S-4351.1

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**SUBSTITUTE SENATE BILL 6430**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Human Services, Mental Health & Housing (originally sponsored by Senators Parlette, Darneille, O'Ban, and Conway)

AN ACT Relating to providing continuity of care for recipients of medical assistance during periods of incarceration; amending RCW 70.48.100; adding new sections to chapter 74.09 RCW; adding a new section to chapter 71.24 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  Persons with mental illness and persons with substance use disorders in the custody of the criminal justice system need seamless access to community treatment networks and medical assistance upon release from custody to prevent gaps in treatment and reduce barriers to accessing care. Access to care is critical to reduce recidivism and reduce costs associated with relapse, decompensation, and crisis care. In accord with the recommendations of the adult behavioral health system task force, persons should be allowed to apply or retain their enrollment in medical assistance during periods of incarceration. The legislature intends for the Washington state health care authority and the department of social and health services to raise awareness of best clinical practices to engage persons with behavioral health disorders and other chronic conditions during periods of incarceration and confinement to highlight opportunities for good preventive care and standardize reporting and payment practices for services reimbursable by federal law that support the safe transition of the person back into the community.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

The authority is directed to suspend, rather than terminate, medical assistance benefits by July 1, 2017, for persons who are incarcerated or committed to a state hospital. This must include the ability for a person to apply for medical assistance in suspense status during incarceration, and may not depend upon knowledge of the release date of the person. The authority must provide a progress report describing program design and a detailed fiscal estimate to the governor and relevant committees of the legislature by December 1, 2016.

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

The department and the Washington state health care authority shall publish written guidance and provide trainings to behavioral health organizations, managed care organizations, and behavioral health providers related to how these organizations may provide outreach, assistance, transition planning, and rehabilitation case management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services. The guidance and trainings may also highlight preventive activities not reimbursable under federal law which may be cost-effective in a managed care environment. The purpose of this written guidance and trainings is to champion best clinical practices including, where appropriate, use of care coordination and long-acting injectable psychotropic medication, and to assist the health community to leverage federal funds and standardize payment and reporting procedures. The authority and the department shall construe governing laws liberally to effectuate the broad remedial purposes of this act, and provide a status update to the legislature by December 31, 2016.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

The authority shall collaborate with the department, the Washington state association of counties, the Washington association of sheriffs and police chiefs, and accountable communities of health to improve population health and reduce avoidable use of intensive services and settings by requesting expenditure authority from the federal government to provide behavioral health services to persons who are incarcerated in local jails. The authority in consultation with its partners may narrow its submission to discrete programs or regions of the state as deemed advisable to effectively demonstrate the potential to achieve savings by integrating medical assistance across community and correctional settings.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

It is the understanding of the legislature that persons participating in a work release program or other partial confinement programs at the state, county, or city level which allow regular freedom during the day to pursue rehabilitative community activities such as participation in work, treatment, or medical care should not be considered "inmates of a public institution" for the purposes of exclusion from medicaid coverage under the social security act. The authority is instructed to obtain any permissions from the federal government necessary to confirm this understanding, and report back to the governor and relevant committees of the legislature.

**Sec.**  RCW 70.48.100 and 2014 c 225 s 105 are each amended to read as follows:

(1) A department of corrections or chief law enforcement officer responsible for the operation of a jail shall maintain a jail register, open to the public, into which shall be entered in a timely basis:

(a) The name of each person confined in the jail with the hour, date and cause of the confinement; and

(b) The hour, date and manner of each person's discharge.

(2) Except as provided in subsection (3) of this section, the records of a person confined in jail shall be held in confidence and shall be made available only to criminal justice agencies as defined in RCW 43.43.705; or

(a) For use in inspections made pursuant to RCW 70.48.070;

(b) In jail certification proceedings;

(c) For use in court proceedings upon the written order of the court in which the proceedings are conducted;

(d) To the Washington association of sheriffs and police chiefs;

(e) To the Washington institute for public policy, research and data analysis division of the department of social and health services, higher education institutions of Washington state, Washington state health care authority, state auditor's office, caseload forecast council, office of financial management, or the successor entities of these organizations, for the purpose of research in the public interest. Data disclosed for research purposes must comply with relevant state and federal statutes; ((~~or~~))

(f) To federal, state, or local agencies to determine eligibility for services such as medical, mental health, chemical dependency treatment, or veterans' services, and to allow for the provision of treatment to inmates during their stay or after release. Records disclosed for eligibility determination or treatment services must be held in confidence by the receiving agency, and the receiving agency must comply with all relevant state and federal statutes regarding the privacy of the disclosed records; or

(g) Upon the written permission of the person.

(3)(a) Law enforcement may use booking photographs of a person arrested or confined in a local or state penal institution to assist them in conducting investigations of crimes.

(b) Photographs and information concerning a person convicted of a sex offense as defined in RCW 9.94A.030 may be disseminated as provided in RCW 4.24.550, 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 43.43.745, 46.20.187, 70.48.470, 72.09.330, and section 401, chapter 3, Laws of 1990.

(4) Any jail that provides inmate records in accordance with subsection (2) of this section is not responsible for any unlawful secondary dissemination of the provided inmate records.

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