance or renewal of
22 licenses or permits or such other fees as may be authorized by law or
23 by the rules of the state board of health;

24 (8) Inspect, as necessary, expansion or modification of existing
25 public water systems, and the construction of new public water systems,
26 to assure that the expansion, modification, or construction conforms to
27 system design and plans;

28 (9) Take such measures as he or she deems necessary in order to
29 promote the public health, to participate in the establishment of
30 health educational or training activities, and to authorize the
31 attendance of employees of the local health department or individuals
32 engaged in community health programs related to or part of the programs
33 of the local health department.

34 **Sec. 27.** RCW 70.24.450 and 1999 c 391 s 3 are each amended to read
35 as follows:

36 CONFIDENTIALITY OF REPORTED INFORMATION--UNAUTHORIZED DISCLOSURE.

1 (1) In order to assure compliance with the protections under this
2 chapter and the rules of the board, and to assure public confidence in
3 the confidentiality of reported information, the department shall:

4 (a) Report annually to the board any incidents of unauthorized
5 disclosure by the department, local health departments, or their
6 employees of information protected under (~~RCW 70.24.105~~) section 6 of
7 this act. The report shall include recommendations for preventing
8 future unauthorized disclosures and improving the system of
9 confidentiality for reported information; and

10 (b) Assist health care providers, facilities that conduct tests,
11 local health departments, and other persons involved in disease
12 reporting to understand, implement, and comply with this chapter and
13 the rules of the board related to disease reporting.

14 (2) This section is exempt from RCW 70.24.084, 70.05.070, and
15 70.05.120.

16 **Sec. 28.** RCW 74.13.280 and 2009 c 520 s 72 are each amended to
17 read as follows:

18 CHILDREN PLACED IN OUT-OF-HOME CARE--CLIENT INFORMATION. (1)
19 Except as provided in (~~RCW 70.24.105~~) section 6 of this act, whenever
20 a child is placed in out-of-home care by the department or a
21 supervising agency, the department or agency shall share information
22 known to the department or agency about the child and the child's
23 family with the care provider and shall consult with the care provider
24 regarding the child's case plan. If the child is dependent pursuant to
25 a proceeding under chapter 13.34 RCW, the department or supervising
26 agency shall keep the care provider informed regarding the dates and
27 location of dependency review and permanency planning hearings
28 pertaining to the child.

29 (2) Information about the child and the child's family shall
30 include information known to the department or agency as to whether the
31 child is a sexually reactive child, has exhibited high-risk behaviors,
32 or is physically assaultive or physically aggressive, as defined in
33 this section.

34 (3) Information about the child shall also include information
35 known to the department or agency that the child:

36 (a) Has received a medical diagnosis of fetal alcohol syndrome or
37 fetal alcohol effect;

1 (b) Has been diagnosed by a qualified mental health professional as
2 having a mental health disorder;

3 (c) Has witnessed a death or substantial physical violence in the
4 past or recent past; or

5 (d) Was a victim of sexual or severe physical abuse in the recent
6 past.

7 (4) Any person who receives information about a child or a child's
8 family pursuant to this section shall keep the information confidential
9 and shall not further disclose or disseminate the information except as
10 authorized by law. Care providers shall agree in writing to keep the
11 information that they receive confidential and shall affirm that the
12 information will not be further disclosed or disseminated, except as
13 authorized by law.

14 (5) Nothing in this section shall be construed to limit the
15 authority of the department or supervising agencies to disclose client
16 information or to maintain client confidentiality as provided by law.

17 (6) As used in this section:

18 (a) "Sexually reactive child" means a child who exhibits sexual
19 behavior problems including, but not limited to, sexual behaviors that
20 are developmentally inappropriate for their age or are harmful to the
21 child or others.

22 (b) "High-risk behavior" means an observed or reported and
23 documented history of one or more of the following:

24 (i) Suicide attempts or suicidal behavior or ideation;

25 (ii) Self-mutilation or similar self-destructive behavior;

26 (iii) Fire-setting or a developmentally inappropriate fascination
27 with fire;

28 (iv) Animal torture;

29 (v) Property destruction; or

30 (vi) Substance or alcohol abuse.

31 (c) "Physically assaultive or physically aggressive" means a child
32 who exhibits one or more of the following behaviors that are
33 developmentally inappropriate and harmful to the child or to others:

34 (i) Observed assaultive behavior;

35 (ii) Reported and documented history of the child willfully
36 assaulting or inflicting bodily harm; or

37 (iii) Attempting to assault or inflict bodily harm on other

1 children or adults under circumstances where the child has the apparent
2 ability or capability to carry out the attempted assaults including
3 threats to use a weapon.

4 **Sec. 29.** RCW 74.13.289 and 2009 c 520 s 76 are each amended to
5 read as follows:

6 CHILDREN PLACED IN OUT-OF-HOME CARE--BLOOD-BORNE PATHOGENS,
7 TRAINING. (1) Upon any placement, the department or supervising agency
8 shall inform each out-of-home care provider if the child to be placed
9 in that provider's care is infected with a blood-borne pathogen, and
10 shall identify the specific blood-borne pathogen for which the child
11 was tested if known by the department or supervising agency.

12 (2) All out-of-home care providers licensed by the department shall
13 receive training related to blood-borne pathogens, including
14 prevention, transmission, infection control, treatment, testing, and
15 confidentiality.

16 (3) Any disclosure of information related to HIV must be in
17 accordance with (~~RCW 70.24.105~~) section 6 of this act.

18 (4) The department of health shall identify by rule the term
19 "blood-borne pathogen" as used in this section.

20 **Sec. 30.** RCW 71.05.425 and 2011 c 305 s 5 are each amended to read
21 as follows:

22 PERSONS COMMITTED FOLLOWING DISMISSAL OF SEX, VIOLENT, OR FELONY
23 HARASSMENT OFFENSE--NOTIFICATION OF CONDITIONAL RELEASE, FINAL RELEASE,
24 LEAVE, TRANSFER, OR ESCAPE. (1)(a) Except as provided in subsection
25 (2) of this section, at the earliest possible date, and in no event
26 later than thirty days before conditional release, final release,
27 authorized leave under RCW 71.05.325(2), or transfer to a facility
28 other than a state mental hospital, the superintendent shall send
29 written notice of conditional release, release, authorized leave, or
30 transfer of a person committed under RCW 71.05.280(3) or
31 71.05.320(3)(c) following dismissal of a sex, violent, or felony
32 harassment offense pursuant to RCW 10.77.086(4) to the following:

33 (i) The chief of police of the city, if any, in which the person
34 will reside; and

35 (ii) The sheriff of the county in which the person will reside.

1 (b) The same notice as required by (a) of this subsection shall be
2 sent to the following, if such notice has been requested in writing
3 about a specific person committed under RCW 71.05.280(3) or
4 71.05.320(3)(c) following dismissal of a sex, violent, or felony
5 harassment offense pursuant to RCW 10.77.086(4):

6 (i) The victim of the sex, violent, or felony harassment offense
7 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment
8 under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin
9 if the crime was a homicide;

10 (ii) Any witnesses who testified against the person in any court
11 proceedings;

12 (iii) Any person specified in writing by the prosecuting attorney.
13 Information regarding victims, next of kin, or witnesses requesting the
14 notice, information regarding any other person specified in writing by
15 the prosecuting attorney to receive the notice, and the notice are
16 confidential and shall not be available to the person committed under
17 this chapter; and

18 (iv) The chief of police of the city, if any, and the sheriff of
19 the county, if any, which had jurisdiction of the person on the date of
20 the applicable offense.

21 (c) The thirty-day notice requirements contained in this subsection
22 shall not apply to emergency medical transfers.

23 (d) The existence of the notice requirements in this subsection
24 will not require any extension of the release date in the event the
25 release plan changes after notification.

26 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c)
27 following dismissal of a sex, violent, or felony harassment offense
28 pursuant to RCW 10.77.086(4) escapes, the superintendent shall
29 immediately notify, by the most reasonable and expedient means
30 available, the chief of police of the city and the sheriff of the
31 county in which the person escaped and in which the person resided
32 immediately before the person's arrest. If previously requested, the
33 superintendent shall also notify the witnesses and the victim of the
34 sex, violent, or felony harassment offense that was dismissed pursuant
35 to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or
36 71.05.320(3) or the victim's next of kin if the crime was a homicide.
37 In addition, the secretary shall also notify appropriate parties
38 pursuant to (~~RCW 71.05.390(18)~~) section 7(2)(n) of this act. If the

1 person is recaptured, the superintendent shall send notice to the
2 persons designated in this subsection as soon as possible but in no
3 event later than two working days after the department learns of such
4 recapture.

5 (3) If the victim, the victim's next of kin, or any witness is
6 under the age of sixteen, the notice required by this section shall be
7 sent to the parent or legal guardian of the child.

8 (4) The superintendent shall send the notices required by this
9 chapter to the last address provided to the department by the
10 requesting party. The requesting party shall furnish the department
11 with a current address.

12 (5) For purposes of this section the following terms have the
13 following meanings:

14 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

15 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

16 (c) "Next of kin" means a person's spouse, state registered
17 domestic partner, parents, siblings, and children;

18 (d) "Felony harassment offense" means a crime of harassment as
19 defined in RCW 9A.46.060 that is a felony.

20 **Sec. 31.** RCW 71.05.445 and 2009 c 320 s 4 are each amended to read
21 as follows:

22 COURT-ORDERED MENTAL HEALTH TREATMENT--NOTIFICATIONS. (1)(a) When
23 a mental health service provider conducts its initial assessment for a
24 person receiving court-ordered treatment, the service provider shall
25 inquire and shall be told by the offender whether he or she is subject
26 to supervision by the department of corrections.

27 (b) When a person receiving court-ordered treatment or treatment
28 ordered by the department of corrections discloses to his or her mental
29 health service provider that he or she is subject to supervision by the
30 department of corrections, the mental health service provider shall
31 notify the department of corrections that he or she is treating the
32 offender and shall notify the offender that his or her community
33 corrections officer will be notified of the treatment, provided that if
34 the offender has received relief from disclosure pursuant to RCW
35 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
36 mental health service provider with a copy of the order granting relief
37 from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132,

1 the mental health service provider is not required to notify the
2 department of corrections that the mental health service provider is
3 treating the offender. The notification may be written or oral and
4 shall not require the consent of the offender. If an oral notification
5 is made, it must be confirmed by a written notification. For purposes
6 of this section, a written notification includes notification by e-mail
7 or facsimile, so long as the notifying mental health service provider
8 is clearly identified.

9 (2) The information to be released to the department of corrections
10 shall include all relevant records and reports, as defined by rule,
11 necessary for the department of corrections to carry out its duties.

12 (3) The department and the department of corrections, in
13 consultation with regional support networks, mental health service
14 providers as defined in RCW 71.05.020, mental health consumers, and
15 advocates for persons with mental illness, shall adopt rules to
16 implement the provisions of this section related to the type and scope
17 of information to be released. These rules shall:

18 (a) Enhance and facilitate the ability of the department of
19 corrections to carry out its responsibility of planning and ensuring
20 community protection with respect to persons subject to sentencing
21 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
22 disclosing information of persons who received mental health services
23 as a minor; and

24 (b) Establish requirements for the notification of persons under
25 the supervision of the department of corrections regarding the
26 provisions of this section.

27 (4) The information received by the department of corrections under
28 this section shall remain confidential and subject to the limitations
29 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
30 72.09.585.

31 (5) No mental health service provider or individual employed by a
32 mental health service provider shall be held responsible for
33 information released to or used by the department of corrections under
34 the provisions of this section or rules adopted under this section
35 (~~(except under RCW 71.05.440)~~).

36 (6) Whenever federal law or federal regulations restrict the
37 release of information contained in the treatment records of any

1 patient who receives treatment for alcoholism or drug dependency, the
2 release of the information may be restricted as necessary to comply
3 with federal law and regulations.

4 (7) This section does not modify the terms and conditions of
5 disclosure of information related to sexually transmitted diseases
6 under chapter 70.24 RCW.

7 (8) The department shall, subject to available resources,
8 electronically, or by the most cost-effective means available, provide
9 the department of corrections with the names, last dates of services,
10 and addresses of specific regional support networks and mental health
11 service providers that delivered mental health services to a person
12 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
13 the departments.

14 **Sec. 32.** RCW 72.09.585 and 2011 1st sp.s. c 40 s 24 are each
15 amended to read as follows:

16 MENTAL HEALTH SERVICES, INFORMATION--DEPARTMENT OF CORRECTIONS--
17 REQUIRED INQUIRIES AND DISCLOSURES. (1) When the department is
18 determining an offender's risk management level, the department shall
19 inquire of the offender and shall be told whether the offender is
20 subject to court-ordered treatment for mental health services or
21 chemical dependency services. The department shall request and the
22 offender shall provide an authorization to release information form
23 that meets applicable state and federal requirements and shall provide
24 the offender with written notice that the department will request the
25 offender's mental health and substance abuse treatment information. An
26 offender's failure to inform the department of court-ordered treatment
27 is a violation of the conditions of supervision if the offender is in
28 the community and an infraction if the offender is in confinement, and
29 the violation or infraction is subject to sanctions.

30 (2) When an offender discloses that he or she is subject to court-
31 ordered mental health services or chemical dependency treatment, the
32 department shall provide the mental health services provider or
33 chemical dependency treatment provider with a written request for
34 information and any necessary authorization to release information
35 forms. The written request shall comply with rules adopted by the
36 department of social and health services or protocols developed jointly
37 by the department and the department of social and health services. A

1 single request shall be valid for the duration of the offender's
2 supervision in the community. Disclosures of information related to
3 mental health services made pursuant to a department request shall not
4 require consent of the offender.

5 (3) The information received by the department under RCW 71.05.445
6 or (~~71.34.345~~) section 9 of this act may be released to the
7 indeterminate sentence review board as relevant to carry out its
8 responsibility of planning and ensuring community protection with
9 respect to persons under its jurisdiction. Further disclosure by the
10 indeterminate sentence review board is subject to the limitations set
11 forth in subsections (5) and (6) of this section and must be consistent
12 with the written policy of the indeterminate sentence review board.
13 The decision to disclose or not shall not result in civil liability for
14 the indeterminate sentence review board or staff assigned to perform
15 board-related duties provided that the decision was reached in good
16 faith and without gross negligence.

17 (4) The information received by the department under RCW 71.05.445
18 or (~~71.34.345~~) section 9 of this act may be used to meet the
19 statutory duties of the department to provide evidence or report to the
20 court. Disclosure to the public of information provided to the court
21 by the department related to mental health services shall be limited in
22 accordance with RCW 9.94A.500 or this section.

23 (5) The information received by the department under RCW 71.05.445
24 or (~~71.34.345~~) section 9 of this act may be disclosed by the
25 department to other state and local agencies as relevant to plan for
26 and provide offenders transition, treatment, and supervision services,
27 or as relevant and necessary to protect the public and counteract the
28 danger created by a particular offender, and in a manner consistent
29 with the written policy established by the secretary. The decision to
30 disclose or not shall not result in civil liability for the department
31 or its employees so long as the decision was reached in good faith and
32 without gross negligence. The information received by a state or local
33 agency from the department shall remain confidential and subject to the
34 limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34
35 RCW and, subject to these limitations, may be released only as relevant
36 and necessary to counteract the danger created by a particular
37 offender.

1 (6) The information received by the department under RCW 71.05.445
2 or (~~71.34.345~~) section 9 of this act may be disclosed by the
3 department to individuals only with respect to offenders who have been
4 determined by the department to have a high risk of reoffending by a
5 risk assessment, as defined in RCW 9.94A.030, only as relevant and
6 necessary for those individuals to take reasonable steps for the
7 purpose of self-protection, or as provided in RCW 72.09.370(2). The
8 information may not be disclosed for the purpose of engaging the public
9 in a system of supervision, monitoring, and reporting offender behavior
10 to the department. The department must limit the disclosure of
11 information related to mental health services to the public to
12 descriptions of an offender's behavior, risk he or she may present to
13 the community, and need for mental health treatment, including
14 medications, and shall not disclose or release to the public copies of
15 treatment documents or records, except as otherwise provided by law.
16 All disclosure of information to the public must be done in a manner
17 consistent with the written policy established by the secretary. The
18 decision to disclose or not shall not result in civil liability for the
19 department or its employees so long as the decision was reached in good
20 faith and without gross negligence. Nothing in this subsection
21 prevents any person from reporting to law enforcement or the department
22 behavior that he or she believes creates a public safety risk.

23 **Sec. 33.** RCW 9.94A.500 and 2008 c 231 s 2 are each amended to read
24 as follows:

25 SENTENCING HEARINGS--PREVENTION OF WRONGFUL DISCLOSURE OF MENTAL
26 HEALTH SERVICES RECORDS AND INFORMATION. (1) Before imposing a
27 sentence upon a defendant, the court shall conduct a sentencing
28 hearing. The sentencing hearing shall be held within forty court days
29 following conviction. Upon the motion of either party for good cause
30 shown, or on its own motion, the court may extend the time period for
31 conducting the sentencing hearing.

32 Except in cases where the defendant shall be sentenced to a term of
33 total confinement for life without the possibility of release or, when
34 authorized by RCW 10.95.030 for the crime of aggravated murder in the
35 first degree, sentenced to death, the court may order the department to
36 complete a risk assessment report. If available before sentencing, the
37 report shall be provided to the court.

1 Unless specifically waived by the court, the court shall order the
2 department to complete a chemical dependency screening report before
3 imposing a sentence upon a defendant who has been convicted of a
4 violation of the uniform controlled substances act under chapter 69.50
5 RCW, a criminal solicitation to commit such a violation under chapter
6 9A.28 RCW, or any felony where the court finds that the offender has a
7 chemical dependency that has contributed to his or her offense. In
8 addition, the court shall, at the time of plea or conviction, order the
9 department to complete a presentence report before imposing a sentence
10 upon a defendant who has been convicted of a felony sexual offense.
11 The department of corrections shall give priority to presentence
12 investigations for sexual offenders. If the court determines that the
13 defendant may be a mentally ill person as defined in RCW 71.24.025,
14 although the defendant has not established that at the time of the
15 crime he or she lacked the capacity to commit the crime, was
16 incompetent to commit the crime, or was insane at the time of the
17 crime, the court shall order the department to complete a presentence
18 report before imposing a sentence.

19 The court shall consider the risk assessment report and presentence
20 reports, if any, including any victim impact statement and criminal
21 history, and allow arguments from the prosecutor, the defense counsel,
22 the offender, the victim, the survivor of the victim, or a
23 representative of the victim or survivor, and an investigative law
24 enforcement officer as to the sentence to be imposed.

25 A criminal history summary relating to the defendant from the
26 prosecuting authority or from a state, federal, or foreign governmental
27 agency shall be prima facie evidence of the existence and validity of
28 the convictions listed therein. If the court is satisfied by a
29 preponderance of the evidence that the defendant has a criminal
30 history, the court shall specify the convictions it has found to exist.
31 All of this information shall be part of the record. Copies of all
32 risk assessment reports and presentence reports presented to the
33 sentencing court and all written findings of facts and conclusions of
34 law as to sentencing entered by the court shall be sent to the
35 department by the clerk of the court at the conclusion of the
36 sentencing and shall accompany the offender if the offender is
37 committed to the custody of the department. Court clerks shall

1 provide, without charge, certified copies of documents relating to
2 criminal convictions requested by prosecuting attorneys.

3 (2) To prevent wrongful disclosure of information and records
4 related to mental health services, as ~~((defined))~~ described in RCW
5 71.05.445 and ~~((71.34.345))~~ section 9 of this act, a court may take
6 only those steps necessary during a sentencing hearing or any hearing
7 in which the department presents information related to mental health
8 services to the court. The steps may be taken on motion of the
9 defendant, the prosecuting attorney, or on the court's own motion. The
10 court may seal the portion of the record relating to information
11 relating to mental health services, exclude the public from the hearing
12 during presentation or discussion of information and records relating
13 to mental health services, or grant other relief to achieve the result
14 intended by this subsection, but nothing in this subsection shall be
15 construed to prevent the subsequent release of information and records
16 related to mental health services as authorized by RCW 71.05.445,
17 ~~((71.34.345))~~ section 9 of this act, or 72.09.585. Any person who
18 otherwise is permitted to attend any hearing pursuant to chapter 7.69
19 or 7.69A RCW shall not be excluded from the hearing solely because the
20 department intends to disclose or discloses information related to
21 mental health services.

22 NEW SECTION. Sec. 34. REPEALERS. The following acts or parts of
23 acts are each repealed:

24 (1) RCW 70.24.105 (Disclosure of HIV antibody test or testing or
25 treatment of sexually transmitted diseases--Exchange of medical
26 information) and 2011 c 232 s 1;

27 (2) RCW 71.05.390 (Confidential information and records--
28 Disclosure) and 2011 c 305 s 4;

29 (3) RCW 71.05.640 (Treatment records--Access procedures) and 2005
30 c 504 s 712, 2005 c 504 s 113, 2000 c 94 s 11, & 1999 c 13 s 9;

31 (4) RCW 71.05.385 (Information subject to disclosure to authorized
32 persons--Restrictions) and 2011 1st sp.s. c 40 s 23 & 2009 c 320 s 2;

33 (5) RCW 71.05.420 (Records of disclosure) and 2009 c 217 s 7, 2005
34 c 504 s 110, 1990 c 3 s 113, & 1973 1st ex.s. c 142 s 47;

35 (6) RCW 71.05.440 (Action for unauthorized release of confidential
36 information--Liquidated damages--Treble damages--Injunction) and 1990
37 c 3 s 114, 1974 ex.s. c 145 s 28, & 1973 1st ex.s. c 142 s 49;

1 (7) RCW 71.05.427 (Persons committed following dismissal of sex
2 offense--Release of information authorized) and 1990 c 3 s 110;

3 (8) RCW 71.05.630 (Treatment records--Confidential--Release) and
4 2009 c 398 s 1, 2009 c 320 s 5, 2009 c 217 s 8, 2007 c 191 s 1, 2005 c
5 504 s 112, 2000 c 75 s 5, & 1989 c 205 s 13;

6 (9) RCW 71.05.690 (Treatment records--Rules) and 2005 c 504 s 714
7 & 1999 c 13 s 12;

8 (10) RCW 71.34.340 (Information concerning treatment of minors
9 confidential--Disclosure--Admissible as evidence with written consent)
10 and 2011 c 305 s 9, 2005 c 453 s 6, 2000 c 75 s 7, & 1985 c 354 s 18;

11 (11) RCW 71.34.345 (Mental health services information--Release to
12 department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, &
13 2000 c 75 s 2; and

14 (12) RCW 71.34.350 (Disclosure of information or records--Required
15 entries in minor's clinical record) and 1985 c 354 s 22.

16 NEW SECTION. **Sec. 35.** EFFECTIVE DATE. Except for section 5 of
17 this act, this act takes effect July 1, 2014.

18 NEW SECTION. **Sec. 36.** EMERGENCY CLAUSE--EFFECTIVE DATE. Section
19 5 of this act is necessary for the immediate preservation of the public
20 peace, health, or safety, or support of the state government and its
21 existing public institutions, and takes effect immediately.

Passed by the House April 22, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 10, 2013.

Filed in Office of Secretary of State May 10, 2013.