CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE SENATE BILL 5732

Chapter 338, Laws of 2013

63rd Legislature 2013 Regular Session

BEHAVIORAL HEALTH SERVICES

EFFECTIVE DATE: 07/28/13 - Except for section 4, which becomes effective 07/01/18.

Passed by the Senate April 28, 2013 CERTIFICATE YEAS 47 NAYS 0 I, Hunter G. Goodman, Secretary of the Senate of the State of BRAD OWEN Washington, do hereby certify that the attached is **SECOND SUBSTITUTE** President of the Senate SENATE BILL 5732 as passed by the Senate and the House Passed by the House April 24, 2013 Representatives on the YEAS 94 NAYS 3 hereon set forth. FRANK CHOPP HUNTER G. GOODMAN Speaker of the House of Representatives Secretary Approved May 21, 2013, 3:05 p.m. FILED May 21, 2013

> Secretary of State State of Washington

JAY INSLEE

Governor of the State of Washington

SECOND SUBSTITUTE SENATE BILL 5732

AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Carrell, Darneille, Keiser, and Pearson)

READ FIRST TIME 03/01/13.

AN ACT Relating to improving behavioral health services provided to adults in Washington state; amending RCW 71.24.025 and 18.19.210; adding new sections to chapter 43.20A RCW; adding a new section to chapter 70.97 RCW; adding a new section to chapter 71.05 RCW; creating a new section; providing an effective date; and providing an expiration date.

- 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 8 <u>NEW SECTION.</u> **Sec. 1.** (1)(a) Beginning May 1, 2014, the 9 legislature shall convene a task force to examine reform of the adult 10 behavioral health system, with voting members as provided in this subsection.
- 12 (i) The president of the senate shall appoint one member from each 13 of the two largest caucuses of the senate.
- (ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses in the house of representatives.
- 17 (iii) The governor shall appoint five members consisting of the 18 secretary of the department of social and health services or the 19 secretary's designee, the director of the health care authority or the

- director's designee, the director of the office of financial management or the director's designee, the secretary of the department of corrections or the secretary's designee, and a representative of the qovernor.
 - (iv) The governor shall request participation by a representative of tribal governments.
 - (b) The task force shall choose two cochairs from among its legislative members.
- (c) The task force shall adopt a bottom-up approach and welcome 9 10 input and participation from all stakeholders interested in the improvement of the adult behavioral health system. To that end, the 11 12 task force must invite participation from, at a minimum, the following: 13 Behavioral health service recipients and their families; 14 government; representatives of regional support representatives of county coordinators; law enforcement; city and 15 county jails; tribal representatives; behavioral health service 16 17 providers; housing providers; labor representatives; counties with state hospitals; mental health advocates; public defenders with 18 involuntary mental health commitment or mental health court experience; 19 medicaid managed care plan representatives; long-term care service 20 21 providers; the Washington state hospital association; and individuals 22 with expertise in evidence-based and research-based behavioral health service practices. Leadership of subcommittees formed by the task 23 24 force may be drawn from this body of invited participants.
 - (2) The task force shall undertake a systemwide review of the adult behavioral health system and make recommendations for reform concerning, but not limited to, the following:
 - (a) The means by which services are delivered for adults with mental illness and chemical dependency disorders;
 - (b) Availability of effective means to promote recovery and prevent harm associated with mental illness;
 - (c) Crisis services, including boarding of mental health patients outside of regularly certified treatment beds;
- 34 (d) Best practices for cross-system collaboration between 35 behavioral health treatment providers, medical care providers, long-36 term care service providers, entities providing health home services to 37 high-risk medicaid clients, law enforcement, and criminal justice 38 agencies; and

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- 1 (e) Public safety practices involving persons with mental illness 2 with forensic involvement.
 - (3) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.
 - (4) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.
 - (5) The expenses of the task force must be paid jointly by the senate and house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.
- 16 (6) The task force shall report its findings and recommendations to 17 the governor and the appropriate committees of the legislature by 18 January 1, 2015.
- 19 (7) This section expires June 1, 2015.

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

- (1) The systems responsible for financing, administration, and delivery of publicly funded mental health and chemical dependency services to adults must be designed and administered to achieve improved outcomes for adult clients served by those systems through increased use and development of evidence-based, research-based, and promising practices, as defined in RCW 71.24.025. For purposes of this section, client outcomes include: Improved health status; increased participation in employment and education; reduced involvement with the criminal justice system; enhanced safety and access to treatment for forensic patients; reduction in avoidable utilization of and costs associated with hospital, emergency room, and crisis services; increased housing stability; improved quality of life, including measures of recovery and resilience; and decreased population level disparities in access to treatment and treatment outcomes.
- (2) The department and the health care authority must implement a strategy for the improvement of the adult behavioral health system.

- (a) The department must establish a steering committee that 1 2 includes at least the following members: Behavioral health service recipients and their families; local government; representatives of 3 regional support networks; representatives of county coordinators; law 4 5 enforcement; city and county jails; tribal representatives; behavioral health service providers, including at least one chemical dependency 6 7 provider and at least one psychiatric advanced registered nurse housing providers; medicaid 8 practitioner; managed long-term care service providers; organizations 9 representatives; 10 representing health care professionals providing services in mental health settings; the Washington state hospital association; the 11 12 Washington state medical association; individuals with expertise in 13 evidence-based and research-based behavioral health service practices; 14 and the health care authority.
- 15 (b) The adult behavioral health system improvement strategy must 16 include:
 - (i) An assessment of the capacity of the current publicly funded behavioral health services system to provide evidence-based, researchbased, and promising practices;
 - (ii) Identification, development, and increased use of evidence-based, research-based, and promising practices;
 - (iii) Design and implementation of a transparent quality management system, including analysis of current system capacity to implement outcomes reporting and development of baseline and improvement targets for each outcome measure provided in this section;
 - (iv) Identification and phased implementation of service delivery, financing, or other strategies that will promote improvement of the behavioral health system as described in this section and incentivize the medical care, behavioral health, and long-term care service delivery systems to achieve the improvements described in this section and collaborate across systems. The strategies must include phased implementation of public reporting of outcome and performance measures in a form that allows for comparison of performance and levels of improvement between geographic regions of Washington; and
 - (v) Identification of effective methods for promoting workforce capacity, efficiency, stability, diversity, and safety.
 - (c) The department must seek private foundation and federal grant

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- 1 funding to support the adult behavioral health system improvement 2 strategy.
- (d) By May 15, 2014, the Washington state institute for public 3 policy, in consultation with the department, the University 4 Washington evidence-based practice institute, the University of 5 Washington alcohol and drug abuse institute, and the Washington 6 institute for mental health research and training, shall prepare an 7 inventory of evidence-based, research-based, and promising practices 8 for prevention and intervention services pursuant to subsection (1) of 9 this section. The department shall use the inventory in preparing the 10 behavioral health improvement strategy. The department shall provide 11 the institute with data necessary to complete the inventory. 12
 - (e) By August 1, 2014, the department must report to the governor and the relevant fiscal and policy committees of the legislature on the status of implementation of the behavioral health improvement strategy, including strategies developed or implemented to date, timelines, and costs to accomplish phased implementation of the adult behavioral health system improvement strategy.

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- (3) The department must contract for the services of an independent consultant to review the provision of forensic mental health services in Washington state and provide recommendations as to whether and how the state's forensic mental health system should be modified to provide an appropriate treatment environment for individuals with mental disorders who have been charged with a crime while enhancing the safety and security of the public and other patients and staff at forensic treatment facilities. By August 1, 2014, the department must submit a report regarding the recommendations of the independent consultant to the governor and the relevant fiscal and policy committees of the legislature.
- NEW SECTION. Sec. 3. A new section is added to chapter 70.97 RCW to read as follows:
- To the extent that funds are specifically appropriated for this purpose, the department must issue a request for a proposal for enhanced services facility services by June 1, 2014, and complete the procurement process by January 1, 2015.

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

When a person has been involuntarily committed for treatment to a hospital for a period of ninety or one hundred eighty days, and the superintendent or professional person in charge of the hospital determines that the person no longer requires active psychiatric treatment at an inpatient level of care, the regional support network responsible for resource management services for the person must work with the hospital to develop an individualized discharge plan and arrange for a transition to the community in accordance with the person's individualized discharge plan within twenty-one days of the determination.

- 13 **Sec. 5.** RCW 71.24.025 and 2012 c 10 s 59 are each amended to read 14 as follows:
- Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.
- 17 (1) "Acutely mentally ill" means a condition which is limited to a 18 short-term severe crisis episode of:
 - (a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;
- (b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or
- 24 (c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.
 - (2) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.
 - (3) "Child" means a person under the age of eighteen years.
- 36 (4) "Chronically mentally ill adult" or "adult who is chronically

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1 mentally ill means an adult who has a mental disorder and meets at 2 least one of the following criteria:

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- (a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or
- (b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or
- (c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.
- (5) "Clubhouse" means a community-based program that provides rehabilitation services and is certified by the department of social and health services.
- (6) "Community mental health program" means all mental health services, activities, or programs using available resources.
- (7) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.
- (8) "Community support services" means services authorized, planned, and coordinated through resource management including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

- (9) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.
- (10) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.
- (11) "Department" means the department of social and health services.
 - (12) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.
 - (13) "Emerging best practice" or "promising practice" means a ((practice that presents, based on preliminary information, potential for becoming a research based or consensus based practice)) program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (14) of this section.
 - (14) "Evidence-based" means a program or practice that has ((had multiple site random controlled trials across heterogeneous populations demonstrating—that—the—program—or—practice—is—effective—for—the population)) been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.
 - (15) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current

agreement with the department, that meets state minimum standards or persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

- (16) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.
- (17) "Mental health services" means all services provided by regional support networks and other services provided by the state for persons who are mentally ill.
- (18) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (4), (27), and (28) of this section.
- (19) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.
- (20) "Regional support network" means a county authority or group of county authorities or other entity recognized by the secretary in contract in a defined region.
- (21) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.
- (22) "Research-based" means a program or practice that has ((some research demonstrating effectiveness, but that does not yet meet the standard—of—evidence—based—practices)) been_tested_with_a_single randomized, or _statistically _controlled _evaluation, or _both, demonstrating sustained desirable outcomes; or where the weight of the evidence _from_a_systemic_review_supports_sustained_outcomes_as described in subsection (14) of this section but does not meet the full criteria for evidence—based.

- (23) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.
 - (24) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.
 - (25)"Resource management services mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.
 - (26) "Secretary" means the secretary of social and health services.

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

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

- 1 (iv) Subject to repeated physical abuse or neglect;
 - (v) Drug or alcohol abuse; or
- 3 (vi) Homelessness.

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- (29) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.
- (30) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.
- (31) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.
- 23 **Sec. 6.** RCW 18.19.210 and 2008 c 135 s 9 are each amended to read 24 as follows:
- 25 (1)(a) An applicant for registration as an agency affiliated
 26 counselor who applies to the department within seven days of employment
 27 by an agency may work as an agency affiliated counselor for up to sixty
 28 days while the application is processed. The applicant must stop
 29 working on the sixtieth day of employment if the registration has not
 30 been granted for any reason.
- 31 (b) The applicant may not provide unsupervised counseling prior to
 32 completion of a criminal background check performed by either the
 33 employer or the secretary. For purposes of this subsection,
 34 "unsupervised" means the supervisor is not physically present at the
 35 location where the counseling occurs.
- 36 (2) Agency affiliated counselors shall notify the department if 37 they are either no longer employed by the agency identified on their

- 1 application or are now employed with another agency, or both. Agency
- 2 affiliated counselors may not engage in the practice of counseling
- 3 unless they are currently affiliated with an agency.

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- 4 <u>NEW SECTION.</u> **Sec. 7.** A new section is added to chapter 43.20A RCW to read as follows:
- (1) By November 30, 2013, the department and the health care 6 7 authority must report to the governor and the relevant fiscal and policy committees of the legislature, consistent with RCW 43.01.036, a 8 plan that establishes a tribal-centric behavioral health system 9 incorporating both mental health and chemical dependency services. 10 plan must assure that child, adult, and older adult American Indians 11 and Alaskan Natives eligible for medicaid have increased access to 12 culturally appropriate mental health and chemical dependency services. 13 14 The plan must:
- 15 (a) Include implementation dates, major milestones, and fiscal estimates as needed;
 - (b) Emphasize the use of culturally appropriate evidence-based and promising practices;
 - (c) Address equitable access to crisis services, outpatient care, voluntary and involuntary hospitalization, and behavioral health care coordination;
- 22 (d) Identify statutory changes necessary to implement the tribal-23 centric behavioral health system; and
 - (e) Be developed with the department's Indian policy advisory committee and the American Indian health commission, in consultation with Washington's federally recognized tribes.
 - (2) The department shall enter into agreements with the tribes and urban Indian health programs and modify regional support network contracts as necessary to develop a tribal-centric behavioral health system that better serves the needs of the tribes.
- NEW SECTION. Sec. 8. Section 4 of this act takes effect July 1, 2018.

Passed by the Senate April 28, 2013. Passed by the House April 24, 2013. Approved by the Governor May 21, 2013. Filed in Office of Secretary of State May 21, 2013.