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ENGROSSED SUBSTITUTE HOUSE BILL 1388

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State of Washington                      65th Legislature                      2017 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Rodne, Harris, Macri, and Frame; by request of Governor Inslee)

READ FIRST TIME 02/17/17.

1            AN ACT Relating to changing the designation of the state  
2 behavioral health authority from the department of social and health  
3 services to the health care authority and transferring the related  
4 powers, functions, and duties to the health care authority and the  
5 department of health; amending RCW 43.20A.025, 43.20A.025,  
6 43.20A.065, 43.20A.433, 43.20A.890, 43.20A.892, 43.20A.893,  
7 43.20A.894, 43.20A.896, 43.20A.897, 74.04.015, 71.05.026, 71.05.026,  
8 71.05.027, 71.05.040, 71.05.100, 71.05.203, 71.05.203, 71.05.214,  
9 71.05.214, 71.05.215, 71.05.240, 71.05.285, 71.05.320, 71.05.320,  
10 71.05.325, 71.05.325, 71.05.330, 71.05.335, 71.05.340, 71.05.340,  
11 71.05.350, 71.05.380, 71.05.435, 71.05.435, 71.05.510, 71.05.520,  
12 71.05.525, 71.05.560, 71.05.560, 71.05.590, 71.05.590, 71.05.590,  
13 71.05.620, 71.05.620, 71.05.720, 71.05.732, 71.05.740, 71.05.745,  
14 71.05.745, 71.05.750, 71.05.750, 71.05.755, 71.05.760, 71.05.801,  
15 71.05.940, 71.24.015, 71.24.030, 71.24.035, 71.24.037, 71.24.045,  
16 71.24.045, 71.24.061, 71.24.100, 71.24.155, 71.24.160, 71.24.215,  
17 71.24.220, 71.24.240, 71.24.300, 71.24.310, 71.24.320, 71.24.330,  
18 71.24.330, 71.24.340, 71.24.350, 71.24.360, 71.24.370, 71.24.380,  
19 71.24.385, 71.24.400, 71.24.405, 71.24.415, 71.24.420, 71.24.430,  
20 71.24.455, 71.24.460, 71.24.470, 71.24.480, 71.24.490, 71.24.500,  
21 71.24.515, 71.24.520, 71.24.525, 71.24.530, 71.24.535, 71.24.540,  
22 71.24.545, 71.24.555, 71.24.565, 71.24.580, 71.24.590, 71.24.595,  
23 71.24.605, 71.24.610, 71.24.615, 71.24.620, 71.24.625, 71.24.630,

1 71.24.640, 71.24.645, 71.24.650, 71.24.805, 71.24.810, 71.24.850,  
2 71.24.860, 71.24.902, 71.34.010, 71.34.300, 71.34.365, 71.34.375,  
3 71.34.375, 71.34.380, 71.34.385, 71.34.385, 71.34.390, 71.34.395,  
4 71.34.400, 71.34.400, 71.34.405, 71.34.420, 71.34.420, 71.34.600,  
5 71.34.600, 71.34.610, 71.34.630, 71.34.630, 71.34.640, 71.34.720,  
6 71.34.720, 71.34.760, 71.34.760, 71.34.780, 71.34.780, 71.34.780,  
7 71.34.790, 71.36.025, 71.36.040, 71.36.060, 70.96A.011, 70.96A.020,  
8 70.96A.095, 70.96A.097, 70.96A.110, 70.96A.120, 70.96A.140,  
9 70.96A.148, 70.96A.160, 70.96A.180, 70.96A.235, 70.96A.240,  
10 70.96A.245, 70.96A.260, 70.96A.265, 70.96A.915, 70.96B.010,  
11 70.96B.020, 70.96B.030, 70.96B.045, 70.96B.050, 70.96B.070,  
12 70.96B.090, 70.96B.140, 41.05.015, 41.05.021, 41.05A.005, 74.09.050,  
13 74.09.055, 74.09.080, 74.09.120, 74.09.160, 74.09.210, 74.09.220,  
14 74.09.230, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.315,  
15 74.09.325, 74.09.522, 74.09.530, 74.09.540, 74.09.730, 74.09.780,  
16 74.64.010, 74.66.010, 70.02.010, 70.02.240, 70.02.250, 70.02.260,  
17 70.02.340, 70.02.350, 42.56.270 43.70.080, 43.59.030, 48.21.180,  
18 48.44.240, 48.46.350, 69.50.540, 2.30.020, 2.30.030, 9.41.300,  
19 9.94A.703, 10.05.040, 10.05.050, 18.205.080, 18.88A.020, 46.61.5056,  
20 72.09.350, 72.09.370, 72.09.370, 72.09.380, 72.09.381, 72.09.585, and  
21 74.34.020; reenacting and amending RCW 71.05.020, 71.05.020,  
22 71.05.215, 71.05.240, 71.05.320, 71.05.425, 71.05.445, 71.24.025,  
23 71.24.025, 71.24.600, 71.34.020, 71.34.020, 71.34.720, 71.36.010,  
24 70.02.010, 70.02.230, 70.02.230, and 46.61.5055; adding new sections  
25 to chapter 71.24 RCW; adding new sections to chapter 41.05 RCW;  
26 adding a new section to chapter 43.70 RCW; adding a new section to  
27 chapter 71.34 RCW; adding new sections to chapter 74.09 RCW; creating  
28 new sections; recodifying RCW 43.20A.025, 43.20A.065, 43.20A.433,  
29 43.20A.890, 43.20A.892, 43.20A.893, 43.20A.894, 43.20A.896, and  
30 43.20A.897; decodifying RCW 71.24.065; providing effective dates;  
31 providing expiration dates; and declaring an emergency.

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

33

**PART 1**

34 NEW SECTION. **Sec. 1001.** The legislature finds that:

35 (1) Washington state government must be organized to be  
36 efficient, cost-effective, and responsive to its residents.

1 (2) Pursuant to existing legislative direction, Washington state  
2 continues to transform how it delivers behavioral health services by  
3 integrating the financing and delivery of behavioral and physical  
4 health care by 2020. Integration will improve prevention and  
5 treatment of behavioral health conditions. Integration, leading to  
6 better whole person care, should also enable many individuals to  
7 avoid commitment at the state psychiatric hospitals or divert from  
8 jails, and support them in leading healthy, productive lives.

9 (3) The responsibility for oversight, purchasing, and management  
10 of Washington state's community behavioral health system is currently  
11 split between the department of social and health services, which is  
12 the state's behavioral health authority, and the health care  
13 authority, which is the single state medicaid agency responsible for  
14 state health care purchasing.

15 (4) The health care authority is the state's primary health care  
16 purchaser. Integrating and consolidating the oversight and purchasing  
17 of state behavioral health care into a single state agency at the  
18 health care authority will align core operations and provide better,  
19 coordinated, and more cost-effective services, with the ultimate goal  
20 of achieving whole person care.

21 (5) The legislature therefore intends to consolidate state  
22 behavioral health care purchasing and oversight within the health  
23 care authority, positioning the state to use its full purchasing  
24 power to get the greatest value for its investment. The department of  
25 social and health services will continue to operate the state mental  
26 health institutions, with the intent of further analyzing the future  
27 proper alignment of these services.

28 (6) Similar to the issues with our disparate purchasing programs,  
29 the responsibility for licensing and certification of behavioral  
30 health providers and facilities is currently spread across multiple  
31 agencies, with the department of social and health services  
32 regulating some behavioral health providers and the department of  
33 health regulating others.

34 (7) The department of health is responsible for the majority of  
35 licensing and certification of health care providers and facilities.  
36 The state will best be able to ensure patient safety and reduce  
37 administrative burdens of licensing and certification of behavioral  
38 health providers and facilities by consolidating those functions  
39 within a single agency at the department of health. This change will  
40 streamline processes leading to improved patient safety outcomes.

1 (8) The legislature therefore intends to integrate and  
2 consolidate the behavioral health licensing and certification  
3 functions within the department of health.

4 **PART 2**

5 **Sec. 2001.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended  
6 to read as follows:

7 The (~~department of social and health services~~) authority shall  
8 adopt rules defining "appropriately trained professional person" for  
9 the purposes of conducting mental health and (~~chemical dependency~~)  
10 substance use disorder evaluations under RCW (~~71.34.052~~)  
11 71.34.600(3), (~~71.34.054~~) 71.34.650(1), 70.96A.245(3), and  
12 70.96A.250(1).

13 **Sec. 2002.** RCW 43.20A.025 and 2016 sp.s. c 29 s 415 are each  
14 amended to read as follows:

15 The (~~department of social and health services~~) authority shall  
16 adopt rules defining "appropriately trained professional person" for  
17 the purposes of conducting mental health and chemical dependency  
18 evaluations under RCW 71.34.600(3) and 71.34.650(1).

19 **Sec. 2003.** RCW 43.20A.065 and 2002 c 290 s 6 are each amended to  
20 read as follows:

21 The (~~department of social and health services~~) authority shall  
22 annually review and monitor the expenditures made by any county or  
23 group of counties which is funded, in whole or in part, with funds  
24 provided by chapter 290, Laws of 2002. Counties shall repay any funds  
25 that are not spent in accordance with the requirements of chapter  
26 290, Laws of 2002.

27 **Sec. 2004.** RCW 43.20A.433 and 2005 c 504 s 802 are each amended  
28 to read as follows:

29 (~~Beginning July 1, 2007,~~) The (~~secretary~~) director shall  
30 require, in the contracts the (~~department~~) authority negotiates  
31 pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate  
32 increases provided for mental health and chemical dependency  
33 treatment providers or programs who are parties to the contract or  
34 subcontractors of any party to the contract shall be prioritized to  
35 those providers and programs that maximize the use of evidence-based

1 and research-based practices(~~(, as those terms are defined in section~~  
2 ~~603 of this act,~~) unless otherwise designated by the legislature.

3 **Sec. 2005.** RCW 43.20A.890 and 2010 c 171 s 1 are each amended to  
4 read as follows:

5 (1) A program for (a) the prevention and treatment of problem and  
6 pathological gambling; and (b) the training of professionals in the  
7 identification and treatment of problem and pathological gambling is  
8 established within the (~~department of social and health services~~)  
9 authority, to be administered by a qualified person who has training  
10 and experience in problem gambling or the organization and  
11 administration of treatment services for persons suffering from  
12 problem gambling. The department of health may license or certify and  
13 the authority may contract with treatment facilities for any services  
14 provided under the program. The (~~department~~) authority shall track  
15 program participation and client outcomes.

16 (2) To receive treatment under subsection (1) of this section, a  
17 person must:

18 (a) Need treatment for problem or pathological gambling, or  
19 because of the problem or pathological gambling of a family member,  
20 but be unable to afford treatment; and

21 (b) Be targeted by the (~~department of social and health~~  
22 ~~services~~) authority as being most amenable to treatment.

23 (3) Treatment under this section is available only to the extent  
24 of the funds appropriated or otherwise made available to the  
25 (~~department of social and health services~~) authority for this  
26 purpose. The (~~department~~) authority may solicit and accept for use  
27 any gift of money or property made by will or otherwise, and any  
28 grant of money, services, or property from the federal government,  
29 any tribal government, the state, or any political subdivision  
30 thereof or any private source, and do all things necessary to  
31 cooperate with the federal government or any of its agencies or any  
32 tribal government in making an application for any grant.

33 (~~(4) (The department may adopt rules establishing standards for~~  
34 ~~the review and certification of treatment facilities under this~~  
35 ~~program.~~

36 ~~(5))~~) The (~~department of social and health services~~) authority  
37 shall establish an advisory committee to assist it in designing,  
38 managing, and evaluating the effectiveness of the program established  
39 in this section. The advisory committee shall give due consideration

1 in the design and management of the program that persons who hold  
2 licenses or contracts issued by the gambling commission, horse racing  
3 commission, and lottery commission are not excluded from, or  
4 discouraged from, applying to participate in the program. The  
5 committee shall include, at a minimum, persons knowledgeable in the  
6 field of problem and pathological gambling and persons representing  
7 tribal gambling, privately owned nontribal gambling, and the state  
8 lottery.

9 ((+6)) (5) For purposes of this section, "pathological gambling"  
10 is a mental disorder characterized by loss of control over gambling,  
11 progression in preoccupation with gambling and in obtaining money to  
12 gamble, and continuation of gambling despite adverse consequences.  
13 "Problem gambling" is an earlier stage of pathological gambling which  
14 compromises, disrupts, or damages family or personal relationships or  
15 vocational pursuits.

16 **Sec. 2006.** RCW 43.20A.892 and 2005 c 369 s 3 are each amended to  
17 read as follows:

18 The problem gambling account is created in the state treasury.  
19 Money in the account may be spent only after appropriation.  
20 Expenditures from the account may be used only for the purposes of  
21 the program established under RCW 43.20A.890 (as recodified by this  
22 act).

23 **Sec. 2007.** RCW 43.20A.893 and 2014 c 225 s 2 are each amended to  
24 read as follows:

25 (1) Upon receipt of guidance for the creation of common regional  
26 service areas from the adult behavioral health system task force  
27 established in section 1, chapter 338, Laws of 2013, the ~~((department~~  
28 ~~and the health care))~~ authority shall ~~((jointly))~~ establish regional  
29 service areas as provided in this section.

30 (2) Counties, through the Washington state association of  
31 counties, must be given the opportunity to propose the composition of  
32 regional service areas. Each service area must:

33 (a) Include a sufficient number of medicaid lives to support full  
34 financial risk managed care contracting for services included in  
35 contracts with the department or the ~~((health care))~~ authority;

36 (b) Include full counties that are contiguous with one another;  
37 and

1 (c) Reflect natural medical and behavioral health service  
2 referral patterns and shared clinical, health care service,  
3 behavioral health service, and behavioral health crisis response  
4 resources.

5 (3) The Washington state association of counties must submit  
6 their recommendations to the department, the ((health—care))  
7 authority, and the task force described in section 1, chapter 225,  
8 Laws of 2014 on or before August 1, 2014.

9 **Sec. 2008.** RCW 43.20A.894 and 2014 c 225 s 3 are each amended to  
10 read as follows:

11 (1) Any agreement or contract by the ((department or the health  
12 care)) authority to provide behavioral health services as defined  
13 under RCW 71.24.025 to persons eligible for benefits under medicaid,  
14 Title XIX of the social security act, and to persons not eligible for  
15 medicaid must include the following:

16 (a) Contractual provisions consistent with the intent expressed  
17 in RCW 71.24.015, 71.36.005, ((70.96A.010,)) and 70.96A.011;

18 (b) Standards regarding the quality of services to be provided,  
19 including increased use of evidence-based, research-based, and  
20 promising practices, as defined in RCW 71.24.025;

21 (c) Accountability for the client outcomes established in RCW  
22 43.20A.895, 70.320.020, and 71.36.025 and performance measures linked  
23 to those outcomes;

24 (d) Standards requiring behavioral health organizations to  
25 maintain a network of appropriate providers that is supported by  
26 written agreements sufficient to provide adequate access to all  
27 services covered under the contract with the ((department or the  
28 health—care)) authority and to protect essential existing behavioral  
29 health system infrastructure and capacity, including a continuum of  
30 chemical dependency services;

31 (e) Provisions to require that medically necessary chemical  
32 dependency and mental health treatment services be available to  
33 clients;

34 (f) Standards requiring the use of behavioral health service  
35 provider reimbursement methods that incentivize improved performance  
36 with respect to the client outcomes established in RCW 43.20A.895 and  
37 71.36.025, integration of behavioral health and primary care services  
38 at the clinical level, and improved care coordination for individuals  
39 with complex care needs;

1 (g) Standards related to the financial integrity of the  
2 responding organization. The ((department)) authority shall adopt  
3 rules establishing the solvency requirements and other financial  
4 integrity standards for behavioral health organizations. This  
5 subsection does not limit the authority of the ((department))  
6 authority to take action under a contract upon finding that a  
7 behavioral health organization's financial status jeopardizes the  
8 organization's ability to meet its contractual obligations;

9 (h) Mechanisms for monitoring performance under the contract and  
10 remedies for failure to substantially comply with the requirements of  
11 the contract including, but not limited to, financial deductions,  
12 termination of the contract, receivership, reprocurement of the  
13 contract, and injunctive remedies;

14 (i) Provisions to maintain the decision-making independence of  
15 designated mental health professionals or designated chemical  
16 dependency specialists; and

17 (j) Provisions stating that public funds appropriated by the  
18 legislature may not be used to promote or deter, encourage, or  
19 discourage employees from exercising their rights under Title 29,  
20 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

21 (2) The following factors must be given significant weight in any  
22 purchasing process:

23 (a) Demonstrated commitment and experience in serving low-income  
24 populations;

25 (b) Demonstrated commitment and experience serving persons who  
26 have mental illness, chemical dependency, or co-occurring disorders;

27 (c) Demonstrated commitment to and experience with partnerships  
28 with county and municipal criminal justice systems, housing services,  
29 and other critical support services necessary to achieve the outcomes  
30 established in RCW 43.20A.895, 70.320.020, and 71.36.025;

31 (d) Recognition that meeting enrollees' physical and behavioral  
32 health care needs is a shared responsibility of contracted behavioral  
33 health organizations, managed health care systems, service providers,  
34 the state, and communities;

35 (e) Consideration of past and current performance and  
36 participation in other state or federal behavioral health programs as  
37 a contractor; and

38 (f) The ability to meet requirements established by the  
39 ((department)) authority.



1 (3) For purposes of purchasing behavioral health services and  
2 medical care services for persons eligible for benefits under  
3 medicaid, Title XIX of the social security act and for persons not  
4 eligible for medicaid, the ~~((department and the health care))~~  
5 authority must use ~~((common))~~ regional service areas. The regional  
6 service areas must be established by the ~~((department and the health  
7 care))~~ authority as provided in RCW 43.20A.893 (as recodified by this  
8 act).

9 (4) Consideration must be given to using multiple-biennia  
10 contracting periods.

11 (5) Each behavioral health organization operating pursuant to a  
12 contract issued under this section shall enroll clients within its  
13 regional service area who meet the ~~((department's))~~ authority's  
14 eligibility criteria for mental health and chemical dependency  
15 services.

16 **Sec. 2009.** RCW 43.20A.896 and 2014 c 225 s 4 are each amended to  
17 read as follows:

18 The ~~((secretary))~~ director shall require that behavioral health  
19 organizations offer contracts to managed health care systems under  
20 chapter 74.09 RCW or primary care practice settings to promote access  
21 to the services of chemical dependency professionals under chapter  
22 18.205 RCW and mental health professionals, as defined by the  
23 department of health in rule, for the purposes of integrating such  
24 services into primary care settings for individuals with behavioral  
25 health and medical comorbidities.

26 **Sec. 2010.** RCW 43.20A.897 and 2014 c 225 s 65 are each amended  
27 to read as follows:

28 (1) By November 30, 2013, the department and the ~~((health care))~~  
29 authority must report to the governor and the relevant fiscal and  
30 policy committees of the legislature, consistent with RCW 43.01.036,  
31 a plan that establishes a tribal-centric behavioral health system  
32 incorporating both mental health and chemical dependency services.  
33 The plan must assure that child, adult, and older adult American  
34 Indians and Alaskan Natives eligible for medicaid have increased  
35 access to culturally appropriate mental health and chemical  
36 dependency services. The plan must:

37 (a) Include implementation dates, major milestones, and fiscal  
38 estimates as needed;

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

3 (c) Address equitable access to crisis services, outpatient care,  
4 voluntary and involuntary hospitalization, and behavioral health care  
5 coordination;

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

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

11 (2) The (~~department~~) authority shall enter into agreements with  
12 the tribes and urban Indian health programs and modify behavioral  
13 health organization contracts as necessary to develop a tribal-  
14 centric behavioral health system that better serves the needs of the  
15 tribes.

16 **Sec. 2011.** RCW 74.04.015 and 2011 1st sp.s. c 15 s 62 are each  
17 amended to read as follows:

18 (1) The secretary of social and health services shall be the  
19 responsible state officer for the administration and disbursement of  
20 all funds, goods, commodities, and services, which may be received by  
21 the state in connection with programs of public assistance or  
22 services related directly or indirectly to assistance programs, and  
23 all other matters included in the federal social security act as  
24 amended, or any other federal act or as the same may be amended  
25 except as otherwise provided by law.

26 (2) The director shall be the responsible state officer for the  
27 administration and disbursement of funds that the state receives in  
28 connection with the medical services programs established under  
29 chapter 74.09 RCW, including the state children's health insurance  
30 program, Titles XIX and XXI of the social security act of 1935, as  
31 amended, and programs established under chapter 71.05, 71.24, and  
32 71.34 RCW that are under the director's authority.

33 (3) The department and the authority, as appropriate, shall make  
34 such reports and render such accounting as may be required by federal  
35 law.

36 **PART 3**

1       **Sec. 3001.** RCW 71.05.020 and 2016 c 155 s 1 are each reenacted  
2 and amended to read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Admission" or "admit" means a decision by a physician,  
6 physician assistant, or psychiatric advanced registered nurse  
7 practitioner that a person should be examined or treated as a patient  
8 in a hospital;

9       (2) "Antipsychotic medications" means that class of drugs  
10 primarily used to treat serious manifestations of mental illness  
11 associated with thought disorders, which includes, but is not limited  
12 to atypical antipsychotic medications;

13       (3) "Attending staff" means any person on the staff of a public  
14 or private agency having responsibility for the care and treatment of  
15 a patient;

16       (4) "Authority" means the Washington state health care authority;

17       (5) "Commitment" means the determination by a court that a person  
18 should be detained for a period of either evaluation or treatment, or  
19 both, in an inpatient or a less restrictive setting;

20       ~~((+5))~~ (6) "Conditional release" means a revocable modification  
21 of a commitment, which may be revoked upon violation of any of its  
22 terms;

23       ~~((+6))~~ (7) "Crisis stabilization unit" means a short-term  
24 facility or a portion of a facility licensed or certified by the  
25 department of health ~~((and certified by the department of social and  
26 health services))~~ under RCW 71.24.035, such as an evaluation and  
27 treatment facility or a hospital, which has been designed to assess,  
28 diagnose, and treat individuals experiencing an acute crisis without  
29 the use of long-term hospitalization;

30       ~~((+7))~~ (8) "Custody" means involuntary detention under the  
31 provisions of this chapter or chapter 10.77 RCW, uninterrupted by any  
32 period of unconditional release from commitment from a facility  
33 providing involuntary care and treatment;

34       ~~((+8))~~ (9) "Department" means the department of ~~((social and))~~  
35 health ~~((services))~~;

36       ~~((+9))~~ (10) "Designated chemical dependency specialist" means a  
37 person designated by the county alcoholism and other drug addiction  
38 program coordinator designated under RCW 70.96A.310 to perform the  
39 commitment duties described in chapters 70.96A and 70.96B RCW;

1        (~~(10)~~) (11) "Designated crisis responder" means a mental health  
2 professional appointed by the county or the behavioral health  
3 organization to perform the duties specified in this chapter;

4        (~~(11)~~) (12) "Designated mental health professional" means a  
5 mental health professional designated by the county or other  
6 authority authorized in rule to perform the duties specified in this  
7 chapter;

8        (~~(12)~~) (13) "Detention" or "detain" means the lawful  
9 confinement of a person, under the provisions of this chapter;

10       (~~(13)~~) (14) "Developmental disabilities professional" means a  
11 person who has specialized training and three years of experience in  
12 directly treating or working with persons with developmental  
13 disabilities and is a psychiatrist, physician assistant working with  
14 a supervising psychiatrist, psychologist, psychiatric advanced  
15 registered nurse practitioner, or social worker, and such other  
16 developmental disabilities professionals as may be defined by rules  
17 adopted by the secretary of the department of social and health  
18 services;

19       (~~(14)~~) (15) "Developmental disability" means that condition  
20 defined in RCW 71A.10.020(5);

21       (~~(15)~~) (16) "Director" means the director of the authority;

22       (17) "Discharge" means the termination of hospital medical  
23 authority. The commitment may remain in place, be terminated, or be  
24 amended by court order;

25       (~~(16)~~) (18) "Evaluation and treatment facility" means any  
26 facility which can provide directly, or by direct arrangement with  
27 other public or private agencies, emergency evaluation and treatment,  
28 outpatient care, and timely and appropriate inpatient care to persons  
29 suffering from a mental disorder, and which is licensed or certified  
30 as such by the department. The (~~department~~) authority may certify  
31 single beds as temporary evaluation and treatment beds under RCW  
32 71.05.745. A physically separate and separately operated portion of a  
33 state hospital may be designated as an evaluation and treatment  
34 facility. A facility which is part of, or operated by, the department  
35 of social and health services or any federal agency will not require  
36 certification. No correctional institution or facility, or jail,  
37 shall be an evaluation and treatment facility within the meaning of  
38 this chapter;

39       (~~(17)~~) (19) "Gravely disabled" means a condition in which a  
40 person, as a result of a mental disorder: (a) Is in danger of serious

1 physical harm resulting from a failure to provide for his or her  
2 essential human needs of health or safety; or (b) manifests severe  
3 deterioration in routine functioning evidenced by repeated and  
4 escalating loss of cognitive or volitional control over his or her  
5 actions and is not receiving such care as is essential for his or her  
6 health or safety;

7 ~~((18))~~ (20) "Habilitative services" means those services  
8 provided by program personnel to assist persons in acquiring and  
9 maintaining life skills and in raising their levels of physical,  
10 mental, social, and vocational functioning. Habilitative services  
11 include education, training for employment, and therapy. The  
12 habilitative process shall be undertaken with recognition of the risk  
13 to the public safety presented by the person being assisted as  
14 manifested by prior charged criminal conduct;

15 ~~((19))~~ (21) "History of one or more violent acts" refers to the  
16 period of time ten years prior to the filing of a petition under this  
17 chapter, excluding any time spent, but not any violent acts  
18 committed, in a mental health facility or in confinement as a result  
19 of a criminal conviction;

20 ~~((20))~~ (22) "Imminent" means the state or condition of being  
21 likely to occur at any moment or near at hand, rather than distant or  
22 remote;

23 ~~((21))~~ (23) "In need of assisted outpatient mental health  
24 treatment" means that a person, as a result of a mental disorder: (a)  
25 Has been committed by a court to detention for involuntary mental  
26 health treatment at least twice during the preceding thirty-six  
27 months, or, if the person is currently committed for involuntary  
28 mental health treatment, the person has been committed to detention  
29 for involuntary mental health treatment at least once during the  
30 thirty-six months preceding the date of initial detention of the  
31 current commitment cycle; (b) is unlikely to voluntarily participate  
32 in outpatient treatment without an order for less restrictive  
33 alternative treatment, in view of the person's treatment history or  
34 current behavior; (c) is unlikely to survive safely in the community  
35 without supervision; (d) is likely to benefit from less restrictive  
36 alternative treatment; and (e) requires less restrictive alternative  
37 treatment to prevent a relapse, decompensation, or deterioration that  
38 is likely to result in the person presenting a likelihood of serious  
39 harm or the person becoming gravely disabled within a reasonably  
40 short period of time. For purposes of (a) of this subsection, time

1 spent in a mental health facility or in confinement as a result of a  
2 criminal conviction is excluded from the thirty-six month  
3 calculation;

4 ~~((+22+))~~ (24) "Individualized service plan" means a plan prepared  
5 by a developmental disabilities professional with other professionals  
6 as a team, for a person with developmental disabilities, which shall  
7 state:

8 (a) The nature of the person's specific problems, prior charged  
9 criminal behavior, and habilitation needs;

10 (b) The conditions and strategies necessary to achieve the  
11 purposes of habilitation;

12 (c) The intermediate and long-range goals of the habilitation  
13 program, with a projected timetable for the attainment;

14 (d) The rationale for using this plan of habilitation to achieve  
15 those intermediate and long-range goals;

16 (e) The staff responsible for carrying out the plan;

17 (f) Where relevant in light of past criminal behavior and due  
18 consideration for public safety, the criteria for proposed movement  
19 to less-restrictive settings, criteria for proposed eventual  
20 discharge or release, and a projected possible date for discharge or  
21 release; and

22 (g) The type of residence immediately anticipated for the person  
23 and possible future types of residences;

24 ~~((+23+))~~ (25) "Information related to mental health services"  
25 means all information and records compiled, obtained, or maintained  
26 in the course of providing services to either voluntary or  
27 involuntary recipients of services by a mental health service  
28 provider. This may include documents of legal proceedings under this  
29 chapter or chapter 71.34 or 10.77 RCW, or somatic health care  
30 information;

31 ~~((+24+))~~ (26) "Judicial commitment" means a commitment by a court  
32 pursuant to the provisions of this chapter;

33 ~~((+25+))~~ (27) "Legal counsel" means attorneys and staff employed  
34 by county prosecutor offices or the state attorney general acting in  
35 their capacity as legal representatives of public mental health  
36 service providers under RCW 71.05.130;

37 ~~((+26+))~~ (28) "Less restrictive alternative treatment" means a  
38 program of individualized treatment in a less restrictive setting  
39 than inpatient treatment that includes the services described in RCW  
40 71.05.585;

1       (~~(27)~~) (29) "Likelihood of serious harm" means:  
2       (a) A substantial risk that: (i) Physical harm will be inflicted  
3 by a person upon his or her own person, as evidenced by threats or  
4 attempts to commit suicide or inflict physical harm on oneself; (ii)  
5 physical harm will be inflicted by a person upon another, as  
6 evidenced by behavior which has caused such harm or which places  
7 another person or persons in reasonable fear of sustaining such harm;  
8 or (iii) physical harm will be inflicted by a person upon the  
9 property of others, as evidenced by behavior which has caused  
10 substantial loss or damage to the property of others; or  
11       (b) The person has threatened the physical safety of another and  
12 has a history of one or more violent acts;  
13       (~~(28)~~) (30) "Medical clearance" means a physician or other  
14 health care provider has determined that a person is medically stable  
15 and ready for referral to the designated mental health professional;  
16       (~~(29)~~) (31) "Mental disorder" means any organic, mental, or  
17 emotional impairment which has substantial adverse effects on a  
18 person's cognitive or volitional functions;  
19       (~~(30)~~) (32) "Mental health professional" means a psychiatrist,  
20 psychologist, physician assistant working with a supervising  
21 psychiatrist, psychiatric advanced registered nurse practitioner,  
22 psychiatric nurse, or social worker, and such other mental health  
23 professionals as may be defined by rules adopted by the secretary  
24 pursuant to the provisions of this chapter;  
25       (~~(31)~~) (33) "Mental health service provider" means a public or  
26 private agency that provides mental health services to persons with  
27 mental disorders as defined under this section and receives funding  
28 from public sources. This includes, but is not limited to, hospitals  
29 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
30 as defined in this section, community mental health service delivery  
31 systems or community mental health programs as defined in RCW  
32 71.24.025, facilities conducting competency evaluations and  
33 restoration under chapter 10.77 RCW, and correctional facilities  
34 operated by state and local governments;  
35       (~~(32)~~) (34) "Peace officer" means a law enforcement official of  
36 a public agency or governmental unit, and includes persons  
37 specifically given peace officer powers by any state law, local  
38 ordinance, or judicial order of appointment;  
39       (~~(33)~~) (35) "Physician assistant" means a person licensed as a  
40 physician assistant under chapter 18.57A or 18.71A RCW;

1        ~~((34))~~ (36) "Private agency" means any person, partnership,  
2 corporation, or association that is not a public agency, whether or  
3 not financed in whole or in part by public funds, which constitutes  
4 an evaluation and treatment facility or private institution, or  
5 hospital, which is conducted for, or includes a department or ward  
6 conducted for, the care and treatment of persons who are mentally  
7 ill;

8        ~~((35))~~ (37) "Professional person" means a mental health  
9 professional and shall also mean a physician, physician assistant,  
10 psychiatric advanced registered nurse practitioner, registered nurse,  
11 and such others as may be defined by rules adopted by the secretary  
12 pursuant to the provisions of this chapter;

13        ~~((36))~~ (38) "Psychiatric advanced registered nurse  
14 practitioner" means a person who is licensed as an advanced  
15 registered nurse practitioner pursuant to chapter 18.79 RCW; and who  
16 is board certified in advanced practice psychiatric and mental health  
17 nursing;

18        ~~((37))~~ (39) "Psychiatrist" means a person having a license as a  
19 physician and surgeon in this state who has in addition completed  
20 three years of graduate training in psychiatry in a program approved  
21 by the American medical association or the American osteopathic  
22 association and is certified or eligible to be certified by the  
23 American board of psychiatry and neurology;

24        ~~((38))~~ (40) "Psychologist" means a person who has been licensed  
25 as a psychologist pursuant to chapter 18.83 RCW;

26        ~~((39))~~ (41) "Public agency" means any evaluation and treatment  
27 facility or institution, or hospital which is conducted for, or  
28 includes a department or ward conducted for, the care and treatment  
29 of persons with mental illness, if the agency is operated directly  
30 by, federal, state, county, or municipal government, or a combination  
31 of such governments;

32        ~~((40) "Registration records" include all the records of the  
33 department, behavioral health organizations, treatment facilities,  
34 and other persons providing services to the department, county  
35 departments, or facilities which identify persons who are receiving  
36 or who at any time have received services for mental illness;~~

37        ~~(41))~~ (42) "Release" means legal termination of the commitment  
38 under the provisions of this chapter;

39        ~~((42))~~ (43) "Resource management services" has the meaning  
40 given in chapter 71.24 RCW;



1        ~~((43))~~ (44) "Secretary" means the secretary of the department  
2 of ~~((social and))~~ health ~~((services))~~, or his or her designee;

3        ~~((44))~~ (45) "Serious violent offense" has the same meaning as  
4 provided in RCW 9.94A.030;

5        ~~((45))~~ (46) "Social worker" means a person with a master's or  
6 further advanced degree from a social work educational program  
7 accredited and approved as provided in RCW 18.320.010;

8        ~~((46))~~ (47) "Therapeutic court personnel" means the staff of a  
9 mental health court or other therapeutic court which has jurisdiction  
10 over defendants who are dually diagnosed with mental disorders,  
11 including court personnel, probation officers, a court monitor,  
12 prosecuting attorney, or defense counsel acting within the scope of  
13 therapeutic court duties;

14        ~~((47))~~ (48) "Treatment records" include registration and all  
15 other records concerning persons who are receiving or who at any time  
16 have received services for mental illness, which are maintained by  
17 the department of social and health services, ~~((by))~~ the department,  
18 the authority, behavioral health organizations and their staffs, and  
19 ~~((by))~~ treatment facilities. Treatment records include mental health  
20 information contained in a medical bill including but not limited to  
21 mental health drugs, a mental health diagnosis, provider name, and  
22 dates of service stemming from a medical service. Treatment records  
23 do not include notes or records maintained for personal use by a  
24 person providing treatment services for the department of social and  
25 health services, the department, the authority, behavioral health  
26 organizations, or a treatment facility if the notes or records are  
27 not available to others;

28        ~~((48))~~ (49) "Triage facility" means a short-term facility or a  
29 portion of a facility licensed or certified by the department ~~((of~~  
30 ~~health and certified by the department of social and health~~  
31 ~~services))~~ under RCW 71.24.035, which is designed as a facility to  
32 assess and stabilize an individual or determine the need for  
33 involuntary commitment of an individual, and must meet department of  
34 health residential treatment facility standards. A triage facility  
35 may be structured as a voluntary or involuntary placement facility;

36        ~~((49))~~ (50) "Violent act" means behavior that resulted in  
37 homicide, attempted suicide, nonfatal injuries, or substantial damage  
38 to property.

1       **Sec. 3002.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c  
2 155 s 1 are each reenacted and amended to read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Admission" or "admit" means a decision by a physician,  
6 physician assistant, or psychiatric advanced registered nurse  
7 practitioner that a person should be examined or treated as a patient  
8 in a hospital;

9       (2) "Alcoholism" means a disease, characterized by a dependency  
10 on alcoholic beverages, loss of control over the amount and  
11 circumstances of use, symptoms of tolerance, physiological or  
12 psychological withdrawal, or both, if use is reduced or discontinued,  
13 and impairment of health or disruption of social or economic  
14 functioning;

15       (3) "Antipsychotic medications" means that class of drugs  
16 primarily used to treat serious manifestations of mental illness  
17 associated with thought disorders, which includes, but is not limited  
18 to atypical antipsychotic medications;

19       (4) "Approved substance use disorder treatment program" means a  
20 program for persons with a substance use disorder provided by a  
21 treatment program certified by the department as meeting standards  
22 adopted under chapter 71.24 RCW;

23       (5) "Attending staff" means any person on the staff of a public  
24 or private agency having responsibility for the care and treatment of  
25 a patient;

26       (6) "Authority" means the Washington state health care authority;

27       (7) "Chemical dependency" means:

28       (a) Alcoholism;

29       (b) Drug addiction; or

30       (c) Dependence on alcohol and one or more psychoactive chemicals,  
31 as the context requires;

32       (~~(7)~~) (8) "Chemical dependency professional" means a person  
33 certified as a chemical dependency professional by the department of  
34 health under chapter 18.205 RCW;

35       (~~(8)~~) (9) "Commitment" means the determination by a court that  
36 a person should be detained for a period of either evaluation or  
37 treatment, or both, in an inpatient or a less restrictive setting;

38       (~~(9)~~) (10) "Conditional release" means a revocable modification  
39 of a commitment, which may be revoked upon violation of any of its  
40 terms;

1       ~~((10))~~ (11) "Crisis stabilization unit" means a short-term  
2 facility or a portion of a facility licensed or certified by the  
3 department of health ~~((and certified by the department of social and~~  
4 ~~health services))~~ under RCW 71.24.035, such as an evaluation and  
5 treatment facility or a hospital, which has been designed to assess,  
6 diagnose, and treat individuals experiencing an acute crisis without  
7 the use of long-term hospitalization;

8       ~~((11))~~ (12) "Custody" means involuntary detention under the  
9 provisions of this chapter or chapter 10.77 RCW, uninterrupted by any  
10 period of unconditional release from commitment from a facility  
11 providing involuntary care and treatment;

12       ~~((12))~~ (13) "Department" means the department of ~~((social and))~~  
13 health ~~((services))~~;

14       ~~((13))~~ (14) "Designated crisis responder" means a mental health  
15 professional appointed by the behavioral health organization to  
16 perform the duties specified in this chapter;

17       ~~((14))~~ (15) "Detention" or "detain" means the lawful  
18 confinement of a person, under the provisions of this chapter;

19       ~~((15))~~ (16) "Developmental disabilities professional" means a  
20 person who has specialized training and three years of experience in  
21 directly treating or working with persons with developmental  
22 disabilities and is a psychiatrist, physician assistant working with  
23 a supervising psychiatrist, psychologist, psychiatric advanced  
24 registered nurse practitioner, or social worker, and such other  
25 developmental disabilities professionals as may be defined by rules  
26 adopted by the secretary of the department of social and health  
27 services;

28       ~~((16))~~ (17) "Developmental disability" means that condition  
29 defined in RCW 71A.10.020(5);

30       ~~((17))~~ (18) "Director" means the director of the authority;

31       (19) "Discharge" means the termination of hospital medical  
32 authority. The commitment may remain in place, be terminated, or be  
33 amended by court order;

34       ~~((18))~~ (20) "Drug addiction" means a disease, characterized by  
35 a dependency on psychoactive chemicals, loss of control over the  
36 amount and circumstances of use, symptoms of tolerance, physiological  
37 or psychological withdrawal, or both, if use is reduced or  
38 discontinued, and impairment of health or disruption of social or  
39 economic functioning;

1        ~~((19))~~ (21) "Evaluation and treatment facility" means any  
2 facility which can provide directly, or by direct arrangement with  
3 other public or private agencies, emergency evaluation and treatment,  
4 outpatient care, and timely and appropriate inpatient care to persons  
5 suffering from a mental disorder, and which is licensed or certified  
6 as such by the department. The ~~((department))~~ authority may certify  
7 single beds as temporary evaluation and treatment beds under RCW  
8 71.05.745. A physically separate and separately operated portion of a  
9 state hospital may be designated as an evaluation and treatment  
10 facility. A facility which is part of, or operated by, the department  
11 of social and health services or any federal agency will not require  
12 certification. No correctional institution or facility, or jail,  
13 shall be an evaluation and treatment facility within the meaning of  
14 this chapter;

15        ~~((20))~~ (22) "Gravely disabled" means a condition in which a  
16 person, as a result of a mental disorder, or as a result of the use  
17 of alcohol or other psychoactive chemicals: (a) Is in danger of  
18 serious physical harm resulting from a failure to provide for his or  
19 her essential human needs of health or safety; or (b) manifests  
20 severe deterioration in routine functioning evidenced by repeated and  
21 escalating loss of cognitive or volitional control over his or her  
22 actions and is not receiving such care as is essential for his or her  
23 health or safety;

24        ~~((21))~~ (23) "Habilitative services" means those services  
25 provided by program personnel to assist persons in acquiring and  
26 maintaining life skills and in raising their levels of physical,  
27 mental, social, and vocational functioning. Habilitative services  
28 include education, training for employment, and therapy. The  
29 habilitative process shall be undertaken with recognition of the risk  
30 to the public safety presented by the person being assisted as  
31 manifested by prior charged criminal conduct;

32        ~~((22))~~ (24) "History of one or more violent acts" refers to the  
33 period of time ten years prior to the filing of a petition under this  
34 chapter, excluding any time spent, but not any violent acts  
35 committed, in a mental health facility, a long-term alcoholism or  
36 drug treatment facility, or in confinement as a result of a criminal  
37 conviction;

38        ~~((23))~~ (25) "Imminent" means the state or condition of being  
39 likely to occur at any moment or near at hand, rather than distant or  
40 remote;

1       (~~(24)~~) (26) "Individualized service plan" means a plan prepared  
2 by a developmental disabilities professional with other professionals  
3 as a team, for a person with developmental disabilities, which shall  
4 state:

5       (a) The nature of the person's specific problems, prior charged  
6 criminal behavior, and habilitation needs;

7       (b) The conditions and strategies necessary to achieve the  
8 purposes of habilitation;

9       (c) The intermediate and long-range goals of the habilitation  
10 program, with a projected timetable for the attainment;

11       (d) The rationale for using this plan of habilitation to achieve  
12 those intermediate and long-range goals;

13       (e) The staff responsible for carrying out the plan;

14       (f) Where relevant in light of past criminal behavior and due  
15 consideration for public safety, the criteria for proposed movement  
16 to less-restrictive settings, criteria for proposed eventual  
17 discharge or release, and a projected possible date for discharge or  
18 release; and

19       (g) The type of residence immediately anticipated for the person  
20 and possible future types of residences;

21       (~~(25)~~) (27) "Information related to mental health services"  
22 means all information and records compiled, obtained, or maintained  
23 in the course of providing services to either voluntary or  
24 involuntary recipients of services by a mental health service  
25 provider. This may include documents of legal proceedings under this  
26 chapter or chapter 71.34 or 10.77 RCW, or somatic health care  
27 information;

28       (~~(26)~~) (28) "Intoxicated person" means a person whose mental or  
29 physical functioning is substantially impaired as a result of the use  
30 of alcohol or other psychoactive chemicals;

31       (~~(27)~~) (29) "In need of assisted outpatient mental health  
32 treatment" means that a person, as a result of a mental disorder: (a)  
33 Has been committed by a court to detention for involuntary mental  
34 health treatment at least twice during the preceding thirty-six  
35 months, or, if the person is currently committed for involuntary  
36 mental health treatment, the person has been committed to detention  
37 for involuntary mental health treatment at least once during the  
38 thirty-six months preceding the date of initial detention of the  
39 current commitment cycle; (b) is unlikely to voluntarily participate  
40 in outpatient treatment without an order for less restrictive

1 alternative treatment, in view of the person's treatment history or  
2 current behavior; (c) is unlikely to survive safely in the community  
3 without supervision; (d) is likely to benefit from less restrictive  
4 alternative treatment; and (e) requires less restrictive alternative  
5 treatment to prevent a relapse, decompensation, or deterioration that  
6 is likely to result in the person presenting a likelihood of serious  
7 harm or the person becoming gravely disabled within a reasonably  
8 short period of time. For purposes of (a) of this subsection, time  
9 spent in a mental health facility or in confinement as a result of a  
10 criminal conviction is excluded from the thirty-six month  
11 calculation;

12 ~~((+28+))~~ (30) "Judicial commitment" means a commitment by a court  
13 pursuant to the provisions of this chapter;

14 ~~((+29+))~~ (31) "Legal counsel" means attorneys and staff employed  
15 by county prosecutor offices or the state attorney general acting in  
16 their capacity as legal representatives of public mental health and  
17 substance use disorder service providers under RCW 71.05.130;

18 ~~((+30+))~~ (32) "Less restrictive alternative treatment" means a  
19 program of individualized treatment in a less restrictive setting  
20 than inpatient treatment that includes the services described in RCW  
21 71.05.585;

22 ~~((+31+))~~ (33) "Licensed physician" means a person licensed to  
23 practice medicine or osteopathic medicine and surgery in the state of  
24 Washington;

25 ~~((+32+))~~ (34) "Likelihood of serious harm" means:

26 (a) A substantial risk that: (i) Physical harm will be inflicted  
27 by a person upon his or her own person, as evidenced by threats or  
28 attempts to commit suicide or inflict physical harm on oneself; (ii)  
29 physical harm will be inflicted by a person upon another, as  
30 evidenced by behavior which has caused such harm or which places  
31 another person or persons in reasonable fear of sustaining such harm;  
32 or (iii) physical harm will be inflicted by a person upon the  
33 property of others, as evidenced by behavior which has caused  
34 substantial loss or damage to the property of others; or

35 (b) The person has threatened the physical safety of another and  
36 has a history of one or more violent acts;

37 ~~((+33+))~~ (35) "Medical clearance" means a physician or other  
38 health care provider has determined that a person is medically stable  
39 and ready for referral to the designated crisis responder;

1        ~~((34))~~ (36) "Mental disorder" means any organic, mental, or  
2 emotional impairment which has substantial adverse effects on a  
3 person's cognitive or volitional functions;

4        ~~((35))~~ (37) "Mental health professional" means a psychiatrist,  
5 psychologist, physician assistant working with a supervising  
6 psychiatrist, psychiatric advanced registered nurse practitioner,  
7 psychiatric nurse, or social worker, and such other mental health  
8 professionals as may be defined by rules adopted by the secretary  
9 pursuant to the provisions of this chapter;

10        ~~((36))~~ (38) "Mental health service provider" means a public or  
11 private agency that provides mental health services to persons with  
12 mental disorders or substance use disorders as defined under this  
13 section and receives funding from public sources. This includes, but  
14 is not limited to, hospitals licensed under chapter 70.41 RCW,  
15 evaluation and treatment facilities as defined in this section,  
16 community mental health service delivery systems or behavioral health  
17 programs as defined in RCW 71.24.025, facilities conducting  
18 competency evaluations and restoration under chapter 10.77 RCW,  
19 approved substance use disorder treatment programs as defined in this  
20 section, secure detoxification facilities as defined in this section,  
21 and correctional facilities operated by state and local governments;

22        ~~((37))~~ (39) "Peace officer" means a law enforcement official of  
23 a public agency or governmental unit, and includes persons  
24 specifically given peace officer powers by any state law, local  
25 ordinance, or judicial order of appointment;

26        ~~((38))~~ (40) "Physician assistant" means a person licensed as a  
27 physician assistant under chapter 18.57A or 18.71A RCW;

28        ~~((39))~~ (41) "Private agency" means any person, partnership,  
29 corporation, or association that is not a public agency, whether or  
30 not financed in whole or in part by public funds, which constitutes  
31 an evaluation and treatment facility or private institution, or  
32 hospital, or approved substance use disorder treatment program, which  
33 is conducted for, or includes a department or ward conducted for, the  
34 care and treatment of persons with mental illness, substance use  
35 disorders, or both mental illness and substance use disorders;

36        ~~((40))~~ (42) "Professional person" means a mental health  
37 professional or designated crisis responder and shall also mean a  
38 physician, physician assistant, psychiatric advanced registered nurse  
39 practitioner, registered nurse, and such others as may be defined by

1 rules adopted by the secretary pursuant to the provisions of this  
2 chapter;

3 ~~((41))~~ (43) "Psychiatric advanced registered nurse  
4 practitioner" means a person who is licensed as an advanced  
5 registered nurse practitioner pursuant to chapter 18.79 RCW; and who  
6 is board certified in advanced practice psychiatric and mental health  
7 nursing;

8 ~~((42))~~ (44) "Psychiatrist" means a person having a license as a  
9 physician and surgeon in this state who has in addition completed  
10 three years of graduate training in psychiatry in a program approved  
11 by the American medical association or the American osteopathic  
12 association and is certified or eligible to be certified by the  
13 American board of psychiatry and neurology;

14 ~~((43))~~ (45) "Psychologist" means a person who has been licensed  
15 as a psychologist pursuant to chapter 18.83 RCW;

16 ~~((44))~~ (46) "Public agency" means any evaluation and treatment  
17 facility or institution, secure detoxification facility, approved  
18 substance use disorder treatment program, or hospital which is  
19 conducted for, or includes a department or ward conducted for, the  
20 care and treatment of persons with mental illness, substance use  
21 disorders, or both mental illness and substance use disorders, if the  
22 agency is operated directly by federal, state, county, or municipal  
23 government, or a combination of such governments;

24 ~~((45) "Registration records" include all the records of the  
25 department, behavioral health organizations, treatment facilities,  
26 and other persons providing services to the department, county  
27 departments, or facilities which identify persons who are receiving  
28 or who at any time have received services for mental illness or  
29 substance use disorders;~~

30 ~~(46))~~ (47) "Release" means legal termination of the commitment  
31 under the provisions of this chapter;

32 ~~((47))~~ (48) "Resource management services" has the meaning  
33 given in chapter 71.24 RCW;

34 ~~((48))~~ (49) "Secretary" means the secretary of the department  
35 of ~~((social and))~~ health ~~((services))~~, or his or her designee;

36 ~~((49))~~ (50) "Secure detoxification facility" means a facility  
37 operated by either a public or private agency or by the program of an  
38 agency that:

39 (a) Provides for intoxicated persons:



1 (i) Evaluation and assessment, provided by certified chemical  
2 dependency professionals;

3 (ii) Acute or subacute detoxification services; and

4 (iii) Discharge assistance provided by certified chemical  
5 dependency professionals, including facilitating transitions to  
6 appropriate voluntary or involuntary inpatient services or to less  
7 restrictive alternatives as appropriate for the individual;

8 (b) Includes security measures sufficient to protect the  
9 patients, staff, and community; and

10 (c) Is licensed or certified as such by the department of health;

11 ~~((+50+))~~ (51) "Serious violent offense" has the same meaning as  
12 provided in RCW 9.94A.030;

13 ~~((+51+))~~ (52) "Social worker" means a person with a master's or  
14 further advanced degree from a social work educational program  
15 accredited and approved as provided in RCW 18.320.010;

16 ~~((+52+))~~ (53) "Substance use disorder" means a cluster of  
17 cognitive, behavioral, and physiological symptoms indicating that an  
18 individual continues using the substance despite significant  
19 substance-related problems. The diagnosis of a substance use disorder  
20 is based on a pathological pattern of behaviors related to the use of  
21 the substances;

22 ~~((+53+))~~ (54) "Therapeutic court personnel" means the staff of a  
23 mental health court or other therapeutic court which has jurisdiction  
24 over defendants who are dually diagnosed with mental disorders,  
25 including court personnel, probation officers, a court monitor,  
26 prosecuting attorney, or defense counsel acting within the scope of  
27 therapeutic court duties;

28 ~~((+54+))~~ (55) "Treatment records" include registration and all  
29 other records concerning persons who are receiving or who at any time  
30 have received services for mental illness, which are maintained by  
31 the department of social and health services, ~~((by))~~ the department,  
32 the authority, behavioral health organizations and their staffs, and  
33 by treatment facilities. Treatment records include mental health  
34 information contained in a medical bill including but not limited to  
35 mental health drugs, a mental health diagnosis, provider name, and  
36 dates of service stemming from a medical service. Treatment records  
37 do not include notes or records maintained for personal use by a  
38 person providing treatment services for the department of social and  
39 health services, the department, the authority, behavioral health

1 organizations, or a treatment facility if the notes or records are  
2 not available to others;

3 ~~((+55+))~~ (56) "Triage facility" means a short-term facility or a  
4 portion of a facility licensed or certified by the department ~~((of~~  
5 ~~health and certified by the department of social and health~~  
6 ~~services))~~ under RCW 71.24.035, which is designed as a facility to  
7 assess and stabilize an individual or determine the need for  
8 involuntary commitment of an individual, and must meet department of  
9 health residential treatment facility standards. A triage facility  
10 may be structured as a voluntary or involuntary placement facility;

11 ~~((+56+))~~ (57) "Violent act" means behavior that resulted in  
12 homicide, attempted suicide, nonfatal injuries, or substantial damage  
13 to property.

14 **Sec. 3003.** RCW 71.05.026 and 2014 c 225 s 81 are each amended to  
15 read as follows:

16 (1) Except for monetary damage claims which have been reduced to  
17 final judgment by a superior court, this section applies to all  
18 claims against the state, state agencies, state officials, or state  
19 employees that exist on or arise after March 29, 2006.

20 (2) Except as expressly provided in contracts entered into  
21 between the ~~((department))~~ authority and the behavioral health  
22 organizations after March 29, 2006, the entities identified in  
23 subsection (3) of this section shall have no claim for declaratory  
24 relief, injunctive relief, judicial review under chapter 34.05 RCW,  
25 or civil liability against the state or state agencies for actions or  
26 inactions performed pursuant to the administration of this chapter  
27 with regard to the following: (a) The allocation or payment of  
28 federal or state funds; (b) the use or allocation of state hospital  
29 beds; or (c) financial responsibility for the provision of inpatient  
30 mental health care.

31 (3) This section applies to counties, behavioral health  
32 organizations, and entities which contract to provide behavioral  
33 health organization services and their subcontractors, agents, or  
34 employees.

35 **Sec. 3004.** RCW 71.05.026 and 2016 sp.s. c 29 s 206 are each  
36 amended to read as follows:

37 (1) Except for monetary damage claims which have been reduced to  
38 final judgment by a superior court, this section applies to all

1 claims against the state, state agencies, state officials, or state  
2 employees that exist on or arise after March 29, 2006.

3 (2) Except as expressly provided in contracts entered into  
4 between the (~~department~~) authority and the behavioral health  
5 organizations after March 29, 2006, the entities identified in  
6 subsection (3) of this section shall have no claim for declaratory  
7 relief, injunctive relief, judicial review under chapter 34.05 RCW,  
8 or civil liability against the state or state agencies for actions or  
9 inactions performed pursuant to the administration of this chapter  
10 with regard to the following: (a) The allocation or payment of  
11 federal or state funds; (b) the use or allocation of state hospital  
12 beds; or (c) financial responsibility for the provision of inpatient  
13 mental health care or inpatient substance use disorder treatment.

14 (3) This section applies to counties, behavioral health  
15 organizations, and entities which contract to provide behavioral  
16 health organization services and their subcontractors, agents, or  
17 employees.

18 **Sec. 3005.** RCW 71.05.027 and 2014 c 225 s 82 are each amended to  
19 read as follows:

20 (1) Not later than January 1, 2007, all persons providing  
21 treatment under this chapter shall also implement the integrated  
22 comprehensive screening and assessment process for chemical  
23 dependency and mental disorders adopted pursuant to RCW  
24 (~~(70.96C.010)~~) 71.24.630 and shall document the numbers of clients  
25 with co-occurring mental and substance abuse disorders based on a  
26 quadrant system of low and high needs.

27 (2) Treatment providers and behavioral health organizations who  
28 fail to implement the integrated comprehensive screening and  
29 assessment process for chemical dependency and mental disorders by  
30 July 1, 2007, shall be subject to contractual penalties established  
31 under RCW (~~(70.96C.010)~~) 71.24.630.

32 **Sec. 3006.** RCW 71.05.040 and 2004 c 166 s 2 are each amended to  
33 read as follows:

34 Persons (~~(who are developmentally disabled)~~) with developmental  
35 disabilities, impaired by (~~(chronic alcoholism or drug abuse)~~)  
36 substance use disorder, or suffering from dementia shall not be  
37 detained for evaluation and treatment or judicially committed solely  
38 by reason of that condition unless such condition causes a person to

1 be gravely disabled or as a result of a mental disorder such  
2 condition exists that constitutes a likelihood of serious harm(~~(-~~  
3 ~~Provided))~~). However, ((That)) persons ((who are developmentally  
4 disabled)) with developmental disabilities, impaired by ((chronic  
5 alcoholism or drug abuse)) substance use disorder, or suffering from  
6 dementia and who otherwise meet the criteria for detention or  
7 judicial commitment are not ineligible for detention or commitment  
8 based on this condition alone.

9 **Sec. 3007.** RCW 71.05.100 and 1997 c 112 s 6 are each amended to  
10 read as follows:

11 In addition to the responsibility provided for by RCW 43.20B.330,  
12 any person, or his or her estate, or his or her spouse, or the  
13 parents of a minor person who is involuntarily detained pursuant to  
14 this chapter for the purpose of treatment and evaluation outside of a  
15 facility maintained and operated by the department of social and  
16 health services shall be responsible for the cost of such care and  
17 treatment. In the event that an individual is unable to pay for such  
18 treatment or in the event payment would result in a substantial  
19 hardship upon the individual or his or her family, then the county of  
20 residence of such person shall be responsible for such costs. If it  
21 is not possible to determine the county of residence of the person,  
22 the cost shall be borne by the county where the person was originally  
23 detained. The department of social and health services, or the  
24 authority, as appropriate, shall, pursuant to chapter 34.05 RCW,  
25 adopt standards as to (1) inability to pay in whole or in part, (2) a  
26 definition of substantial hardship, and (3) appropriate payment  
27 schedules. (~~((Such standards shall be applicable to all county mental~~  
28 ~~health administrative boards.))~~) Financial responsibility with respect  
29 to ((department)) services and facilities of the department of social  
30 and health services shall continue to be as provided in RCW  
31 43.20B.320 through 43.20B.360 and 43.20B.370.

32 **Sec. 3008.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to  
33 read as follows:

34 (1) The ((department)) authority and each ((~~regional support~~  
35 ~~network~~)) behavioral health organization or agency employing  
36 designated mental health professionals shall publish information in  
37 an easily accessible format describing the process for an immediate

1 family member, guardian, or conservator to petition for court review  
2 of a detention decision under RCW 71.05.201.

3 (2) A designated mental health professional or designated mental  
4 health professional agency that receives a request for investigation  
5 for possible detention under this chapter must inquire whether the  
6 request comes from an immediate family member, guardian, or  
7 conservator who would be eligible to petition under RCW 71.05.201. If  
8 the designated mental health professional decides not to detain the  
9 person for evaluation and treatment under RCW 71.05.150 or 71.05.153  
10 or forty-eight hours have elapsed since the request for investigation  
11 was received and the designated mental health professional has not  
12 taken action to have the person detained, the designated mental  
13 health professional or designated mental health professional agency  
14 must inform the immediate family member, guardian, or conservator who  
15 made the request for investigation about the process to petition for  
16 court review under RCW 71.05.201.

17 **Sec. 3009.** RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each  
18 amended to read as follows:

19 (1) The (~~department~~) authority and each behavioral health  
20 organization or agency employing designated crisis responders shall  
21 publish information in an easily accessible format describing the  
22 process for an immediate family member, guardian, or conservator to  
23 petition for court review of a detention decision under RCW  
24 71.05.201.

25 (2) A designated crisis responder or designated crisis responder  
26 agency that receives a request for investigation for possible  
27 detention under this chapter must inquire whether the request comes  
28 from an immediate family member, guardian, or conservator who would  
29 be eligible to petition under RCW 71.05.201. If the designated crisis  
30 responder decides not to detain the person for evaluation and  
31 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have  
32 elapsed since the request for investigation was received and the  
33 designated crisis responder has not taken action to have the person  
34 detained, the designated crisis responder or designated crisis  
35 responder agency must inform the immediate family member, guardian,  
36 or conservator who made the request for investigation about the  
37 process to petition for court review under RCW 71.05.201.

1       **Sec. 3010.** RCW 71.05.214 and 1998 c 297 s 26 are each amended to  
2 read as follows:

3       The ((~~department~~)) authority shall develop statewide protocols to  
4 be utilized by professional persons and ((~~county~~)) designated mental  
5 health professionals in administration of this chapter and chapter  
6 10.77 RCW. The protocols shall be updated at least every three years.  
7 The protocols shall provide uniform development and application of  
8 criteria in evaluation and commitment recommendations, of persons who  
9 have, or are alleged to have, mental disorders and are subject to  
10 this chapter.

11       The initial protocols shall be developed not later than September  
12 1, 1999. The ((~~department~~)) authority shall develop and update the  
13 protocols in consultation with representatives of ((~~county~~))  
14 designated mental health professionals, the department of social and  
15 health services, local government, law enforcement, county and city  
16 prosecutors, public defenders, and groups concerned with mental  
17 illness. The protocols shall be submitted to the governor and  
18 legislature upon adoption by the ((~~department~~)) authority.

19       **Sec. 3011.** RCW 71.05.214 and 2016 sp.s. c 29 s 227 are each  
20 amended to read as follows:

21       The ((~~department~~)) authority shall develop statewide protocols to  
22 be utilized by professional persons and designated crisis responders  
23 in administration of this chapter and chapter 10.77 RCW. The  
24 protocols shall be updated at least every three years. The protocols  
25 shall provide uniform development and application of criteria in  
26 evaluation and commitment recommendations, of persons who have, or  
27 are alleged to have, mental disorders or substance use disorders and  
28 are subject to this chapter.

29       The initial protocols shall be developed not later than September  
30 1, 1999. The ((~~department~~)) authority shall develop and update the  
31 protocols in consultation with representatives of designated crisis  
32 responders, the department of social and health services, local  
33 government, law enforcement, county and city prosecutors, public  
34 defenders, and groups concerned with mental illness and substance use  
35 disorders. The protocols shall be submitted to the governor and  
36 legislature upon adoption by the ((~~department~~)) authority.

37       **Sec. 3012.** RCW 71.05.215 and 2016 c 155 s 3 are each amended to  
38 read as follows:

1 (1) A person found to be gravely disabled or presents a  
2 likelihood of serious harm as a result of a mental disorder has a  
3 right to refuse antipsychotic medication unless it is determined that  
4 the failure to medicate may result in a likelihood of serious harm or  
5 substantial deterioration or substantially prolong the length of  
6 involuntary commitment and there is no less intrusive course of  
7 treatment than medication in the best interest of that person.

8 (2) The (~~department~~) authority shall adopt rules to carry out  
9 the purposes of this chapter. These rules shall include:

10 (a) An attempt to obtain the informed consent of the person prior  
11 to administration of antipsychotic medication.

12 (b) For short-term treatment up to thirty days, the right to  
13 refuse antipsychotic medications unless there is an additional  
14 concurring medical opinion approving medication by a psychiatrist,  
15 physician assistant working with a supervising psychiatrist,  
16 psychiatric advanced registered nurse practitioner, or physician or  
17 physician assistant in consultation with a mental health professional  
18 with prescriptive authority.

19 (c) For continued treatment beyond thirty days through the  
20 hearing on any petition filed under RCW 71.05.217, the right to  
21 periodic review of the decision to medicate by the medical director  
22 or designee.

23 (d) Administration of antipsychotic medication in an emergency  
24 and review of this decision within twenty-four hours. An emergency  
25 exists if the person presents an imminent likelihood of serious harm,  
26 and medically acceptable alternatives to administration of  
27 antipsychotic medications are not available or are unlikely to be  
28 successful; and in the opinion of the physician, physician assistant,  
29 or psychiatric advanced registered nurse practitioner, the person's  
30 condition constitutes an emergency requiring the treatment be  
31 instituted prior to obtaining a second medical opinion.

32 (e) Documentation in the medical record of the attempt by the  
33 physician, physician assistant, or psychiatric advanced registered  
34 nurse practitioner to obtain informed consent and the reasons why  
35 antipsychotic medication is being administered over the person's  
36 objection or lack of consent.

37 **Sec. 3013.** RCW 71.05.215 and 2016 sp.s. c 29 s 228 and 2016 c  
38 155 s 3 are each reenacted and amended to read as follows:

1 (1) A person found to be gravely disabled or presents a  
2 likelihood of serious harm as a result of a mental disorder or  
3 substance use disorder has a right to refuse antipsychotic medication  
4 unless it is determined that the failure to medicate may result in a  
5 likelihood of serious harm or substantial deterioration or  
6 substantially prolong the length of involuntary commitment and there  
7 is no less intrusive course of treatment than medication in the best  
8 interest of that person.

9 (2) The (~~department~~) authority shall adopt rules to carry out  
10 the purposes of this chapter. These rules shall include:

11 (a) An attempt to obtain the informed consent of the person prior  
12 to administration of antipsychotic medication.

13 (b) For short-term treatment up to thirty days, the right to  
14 refuse antipsychotic medications unless there is an additional  
15 concurring medical opinion approving medication by a psychiatrist,  
16 physician assistant working with a supervising psychiatrist,  
17 psychiatric advanced registered nurse practitioner, or physician or  
18 physician assistant in consultation with a mental health professional  
19 with prescriptive authority.

20 (c) For continued treatment beyond thirty days through the  
21 hearing on any petition filed under RCW 71.05.217, the right to  
22 periodic review of the decision to medicate by the medical director  
23 or designee.

24 (d) Administration of antipsychotic medication in an emergency  
25 and review of this decision within twenty-four hours. An emergency  
26 exists if the person presents an imminent likelihood of serious harm,  
27 and medically acceptable alternatives to administration of  
28 antipsychotic medications are not available or are unlikely to be  
29 successful; and in the opinion of the physician, physician assistant,  
30 or psychiatric advanced registered nurse practitioner, the person's  
31 condition constitutes an emergency requiring the treatment be  
32 instituted prior to obtaining a second medical opinion.

33 (e) Documentation in the medical record of the attempt by the  
34 physician, physician assistant, or psychiatric advanced registered  
35 nurse practitioner to obtain informed consent and the reasons why  
36 antipsychotic medication is being administered over the person's  
37 objection or lack of consent.

38 **Sec. 3014.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45  
39 s 2 are each reenacted and amended to read as follows:



1 (1) If a petition is filed for fourteen day involuntary treatment  
2 or ninety days of less restrictive alternative treatment, the court  
3 shall hold a probable cause hearing within seventy-two hours of the  
4 initial detention or involuntary outpatient evaluation of such person  
5 as determined in RCW 71.05.180. If requested by the person or his or  
6 her attorney, the hearing may be postponed for a period not to exceed  
7 forty-eight hours. The hearing may also be continued subject to the  
8 conditions set forth in RCW 71.05.210 or subject to the petitioner's  
9 showing of good cause for a period not to exceed twenty-four hours.

10 (2) If the petition is for mental health treatment, the court at  
11 the time of the probable cause hearing and before an order of  
12 commitment is entered shall inform the person both orally and in  
13 writing that the failure to make a good faith effort to seek  
14 voluntary treatment as provided in RCW 71.05.230 will result in the  
15 loss of his or her firearm rights if the person is subsequently  
16 detained for involuntary treatment under this section.

17 (3)(a) Subject to (b) of this subsection, at the conclusion of  
18 the probable cause hearing, if the court finds by a preponderance of  
19 the evidence that such person, as the result of a mental disorder or  
20 substance use disorder, presents a likelihood of serious harm, or is  
21 gravely disabled, and, after considering less restrictive  
22 alternatives to involuntary detention and treatment, finds that no  
23 such alternatives are in the best interests of such person or others,  
24 the court shall order that such person be detained for involuntary  
25 treatment not to exceed fourteen days in a facility licensed or  
26 certified to provide treatment by the department.

27 (b) Commitment for up to fourteen days based on a substance use  
28 disorder must be to either a secure detoxification facility or an  
29 approved substance use disorder treatment program. A court may only  
30 enter a commitment order based on a substance use disorder if there  
31 is an available secure detoxification facility or approved substance  
32 use disorder treatment program with adequate space for the person.

33 (c) At the conclusion of the probable cause hearing, if the court  
34 finds by a preponderance of the evidence that such person, as the  
35 result of a mental disorder or substance use disorder, presents a  
36 likelihood of serious harm, or is gravely disabled, but that  
37 treatment in a less restrictive setting than detention is in the best  
38 interest of such person or others, the court shall order an  
39 appropriate less restrictive alternative course of treatment for not  
40 to exceed ninety days.

1 (d) If the court finds by a preponderance of the evidence that  
2 such person, as the result of a mental disorder, is in need of  
3 assisted outpatient mental health treatment, and that the person does  
4 not present a likelihood of serious harm or grave disability, the  
5 court shall order an appropriate less restrictive alternative course  
6 of treatment not to exceed ninety days, and may not order inpatient  
7 treatment.

8 (e) An order for less restrictive alternative treatment must name  
9 the mental health service provider responsible for identifying the  
10 services the person will receive in accordance with RCW 71.05.585,  
11 and must include a requirement that the person cooperate with the  
12 services planned by the mental health service provider.

13 (4) The court shall specifically state to such person and give  
14 such person notice in writing that if involuntary treatment beyond  
15 the fourteen day period or beyond the ninety days of less restrictive  
16 treatment is to be sought, such person will have the right to a full  
17 hearing or jury trial as required by RCW 71.05.310. If the commitment  
18 is for mental health treatment, the court shall also state to the  
19 person and provide written notice that the person is barred from the  
20 possession of firearms and that the prohibition remains in effect  
21 until a court restores his or her right to possess a firearm under  
22 RCW 9.41.047.

23 **Sec. 3015.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each  
24 amended to read as follows:

25 (1) If a petition is filed for fourteen day involuntary treatment  
26 or ninety days of less restrictive alternative treatment, the court  
27 shall hold a probable cause hearing within seventy-two hours of the  
28 initial detention or involuntary outpatient evaluation of such person  
29 as determined in RCW 71.05.180. If requested by the person or his or  
30 her attorney, the hearing may be postponed for a period not to exceed  
31 forty-eight hours. The hearing may also be continued subject to the  
32 conditions set forth in RCW 71.05.210 or subject to the petitioner's  
33 showing of good cause for a period not to exceed twenty-four hours.

34 (2) If the petition is for mental health treatment, the court at  
35 the time of the probable cause hearing and before an order of  
36 commitment is entered shall inform the person both orally and in  
37 writing that the failure to make a good faith effort to seek  
38 voluntary treatment as provided in RCW 71.05.230 will result in the

1 loss of his or her firearm rights if the person is subsequently  
2 detained for involuntary treatment under this section.

3 (3)(a) Subject to (b) of this subsection, at the conclusion of  
4 the probable cause hearing, if the court finds by a preponderance of  
5 the evidence that such person, as the result of a mental disorder or  
6 substance use disorder, presents a likelihood of serious harm, or is  
7 gravely disabled, and, after considering less restrictive  
8 alternatives to involuntary detention and treatment, finds that no  
9 such alternatives are in the best interests of such person or others,  
10 the court shall order that such person be detained for involuntary  
11 treatment not to exceed fourteen days in a facility licensed or  
12 certified to provide treatment by the department.

13 (b) Commitment for up to fourteen days based on a substance use  
14 disorder must be to either a secure detoxification facility or an  
15 approved substance use disorder treatment program.

16 (c) At the conclusion of the probable cause hearing, if the court  
17 finds by a preponderance of the evidence that such person, as the  
18 result of a mental disorder or substance use disorder, presents a  
19 likelihood of serious harm, or is gravely disabled, but that  
20 treatment in a less restrictive setting than detention is in the best  
21 interest of such person or others, the court shall order an  
22 appropriate less restrictive alternative course of treatment for not  
23 to exceed ninety days.

24 (d) If the court finds by a preponderance of the evidence that  
25 such person, as the result of a mental disorder, is in need of  
26 assisted outpatient mental health treatment, and that the person does  
27 not present a likelihood of serious harm or grave disability, the  
28 court shall order an appropriate less restrictive alternative course  
29 of treatment not to exceed ninety days, and may not order inpatient  
30 treatment.

31 (e) An order for less restrictive alternative treatment must name  
32 the mental health service provider responsible for identifying the  
33 services the person will receive in accordance with RCW 71.05.585,  
34 and must include a requirement that the person cooperate with the  
35 services planned by the mental health service provider.

36 (4) The court shall specifically state to such person and give  
37 such person notice in writing that if involuntary treatment beyond  
38 the fourteen day period or beyond the ninety days of less restrictive  
39 treatment is to be sought, such person will have the right to a full  
40 hearing or jury trial as required by RCW 71.05.310. If the commitment

1 is for mental health treatment, the court shall also state to the  
2 person and provide written notice that the person is barred from the  
3 possession of firearms and that the prohibition remains in effect  
4 until a court restores his or her right to possess a firearm under  
5 RCW 9.41.047.

6 **Sec. 3016.** RCW 71.05.285 and 2001 c 12 s 1 are each amended to  
7 read as follows:

8 In determining whether an inpatient or less restrictive  
9 alternative commitment under the process provided in RCW 71.05.280  
10 and 71.05.320(~~((2))~~) (4) is appropriate, great weight shall be given  
11 to evidence of a prior history or pattern of decompensation and  
12 discontinuation of treatment resulting in: (1) Repeated  
13 hospitalizations; or (2) repeated peace officer interventions  
14 resulting in juvenile offenses, criminal charges, diversion programs,  
15 or jail admissions. Such evidence may be used to provide a factual  
16 basis for concluding that the individual would not receive, if  
17 released, such care as is essential for his or her health or safety.

18 **Sec. 3017.** RCW 71.05.320 and 2016 c 45 s 4 are each amended to  
19 read as follows:

20 (1) If the court or jury finds that grounds set forth in RCW  
21 71.05.280 have been proven and that the best interests of the person  
22 or others will not be served by a less restrictive treatment which is  
23 an alternative to detention, the court shall remand him or her to the  
24 custody of the department of social and health services or to a  
25 facility certified for ninety day treatment by the department for a  
26 further period of intensive treatment not to exceed ninety days from  
27 the date of judgment. If the grounds set forth in RCW 71.05.280(3)  
28 are the basis of commitment, then the period of treatment may be up  
29 to but not exceed one hundred eighty days from the date of judgment  
30 (~~((in))~~) to the custody of the department of social and health services  
31 or to a facility certified for one hundred eighty day treatment by  
32 the department.

33 (2) If the court or jury finds that grounds set forth in RCW  
34 71.05.280 have been proven, but finds that treatment less restrictive  
35 than detention will be in the best interest of the person or others,  
36 then the court shall remand him or her to the custody of the  
37 department of social and health services or to a facility certified  
38 for ninety day treatment by the department or to a less restrictive

1 alternative for a further period of less restrictive treatment not to  
2 exceed ninety days from the date of judgment. If the grounds set  
3 forth in RCW 71.05.280(3) are the basis of commitment, then the  
4 period of treatment may be up to but not exceed one hundred eighty  
5 days from the date of judgment. If the court or jury finds that the  
6 grounds set forth in RCW 71.05.280(5) have been proven, and provide  
7 the only basis for commitment, the court must enter an order for less  
8 restrictive alternative treatment for up to ninety days from the date  
9 of judgment and may not order inpatient treatment.

10 (3) An order for less restrictive alternative treatment entered  
11 under subsection (2) of this section must name the mental health  
12 service provider responsible for identifying the services the person  
13 will receive in accordance with RCW 71.05.585, and must include a  
14 requirement that the person cooperate with the services planned by  
15 the mental health service provider.

16 (4) The person shall be released from involuntary treatment at  
17 the expiration of the period of commitment imposed under subsection  
18 (1) or (2) of this section unless the superintendent or professional  
19 person in charge of the facility in which he or she is confined, or  
20 in the event of a less restrictive alternative, the designated mental  
21 health professional, files a new petition for involuntary treatment  
22 on the grounds that the committed person:

23 (a) During the current period of court ordered treatment: (i) Has  
24 threatened, attempted, or inflicted physical harm upon the person of  
25 another, or substantial damage upon the property of another, and (ii)  
26 as a result of mental disorder or developmental disability presents a  
27 likelihood of serious harm; or

28 (b) Was taken into custody as a result of conduct in which he or  
29 she attempted or inflicted serious physical harm upon the person of  
30 another, and continues to present, as a result of mental disorder or  
31 developmental disability a likelihood of serious harm; or

32 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result  
33 of mental disorder or developmental disability continues to present a  
34 substantial likelihood of repeating acts similar to the charged  
35 criminal behavior, when considering the person's life history,  
36 progress in treatment, and the public safety.

37 (ii) In cases under this subsection where the court has made an  
38 affirmative special finding under RCW 71.05.280(3)(b), the commitment  
39 shall continue for up to an additional one hundred eighty day period  
40 whenever the petition presents prima facie evidence that the person

1 continues to suffer from a mental disorder or developmental  
2 disability that results in a substantial likelihood of committing  
3 acts similar to the charged criminal behavior, unless the person  
4 presents proof through an admissible expert opinion that the person's  
5 condition has so changed such that the mental disorder or  
6 developmental disability no longer presents a substantial likelihood  
7 of the person committing acts similar to the charged criminal  
8 behavior. The initial or additional commitment period may include  
9 transfer to a specialized program of intensive support and treatment,  
10 which may be initiated prior to or after discharge from the state  
11 hospital; or

12 (d) Continues to be gravely disabled; or

13 (e) Is in need of assisted outpatient mental health treatment.

14 If the conduct required to be proven in (b) and (c) of this  
15 subsection was found by a judge or jury in a prior trial under this  
16 chapter, it shall not be necessary to prove such conduct again.

17 If less restrictive alternative treatment is sought, the petition  
18 shall set forth any recommendations for less restrictive alternative  
19 treatment services.

20 (5) A new petition for involuntary treatment filed under  
21 subsection (4) of this section shall be filed and heard in the  
22 superior court of the county of the facility which is filing the new  
23 petition for involuntary treatment unless good cause is shown for a  
24 change of venue. The cost of the proceedings shall be borne by the  
25 state.

26 (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
27 and if the court or jury finds that the grounds for additional  
28 confinement as set forth in this section are present, the court may  
29 order the committed person returned for an additional period of  
30 treatment not to exceed one hundred eighty days from the date of  
31 judgment, except as provided in subsection (7) of this section. If  
32 the court's order is based solely on the grounds identified in  
33 subsection (4)(e) of this section, the court may enter an order for  
34 less restrictive alternative treatment not to exceed one hundred  
35 eighty days from the date of judgment, and may not enter an order for  
36 inpatient treatment. An order for less restrictive alternative  
37 treatment must name the mental health service provider responsible  
38 for identifying the services the person will receive in accordance  
39 with RCW 71.05.585, and must include a requirement that the person

1 cooperate with the services planned by the mental health service  
2 provider.

3 (b) At the end of the one hundred eighty day period of  
4 commitment, or one-year period of commitment if subsection (7) of  
5 this section applies, the committed person shall be released unless a  
6 petition for an additional one hundred eighty day period of continued  
7 treatment is filed and heard in the same manner as provided in this  
8 section. Successive one hundred eighty day commitments are  
9 permissible on the same grounds and pursuant to the same procedures  
10 as the original one hundred eighty day commitment.

11 (7) An order for less restrictive treatment entered under  
12 subsection (6) of this section may be for up to one year when the  
13 person's previous commitment term was for intensive inpatient  
14 treatment in a state hospital.

15 (8) No person committed as provided in this section may be  
16 detained unless a valid order of commitment is in effect. No order of  
17 commitment can exceed one hundred eighty days in length except as  
18 provided in subsection (7) of this section.

19 **Sec. 3018.** RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45  
20 s 4 are each reenacted and amended to read as follows:

21 (1)(a) Subject to (b) of this subsection, if the court or jury  
22 finds that grounds set forth in RCW 71.05.280 have been proven and  
23 that the best interests of the person or others will not be served by  
24 a less restrictive treatment which is an alternative to detention,  
25 the court shall remand him or her to the custody of the department of  
26 social and health services or to a facility certified for ninety day  
27 treatment by the department for a further period of intensive  
28 treatment not to exceed ninety days from the date of judgment.

29 (b) If the order for inpatient treatment is based on a substance  
30 use disorder, treatment must take place at an approved substance use  
31 disorder treatment program. The court may only enter an order for  
32 commitment based on a substance use disorder if there is an available  
33 approved substance use disorder treatment program with adequate space  
34 for the person.

35 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of  
36 commitment, then the period of treatment may be up to but not exceed  
37 one hundred eighty days from the date of judgment (~~(in)~~) to the  
38 custody of the department of social and health services or to a

1 facility certified for one hundred eighty day treatment by the  
2 department.

3 (2) If the court or jury finds that grounds set forth in RCW  
4 71.05.280 have been proven, but finds that treatment less restrictive  
5 than detention will be in the best interest of the person or others,  
6 then the court shall remand him or her to the custody of the  
7 department of social and health services or to a facility certified  
8 for ninety day treatment by the department or to a less restrictive  
9 alternative for a further period of less restrictive treatment not to  
10 exceed ninety days from the date of judgment. If the order for less  
11 restrictive treatment is based on a substance use disorder, treatment  
12 must be provided by an approved substance use disorder treatment  
13 program. If the grounds set forth in RCW 71.05.280(3) are the basis  
14 of commitment, then the period of treatment may be up to but not  
15 exceed one hundred eighty days from the date of judgment. If the  
16 court or jury finds that the grounds set forth in RCW 71.05.280(5)  
17 have been proven, and provide the only basis for commitment, the  
18 court must enter an order for less restrictive alternative treatment  
19 for up to ninety days from the date of judgment and may not order  
20 inpatient treatment.

21 (3) An order for less restrictive alternative treatment entered  
22 under subsection (2) of this section must name the mental health  
23 service provider responsible for identifying the services the person  
24 will receive in accordance with RCW 71.05.585, and must include a  
25 requirement that the person cooperate with the services planned by  
26 the mental health service provider.

27 (4) The person shall be released from involuntary treatment at  
28 the expiration of the period of commitment imposed under subsection  
29 (1) or (2) of this section unless the superintendent or professional  
30 person in charge of the facility in which he or she is confined, or  
31 in the event of a less restrictive alternative, the designated crisis  
32 responder, files a new petition for involuntary treatment on the  
33 grounds that the committed person:

34 (a) During the current period of court ordered treatment: (i) Has  
35 threatened, attempted, or inflicted physical harm upon the person of  
36 another, or substantial damage upon the property of another, and (ii)  
37 as a result of a mental disorder, substance use disorder, or  
38 developmental disability presents a likelihood of serious harm; or

39 (b) Was taken into custody as a result of conduct in which he or  
40 she attempted or inflicted serious physical harm upon the person of



1 another, and continues to present, as a result of mental disorder,  
2 substance use disorder, or developmental disability a likelihood of  
3 serious harm; or

4 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result  
5 of mental disorder or developmental disability continues to present a  
6 substantial likelihood of repeating acts similar to the charged  
7 criminal behavior, when considering the person's life history,  
8 progress in treatment, and the public safety.

9 (ii) In cases under this subsection where the court has made an  
10 affirmative special finding under RCW 71.05.280(3)(b), the commitment  
11 shall continue for up to an additional one hundred eighty day period  
12 whenever the petition presents prima facie evidence that the person  
13 continues to suffer from a mental disorder or developmental  
14 disability that results in a substantial likelihood of committing  
15 acts similar to the charged criminal behavior, unless the person  
16 presents proof through an admissible expert opinion that the person's  
17 condition has so changed such that the mental disorder or  
18 developmental disability no longer presents a substantial likelihood  
19 of the person committing acts similar to the charged criminal  
20 behavior. The initial or additional commitment period may include  
21 transfer to a specialized program of intensive support and treatment,  
22 which may be initiated prior to or after discharge from the state  
23 hospital; or

24 (d) Continues to be gravely disabled; or

25 (e) Is in need of assisted outpatient mental health treatment.

26 If the conduct required to be proven in (b) and (c) of this  
27 subsection was found by a judge or jury in a prior trial under this  
28 chapter, it shall not be necessary to prove such conduct again.

29 If less restrictive alternative treatment is sought, the petition  
30 shall set forth any recommendations for less restrictive alternative  
31 treatment services.

32 (5) A new petition for involuntary treatment filed under  
33 subsection (4) of this section shall be filed and heard in the  
34 superior court of the county of the facility which is filing the new  
35 petition for involuntary treatment unless good cause is shown for a  
36 change of venue. The cost of the proceedings shall be borne by the  
37 state.

38 (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
39 and if the court or jury finds that the grounds for additional  
40 confinement as set forth in this section are present, subject to

1 subsection (1)(b) of this section, the court may order the committed  
2 person returned for an additional period of treatment not to exceed  
3 one hundred eighty days from the date of judgment, except as provided  
4 in subsection (7) of this section. If the court's order is based  
5 solely on the grounds identified in subsection (4)(e) of this  
6 section, the court may enter an order for less restrictive  
7 alternative treatment not to exceed one hundred eighty days from the  
8 date of judgment, and may not enter an order for inpatient treatment.  
9 An order for less restrictive alternative treatment must name the  
10 mental health service provider responsible for identifying the  
11 services the person will receive in accordance with RCW 71.05.585,  
12 and must include a requirement that the person cooperate with the  
13 services planned by the mental health service provider.

14 (b) At the end of the one hundred eighty day period of  
15 commitment, or one-year period of commitment if subsection (7) of  
16 this section applies, the committed person shall be released unless a  
17 petition for an additional one hundred eighty day period of continued  
18 treatment is filed and heard in the same manner as provided in this  
19 section. Successive one hundred eighty day commitments are  
20 permissible on the same grounds and pursuant to the same procedures  
21 as the original one hundred eighty day commitment.

22 (7) An order for less restrictive treatment entered under  
23 subsection (6) of this section may be for up to one year when the  
24 person's previous commitment term was for intensive inpatient  
25 treatment in a state hospital.

26 (8) No person committed as provided in this section may be  
27 detained unless a valid order of commitment is in effect. No order of  
28 commitment can exceed one hundred eighty days in length except as  
29 provided in subsection (7) of this section.

30 **Sec. 3019.** RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each  
31 amended to read as follows:

32 (1) If the court or jury finds that grounds set forth in RCW  
33 71.05.280 have been proven and that the best interests of the person  
34 or others will not be served by a less restrictive treatment which is  
35 an alternative to detention, the court shall remand him or her to the  
36 custody of the department of social and health services or to a  
37 facility certified for ninety day treatment by the department for a  
38 further period of intensive treatment not to exceed ninety days from  
39 the date of judgment.

1        If the order for inpatient treatment is based on a substance use  
2 disorder, treatment must take place at an approved substance use  
3 disorder treatment program. If the grounds set forth in RCW  
4 71.05.280(3) are the basis of commitment, then the period of  
5 treatment may be up to but not exceed one hundred eighty days from  
6 the date of judgment (~~(in))~~ to the custody of the department of  
7 social and health services or to a facility certified for one hundred  
8 eighty day treatment by the department.

9        (2) If the court or jury finds that grounds set forth in RCW  
10 71.05.280 have been proven, but finds that treatment less restrictive  
11 than detention will be in the best interest of the person or others,  
12 then the court shall remand him or her to the custody of the  
13 department of social and health services or to a facility certified  
14 for ninety day treatment by the department or to a less restrictive  
15 alternative for a further period of less restrictive treatment not to  
16 exceed ninety days from the date of judgment. If the order for less  
17 restrictive treatment is based on a substance use disorder, treatment  
18 must be provided by an approved substance use disorder treatment  
19 program. If the grounds set forth in RCW 71.05.280(3) are the basis  
20 of commitment, then the period of treatment may be up to but not  
21 exceed one hundred eighty days from the date of judgment. If the  
22 court or jury finds that the grounds set forth in RCW 71.05.280(5)  
23 have been proven, and provide the only basis for commitment, the  
24 court must enter an order for less restrictive alternative treatment  
25 for up to ninety days from the date of judgment and may not order  
26 inpatient treatment.

27        (3) An order for less restrictive alternative treatment entered  
28 under subsection (2) of this section must name the mental health  
29 service provider responsible for identifying the services the person  
30 will receive in accordance with RCW 71.05.585, and must include a  
31 requirement that the person cooperate with the services planned by  
32 the mental health service provider.

33        (4) The person shall be released from involuntary treatment at  
34 the expiration of the period of commitment imposed under subsection  
35 (1) or (2) of this section unless the superintendent or professional  
36 person in charge of the facility in which he or she is confined, or  
37 in the event of a less restrictive alternative, the designated crisis  
38 responder, files a new petition for involuntary treatment on the  
39 grounds that the committed person:

1 (a) During the current period of court ordered treatment: (i) Has  
2 threatened, attempted, or inflicted physical harm upon the person of  
3 another, or substantial damage upon the property of another, and (ii)  
4 as a result of a mental disorder, substance use disorder, or  
5 developmental disability presents a likelihood of serious harm; or

6 (b) Was taken into custody as a result of conduct in which he or  
7 she attempted or inflicted serious physical harm upon the person of  
8 another, and continues to present, as a result of mental disorder,  
9 substance use disorder, or developmental disability a likelihood of  
10 serious harm; or

11 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result  
12 of mental disorder or developmental disability continues to present a  
13 substantial likelihood of repeating acts similar to the charged  
14 criminal behavior, when considering the person's life history,  
15 progress in treatment, and the public safety.

16 (ii) In cases under this subsection where the court has made an  
17 affirmative special finding under RCW 71.05.280(3)(b), the commitment  
18 shall continue for up to an additional one hundred eighty day period  
19 whenever the petition presents prima facie evidence that the person  
20 continues to suffer from a mental disorder or developmental  
21 disability that results in a substantial likelihood of committing  
22 acts similar to the charged criminal behavior, unless the person  
23 presents proof through an admissible expert opinion that the person's  
24 condition has so changed such that the mental disorder or  
25 developmental disability no longer presents a substantial likelihood  
26 of the person committing acts similar to the charged criminal  
27 behavior. The initial or additional commitment period may include  
28 transfer to a specialized program of intensive support and treatment,  
29 which may be initiated prior to or after discharge from the state  
30 hospital; or

31 (d) Continues to be gravely disabled; or

32 (e) Is in need of assisted outpatient mental health treatment.

33 If the conduct required to be proven in (b) and (c) of this  
34 subsection was found by a judge or jury in a prior trial under this  
35 chapter, it shall not be necessary to prove such conduct again.

36 If less restrictive alternative treatment is sought, the petition  
37 shall set forth any recommendations for less restrictive alternative  
38 treatment services.

39 (5) A new petition for involuntary treatment filed under  
40 subsection (4) of this section shall be filed and heard in the

1 superior court of the county of the facility which is filing the new  
2 petition for involuntary treatment unless good cause is shown for a  
3 change of venue. The cost of the proceedings shall be borne by the  
4 state.

5 (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
6 and if the court or jury finds that the grounds for additional  
7 confinement as set forth in this section are present, the court may  
8 order the committed person returned for an additional period of  
9 treatment not to exceed one hundred eighty days from the date of  
10 judgment, except as provided in subsection (7) of this section. If  
11 the court's order is based solely on the grounds identified in  
12 subsection (4)(e) of this section, the court may enter an order for  
13 less restrictive alternative treatment not to exceed one hundred  
14 eighty days from the date of judgment, and may not enter an order for  
15 inpatient treatment. An order for less restrictive alternative  
16 treatment must name the mental health service provider responsible  
17 for identifying the services the person will receive in accordance  
18 with RCW 71.05.585, and must include a requirement that the person  
19 cooperate with the services planned by the mental health service  
20 provider.

21 (b) At the end of the one hundred eighty day period of  
22 commitment, or one-year period of commitment if subsection (7) of  
23 this section applies, the committed person shall be released unless a  
24 petition for an additional one hundred eighty day period of continued  
25 treatment is filed and heard in the same manner as provided in this  
26 section. Successive one hundred eighty day commitments are  
27 permissible on the same grounds and pursuant to the same procedures  
28 as the original one hundred eighty day commitment.

29 (7) An order for less restrictive treatment entered under  
30 subsection (6) of this section may be for up to one year when the  
31 person's previous commitment term was for intensive inpatient  
32 treatment in a state hospital.

33 (8) No person committed as provided in this section may be  
34 detained unless a valid order of commitment is in effect. No order of  
35 commitment can exceed one hundred eighty days in length except as  
36 provided in subsection (7) of this section.

37 **Sec. 3020.** RCW 71.05.325 and 2000 c 94 s 7 are each amended to  
38 read as follows:

1 (1) Before a person committed under grounds set forth in RCW  
2 71.05.280(3) is released because a new petition for involuntary  
3 treatment has not been filed under RCW 71.05.320(~~(+2)~~) (4), the  
4 superintendent, professional person, or designated mental health  
5 professional responsible for the decision whether to file a new  
6 petition shall in writing notify the prosecuting attorney of the  
7 county in which the criminal charges against the committed person  
8 were dismissed, of the decision not to file a new petition for  
9 involuntary treatment. Notice shall be provided at least forty-five  
10 days before the period of commitment expires.

11 (2)(a) Before a person committed under grounds set forth in RCW  
12 71.05.280(3) is permitted temporarily to leave a treatment facility  
13 pursuant to RCW 71.05.270 for any period of time without constant  
14 accompaniment by facility staff, the superintendent, professional  
15 person in charge of a treatment facility, or his or her professional  
16 designee shall in writing notify the prosecuting attorney of any  
17 county of the person's destination and the prosecuting attorney of  
18 the county in which the criminal charges against the committed person  
19 were dismissed. The notice shall be provided at least forty-five days  
20 before the anticipated leave and shall describe the conditions under  
21 which the leave is to occur.

22 (b) The provisions of RCW 71.05.330(2) apply to proposed leaves,  
23 and either or both prosecuting attorneys receiving notice under this  
24 subsection may petition the court under RCW 71.05.330(2).

25 (3) Nothing in this section shall be construed to authorize  
26 detention of a person unless a valid order of commitment is in  
27 effect.

28 (4) The existence of the notice requirements in this section will  
29 not require any extension of the leave date in the event the leave  
30 plan changes after notification.

31 (5) The notice requirements contained in this section shall not  
32 apply to emergency medical transfers.

33 (6) The notice provisions of this section are in addition to  
34 those provided in RCW 71.05.425.

35 **Sec. 3021.** RCW 71.05.325 and 2016 sp.s. c 29 s 239 are each  
36 amended to read as follows:

37 (1) Before a person committed under grounds set forth in RCW  
38 71.05.280(3) is released because a new petition for involuntary  
39 treatment has not been filed under RCW 71.05.320(~~(+3)~~) (4), the

1 superintendent, professional person, or designated crisis responder  
2 responsible for the decision whether to file a new petition shall in  
3 writing notify the prosecuting attorney of the county in which the  
4 criminal charges against the committed person were dismissed, of the  
5 decision not to file a new petition for involuntary treatment. Notice  
6 shall be provided at least forty-five days before the period of  
7 commitment expires.

8 (2)(a) Before a person committed under grounds set forth in RCW  
9 71.05.280(3) is permitted temporarily to leave a treatment facility  
10 pursuant to RCW 71.05.270 for any period of time without constant  
11 accompaniment by facility staff, the superintendent, professional  
12 person in charge of a treatment facility, or his or her professional  
13 designee shall in writing notify the prosecuting attorney of any  
14 county of the person's destination and the prosecuting attorney of  
15 the county in which the criminal charges against the committed person  
16 were dismissed. The notice shall be provided at least forty-five days  
17 before the anticipated leave and shall describe the conditions under  
18 which the leave is to occur.

19 (b) The provisions of RCW 71.05.330(2) apply to proposed leaves,  
20 and either or both prosecuting attorneys receiving notice under this  
21 subsection may petition the court under RCW 71.05.330(2).

22 (3) Nothing in this section shall be construed to authorize  
23 detention of a person unless a valid order of commitment is in  
24 effect.

25 (4) The existence of the notice requirements in this section will  
26 not require any extension of the leave date in the event the leave  
27 plan changes after notification.

28 (5) The notice requirements contained in this section shall not  
29 apply to emergency medical transfers.

30 (6) The notice provisions of this section are in addition to  
31 those provided in RCW 71.05.425.

32 **Sec. 3022.** RCW 71.05.330 and 1998 c 297 s 20 are each amended to  
33 read as follows:

34 (1) Nothing in this chapter shall prohibit the superintendent or  
35 professional person in charge of the hospital or facility in which  
36 the person is being involuntarily treated from releasing him or her  
37 prior to the expiration of the commitment period when, in the opinion  
38 of the superintendent or professional person in charge, the person

1 being involuntarily treated no longer presents a likelihood of  
2 serious harm.

3 Whenever the superintendent or professional person in charge of a  
4 hospital or facility providing involuntary treatment pursuant to this  
5 chapter releases a person prior to the expiration of the period of  
6 commitment, the superintendent or professional person in charge shall  
7 in writing notify the court which committed the person for treatment.

8 (2) Before a person committed under grounds set forth in RCW  
9 71.05.280(3) or 71.05.320(~~(+2)~~) (4)(c) is released under this  
10 section, the superintendent or professional person in charge shall in  
11 writing notify the prosecuting attorney of the county in which the  
12 criminal charges against the committed person were dismissed, of the  
13 release date. Notice shall be provided at least thirty days before  
14 the release date. Within twenty days after receiving notice, the  
15 prosecuting attorney may petition the court in the county in which  
16 the person is being involuntarily treated for a hearing to determine  
17 whether the person is to be released. The prosecuting attorney shall  
18 provide a copy of the petition to the superintendent or professional  
19 person in charge of the hospital or facility providing involuntary  
20 treatment, the attorney, if any, and the guardian or conservator of  
21 the committed person. The court shall conduct a hearing on the  
22 petition within ten days of filing the petition. The committed person  
23 shall have the same rights with respect to notice, hearing, and  
24 counsel as for an involuntary treatment proceeding, except as set  
25 forth in this subsection and except that there shall be no right to  
26 jury trial. The issue to be determined at the hearing is whether or  
27 not the person may be released without substantial danger to other  
28 persons, or substantial likelihood of committing criminal acts  
29 jeopardizing public safety or security. If the court disapproves of  
30 the release, it may do so only on the basis of substantial evidence.  
31 Pursuant to the determination of the court upon the hearing, the  
32 committed person shall be released or shall be returned for  
33 involuntary treatment subject to release at the end of the period for  
34 which he or she was committed, or otherwise in accordance with the  
35 provisions of this chapter.

36 **Sec. 3023.** RCW 71.05.335 and 1986 c 67 s 7 are each amended to  
37 read as follows:

38 In any proceeding under this chapter to modify a commitment order  
39 of a person committed to inpatient treatment under grounds set forth



1 in RCW 71.05.280(3) or 71.05.320(~~(+2)~~) (4)(c) in which the requested  
2 relief includes treatment less restrictive than detention, the  
3 prosecuting attorney shall be entitled to intervene. The party  
4 initiating the motion to modify the commitment order shall serve the  
5 prosecuting attorney of the county in which the criminal charges  
6 against the committed person were dismissed with written notice and  
7 copies of the initiating papers.

8 **Sec. 3024.** RCW 71.05.340 and 2015 c 250 s 12 are each amended to  
9 read as follows:

10 (1)(a) When, in the opinion of the superintendent or the  
11 professional person in charge of the hospital or facility providing  
12 involuntary treatment, the committed person can be appropriately  
13 served by outpatient treatment prior to or at the expiration of the  
14 period of commitment, then such outpatient care may be required as a  
15 term of conditional release for a period which, when added to the  
16 inpatient treatment period, shall not exceed the period of  
17 commitment. If the facility or agency designated to provide  
18 outpatient treatment is other than the facility providing involuntary  
19 treatment, the outpatient facility so designated must agree in  
20 writing to assume such responsibility. A copy of the terms of  
21 conditional release shall be given to the patient, the designated  
22 mental health professional in the county in which the patient is to  
23 receive outpatient treatment, and to the court of original  
24 commitment.

25 (b) Before a person committed under grounds set forth in RCW  
26 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)  
27 of this subsection, the superintendent or professional person in  
28 charge of the hospital or facility providing involuntary treatment  
29 shall in writing notify the prosecuting attorney of the county in  
30 which the criminal charges against the committed person were  
31 dismissed, of the decision to conditionally release the person.  
32 Notice and a copy of the terms of conditional release shall be  
33 provided at least thirty days before the person is released from  
34 inpatient care. Within twenty days after receiving notice, the  
35 prosecuting attorney may petition the court in the county that issued  
36 the commitment order to hold a hearing to determine whether the  
37 person may be conditionally released and the terms of the conditional  
38 release. The prosecuting attorney shall provide a copy of the  
39 petition to the superintendent or professional person in charge of

1 the hospital or facility providing involuntary treatment, the  
2 attorney, if any, and guardian or conservator of the committed  
3 person, and the court of original commitment. If the county in which  
4 the committed person is to receive outpatient treatment is the same  
5 county in which the criminal charges against the committed person  
6 were dismissed, then the court shall, upon the motion of the  
7 prosecuting attorney, transfer the proceeding to the court in that  
8 county. The court shall conduct a hearing on the petition within ten  
9 days of the filing of the petition. The committed person shall have  
10 the same rights with respect to notice, hearing, and counsel as for  
11 an involuntary treatment proceeding, except as set forth in this  
12 subsection and except that there shall be no right to jury trial. The  
13 issue to be determined at the hearing is whether or not the person  
14 may be conditionally released without substantial danger to other  
15 persons, or substantial likelihood of committing criminal acts  
16 jeopardizing public safety or security. If the court disapproves of  
17 the conditional release, it may do so only on the basis of  
18 substantial evidence. Pursuant to the determination of the court upon  
19 the hearing, the conditional release of the person shall be approved  
20 by the court on the same or modified conditions or the person shall  
21 be returned for involuntary treatment on an inpatient basis subject  
22 to release at the end of the period for which he or she was  
23 committed, or otherwise in accordance with the provisions of this  
24 chapter.

25 (2) The facility or agency designated to provide outpatient care  
26 or the secretary of the department of social and health services may  
27 modify the conditions for continued release when such modification is  
28 in the best interest of the person. Notification of such changes  
29 shall be sent to all persons receiving a copy of the original  
30 conditions. Enforcement or revocation proceedings related to a  
31 conditional release order may occur as provided under RCW 71.05.590.

32 **Sec. 3025.** RCW 71.05.340 and 2016 sp.s. c 29 s 240 are each  
33 amended to read as follows:

34 (1)(a) When, in the opinion of the superintendent or the  
35 professional person in charge of the hospital or facility providing  
36 involuntary treatment, the committed person can be appropriately  
37 served by outpatient treatment prior to or at the expiration of the  
38 period of commitment, then such outpatient care may be required as a  
39 term of conditional release for a period which, when added to the

1 inpatient treatment period, shall not exceed the period of  
2 commitment. If the facility or agency designated to provide  
3 outpatient treatment is other than the facility providing involuntary  
4 treatment, the outpatient facility so designated must agree in  
5 writing to assume such responsibility. A copy of the terms of  
6 conditional release shall be given to the patient, the designated  
7 crisis responder in the county in which the patient is to receive  
8 outpatient treatment, and to the court of original commitment.

9 (b) Before a person committed under grounds set forth in RCW  
10 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)  
11 of this subsection, the superintendent or professional person in  
12 charge of the hospital or facility providing involuntary treatment  
13 shall in writing notify the prosecuting attorney of the county in  
14 which the criminal charges against the committed person were  
15 dismissed, of the decision to conditionally release the person.  
16 Notice and a copy of the terms of conditional release shall be  
17 provided at least thirty days before the person is released from  
18 inpatient care. Within twenty days after receiving notice, the  
19 prosecuting attorney may petition the court in the county that issued  
20 the commitment order to hold a hearing to determine whether the  
21 person may be conditionally released and the terms of the conditional  
22 release. The prosecuting attorney shall provide a copy of the  
23 petition to the superintendent or professional person in charge of  
24 the hospital or facility providing involuntary treatment, the  
25 attorney, if any, and guardian or conservator of the committed  
26 person, and the court of original commitment. If the county in which  
27 the committed person is to receive outpatient treatment is the same  
28 county in which the criminal charges against the committed person  
29 were dismissed, then the court shall, upon the motion of the  
30 prosecuting attorney, transfer the proceeding to the court in that  
31 county. The court shall conduct a hearing on the petition within ten  
32 days of the filing of the petition. The committed person shall have  
33 the same rights with respect to notice, hearing, and counsel as for  
34 an involuntary treatment proceeding, except as set forth in this  
35 subsection and except that there shall be no right to jury trial. The  
36 issue to be determined at the hearing is whether or not the person  
37 may be conditionally released without substantial danger to other  
38 persons, or substantial likelihood of committing criminal acts  
39 jeopardizing public safety or security. If the court disapproves of  
40 the conditional release, it may do so only on the basis of

1 substantial evidence. Pursuant to the determination of the court upon  
2 the hearing, the conditional release of the person shall be approved  
3 by the court on the same or modified conditions or the person shall  
4 be returned for involuntary treatment on an inpatient basis subject  
5 to release at the end of the period for which he or she was  
6 committed, or otherwise in accordance with the provisions of this  
7 chapter.

8 (2) The facility or agency designated to provide outpatient care  
9 or the secretary of the department of social and health services may  
10 modify the conditions for continued release when such modification is  
11 in the best interest of the person. Notification of such changes  
12 shall be sent to all persons receiving a copy of the original  
13 conditions. Enforcement or revocation proceedings related to a  
14 conditional release order may occur as provided under RCW 71.05.590.

15 **Sec. 3026.** RCW 71.05.350 and 1997 c 112 s 29 are each amended to  
16 read as follows:

17 No indigent patient shall be conditionally released or discharged  
18 from involuntary treatment without suitable clothing, and the  
19 superintendent of a state hospital shall furnish the same, together  
20 with such sum of money as he or she deems necessary for the immediate  
21 welfare of the patient. Such sum of money shall be the same as the  
22 amount required by RCW 72.02.100 to be provided to persons in need  
23 being released from correctional institutions. As funds are  
24 available, the secretary of the department of social and health  
25 services may provide payment to indigent persons conditionally  
26 released pursuant to this chapter consistent with the optional  
27 provisions of RCW 72.02.100 and 72.02.110, and may adopt rules and  
28 regulations to do so.

29 **Sec. 3027.** RCW 71.05.380 and 1973 1st ex.s. c 142 s 43 are each  
30 amended to read as follows:

31 All persons voluntarily entering or remaining in any facility,  
32 institution, or hospital providing evaluation and treatment for  
33 mental disorder shall have no less than all rights secured to  
34 involuntarily detained persons by RCW 71.05.360 and (~~71.05.370~~)  
35 71.05.217.

36 **Sec. 3028.** RCW 71.05.425 and 2013 c 289 s 6 and 2013 c 200 s 30  
37 are each reenacted and amended to read as follows:

1 (1)(a) Except as provided in subsection (2) of this section, at  
2 the earliest possible date, and in no event later than thirty days  
3 before conditional release, final release, authorized leave under RCW  
4 71.05.325(2), or transfer to a facility other than a state mental  
5 hospital, the superintendent shall send written notice of conditional  
6 release, release, authorized leave, or transfer of a person committed  
7 under RCW 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) following dismissal  
8 of a sex, violent, or felony harassment offense pursuant to RCW  
9 10.77.086(4) to the following:

10 (i) The chief of police of the city, if any, in which the person  
11 will reside;

12 (ii) The sheriff of the county in which the person will reside;  
13 and

14 (iii) The prosecuting attorney of the county in which the  
15 criminal charges against the committed person were dismissed.

16 (b) The same notice as required by (a) of this subsection shall  
17 be sent to the following, if such notice has been requested in  
18 writing about a specific person committed under RCW 71.05.280(3) or  
19 71.05.320(~~(+3)~~) (4)(c) following dismissal of a sex, violent, or  
20 felony harassment offense pursuant to RCW 10.77.086(4):

21 (i) The victim of the sex, violent, or felony harassment offense  
22 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment  
23 under RCW 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) or the victim's  
24 next of kin if the crime was a homicide;

25 (ii) Any witnesses who testified against the person in any court  
26 proceedings;

27 (iii) Any person specified in writing by the prosecuting  
28 attorney. Information regarding victims, next of kin, or witnesses  
29 requesting the notice, information regarding any other person  
30 specified in writing by the prosecuting attorney to receive the  
31 notice, and the notice are confidential and shall not be available to  
32 the person committed under this chapter; and

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

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

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

1 (2) If a person committed under RCW 71.05.280(3) or  
2 71.05.320(~~(+3)~~) (4)(c) following dismissal of a sex, violent, or  
3 felony harassment offense pursuant to RCW 10.77.086(4) escapes, the  
4 superintendent shall immediately notify, by the most reasonable and  
5 expedient means available, the chief of police of the city and the  
6 sheriff of the county in which the person escaped and in which the  
7 person resided immediately before the person's arrest and the  
8 prosecuting attorney of the county in which the criminal charges  
9 against the committed person were dismissed. If previously requested,  
10 the superintendent shall also notify the witnesses and the victim of  
11 the sex, violent, or felony harassment offense that was dismissed  
12 pursuant to RCW 10.77.086(4) preceding commitment under RCW  
13 71.05.280(3) or 71.05.320(~~(+3)~~) (4) or the victim's next of kin if  
14 the crime was a homicide. In addition, the secretary shall also  
15 notify appropriate parties pursuant to RCW 70.02.230(2)(n). If the  
16 person is recaptured, the superintendent shall send notice to the  
17 persons designated in this subsection as soon as possible but in no  
18 event later than two working days after the department of social and  
19 health services learns of such recapture.

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

23 (4) The superintendent shall send the notices required by this  
24 chapter to the last address provided to the department of social and  
25 health services by the requesting party. The requesting party shall  
26 furnish the department of social and health services with a current  
27 address.

28 (5) For purposes of this section the following terms have the  
29 following meanings:

30 (a) "Violent offense" means a violent offense under RCW  
31 9.94A.030;

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

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

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

37 **Sec. 3029.** RCW 71.05.435 and 2010 c 280 s 4 are each amended to  
38 read as follows:

1 (1) Whenever a person who is the subject of an involuntary  
2 commitment order under this chapter is discharged from an evaluation  
3 and treatment facility or state hospital, the evaluation and  
4 treatment facility or state hospital shall provide notice of the  
5 person's discharge to the designated mental health professional  
6 office responsible for the initial commitment and the designated  
7 mental health professional office that serves the county in which the  
8 person is expected to reside. The evaluation and treatment facility  
9 or state hospital must also provide these offices with a copy of any  
10 less restrictive order or conditional release order entered in  
11 conjunction with the discharge of the person, unless the evaluation  
12 and treatment facility or state hospital has entered into a  
13 memorandum of understanding obligating another entity to provide  
14 these documents.

15 (2) The notice and documents referred to in subsection (1) of  
16 this section shall be provided as soon as possible and no later than  
17 one business day following the discharge of the person. Notice is not  
18 required under this section if the discharge is for the purpose of  
19 transferring the person for continued detention and treatment under  
20 this chapter at another treatment facility.

21 (3) The ((department)) authority shall maintain and make  
22 available an updated list of contact information for designated  
23 mental health professional offices around the state.

24 **Sec. 3030.** RCW 71.05.435 and 2016 sp.s. c 29 s 246 are each  
25 amended to read as follows:

26 (1) Whenever a person who is the subject of an involuntary  
27 commitment order under this chapter is discharged from an evaluation  
28 and treatment facility, state hospital, secure detoxification  
29 facility, or approved substance use disorder treatment program  
30 providing involuntary treatment services, the entity discharging the  
31 person shall provide notice of the person's discharge to the  
32 designated crisis responder office responsible for the initial  
33 commitment and the designated crisis responder office that serves the  
34 county in which the person is expected to reside. The entity  
35 discharging the person must also provide these offices with a copy of  
36 any less restrictive order or conditional release order entered in  
37 conjunction with the discharge of the person, unless the entity  
38 discharging the person has entered into a memorandum of understanding  
39 obligating another entity to provide these documents.

1 (2) The notice and documents referred to in subsection (1) of  
2 this section shall be provided as soon as possible and no later than  
3 one business day following the discharge of the person. Notice is not  
4 required under this section if the discharge is for the purpose of  
5 transferring the person for continued detention and treatment under  
6 this chapter at another treatment facility.

7 (3) The ((department)) authority shall maintain and make  
8 available an updated list of contact information for designated  
9 crisis responder offices around the state.

10 **Sec. 3031.** RCW 71.05.445 and 2014 c 225 s 86 and 2014 c 220 s 14  
11 are each reenacted and amended to read as follows:

12 (1)(a) When a mental health service provider conducts its initial  
13 assessment for a person receiving court-ordered treatment, the  
14 service provider shall inquire and shall be told by the offender  
15 whether he or she is subject to supervision by the department of  
16 corrections.

17 (b) When a person receiving court-ordered treatment or treatment  
18 ordered by the department of corrections discloses to his or her  
19 mental health service provider that he or she is subject to  
20 supervision by the department of corrections, the mental health  
21 service provider shall notify the department of corrections that he  
22 or she is treating the offender and shall notify the offender that  
23 his or her community corrections officer will be notified of the  
24 treatment, provided that if the offender has received relief from  
25 disclosure pursuant to RCW 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132  
26 and the offender has provided the mental health service provider with  
27 a copy of the order granting relief from disclosure pursuant to RCW  
28 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132, the mental health service  
29 provider is not required to notify the department of corrections that  
30 the mental health service provider is treating the offender. The  
31 notification may be written or oral and shall not require the consent  
32 of the offender. If an oral notification is made, it must be  
33 confirmed by a written notification. For purposes of this section, a  
34 written notification includes notification by email or facsimile, so  
35 long as the notifying mental health service provider is clearly  
36 identified.

37 (2) The information to be released to the department of  
38 corrections shall include all relevant records and reports, as



1 defined by rule, necessary for the department of corrections to carry  
2 out its duties.

3       (3) The (~~department~~) authority and the department of  
4 corrections, in consultation with behavioral health organizations,  
5 mental health service providers as defined in RCW 71.05.020, mental  
6 health consumers, and advocates for persons with mental illness,  
7 shall adopt rules to implement the provisions of this section related  
8 to the type and scope of information to be released. These rules  
9 shall:

10       (a) Enhance and facilitate the ability of the department of  
11 corrections to carry out its responsibility of planning and ensuring  
12 community protection with respect to persons subject to sentencing  
13 under chapter 9.94A or 9.95 RCW, including accessing and releasing or  
14 disclosing information of persons who received mental health services  
15 as a minor; and

16       (b) Establish requirements for the notification of persons under  
17 the supervision of the department of corrections regarding the  
18 provisions of this section.

19       (4) The information received by the department of corrections  
20 under this section shall remain confidential and subject to the  
21 limitations on disclosure outlined in this chapter (~~(71.05—RCW)~~),  
22 except as provided in RCW 72.09.585.

23       (5) No mental health service provider or individual employed by a  
24 mental health service provider shall be held responsible for  
25 information released to or used by the department of corrections  
26 under the provisions of this section or rules adopted under this  
27 section.

28       (6) Whenever federal law or federal regulations restrict the  
29 release of information and records related to mental health services  
30 for any patient who receives treatment for alcoholism or drug  
31 dependency, the release of the information may be restricted as  
32 necessary to comply with federal law and regulations.

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

36       (8) The (~~department~~) authority shall, subject to available  
37 resources, electronically, or by the most cost-effective means  
38 available, provide the department of corrections with the names, last  
39 dates of services, and addresses of specific behavioral health  
40 organizations and mental health service providers that delivered

1 mental health services to a person subject to chapter 9.94A or 9.95  
2 RCW pursuant to an agreement between the authority and the  
3 department(~~(s)~~) of corrections.

4 **Sec. 3032.** RCW 71.05.510 and 1974 ex.s. c 145 s 30 are each  
5 amended to read as follows:

6 Any individual who knowingly, (~~(wilfully)~~) willfully or through  
7 gross negligence violates the provisions of this chapter by detaining  
8 a person for more than the allowable number of days shall be liable  
9 to the person detained in civil damages. It shall not be a  
10 prerequisite to an action under this section that the plaintiff shall  
11 have suffered or be threatened with special, as contrasted with  
12 general damages.

13 **Sec. 3033.** RCW 71.05.520 and 1973 1st ex.s. c 142 s 57 are each  
14 amended to read as follows:

15 The (~~(department of social and health services)~~) authority as the  
16 state's behavioral health authority, the department of social and  
17 health services in its operation of the state hospitals, and the  
18 department of health in exercising its function of licensing and  
19 certification of behavioral health providers and facilities shall  
20 have the responsibility to determine whether all rights of  
21 individuals recognized and guaranteed by the provisions of this  
22 chapter and the Constitutions of the state of Washington and the  
23 United States are in fact protected and effectively secured. To this  
24 end, (~~(the department)~~) each agency shall assign appropriate staff  
25 who shall from time to time as may be necessary have authority to  
26 examine records, inspect facilities, attend proceedings, and do  
27 whatever is necessary to monitor, evaluate, and assure adherence to  
28 such rights. Such persons shall also recommend such additional  
29 safeguards or procedures as may be appropriate to secure individual  
30 rights set forth in this chapter and as guaranteed by the state and  
31 federal Constitutions.

32 **Sec. 3034.** RCW 71.05.525 and 1997 c 112 s 36 are each amended to  
33 read as follows:

34 When, in the judgment of the department of social and health  
35 services, the welfare of any person committed to or confined in any  
36 state juvenile correctional institution or facility necessitates that  
37 such a person be transferred or moved for observation, diagnosis or

1 treatment to any state institution or facility for the care of  
2 (~~mentally ill~~) juveniles with mental illness the secretary of the  
3 department of social and health services, or his or her designee, is  
4 authorized to order and effect such move or transfer: PROVIDED,  
5 HOWEVER, That the secretary of the department of social and health  
6 services shall adopt and implement procedures to assure that persons  
7 so transferred shall, while detained or confined in such institution  
8 or facility for the care of (~~mentally ill~~) juveniles with mental  
9 illness, be provided with substantially similar opportunities for  
10 parole or early release evaluation and determination as persons  
11 detained or confined in state juvenile correctional institutions or  
12 facilities: PROVIDED, FURTHER, That the secretary of the department  
13 of social and health services shall notify the original committing  
14 court of such transfer.

15 **Sec. 3035.** RCW 71.05.560 and 1998 c 297 s 24 are each amended to  
16 read as follows:

17 The department, the department of social and health services, and  
18 the authority shall adopt such rules as may be necessary to  
19 effectuate the intent and purposes of this chapter, which shall  
20 include but not be limited to evaluation of the quality of the  
21 program and facilities operating pursuant to this chapter, evaluation  
22 of the effectiveness and cost effectiveness of such programs and  
23 facilities, and procedures and standards for licensing or  
24 certification and other action relevant to evaluation and treatment  
25 facilities.

26 **Sec. 3036.** RCW 71.05.560 and 2016 sp.s. c 29 s 248 are each  
27 amended to read as follows:

28 The department, the department of social and health services, and  
29 the authority shall adopt such rules as may be necessary to  
30 effectuate the intent and purposes of this chapter, which shall  
31 include but not be limited to evaluation of the quality of the  
32 program and facilities operating pursuant to this chapter, evaluation  
33 of the effectiveness and cost effectiveness of such programs and  
34 facilities, and procedures and standards for licensing or  
35 certification and other action relevant to evaluation and treatment  
36 facilities, secure detoxification facilities, and approved substance  
37 use disorder treatment programs.

1       **Sec. 3037.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to  
2 read as follows:

3       (1) An agency or facility designated to monitor or provide  
4 services under a less restrictive alternative or conditional release  
5 order or a designated mental health professional may take action to  
6 enforce, modify, or revoke a less restrictive alternative or  
7 conditional release order if the agency, facility, or designated  
8 mental health professional determines that:

9       (a) The person is failing to adhere to the terms and conditions  
10 of the court order;

11       (b) Substantial deterioration in the person's functioning has  
12 occurred;

13       (c) There is evidence of substantial decompensation with a  
14 reasonable probability that the decompensation can be reversed by  
15 further evaluation, intervention, or treatment; or

16       (d) The person poses a likelihood of serious harm.

17       (2) Actions taken under this section must include a flexible  
18 range of responses of varying levels of intensity appropriate to the  
19 circumstances and consistent with the interests of the individual and  
20 the public in personal autonomy, safety, recovery, and compliance.  
21 Available actions may include, but are not limited to, any of the  
22 following:

23       (a) To counsel, advise, or admonish the person as to their rights  
24 and responsibilities under the court order, and to offer appropriate  
25 incentives to motivate compliance;

26       (b) To increase the intensity of outpatient services provided to  
27 the person by increasing the frequency of contacts with the provider,  
28 referring the person for an assessment for assertive community  
29 services, or by other means;

30       (c) To request a court hearing for review and modification of the  
31 court order. The request must be made to the court with jurisdiction  
32 over the order and specify the circumstances that give rise to the  
33 request and what modification is being sought. The county prosecutor  
34 shall assist the agency or facility in requesting this hearing and  
35 issuing an appropriate summons to the person. This subsection does  
36 not limit the inherent authority of a treatment provider to alter  
37 conditions of treatment for clinical reasons, and is intended to be  
38 used only when court intervention is necessary or advisable to secure  
39 the person's compliance and prevent decompensation or deterioration;

1 (d) To cause the person to be transported by a peace officer,  
2 designated mental health professional, or other means to the agency  
3 or facility monitoring or providing services under the court order,  
4 or to a triage facility, crisis stabilization unit, emergency  
5 department, or evaluation and treatment facility for up to twelve  
6 hours for the purpose of an evaluation to determine whether  
7 modification, revocation, or commitment proceedings are necessary and  
8 appropriate to stabilize the person and prevent decompensation,  
9 deterioration, or physical harm. Temporary detention for evaluation  
10 under this subsection is intended to occur only following a pattern  
11 of noncompliance or the failure of reasonable attempts at outreach  
12 and engagement, and may occur only when in the clinical judgment of a  
13 designated mental health professional or the professional person in  
14 charge of an agency or facility designated to monitor less  
15 restrictive alternative services temporary detention is appropriate.  
16 This subsection does not limit the ability or obligation to pursue  
17 revocation procedures under subsection (4) of this section in  
18 appropriate circumstances; and

19 (e) To initiate revocation procedures under subsection (4) of  
20 this section.

21 (3) The facility or agency designated to provide outpatient  
22 treatment shall notify the secretary of the department of social and  
23 health services or designated mental health professional when a  
24 person fails to adhere to terms and conditions of court ordered  
25 treatment or experiences substantial deterioration in his or her  
26 condition and, as a result, presents an increased likelihood of  
27 serious harm.

28 (4)(a) A designated mental health professional or the secretary  
29 of the department of social and health services may upon their own  
30 motion or notification by the facility or agency designated to  
31 provide outpatient care order a person subject to a court order under  
32 this section to be apprehended and taken into custody and temporary  
33 detention in an evaluation and treatment facility in or near the  
34 county in which he or she is receiving outpatient treatment, or  
35 initiate proceedings under this subsection (4) without ordering the  
36 apprehension and detention of the person.

37 (b) A person detained under this subsection (4) must be held  
38 until such time, not exceeding five days, as a hearing can be  
39 scheduled to determine whether or not the person should be returned  
40 to the hospital or facility from which he or she had been released.

1 If the person is not detained, the hearing must be scheduled within  
2 five days of service on the person. The designated mental health  
3 professional or the secretary of the department of social and health  
4 services may modify or rescind the order at any time prior to  
5 commencement of the court hearing.

6 (c) The designated mental health professional or secretary of the  
7 department of social and health services shall notify the court that  
8 originally ordered commitment within two judicial days of a person's  
9 detention and file a revocation petition and order of apprehension  
10 and detention with the court and serve the person and their attorney,  
11 guardian, and conservator, if any. The person has the same rights  
12 with respect to notice, hearing, and counsel as in any involuntary  
13 treatment proceeding, except as specifically set forth in this  
14 section. There is no right to jury trial. The venue for proceedings  
15 regarding a petition for modification or revocation must be in the  
16 county in which the petition was filed.

17 (d) The issues for the court to determine are whether: (i) The  
18 person adhered to the terms and conditions of the court order; (ii)  
19 substantial deterioration in the person's functioning has occurred;  
20 (iii) there is evidence of substantial decompensation with a  
21 reasonable probability that the decompensation can be reversed by  
22 further inpatient treatment; or (iv) there is a likelihood of serious  
23 harm; and, if any of the above conditions apply, whether the court  
24 should reinstate or modify the person's less restrictive alternative  
25 or conditional release order or order the person's detention for  
26 inpatient treatment. The person may waive the court hearing and allow  
27 the court to enter a stipulated order upon the agreement of all  
28 parties. If the court orders detention for inpatient treatment, the  
29 treatment period may be for no longer than the period authorized in  
30 the original court order.

31 (e) Revocation proceedings under this subsection (4) are not  
32 allowable if the current commitment is solely based on the person  
33 being in need of assisted outpatient mental health treatment. In  
34 order to obtain a court order for detention for inpatient treatment  
35 under this circumstance, a petition must be filed under RCW 71.05.150  
36 or 71.05.153.

37 (5) In determining whether or not to take action under this  
38 section the designated mental health professional, agency, or  
39 facility must consider the factors specified under RCW 71.05.212 and  
40 the court must consider the factors specified under RCW 71.05.245 as

1 they apply to the question of whether to enforce, modify, or revoke a  
2 court order for involuntary treatment.

3 **Sec. 3038.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each  
4 amended to read as follows:

5 (1) An agency or facility designated to monitor or provide  
6 services under a less restrictive alternative or conditional release  
7 order or a designated crisis responder may take action to enforce,  
8 modify, or revoke a less restrictive alternative or conditional  
9 release order if the agency, facility, or designated crisis responder  
10 determines that:

11 (a) The person is failing to adhere to the terms and conditions  
12 of the court order;

13 (b) Substantial deterioration in the person's functioning has  
14 occurred;

15 (c) There is evidence of substantial decompensation with a  
16 reasonable probability that the decompensation can be reversed by  
17 further evaluation, intervention, or treatment; or

18 (d) The person poses a likelihood of serious harm.

19 (2) Actions taken under this section must include a flexible  
20 range of responses of varying levels of intensity appropriate to the  
21 circumstances and consistent with the interests of the individual and  
22 the public in personal autonomy, safety, recovery, and compliance.  
23 Available actions may include, but are not limited to, any of the  
24 following:

25 (a) To counsel, advise, or admonish the person as to their rights  
26 and responsibilities under the court order, and to offer appropriate  
27 incentives to motivate compliance;

28 (b) To increase the intensity of outpatient services provided to  
29 the person by increasing the frequency of contacts with the provider,  
30 referring the person for an assessment for assertive community  
31 services, or by other means;

32 (c) To request a court hearing for review and modification of the  
33 court order. The request must be made to the court with jurisdiction  
34 over the order and specify the circumstances that give rise to the  
35 request and what modification is being sought. The county prosecutor  
36 shall assist the agency or facility in requesting this hearing and  
37 issuing an appropriate summons to the person. This subsection does  
38 not limit the inherent authority of a treatment provider to alter  
39 conditions of treatment for clinical reasons, and is intended to be

1 used only when court intervention is necessary or advisable to secure  
2 the person's compliance and prevent decompensation or deterioration;

3 (d) To cause the person to be transported by a peace officer,  
4 designated crisis responder, or other means to the agency or facility  
5 monitoring or providing services under the court order, or to a  
6 triage facility, crisis stabilization unit, emergency department, or  
7 to an evaluation and treatment facility if the person is committed  
8 for mental health treatment, or to a secure detoxification facility  
9 with available space or an approved substance use disorder treatment  
10 program with available space if the person is committed for substance  
11 use disorder treatment. The person may be detained at the facility  
12 for up to twelve hours for the purpose of an evaluation to determine  
13 whether modification, revocation, or commitment proceedings are  
14 necessary and appropriate to stabilize the person and prevent  
15 decompensation, deterioration, or physical harm. Temporary detention  
16 for evaluation under this subsection is intended to occur only  
17 following a pattern of noncompliance or the failure of reasonable  
18 attempts at outreach and engagement, and may occur only when in the  
19 clinical judgment of a designated crisis responder or the  
20 professional person in charge of an agency or facility designated to  
21 monitor less restrictive alternative services temporary detention is  
22 appropriate. This subsection does not limit the ability or obligation  
23 to pursue revocation procedures under subsection (4) of this section  
24 in appropriate circumstances; and

25 (e) To initiate revocation procedures under subsection (4) of  
26 this section.

27 (3) The facility or agency designated to provide outpatient  
28 treatment shall notify the secretary of the department of social and  
29 health services or designated crisis responder when a person fails to  
30 adhere to terms and conditions of court ordered treatment or  
31 experiences substantial deterioration in his or her condition and, as  
32 a result, presents an increased likelihood of serious harm.

33 (4)(a) A designated crisis responder or the secretary of the  
34 department of social and health services may upon their own motion or  
35 notification by the facility or agency designated to provide  
36 outpatient care order a person subject to a court order under this  
37 chapter to be apprehended and taken into custody and temporary  
38 detention in an evaluation and treatment facility in or near the  
39 county in which he or she is receiving outpatient treatment if the  
40 person is committed for mental health treatment, or, if the person is



1 committed for substance use disorder treatment, in a secure  
2 detoxification facility or approved substance use disorder treatment  
3 program if either is available in or near the county in which he or  
4 she is receiving outpatient treatment and has adequate space.  
5 Proceedings under this subsection (4) may be initiated without  
6 ordering the apprehension and detention of the person.

7 (b) A person detained under this subsection (4) must be held  
8 until such time, not exceeding five days, as a hearing can be  
9 scheduled to determine whether or not the person should be returned  
10 to the hospital or facility from which he or she had been released.  
11 If the person is not detained, the hearing must be scheduled within  
12 five days of service on the person. The designated crisis responder  
13 or the secretary of the department of social and health services may  
14 modify or rescind the order at any time prior to commencement of the  
15 court hearing.

16 (c) The designated crisis responder or secretary of the  
17 department of social and health services shall notify the court that  
18 originally ordered commitment within two judicial days of a person's  
19 detention and file a revocation petition and order of apprehension  
20 and detention with the court and serve the person and their attorney,  
21 guardian, and conservator, if any. The person has the same rights  
22 with respect to notice, hearing, and counsel as in any involuntary  
23 treatment proceeding, except as specifically set forth in this  
24 section. There is no right to jury trial. The venue for proceedings  
25 regarding a petition for modification or revocation must be in the  
26 county in which the petition was filed.

27 (d) The issues for the court to determine are whether: (i) The  
28 person adhered to the terms and conditions of the court order; (ii)  
29 substantial deterioration in the person's functioning has occurred;  
30 (iii) there is evidence of substantial decompensation with a  
31 reasonable probability that the decompensation can be reversed by  
32 further inpatient treatment; or (iv) there is a likelihood of serious  
33 harm; and, if any of the above conditions apply, whether the court  
34 should reinstate or modify the person's less restrictive alternative  
35 or conditional release order or order the person's detention for  
36 inpatient treatment. The person may waive the court hearing and allow  
37 the court to enter a stipulated order upon the agreement of all  
38 parties. If the court orders detention for inpatient treatment, the  
39 treatment period may be for no longer than the period authorized in  
40 the original court order. A court may not issue an order to detain a

1 person for inpatient treatment in a secure detoxification facility or  
2 approved substance use disorder treatment program under this  
3 subsection unless there is a secure detoxification facility or  
4 approved substance use disorder treatment program available and with  
5 adequate space for the person.

6 (e) Revocation proceedings under this subsection (4) are not  
7 allowable if the current commitment is solely based on the person  
8 being in need of assisted outpatient mental health treatment. In  
9 order to obtain a court order for detention for inpatient treatment  
10 under this circumstance, a petition must be filed under RCW 71.05.150  
11 or 71.05.153.

12 (5) In determining whether or not to take action under this  
13 section the designated crisis responder, agency, or facility must  
14 consider the factors specified under RCW 71.05.212 and the court must  
15 consider the factors specified under RCW 71.05.245 as they apply to  
16 the question of whether to enforce, modify, or revoke a court order  
17 for involuntary treatment.

18 **Sec. 3039.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each  
19 amended to read as follows:

20 (1) An agency or facility designated to monitor or provide  
21 services under a less restrictive alternative or conditional release  
22 order or a designated crisis responder may take action to enforce,  
23 modify, or revoke a less restrictive alternative or conditional  
24 release order if the agency, facility, or designated crisis responder  
25 determines that:

26 (a) The person is failing to adhere to the terms and conditions  
27 of the court order;

28 (b) Substantial deterioration in the person's functioning has  
29 occurred;

30 (c) There is evidence of substantial decompensation with a  
31 reasonable probability that the decompensation can be reversed by  
32 further evaluation, intervention, or treatment; or

33 (d) The person poses a likelihood of serious harm.

34 (2) Actions taken under this section must include a flexible  
35 range of responses of varying levels of intensity appropriate to the  
36 circumstances and consistent with the interests of the individual and  
37 the public in personal autonomy, safety, recovery, and compliance.  
38 Available actions may include, but are not limited to, any of the  
39 following:

1 (a) To counsel, advise, or admonish the person as to their rights  
2 and responsibilities under the court order, and to offer appropriate  
3 incentives to motivate compliance;

4 (b) To increase the intensity of outpatient services provided to  
5 the person by increasing the frequency of contacts with the provider,  
6 referring the person for an assessment for assertive community  
7 services, or by other means;

8 (c) To request a court hearing for review and modification of the  
9 court order. The request must be made to the court with jurisdiction  
10 over the order and specify the circumstances that give rise to the  
11 request and what modification is being sought. The county prosecutor  
12 shall assist the agency or facility in requesting this hearing and  
13 issuing an appropriate summons to the person. This subsection does  
14 not limit the inherent authority of a treatment provider to alter  
15 conditions of treatment for clinical reasons, and is intended to be  
16 used only when court intervention is necessary or advisable to secure  
17 the person's compliance and prevent decompensation or deterioration;

18 (d) To cause the person to be transported by a peace officer,  
19 designated crisis responder, or other means to the agency or facility  
20 monitoring or providing services under the court order, or to a  
21 triage facility, crisis stabilization unit, emergency department, or  
22 to an evaluation and treatment facility if the person is committed  
23 for mental health treatment, or to a secure detoxification facility  
24 or an approved substance use disorder treatment program if the person  
25 is committed for substance use disorder treatment. The person may be  
26 detained at the facility for up to twelve hours for the purpose of an  
27 evaluation to determine whether modification, revocation, or  
28 commitment proceedings are necessary and appropriate to stabilize the  
29 person and prevent decompensation, deterioration, or physical harm.  
30 Temporary detention for evaluation under this subsection is intended  
31 to occur only following a pattern of noncompliance or the failure of  
32 reasonable attempts at outreach and engagement, and may occur only  
33 when in the clinical judgment of a designated crisis responder or the  
34 professional person in charge of an agency or facility designated to  
35 monitor less restrictive alternative services temporary detention is  
36 appropriate. This subsection does not limit the ability or obligation  
37 to pursue revocation procedures under subsection (4) of this section  
38 in appropriate circumstances; and

39 (e) To initiate revocation procedures under subsection (4) of  
40 this section.

1 (3) The facility or agency designated to provide outpatient  
2 treatment shall notify the secretary of the department of social and  
3 health services or designated crisis responder when a person fails to  
4 adhere to terms and conditions of court ordered treatment or  
5 experiences substantial deterioration in his or her condition and, as  
6 a result, presents an increased likelihood of serious harm.

7 (4)(a) A designated crisis responder or the secretary of the  
8 department of social and health services may upon their own motion or  
9 notification by the facility or agency designated to provide  
10 outpatient care order a person subject to a court order under this  
11 chapter to be apprehended and taken into custody and temporary  
12 detention in an evaluation and treatment facility in or near the  
13 county in which he or she is receiving outpatient treatment if the  
14 person is committed for mental health treatment, or, if the person is  
15 committed for substance use disorder treatment, in a secure  
16 detoxification facility or approved substance use disorder treatment  
17 program if either is available in or near the county in which he or  
18 she is receiving outpatient treatment. Proceedings under this  
19 subsection (4) may be initiated without ordering the apprehension and  
20 detention of the person.

21 (b) A person detained under this subsection (4) must be held  
22 until such time, not exceeding five days, as a hearing can be  
23 scheduled to determine whether or not the person should be returned  
24 to the hospital or facility from which he or she had been released.  
25 If the person is not detained, the hearing must be scheduled within  
26 five days of service on the person. The designated crisis responder  
27 or the secretary of the department of social and health services may  
28 modify or rescind the order at any time prior to commencement of the  
29 court hearing.

30 (c) The designated crisis responder or secretary of the  
31 department of social and health services shall notify the court that  
32 originally ordered commitment within two judicial days of a person's  
33 detention and file a revocation petition and order of apprehension  
34 and detention with the court and serve the person and their attorney,  
35 guardian, and conservator, if any. The person has the same rights  
36 with respect to notice, hearing, and counsel as in any involuntary  
37 treatment proceeding, except as specifically set forth in this  
38 section. There is no right to jury trial. The venue for proceedings  
39 regarding a petition for modification or revocation must be in the  
40 county in which the petition was filed.

1 (d) The issues for the court to determine are whether: (i) The  
2 person adhered to the terms and conditions of the court order; (ii)  
3 substantial deterioration in the person's functioning has occurred;  
4 (iii) there is evidence of substantial decompensation with a  
5 reasonable probability that the decompensation can be reversed by  
6 further inpatient treatment; or (iv) there is a likelihood of serious  
7 harm; and, if any of the above conditions apply, whether the court  
8 should reinstate or modify the person's less restrictive alternative  
9 or conditional release order or order the person's detention for  
10 inpatient treatment. The person may waive the court hearing and allow  
11 the court to enter a stipulated order upon the agreement of all  
12 parties. If the court orders detention for inpatient treatment, the  
13 treatment period may be for no longer than the period authorized in  
14 the original court order.

15 (e) Revocation proceedings under this subsection (4) are not  
16 allowable if the current commitment is solely based on the person  
17 being in need of assisted outpatient mental health treatment. In  
18 order to obtain a court order for detention for inpatient treatment  
19 under this circumstance, a petition must be filed under RCW 71.05.150  
20 or 71.05.153.

21 (5) In determining whether or not to take action under this  
22 section the designated crisis responder, agency, or facility must  
23 consider the factors specified under RCW 71.05.212 and the court must  
24 consider the factors specified under RCW 71.05.245 as they apply to  
25 the question of whether to enforce, modify, or revoke a court order  
26 for involuntary treatment.

27 **Sec. 3040.** RCW 71.05.620 and 2015 c 269 s 16 are each amended to  
28 read as follows:

29 (1) The files and records of court proceedings under this chapter  
30 and chapters 70.96A, 71.34, and 70.96B RCW shall be closed but shall  
31 be accessible to:

32 (a) The department;

33 (b) The department of social and health services;

34 (c) The authority;

35 (d) The state hospitals as defined in RCW 72.23.010;

36 ~~((e))~~ (e) Any person who is the subject of a petition;

37 ~~((d))~~ (f) The person's attorney or guardian;

38 ~~((e))~~ (g) Resource management services for that person; and

1       ~~((f))~~ (h) Service providers authorized to receive such  
2 information by resource management services.

3       ~~((department))~~ authority shall adopt rules to implement  
4 this section.

5       **Sec. 3041.** RCW 71.05.620 and 2016 sp.s. c 29 s 249 are each  
6 amended to read as follows:

7       (1) The files and records of court proceedings under this chapter  
8 and chapter 71.34 RCW shall be closed but shall be accessible to:

9       (a) The department;

10       (b) The department of social and health services;

11       (c) The authority;

12       (d) The state hospitals as defined in RCW 72.23.010;

13       ~~((e))~~ (e) Any person who is the subject of a petition;

14       ~~((d))~~ (f) The attorney or guardian of the person;

15       ~~((e))~~ (g) Resource management services for that person; and

16       ~~((f))~~ (h) Service providers authorized to receive such  
17 information by resource management services.

18       ~~((department))~~ authority shall adopt rules to implement  
19 this section.

20       **Sec. 3042.** RCW 71.05.720 and 2007 c 360 s 6 are each amended to  
21 read as follows:

22       Annually, all community mental health employees who work directly  
23 with clients shall be provided with training on safety and violence  
24 prevention topics described in RCW 49.19.030. The curriculum for the  
25 training shall be developed collaboratively among the ~~((department of  
26 social and health services))~~ authority, the department, contracted  
27 mental health providers, and employee organizations that represent  
28 community mental health workers.

29       **Sec. 3043.** RCW 71.05.732 and 2011 c 343 s 3 are each amended to  
30 read as follows:

31       (1) The joint legislative audit and review committee shall  
32 conduct an independent assessment of the direct costs of providing  
33 judicial services under this chapter and chapter 71.34 RCW as defined  
34 in RCW 71.05.730. The assessment shall include a review and analysis  
35 of the reasons for differences in costs among counties. The  
36 assessment shall be conducted for any county in which more than

1 twenty civil commitment cases were conducted during the year prior to  
2 the study. The assessment must be completed by June 1, 2012.

3 (2) The administrative office of the courts, the authority, and  
4 the department of social and health services shall provide the joint  
5 legislative audit and review committee with assistance and data  
6 required to complete the assessment.

7 (3) The joint legislative audit and review committee shall  
8 present recommendations as to methods for updating the costs  
9 identified in the assessment to reflect changes over time.

10 **Sec. 3044.** RCW 71.05.740 and 2014 c 225 s 88 are each amended to  
11 read as follows:

12 ((By August 1, 2013,)) All behavioral health organizations in the  
13 state of Washington must forward historical mental health involuntary  
14 commitment information retained by the organization including  
15 identifying information and dates of commitment to the ((department))  
16 authority. As soon as feasible, the behavioral health organizations  
17 must arrange to report new commitment data to the ((department))  
18 authority within twenty-four hours. Commitment information under this  
19 section does not need to be resent if it is already in the possession  
20 of the ((department)) authority. Behavioral health organizations and  
21 the ((department)) authority shall be immune from liability related  
22 to the sharing of commitment information under this section.

23 **Sec. 3045.** RCW 71.05.745 and 2015 c 269 s 2 are each amended to  
24 read as follows:

25 (1) The ((department)) authority may use a single bed  
26 certification process as outlined in rule to provide additional  
27 treatment capacity for a person suffering from a mental disorder for  
28 whom an evaluation and treatment bed is not available. The facility  
29 that is the proposed site of the single bed certification must be a  
30 facility that is willing and able to provide the person with timely  
31 and appropriate treatment either directly or by arrangement with  
32 other public or private agencies.

33 (2) A single bed certification must be specific to the patient  
34 receiving treatment.

35 (3) A designated mental health professional who submits an  
36 application for a single bed certification for treatment at a  
37 facility that is willing and able to provide timely and appropriate  
38 mental health treatment in good faith belief that the single bed

1 certification is appropriate may presume that the single bed  
2 certification will be approved for the purpose of completing the  
3 detention process and responding to other emergency calls.

4 (4) The (~~department~~) authority may adopt rules implementing  
5 this section and continue to enforce rules it has already adopted  
6 except where inconsistent with this section.

7 **Sec. 3046.** RCW 71.05.745 and 2016 sp.s. c 29 s 252 are each  
8 amended to read as follows:

9 (1) The (~~department~~) authority may use a single bed  
10 certification process as outlined in rule to provide additional  
11 treatment capacity for a person suffering from a mental disorder for  
12 whom an evaluation and treatment bed is not available. The facility  
13 that is the proposed site of the single bed certification must be a  
14 facility that is willing and able to provide the person with timely  
15 and appropriate treatment either directly or by arrangement with  
16 other public or private agencies.

17 (2) A single bed certification must be specific to the patient  
18 receiving treatment.

19 (3) A designated crisis responder who submits an application for  
20 a single bed certification for treatment at a facility that is  
21 willing and able to provide timely and appropriate mental health  
22 treatment in good faith belief that the single bed certification is  
23 appropriate may presume that the single bed certification will be  
24 approved for the purpose of completing the detention process and  
25 responding to other emergency calls.

26 (4) The (~~department~~) authority may adopt rules implementing  
27 this section and continue to enforce rules it has already adopted  
28 except where inconsistent with this section.

29 **Sec. 3047.** RCW 71.05.750 and 2015 c 269 s 3 are each amended to  
30 read as follows:

31 (1) A designated mental health professional shall make a report  
32 to the (~~department~~) authority when he or she determines a person  
33 meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700,  
34 or 71.34.710 and there are not any beds available at an evaluation  
35 and treatment facility, the person has not been provisionally  
36 accepted for admission by a facility, and the person cannot be served  
37 on a single bed certification or less restrictive alternative.  
38 Starting at the time when the designated mental health professional



1 determines a person meets detention criteria and the investigation  
2 has been completed, the designated mental health professional has  
3 twenty-four hours to submit a completed report to the ((~~department~~))  
4 authority.

5 (2) The report required under subsection (1) of this section must  
6 contain at a minimum:

- 7 (a) The date and time that the investigation was completed;  
8 (b) The identity of the responsible regional support network or  
9 behavioral health organization;  
10 (c) The county in which the person met detention criteria;  
11 (d) A list of facilities which refused to admit the person; and  
12 (e) Identifying information for the person, including age or date  
13 of birth.

14 (3) The ((~~department~~)) authority shall develop a standardized  
15 reporting form or modify the current form used for single bed  
16 certifications for the report required under subsection (2) of this  
17 section and may require additional reporting elements as it  
18 determines are necessary or supportive. The ((~~department~~)) authority  
19 shall also determine the method for the transmission of the completed  
20 report from the designated mental health professional to the  
21 ((~~department~~)) authority.

22 (4) The ((~~department~~)) authority shall create quarterly reports  
23 displayed on its web site that summarize the information reported  
24 under subsection (2) of this section. At a minimum, the reports must  
25 display data by county and by month. The reports must also include  
26 the number of single bed certifications granted by category. The  
27 categories must include all of the reasons that the ((~~department~~))  
28 authority recognizes for issuing a single bed certification, as  
29 identified in rule.

30 (5) The reports provided according to this section may not  
31 display "protected health information" as that term is used in the  
32 federal health insurance portability and accountability act of 1996,  
33 nor information contained in "mental health treatment records" as  
34 that term is used in chapter 70.02 RCW or elsewhere in state law, and  
35 must otherwise be compliant with state and federal privacy laws.

36 (6) For purposes of this section, the term "single bed  
37 certification" means a situation in which an adult on a seventy-two  
38 hour detention, fourteen-day commitment, ninety-day commitment, or  
39 one hundred eighty-day commitment is detained to a facility that is:

1 (a) Not licensed or certified as an inpatient evaluation and  
2 treatment facility; or

3 (b) A licensed or certified inpatient evaluation and treatment  
4 facility that is already at capacity.

5 **Sec. 3048.** RCW 71.05.750 and 2016 sp.s. c 29 s 253 are each  
6 amended to read as follows:

7 (1) A designated crisis responder shall make a report to the  
8 ((~~department~~)) authority when he or she determines a person meets  
9 detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or  
10 71.34.710 and there are not any beds available at an evaluation and  
11 treatment facility, the person has not been provisionally accepted  
12 for admission by a facility, and the person cannot be served on a  
13 single bed certification or less restrictive alternative. Starting at  
14 the time when the designated crisis responder determines a person  
15 meets detention criteria and the investigation has been completed,  
16 the designated crisis responder has twenty-four hours to submit a  
17 completed report to the ((~~department~~)) authority.

18 (2) The report required under subsection (1) of this section must  
19 contain at a minimum:

20 (a) The date and time that the investigation was completed;

21 (b) The identity of the responsible behavioral health  
22 organization;

23 (c) The county in which the person met detention criteria;

24 (d) A list of facilities which refused to admit the person; and

25 (e) Identifying information for the person, including age or date  
26 of birth.

27 (3) The ((~~department~~)) authority shall develop a standardized  
28 reporting form or modify the current form used for single bed  
29 certifications for the report required under subsection (2) of this  
30 section and may require additional reporting elements as it  
31 determines are necessary or supportive. The ((~~department~~)) authority  
32 shall also determine the method for the transmission of the completed  
33 report from the designated crisis responder to the ((~~department~~))  
34 authority.

35 (4) The ((~~department~~)) authority shall create quarterly reports  
36 displayed on its web site that summarize the information reported  
37 under subsection (2) of this section. At a minimum, the reports must  
38 display data by county and by month. The reports must also include  
39 the number of single bed certifications granted by category. The

1 categories must include all of the reasons that the ((department))  
2 authority recognizes for issuing a single bed certification, as  
3 identified in rule.

4 (5) The reports provided according to this section may not  
5 display "protected health information" as that term is used in the  
6 federal health insurance portability and accountability act of 1996,  
7 nor information contained in "mental health treatment records" as  
8 that term is used in chapter 70.02 RCW or elsewhere in state law, and  
9 must otherwise be compliant with state and federal privacy laws.

10 (6) For purposes of this section, the term "single bed  
11 certification" means a situation in which an adult on a seventy-two  
12 hour detention, fourteen-day commitment, ninety-day commitment, or  
13 one hundred eighty-day commitment is detained to a facility that is:

14 (a) Not licensed or certified as an inpatient evaluation and  
15 treatment facility; or

16 (b) A licensed or certified inpatient evaluation and treatment  
17 facility that is already at capacity.

18 **Sec. 3049.** RCW 71.05.755 and 2015 c 269 s 4 are each amended to  
19 read as follows:

20 (1) The ((department)) authority shall promptly share reports it  
21 receives under RCW 71.05.750 with the responsible regional support  
22 network or behavioral health organization. The regional support  
23 network or behavioral health organization receiving this notification  
24 must attempt to engage the person in appropriate services for which  
25 the person is eligible and report back within seven days to the  
26 ((department)) authority.

27 (2) The ((department)) authority shall track and analyze reports  
28 submitted under RCW 71.05.750. The ((department)) authority must  
29 initiate corrective action when appropriate to ensure that each  
30 regional support network or behavioral health organization has  
31 implemented an adequate plan to provide evaluation and treatment  
32 services. Corrective actions may include remedies under RCW 71.24.330  
33 and 43.20A.894 (as recodified by this act), including requiring  
34 expenditure of reserve funds. An adequate plan may include  
35 development of less restrictive alternatives to involuntary  
36 commitment such as crisis triage, crisis diversion, voluntary  
37 treatment, or prevention programs reasonably calculated to reduce  
38 demand for evaluation and treatment under this chapter.

1       **Sec. 3050.** RCW 71.05.760 and 2016 sp.s. c 29 s 201 are each  
2 amended to read as follows:

3       (1)(a) By April 1, 2018, the (~~department~~) authority, by rule,  
4 must combine the functions of a designated mental health professional  
5 and designated chemical dependency specialist by establishing a  
6 designated crisis responder who is authorized to conduct  
7 investigations, detain persons up to seventy-two hours to the proper  
8 facility, and carry out the other functions identified in this  
9 chapter and chapter 71.34 RCW. The behavioral health organizations  
10 shall provide training to the designated crisis responders as  
11 required by the (~~department~~) authority.

12       (b)(i) To qualify as a designated crisis responder, a person must  
13 have received chemical dependency training as determined by the  
14 department and be a:

15       (A) Psychiatrist, psychologist, psychiatric advanced registered  
16 nurse practitioner, or social worker;

17       (B) Person who is licensed by the department as a mental health  
18 counselor or mental health counselor associate, or marriage and  
19 family therapist or marriage and family therapist associate;

20       (C) Person with a master's degree or further advanced degree in  
21 counseling or one of the social sciences from an accredited college  
22 or university and who have, in addition, at least two years of  
23 experience in direct treatment of persons with mental illness or  
24 emotional disturbance, such experience gained under the direction of  
25 a mental health professional;

26       (~~(C)~~) (D) Person who meets the waiver criteria of RCW  
27 71.24.260, which waiver was granted before 1986;

28       (~~(D)~~) (E) Person who had an approved waiver to perform the  
29 duties of a mental health professional that was requested by the  
30 regional support network and granted by the department of social and  
31 health services before July 1, 2001; or

32       (~~(E)~~) (F) Person who has been granted an exception of the  
33 minimum requirements of a mental health professional by the  
34 department consistent with rules adopted by the secretary.

35       (ii) Training must include chemical dependency training specific  
36 to the duties of a designated crisis responder, including diagnosis  
37 of substance abuse and dependence and assessment of risk associated  
38 with substance use.

39       (c) The (~~department~~) authority must develop a transition  
40 process for any person who has been designated as a designated mental

1 health professional or a designated chemical dependency specialist  
2 before April 1, 2018, to be converted to a designated crisis  
3 responder. The behavioral health organizations shall provide  
4 training, as required by the ((department)) authority, to persons  
5 converting to designated crisis responders, which must include both  
6 mental health and chemical dependency training applicable to the  
7 designated crisis responder role.

8 (2)(a) The ((department)) authority must ensure that at least one  
9 sixteen-bed secure detoxification facility is operational by April 1,  
10 2018, and that at least two sixteen-bed secure detoxification  
11 facilities are operational by April 1, 2019.

12 (b) If, at any time during the implementation of secure  
13 detoxification facility capacity, federal funding becomes unavailable  
14 for federal match for services provided in secure detoxification  
15 facilities, then the ((department)) authority must cease any  
16 expansion of secure detoxification facilities until further direction  
17 is provided by the legislature.

18 **Sec. 3051.** RCW 71.05.801 and 2009 c 323 s 3 are each amended to  
19 read as follows:

20 When appropriate and subject to available funds, the treatment  
21 and training of a person with a developmental disability who is  
22 committed to the custody of the department of social and health  
23 services or to a facility certified for ninety day treatment by the  
24 department for a further period of intensive treatment under RCW  
25 71.05.320 must be provided in a program specifically reserved for the  
26 treatment and training of persons with developmental disabilities. A  
27 person so committed shall receive habilitation services pursuant to  
28 an individualized service plan specifically developed to treat the  
29 behavior which was the subject of the criminal proceedings. The  
30 treatment program shall be administered by developmental disabilities  
31 professionals and others trained specifically in the needs of persons  
32 with developmental disabilities. The department of social and health  
33 services may limit admissions to this specialized program in order to  
34 ensure that expenditures for services do not exceed amounts  
35 appropriated by the legislature and allocated by the department of  
36 social and health services for such services. The department of  
37 social and health services may establish admission priorities in the  
38 event that the number of eligible persons exceeds the limits set by  
39 the department of social and health services.

1       **Sec. 3052.** RCW 71.05.940 and 1999 c 13 s 13 are each amended to  
2 read as follows:

3       The provisions of chapter 420, Laws of 1989 shall apply equally  
4 to persons in the custody of the department of social and health  
5 services on May 13, 1989, who were found by a court to be not guilty  
6 by reason of insanity or incompetent to stand trial, or who have been  
7 found to have committed acts constituting a felony pursuant to RCW  
8 71.05.280(3) and present a substantial likelihood of repeating  
9 similar acts, and the secretary of the department of social and  
10 health services shall cause such persons to be evaluated to ascertain  
11 if such persons ((~~are developmentally disabled~~)) have a developmental  
12 disability for placement in a program specifically reserved for the  
13 treatment and training of persons with developmental disabilities.

14   **PART 4**

15       **Sec. 4001.** RCW 71.24.015 and 2014 c 225 s 6 are each amended to  
16 read as follows:

17       It is the intent of the legislature to establish a community  
18 mental health program which shall help people experiencing mental  
19 illness to retain a respected and productive position in the  
20 community. This will be accomplished through programs that focus on  
21 resilience and recovery, and practices that are evidence-based,  
22 research-based, consensus-based, or, where these do not exist,  
23 promising or emerging best practices, which provide for:

24       (1) Access to mental health services for adults with mental  
25 illness and children with mental illness or emotional disturbances  
26 who meet access to care standards which services recognize the  
27 special needs of underserved populations, including minorities,  
28 children, ((~~the elderly~~ [~~older adults~~])) older adults, individuals  
29 with disabilities, and low-income persons. Access to mental health  
30 services shall not be limited by a person's history of confinement in  
31 a state, federal, or local correctional facility. It is also the  
32 purpose of this chapter to promote the early identification of  
33 children with mental illness and to ensure that they receive the  
34 mental health care and treatment which is appropriate to their  
35 developmental level. This care should improve home, school, and  
36 community functioning, maintain children in a safe and nurturing home  
37 environment, and should enable treatment decisions to be made in  
38 response to clinical needs in accordance with sound professional

1 judgment while also recognizing parents' rights to participate in  
2 treatment decisions for their children;

3 (2) The involvement of persons with mental illness, their family  
4 members, and advocates in designing and implementing mental health  
5 services that reduce unnecessary hospitalization and incarceration  
6 and promote the recovery and employment of persons with mental  
7 illness. To improve the quality of services available and promote the  
8 rehabilitation, recovery, and reintegration of persons with mental  
9 illness, consumer and advocate participation in mental health  
10 services is an integral part of the community mental health system  
11 and shall be supported;

12 (3) Accountability of efficient and effective services through  
13 state-of-the-art outcome and performance measures and statewide  
14 standards for monitoring client and system outcomes, performance, and  
15 reporting of client and system outcome information. These processes  
16 shall be designed so as to maximize the use of available resources  
17 for direct care of people with a mental illness and to assure uniform  
18 data collection across the state;

19 (4) Minimum service delivery standards;

20 (5) Priorities for the use of available resources for the care of  
21 individuals with mental illness consistent with the priorities  
22 defined in the statute;

23 (6) Coordination of services within the department of social and  
24 health services, including those divisions within the department of  
25 social and health services that provide services to children, between  
26 the authority, department of social and health services, and the  
27 office of the superintendent of public instruction, and among state  
28 mental hospitals, county authorities, behavioral health  
29 organizations, community mental health services, and other support  
30 services, which shall to the maximum extent feasible also include the  
31 families of individuals with mental illness, and other service  
32 providers; and

33 (7) Coordination of services aimed at reducing duplication in  
34 service delivery and promoting complementary services among all  
35 entities that provide mental health services to adults and children.

36 It is the policy of the state to encourage the provision of a  
37 full range of treatment and rehabilitation services in the state for  
38 mental disorders including services operated by consumers and  
39 advocates. The legislature intends to encourage the development of  
40 regional mental health services with adequate local flexibility to

1 assure eligible people in need of care access to the least-  
2 restrictive treatment alternative appropriate to their needs, and the  
3 availability of treatment components to assure continuity of care. To  
4 this end, counties must enter into joint operating agreements with  
5 other counties to form regional systems of care that are consistent  
6 with the regional service areas established under RCW 43.20A.893 (as  
7 recodified by this act). Regional systems of care, whether operated  
8 by a county, group of counties, or another entity shall integrate  
9 planning, administration, and service delivery duties under  
10 chapter((§)) 71.05 ((~~and 71.24~~)) RCW and this chapter to consolidate  
11 administration, reduce administrative layering, and reduce  
12 administrative costs. The legislature hereby finds and declares that  
13 sound fiscal management requires vigilance to ensure that funds  
14 appropriated by the legislature for the provision of needed community  
15 mental health programs and services are ultimately expended solely  
16 for the purpose for which they were appropriated, and not for any  
17 other purpose.

18 It is further the intent of the legislature to integrate the  
19 provision of services to provide continuity of care through all  
20 phases of treatment. To this end, the legislature intends to promote  
21 active engagement with persons with mental illness and collaboration  
22 between families and service providers.

23 **Sec. 4002.** RCW 71.24.025 and 2016 sp.s. c 29 s 501 and 2016 c  
24 155 s 12 are each reenacted and amended to read as follows:

25 Unless the context clearly requires otherwise, the definitions in  
26 this section apply throughout this chapter.

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

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

31 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
32 case of a child, a gravely disabled minor as defined in RCW  
33 71.34.020; or

34 (c) Presenting a likelihood of serious harm as defined in RCW  
35 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

36 (2) "Alcoholism" means a disease, characterized by a dependency  
37 on alcoholic beverages, loss of control over the amount and  
38 circumstances of use, symptoms of tolerance, physiological or  
39 psychological withdrawal, or both, if use is reduced or discontinued,



1 and impairment of health or disruption of social or economic  
2 functioning.

3 (3) "Approved substance use disorder treatment program" means a  
4 program for persons with a substance use disorder provided by a  
5 treatment program licensed or certified by the department (~~(of social~~  
6 ~~and health services)~~) as meeting standards adopted under this  
7 chapter.

8 (4) "Authority" means the Washington state health care authority.

9 (5) "Available resources" means funds appropriated for the  
10 purpose of providing community mental health programs, federal funds,  
11 except those provided according to Title XIX of the Social Security  
12 Act, and state funds appropriated under this chapter or chapter 71.05  
13 RCW by the legislature during any biennium for the purpose of  
14 providing residential services, resource management services,  
15 community support services, and other mental health services. This  
16 does not include funds appropriated for the purpose of operating and  
17 administering the state psychiatric hospitals.

18 ~~((+5))~~ (6) "Behavioral health organization" means any county  
19 authority or group of county authorities or other entity recognized  
20 by the secretary in contract in a defined region.

21 ~~((+6))~~ (7) "Behavioral health program" means all expenditures,  
22 services, activities, or programs, including reasonable  
23 administration and overhead, designed and conducted to prevent or  
24 treat chemical dependency and mental illness.

25 ~~((+7))~~ (8) "Behavioral health services" means mental health  
26 services as described in this chapter and chapter 71.36 RCW and  
27 substance use disorder treatment services as described in this  
28 chapter and chapter 70.96A RCW.

29 ~~((+8))~~ (9) "Child" means a person under the age of eighteen  
30 years.

31 ~~((+9))~~ (10) "Chronically mentally ill adult" or "adult who is  
32 chronically mentally ill" means an adult who has a mental disorder  
33 and meets at least one of the following criteria:

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

36 (b) Has experienced a continuous psychiatric hospitalization or  
37 residential treatment exceeding six months' duration within the  
38 preceding year; or

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

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

4 ~~((+10+))~~ (11) "Clubhouse" means a community-based program that  
5 provides rehabilitation services and is licensed or certified by the  
6 department ~~((of social and health services))~~.

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

11 ~~((+12+))~~ (13) "Community support services" means services  
12 authorized, planned, and coordinated through resource management  
13 services including, at a minimum, assessment, diagnosis, emergency  
14 crisis intervention available twenty-four hours, seven days a week,  
15 prescreening determinations for persons who are mentally ill being  
16 considered for placement in nursing homes as required by federal law,  
17 screening for patients being considered for admission to residential  
18 services, diagnosis and treatment for children who are acutely  
19 mentally ill or severely emotionally disturbed discovered under  
20 screening through the federal Title XIX early and periodic screening,  
21 diagnosis, and treatment program, investigation, legal, and other  
22 nonresidential services under chapter 71.05 RCW, case management  
23 services, psychiatric treatment including medication supervision,  
24 counseling, psychotherapy, assuring transfer of relevant patient  
25 information between service providers, recovery services, and other  
26 services determined by behavioral health organizations.

27 ~~((+13+))~~ (14) "Consensus-based" means a program or practice that  
28 has general support among treatment providers and experts, based on  
29 experience or professional literature, and may have anecdotal or case  
30 study support, or that is agreed but not possible to perform studies  
31 with random assignment and controlled groups.

32 ~~((+14+))~~ (15) "County authority" means the board of county  
33 commissioners, county council, or county executive having authority  
34 to establish a community mental health program, or two or more of the  
35 county authorities specified in this subsection which have entered  
36 into an agreement to provide a community mental health program.

37 ~~((+15+))~~ (16) "Department" means the department of ~~((social and))~~  
38 health ~~((services))~~.

39 ~~((+16+))~~ (17) "Designated chemical dependency specialist" means a  
40 person designated by the behavioral health organization or by the

1 county alcoholism and other drug addiction program coordinator  
2 designated by the behavioral health organization to perform the  
3 commitment duties described in RCW 70.96A.140 and qualified to do so  
4 by meeting standards adopted by the department.

5 ~~((17))~~ (18) "Designated mental health professional" means a  
6 mental health professional designated by the county or other  
7 authority authorized in rule to perform the duties specified in this  
8 chapter.

9 ~~((18))~~ (19) "Director" means the director of the authority.

10 (20) "Drug addiction" means a disease characterized by a  
11 dependency on psychoactive chemicals, loss of control over the amount  
12 and circumstances of use, symptoms of tolerance, physiological or  
13 psychological withdrawal, or both, if use is reduced or discontinued,  
14 and impairment of health or disruption of social or economic  
15 functioning.

16 ~~((19))~~ (21) "Early adopter" means a regional service area for  
17 which all of the county authorities have requested that the  
18 ~~((department and the health care))~~ authority ~~((jointly))~~ purchase  
19 medical and behavioral health services through a managed care health  
20 system as defined under RCW 71.24.380(6).

21 ~~((20))~~ (22) "Emerging best practice" or "promising practice"  
22 means a program or practice that, based on statistical analyses or a  
23 well established theory of change, shows potential for meeting the  
24 evidence-based or research-based criteria, which may include the use  
25 of a program that is evidence-based for outcomes other than those  
26 listed in subsection ~~((21))~~ (23) of this section.

27 ~~((21))~~ (23) "Evidence-based" means a program or practice that  
28 has been tested in heterogeneous or intended populations with  
29 multiple randomized, or statistically controlled evaluations, or  
30 both; or one large multiple site randomized, or statistically  
31 controlled evaluation, or both, where the weight of the evidence from  
32 a systemic review demonstrates sustained improvements in at least one  
33 outcome. "Evidence-based" also means a program or practice that can  
34 be implemented with a set of procedures to allow successful  
35 replication in Washington and, when possible, is determined to be  
36 cost-beneficial.

37 ~~((22))~~ (24) "Licensed physician" means a person licensed to  
38 practice medicine or osteopathic medicine and surgery in the state of  
39 Washington.

1        ~~((23))~~ (25) "Licensed or certified service provider" means an  
2 entity licensed or certified according to this chapter or chapter  
3 71.05 or 70.96A RCW or an entity deemed to meet state minimum  
4 standards as a result of accreditation by a recognized behavioral  
5 health accrediting body recognized and having a current agreement  
6 with the department, or tribal attestation that meets state minimum  
7 standards, or persons licensed under chapter 18.57, 18.57A, 18.71,  
8 18.71A, 18.83, or 18.79 RCW, as it applies to registered nurses and  
9 advanced registered nurse practitioners.

10        ~~((24))~~ (26) "Long-term inpatient care" means inpatient services  
11 for persons committed for, or voluntarily receiving intensive  
12 treatment for, periods of ninety days or greater under chapter 71.05  
13 RCW. "Long-term inpatient care" as used in this chapter does not  
14 include: (a) Services for individuals committed under chapter 71.05  
15 RCW who are receiving services pursuant to a conditional release or a  
16 court-ordered less restrictive alternative to detention; or (b)  
17 services for individuals voluntarily receiving less restrictive  
18 alternative treatment on the grounds of the state hospital.

19        ~~((25))~~ (27) "Mental health services" means all services  
20 provided by behavioral health organizations and other services  
21 provided by the state for persons who are mentally ill.

22        ~~((26))~~ (28) Mental health "treatment records" include  
23 registration and all other records concerning persons who are  
24 receiving or who at any time have received services for mental  
25 illness, which are maintained by the department of social and health  
26 services or the authority, by behavioral health organizations and  
27 their staffs, and by treatment facilities. "Treatment records" do not  
28 include notes or records maintained for personal use by a person  
29 providing treatment services for the department of social and health  
30 services, behavioral health organizations, or a treatment facility if  
31 the notes or records are not available to others.

32        ~~((27))~~ (29) "Mentally ill persons," "persons who are mentally  
33 ill," and "the mentally ill" mean persons and conditions defined in  
34 subsections (1), ~~((9), (35), and (36))~~ (10), (37), and (38) of this  
35 section.

36        ~~((28))~~ (30) "Recovery" means the process in which people are  
37 able to live, work, learn, and participate fully in their  
38 communities.

39        ~~((29))~~ (31) "Registration records" include all the records of  
40 the department of social and health services, the authority,

1 behavioral health organizations, treatment facilities, and other  
2 persons providing services ~~((t))~~ for the department of social and  
3 health services, the authority, county departments, or facilities  
4 which identify persons who are receiving or who at any time have  
5 received services for mental illness.

6 ~~((+30))~~ (32) "Research-based" means a program or practice that  
7 has been tested with a single randomized, or statistically controlled  
8 evaluation, or both, demonstrating sustained desirable outcomes; or  
9 where the weight of the evidence from a systemic review supports  
10 sustained outcomes as described in subsection ~~((+21))~~ (23) of this  
11 section but does not meet the full criteria for evidence-based.

12 ~~((+31))~~ (33) "Residential services" means a complete range of  
13 residences and supports authorized by resource management services  
14 and which may involve a facility, a distinct part thereof, or  
15 services which support community living, for persons who are acutely  
16 mentally ill, adults who are chronically mentally ill, children who  
17 are severely emotionally disturbed, or adults who are seriously  
18 disturbed and determined by the behavioral health organization to be  
19 at risk of becoming acutely or chronically mentally ill. The services  
20 shall include at least evaluation and treatment services as defined  
21 in chapter 71.05 RCW, acute crisis respite care, long-term adaptive  
22 and rehabilitative care, and supervised and supported living  
23 services, and shall also include any residential services developed  
24 to service persons who are mentally ill in nursing homes, residential  
25 treatment facilities, assisted living facilities, and adult family  
26 homes, and may include outpatient services provided as an element in  
27 a package of services in a supported housing model. Residential  
28 services for children in out-of-home placements related to their  
29 mental disorder shall not include the costs of food and shelter,  
30 except for children's long-term residential facilities existing prior  
31 to January 1, 1991.

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

35 ~~((+33))~~ (35) "Resource management services" mean the planning,  
36 coordination, and authorization of residential services and community  
37 support services administered pursuant to an individual service plan  
38 for: (a) Adults and children who are acutely mentally ill; (b) adults  
39 who are chronically mentally ill; (c) children who are severely  
40 emotionally disturbed; or (d) adults who are seriously disturbed and

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

12 ~~((+34+))~~ (36) "Secretary" means the secretary of ~~((social and~~  
13 ~~health services))~~ the department of health.

14 ~~((+35+))~~ (37) "Seriously disturbed person" means a person who:

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

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

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

24 (d) Exhibits suicidal preoccupation or attempts; or

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

30 ~~((+36+))~~ (38) "Severely emotionally disturbed child" or "child  
31 who is severely emotionally disturbed" means a child who has been  
32 determined by the behavioral health organization to be experiencing a  
33 mental disorder as defined in chapter 71.34 RCW, including those  
34 mental disorders that result in a behavioral or conduct disorder,  
35 that is clearly interfering with the child's functioning in family or  
36 school or with peers and who meets at least one of the following  
37 criteria:

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

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

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

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

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

9 (ii) Changes in custodial adult;

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

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

15 (v) Drug or alcohol abuse; or

16 (vi) Homelessness.

17 (~~(37)~~) (39) "State minimum standards" means minimum  
18 requirements established by rules adopted (~~by the secretary~~) and  
19 necessary to implement this chapter (~~for~~) by:

20 (a) The authority for:

21 (i) Delivery of mental health services; and  
22 (~~(b) licensed service providers for the provision of mental~~  
23 ~~health services; (c) residential services; and (d)~~) (ii) Community  
24 support services and resource management services;

25 (b) The department of health for:

26 (i) Licensed service providers for the provision of mental health  
27 services; and

28 (ii) Residential services.

29 (~~(38)~~) (40) "Substance use disorder" means a cluster of  
30 cognitive, behavioral, and physiological symptoms indicating that an  
31 individual continues using the substance despite significant  
32 substance-related problems. The diagnosis of a substance use disorder  
33 is based on a pathological pattern of behaviors related to the use of  
34 the substances.

35 (~~(39)~~) (41) "Tribal authority," for the purposes of this  
36 section and RCW 71.24.300 only, means: The federally recognized  
37 Indian tribes and the major Indian organizations recognized by the  
38 (~~secretary~~) director insofar as these organizations do not have a  
39 financial relationship with any behavioral health organization that  
40 would present a conflict of interest.

1       **Sec. 4003.** RCW 71.24.025 and 2016 sp.s. c 29 s 502 are each  
2 reenacted and amended to read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

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

12       (c) Presenting a likelihood of serious harm as defined in RCW  
13 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

14       (2) "Alcoholism" means a disease, characterized by a dependency  
15 on alcoholic beverages, loss of control over the amount and  
16 circumstances of use, symptoms of tolerance, physiological or  
17 psychological withdrawal, or both, if use is reduced or discontinued,  
18 and impairment of health or disruption of social or economic  
19 functioning.

20       (3) "Approved substance use disorder treatment program" means a  
21 program for persons with a substance use disorder provided by a  
22 treatment program licensed or certified by the department (~~(of social~~  
23 ~~and health services))~~) as meeting standards adopted under this  
24 chapter.

25       (4) "Authority" means the Washington state health care authority.

26       (5) "Available resources" means funds appropriated for the  
27 purpose of providing community mental health programs, federal funds,  
28 except those provided according to Title XIX of the Social Security  
29 Act, and state funds appropriated under this chapter or chapter 71.05  
30 RCW by the legislature during any biennium for the purpose of  
31 providing residential services, resource management services,  
32 community support services, and other mental health services. This  
33 does not include funds appropriated for the purpose of operating and  
34 administering the state psychiatric hospitals.

35       (~~(+5)~~) (6) "Behavioral health organization" means any county  
36 authority or group of county authorities or other entity recognized  
37 by the secretary in contract in a defined region.

38       (~~(+6)~~) (7) "Behavioral health program" means all expenditures,  
39 services, activities, or programs, including reasonable



1 administration and overhead, designed and conducted to prevent or  
2 treat chemical dependency and mental illness.

3 ~~((7))~~ (8) "Behavioral health services" means mental health  
4 services as described in this chapter and chapter 71.36 RCW and  
5 substance use disorder treatment services as described in this  
6 chapter.

7 ~~((8))~~ (9) "Child" means a person under the age of eighteen  
8 years.

9 ~~((9))~~ (10) "Chronically mentally ill adult" or "adult who is  
10 chronically mentally ill" means an adult who has a mental disorder  
11 and meets at least one of the following criteria:

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

14 (b) Has experienced a continuous psychiatric hospitalization or  
15 residential treatment exceeding six months' duration within the  
16 preceding year; or

17 (c) Has been unable to engage in any substantial gainful activity  
18 by reason of any mental disorder which has lasted for a continuous  
19 period of not less than twelve months. "Substantial gainful activity"  
20 shall be defined by the ~~((department))~~ authority by rule consistent  
21 with Public Law 92-603, as amended.

22 ~~((10))~~ (11) "Clubhouse" means a community-based program that  
23 provides rehabilitation services and is licensed or certified by the  
24 department ~~((of social and health services))~~.

25 ~~((11))~~ (12) "Community mental health service delivery system"  
26 means public, private, or tribal agencies that provide services  
27 specifically to persons with mental disorders as defined under RCW  
28 71.05.020 and receive funding from public sources.

29 ~~((12))~~ (13) "Community support services" means services  
30 authorized, planned, and coordinated through resource management  
31 services including, at a minimum, assessment, diagnosis, emergency  
32 crisis intervention available twenty-four hours, seven days a week,  
33 prescreening determinations for persons who are mentally ill being  
34 considered for placement in nursing homes as required by federal law,  
35 screening for patients being considered for admission to residential  
36 services, diagnosis and treatment for children who are acutely  
37 mentally ill or severely emotionally disturbed discovered under  
38 screening through the federal Title XIX early and periodic screening,  
39 diagnosis, and treatment program, investigation, legal, and other  
40 nonresidential services under chapter 71.05 RCW, case management

1 services, psychiatric treatment including medication supervision,  
2 counseling, psychotherapy, assuring transfer of relevant patient  
3 information between service providers, recovery services, and other  
4 services determined by behavioral health organizations.

5 ~~((13))~~ (14) "Consensus-based" means a program or practice that  
6 has general support among treatment providers and experts, based on  
7 experience or professional literature, and may have anecdotal or case  
8 study support, or that is agreed but not possible to perform studies  
9 with random assignment and controlled groups.

10 ~~((14))~~ (15) "County authority" means the board of county  
11 commissioners, county council, or county executive having authority  
12 to establish a community mental health program, or two or more of the  
13 county authorities specified in this subsection which have entered  
14 into an agreement to provide a community mental health program.

15 ~~((15))~~ (16) "Department" means the department of ~~((social and))~~  
16 health ~~((services))~~.

17 ~~((16))~~ (17) "Designated crisis responder" means a mental health  
18 professional designated by the county or other authority authorized  
19 in rule to perform the duties specified in this chapter.

20 ~~((17))~~ (18) "Director" means the director of the authority.

21 (19) "Drug addiction" means a disease characterized by a  
22 dependency on psychoactive chemicals, loss of control over the amount  
23 and circumstances of use, symptoms of tolerance, physiological or  
24 psychological withdrawal, or both, if use is reduced or discontinued,  
25 and impairment of health or disruption of social or economic  
26 functioning.

27 ~~((18))~~ (20) "Early adopter" means a regional service area for  
28 which all of the county authorities have requested that the  
29 ~~((department and the health care))~~ authority ~~((jointly))~~ purchase  
30 medical and behavioral health services through a managed care health  
31 system as defined under RCW 71.24.380(6).

32 ~~((19))~~ (21) "Emerging best practice" or "promising practice"  
33 means a program or practice that, based on statistical analyses or a  
34 well established theory of change, shows potential for meeting the  
35 evidence-based or research-based criteria, which may include the use  
36 of a program that is evidence-based for outcomes other than those  
37 listed in subsection ~~((20))~~ (22) of this section.

38 ~~((20))~~ (22) "Evidence-based" means a program or practice that  
39 has been tested in heterogeneous or intended populations with  
40 multiple randomized, or statistically controlled evaluations, or

1 both; or one large multiple site randomized, or statistically  
2 controlled evaluation, or both, where the weight of the evidence from  
3 a systemic review demonstrates sustained improvements in at least one  
4 outcome. "Evidence-based" also means a program or practice that can  
5 be implemented with a set of procedures to allow successful  
6 replication in Washington and, when possible, is determined to be  
7 cost-beneficial.

8 ~~((+21+))~~ (23) "Licensed physician" means a person licensed to  
9 practice medicine or osteopathic medicine and surgery in the state of  
10 Washington.

11 ~~((+22+))~~ (24) "Licensed or certified service provider" means an  
12 entity licensed or certified according to this chapter or chapter  
13 71.05 RCW or an entity deemed to meet state minimum standards as a  
14 result of accreditation by a recognized behavioral health accrediting  
15 body recognized and having a current agreement with the department,  
16 or tribal attestation that meets state minimum standards, or persons  
17 licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79  
18 RCW, as it applies to registered nurses and advanced registered nurse  
19 practitioners.

20 ~~((+23+))~~ (25) "Long-term inpatient care" means inpatient services  
21 for persons committed for, or voluntarily receiving intensive  
22 treatment for, periods of ninety days or greater under chapter 71.05  
23 RCW. "Long-term inpatient care" as used in this chapter does not  
24 include: (a) Services for individuals committed under chapter 71.05  
25 RCW who are receiving services pursuant to a conditional release or a  
26 court-ordered less restrictive alternative to detention; or (b)  
27 services for individuals voluntarily receiving less restrictive  
28 alternative treatment on the grounds of the state hospital.

29 ~~((+24+))~~ (26) "Mental health services" means all services  
30 provided by behavioral health organizations and other services  
31 provided by the state for persons who are mentally ill.

32 ~~((+25+))~~ (27) Mental health "treatment records" include  
33 registration and all other records concerning persons who are  
34 receiving or who at any time have received services for mental  
35 illness, which are maintained by the department of social and health  
36 services or the authority, by behavioral health organizations and  
37 their staffs, and by treatment facilities. "Treatment records" do not  
38 include notes or records maintained for personal use by a person  
39 providing treatment services for the department of social and health

1 services, behavioral health organizations, or a treatment facility if  
2 the notes or records are not available to others.

3 ~~((+26+))~~ (28) "Mentally ill persons," "persons who are mentally  
4 ill," and "the mentally ill" mean persons and conditions defined in  
5 subsections (1), ~~((+9), (34), and (35+))~~ (10), (36), and (37) of this  
6 section.

7 ~~((+27+))~~ (29) "Recovery" means the process in which people are  
8 able to live, work, learn, and participate fully in their  
9 communities.

10 ~~((+28+))~~ (30) "Registration records" include all the records of  
11 the department of social and health services, the authority,  
12 behavioral health organizations, treatment facilities, and other  
13 persons providing services ~~((+28+))~~ for the department of social and  
14 health services, the authority, county departments, or facilities  
15 which identify persons who are receiving or who at any time have  
16 received services for mental illness.

17 ~~((+29+))~~ (31) "Research-based" means a program or practice that  
18 has been tested with a single randomized, or statistically controlled  
19 evaluation, or both, demonstrating sustained desirable outcomes; or  
20 where the weight of the evidence from a systemic review supports  
21 sustained outcomes as described in subsection ~~((+20+))~~ (22) of this  
22 section but does not meet the full criteria for evidence-based.

23 ~~((+30+))~~ (32) "Residential services" means a complete range of  
24 residences and supports authorized by resource management services  
25 and which may involve a facility, a distinct part thereof, or  
26 services which support community living, for persons who are acutely  
27 mentally ill, adults who are chronically mentally ill, children who  
28 are severely emotionally disturbed, or adults who are seriously  
29 disturbed and determined by the behavioral health organization to be  
30 at risk of becoming acutely or chronically mentally ill. The services  
31 shall include at least evaluation and treatment services as defined  
32 in chapter 71.05 RCW, acute crisis respite care, long-term adaptive  
33 and rehabilitative care, and supervised and supported living  
34 services, and shall also include any residential services developed  
35 to service persons who are mentally ill in nursing homes, residential  
36 treatment facilities, assisted living facilities, and adult family  
37 homes, and may include outpatient services provided as an element in  
38 a package of services in a supported housing model. Residential  
39 services for children in out-of-home placements related to their  
40 mental disorder shall not include the costs of food and shelter,

1 except for children's long-term residential facilities existing prior  
2 to January 1, 1991.

3 ~~((+31+))~~ (33) "Resilience" means the personal and community  
4 qualities that enable individuals to rebound from adversity, trauma,  
5 tragedy, threats, or other stresses, and to live productive lives.

6 ~~((+32+))~~ (34) "Resource management services" mean the planning,  
7 coordination, and authorization of residential services and community  
8 support services administered pursuant to an individual service plan  
9 for: (a) Adults and children who are acutely mentally ill; (b) adults  
10 who are chronically mentally ill; (c) children who are severely  
11 emotionally disturbed; or (d) adults who are seriously disturbed and  
12 determined solely by a behavioral health organization to be at risk  
13 of becoming acutely or chronically mentally ill. Such planning,  
14 coordination, and authorization shall include mental health screening  
15 for children eligible under the federal Title XIX early and periodic  
16 screening, diagnosis, and treatment program. Resource management  
17 services include seven day a week, twenty-four hour a day  
18 availability of information regarding enrollment of adults and  
19 children who are mentally ill in services and their individual  
20 service plan to designated crisis responders, evaluation and  
21 treatment facilities, and others as determined by the behavioral  
22 health organization.

23 ~~((+33+))~~ (35) "Secretary" means the secretary of ~~((social and~~  
24 ~~health services))~~ the department of health.

25 ~~((+34+))~~ (36) "Seriously disturbed person" means a person who:

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

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

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

35 (d) Exhibits suicidal preoccupation or attempts; or

36 (e) Is a child diagnosed by a mental health professional, as  
37 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
38 is clearly interfering with the child's functioning in family or  
39 school or with peers or is clearly interfering with the child's  
40 personality development and learning.

1       (~~(35)~~) (37) "Severely emotionally disturbed child" or "child  
2 who is severely emotionally disturbed" means a child who has been  
3 determined by the behavioral health organization to be experiencing a  
4 mental disorder as defined in chapter 71.34 RCW, including those  
5 mental disorders that result in a behavioral or conduct disorder,  
6 that is clearly interfering with the child's functioning in family or  
7 school or with peers and who meets at least one of the following  
8 criteria:

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

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

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

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

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

19       (ii) Changes in custodial adult;

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

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

25       (v) Drug or alcohol abuse; or

26       (vi) Homelessness.

27       (~~(36)~~) (38) "State minimum standards" means minimum  
28 requirements established by rules adopted (~~(by the secretary)~~) and  
29 necessary to implement this chapter (~~(for)~~) by:

30       (a) The authority for:

31       (i) Delivery of mental health services; and (~~(b) licensed~~  
32 ~~service providers for the provision of mental health services; (c)~~  
33 ~~residential services; and (d)~~)

34       (ii) Community support services and resource management services;

35       (b) The department of health for:

36       (i) Licensed or certified service providers for the provision of  
37 mental health services; and

38       (ii) Residential services.

39       (~~(37)~~) (39) "Substance use disorder" means a cluster of  
40 cognitive, behavioral, and physiological symptoms indicating that an

1 individual continues using the substance despite significant  
2 substance-related problems. The diagnosis of a substance use disorder  
3 is based on a pathological pattern of behaviors related to the use of  
4 the substances.

5 ~~((38))~~ (40) "Tribal authority," for the purposes of this  
6 section and RCW 71.24.300 only, means: The federally recognized  
7 Indian tribes and the major Indian organizations recognized by the  
8 ~~((secretary))~~ director insofar as these organizations do not have a  
9 financial relationship with any behavioral health organization that  
10 would present a conflict of interest.

11 **Sec. 4004.** RCW 71.24.030 and 2005 c 503 s 3 are each amended to  
12 read as follows:

13 The ~~((secretary))~~ director is authorized to make grants and/or  
14 purchase services from counties, combinations of counties, or other  
15 entities, to establish and operate community mental health programs.

16 **Sec. 4005.** RCW 71.24.035 and 2016 sp.s. c 29 s 503 are each  
17 amended to read as follows:

18 (1) The ~~((department))~~ authority is designated as the state  
19 behavioral health authority which includes recognition as the single  
20 state authority for substance use disorders and state mental health  
21 authority.

22 (2) The ~~((secretary))~~ director shall provide for public, client,  
23 tribal, and licensed or certified service provider participation in  
24 developing the state behavioral health program, developing contracts  
25 with behavioral health organizations, and any waiver request to the  
26 federal government under medicaid.

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

32 (4) The ~~((secretary))~~ director shall be designated as the  
33 behavioral health organization if the behavioral health organization  
34 fails to meet state minimum standards or refuses to exercise  
35 responsibilities under its contract or RCW 71.24.045, until such time  
36 as a new behavioral health organization is designated.

37 (5) The ~~((secretary))~~ director shall:

1 (a) Develop a biennial state behavioral health program that  
2 incorporates regional biennial needs assessments and regional mental  
3 health service plans and state services for adults and children with  
4 mental disorders or substance use disorders or both;

5 (b) Assure that any behavioral health organization or county  
6 community behavioral health program provides medically necessary  
7 services to medicaid recipients consistent with the state's medicaid  
8 state plan or federal waiver authorities, and nonmedicaid services  
9 consistent with priorities established by the ~~((department))~~  
10 authority;

11 (c) Develop and adopt rules establishing state minimum standards  
12 for the delivery of behavioral health services pursuant to RCW  
13 71.24.037 including, but not limited to:

14 (i) Licensed or certified service providers. These rules shall  
15 permit a county-operated behavioral health program to be licensed as  
16 a service provider subject to compliance with applicable statutes and  
17 rules. ~~((The secretary shall provide for deeming of compliance with  
18 state minimum standards for those entities accredited by recognized  
19 behavioral health accrediting bodies recognized and having a current  
20 agreement with the department;))~~

21 (ii) Inpatient services, an adequate network of evaluation and  
22 treatment services and facilities under chapter 71.05 RCW to ensure  
23 access to treatment, resource management services, and community  
24 support services;

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

29 (e) Establish a standard contract or contracts, consistent with  
30 state minimum standards which shall be used in contracting with  
31 behavioral health organizations. The standard contract shall include  
32 a maximum fund balance, which shall be consistent with that required  
33 by federal regulations or waiver stipulations;

34 (f) Make contracts necessary or incidental to the performance of  
35 its duties and the execution of its powers, including managed care  
36 contracts for behavioral health services, contracts entered into  
37 under RCW 74.09.522, and contracts with public and private agencies,  
38 organizations, and individuals to pay them for behavioral health  
39 services;



1 (g) Establish, to the extent possible, a standardized auditing  
2 procedure which is designed to assure compliance with contractual  
3 agreements authorized by this chapter and minimizes paperwork  
4 requirements of behavioral health organizations and licensed or  
5 certified service providers. The audit procedure shall focus on the  
6 outcomes of service as provided in RCW 43.20A.895, 70.320.020, and  
7 71.36.025;

8 (h) Develop and maintain an information system to be used by the  
9 state and behavioral health organizations that includes a tracking  
10 method which allows the ~~((department))~~ authority and behavioral  
11 health organizations to identify behavioral health clients'  
12 participation in any behavioral health service or public program on  
13 an immediate basis. The information system shall not include  
14 individual patient's case history files. Confidentiality of client  
15 information and records shall be maintained as provided in this  
16 chapter and chapter 70.02 RCW;

17 ~~((i))~~ ~~((License service providers who meet state minimum standards;~~  
18 ~~(j)))~~ Periodically monitor the compliance of behavioral health  
19 organizations and their network of licensed or certified service  
20 providers for compliance with the contract between the ~~((department))~~  
21 authority, the behavioral health organization, and federal and state  
22 rules at reasonable times and in a reasonable manner;

23 ~~((k))~~ ~~Fix fees to be paid by evaluation and treatment centers to~~  
24 ~~the secretary for the required inspections;~~

25 ~~(l))~~ (j) Monitor and audit behavioral health organizations ~~((and~~  
26 ~~licensed service providers))~~ as needed to assure compliance with  
27 contractual agreements authorized by this chapter;

28 ~~((m))~~ (k) Adopt such rules as are necessary to implement the  
29 ~~((department's))~~ authority's responsibilities under this chapter;

30 ~~((n))~~ ~~License or certify crisis stabilization units that meet~~  
31 ~~state minimum standards;~~

32 ~~(o))~~ ~~License or certify clubhouses that meet state minimum~~  
33 ~~standards;~~

34 ~~(p))~~ ~~License or certify triage facilities that meet state minimum~~  
35 ~~standards;))~~ and

36 ~~((q))~~ (l) Administer or supervise the administration of the  
37 provisions relating to persons with substance use disorders and  
38 intoxicated persons of any state plan submitted for federal funding  
39 pursuant to federal health, welfare, or treatment legislation.

1 (6) The ((secretary)) director shall use available resources only  
2 for behavioral health organizations, except:

3 (a) To the extent authorized, and in accordance with any  
4 priorities or conditions specified, in the biennial appropriations  
5 act; or

6 (b) To incentivize improved performance with respect to the  
7 client outcomes established in RCW 43.20A.895, 70.320.020, and  
8 71.36.025, integration of behavioral health and medical services at  
9 the clinical level, and improved care coordination for individuals  
10 with complex care needs.

11 (7) Each behavioral health organization and licensed or certified  
12 service provider shall file with the secretary of the department of  
13 health or the director, on request, such data, statistics, schedules,  
14 and information as the secretary of the department of health or the  
15 director reasonably requires. A behavioral health organization or  
16 licensed or certified service provider which, without good cause,  
17 fails to furnish any data, statistics, schedules, or information as  
18 requested, or files fraudulent reports thereof, may be subject to the  
19 behavioral health organization contractual remedies in RCW 43.20A.894  
20 (as recodified by this act) or may have its service provider  
21 certification or license revoked or suspended.

22 ~~(8) ((The secretary may suspend, revoke, limit, or restrict a~~  
23 ~~certification or license, or refuse to grant a certification or~~  
24 ~~license for failure to conform to: (a) The law; (b) applicable rules~~  
25 ~~and regulations; (c) applicable standards; or (d) state minimum~~  
26 ~~standards.~~

27 ~~(9))~~ The superior court may restrain any behavioral health  
28 organization or service provider from operating without a contract,  
29 certification, or a license or any other violation of this section.  
30 The court may also review, pursuant to procedures contained in  
31 chapter 34.05 RCW, any denial, suspension, limitation, restriction,  
32 or revocation of certification or license, and grant other relief  
33 required to enforce the provisions of this chapter.

34 ~~((10))~~ (9) Upon petition by the secretary of the department of  
35 health or the director, and after hearing held upon reasonable notice  
36 to the facility, the superior court may issue a warrant to an officer  
37 or employee of the secretary of the department of health or the  
38 director authorizing him or her to enter at reasonable times, and  
39 examine the records, books, and accounts of any behavioral health

1 organization or service provider refusing to consent to inspection or  
2 examination by the authority.

3 ~~((11))~~ (10) Notwithstanding the existence or pursuit of any  
4 other remedy, the secretary of the department of health or the  
5 director may file an action for an injunction or other process  
6 against any person or governmental unit to restrain or prevent the  
7 establishment, conduct, or operation of a behavioral health  
8 organization or service provider without a contract, certification,  
9 or a license under this chapter.

10 ~~((12))~~ (11) The ~~((department))~~ authority shall distribute  
11 appropriated state and federal funds in accordance with any  
12 priorities, terms, or conditions specified in the appropriations act.

13 ~~((13))~~ (12) The ~~((secretary))~~ director shall assume all duties  
14 assigned to the nonparticipating behavioral health organizations  
15 under chapters 71.05 and 71.34 RCW and this chapter. Such  
16 responsibilities shall include those which would have been assigned  
17 to the nonparticipating counties in regions where there are not  
18 participating behavioral health organizations.

19 The behavioral health organizations, or the ~~((secretary's))~~  
20 director's assumption of all responsibilities under chapters 71.05  
21 and 71.34 RCW and this chapter, shall be included in all state and  
22 federal plans affecting the state behavioral health program including  
23 at least those required by this chapter, the medicaid program, and  
24 P.L. 99-660. Nothing in these plans shall be inconsistent with the  
25 intent and requirements of this chapter.

26 ~~((14))~~ (13) The ~~((secretary))~~ director shall:

27 (a) Disburse funds for the behavioral health organizations within  
28 sixty days of approval of the biennial contract. The ~~((department))~~  
29 authority must either approve or reject the biennial contract within  
30 sixty days of receipt.

31 (b) Enter into biennial contracts with behavioral health  
32 organizations. The contracts shall be consistent with available  
33 resources. No contract shall be approved that does not include  
34 progress toward meeting the goals of this chapter by taking  
35 responsibility for: (i) Short-term commitments; (ii) residential  
36 care; and (iii) emergency response systems.

37 (c) Notify behavioral health organizations of their allocation of  
38 available resources at least sixty days prior to the start of a new  
39 biennial contract period.

1 (d) Deny all or part of the funding allocations to behavioral  
2 health organizations based solely upon formal findings of  
3 noncompliance with the terms of the behavioral health organization's  
4 contract with the ~~((department))~~ authority. Behavioral health  
5 organizations disputing the decision of the ~~((secretary))~~ director to  
6 withhold funding allocations are limited to the remedies provided in  
7 the ~~((department's))~~ authority's contracts with the behavioral health  
8 organizations.

9 ~~((15))~~ (14) The ~~((department))~~ authority, in cooperation with  
10 the state congressional delegation, shall actively seek waivers of  
11 federal requirements and such modifications of federal regulations as  
12 are necessary to allow federal medicaid reimbursement for services  
13 provided by freestanding evaluation and treatment facilities  
14 certified under chapter 71.05 RCW. The ~~((department))~~ authority shall  
15 periodically report its efforts to the appropriate committees of the  
16 senate and the house of representatives.

17 ~~((16))~~ (15) The ~~((department))~~ authority may:

18 (a) Plan, establish, and maintain substance use disorder  
19 prevention and substance use disorder treatment programs as necessary  
20 or desirable;

21 (b) Coordinate its activities and cooperate with behavioral  
22 programs in this and other states, and make contracts and other joint  
23 or cooperative arrangements with state, local, or private agencies in  
24 this and other states for behavioral health services and for the  
25 common advancement of substance use disorder programs;

26 (c) Solicit and accept for use any gift of money or property made  
27 by will or otherwise, and any grant of money, services, or property  
28 from the federal government, the state, or any political subdivision  
29 thereof or any private source, and do all things necessary to  
30 cooperate with the federal government or any of its agencies in  
31 making an application for any grant;

32 (d) Keep records and engage in research and the gathering of  
33 relevant statistics; and

34 (e) Acquire, hold, or dispose of real property or any interest  
35 therein, and construct, lease, or otherwise provide substance use  
36 disorder treatment programs.

37 **Sec. 4006.** RCW 71.24.037 and 2017 c 330 s 2 are each amended to  
38 read as follows:

1 (1) The secretary shall by rule establish state minimum standards  
2 for licensed or certified behavioral health service providers and  
3 services, whether those service providers and services are licensed  
4 or certified to provide solely mental health services, substance use  
5 disorder treatment services, or services to persons with co-occurring  
6 disorders.

7 (2) Minimum standards for licensed or certified behavioral health  
8 service providers shall, at a minimum, establish: Qualifications for  
9 staff providing services directly to persons with mental disorders,  
10 substance use disorders, or both, the intended result of each  
11 service, and the rights and responsibilities of persons receiving  
12 behavioral health services pursuant to this chapter. The secretary  
13 shall provide for deeming of licensed or certified behavioral health  
14 service providers as meeting state minimum standards as a result of  
15 accreditation by a recognized behavioral health accrediting body  
16 recognized and having a current agreement with the department.

17 (3) Minimum standards for community support services and resource  
18 management services shall include at least qualifications for  
19 resource management services, client tracking systems, and the  
20 transfer of patient information between behavioral health service  
21 providers.

22 (4) The department may suspend, revoke, limit, restrict, or  
23 modify an approval, or refuse to grant approval, for failure to meet  
24 the provisions of this chapter, or the standards adopted under this  
25 chapter. RCW (~~(43.20A.205)~~) 43.70.115 governs notice of a license or  
26 certification denial, revocation, suspension, or modification and  
27 provides the right to an adjudicative proceeding.

28 (5) No licensed or certified behavioral health service provider  
29 may advertise or represent itself as a licensed or certified  
30 behavioral health service provider if approval has not been granted,  
31 has been denied, suspended, revoked, or canceled.

32 (6) Licensure or certification as a behavioral health service  
33 provider is effective for one calendar year from the date of issuance  
34 of the license or certification. The license or certification must  
35 specify the types of services provided by the behavioral health  
36 service provider that meet the standards adopted under this chapter.  
37 Renewal of a license or certification must be made in accordance with  
38 this section for initial approval and in accordance with the  
39 standards set forth in rules adopted by the secretary.

1 (7) Licensure or certification as a licensed or certified  
2 behavioral health service provider must specify the types of services  
3 provided that meet the standards adopted under this chapter. Renewal  
4 of a license or certification must be made in accordance with this  
5 section for initial approval and in accordance with the standards set  
6 forth in rules adopted by the secretary.

7 (8) Licensed or certified behavioral health service providers may  
8 not provide types of services for which the licensed or certified  
9 behavioral health service provider has not been certified. Licensed  
10 or certified behavioral health service providers may provide services  
11 for which approval has been sought and is pending, if approval for  
12 the services has not been previously revoked or denied.

13 (9) The department periodically shall inspect licensed or  
14 certified behavioral health service providers at reasonable times and  
15 in a reasonable manner.

16 (10) Upon petition of the department and after a hearing held  
17 upon reasonable notice to the facility, the superior court may issue  
18 a warrant to an officer or employee of the department authorizing him  
19 or her to enter and inspect at reasonable times, and examine the  
20 books and accounts of, any licensed or certified behavioral health  
21 service provider refusing to consent to inspection or examination by  
22 the department or which the department has reasonable cause to  
23 believe is operating in violation of this chapter.

24 (11) The department shall maintain and periodically publish a  
25 current list of licensed or certified behavioral health service  
26 providers.

27 (12) Each licensed or certified behavioral health service  
28 provider shall file with the department or the authority upon  
29 request, data, statistics, schedules, and information the department  
30 or the authority reasonably requires. A licensed or certified  
31 behavioral health service provider that without good cause fails to  
32 furnish any data, statistics, schedules, or information as requested,  
33 or files fraudulent returns thereof, may have its license or  
34 certification revoked or suspended.

35 (13) The (~~department~~) authority shall use the data provided in  
36 subsection (12) of this section to evaluate each program that admits  
37 children to inpatient substance use disorder treatment upon  
38 application of their parents. The evaluation must be done at least  
39 once every twelve months. In addition, the (~~department~~) authority  
40 shall randomly select and review the information on individual

1 children who are admitted on application of the child's parent for  
2 the purpose of determining whether the child was appropriately placed  
3 into substance use disorder treatment based on an objective  
4 evaluation of the child's condition and the outcome of the child's  
5 treatment.

6 (14) Any settlement agreement entered into between the department  
7 and licensed or certified behavioral health service providers to  
8 resolve administrative complaints, license or certification  
9 violations, license or certification suspensions, or license or  
10 certification revocations may not reduce the number of violations  
11 reported by the department unless the department concludes, based on  
12 evidence gathered by inspectors, that the licensed or certified  
13 behavioral health service provider did not commit one or more of the  
14 violations.

15 (15) In cases in which a behavioral health service provider that  
16 is in violation of licensing or certification standards attempts to  
17 transfer or sell the behavioral health service provider to a family  
18 member, the transfer or sale may only be made for the purpose of  
19 remedying license or certification violations and achieving full  
20 compliance with the terms of the license or certification. Transfers  
21 or sales to family members are prohibited in cases in which the  
22 purpose of the transfer or sale is to avoid liability or reset the  
23 number of license or certification violations found before the  
24 transfer or sale. If the department finds that the owner intends to  
25 transfer or sell, or has completed the transfer or sale of, ownership  
26 of the behavioral health service provider to a family member solely  
27 for the purpose of resetting the number of violations found before  
28 the transfer or sale, the department may not renew the behavioral  
29 health service provider's license or certification or issue a new  
30 license or certification to the behavioral health service provider.

31 **Sec. 4007.** RCW 71.24.045 and 2014 c 225 s 13 are each amended to  
32 read as follows:

33 The behavioral health organization shall:

34 (1) Contract as needed with licensed or certified service  
35 providers. The behavioral health organization may, in the absence of  
36 a licensed or certified service provider entity, become a licensed or  
37 certified service provider entity pursuant to minimum standards  
38 required for licensing or certification by the department for the

1 purpose of providing services not available from licensed or  
2 certified service providers;

3 (2) Operate as a licensed or certified service provider if it  
4 deems that doing so is more efficient and cost effective than  
5 contracting for services. When doing so, the behavioral health  
6 organization shall comply with rules (~~promulgated~~) adopted by the  
7 (~~secretary~~) director that shall provide measurements to determine  
8 when a behavioral health organization provided service is more  
9 efficient and cost effective;

10 (3) Monitor and perform biennial fiscal audits of licensed or  
11 certified service providers who have contracted with the behavioral  
12 health organization to provide services required by this chapter. The  
13 monitoring and audits shall be performed by means of a formal process  
14 which insures that the licensed or certified service providers and  
15 professionals designated in this subsection meet the terms of their  
16 contracts;

17 (4) Establish reasonable limitations on administrative costs for  
18 agencies that contract with the behavioral health organization;

19 (5) Assure that the special needs of minorities, older adults,  
20 individuals with disabilities, children, and low-income persons are  
21 met within the priorities established in this chapter;

22 (6) Maintain patient tracking information in a central location  
23 as required for resource management services and the (~~department's~~)  
24 authority's information system;

25 (7) Collaborate to ensure that policies do not result in an  
26 adverse shift of persons with mental illness into state and local  
27 correctional facilities;

28 (8) Work with the (~~department~~) authority to expedite the  
29 enrollment or reenrollment of eligible persons leaving state or local  
30 correctional facilities and institutions for mental diseases;

31 (9) Work closely with the (~~county~~) designated mental health  
32 professional or (~~county~~) designated crisis responder to maximize  
33 appropriate placement of persons into community services; and

34 (10) Coordinate services for individuals who have received  
35 services through the community mental health system and who become  
36 patients at a state psychiatric hospital to ensure they are  
37 transitioned into the community in accordance with mutually agreed  
38 upon discharge plans and upon determination by the medical director  
39 of the state psychiatric hospital that they no longer need intensive  
40 inpatient care.



1       **Sec. 4008.** RCW 71.24.045 and 2016 sp.s. c 29 s 421 are each  
2 amended to read as follows:

3       The behavioral health organization shall:

4       (1) Contract as needed with licensed or certified service  
5 providers. The behavioral health organization may, in the absence of  
6 a licensed or certified service provider entity, become a licensed or  
7 certified service provider entity pursuant to minimum standards  
8 required for licensing or certification by the department for the  
9 purpose of providing services not available from licensed or  
10 certified service providers;

11       (2) Operate as a licensed or certified service provider if it  
12 deems that doing so is more efficient and cost effective than  
13 contracting for services. When doing so, the behavioral health  
14 organization shall comply with rules (~~promulgated~~) adopted by the  
15 (~~secretary~~) director that shall provide measurements to determine  
16 when a behavioral health organization provided service is more  
17 efficient and cost effective;

18       (3) Monitor and perform biennial fiscal audits of licensed or  
19 certified service providers who have contracted with the behavioral  
20 health organization to provide services required by this chapter. The  
21 monitoring and audits shall be performed by means of a formal process  
22 which insures that the licensed or certified service providers and  
23 professionals designated in this subsection meet the terms of their  
24 contracts;

25       (4) Establish reasonable limitations on administrative costs for  
26 agencies that contract with the behavioral health organization;

27       (5) Assure that the special needs of minorities, older adults,  
28 individuals with disabilities, children, and low-income persons are  
29 met within the priorities established in this chapter;

30       (6) Maintain patient tracking information in a central location  
31 as required for resource management services and the (~~department's~~)  
32 authority's information system;

33       (7) Collaborate to ensure that policies do not result in an  
34 adverse shift of persons with mental illness into state and local  
35 correctional facilities;

36       (8) Work with the (~~department~~) authority to expedite the  
37 enrollment or reenrollment of eligible persons leaving state or local  
38 correctional facilities and institutions for mental diseases;

39       (9) Work closely with the designated crisis responder to maximize  
40 appropriate placement of persons into community services; and

1 (10) Coordinate services for individuals who have received  
2 services through the community mental health system and who become  
3 patients at a state psychiatric hospital to ensure they are  
4 transitioned into the community in accordance with mutually agreed  
5 upon discharge plans and upon determination by the medical director  
6 of the state psychiatric hospital that they no longer need intensive  
7 inpatient care.

8 **Sec. 4009.** RCW 71.24.061 and 2014 c 225 s 35 are each amended to  
9 read as follows:

10 (1) The (~~department~~) authority shall provide flexibility in  
11 provider contracting to behavioral health organizations for  
12 children's mental health services. (~~Beginning with 2007-2009~~  
13 ~~biennium contracts,~~) Behavioral health organization contracts shall  
14 authorize behavioral health organizations to allow and encourage  
15 licensed or certified community mental health centers to subcontract  
16 with individual licensed mental health professionals when necessary  
17 to meet the need for an adequate, culturally competent, and qualified  
18 children's mental health provider network.

19 (2) To the extent that funds are specifically appropriated for  
20 this purpose or that nonstate funds are available, a children's  
21 mental health evidence-based practice institute shall be established  
22 at the University of Washington division of public behavioral health  
23 and justice policy. The institute shall closely collaborate with  
24 entities currently engaged in evaluating and promoting the use of  
25 evidence-based, research-based, promising, or consensus-based  
26 practices in children's mental health treatment, including but not  
27 limited to the University of Washington department of psychiatry and  
28 behavioral sciences, children's hospital and regional medical center,  
29 the University of Washington school of nursing, the University of  
30 Washington school of social work, and the Washington state institute  
31 for public policy. To ensure that funds appropriated are used to the  
32 greatest extent possible for their intended purpose, the University  
33 of Washington's indirect costs of administration shall not exceed ten  
34 percent of appropriated funding. The institute shall:

35 (a) Improve the implementation of evidence-based and  
36 research-based practices by providing sustained and effective  
37 training and consultation to licensed children's mental health  
38 providers and child-serving agencies who are implementing  
39 evidence-based or researched-based practices for treatment of

1 children's emotional or behavioral disorders, or who are interested  
2 in adapting these practices to better serve ethnically or culturally  
3 diverse children. Efforts under this subsection should include a  
4 focus on appropriate oversight of implementation of evidence-based  
5 practices to ensure fidelity to these practices and thereby achieve  
6 positive outcomes;

7 (b) Continue the successful implementation of the "partnerships  
8 for success" model by consulting with communities so they may select,  
9 implement, and continually evaluate the success of evidence-based  
10 practices that are relevant to the needs of children, youth, and  
11 families in their community;

12 (c) Partner with youth, family members, family advocacy, and  
13 culturally competent provider organizations to develop a series of  
14 information sessions, literature, and online resources for families  
15 to become informed and engaged in evidence-based and research-based  
16 practices;

17 (d) Participate in the identification of outcome-based  
18 performance measures under RCW 71.36.025(2) and partner in a  
19 statewide effort to implement statewide outcomes monitoring and  
20 quality improvement processes; and

21 (e) Serve as a statewide resource to the (~~department~~) authority  
22 and other entities on child and adolescent evidence-based, research-  
23 based, promising, or consensus-based practices for children's mental  
24 health treatment, maintaining a working knowledge through ongoing  
25 review of academic and professional literature, and knowledge of  
26 other evidence-based practice implementation efforts in Washington  
27 and other states.

28 (3) To the extent that funds are specifically appropriated for  
29 this purpose, the (~~department~~) authority in collaboration with the  
30 evidence-based practice institute shall implement a pilot program to  
31 support primary care providers in the assessment and provision of  
32 appropriate diagnosis and treatment of children with mental and  
33 behavioral health disorders and track outcomes of this program. The  
34 program shall be designed to promote more accurate diagnoses and  
35 treatment through timely case consultation between primary care  
36 providers and child psychiatric specialists, and focused educational  
37 learning collaboratives with primary care providers.

38 **Sec. 4010.** RCW 71.24.100 and 2014 c 225 s 14 are each amended to  
39 read as follows:

1 A county authority or a group of county authorities may enter  
2 into a joint operating agreement to respond to a request for a  
3 detailed plan and contract with the state to operate a behavioral  
4 health organization whose boundaries are consistent with the regional  
5 service areas established under RCW 43.20A.893 (as recodified by this  
6 act). Any agreement between two or more county authorities shall  
7 provide:

8 (1) That each county shall bear a share of the cost of mental  
9 health services; and

10 (2) That the treasurer of one participating county shall be the  
11 custodian of funds made available for the purposes of such mental  
12 health services, and that the treasurer may make payments from such  
13 funds upon audit by the appropriate auditing officer of the county  
14 for which he or she is treasurer.

15 **Sec. 4011.** RCW 71.24.155 and 2014 c 225 s 36 are each amended to  
16 read as follows:

17 Grants shall be made by the (~~department~~) authority to  
18 behavioral health organizations for community mental health programs  
19 totaling not less than ninety-five percent of available resources.  
20 The (~~department~~) authority may use up to forty percent of the  
21 remaining five percent to provide community demonstration projects,  
22 including early intervention or primary prevention programs for  
23 children, and the remainder shall be for emergency needs and  
24 technical assistance under this chapter.

25 **Sec. 4012.** RCW 71.24.160 and 2014 c 225 s 37 are each amended to  
26 read as follows:

27 The behavioral health organizations shall make satisfactory  
28 showing to the (~~secretary~~) director that state funds shall in no  
29 case be used to replace local funds from any source being used to  
30 finance mental health services prior to January 1, 1990. Maintenance  
31 of effort funds devoted to judicial services related to involuntary  
32 commitment reimbursed under RCW 71.05.730 must be expended for other  
33 purposes that further treatment for mental health and chemical  
34 dependency disorders.

35 **Sec. 4013.** RCW 71.24.215 and 1982 c 204 s 11 are each amended to  
36 read as follows:

1 Clients receiving mental health services funded by available  
2 resources shall be charged a fee under sliding-scale fee schedules,  
3 based on ability to pay, approved by the ((department)) authority or  
4 the department of social and health services, as appropriate. Fees  
5 shall not exceed the actual cost of care.

6 **Sec. 4014.** RCW 71.24.220 and 1999 c 10 s 8 are each amended to  
7 read as follows:

8 The ((secretary)) director may withhold state grants in whole or  
9 in part for any community mental health program in the event of a  
10 failure to comply with this chapter or the related rules adopted by  
11 the ((department)) authority.

12 **Sec. 4015.** RCW 71.24.240 and 2014 c 225 s 49 are each amended to  
13 read as follows:

14 In order to establish eligibility for funding under this chapter,  
15 any behavioral health organization seeking to obtain federal funds  
16 for the support of any aspect of a community mental health program as  
17 defined in this chapter shall submit program plans to the  
18 ((secretary)) director for prior review and approval before such  
19 plans are submitted to any federal agency.

20 **Sec. 4016.** RCW 71.24.300 and 2016 sp.s. c 29 s 522 are each  
21 amended to read as follows:

22 (1) Upon the request of a tribal authority or authorities within  
23 a behavioral health organization the joint operating agreement or the  
24 county authority shall allow for the inclusion of the tribal  
25 authority to be represented as a party to the behavioral health  
26 organization.

27 (2) The roles and responsibilities of the county and tribal  
28 authorities shall be determined by the terms of that agreement  
29 including a determination of membership on the governing board and  
30 advisory committees, the number of tribal representatives to be party  
31 to the agreement, and the provisions of law and shall assure the  
32 provision of culturally competent services to the tribes served.

33 (3) The state behavioral health authority may not determine the  
34 roles and responsibilities of county authorities as to each other  
35 under behavioral health organizations by rule, except to assure that  
36 all duties required of behavioral health organizations are assigned  
37 and that counties and the behavioral health organization do not

1 duplicate functions and that a single authority has final  
2 responsibility for all available resources and performance under the  
3 behavioral health organization's contract with the ((secretary))  
4 director.

5 (4) If a behavioral health organization is a private entity, the  
6 ((department)) authority shall allow for the inclusion of the tribal  
7 authority to be represented as a party to the behavioral health  
8 organization.

9 (5) The roles and responsibilities of the private entity and the  
10 tribal authorities shall be determined by the ((department))  
11 authority, through negotiation with the tribal authority.

12 (6) Behavioral health organizations shall submit an overall six-  
13 year operating and capital plan, timeline, and budget and submit  
14 progress reports and an updated two-year plan biennially thereafter,  
15 to assume within available resources all of the following duties:

16 (a) Administer and provide for the availability of all resource  
17 management services, residential services, and community support  
18 services.

19 (b) Administer and provide for the availability of an adequate  
20 network of evaluation and treatment services to ensure access to  
21 treatment, all investigation, transportation, court-related, and  
22 other services provided by the state or counties pursuant to chapter  
23 71.05 RCW.

24 (c) Provide within the boundaries of each behavioral health  
25 organization evaluation and treatment services for at least ninety  
26 percent of persons detained or committed for periods up to seventeen  
27 days according to chapter 71.05 RCW. Behavioral health organizations  
28 may contract to purchase evaluation and treatment services from other  
29 organizations if they are unable to provide for appropriate resources  
30 within their boundaries. Insofar as the original intent of serving  
31 persons in the community is maintained, the ((secretary)) director is  
32 authorized to approve exceptions on a case-by-case basis to the  
33 requirement to provide evaluation and treatment services within the  
34 boundaries of each behavioral health organization. Such exceptions  
35 are limited to:

36 (i) Contracts with neighboring or contiguous regions; or

37 (ii) Individuals detained or committed for periods up to  
38 seventeen days at the state hospitals at the discretion of the  
39 ((secretary)) director.

1 (d) Administer and provide for the availability of all other  
2 mental health services, which shall include patient counseling, day  
3 treatment, consultation, education services, employment services as  
4 described in RCW 71.24.035, and mental health services to children.

5 (e) Establish standards and procedures for reviewing individual  
6 service plans and determining when that person may be discharged from  
7 resource management services.

8 (7) A behavioral health organization may request that any state-  
9 owned land, building, facility, or other capital asset which was ever  
10 purchased, deeded, given, or placed in trust for the care of the  
11 persons with mental illness and which is within the boundaries of a  
12 behavioral health organization be made available to support the  
13 operations of the behavioral health organization. State agencies  
14 managing such capital assets shall give first priority to requests  
15 for their use pursuant to this chapter.

16 (8) Each behavioral health organization shall appoint a  
17 behavioral health advisory board which shall review and provide  
18 comments on plans and policies developed under this chapter, provide  
19 local oversight regarding the activities of the behavioral health  
20 organization, and work with the behavioral health organization to  
21 resolve significant concerns regarding service delivery and outcomes.  
22 The ((~~department~~)) authority shall establish statewide procedures for  
23 the operation of regional advisory committees including mechanisms  
24 for advisory board feedback to the ((~~department~~)) authority regarding  
25 behavioral health organization performance. The composition of the  
26 board shall be broadly representative of the demographic character of  
27 the region and shall include, but not be limited to, representatives  
28 of consumers of substance use disorder and mental health services and  
29 their families, law enforcement, and, where the county is not the  
30 behavioral health organization, county elected officials. Composition  
31 and length of terms of board members may differ between behavioral  
32 health organizations but shall be included in each behavioral health  
33 organization's contract and approved by the ((~~secretary~~)) director.

34 (9) Behavioral health organizations shall assume all duties  
35 specified in their plans and joint operating agreements through  
36 biennial contractual agreements with the ((~~secretary~~)) director.

37 (10) Behavioral health organizations may receive technical  
38 assistance from the housing trust fund and may identify and submit  
39 projects for housing and housing support services to the housing  
40 trust fund established under chapter 43.185 RCW. Projects identified

1 or submitted under this subsection must be fully integrated with the  
2 behavioral health organization six-year operating and capital plan,  
3 timeline, and budget required by subsection (6) of this section.

4 **Sec. 4017.** RCW 71.24.310 and 2017 c 222 s 1 are each amended to  
5 read as follows:

6 The legislature finds that administration of chapter 71.05 RCW  
7 and this chapter can be most efficiently and effectively implemented  
8 as part of the behavioral health organization defined in RCW  
9 71.24.025. For this reason, the legislature intends that the  
10 (~~department~~) authority and the behavioral health organizations  
11 shall work together to implement chapter 71.05 RCW as follows:

12 (1) (~~By June 1, 2006,~~) Behavioral health organizations shall  
13 recommend to the (~~department~~) authority the number of state  
14 hospital beds that should be allocated for use by each behavioral  
15 health organization. The statewide total allocation shall not exceed  
16 the number of state hospital beds offering long-term inpatient care,  
17 as defined in this chapter, for which funding is provided in the  
18 biennial appropriations act.

19 (2) If there is consensus among the behavioral health  
20 organizations regarding the number of state hospital beds that should  
21 be allocated for use by each behavioral health organization, the  
22 (~~department~~) authority shall contract with each behavioral health  
23 organization accordingly.

24 (3) If there is not consensus among the behavioral health  
25 organizations regarding the number of beds that should be allocated  
26 for use by each behavioral health organization, the (~~department~~)  
27 authority shall establish by emergency rule the number of state  
28 hospital beds that are available for use by each behavioral health  
29 organization. (~~The emergency rule shall be effective September 1,~~  
30 ~~2006.~~) The primary factor used in the allocation shall be the  
31 estimated number of adults with acute and chronic mental illness in  
32 each behavioral health organization area, based upon population-  
33 adjusted incidence and utilization.

34 (4) The allocation formula shall be updated at least every three  
35 years to reflect demographic changes, and new evidence regarding the  
36 incidence of acute and chronic mental illness and the need for long-  
37 term inpatient care. In the updates, the statewide total allocation  
38 shall include (a) all state hospital beds offering long-term  
39 inpatient care for which funding is provided in the biennial



1 appropriations act; plus (b) the estimated equivalent number of beds  
2 or comparable diversion services contracted in accordance with  
3 subsection (5) of this section.

4 (5) The ~~((department))~~ authority is encouraged to enter  
5 performance-based contracts with behavioral health organizations to  
6 provide some or all of the behavioral health organization's allocated  
7 long-term inpatient treatment capacity in the community, rather than  
8 in the state hospital. The performance contracts shall specify the  
9 number of patient days of care available for use by the behavioral  
10 health organization in the state hospital.

11 (6) If a behavioral health organization uses more state hospital  
12 patient days of care than it has been allocated under subsection (3)  
13 or (4) of this section, or than it has contracted to use under  
14 subsection (5) of this section, whichever is less, it shall reimburse  
15 the ~~((department))~~ authority for that care. Reimbursements must be  
16 calculated using quarterly average census data to determine an  
17 average number of days used in excess of the bed allocation for the  
18 quarter. The reimbursement rate per day shall be the hospital's total  
19 annual budget for long-term inpatient care, divided by the total  
20 patient days of care assumed in development of that budget.

21 (7) One-half of any reimbursements received pursuant to  
22 subsection (6) of this section shall be used to support the cost of  
23 operating the state hospital ~~((and, during the 2007-2009 fiscal  
24 biennium, implementing new services that will enable a behavioral  
25 health organization to reduce its utilization of the state  
26 hospital))~~. The ~~((department))~~ authority shall distribute the  
27 remaining half of such reimbursements among behavioral health  
28 organizations that have used less than their allocated or contracted  
29 patient days of care at that hospital, proportional to the number of  
30 patient days of care not used.

31 **Sec. 4018.** RCW 71.24.320 and 2014 c 225 s 50 are each amended to  
32 read as follows:

33 (1) If an existing behavioral health organization chooses not to  
34 respond to a request for a detailed plan, or is unable to  
35 substantially meet the requirements of a request for a detailed plan,  
36 or notifies the ~~((department of social and health services))~~  
37 authority it will no longer serve as a behavioral health  
38 organization, the ~~((department))~~ authority shall utilize a  
39 procurement process in which other entities recognized by the

1 ((secretary)) director may bid to serve as the behavioral health  
2 organization.

3 (a) The request for proposal shall include a scoring factor for  
4 proposals that include additional financial resources beyond that  
5 provided by state appropriation or allocation.

6 (b) The ((department)) authority shall provide detailed briefings  
7 to all bidders in accordance with ((department)) authority and state  
8 procurement policies.

9 (c) The request for proposal shall also include a scoring factor  
10 for proposals submitted by nonprofit entities that include a  
11 component to maximize the utilization of state provided resources and  
12 the leverage of other funds for the support of mental health services  
13 to persons with mental illness.

14 (2) A behavioral health organization that voluntarily terminates,  
15 refuses to renew, or refuses to sign a mandatory amendment to its  
16 contract to act as a behavioral health organization is prohibited  
17 from responding to a procurement under this section or serving as a  
18 behavioral health organization for five years from the date that the  
19 department of social and health services, or the authority, as  
20 applicable, signs a contract with the entity that will serve as the  
21 behavioral health organization.

22 **Sec. 4019.** RCW 71.24.330 and 2015 c 250 s 19 are each amended to  
23 read as follows:

24 (1)(a) Contracts between a behavioral health organization and the  
25 ((department)) authority shall include mechanisms for monitoring  
26 performance under the contract and remedies for failure to  
27 substantially comply with the requirements of the contract including,  
28 but not limited to, financial penalties, termination of the contract,  
29 and reprocurement of the contract.

30 (b) The ((department)) authority shall incorporate the criteria  
31 to measure the performance of service coordination organizations into  
32 contracts with behavioral health organizations as provided in chapter  
33 70.320 RCW.

34 (2) The behavioral health organization procurement processes  
35 shall encourage the preservation of infrastructure previously  
36 purchased by the community mental health service delivery system, the  
37 maintenance of linkages between other services and delivery systems,  
38 and maximization of the use of available funds for services versus  
39 profits. However, a behavioral health organization selected through

1 the procurement process is not required to contract for services with  
2 any county-owned or operated facility. The behavioral health  
3 organization procurement process shall provide that public funds  
4 appropriated by the legislature shall not be used to promote or  
5 deter, encourage, or discourage employees from exercising their  
6 rights under Title 29, chapter 7, subchapter II, United States Code  
7 or chapter 41.56 RCW.

8 (3) In addition to the requirements of RCW 71.24.035, contracts  
9 shall:

10 (a) Define administrative costs and ensure that the behavioral  
11 health organization does not exceed an administrative cost of ten  
12 percent of available funds;

13 (b) Require effective collaboration with law enforcement,  
14 criminal justice agencies, and the chemical dependency treatment  
15 system;

16 (c) Require substantial implementation of ~~((department))~~  
17 authority adopted integrated screening and assessment process and  
18 matrix of best practices;

19 (d) Maintain the decision-making independence of designated  
20 mental health professionals;

21 (e) Except at the discretion of the secretary of the department  
22 of social and health services in consultation with the director or as  
23 specified in the biennial budget, require behavioral health  
24 organizations to pay the state for the costs associated with  
25 individuals who are being served on the grounds of the state  
26 hospitals and who are not receiving long-term inpatient care as  
27 defined in RCW 71.24.025;

28 (f) Include a negotiated alternative dispute resolution clause;

29 (g) Include a provision requiring either party to provide one  
30 hundred eighty days' notice of any issue that may cause either party  
31 to voluntarily terminate, refuse to renew, or refuse to sign a  
32 mandatory amendment to the contract to act as a behavioral health  
33 organization. If either party decides to voluntarily terminate,  
34 refuse to renew, or refuse to sign a mandatory amendment to the  
35 contract to serve as a behavioral health organization they shall  
36 provide ninety days' advance notice in writing to the other party;

37 (h) Require behavioral health organizations to provide services  
38 as identified in RCW 71.05.585 to individuals committed for  
39 involuntary commitment under less restrictive alternative court  
40 orders when:

1 (i) The individual is enrolled in the medicaid program and meets  
2 behavioral health organization access to care standards; or

3 (ii) The individual is not enrolled in medicaid, does not have  
4 other insurance which can pay for the services, and the behavioral  
5 health organization has adequate available resources to provide the  
6 services; and

7 (i) Establish caseload guidelines for care coordinators who  
8 supervise less restrictive alternative orders and guidelines for  
9 response times during and immediately following periods of  
10 hospitalization or incarceration.

11 **Sec. 4020.** RCW 71.24.330 and 2016 sp.s. c 29 s 422 are each  
12 amended to read as follows:

13 (1)(a) Contracts between a behavioral health organization and the  
14 (~~department~~) authority shall include mechanisms for monitoring  
15 performance under the contract and remedies for failure to  
16 substantially comply with the requirements of the contract including,  
17 but not limited to, financial penalties, termination of the contract,  
18 and reprocurement of the contract.

19 (b) The (~~department~~) authority shall incorporate the criteria  
20 to measure the performance of service coordination organizations into  
21 contracts with behavioral health organizations as provided in chapter  
22 70.320 RCW.

23 (2) The behavioral health organization procurement processes  
24 shall encourage the preservation of infrastructure previously  
25 purchased by the community mental health service delivery system, the  
26 maintenance of linkages between other services and delivery systems,  
27 and maximization of the use of available funds for services versus  
28 profits. However, a behavioral health organization selected through  
29 the procurement process is not required to contract for services with  
30 any county-owned or operated facility. The behavioral health  
31 organization procurement process shall provide that public funds  
32 appropriated by the legislature shall not be used to promote or  
33 deter, encourage, or discourage employees from exercising their  
34 rights under Title 29, chapter 7, subchapter II, United States Code  
35 or chapter 41.56 RCW.

36 (3) In addition to the requirements of RCW 71.24.035, contracts  
37 shall:

1 (a) Define administrative costs and ensure that the behavioral  
2 health organization does not exceed an administrative cost of ten  
3 percent of available funds;

4 (b) Require effective collaboration with law enforcement,  
5 criminal justice agencies, and the chemical dependency treatment  
6 system;

7 (c) Require substantial implementation of ~~((department))~~  
8 authority adopted integrated screening and assessment process and  
9 matrix of best practices;

10 (d) Maintain the decision-making independence of designated  
11 crisis responders;

12 (e) Except at the discretion of the secretary of the department  
13 of social and health services in consultation with the director or as  
14 specified in the biennial budget, require behavioral health  
15 organizations to pay the state for the costs associated with  
16 individuals who are being served on the grounds of the state  
17 hospitals and who are not receiving long-term inpatient care as  
18 defined in RCW 71.24.025;

19 (f) Include a negotiated alternative dispute resolution clause;

20 (g) Include a provision requiring either party to provide one  
21 hundred eighty days' notice of any issue that may cause either party  
22 to voluntarily terminate, refuse to renew, or refuse to sign a  
23 mandatory amendment to the contract to act as a behavioral health  
24 organization. If either party decides to voluntarily terminate,  
25 refuse to renew, or refuse to sign a mandatory amendment to the  
26 contract to serve as a behavioral health organization they shall  
27 provide ninety days' advance notice in writing to the other party;

28 (h) Require behavioral health organizations to provide services  
29 as identified in RCW 71.05.585 to individuals committed for  
30 involuntary commitment under less restrictive alternative court  
31 orders when:

32 (i) The individual is enrolled in the medicaid program and meets  
33 behavioral health organization access to care standards; or

34 (ii) The individual is not enrolled in medicaid, does not have  
35 other insurance which can pay for the services, and the behavioral  
36 health organization has adequate available resources to provide the  
37 services; and

38 (i) Establish caseload guidelines for care coordinators who  
39 supervise less restrictive alternative orders and guidelines for

1 response times during and immediately following periods of  
2 hospitalization or incarceration.

3 **Sec. 4021.** RCW 71.24.340 and 2014 c 225 s 16 are each amended to  
4 read as follows:

5 The ((~~secretary~~)) director shall require the behavioral health  
6 organizations to develop agreements with city and county jails to  
7 accept referrals for enrollment on behalf of a confined person, prior  
8 to the person's release.

9 **Sec. 4022.** RCW 71.24.350 and 2016 sp.s. c 29 s 523 are each  
10 amended to read as follows:

11 The ((~~department~~)) authority shall require each behavioral health  
12 organization to provide for a separately funded behavioral health  
13 ombuds office in each behavioral health organization that is  
14 independent of the behavioral health organization. The ombuds office  
15 shall maximize the use of consumer advocates.

16 **Sec. 4023.** RCW 71.24.360 and 2014 c 225 s 52 are each amended to  
17 read as follows:

18 (1) The ((~~department~~)) authority may establish new behavioral  
19 health organization boundaries in any part of the state:

20 (a) Where more than one organization chooses not to respond to,  
21 or is unable to substantially meet the requirements of, the request  
22 for a detailed plan under RCW 71.24.320;

23 (b) Where a behavioral health organization is subject to  
24 procurement under RCW 71.24.330; or

25 (c) Where two or more behavioral health organizations propose to  
26 reconfigure themselves to achieve consolidation, in which case the  
27 procurement process described in RCW 71.24.320 and 71.24.330(2) does  
28 not apply.

29 (2) The ((~~department~~)) authority may establish no fewer than six  
30 and no more than fourteen behavioral health organizations under this  
31 chapter. No entity shall be responsible for more than three  
32 behavioral health organizations.

33 **Sec. 4024.** RCW 71.24.370 and 2014 c 225 s 42 are each amended to  
34 read as follows:

35 (1) Except for monetary damage claims which have been reduced to  
36 final judgment by a superior court, this section applies to all

1 claims against the state, state agencies, state officials, or state  
2 employees that exist on or arise after March 29, 2006.

3 (2) Except as expressly provided in contracts entered into  
4 between the (~~department~~) authority and the behavioral health  
5 organizations after March 29, 2006, the entities identified in  
6 subsection (3) of this section shall have no claim for declaratory  
7 relief, injunctive relief, judicial review under chapter 34.05 RCW,  
8 or civil liability against the state or state agencies for actions or  
9 inactions performed pursuant to the administration of this chapter  
10 with regard to the following: (a) The allocation or payment of  
11 federal or state funds; (b) the use or allocation of state hospital  
12 beds; or (c) financial responsibility for the provision of inpatient  
13 mental health care.

14 (3) This section applies to counties, behavioral health  
15 organizations, and entities which contract to provide behavioral  
16 health organization services and their subcontractors, agents, or  
17 employees.

18 **Sec. 4025.** RCW 71.24.380 and 2014 c 225 s 5 are each amended to  
19 read as follows:

20 (1) The (~~secretary~~) director shall purchase mental health and  
21 chemical dependency treatment services primarily through managed care  
22 contracting, but may continue to purchase behavioral health services  
23 directly from tribal clinics and other tribal providers.

24 (2)(a) The (~~secretary~~) director shall request a detailed plan  
25 from the entities identified in (b) of this subsection that  
26 demonstrates compliance with the contractual elements of RCW  
27 43.20A.894 (as recodified by this act) and federal regulations  
28 related to medicaid managed care contracting(~~(7)~~) including, but not  
29 limited to: Having a sufficient network of providers to provide  
30 adequate access to mental health and chemical dependency services for  
31 residents of the regional service area that meet eligibility criteria  
32 for services, ability to maintain and manage adequate reserves, and  
33 maintenance of quality assurance processes. Any responding entity  
34 that submits a detailed plan that demonstrates that it can meet the  
35 requirements of this section must be awarded the contract to serve as  
36 the behavioral health organization.

37 (b)(i) For purposes of responding to the request for a detailed  
38 plan under (a) of this subsection, the entities from which a plan  
39 will be requested are:

1 (A) A county in a single county regional service area that  
2 currently serves as the regional support network for that area;

3 (B) In the event that a county has made a decision prior to  
4 January 1, 2014, not to contract as a regional support network, any  
5 private entity that serves as the regional support network for that  
6 area;

7 (C) All counties within a regional service area that includes  
8 more than one county, which shall form a responding entity through  
9 the adoption of an interlocal agreement. The interlocal agreement  
10 must specify the terms by which the responding entity shall serve as  
11 the behavioral health organization within the regional service area.

12 (ii) In the event that a regional service area is comprised of  
13 multiple counties including one that has made a decision prior to  
14 January 1, 2014, not to contract as a regional support network the  
15 counties shall adopt an interlocal agreement and may respond to the  
16 request for a detailed plan under (a) of this subsection and the  
17 private entity may also respond to the request for a detailed plan.  
18 If both responding entities meet the requirements of this section,  
19 the responding entities shall follow the ~~((department's))~~ authority's  
20 procurement process established in subsection (3) of this section.

21 (3) If an entity that has received a request under this section  
22 to submit a detailed plan does not respond to the request, a  
23 responding entity under subsection (1) of this section is unable to  
24 substantially meet the requirements of the request for a detailed  
25 plan, or more than one responding entity substantially meets the  
26 requirements for the request for a detailed plan, the ~~((department))~~  
27 authority shall use a procurement process in which other entities  
28 recognized by the ~~((secretary))~~ director may bid to serve as the  
29 behavioral health organization in that regional service area.

30 (4) Contracts for behavioral health organizations must begin on  
31 April 1, 2016.

32 (5) Upon request of all of the county authorities in a regional  
33 service area, the ~~((department and the health care))~~ authority may  
34 ~~((jointly))~~ purchase behavioral health services through an integrated  
35 medical and behavioral health services contract with a behavioral  
36 health organization or a managed health care system as defined in RCW  
37 74.09.522, pursuant to standards to be developed ~~((jointly))~~ by the  
38 ~~((secretary and the health care))~~ authority. Any contract for such a  
39 purchase must comply with all federal medicaid and state law  
40 requirements related to managed health care contracting.



1 (6) As an incentive to county authorities to become early  
2 adopters of fully integrated purchasing of medical and behavioral  
3 health services, the standards adopted by the ((~~secretary and the~~  
4 ~~health care~~)) authority under subsection (5) of this section shall  
5 provide for an incentive payment to counties which elect to move to  
6 full integration by January 1, 2016. Subject to federal approval, the  
7 incentive payment shall be targeted at ten percent of savings  
8 realized by the state within the regional service area in which the  
9 fully integrated purchasing takes place. Savings shall be calculated  
10 in alignment with the outcome and performance measures established in  
11 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for  
12 early adopter counties shall be made available for up to a six-year  
13 period, or until full integration of medical and behavioral health  
14 services is accomplished statewide, whichever comes sooner, according  
15 to rules to be developed by the ((~~secretary and health care~~))  
16 authority.

17 **Sec. 4026.** RCW 71.24.385 and 2016 sp.s. c 29 s 510 are each  
18 amended to read as follows:

19 (1) Within funds appropriated by the legislature for this  
20 purpose, behavioral health organizations shall develop the means to  
21 serve the needs of people:

22 (a) With mental disorders residing within the boundaries of their  
23 regional service area. Elements of the program may include:

- 24 (i) Crisis diversion services;  
25 (ii) Evaluation and treatment and community hospital beds;  
26 (iii) Residential treatment;  
27 (iv) Programs for intensive community treatment;  
28 (v) Outpatient services;  
29 (vi) Peer support services;  
30 (vii) Community support services;  
31 (viii) Resource management services; and  
32 (ix) Supported housing and supported employment services.

33 (b) With substance use disorders and their families, people  
34 incapacitated by alcohol or other psychoactive chemicals, and  
35 intoxicated people.

36 (i) Elements of the program shall include, but not necessarily be  
37 limited to, a continuum of substance use disorder treatment services  
38 that includes:

39 (A) Withdrawal management;

1 (B) Residential treatment; and

2 (C) Outpatient treatment.

3 (ii) The program may include peer support, supported housing,  
4 supported employment, crisis diversion, or recovery support services.

5 (iii) The ((~~department~~)) authority may contract for the use of an  
6 approved substance use disorder treatment program or other individual  
7 or organization if the ((~~secretary~~)) director considers this to be an  
8 effective and economical course to follow.

9 (2) The behavioral health organization shall have the  
10 flexibility, within the funds appropriated by the legislature for  
11 this purpose and the terms of their contract, to design the mix of  
12 services that will be most effective within their service area of  
13 meeting the needs of people with behavioral health disorders and  
14 avoiding placement of such individuals at the state mental hospital.  
15 Behavioral health organizations are encouraged to maximize the use of  
16 evidence-based practices and alternative resources with the goal of  
17 substantially reducing and potentially eliminating the use of  
18 institutions for mental diseases.

19 (3)(a) Treatment provided under this chapter must be purchased  
20 primarily through managed care contracts.

21 (b) Consistent with RCW 71.24.580, services and funding provided  
22 through the criminal justice treatment account are intended to be  
23 exempted from managed care contracting.

24 **Sec. 4027.** RCW 71.24.400 and 2001 c 323 s 18 are each amended to  
25 read as follows:

26 The legislature finds that the current complex set of federal,  
27 state, and local rules and regulations, audited and administered at  
28 multiple levels, which affect the community mental health service  
29 delivery system, focus primarily on the process of providing mental  
30 health services and do not sufficiently address consumer and system  
31 outcomes. The legislature finds that the ((~~department~~)) authority and  
32 the community mental health service delivery system must make ongoing  
33 efforts to achieve the purposes set forth in RCW 71.24.015 related to  
34 reduced administrative layering, duplication, elimination of process  
35 measures not specifically required by the federal government for the  
36 receipt of federal funds, and reduced administrative costs.

37 **Sec. 4028.** RCW 71.24.405 and 2014 c 225 s 53 are each amended to  
38 read as follows:

1 The (~~department~~) authority shall establish a comprehensive and  
2 collaborative effort within behavioral health organizations and with  
3 local mental health service providers aimed at creating innovative  
4 and streamlined community mental health service delivery systems, in  
5 order to carry out the purposes set forth in RCW 71.24.400 and to  
6 capture the diversity of the community mental health service delivery  
7 system.

8 The (~~department~~) authority must accomplish the following:

9 (1) Identification, review, and cataloging of all rules,  
10 regulations, duplicative administrative and monitoring functions, and  
11 other requirements that currently lead to inefficiencies in the  
12 community mental health service delivery system and, if possible,  
13 eliminate the requirements;

14 (2) The systematic and incremental development of a single system  
15 of accountability for all federal, state, and local funds provided to  
16 the community mental health service delivery system. Systematic  
17 efforts should be made to include federal and local funds into the  
18 single system of accountability;

19 (3) The elimination of process regulations and related contract  
20 and reporting requirements. In place of the regulations and  
21 requirements, a set of outcomes for mental health adult and children  
22 clients according to this chapter (~~(71.24—RCW)~~) must be used to  
23 measure the performance of mental health service providers and  
24 behavioral health organizations. Such outcomes shall focus on  
25 stabilizing out-of-home and hospital care, increasing stable  
26 community living, increasing age-appropriate activities, achieving  
27 family and consumer satisfaction with services, and system  
28 efficiencies;

29 (4) Evaluation of the feasibility of contractual agreements  
30 between the (~~department of social and health services~~) authority  
31 and behavioral health organizations and mental health service  
32 providers that link financial incentives to the success or failure of  
33 mental health service providers and behavioral health organizations  
34 to meet outcomes established for mental health service clients;

35 (5) The involvement of mental health consumers and their  
36 representatives. Mental health consumers and their representatives  
37 will be involved in the development of outcome standards for mental  
38 health clients under section 5 of this act; and

1 (6) An independent evaluation component to measure the success of  
2 the ((~~department~~)) authority in fully implementing the provisions of  
3 RCW 71.24.400 and this section.

4 **Sec. 4029.** RCW 71.24.415 and 1999 c 10 s 12 are each amended to  
5 read as follows:

6 To carry out the purposes specified in RCW 71.24.400, the  
7 ((~~department~~)) authority is encouraged to utilize its authority to  
8 eliminate any unnecessary rules, regulations, standards, or  
9 contracts, to immediately eliminate duplication of audits or any  
10 other unnecessarily duplicated functions, and to seek any waivers of  
11 federal or state rules or regulations necessary to achieve the  
12 purpose of streamlining the community mental health service delivery  
13 system and infusing it with incentives that reward efficiency,  
14 positive outcomes for clients, and quality services.

15 **Sec. 4030.** RCW 71.24.420 and 2014 c 225 s 17 are each amended to  
16 read as follows:

17 The ((~~department~~)) authority shall operate the community mental  
18 health service delivery system authorized under this chapter within  
19 the following constraints:

20 (1) The full amount of federal funds for mental health services,  
21 plus qualifying state expenditures as appropriated in the biennial  
22 operating budget, shall be appropriated to the ((~~department~~))  
23 authority each year in the biennial appropriations act to carry out  
24 the provisions of the community mental health service delivery system  
25 authorized in this chapter.

26 (2) The ((~~department~~)) authority may expend funds defined in  
27 subsection (1) of this section in any manner that will effectively  
28 accomplish the outcome measures established in RCW 43.20A.895 and  
29 71.36.025 and performance measures linked to those outcomes.

30 (3) The ((~~department~~)) authority shall implement strategies that  
31 accomplish the outcome measures established in RCW 43.20A.895,  
32 70.320.020, and 71.36.025 and performance measures linked to those  
33 outcomes.

34 (4) The ((~~department~~)) authority shall monitor expenditures  
35 against the appropriation levels provided for in subsection (1) of  
36 this section.

1       **Sec. 4031.** RCW 71.24.430 and 2014 c 225 s 54 are each amended to  
2 read as follows:

3       (1) The ((~~department~~)) authority shall ensure the coordination of  
4 allied services for mental health clients. The ((~~department~~))  
5 authority shall implement strategies for resolving organizational,  
6 regulatory, and funding issues at all levels of the system, including  
7 the state, the behavioral health organizations, and local service  
8 providers.

9       (2) The ((~~department~~)) authority shall propose, in operating  
10 budget requests, transfers of funding among programs to support  
11 collaborative service delivery to persons who require services from  
12 multiple department of social and health services and authority  
13 programs. The ((~~department~~)) authority shall report annually to the  
14 appropriate committees of the senate and house of representatives on  
15 actions and projects it has taken to promote collaborative service  
16 delivery.

17       **Sec. 4032.** RCW 71.24.455 and 2014 c 225 s 43 are each amended to  
18 read as follows:

19       (1) The ((~~secretary~~)) director shall select and contract with a  
20 behavioral health organization or private provider to provide  
21 specialized access and services to offenders with mental illness upon  
22 release from total confinement within the department of corrections  
23 who have been identified by the department of corrections and  
24 selected by the behavioral health organization or private provider as  
25 high-priority clients for services and who meet service program  
26 entrance criteria. The program shall enroll no more than twenty-five  
27 offenders at any one time, or a number of offenders that can be  
28 accommodated within the appropriated funding level, and shall seek to  
29 fill any vacancies that occur.

30       (2) Criteria shall include a determination by department of  
31 corrections staff that:

32       (a) The offender suffers from a major mental illness and needs  
33 continued mental health treatment;

34       (b) The offender's previous crime or crimes have been determined  
35 by either the court or department of corrections staff to have been  
36 substantially influenced by the offender's mental illness;

37       (c) It is believed the offender will be less likely to commit  
38 further criminal acts if provided ongoing mental health care;

1 (d) The offender is unable or unlikely to obtain housing and/or  
2 treatment from other sources for any reason; and

3 (e) The offender has at least one year remaining before his or  
4 her sentence expires but is within six months of release to community  
5 housing and is currently housed within a work release facility or any  
6 department of corrections' division of prisons facility.

7 (3) The behavioral health organization or private provider shall  
8 provide specialized access and services to the selected offenders.  
9 The services shall be aimed at lowering the risk of recidivism. An  
10 oversight committee composed of a representative of the  
11 (~~department~~) authority, a representative of the selected behavioral  
12 health organization or private provider, and a representative of the  
13 department of corrections shall develop policies to guide the pilot  
14 program, provide dispute resolution including making determinations  
15 as to when entrance criteria or required services may be waived in  
16 individual cases, advise the department of corrections and the  
17 behavioral health organization or private provider on the selection  
18 of eligible offenders, and set minimum requirements for service  
19 contracts. The selected behavioral health organization or private  
20 provider shall implement the policies and service contracts. The  
21 following services shall be provided:

22 (a) Intensive case management to include a full range of  
23 intensive community support and treatment in client-to-staff ratios  
24 of not more than ten offenders per case manager including: (i) A  
25 minimum of weekly group and weekly individual counseling; (ii) home  
26 visits by the program manager at least two times per month; and (iii)  
27 counseling focusing on relapse prevention and past, current, or  
28 future behavior of the offender.

29 (b) The case manager shall attempt to locate and procure housing  
30 appropriate to the living and clinical needs of the offender and as  
31 needed to maintain the psychiatric stability of the offender. The  
32 entire range of emergency, transitional, and permanent housing and  
33 involuntary hospitalization must be considered as available housing  
34 options. A housing subsidy may be provided to offenders to defray  
35 housing costs up to a maximum of six thousand six hundred dollars per  
36 offender per year and be administered by the case manager. Additional  
37 funding sources may be used to offset these costs when available.

38 (c) The case manager shall collaborate with the assigned prison,  
39 work release, or community corrections staff during release planning,

1 prior to discharge, and in ongoing supervision of the offender while  
2 under the authority of the department of corrections.

3 (d) Medications including the full range of psychotropic  
4 medications including atypical antipsychotic medications may be  
5 required as a condition of the program. Medication prescription,  
6 medication monitoring, and counseling to support offender  
7 understanding, acceptance, and compliance with prescribed medication  
8 regimens must be included.

9 (e) A systematic effort to engage offenders to continuously  
10 involve themselves in current and long-term treatment and appropriate  
11 habilitative activities shall be made.

12 (f) Classes appropriate to the clinical and living needs of the  
13 offender and appropriate to his or her level of understanding.

14 (g) The case manager shall assist the offender in the application  
15 and qualification for entitlement funding, including medicaid, state  
16 assistance, and other available government and private assistance at  
17 any point that the offender is qualified and resources are available.

18 (h) The offender shall be provided access to daily activities  
19 such as drop-in centers, prevocational and vocational training and  
20 jobs, and volunteer activities.

21 (4) Once an offender has been selected into the pilot program,  
22 the offender shall remain in the program until the end of his or her  
23 sentence or unless the offender is released from the pilot program  
24 earlier by the department of corrections.

25 (5) Specialized training in the management and supervision of  
26 high-crime risk offenders with mental illness shall be provided to  
27 all participating mental health providers by the ((department))  
28 authority and the department of corrections prior to their  
29 participation in the program and as requested thereafter.

30 (6) The pilot program provided for in this section must be  
31 providing services by July 1, 1998.

32 **Sec. 4033.** RCW 71.24.460 and 1999 c 10 s 13 are each amended to  
33 read as follows:

34 The ((department)) authority, in collaboration with the  
35 department of corrections and the oversight committee created in RCW  
36 71.24.455, shall track outcomes and submit to the legislature annual  
37 reports regarding services and outcomes. The reports shall include  
38 the following: (1) A statistical analysis regarding the reoffense and  
39 reinstitutionalization rate by the enrollees in the program set forth

1 in RCW 71.24.455; (2) a quantitative description of the services  
2 provided in the program set forth in RCW 71.24.455; and (3)  
3 recommendations for any needed modifications in the services and  
4 funding levels to increase the effectiveness of the program set forth  
5 in RCW 71.24.455. By December 1, 2003, the department shall certify  
6 the reoffense rate for enrollees in the program authorized by RCW  
7 71.24.455 to the office of financial management and the appropriate  
8 legislative committees. If the reoffense rate exceeds fifteen  
9 percent, the authorization for the department to conduct the program  
10 under RCW 71.24.455 is terminated on January 1, 2004.

11 **Sec. 4034.** RCW 71.24.470 and 2014 c 225 s 44 are each amended to  
12 read as follows:

13 (1) The ((~~secretary~~)) director shall contract, to the extent that  
14 funds are appropriated for this purpose, for case management services  
15 and such other services as the ((~~secretary~~)) director deems necessary  
16 to assist offenders identified under RCW 72.09.370 for participation  
17 in the offender reentry community safety program. The contracts may  
18 be with behavioral health organizations or any other qualified and  
19 appropriate entities.

20 (2) The case manager has the authority to assist these offenders  
21 in obtaining the services, as set forth in the plan created under RCW  
22 72.09.370(2), for up to five years. The services may include  
23 coordination of mental health services, assistance with unfunded  
24 medical expenses, obtaining chemical dependency treatment, housing,  
25 employment services, educational or vocational training, independent  
26 living skills, parenting education, anger management services, and  
27 such other services as the case manager deems necessary.

28 (3) The legislature intends that funds appropriated for the  
29 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section  
30 and distributed to the behavioral health organizations are to  
31 supplement and not to supplant general funding. Funds appropriated to  
32 implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section  
33 are not to be considered available resources as defined in RCW  
34 71.24.025 and are not subject to the priorities, terms, or conditions  
35 in the appropriations act established pursuant to RCW 71.24.035.

36 (4) The offender reentry community safety program was formerly  
37 known as the community integration assistance program.



1       **Sec. 4035.** RCW 71.24.480 and 2014 c 225 s 45 are each amended to  
2 read as follows:

3       (1) A licensed or certified service provider or behavioral health  
4 organization, acting in the course of the provider's or  
5 organization's duties under this chapter, is not liable for civil  
6 damages resulting from the injury or death of another caused by a  
7 participant in the offender reentry community safety program who is a  
8 client of the provider or organization, unless the act or omission of  
9 the provider or organization constitutes:

10       (a) Gross negligence;

11       (b) Willful or wanton misconduct; or

12       (c) A breach of the duty to warn of and protect from a client's  
13 threatened violent behavior if the client has communicated a serious  
14 threat of physical violence against a reasonably ascertainable victim  
15 or victims.

16       (2) In addition to any other requirements to report violations,  
17 the licensed or certified service provider and behavioral health  
18 organization shall report an offender's expressions of intent to harm  
19 or other predatory behavior, regardless of whether there is an  
20 ascertainable victim, in progress reports and other established  
21 processes that enable courts and supervising entities to assess and  
22 address the progress and appropriateness of treatment.

23       (3) A licensed or certified service provider's or behavioral  
24 health organization's mere act of treating a participant in the  
25 offender reentry community safety program is not negligence. Nothing  
26 in this subsection alters the licensed or certified service  
27 provider's or behavioral health organization's normal duty of care  
28 with regard to the client.

29       (4) The limited liability provided by this section applies only  
30 to the conduct of licensed or certified service providers and  
31 behavioral health organizations and does not apply to conduct of the  
32 state.

33       (5) For purposes of this section, "participant in the offender  
34 reentry community safety program" means a person who has been  
35 identified under RCW 72.09.370 as an offender who: (a) Is reasonably  
36 believed to be dangerous to himself or herself or others; and (b) has  
37 a mental disorder.

38       **Sec. 4036.** RCW 71.24.490 and 2015 c 269 s 11 are each amended to  
39 read as follows:

1       The (~~department~~) authority must collaborate with regional  
2 support networks or behavioral health organizations and the  
3 Washington state institute for public policy to estimate the capacity  
4 needs for evaluation and treatment services within each regional  
5 service area. Estimated capacity needs shall include consideration of  
6 the average occupancy rates needed to provide an adequate network of  
7 evaluation and treatment services to ensure access to treatment. A  
8 regional service network or behavioral health organization must  
9 develop and maintain an adequate plan to provide for evaluation and  
10 treatment needs.

11       **Sec. 4037.** RCW 71.24.500 and 2016 c 154 s 3 are each amended to  
12 read as follows:

13       The department of social and health services and the (~~Washington~~  
14 ~~state health care~~) authority shall publish written guidance and  
15 provide trainings to behavioral health organizations, managed care  
16 organizations, and behavioral health providers related to how these  
17 organizations may provide outreach, assistance, transition planning,  
18 and rehabilitation case management reimbursable under federal law to  
19 persons who are incarcerated, involuntarily hospitalized, or in the  
20 process of transitioning out of one of these services. The guidance  
21 and trainings may also highlight preventive activities not  
22 reimbursable under federal law which may be cost-effective in a  
23 managed care environment. The purpose of this written guidance and  
24 trainings is to champion best clinical practices including, where  
25 appropriate, use of care coordination and long-acting injectable  
26 psychotropic medication, and to assist the health community to  
27 leverage federal funds and standardize payment and reporting  
28 procedures. The authority and the department of social and health  
29 services shall construe governing laws liberally to effectuate the  
30 broad remedial purposes of chapter 154, Laws of 2016, and provide a  
31 status update to the legislature by December 31, 2016.

32       **Sec. 4038.** RCW 71.24.515 and 2016 sp.s. c 29 s 514 are each  
33 amended to read as follows:

34       (1) The department of social and health services shall contract  
35 for chemical dependency specialist services at division of children  
36 and family services offices to enhance the timeliness and quality of  
37 child protective services assessments and to better connect families  
38 to needed treatment services.

1 (2) The chemical dependency specialist's duties may include, but  
2 are not limited to: Conducting on-site substance use disorder  
3 screening and assessment, facilitating progress reports to department  
4 of social and health services employees, in-service training of  
5 department of social and health services employees and staff on  
6 substance use disorder issues, referring clients from the department  
7 of social and health services to treatment providers, and providing  
8 consultation on cases to department of social and health services  
9 employees.

10 (3) The department of social and health services shall provide  
11 training in and ensure that each case-carrying employee is trained in  
12 uniform screening for mental health and substance use disorder.

13 **Sec. 4039.** RCW 71.24.520 and 2014 c 225 s 22 are each amended to  
14 read as follows:

15 The (~~department~~) authority, in the operation of the chemical  
16 dependency program may:

17 (1) Plan, establish, and maintain prevention and treatment  
18 programs as necessary or desirable;

19 (2) Make contracts necessary or incidental to the performance of  
20 its duties and the execution of its powers, including managed care  
21 contracts for behavioral health services, contracts entered into  
22 under RCW 74.09.522, and contracts with public and private agencies,  
23 organizations, and individuals to pay them for services rendered or  
24 furnished to persons with substance use disorders, persons  
25 incapacitated by alcohol or other psychoactive chemicals, or  
26 intoxicated persons;

27 (3) Enter into agreements for monitoring of verification of  
28 qualifications of counselors employed by approved treatment programs;

29 (4) Adopt rules under chapter 34.05 RCW to carry out the  
30 provisions and purposes of this chapter and contract, cooperate, and  
31 coordinate with other public or private agencies or individuals for  
32 those purposes;

33 (5) Solicit and accept for use any gift of money or property made  
34 by will or otherwise, and any grant of money, services, or property  
35 from the federal government, the state, or any political subdivision  
36 thereof or any private source, and do all things necessary to  
37 cooperate with the federal government or any of its agencies in  
38 making an application for any grant;

1 (6) Administer or supervise the administration of the provisions  
2 relating to persons with substance use disorders and intoxicated  
3 persons of any state plan submitted for federal funding pursuant to  
4 federal health, welfare, or treatment legislation;

5 (7) Coordinate its activities and cooperate with chemical  
6 dependency programs in this and other states, and make contracts and  
7 other joint or cooperative arrangements with state, local, or private  
8 agencies in this and other states for the treatment of persons with  
9 substance use disorders and their families, persons incapacitated by  
10 alcohol or other psychoactive chemicals, and intoxicated persons and  
11 for the common advancement of chemical dependency programs;

12 (8) Keep records and engage in research and the gathering of  
13 relevant statistics;

14 (9) Do other acts and things necessary or convenient to execute  
15 the authority expressly granted to it;

16 (10) Acquire, hold, or dispose of real property or any interest  
17 therein, and construct, lease, or otherwise provide treatment  
18 programs.

19 **Sec. 4040.** RCW 71.24.525 and 1989 c 270 s 7 are each amended to  
20 read as follows:

21 Pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW,  
22 the ((~~department~~)) authority may enter into agreements to accomplish  
23 the purposes of this chapter.

24 **Sec. 4041.** RCW 71.24.530 and 2016 sp.s. c 29 s 515 are each  
25 amended to read as follows:

26 Except as provided in this chapter, the ((~~secretary~~)) director  
27 shall not approve any substance use disorder facility, plan, or  
28 program for financial assistance under RCW 71.24.520 unless at least  
29 ten percent of the amount spent for the facility, plan, or program is  
30 provided from local public or private sources. When deemed necessary  
31 to maintain public standards of care in the substance use disorder  
32 facility, plan, or program, the ((~~secretary~~)) director may require  
33 the substance use disorder facility, plan, or program to provide up  
34 to fifty percent of the total spent for the program through fees,  
35 gifts, contributions, or volunteer services. The ((~~secretary~~))  
36 director shall determine the value of the gifts, contributions, and  
37 volunteer services.

1       **Sec. 4042.** RCW 71.24.535 and 2016 sp.s. c 29 s 504 are each  
2 amended to read as follows:

3       The ((~~department~~)) authority shall:

4       (1) Develop, encourage, and foster statewide, regional, and local  
5 plans and programs for the prevention of alcoholism and other drug  
6 addiction, treatment of persons with substance use disorders and  
7 their families, persons incapacitated by alcohol or other  
8 psychoactive chemicals, and intoxicated persons in cooperation with  
9 public and private agencies, organizations, and individuals and  
10 provide technical assistance and consultation services for these  
11 purposes;

12       (2) Assure that any behavioral health organization managed care  
13 contract, or managed care contract under RCW 74.09.522 for behavioral  
14 health services or programs for the treatment of persons with  
15 substance use disorders and their families, persons incapacitated by  
16 alcohol or other psychoactive chemicals, and intoxicated persons  
17 provides medically necessary services to medicaid recipients. This  
18 must include a continuum of mental health and substance use disorder  
19 services consistent with the state's medicaid plan or federal waiver  
20 authorities, and nonmedicaid services consistent with priorities  
21 established by the ((~~department~~)) authority;

22       (3) Coordinate the efforts and enlist the assistance of all  
23 public and private agencies, organizations, and individuals  
24 interested in prevention of alcoholism and drug addiction, and  
25 treatment of persons with substance use disorders and their families,  
26 persons incapacitated by alcohol or other psychoactive chemicals, and  
27 intoxicated persons;

28       (4) Cooperate with public and private agencies in establishing  
29 and conducting programs to provide treatment for persons with  
30 substance use disorders and their families, persons incapacitated by  
31 alcohol or other psychoactive chemicals, and intoxicated persons who  
32 are clients of the correctional system;

33       (5) Cooperate with the superintendent of public instruction,  
34 state board of education, schools, police departments, courts, and  
35 other public and private agencies, organizations and individuals in  
36 establishing programs for the prevention of substance use disorders,  
37 treatment of persons with substance use disorders and their families,  
38 persons incapacitated by alcohol or other psychoactive chemicals, and  
39 intoxicated persons, and preparing curriculum materials thereon for  
40 use at all levels of school education;

1 (6) Prepare, publish, evaluate, and disseminate educational  
2 material dealing with the nature and effects of alcohol and other  
3 psychoactive chemicals and the consequences of their use;

4 (7) Develop and implement, as an integral part of substance use  
5 disorder treatment programs, an educational program for use in the  
6 treatment of persons with substance use disorders, persons  
7 incapacitated by alcohol or other psychoactive chemicals, and  
8 intoxicated persons, which program shall include the dissemination of  
9 information concerning the nature and effects of alcohol and other  
10 psychoactive chemicals, the consequences of their use, the principles  
11 of recovery, and HIV and AIDS;

12 (8) Organize and foster training programs for persons engaged in  
13 treatment of persons with substance use disorders, persons  
14 incapacitated by alcohol or other psychoactive chemicals, and  
15 intoxicated persons;

16 (9) Sponsor and encourage research into the causes and nature of  
17 substance use disorders, treatment of persons with substance use  
18 disorders, persons incapacitated by alcohol or other psychoactive  
19 chemicals, and intoxicated persons, and serve as a clearinghouse for  
20 information relating to substance use disorders;

21 (10) Specify uniform methods for keeping statistical information  
22 by public and private agencies, organizations, and individuals, and  
23 collect and make available relevant statistical information,  
24 including number of persons treated, frequency of admission and  
25 readmission, and frequency and duration of treatment;

26 (11) Advise the governor in the preparation of a comprehensive  
27 plan for treatment of persons with substance use disorders, persons  
28 incapacitated by alcohol or other psychoactive chemicals, and  
29 intoxicated persons for inclusion in the state's comprehensive health  
30 plan;

31 (12) Review all state health, welfare, and treatment plans to be  
32 submitted for federal funding under federal legislation, and advise  
33 the governor on provisions to be included relating to substance use  
34 disorders;

35 (13) Assist in the development of, and cooperate with, programs  
36 for alcohol and other psychoactive chemical education and treatment  
37 for employees of state and local governments and businesses and  
38 industries in the state;

1 (14) Use the support and assistance of interested persons in the  
2 community to encourage persons with substance use disorders  
3 voluntarily to undergo treatment;

4 (15) Cooperate with public and private agencies in establishing  
5 and conducting programs designed to deal with the problem of persons  
6 operating motor vehicles while intoxicated;

7 (16) Encourage general hospitals and other appropriate health  
8 facilities to admit without discrimination persons with substance use  
9 disorders, persons incapacitated by alcohol or other psychoactive  
10 chemicals, and intoxicated persons and to provide them with adequate  
11 and appropriate treatment;

12 (17) Encourage all health and disability insurance programs to  
13 include substance use disorders as a covered illness; and

14 (18) Organize and sponsor a statewide program to help court  
15 personnel, including judges, better understand substance use  
16 disorders and the uses of substance use disorder treatment programs.

17 **Sec. 4043.** RCW 71.24.540 and 2016 sp.s. c 29 s 516 are each  
18 amended to read as follows:

19 The (~~department~~) authority shall contract with counties  
20 operating drug courts and counties in the process of implementing new  
21 drug courts for the provision of substance use disorder treatment  
22 services.

23 **Sec. 4044.** RCW 71.24.545 and 2014 c 225 s 25 are each amended to  
24 read as follows:

25 (1) (~~In coordination with the health care~~) The authority(~~(, the~~  
26 ~~department)~~) shall establish by appropriate means(~~(, )~~) a  
27 comprehensive and coordinated program for the treatment of persons  
28 with substance use disorders and their families, persons  
29 incapacitated by alcohol or other psychoactive chemicals, and  
30 intoxicated persons.

31 (2)(a) The program shall include, but not necessarily be limited  
32 to, a continuum of chemical dependency treatment services that  
33 includes:

- 34 (i) Withdrawal management;
- 35 (ii) Residential treatment; and
- 36 (iii) Outpatient treatment.

37 (b) The program may include peer support, supported housing,  
38 supported employment, crisis diversion, or recovery support services.

1 (3) All appropriate public and private resources shall be  
2 coordinated with and used in the program when possible.

3 (4) The (~~department~~) authority may contract for the use of an  
4 approved treatment program or other individual or organization if the  
5 (~~secretary~~) director considers this to be an effective and  
6 economical course to follow.

7 (5) By April 1, 2016, treatment provided under this chapter must  
8 be purchased primarily through managed care contracts. Consistent  
9 with RCW (~~70.96A.350~~) 71.24.580, services and funding provided  
10 through the criminal justice treatment account are intended to be  
11 exempted from managed care contracting.

12 **Sec. 4045.** RCW 71.24.555 and 2016 sp.s. c 29 s 517 are each  
13 amended to read as follows:

14 To be eligible to receive its share of liquor taxes and profits,  
15 each city and county shall devote no less than two percent of its  
16 share of liquor taxes and profits to the support of a substance use  
17 disorder program approved by the behavioral health organization and  
18 the (~~secretary~~) director, and licensed or certified by the  
19 department of health.

20 **Sec. 4046.** RCW 71.24.565 and 2014 c 225 s 27 are each amended to  
21 read as follows:

22 The (~~secretary~~) director shall adopt and may amend and repeal  
23 rules for acceptance of persons into the approved treatment program,  
24 considering available treatment resources and facilities, for the  
25 purpose of early and effective treatment of persons with substance  
26 use disorders, persons incapacitated by alcohol or other psychoactive  
27 chemicals, and intoxicated persons. In establishing the rules, the  
28 secretary shall be guided by the following standards:

29 (1) If possible a patient shall be treated on a voluntary rather  
30 than an involuntary basis.

31 (2) A patient shall be initially assigned or transferred to  
32 outpatient treatment, unless he or she is found to require  
33 residential treatment.

34 (3) A person shall not be denied treatment solely because he or  
35 she has withdrawn from treatment against medical advice on a prior  
36 occasion or because he or she has relapsed after earlier treatment.

37 (4) An individualized treatment plan shall be prepared and  
38 maintained on a current basis for each patient.



1 (5) Provision shall be made for a continuum of coordinated  
2 treatment services, so that a person who leaves a facility or a form  
3 of treatment will have available and use other appropriate treatment.

4 **Sec. 4047.** RCW 71.24.580 and 2016 sp.s. c 29 s 511 are each  
5 amended to read as follows:

6 (1) The criminal justice treatment account is created in the  
7 state treasury. Moneys in the account may be expended solely for: (a)  
8 Substance use disorder treatment and treatment support services for  
9 offenders with a substance use disorder that, if not treated, would  
10 result in addiction, against whom charges are filed by a prosecuting  
11 attorney in Washington state; (b) the provision of substance use  
12 disorder treatment services and treatment support services for  
13 nonviolent offenders within a drug court program; and (c) the  
14 administrative and overhead costs associated with the operation of a  
15 drug court. During the 2015-2017 fiscal biennium, the legislature may  
16 transfer from the criminal justice treatment account to the state  
17 general fund amounts as reflect the state savings associated with the  
18 implementation of the medicaid expansion of the federal affordable  
19 care act and the excess fund balance of the account. Moneys in the  
20 account may be spent only after appropriation.

21 (2) For purposes of this section:

22 (a) "Treatment" means services that are critical to a  
23 participant's successful completion of his or her substance use  
24 disorder treatment program, but does not include the following  
25 services: Housing other than that provided as part of an inpatient  
26 substance use disorder treatment program, vocational training, and  
27 mental health counseling; and

28 (b) "Treatment support" means transportation to or from inpatient  
29 or outpatient treatment services when no viable alternative exists,  
30 and child care services that are necessary to ensure a participant's  
31 ability to attend outpatient treatment sessions.

32 (3) Revenues to the criminal justice treatment account consist  
33 of: (a) Funds transferred to the account pursuant to this section;  
34 and (b) any other revenues appropriated to or deposited in the  
35 account.

36 (4)(a) For the fiscal year beginning July 1, 2006, and each  
37 subsequent fiscal year, the amount transferred shall be increased on  
38 an annual basis by the implicit price deflator as published by the  
39 federal bureau of labor statistics.

1 (b) In each odd-numbered year, the legislature shall appropriate  
2 the amount transferred to the criminal justice treatment account in  
3 (a) of this subsection to the department for the purposes of  
4 subsection (5) of this section.

5 (5) Moneys appropriated to the (~~department~~) authority from the  
6 criminal justice treatment account shall be distributed as specified  
7 in this subsection. The (~~department~~) authority may retain up to  
8 three percent of the amount appropriated under subsection (4)(b) of  
9 this section for its administrative costs.

10 (a) Seventy percent of amounts appropriated to the (~~department~~)  
11 authority from the account shall be distributed to counties pursuant  
12 to the distribution formula adopted under this section. The  
13 (~~division of alcohol and substance abuse~~) authority, in  
14 consultation with the department of corrections, the Washington state  
15 association of counties, the Washington state association of drug  
16 court professionals, the superior court judges' association, the  
17 Washington association of prosecuting attorneys, representatives of  
18 the criminal defense bar, representatives of substance use disorder  
19 treatment providers, and any other person deemed by the  
20 (~~department~~) authority to be necessary, shall establish a fair and  
21 reasonable methodology for distribution to counties of moneys in the  
22 criminal justice treatment account. County or regional plans  
23 submitted for the expenditure of formula funds must be approved by  
24 the panel established in (b) of this subsection.

25 (b) Thirty percent of the amounts appropriated to the  
26 (~~department~~) authority from the account shall be distributed as  
27 grants for purposes of treating offenders against whom charges are  
28 filed by a county prosecuting attorney. The (~~department~~) authority  
29 shall appoint a panel of representatives from the Washington  
30 association of prosecuting attorneys, the Washington association of  
31 sheriffs and police chiefs, the superior court judges' association,  
32 the Washington state association of counties, the Washington  
33 defender's association or the Washington association of criminal  
34 defense lawyers, the department of corrections, the Washington state  
35 association of drug court professionals, and substance use disorder  
36 treatment providers(~~(, and the division)~~). The panel shall review  
37 county or regional plans for funding under (a) of this subsection and  
38 grants approved under this subsection. The panel shall attempt to  
39 ensure that treatment as funded by the grants is available to  
40 offenders statewide.

1 (6) The county alcohol and drug coordinator, county prosecutor,  
2 county sheriff, county superior court, a substance abuse treatment  
3 provider appointed by the county legislative authority, a member of  
4 the criminal defense bar appointed by the county legislative  
5 authority, and, in counties with a drug court, a representative of  
6 the drug court shall jointly submit a plan, approved by the county  
7 legislative authority or authorities, to the panel established in  
8 subsection (5)(b) of this section, for disposition of all the funds  
9 provided from the criminal justice treatment account within that  
10 county. The funds shall be used solely to provide approved alcohol  
11 and substance abuse treatment pursuant to RCW 71.24.560, treatment  
12 support services, and for the administrative and overhead costs  
13 associated with the operation of a drug court.

14 (a) No more than ten percent of the total moneys received under  
15 subsections (4) and (5) of this section by a county or group of  
16 counties participating in a regional agreement shall be spent on the  
17 administrative and overhead costs associated with the operation of a  
18 drug court.

19 (b) No more than ten percent of the total moneys received under  
20 subsections (4) and (5) of this section by a county or group of  
21 counties participating in a regional agreement shall be spent for  
22 treatment support services.

23 (7) Counties are encouraged to consider regional agreements and  
24 submit regional plans for the efficient delivery of treatment under  
25 this section.

26 (8) Moneys allocated under this section shall be used to  
27 supplement, not supplant, other federal, state, and local funds used  
28 for substance abuse treatment.

29 (9) Counties must meet the criteria established in RCW  
30 2.30.030(3).

31 (10) The authority under this section to use funds from the  
32 criminal justice treatment account for the administrative and  
33 overhead costs associated with the operation of a drug court expires  
34 June 30, 2015.

35 **Sec. 4048.** RCW 71.24.590 and 2001 c 242 s 2 are each amended to  
36 read as follows:

37 (1) For purposes of this section, "area" means the county in  
38 which an applicant proposes to locate a licensed or certified program

1 and counties adjacent, or near to, the county in which the program is  
2 proposed to be located.

3 When making a decision on an application for licensing or  
4 certification of a program, the department shall:

5 (a) Consult with the county legislative authorities in the area  
6 in which an applicant proposes to locate a program and the city  
7 legislative authority in any city in which an applicant proposes to  
8 locate a program;

9 (b) License or certify only programs that will be sited in  
10 accordance with the appropriate county or city land use ordinances.  
11 Counties and cities may require conditional or special use permits  
12 with reasonable conditions for the siting of programs. Pursuant to  
13 RCW 36.70A.200, no local comprehensive plan or development regulation  
14 may preclude the siting of essential public facilities;

15 (c) Not discriminate in its licensing or certification decision  
16 on the basis of the corporate structure of the applicant;

17 (d) Consider the size of the population in need of treatment in  
18 the area in which the program would be located and license or certify  
19 only applicants whose programs meet the necessary treatment needs of  
20 that population;

21 (e) Demonstrate a need in the community for opiate substitution  
22 treatment and not certify more program slots than justified by the  
23 need in that community. No program shall exceed three hundred fifty  
24 participants unless specifically authorized by the county in which  
25 the program is certified;

26 (f) Consider the availability of other licensed or certified  
27 programs near the area in which the applicant proposes to locate the  
28 program;

29 (g) Consider the transportation systems that would provide  
30 service to the program and whether the systems will provide  
31 reasonable opportunities to access the program for persons in need of  
32 treatment;

33 (h) Consider whether the applicant has, or has demonstrated in  
34 the past, the capability to provide the appropriate services to  
35 assist the persons who utilize the program in meeting goals  
36 established by the legislature, including abstinence from opiates and  
37 opiate substitutes, obtaining mental health treatment, improving  
38 economic independence, and reducing adverse consequences associated  
39 with illegal use of controlled substances. The department shall

1 prioritize licensing or certification to applicants who have  
2 demonstrated such capability;

3 (i) Hold at least one public hearing in the county in which the  
4 facility is proposed to be located and one hearing in the area in  
5 which the facility is proposed to be located. The hearing shall be  
6 held at a time and location that are most likely to permit the  
7 largest number of interested persons to attend and present testimony.  
8 The department shall notify all appropriate media outlets of the  
9 time, date, and location of the hearing at least three weeks in  
10 advance of the hearing.

11 (2) A program applying for licensing or certification from the  
12 department and a program applying for a contract from a state agency  
13 that has been denied the licensing or certification or contract shall  
14 be provided with a written notice specifying the rationale and  
15 reasons for the denial.

16 (3) For the purpose of this chapter, opiate substitution  
17 treatment means:

18 (a) Dispensing an opiate substitution drug approved by the  
19 federal drug administration for the treatment of opiate addiction;  
20 and

21 (b) Providing a comprehensive range of medical and rehabilitative  
22 services.

23 **Sec. 4049.** RCW 71.24.595 and 2003 c 207 s 6 are each amended to  
24 read as follows:

25 (1) The department, in consultation with opiate substitution  
26 treatment service providers and counties and cities, shall establish  
27 statewide treatment standards for licensed or certified opiate  
28 substitution treatment programs. The department shall enforce these  
29 treatment standards. The treatment standards shall include, but not  
30 be limited to, reasonable provisions for all appropriate and  
31 necessary medical procedures, counseling requirements, urinalysis,  
32 and other suitable tests as needed to ensure compliance with this  
33 chapter.

34 (2) The department, in consultation with opiate substitution  
35 treatment programs and counties, shall establish statewide operating  
36 standards for certified opiate substitution treatment programs. The  
37 department shall enforce these operating standards. The operating  
38 standards shall include, but not be limited to, reasonable provisions  
39 necessary to enable the department and counties to monitor certified

1 or licensed opiate substitution treatment programs for compliance  
2 with this chapter and the treatment standards authorized by this  
3 chapter and to minimize the impact of the opiate substitution  
4 treatment programs upon the business and residential neighborhoods in  
5 which the program is located.

6 (3) The department shall establish criteria for evaluating the  
7 compliance of opiate substitution treatment programs with the goals  
8 and standards established under this chapter. As a condition of  
9 licensing or certification, opiate substitution programs shall submit  
10 an annual report to the department and county legislative authority,  
11 including data as specified by the department necessary for outcome  
12 analysis. The department shall analyze and evaluate the data  
13 submitted by each treatment program and take corrective action where  
14 necessary to ensure compliance with the goals and standards  
15 enumerated under this chapter.

16 **Sec. 4050.** RCW 71.24.600 and 1989 c 271 s 308 are each reenacted  
17 and amended to read as follows:

18 The ((department)) authority shall not refuse admission for  
19 diagnosis, evaluation, guidance or treatment to any applicant because  
20 it is determined that the applicant is financially unable to  
21 contribute fully or in part to the cost of any services or facilities  
22 available under the program on alcoholism.

23 The ((department)) authority may limit admissions of such  
24 applicants or modify its programs in order to ensure that  
25 expenditures for services or programs do not exceed amounts  
26 appropriated by the legislature and are allocated by the  
27 ((department)) authority for such services or programs. The  
28 ((department)) authority may establish admission priorities in the  
29 event that the number of eligible applicants exceeds the limits set  
30 by the ((department)) authority.

31 **Sec. 4051.** RCW 71.24.605 and 1998 c 245 s 136 are each amended  
32 to read as follows:

33 The ((department)) authority shall contract with the University  
34 of Washington fetal alcohol syndrome clinic to provide fetal alcohol  
35 exposure screening and assessment services. The University indirect  
36 charges shall not exceed ten percent of the total contract amount.  
37 The contract shall require the University of Washington fetal alcohol  
38 syndrome clinic to provide the following services:

1 (1) Training for health care staff in community-based fetal  
2 alcohol exposure clinics to ensure the accurate diagnosis of  
3 individuals with fetal alcohol exposure and the development and  
4 implementation of appropriate service referral plans;

5 (2) Development of written or visual educational materials for  
6 the individuals diagnosed with fetal alcohol exposure and their  
7 families or caregivers;

8 (3) Systematic information retrieval from each community clinic  
9 to (a) maintain diagnostic accuracy and reliability across all  
10 community clinics, (b) facilitate the development of effective and  
11 efficient screening tools for population-based identification of  
12 individuals with fetal alcohol exposure, (c) facilitate  
13 identification of the most clinically efficacious and cost-effective  
14 educational, social, vocational, and health service interventions for  
15 individuals with fetal alcohol exposure;

16 (4) Based on available funds, establishment of a network of  
17 community-based fetal alcohol exposure clinics across the state to  
18 meet the demand for fetal alcohol exposure diagnostic and referral  
19 services; and

20 (5) Preparation of an annual report for submission to the  
21 authority, the department of health, the department of social and  
22 health services, the department of corrections, and the office of the  
23 superintendent of public instruction which includes the information  
24 retrieved under subsection (3) of this section.

25 **Sec. 4052.** RCW 71.24.610 and 1995 c 54 s 3 are each amended to  
26 read as follows:

27 The authority, the department of social and health services, the  
28 department of health, the department of corrections, and the office  
29 of the superintendent of public instruction shall execute an  
30 interagency agreement to ensure the coordination of identification,  
31 prevention, and intervention programs for children who have fetal  
32 alcohol exposure, and for women who are at high risk of having  
33 children with fetal alcohol exposure.

34 The interagency agreement shall provide a process for community  
35 advocacy groups to participate in the review and development of  
36 identification, prevention, and intervention programs administered or  
37 contracted for by the agencies executing this agreement.

1       **Sec. 4053.** RCW 71.24.615 and 2003 c 207 s 7 are each amended to  
2 read as follows:

3       The ((department)) authority shall prioritize expenditures for  
4 treatment provided under RCW 13.40.165. The ((department)) authority  
5 shall provide funds for inpatient and outpatient treatment providers  
6 that are the most successful, using the standards developed by the  
7 University of Washington under section 27, chapter 338, Laws of 1997.  
8 The ((department)) authority may consider variations between the  
9 nature of the programs provided and clients served but must provide  
10 funds first for those programs that demonstrate the greatest success  
11 in treatment within categories of treatment and the nature of the  
12 persons receiving treatment.

13       **Sec. 4054.** RCW 71.24.620 and 2016 sp.s. c 29 s 520 are each  
14 amended to read as follows:

15       (1) Subject to funds appropriated for this specific purpose, the  
16 ((secretary)) director shall select and contract with behavioral  
17 health organizations to provide intensive case management for persons  
18 with substance use disorders and histories of high utilization of  
19 crisis services at two sites. In selecting the two sites, the  
20 ((secretary)) director shall endeavor to site one in an urban county,  
21 and one in a rural county; and to site them in counties other than  
22 those selected pursuant to RCW 70.96B.020, to the extent necessary to  
23 facilitate evaluation of pilot project results. Subject to funds  
24 appropriated for this specific purpose, the secretary may contract  
25 with additional counties to provide intensive case management.

26       (2) The contracted sites shall implement the pilot programs by  
27 providing intensive case management to persons with a primary  
28 substance use disorder diagnosis or dual primary substance use  
29 disorder and mental health diagnoses, through the employment of  
30 substance use disorder case managers. The substance use disorder case  
31 managers shall:

32       (a) Be trained in and use the integrated, comprehensive screening  
33 and assessment process adopted under RCW 71.24.630;

34       (b) Reduce the use of crisis medical, substance use disorder  
35 treatment and mental health services, including but not limited  
36 to((τ)) emergency room admissions, hospitalizations, withdrawal  
37 management programs, inpatient psychiatric admissions, involuntary  
38 treatment petitions, emergency medical services, and ambulance  
39 services;



1 (c) Reduce the use of emergency first responder services  
2 including police, fire, emergency medical, and ambulance services;

3 (d) Reduce the number of criminal justice interventions including  
4 arrests, violations of conditions of supervision, bookings, jail  
5 days, prison sanction day for violations, court appearances, and  
6 prosecutor and defense costs;

7 (e) Where appropriate and available, work with therapeutic courts  
8 including drug courts and mental health courts to maximize the  
9 outcomes for the individual and reduce the likelihood of reoffense;

10 (f) Coordinate with local offices of the economic services  
11 administration to assist the person in accessing and remaining  
12 enrolled in those programs to which the person may be entitled;

13 (g) Where appropriate and available, coordinate with primary care  
14 and other programs operated through the federal government including  
15 federally qualified health centers, Indian health programs, and  
16 veterans' health programs for which the person is eligible to reduce  
17 duplication of services and conflicts in case approach;

18 (h) Where appropriate, advocate for the client's needs to assist  
19 the person in achieving and maintaining stability and progress toward  
20 recovery;

21 (i) Document the numbers of persons with co-occurring mental and  
22 substance use disorders and the point of determination of the co-  
23 occurring disorder by quadrant of intensity of need; and

24 (j) Where a program participant is under supervision by the  
25 department of corrections, collaborate with the department of  
26 corrections to maximize treatment outcomes and reduce the likelihood  
27 of reoffense.

28 (3) The pilot programs established by this section shall begin  
29 providing services by March 1, 2006.

30 **Sec. 4055.** RCW 71.24.625 and 2016 sp.s. c 29 s 521 are each  
31 amended to read as follows:

32 The ((department)) authority shall ensure that the provisions of  
33 this chapter are applied by the behavioral health organizations in a  
34 consistent and uniform manner. The ((department)) authority shall  
35 also ensure that, to the extent possible within available funds, the  
36 behavioral health organization-designated chemical dependency  
37 specialists are specifically trained in adolescent chemical  
38 dependency issues, the chemical dependency commitment laws, and the

1 criteria for commitment, as specified in this chapter and chapter  
2 70.96A RCW.

3 **Sec. 4056.** RCW 71.24.630 and 2016 sp.s. c 29 s 513 are each  
4 amended to read as follows:

5 (1) The (~~department of social and health services~~) authority  
6 shall maintain an integrated and comprehensive screening and  
7 assessment process for substance use and mental disorders and co-  
8 occurring substance use and mental disorders.

9 (a) The process adopted shall include, at a minimum:

10 (i) An initial screening tool that can be used by intake  
11 personnel system-wide and which will identify the most common types  
12 of co-occurring disorders;

13 (ii) An assessment process for those cases in which assessment is  
14 indicated that provides an appropriate degree of assessment for most  
15 situations, which can be expanded for complex situations;

16 (iii) Identification of triggers in the screening that indicate  
17 the need to begin an assessment;

18 (iv) Identification of triggers after or outside the screening  
19 that indicate a need to begin or resume an assessment;

20 (v) The components of an assessment process and a protocol for  
21 determining whether part or all of the assessment is necessary, and  
22 at what point; and

23 (vi) Emphasis that the process adopted under this section is to  
24 replace and not to duplicate existing intake, screening, and  
25 assessment tools and processes.

26 (b) The (~~department~~) authority shall consider existing models,  
27 including those already adopted by other states, and to the extent  
28 possible, adopt an established, proven model.

29 (c) The integrated, comprehensive screening and assessment  
30 process shall be implemented statewide by all substance use disorder  
31 and mental health treatment providers as well as all designated  
32 mental health professionals, designated chemical dependency  
33 specialists, and designated crisis responders.

34 (2) The (~~department~~) authority shall provide adequate training  
35 to effect statewide implementation by the dates designated in this  
36 section and shall report the rates of co-occurring disorders and the  
37 stage of screening or assessment at which the co-occurring disorder  
38 was identified to the appropriate committees of the legislature.

1 (3) The ((department)) authority shall establish contractual  
2 penalties to contracted treatment providers, the behavioral health  
3 organizations, and their contracted providers for failure to  
4 implement the integrated screening and assessment process.

5 **Sec. 4057.** RCW 71.24.640 and 2016 sp.s. c 29 s 507 are each  
6 amended to read as follows:

7 The secretary shall license or certify evaluation and treatment  
8 facilities that meet state minimum standards. The standards for  
9 certification or licensure of evaluation and treatment facilities by  
10 the department must include standards relating to maintenance of good  
11 physical and mental health and other services to be afforded persons  
12 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and must  
13 otherwise assure the effectuation of the purposes of these chapters.

14 **Sec. 4058.** RCW 71.24.645 and 2016 sp.s. c 29 s 508 are each  
15 amended to read as follows:

16 The secretary shall license or certify crisis stabilization units  
17 that meet state minimum standards. The standards for certification or  
18 licensure of crisis stabilization units by the department must  
19 include standards that:

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

22 (2) Require administration of the unit by mental health  
23 professionals who direct the stabilization and rehabilitation  
24 efforts; and

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

28 NEW SECTION. **Sec. 4059.** A new section is added to chapter 71.24  
29 RCW to read as follows:

30 The secretary shall license or certify triage facilities that  
31 meet state minimum standards. The standards for certification or  
32 licensure of triage facilities by the department must include  
33 standards related to the ability to assess and stabilize an  
34 individual or determine the need for involuntary commitment of an  
35 individual.

1       **Sec. 4060.** RCW 71.24.650 and 2016 sp.s. c 29 s 509 are each  
2 amended to read as follows:

3       The secretary shall license or certify clubhouses that meet state  
4 minimum standards. The standards for certification or licensure of a  
5 clubhouse by the department must at a minimum include:

6       (1) The facilities may be peer-operated and must be  
7 recovery-focused;

8       (2) Members and employees must work together;

9       (3) Members must have the opportunity to participate in all the  
10 work of the clubhouse, including administration, research, intake and  
11 orientation, outreach, hiring, training and evaluation of staff,  
12 public relations, advocacy, and evaluation of clubhouse  
13 effectiveness;

14       (4) Members and staff and ultimately the clubhouse director must  
15 be responsible for the operation of the clubhouse, central to this  
16 responsibility is the engagement of members and staff in all aspects  
17 of clubhouse operations;

18       (5) Clubhouse programs must be comprised of structured activities  
19 including but not limited to social skills training, vocational  
20 rehabilitation, employment training and job placement, and community  
21 resource development;

22       (6) Clubhouse programs must provide in-house educational programs  
23 that significantly utilize the teaching and tutoring skills of  
24 members and assist members by helping them to take advantage of adult  
25 education opportunities in the community;

26       (7) Clubhouse programs must focus on strengths, talents, and  
27 abilities of its members;

28       (8) The work-ordered day may not include medication clinics, day  
29 treatment, or other therapy programs within the clubhouse.

30       **Sec. 4061.** RCW 71.24.805 and 2001 c 334 s 1 are each amended to  
31 read as follows:

32       The legislature affirms its support for those recommendations of  
33 the performance audit of the public mental health system conducted by  
34 the joint legislative audit and review committee relating to:  
35 Improving the coordination of services for clients with multiple  
36 needs; improving the consistency of client, service, and fiscal data  
37 collected by the ((~~mental health division~~)) authority; replacing  
38 process-oriented accountability activities with a uniform statewide  
39 outcome measurement system; and using outcome information to identify

1 and provide incentives for best practices in the provision of public  
2 mental health services.

3 **Sec. 4062.** RCW 71.24.810 and 2001 c 334 s 2 are each amended to  
4 read as follows:

5 The legislature supports recommendations 1 through 10 and 12  
6 through 14 of the mental health system performance audit conducted by  
7 the joint legislative audit and review committee. The legislature  
8 expects the (~~department of social and health services~~) authority to  
9 work diligently within available funds to implement these  
10 recommendations.

11 **Sec. 4063.** RCW 71.24.850 and 2014 c 225 s 8 are each amended to  
12 read as follows:

13 (1) By December 1, 2018, the department of social and health  
14 services and the (~~health care~~) authority shall report to the  
15 governor and the legislature regarding the preparedness of each  
16 regional service area to provide mental health services, chemical  
17 dependency services, and medical care services to medicaid clients  
18 under a fully integrated managed care health system.

19 (2) By January 1, 2020, the community behavioral health program  
20 must be fully integrated in a managed care health system that  
21 provides mental health services, chemical dependency services, and  
22 medical care services to medicaid clients.

23 **Sec. 4064.** RCW 71.24.860 and 2016 sp.s. c 29 s 533 are each  
24 amended to read as follows:

25 (1) The department of social and health services and the  
26 (~~Washington state health care~~) authority shall convene a task force  
27 including participation by a representative cross-section of  
28 behavioral health organizations and behavioral health providers to  
29 align regulations between behavioral health and primary health care  
30 settings and simplify regulations for behavioral health providers.  
31 The alignment must support clinical integration from the standpoint  
32 of standardizing practices and culture in a manner that to the extent  
33 practicable reduces barriers to access, including reducing the  
34 paperwork burden for patients and providers. Brief integrated  
35 behavioral health services must not, in general, take longer to  
36 document than to provide. Regulations should emphasize the desired  
37 outcome rather than how they should be achieved. The task force may

1 also make recommendations to the department of social and health  
2 services concerning subsections (2) and (3) of this section.

3 (2) The department of social and health services shall  
4 collaborate with the department of health, the Washington state  
5 health care authority, and other appropriate government partners to  
6 reduce unneeded costs and burdens to health plans and providers  
7 associated with excessive audits, the licensing process, and  
8 contracting. In pursuit of this goal, the department of social and  
9 health services shall consider steps such as cooperating across  
10 divisions and agencies to combine audit functions when multiple  
11 audits of an agency or site are scheduled, sharing audit information  
12 across divisions and agencies to reduce redundancy of audits, and  
13 treating organizations with multiple sites and programs as single  
14 entities instead of as multiple agencies.

15 (3) The department of social and health services shall review its  
16 practices under RCW 71.24.035(5)(c)(i) to determine whether its  
17 practices comply with the statutory mandate to deem accreditation by  
18 recognized behavioral health accrediting bodies as equivalent to  
19 meeting licensure requirements, comport with standard practices used  
20 by other state divisions or agencies, and properly incentivize  
21 voluntary accreditation to the highest industry standards.

22 (4) The task force described in subsection (1) of this section  
23 must consider means to provide notice to parents when a minor  
24 requests chemical dependency treatment, which are consistent with  
25 federal privacy laws and consistent with the best interests of the  
26 minor and the minor's family. The department of social and health  
27 services must provide a report to the relevant committees of the  
28 legislature by December 1, 2016.

29 NEW SECTION. Sec. 4065. A new section is added to chapter 71.24  
30 RCW to read as follows:

31 (1) The authority shall, upon the request of a county authority  
32 or authorities within a regional service area, collaborate with  
33 counties to create an interlocal leadership structure that includes  
34 participation from counties and the managed health care systems  
35 serving that regional service area. The interlocal leadership  
36 structure must include representation from physical and behavioral  
37 health care providers, tribes, and other entities serving the  
38 regional service area as necessary.

1           (2) The interlocal leadership structure regional organization  
2 must be chaired by the counties and jointly administered by the  
3 authority, managed health care systems, and counties. It must design  
4 and implement the fully integrated managed care model for that  
5 regional service area to assure clients are at the center of care  
6 delivery and support integrated delivery of physical and behavioral  
7 health care at the provider level.

8           (3) The interlocal leadership structure may address, but is not  
9 limited to addressing, the following topics:

10           (a) Alignment of contracting, administrative functions, and other  
11 processes to minimize administrative burden at the provider level to  
12 achieve outcomes;

13           (b) Monitoring implementation of fully integrated managed care in  
14 the regional service area, including design of an early warning  
15 system to monitor ongoing success to achieve better outcomes and to  
16 make adjustments to the system as necessary;

17           (c) Developing regional coordination processes for capital  
18 infrastructure requests, local capacity building, and other community  
19 investments;

20           (d) Identifying, using, and building on measures and data  
21 consistent with, but not limited to, RCW 70.320.030 and 41.05.690,  
22 for tracking and maintaining regional accountability for delivery  
23 system performance; and

24           (e) Discussing whether the managed health care systems awarded  
25 the contract by the authority for a regional service area should  
26 subcontract with a county-based administrative service organization  
27 or other local organization, which may include and determine, in  
28 partnership with that organization, which value-add services will  
29 best support a bidirectional system of care.

30           (4) To ensure an optimal transition, regional service areas that  
31 enter as mid-adopters must be allowed a transition period of up to  
32 one year during which the interlocal leadership structure develops  
33 and implements a local plan, including measurable milestones, to  
34 transition to fully integrated managed care. The transition plan may  
35 include provisions for the counties' organization to maintain  
36 existing contracts during some or all of the transition period if the  
37 managed care design begins during 2017 to 2018, with the mid-adopter  
38 transition year occurring in 2019.

1 (5) Nothing in this section may be used to compel contracts  
2 between a provider, integrated managed health care system, or  
3 administrative service organization.

4 (6) The interlocal leadership group expires December 1, 2021,  
5 unless the interlocal leadership group decides locally to extend it.

6 **Sec. 4066.** RCW 71.24.902 and 1986 c 274 s 7 are each amended to  
7 read as follows:

8 Nothing in this chapter shall be construed as prohibiting the  
9 secretary of the department of social and health services from  
10 consolidating (~~within the department~~) children's mental health  
11 services with other (~~departmental~~) services related to children.

12 **PART 5**

13 **Sec. 5001.** RCW 71.34.010 and 1998 c 296 s 7 are each amended to  
14 read as follows:

15 It is the purpose of this chapter to assure that minors in need  
16 of mental health care and treatment receive an appropriate continuum  
17 of culturally relevant care and treatment, including prevention and  
18 early intervention, self-directed care, parent-directed care, and  
19 involuntary treatment. To facilitate the continuum of care and  
20 treatment to minors in out-of-home placements, all divisions of the  
21 authority and the department that provide mental health services to  
22 minors shall jointly plan and deliver those services.

23 It is also the purpose of this chapter to protect the rights of  
24 minors against needless hospitalization and deprivations of liberty  
25 and to enable treatment decisions to be made in response to clinical  
26 needs in accordance with sound professional judgment. The mental  
27 health care and treatment providers shall encourage the use of  
28 voluntary services and, whenever clinically appropriate, the  
29 providers shall offer less restrictive alternatives to inpatient  
30 treatment. Additionally, all mental health care and treatment  
31 providers shall assure that minors' parents are given an opportunity  
32 to participate in the treatment decisions for their minor children.  
33 The mental health care and treatment providers shall, to the extent  
34 possible, offer services that involve minors' parents or family.

35 It is also the purpose of this chapter to assure the ability of  
36 parents to exercise reasonable, compassionate care and control of



1 their minor children when there is a medical necessity for treatment  
2 and without the requirement of filing a petition under this chapter.

3 **Sec. 5002.** RCW 71.34.020 and 2016 c 155 s 17 are each reenacted  
4 and amended to read as follows:

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

7 (1) "Authority" means the Washington state health care authority.

8 (2) "Child psychiatrist" means a person having a license as a  
9 physician and surgeon in this state, who has had graduate training in  
10 child psychiatry in a program approved by the American Medical  
11 Association or the American Osteopathic Association, and who is board  
12 eligible or board certified in child psychiatry.

13 ~~((+2))~~ (3) "Children's mental health specialist" means:

14 (a) A mental health professional who has completed a minimum of  
15 one hundred actual hours, not quarter or semester hours, of  
16 specialized training devoted to the study of child development and  
17 the treatment of children; and

18 (b) A mental health professional who has the equivalent of one  
19 year of full-time experience in the treatment of children under the  
20 supervision of a children's mental health specialist.

21 ~~((+3))~~ (4) "Commitment" means a determination by a judge or  
22 court commissioner, made after a commitment hearing, that the minor  
23 is in need of inpatient diagnosis, evaluation, or treatment or that  
24 the minor is in need of less restrictive alternative treatment.

25 ~~((+4))~~ (5) "Department" means the department of social and  
26 health services.

27 ~~((+5))~~ (6) "Designated mental health professional" means a  
28 mental health professional designated by one or more counties to  
29 perform the functions of a designated mental health professional  
30 described in this chapter.

31 ~~((+6))~~ (7) "Director" means the director of the authority.

32 (8) "Evaluation and treatment facility" means a public or private  
33 facility or unit that is licensed or certified by the department of  
34 health to provide emergency, inpatient, residential, or outpatient  
35 mental health evaluation and treatment services for minors. A  
36 physically separate and separately-operated portion of a state  
37 hospital may be designated as an evaluation and treatment facility  
38 for minors. A facility which is part of or operated by the  
39 ~~((department))~~ state or federal agency does not require licensure or

1 certification. No correctional institution or facility, juvenile  
2 court detention facility, or jail may be an evaluation and treatment  
3 facility within the meaning of this chapter.

4 ~~((7))~~ (9) "Evaluation and treatment program" means the total  
5 system of services and facilities coordinated and approved by a  
6 county or combination of counties for the evaluation and treatment of  
7 minors under this chapter.

8 ~~((8))~~ (10) "Gravely disabled minor" means a minor who, as a  
9 result of a mental disorder, is in danger of serious physical harm  
10 resulting from a failure to provide for his or her essential human  
11 needs of health or safety, or manifests severe deterioration in  
12 routine functioning evidenced by repeated and escalating loss of  
13 cognitive or volitional control over his or her actions and is not  
14 receiving such care as is essential for his or her health or safety.

15 ~~((9))~~ (11) "Inpatient treatment" means twenty-four-hour-per-day  
16 mental health care provided within a general hospital, psychiatric  
17 hospital, or residential treatment facility licensed or certified by  
18 the department of health as an evaluation and treatment facility for  
19 minors.

20 ~~((10))~~ (12) "Less restrictive alternative" or "less restrictive  
21 setting" means outpatient treatment provided to a minor who is not  
22 residing in a facility providing inpatient treatment as defined in  
23 this chapter.

24 ~~((11))~~ (13) "Likelihood of serious harm" means either: (a) A  
25 substantial risk that physical harm will be inflicted by an  
26 individual upon his or her own person, as evidenced by threats or  
27 attempts to commit suicide or inflict physical harm on oneself; (b) a  
28 substantial risk that physical harm will be inflicted by an  
29 individual upon another, as evidenced by behavior which has caused  
30 such harm or which places another person or persons in reasonable  
31 fear of sustaining such harm; or (c) a substantial risk that physical  
32 harm will be inflicted by an individual upon the property of others,  
33 as evidenced by behavior which has caused substantial loss or damage  
34 to the property of others.

35 ~~((12))~~ (14) "Medical necessity" for inpatient care means a  
36 requested service which is reasonably calculated to: (a) Diagnose,  
37 correct, cure, or alleviate a mental disorder; or (b) prevent the  
38 worsening of mental conditions that endanger life or cause suffering  
39 and pain, or result in illness or infirmity or threaten to cause or

1 aggravate a handicap, or cause physical deformity or malfunction, and  
2 there is no adequate less restrictive alternative available.

3 ~~((13))~~ (15) "Mental disorder" means any organic, mental, or  
4 emotional impairment that has substantial adverse effects on an  
5 individual's cognitive or volitional functions. The presence of  
6 alcohol abuse, drug abuse, juvenile criminal history, antisocial  
7 behavior, or intellectual disabilities alone is insufficient to  
8 justify a finding of "mental disorder" within the meaning of this  
9 section.

10 ~~((14))~~ (16) "Mental health professional" means a psychiatrist,  
11 physician assistant working with a supervising psychiatrist,  
12 psychiatric advanced registered nurse practitioner, psychologist,  
13 psychiatric nurse, or social worker, and such other mental health  
14 professionals as may be defined by rules adopted by the secretary of  
15 the department of health under this chapter.

16 ~~((15))~~ (17) "Minor" means any person under the age of eighteen  
17 years.

18 ~~((16))~~ (18) "Outpatient treatment" means any of the  
19 nonresidential services mandated under chapter 71.24 RCW and provided  
20 by licensed or certified services providers as identified by RCW  
21 71.24.025.

22 ~~((17))~~ (19) "Parent" means:

23 (a) A biological or adoptive parent who has legal custody of the  
24 child, including either parent if custody is shared under a joint  
25 custody agreement; or

26 (b) A person or agency judicially appointed as legal guardian or  
27 custodian of the child.

28 ~~((18))~~ (20) "Physician assistant" means a person licensed as a  
29 physician assistant under chapter 18.57A or 18.71A RCW.

30 ~~((19))~~ (21) "Professional person in charge" or "professional  
31 person" means a physician or other mental health professional  
32 empowered by an evaluation and treatment facility with authority to  
33 make admission and discharge decisions on behalf of that facility.

34 ~~((20))~~ (22) "Psychiatric nurse" means a registered nurse who  
35 has ~~((a bachelor's degree from an accredited college or university,~~  
36 ~~and who has had, in addition, at least two years')) experience in the  
37 direct treatment of persons who have a mental illness or who are  
38 emotionally disturbed, such experience gained under the supervision  
39 of a mental health professional. ~~(( "Psychiatric nurse" shall also~~~~

1 mean any other registered nurse who has three years of such  
2 experience.

3 ~~(21))~~ (23) "Psychiatrist" means a person having a license as a  
4 physician in this state who has completed residency training in  
5 psychiatry in a program approved by the American Medical Association  
6 or the American Osteopathic Association, and is board eligible or  
7 board certified in psychiatry.

8 ~~((22))~~ (24) "Psychologist" means a person licensed as a  
9 psychologist under chapter 18.83 RCW.

10 ~~((23))~~ (25) "Responsible other" means the minor, the minor's  
11 parent or estate, or any other person legally responsible for support  
12 of the minor.

13 ~~((24))~~ (26) "Secretary" means the secretary of the department  
14 or secretary's designee.

15 ~~((25))~~ (27) "Social worker" means a person with a master's or  
16 further advanced degree from a social work educational program  
17 accredited and approved as provided in RCW 18.320.010.

18 ~~((26))~~ (28) "Start of initial detention" means the time of  
19 arrival of the minor at the first evaluation and treatment facility  
20 offering inpatient treatment if the minor is being involuntarily  
21 detained at the time. With regard to voluntary patients, "start of  
22 initial detention" means the time at which the minor gives notice of  
23 intent to leave under the provisions of this chapter.

24 **Sec. 5003.** RCW 71.34.020 and 2016 sp.s. c 29 s 254 and 2016 c  
25 155 s 17 are each reenacted and amended to read as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout this chapter.

28 (1) "Alcoholism" means a disease, characterized by a dependency  
29 on alcoholic beverages, loss of control over the amount and  
30 circumstances of use, symptoms of tolerance, physiological or  
31 psychological withdrawal, or both, if use is reduced or discontinued,  
32 and impairment of health or disruption of social or economic  
33 functioning.

34 (2) "Approved substance use disorder treatment program" means a  
35 program for minors with substance use disorders provided by a  
36 treatment program licensed or certified by the department of health  
37 as meeting standards adopted under chapter 71.24 RCW.

38 (3) "Authority" means the Washington state health care authority.

39 (4) "Chemical dependency" means:

- 1 (a) Alcoholism;  
2 (b) Drug addiction; or  
3 (c) Dependence on alcohol and one or more other psychoactive  
4 chemicals, as the context requires.

5 ~~((4))~~ (5) "Chemical dependency professional" means a person  
6 certified as a chemical dependency professional by the department of  
7 health under chapter 18.205 RCW.

8 ~~((5))~~ (6) "Child psychiatrist" means a person having a license  
9 as a physician and surgeon in this state, who has had graduate  
10 training in child psychiatry in a program approved by the American  
11 Medical Association or the American Osteopathic Association, and who  
12 is board eligible or board certified in child psychiatry.

13 ~~((6))~~ (7) "Children's mental health specialist" means:

14 (a) A mental health professional who has completed a minimum of  
15 one hundred actual hours, not quarter or semester hours, of  
16 specialized training devoted to the study of child development and  
17 the treatment of children; and

18 (b) A mental health professional who has the equivalent of one  
19 year of full-time experience in the treatment of children under the  
20 supervision of a children's mental health specialist.

21 ~~((7))~~ (8) "Commitment" means a determination by a judge or  
22 court commissioner, made after a commitment hearing, that the minor  
23 is in need of inpatient diagnosis, evaluation, or treatment or that  
24 the minor is in need of less restrictive alternative treatment.

25 ~~((8))~~ (9) "Department" means the department of social and  
26 health services.

27 ~~((9))~~ (10) "Designated crisis responder" means a person  
28 designated by a behavioral health organization to perform the duties  
29 specified in this chapter.

30 ~~((10))~~ (11) "Director" means the director of the authority.

31 (12) "Drug addiction" means a disease, characterized by a  
32 dependency on psychoactive chemicals, loss of control over the amount  
33 and circumstances of use, symptoms of tolerance, physiological or  
34 psychological withdrawal, or both, if use is reduced or discontinued,  
35 and impairment of health or disruption of social or economic  
36 functioning.

37 ~~((11))~~ (13) "Evaluation and treatment facility" means a public  
38 or private facility or unit that is licensed or certified by the  
39 department of health to provide emergency, inpatient, residential, or  
40 outpatient mental health evaluation and treatment services for

1 minors. A physically separate and separately-operated portion of a  
2 state hospital may be designated as an evaluation and treatment  
3 facility for minors. A facility which is part of or operated by the  
4 (~~(department)~~) state or federal agency does not require licensure or  
5 certification. No correctional institution or facility, juvenile  
6 court detention facility, or jail may be an evaluation and treatment  
7 facility within the meaning of this chapter.

8 (~~(12)~~) (14) "Evaluation and treatment program" means the total  
9 system of services and facilities coordinated and approved by a  
10 county or combination of counties for the evaluation and treatment of  
11 minors under this chapter.

12 (~~(13)~~) (15) "Gravely disabled minor" means a minor who, as a  
13 result of a mental disorder, or as a result of the use of alcohol or  
14 other psychoactive chemicals, is in danger of serious physical harm  
15 resulting from a failure to provide for his or her essential human  
16 needs of health or safety, or manifests severe deterioration in  
17 routine functioning evidenced by repeated and escalating loss of  
18 cognitive or volitional control over his or her actions and is not  
19 receiving such care as is essential for his or her health or safety.

20 (~~(14)~~) (16) "Inpatient treatment" means twenty-four-hour-per-  
21 day mental health care provided within a general hospital,  
22 psychiatric hospital, residential treatment facility licensed or  
23 certified by the department of health as an evaluation and treatment  
24 facility for minors, secure detoxification facility for minors, or  
25 approved substance use disorder treatment program for minors.

26 (~~(15)~~) (17) "Intoxicated minor" means a minor whose mental or  
27 physical functioning is substantially impaired as a result of the use  
28 of alcohol or other psychoactive chemicals.

29 (~~(16)~~) (18) "Less restrictive alternative" or "less restrictive  
30 setting" means outpatient treatment provided to a minor who is not  
31 residing in a facility providing inpatient treatment as defined in  
32 this chapter.

33 (~~(17)~~) (19) "Likelihood of serious harm" means either: (a) A  
34 substantial risk that physical harm will be inflicted by an  
35 individual upon his or her own person, as evidenced by threats or  
36 attempts to commit suicide or inflict physical harm on oneself; (b) a  
37 substantial risk that physical harm will be inflicted by an  
38 individual upon another, as evidenced by behavior which has caused  
39 such harm or which places another person or persons in reasonable  
40 fear of sustaining such harm; or (c) a substantial risk that physical

1 harm will be inflicted by an individual upon the property of others,  
2 as evidenced by behavior which has caused substantial loss or damage  
3 to the property of others.

4 ~~((+18+))~~ (20) "Medical necessity" for inpatient care means a  
5 requested service which is reasonably calculated to: (a) Diagnose,  
6 correct, cure, or alleviate a mental disorder or substance use  
7 disorder; or (b) prevent the progression of a substance use disorder  
8 that endangers life or causes suffering and pain, or results in  
9 illness or infirmity or threatens to cause or aggravate a handicap,  
10 or causes physical deformity or malfunction, and there is no adequate  
11 less restrictive alternative available.

12 ~~((+19+))~~ (21) "Mental disorder" means any organic, mental, or  
13 emotional impairment that has substantial adverse effects on an  
14 individual's cognitive or volitional functions. The presence of  
15 alcohol abuse, drug abuse, juvenile criminal history, antisocial  
16 behavior, or intellectual disabilities alone is insufficient to  
17 justify a finding of "mental disorder" within the meaning of this  
18 section.

19 ~~((+20+))~~ (22) "Mental health professional" means a psychiatrist,  
20 psychiatric advanced registered nurse practitioner, physician  
21 assistant working with a supervising psychiatrist, psychologist,  
22 psychiatric nurse, or social worker, and such other mental health  
23 professionals as may be defined by rules adopted by the secretary of  
24 the department of health under this chapter.

25 ~~((+21+))~~ (23) "Minor" means any person under the age of eighteen  
26 years.

27 ~~((+22+))~~ (24) "Outpatient treatment" means any of the  
28 nonresidential services mandated under chapter 71.24 RCW and provided  
29 by licensed or certified service providers as identified by RCW  
30 71.24.025.

31 ~~((+23+))~~ (25) "Parent" means:

32 (a) A biological or adoptive parent who has legal custody of the  
33 child, including either parent if custody is shared under a joint  
34 custody agreement; or

35 (b) A person or agency judicially appointed as legal guardian or  
36 custodian of the child.

37 ~~((+24+))~~ (26) "Private agency" means any person, partnership,  
38 corporation, or association that is not a public agency, whether or  
39 not financed in whole or in part by public funds, that constitutes an  
40 evaluation and treatment facility or private institution, or

1 hospital, or approved substance use disorder treatment program, that  
2 is conducted for, or includes a (~~department~~) distinct unit, floor,  
3 or ward conducted for, the care and treatment of persons with mental  
4 illness, substance use disorders, or both mental illness and  
5 substance use disorders.

6 (~~(+25+)~~) (27) "Physician assistant" means a person licensed as a  
7 physician assistant under chapter 18.57A or 18.71A RCW.

8 (~~(+26+)~~) (28) "Professional person in charge" or "professional  
9 person" means a physician, other mental health professional, or other  
10 person empowered by an evaluation and treatment facility, secure  
11 detoxification facility, or approved substance use disorder treatment  
12 program with authority to make admission and discharge decisions on  
13 behalf of that facility.

14 (~~(+27+)~~) (29) "Psychiatric nurse" means a registered nurse who  
15 has (~~(a bachelor's degree from an accredited college or university,~~  
16 ~~and who has had, in addition, at least two years')~~) experience in the  
17 direct treatment of persons who have a mental illness or who are  
18 emotionally disturbed, such experience gained under the supervision  
19 of a mental health professional. (~~("Psychiatric nurse" shall also~~  
20 ~~mean any other registered nurse who has three years of such~~  
21 ~~experience.)~~)

22 (~~(+28+)~~) (30) "Psychiatrist" means a person having a license as a  
23 physician in this state who has completed residency training in  
24 psychiatry in a program approved by the American Medical Association  
25 or the American Osteopathic Association, and is board eligible or  
26 board certified in psychiatry.

27 (~~(+29+)~~) (31) "Psychologist" means a person licensed as a  
28 psychologist under chapter 18.83 RCW.

29 (~~(+30+)~~) (32) "Public agency" means any evaluation and treatment  
30 facility or institution, or hospital, or approved substance use  
31 disorder treatment program that is conducted for, or includes a  
32 (~~department~~) distinct unit, floor, or ward conducted for, the care  
33 and treatment of persons with mental illness, substance use  
34 disorders, or both mental illness and substance use disorders if the  
35 agency is operated directly by federal, state, county, or municipal  
36 government, or a combination of such governments.

37 (~~(+31+)~~) (33) "Responsible other" means the minor, the minor's  
38 parent or estate, or any other person legally responsible for support  
39 of the minor.



1        ~~((32))~~ (34) "Secretary" means the secretary of the department  
2 or secretary's designee.

3        ~~((33))~~ (35) "Secure detoxification facility" means a facility  
4 operated by either a public or private agency or by the program of an  
5 agency that:

6        (a) Provides for intoxicated minors:

7        (i) Evaluation and assessment, provided by certified chemical  
8 dependency professionals;

9        (ii) Acute or subacute detoxification services; and

10       (iii) Discharge assistance provided by certified chemical  
11 dependency professionals, including facilitating transitions to  
12 appropriate voluntary or involuntary inpatient services or to less  
13 restrictive alternatives as appropriate for the minor;

14       (b) Includes security measures sufficient to protect the  
15 patients, staff, and community; and

16       (c) Is licensed or certified as such by the department of health.

17       ~~((34))~~ (36) "Social worker" means a person with a master's or  
18 further advanced degree from a social work educational program  
19 accredited and approved as provided in RCW 18.320.010.

20       ~~((35))~~ (37) "Start of initial detention" means the time of  
21 arrival of the minor at the first evaluation and treatment facility,  
22 secure detoxification facility, or approved substance use disorder  
23 treatment program offering inpatient treatment if the minor is being  
24 involuntarily detained at the time. With regard to voluntary  
25 patients, "start of initial detention" means the time at which the  
26 minor gives notice of intent to leave under the provisions of this  
27 chapter.

28       ~~((36))~~ (38) "Substance use disorder" means a cluster of  
29 cognitive, behavioral, and physiological symptoms indicating that an  
30 individual continues using the substance despite significant  
31 substance-related problems. The diagnosis of a substance use disorder  
32 is based on a pathological pattern of behaviors related to the use of  
33 the substances.

34        **Sec. 5004.** RCW 71.34.300 and 2011 c 343 s 7 are each amended to  
35 read as follows:

36        (1) The county or combination of counties is responsible for  
37 development and coordination of the evaluation and treatment program  
38 for minors, for incorporating the program into the ~~((county))~~ mental  
39 health plan, and for coordination of evaluation and treatment

1 services and resources with the community mental health program  
2 required under chapter 71.24 RCW.

3 (2) The county shall be responsible for maintaining its support  
4 of involuntary treatment services for minors at its 1984 level,  
5 adjusted for inflation, with the ((department)) authority responsible  
6 for additional costs to the county resulting from this chapter.  
7 Maintenance of effort funds devoted to judicial services related to  
8 involuntary commitment reimbursed under RCW 71.05.730 must be  
9 expended for other purposes that further treatment for mental health  
10 and chemical dependency disorders.

11 **Sec. 5005.** RCW 71.34.365 and 1985 c 354 s 17 are each amended to  
12 read as follows:

13 (1) If a minor is not accepted for admission or is released by an  
14 inpatient evaluation and treatment facility, the facility shall  
15 release the minor to the custody of the minor's parent or other  
16 responsible person. If not otherwise available, the facility shall  
17 furnish transportation for the minor to the minor's residence or  
18 other appropriate place.

19 (2) If the minor is released to someone other than the minor's  
20 parent, the facility shall make every effort to notify the minor's  
21 parent of the release as soon as possible.

22 (3) No indigent minor may be released to less restrictive  
23 alternative treatment or setting or discharged from inpatient  
24 treatment without suitable clothing, and the ((department)) authority  
25 shall furnish this clothing. As funds are available, the  
26 ((secretary)) director may provide necessary funds for the immediate  
27 welfare of indigent minors upon discharge or release to less  
28 restrictive alternative treatment.

29 **Sec. 5006.** RCW 71.34.375 and 2011 c 302 s 1 are each amended to  
30 read as follows:

31 (1) If a parent or guardian, for the purpose of mental health  
32 treatment or evaluation, brings his or her minor child to an  
33 evaluation and treatment facility, a hospital emergency room, an  
34 inpatient facility licensed under chapter 72.23 RCW, or an inpatient  
35 facility licensed under chapter 70.41 or 71.12 RCW operating  
36 inpatient psychiatric beds for minors, the facility is required to  
37 promptly provide written and verbal notice of all statutorily  
38 available treatment options contained in this chapter. The notice

1 need not be given more than once if written and verbal notice has  
2 already been provided and documented by the facility.

3 (2) The provision of notice must be documented by the facilities  
4 required to give notice under subsection (1) of this section and must  
5 be accompanied by a signed acknowledgment of receipt by the parent or  
6 guardian. The notice must contain the following information:

7 (a) All current statutorily available treatment options including  
8 but not limited to those provided in this chapter; and

9 (b) The procedures to be followed to utilize the treatment  
10 options described in this chapter.

11 (3) The department of health shall produce, and make available,  
12 the written notification that must include, at a minimum, the  
13 information contained in subsection (2) of this section. The  
14 department of health must revise the written notification as  
15 necessary to reflect changes in the law.

16 **Sec. 5007.** RCW 71.34.375 and 2016 sp.s. c 29 s 256 are each  
17 amended to read as follows:

18 (1) If a parent or guardian, for the purpose of mental health  
19 treatment, substance use disorder treatment, or evaluation, brings  
20 his or her minor child to an evaluation and treatment facility, a  
21 hospital emergency room, an inpatient facility licensed under chapter  
22 72.23 RCW, an inpatient facility licensed under chapter 70.41 or  
23 71.12 RCW operating inpatient psychiatric beds for minors, a secure  
24 detoxification facility, or an approved substance use disorder  
25 treatment program, the facility is required to promptly provide  
26 written and verbal notice of all statutorily available treatment  
27 options contained in this chapter. The notice need not be given more  
28 than once if written and verbal notice has already been provided and  
29 documented by the facility.

30 (2) The provision of notice must be documented by the facilities  
31 required to give notice under subsection (1) of this section and must  
32 be accompanied by a signed acknowledgment of receipt by the parent or  
33 guardian. The notice must contain the following information:

34 (a) All current statutorily available treatment options including  
35 but not limited to those provided in this chapter; and

36 (b) The procedures to be followed to utilize the treatment  
37 options described in this chapter.

38 (3) The department of health shall produce, and make available,  
39 the written notification that must include, at a minimum, the

1 information contained in subsection (2) of this section. The  
2 department of health must revise the written notification as  
3 necessary to reflect changes in the law.

4 **Sec. 5008.** RCW 71.34.380 and 1985 c 354 s 25 are each amended to  
5 read as follows:

6 (1) The department, department of health, and the authority shall  
7 adopt such rules pursuant to chapter 34.05 RCW as may be necessary to  
8 effectuate the intent and purposes of this chapter~~((, which shall~~  
9 ~~include but not be limited to evaluation of))~~.

10 (2) The authority shall evaluate the quality, effectiveness,  
11 efficiency, and use of services ~~((and facilities operating under this~~  
12 ~~chapter))~~, procedures and standards for commitment, and ~~((other~~  
13 ~~action relevant to))~~ establish criteria and procedures for placement  
14 and transfer of committed minors.

15 (3) The department of health shall regulate the evaluation and  
16 treatment facilities~~((, and establishment of criteria and procedures~~  
17 ~~for placement and transfer of committed minors))~~ and programs.

18 (4) The department shall operate and maintain the child study and  
19 treatment center.

20 **Sec. 5009.** RCW 71.34.385 and 1992 c 205 s 304 are each amended  
21 to read as follows:

22 The ~~((department))~~ authority shall ensure that the provisions of  
23 this chapter are applied by the counties in a consistent and uniform  
24 manner. The ~~((department))~~ authority shall also ensure that, to the  
25 extent possible within available funds, the ~~((county))~~ designated  
26 mental health professionals are specifically trained in adolescent  
27 mental health issues, the mental health civil commitment laws, and  
28 the criteria for civil commitment.

29 **Sec. 5010.** RCW 71.34.385 and 2016 sp.s. c 29 s 257 are each  
30 amended to read as follows:

31 The ~~((department))~~ authority shall ensure that the provisions of  
32 this chapter are applied by the counties in a consistent and uniform  
33 manner. The ~~((department))~~ authority shall also ensure that, to the  
34 extent possible within available funds, the designated crisis  
35 responders are specifically trained in adolescent mental health  
36 issues, the mental health and substance use disorder civil commitment  
37 laws, and the criteria for civil commitment.

1       **Sec. 5011.** RCW 71.34.390 and 1992 c 205 s 303 are each amended  
2 to read as follows:

3       For the purpose of encouraging the expansion of existing  
4 evaluation and treatment facilities and the creation of new  
5 facilities, the ((department)) authority shall endeavor to redirect  
6 federal Title XIX funds which are expended on out-of-state placements  
7 to fund placements within the state.

8       **Sec. 5012.** RCW 71.34.395 and 1998 c 296 s 21 are each amended to  
9 read as follows:

10       The ability of a parent to bring his or her minor child to a  
11 licensed or certified evaluation and treatment program for evaluation  
12 and treatment does not create a right to obtain or benefit from any  
13 funds or resources of the state. The state may provide services for  
14 indigent minors to the extent that funds are available.

15       **Sec. 5013.** RCW 71.34.400 and 1998 c 296 s 11 are each amended to  
16 read as follows:

17       For purposes of eligibility for medical assistance under chapter  
18 74.09 RCW, minors in inpatient mental health treatment shall be  
19 considered to be part of their parent's or legal guardian's  
20 household, unless the minor has been assessed by the ((department))  
21 authority or its designee as likely to require such treatment for at  
22 least ninety consecutive days, or is in out-of-home care in  
23 accordance with chapter 13.34 RCW, or the parents are found to not be  
24 exercising responsibility for care and control of the minor. Payment  
25 for such care by the ((department)) authority shall be made only in  
26 accordance with rules, guidelines, and clinical criteria applicable  
27 to inpatient treatment of minors established by the ((department))  
28 authority.

29       **Sec. 5014.** RCW 71.34.400 and 2016 sp.s. c 29 s 258 are each  
30 amended to read as follows:

31       For purposes of eligibility for medical assistance under chapter  
32 74.09 RCW, minors in inpatient mental health or inpatient substance  
33 use disorder treatment shall be considered to be part of their  
34 parent's or legal guardian's household, unless the minor has been  
35 assessed by the ((department)) authority or its designee as likely to  
36 require such treatment for at least ninety consecutive days, or is in  
37 out-of-home care in accordance with chapter 13.34 RCW, or the parents

1 are found to not be exercising responsibility for care and control of  
2 the minor. Payment for such care by the ((department)) authority  
3 shall be made only in accordance with rules, guidelines, and clinical  
4 criteria applicable to inpatient treatment of minors established by  
5 the ((department)) authority.

6 **Sec. 5015.** RCW 71.34.405 and 1985 c 354 s 13 are each amended to  
7 read as follows:

8 (1) A minor receiving treatment under the provisions of this  
9 chapter and responsible others shall be liable for the costs of  
10 treatment, care, and transportation to the extent of available  
11 resources and ability to pay.

12 (2) The secretary or director, as appropriate, shall establish  
13 rules to implement this section and to define income, resources, and  
14 exemptions to determine the responsible person's or persons' ability  
15 to pay.

16 **Sec. 5016.** RCW 71.34.420 and 2015 c 269 s 12 are each amended to  
17 read as follows:

18 (1) The ((department)) authority may use a single bed  
19 certification process as outlined in rule to provide additional  
20 treatment capacity for a minor suffering from a mental disorder for  
21 whom an evaluation and treatment bed is not available. The facility  
22 that is the proposed site of the single bed certification must be a  
23 facility that is willing and able to provide the person with timely  
24 and appropriate treatment either directly or by arrangement with  
25 other public or private agencies.

26 (2) A single bed certification must be specific to the minor  
27 receiving treatment.

28 (3) A designated mental health professional who submits an  
29 application for a single bed certification for treatment at a  
30 facility that is willing and able to provide timely and appropriate  
31 mental health treatment in good faith belief that the single bed  
32 certification is appropriate may presume that the single bed  
33 certification will be approved for the purpose of completing the  
34 detention process and responding to other emergency calls.

35 (4) The ((department)) authority may adopt rules implementing  
36 this section and continue to enforce rules it has already adopted  
37 except where inconsistent with this section.

1       **Sec. 5017.** RCW 71.34.420 and 2016 sp.s. c 29 s 260 are each  
2 amended to read as follows:

3       (1) The (~~department~~) authority may use a single bed  
4 certification process as outlined in rule to provide additional  
5 treatment capacity for a minor suffering from a mental disorder for  
6 whom an evaluation and treatment bed is not available. The facility  
7 that is the proposed site of the single bed certification must be a  
8 facility that is willing and able to provide the person with timely  
9 and appropriate treatment either directly or by arrangement with  
10 other public or private agencies.

11       (2) A single bed certification must be specific to the minor  
12 receiving treatment.

13       (3) A designated crisis responder who submits an application for  
14 a single bed certification for treatment at a facility that is  
15 willing and able to provide timely and appropriate mental health  
16 treatment in good faith belief that the single bed certification is  
17 appropriate may presume that the single bed certification will be  
18 approved for the purpose of completing the detention process and  
19 responding to other emergency calls.

20       (4) The (~~department~~) authority may adopt rules implementing  
21 this section and continue to enforce rules it has already adopted  
22 except where inconsistent with this section.

23       **Sec. 5018.** RCW 71.34.600 and 2007 c 375 s 11 are each amended to  
24 read as follows:

25       (1) A parent may bring, or authorize the bringing of, his or her  
26 minor child to an evaluation and treatment facility or an inpatient  
27 facility licensed under chapter 70.41, 71.12, or 72.23 RCW and  
28 request that the professional person examine the minor to determine  
29 whether the minor has a mental disorder and is in need of inpatient  
30 treatment.

31       (2) The consent of the minor is not required for admission,  
32 evaluation, and treatment if the parent brings the minor to the  
33 facility.

34       (3) An appropriately trained professional person may evaluate  
35 whether the minor has a mental disorder. The evaluation shall be  
36 completed within twenty-four hours of the time the minor was brought  
37 to the facility, unless the professional person determines that the  
38 condition of the minor necessitates additional time for evaluation.  
39 In no event shall a minor be held longer than seventy-two hours for

1 evaluation. If, in the judgment of the professional person, it is  
2 determined it is a medical necessity for the minor to receive  
3 inpatient treatment, the minor may be held for treatment. The  
4 facility shall limit treatment to that which the professional person  
5 determines is medically necessary to stabilize the minor's condition  
6 until the evaluation has been completed. Within twenty-four hours of  
7 completion of the evaluation, the professional person shall notify  
8 the ((~~department~~)) authority if the child is held for treatment and  
9 of the date of admission.

10 (4) No provider is obligated to provide treatment to a minor  
11 under the provisions of this section except that no provider may  
12 refuse to treat a minor under the provisions of this section solely  
13 on the basis that the minor has not consented to the treatment. No  
14 provider may admit a minor to treatment under this section unless it  
15 is medically necessary.

16 (5) No minor receiving inpatient treatment under this section may  
17 be discharged from the facility based solely on his or her request.

18 (6) Prior to the review conducted under RCW 71.34.610, the  
19 professional person shall notify the minor of his or her right to  
20 petition superior court for release from the facility.

21 (7) For the purposes of this section "professional person" means  
22 "professional person" as defined in RCW 71.05.020.

23 **Sec. 5019.** RCW 71.34.600 and 2016 sp.s. c 29 s 263 are each  
24 amended to read as follows:

25 (1) A parent may bring, or authorize the bringing of, his or her  
26 minor child to:

27 (a) An evaluation and treatment facility or an inpatient facility  
28 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that  
29 the professional person examine the minor to determine whether the  
30 minor has a mental disorder and is in need of inpatient treatment; or

31 (b) A secure detoxification facility or approved substance use  
32 disorder treatment program and request that a substance use disorder  
33 assessment be conducted by a professional person to determine whether  
34 the minor has a substance use disorder and is in need of inpatient  
35 treatment.

36 (2) The consent of the minor is not required for admission,  
37 evaluation, and treatment if the parent brings the minor to the  
38 facility.



1 (3) An appropriately trained professional person may evaluate  
2 whether the minor has a mental disorder or has a substance use  
3 disorder. The evaluation shall be completed within twenty-four hours  
4 of the time the minor was brought to the facility, unless the  
5 professional person determines that the condition of the minor  
6 necessitates additional time for evaluation. In no event shall a  
7 minor be held longer than seventy-two hours for evaluation. If, in  
8 the judgment of the professional person, it is determined it is a  
9 medical necessity for the minor to receive inpatient treatment, the  
10 minor may be held for treatment. The facility shall limit treatment  
11 to that which the professional person determines is medically  
12 necessary to stabilize the minor's condition until the evaluation has  
13 been completed. Within twenty-four hours of completion of the  
14 evaluation, the professional person shall notify the ((department))  
15 authority if the child is held for treatment and of the date of  
16 admission.

17 (4) No provider is obligated to provide treatment to a minor  
18 under the provisions of this section except that no provider may  
19 refuse to treat a minor under the provisions of this section solely  
20 on the basis that the minor has not consented to the treatment. No  
21 provider may admit a minor to treatment under this section unless it  
22 is medically necessary.

23 (5) No minor receiving inpatient treatment under this section may  
24 be discharged from the facility based solely on his or her request.

25 (6) Prior to the review conducted under RCW 71.34.610, the  
26 professional person shall notify the minor of his or her right to  
27 petition superior court for release from the facility.

28 (7) For the purposes of this section "professional person" means  
29 "professional person" as defined in RCW 71.05.020.

30 **Sec. 5020.** RCW 71.34.610 and 1998 c 296 s 9 are each amended to  
31 read as follows:

32 (1) The ((department)) authority shall assure that, for any minor  
33 admitted to inpatient treatment under RCW 71.34.600, a review is  
34 conducted by a physician or other mental health professional who is  
35 employed by the ((department)) authority, or an agency under contract  
36 with the ((department)) authority, and who neither has a financial  
37 interest in continued inpatient treatment of the minor nor is  
38 affiliated with the facility providing the treatment. The physician  
39 or other mental health professional shall conduct the review not less

1 than seven nor more than fourteen days following the date the minor  
2 was brought to the facility under RCW 71.34.600 to determine whether  
3 it is a medical necessity to continue the minor's treatment on an  
4 inpatient basis.

5 (2) In making a determination under subsection (1) of this  
6 section, the ((department)) authority shall consider the opinion of  
7 the treatment provider, the safety of the minor, and the likelihood  
8 the minor's mental health will deteriorate if released from inpatient  
9 treatment. The ((department)) authority shall consult with the parent  
10 in advance of making its determination.

11 (3) If, after any review conducted by the ((department))  
12 authority under this section, the ((department)) authority determines  
13 it is no longer a medical necessity for a minor to receive inpatient  
14 treatment, the ((department)) authority shall immediately notify the  
15 parents and the facility. The facility shall release the minor to the  
16 parents within twenty-four hours of receiving notice. If the  
17 professional person in charge and the parent believe that it is a  
18 medical necessity for the minor to remain in inpatient treatment, the  
19 minor shall be released to the parent on the second judicial day  
20 following the ((department's)) authority's determination in order to  
21 allow the parent time to file an at-risk youth petition under chapter  
22 13.32A RCW. If the ((department)) authority determines it is a  
23 medical necessity for the minor to receive outpatient treatment and  
24 the minor declines to obtain such treatment, such refusal shall be  
25 grounds for the parent to file an at-risk youth petition.

26 (4) If the evaluation conducted under RCW 71.34.600 is done by  
27 the ((department)) authority, the reviews required by subsection (1)  
28 of this section shall be done by contract with an independent agency.

29 (5) The ((department)) authority may, subject to available funds,  
30 contract with other governmental agencies to conduct the reviews  
31 under this section. The ((department)) authority may seek  
32 reimbursement from the parents, their insurance, or medicaid for the  
33 expense of any review conducted by an agency under contract.

34 (6) In addition to the review required under this section, the  
35 ((department)) authority may periodically determine and redetermine  
36 the medical necessity of treatment for purposes of payment with  
37 public funds.

38 **Sec. 5021.** RCW 71.34.630 and 1998 c 296 s 20 are each amended to  
39 read as follows:

1 If the minor is not released as a result of the petition filed  
2 under RCW 71.34.620, he or she shall be released not later than  
3 thirty days following the later of: (1) The date of the  
4 (~~department's~~) authority's determination under RCW 71.34.610(2); or  
5 (2) the filing of a petition for judicial review under RCW 71.34.620,  
6 unless a professional person or the (~~county~~) designated mental  
7 health professional initiates proceedings under this chapter.

8 **Sec. 5022.** RCW 71.34.630 and 2016 sp.s. c 29 s 264 are each  
9 amended to read as follows:

10 If the minor is not released as a result of the petition filed  
11 under RCW 71.34.620, he or she shall be released not later than  
12 thirty days following the later of: (1) The date of the  
13 (~~department's~~) authority's determination under RCW 71.34.610(2); or  
14 (2) the filing of a petition for judicial review under RCW 71.34.620,  
15 unless a professional person or the designated crisis responder  
16 initiates proceedings under this chapter.

17 **Sec. 5023.** RCW 71.34.640 and 1996 c 133 s 36 are each amended to  
18 read as follows:

19 The (~~department~~) authority shall randomly select and review the  
20 information on children who are admitted to inpatient treatment on  
21 application of the child's parent regardless of the source of  
22 payment, if any. The review shall determine whether the children  
23 reviewed were appropriately admitted into treatment based on an  
24 objective evaluation of the child's condition and the outcome of the  
25 child's treatment.

26 **Sec. 5024.** RCW 71.34.720 and 2016 c 155 s 19 are each amended to  
27 read as follows:

28 (1) Each minor approved by the facility for inpatient admission  
29 shall be examined and evaluated by a children's mental health  
30 specialist as to the child's mental condition and by a physician,  
31 physician assistant, or psychiatric advanced registered nurse  
32 practitioner as to the child's physical condition within twenty-four  
33 hours of admission. Reasonable measures shall be taken to ensure  
34 medical treatment is provided for any condition requiring immediate  
35 medical attention.

36 (2) If, after examination and evaluation, the children's mental  
37 health specialist and the physician, physician assistant, or

1 psychiatric advanced registered nurse practitioner determine that the  
2 initial needs of the minor would be better served by placement in a  
3 chemical dependency treatment facility, then the minor shall be  
4 referred to an approved substance use disorder treatment program  
5 defined under RCW 70.96A.020.

6 (3) The admitting facility shall take reasonable steps to notify  
7 immediately the minor's parent of the admission.

8 (4) During the initial seventy-two hour treatment period, the  
9 minor has a right to associate or receive communications from parents  
10 or others unless the professional person in charge determines that  
11 such communication would be seriously detrimental to the minor's  
12 condition or treatment and so indicates in the minor's clinical  
13 record, and notifies the minor's parents of this determination. In no  
14 event may the minor be denied the opportunity to consult an attorney.

15 (5) If the evaluation and treatment facility admits the minor, it  
16 may detain the minor for evaluation and treatment for a period not to  
17 exceed seventy-two hours from the time of provisional acceptance. The  
18 computation of such seventy-two hour period shall exclude Saturdays,  
19 Sundays, and holidays. This initial treatment period shall not exceed  
20 seventy-two hours except when an application for voluntary inpatient  
21 treatment is received or a petition for fourteen-day commitment is  
22 filed.

23 (6) Within twelve hours of the admission, the facility shall  
24 advise the minor of his or her rights as set forth in this chapter.

25 **Sec. 5025.** RCW 71.34.720 and 2016 sp.s. c 29 s 271 and 2016 c  
26 155 s 19 are each reenacted and amended to read as follows:

27 (1) Each minor approved by the facility for inpatient admission  
28 shall be examined and evaluated by a children's mental health  
29 specialist, for minors admitted as a result of a mental disorder, or  
30 by a chemical dependency professional, for minors admitted as a  
31 result of a substance use disorder, as to the child's mental  
32 condition and by a physician, physician assistant, or psychiatric  
33 advanced registered nurse practitioner as to the child's physical  
34 condition within twenty-four hours of admission. Reasonable measures  
35 shall be taken to ensure medical treatment is provided for any  
36 condition requiring immediate medical attention.

37 (2) If, after examination and evaluation, the children's mental  
38 health specialist or substance use disorder specialist and the  
39 physician, physician assistant, or psychiatric advanced registered

1 nurse practitioner determine that the initial needs of the minor, if  
2 detained to an evaluation and treatment facility, would be better  
3 served by placement in a substance use disorder treatment  
4 ((~~facility~~)) program or, if detained to a secure detoxification  
5 facility or approved substance use disorder treatment program, would  
6 be better served in an evaluation and treatment facility, then the  
7 minor shall be referred to the more appropriate placement; however a  
8 minor may only be referred to a secure detoxification facility or  
9 approved substance use disorder treatment program if there is a  
10 secure detoxification facility or approved substance use disorder  
11 treatment program available and that has adequate space for the  
12 minor.

13 (3) The admitting facility shall take reasonable steps to notify  
14 immediately the minor's parent of the admission.

15 (4) During the initial seventy-two hour treatment period, the  
16 minor has a right to associate or receive communications from parents  
17 or others unless the professional person in charge determines that  
18 such communication would be seriously detrimental to the minor's  
19 condition or treatment and so indicates in the minor's clinical  
20 record, and notifies the minor's parents of this determination. In no  
21 event may the minor be denied the opportunity to consult an attorney.

22 (5) If the evaluation and treatment facility, secure  
23 detoxification facility, or approved substance use disorder treatment  
24 program admits the minor, it may detain the minor for evaluation and  
25 treatment for a period not to exceed seventy-two hours from the time  
26 of provisional acceptance. The computation of such seventy-two hour  
27 period shall exclude Saturdays, Sundays, and holidays. This initial  
28 treatment period shall not exceed seventy-two hours except when an  
29 application for voluntary inpatient treatment is received or a  
30 petition for fourteen-day commitment is filed.

31 (6) Within twelve hours of the admission, the facility shall  
32 advise the minor of his or her rights as set forth in this chapter.

33 **Sec. 5026.** RCW 71.34.720 and 2016 sp.s. c 29 s 272 are each  
34 amended to read as follows:

35 (1) Each minor approved by the facility for inpatient admission  
36 shall be examined and evaluated by a children's mental health  
37 specialist, for minors admitted as a result of a mental disorder, or  
38 by a chemical dependency professional, for minors admitted as a  
39 result of a substance use disorder, as to the child's mental

1 condition and by a physician, physician assistant, or psychiatric  
2 advanced registered nurse practitioner as to the child's physical  
3 condition within twenty-four hours of admission. Reasonable measures  
4 shall be taken to ensure medical treatment is provided for any  
5 condition requiring immediate medical attention.

6 (2) If, after examination and evaluation, the children's mental  
7 health specialist or substance use disorder specialist and the  
8 physician, physician assistant, or psychiatric advanced registered  
9 nurse practitioner determine that the initial needs of the minor, if  
10 detained to an evaluation and treatment facility, would be better  
11 served by placement in a substance use disorder treatment  
12 ((~~facility~~)) program or, if detained to a secure detoxification  
13 facility or approved substance use disorder treatment program, would  
14 be better served in an evaluation and treatment facility, then the  
15 minor shall be referred to the more appropriate placement.

16 (3) The admitting facility shall take reasonable steps to notify  
17 immediately the minor's parent of the admission.

18 (4) During the initial seventy-two hour treatment period, the  
19 minor has a right to associate or receive communications from parents  
20 or others unless the professional person in charge determines that  
21 such communication would be seriously detrimental to the minor's  
22 condition or treatment and so indicates in the minor's clinical  
23 record, and notifies the minor's parents of this determination. In no  
24 event may the minor be denied the opportunity to consult an attorney.

25 (5) If the evaluation and treatment facility, secure  
26 detoxification facility, or approved substance use disorder treatment  
27 program admits the minor, it may detain the minor for evaluation and  
28 treatment for a period not to exceed seventy-two hours from the time  
29 of provisional acceptance. The computation of such seventy-two hour  
30 period shall exclude Saturdays, Sundays, and holidays. This initial  
31 treatment period shall not exceed seventy-two hours except when an  
32 application for voluntary inpatient treatment is received or a  
33 petition for fourteen-day commitment is filed.

34 (6) Within twelve hours of the admission, the facility shall  
35 advise the minor of his or her rights as set forth in this chapter.

36 **Sec. 5027.** RCW 71.34.760 and 1985 c 354 s 10 are each amended to  
37 read as follows:

38 (1) If a minor is committed for one hundred eighty-day inpatient  
39 treatment and is to be placed in a state-supported program, the

1 ((~~secretary~~)) director shall accept immediately and place the minor  
2 in a state-funded long-term evaluation and treatment facility.

3 (2) The ((~~secretary's~~)) director's placement authority shall be  
4 exercised through a designated placement committee appointed by the  
5 ((~~secretary~~)) director and composed of children's mental health  
6 specialists, including at least one child psychiatrist who represents  
7 the state-funded, long-term, evaluation and treatment facility for  
8 minors. The responsibility of the placement committee will be to:

9 (a) Make the long-term placement of the minor in the most  
10 appropriate, available state-funded evaluation and treatment  
11 facility, having carefully considered factors including the treatment  
12 needs of the minor, the most appropriate facility able to respond to  
13 the minor's identified treatment needs, the geographic proximity of  
14 the facility to the minor's family, the immediate availability of bed  
15 space, and the probable impact of the placement on other residents of  
16 the facility;

17 (b) Approve or deny requests from treatment facilities for  
18 transfer of a minor to another facility;

19 (c) Receive and monitor reports required under this section;

20 (d) Receive and monitor reports of all discharges.

21 (3) The ((~~secretary~~)) director may authorize transfer of minors  
22 among treatment facilities if the transfer is in the best interests  
23 of the minor or due to treatment priorities.

24 (4) The responsible state-funded evaluation and treatment  
25 facility shall submit a report to the ((~~department's~~)) authority's  
26 designated placement committee within ninety days of admission and no  
27 less than every one hundred eighty days thereafter, setting forth  
28 such facts as the ((~~department~~)) authority requires, including the  
29 minor's individual treatment plan and progress, recommendations for  
30 future treatment, and possible less restrictive treatment.

31 **Sec. 5028.** RCW 71.34.760 and 2016 sp.s. c 29 s 278 are each  
32 amended to read as follows:

33 (1) If a minor is committed for one hundred eighty-day inpatient  
34 treatment and is to be placed in a state-supported program, the  
35 ((~~secretary~~)) director shall accept immediately and place the minor  
36 in a state-funded long-term evaluation and treatment facility or  
37 state-funded approved substance use disorder treatment program.

38 (2) The ((~~secretary's~~)) director's placement authority shall be  
39 exercised through a designated placement committee appointed by the

1 ((secretary)) director and composed of children's mental health  
2 specialists and chemical dependency professionals, including at least  
3 one child psychiatrist who represents the state-funded, long-term,  
4 evaluation and treatment facility for minors and one chemical  
5 dependency professional who represents the state-funded approved  
6 substance use disorder treatment program. The responsibility of the  
7 placement committee will be to:

8 (a) Make the long-term placement of the minor in the most  
9 appropriate, available state-funded evaluation and treatment facility  
10 or approved substance use disorder treatment program, having  
11 carefully considered factors including the treatment needs of the  
12 minor, the most appropriate facility able to respond to the minor's  
13 identified treatment needs, the geographic proximity of the facility  
14 to the minor's family, the immediate availability of bed space, and  
15 the probable impact of the placement on other residents of the  
16 facility;

17 (b) Approve or deny requests from treatment facilities for  
18 transfer of a minor to another facility;

19 (c) Receive and monitor reports required under this section;

20 (d) Receive and monitor reports of all discharges.

21 (3) The ((secretary)) director may authorize transfer of minors  
22 among treatment facilities if the transfer is in the best interests  
23 of the minor or due to treatment priorities.

24 (4) The responsible state-funded evaluation and treatment  
25 facility or approved substance use disorder treatment program shall  
26 submit a report to the ((department's)) authority's designated  
27 placement committee within ninety days of admission and no less than  
28 every one hundred eighty days thereafter, setting forth such facts as  
29 the ((department)) authority requires, including the minor's  
30 individual treatment plan and progress, recommendations for future  
31 treatment, and possible less restrictive treatment.

32 **Sec. 5029.** RCW 71.34.780 and 1985 c 354 s 11 are each amended to  
33 read as follows:

34 (1) If the professional person in charge of an outpatient  
35 treatment program, a ((county-))designated mental health  
36 professional, or the director or secretary, as appropriate,  
37 determines that a minor is failing to adhere to the conditions of the  
38 court order for less restrictive alternative treatment or the  
39 conditions for the conditional release, or that substantial



1 deterioration in the minor's functioning has occurred, the  
2 ((~~county~~))designated mental health professional, or the director or  
3 secretary, as appropriate, may order that the minor be taken into  
4 custody and transported to an inpatient evaluation and treatment  
5 facility.

6 (2) The ((~~county~~))designated mental health professional or the  
7 director or secretary, as appropriate, shall file the order of  
8 apprehension and detention and serve it upon the minor and notify the  
9 minor's parent and the minor's attorney, if any, of the detention  
10 within two days of return. At the time of service the minor shall be  
11 informed of the right to a hearing and to representation by an  
12 attorney. The ((~~county~~))designated mental health professional or the  
13 director or secretary, as appropriate, may modify or rescind the  
14 order of apprehension and detention at any time prior to the hearing.

15 (3) A petition for revocation of less restrictive alternative  
16 treatment shall be filed by the ((~~county~~))designated mental health  
17 professional or the director or secretary, as appropriate, with the  
18 court in the county ordering the less restrictive alternative  
19 treatment. The court shall conduct the hearing in that county. A  
20 petition for revocation of conditional release may be filed with the  
21 court in the county ordering inpatient treatment or the county where  
22 the minor on conditional release is residing. A petition shall  
23 describe the behavior of the minor indicating violation of the  
24 conditions or deterioration of routine functioning and a  
25 dispositional recommendation. Upon motion for good cause, the hearing  
26 may be transferred to the county of the minor's residence or to the  
27 county in which the alleged violations occurred. The hearing shall be  
28 held within seven days of the minor's return. The issues to be  
29 determined are whether the minor did or did not adhere to the  
30 conditions of the less restrictive alternative treatment or  
31 conditional release, or whether the minor's routine functioning has  
32 substantially deteriorated, and, if so, whether the conditions of  
33 less restrictive alternative treatment or conditional release should  
34 be modified or whether the minor should be returned to inpatient  
35 treatment. Pursuant to the determination of the court, the minor  
36 shall be returned to less restrictive alternative treatment or  
37 conditional release on the same or modified conditions or shall be  
38 returned to inpatient treatment. If the minor is returned to  
39 inpatient treatment, RCW 71.34.760 regarding the ((~~secretary's~~))  
40 director's placement responsibility shall apply. The hearing may be

1 waived by the minor and the minor returned to inpatient treatment or  
2 to less restrictive alternative treatment or conditional release on  
3 the same or modified conditions.

4 **Sec. 5030.** RCW 71.34.780 and 2016 sp.s. c 29 s 279 are each  
5 amended to read as follows:

6 (1) If the professional person in charge of an outpatient  
7 treatment program, a designated crisis responder, or the director or  
8 secretary, as appropriate, determines that a minor is failing to  
9 adhere to the conditions of the court order for less restrictive  
10 alternative treatment or the conditions for the conditional release,  
11 or that substantial deterioration in the minor's functioning has  
12 occurred, the designated crisis responder, or the director or  
13 secretary, as appropriate, may order that the minor, if committed for  
14 mental health treatment, be taken into custody and transported to an  
15 inpatient evaluation and treatment facility or, if committed for  
16 substance use disorder treatment, be taken into custody and  
17 transported to a secure detoxification facility or approved substance  
18 use disorder treatment program if there is an available secure  
19 detoxification facility or approved substance use disorder treatment  
20 program that has adequate space for the minor.

21 (2) The designated crisis responder or the director or secretary,  
22 as appropriate, shall file the order of apprehension and detention  
23 and serve it upon the minor and notify the minor's parent and the  
24 minor's attorney, if any, of the detention within two days of return.  
25 At the time of service the minor shall be informed of the right to a  
26 hearing and to representation by an attorney. The designated crisis  
27 responder or the director or secretary, as appropriate, may modify or  
28 rescind the order of apprehension and detention at any time prior to  
29 the hearing.

30 (3) A petition for revocation of less restrictive alternative  
31 treatment shall be filed by the designated crisis responder or the  
32 director or secretary, as appropriate, with the court in the county  
33 ordering the less restrictive alternative treatment. The court shall  
34 conduct the hearing in that county. A petition for revocation of  
35 conditional release may be filed with the court in the county  
36 ordering inpatient treatment or the county where the minor on  
37 conditional release is residing. A petition shall describe the  
38 behavior of the minor indicating violation of the conditions or  
39 deterioration of routine functioning and a dispositional

1 recommendation. Upon motion for good cause, the hearing may be  
2 transferred to the county of the minor's residence or to the county  
3 in which the alleged violations occurred. The hearing shall be held  
4 within seven days of the minor's return. The issues to be determined  
5 are whether the minor did or did not adhere to the conditions of the  
6 less restrictive alternative treatment or conditional release, or  
7 whether the minor's routine functioning has substantially  
8 deteriorated, and, if so, whether the conditions of less restrictive  
9 alternative treatment or conditional release should be modified or,  
10 subject to subsection (4) of this section, whether the minor should  
11 be returned to inpatient treatment. Pursuant to the determination of  
12 the court, the minor shall be returned to less restrictive  
13 alternative treatment or conditional release on the same or modified  
14 conditions or shall be returned to inpatient treatment. If the minor  
15 is returned to inpatient treatment, RCW 71.34.760 regarding the  
16 ((secretary's)) director's placement responsibility shall apply. The  
17 hearing may be waived by the minor and the minor returned to  
18 inpatient treatment or to less restrictive alternative treatment or  
19 conditional release on the same or modified conditions.

20 (4) A court may not order the return of a minor to inpatient  
21 treatment in a secure detoxification facility or approved substance  
22 use disorder treatment program unless there is a secure  
23 detoxification facility or approved substance use disorder treatment  
24 program available with adequate space for the minor.

25 **Sec. 5031.** RCW 71.34.780 and 2016 sp.s. c 29 s 280 are each  
26 amended to read as follows:

27 (1) If the professional person in charge of an outpatient  
28 treatment program, a designated crisis responder, or the director or  
29 secretary, as appropriate, determines that a minor is failing to  
30 adhere to the conditions of the court order for less restrictive  
31 alternative treatment or the conditions for the conditional release,  
32 or that substantial deterioration in the minor's functioning has  
33 occurred, the designated crisis responder, or the director or  
34 secretary, as appropriate, may order that the minor, if committed for  
35 mental health treatment, be taken into custody and transported to an  
36 inpatient evaluation and treatment facility or, if committed for  
37 substance use disorder treatment, be taken into custody and  
38 transported to a secure detoxification facility or approved substance  
39 use disorder treatment program.

1 (2) The designated crisis responder or the director or secretary,  
2 as appropriate, shall file the order of apprehension and detention  
3 and serve it upon the minor and notify the minor's parent and the  
4 minor's attorney, if any, of the detention within two days of return.  
5 At the time of service the minor shall be informed of the right to a  
6 hearing and to representation by an attorney. The designated crisis  
7 responder or the director or secretary, as appropriate, may modify or  
8 rescind the order of apprehension and detention at any time prior to  
9 the hearing.

10 (3) A petition for revocation of less restrictive alternative  
11 treatment shall be filed by the designated crisis responder or the  
12 director or secretary, as appropriate, with the court in the county  
13 ordering the less restrictive alternative treatment. The court shall  
14 conduct the hearing in that county. A petition for revocation of  
15 conditional release may be filed with the court in the county  
16 ordering inpatient treatment or the county where the minor on  
17 conditional release is residing. A petition shall describe the  
18 behavior of the minor indicating violation of the conditions or  
19 deterioration of routine functioning and a dispositional  
20 recommendation. Upon motion for good cause, the hearing may be  
21 transferred to the county of the minor's residence or to the county  
22 in which the alleged violations occurred. The hearing shall be held  
23 within seven days of the minor's return. The issues to be determined  
24 are whether the minor did or did not adhere to the conditions of the  
25 less restrictive alternative treatment or conditional release, or  
26 whether the minor's routine functioning has substantially  
27 deteriorated, and, if so, whether the conditions of less restrictive  
28 alternative treatment or conditional release should be modified or  
29 whether the minor should be returned to inpatient treatment. Pursuant  
30 to the determination of the court, the minor shall be returned to  
31 less restrictive alternative treatment or conditional release on the  
32 same or modified conditions or shall be returned to inpatient  
33 treatment. If the minor is returned to inpatient treatment, RCW  
34 71.34.760 regarding the (~~secretary's~~) director's placement  
35 responsibility shall apply. The hearing may be waived by the minor  
36 and the minor returned to inpatient treatment or to less restrictive  
37 alternative treatment or conditional release on the same or modified  
38 conditions.

1       **Sec. 5032.** RCW 71.34.790 and 1985 c 354 s 15 are each amended to  
2 read as follows:

3       Necessary transportation for minors committed to the  
4 ~~((secretary))~~ director under this chapter for one hundred eighty-day  
5 treatment shall be provided by the ~~((department))~~ authority in the  
6 most appropriate and cost-effective means.

7       **Sec. 5033.** RCW 71.36.010 and 2014 c 225 s 91 are each reenacted  
8 and amended to read as follows:

9       Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11       (1) "Agency" means a state, tribal, or local governmental entity  
12 or a private not-for-profit organization.

13       (2) "Behavioral health organization" means a county authority or  
14 group of county authorities or other nonprofit entity that has  
15 entered into contracts with the ~~((secretary))~~ health care authority  
16 pursuant to chapter 71.24 RCW.

17       (3) "Child" means a person under eighteen years of age, except as  
18 expressly provided otherwise in state or federal law.

19       (4) "Consensus-based" means a program or practice that has  
20 general support among treatment providers and experts, based on  
21 experience or professional literature, and may have anecdotal or case  
22 study support, or that is agreed but not possible to perform studies  
23 with random assignment and controlled groups.

24       (5) "County authority" means the board of county commissioners or  
25 county executive.

26       (6) ~~((("Department" means the department of social and health  
27 services-~~

28 ~~(+7))~~ "Early periodic screening, diagnosis, and treatment" means  
29 the component of the federal medicaid program established pursuant to  
30 42 U.S.C. Sec. 1396d(r), as amended.

31 ~~((+8))~~ (7) "Evidence-based" means a program or practice that has  
32 had multiple site random controlled trials across heterogeneous  
33 populations demonstrating that the program or practice is effective  
34 for the population.

35 ~~((+9))~~ (8) "Family" means a child's biological parents, adoptive  
36 parents, foster parents, guardian, legal custodian authorized  
37 pursuant to Title 26 RCW, a relative with whom a child has been  
38 placed by the department of social and health services, or a tribe.

1           (~~(10)~~) (9) "Promising practice" or "emerging best practice"  
2 means a practice that presents, based upon preliminary information,  
3 potential for becoming a research-based or consensus-based practice.

4           (~~(11)~~) (10) "Research-based" means a program or practice that  
5 has some research demonstrating effectiveness, but that does not yet  
6 meet the standard of evidence-based practices.

7           (~~(12)~~) ~~"Secretary" means the secretary of social and health~~  
8 ~~services.~~

9           ~~(13)~~) (11) "Wraparound process" means a family driven planning  
10 process designed to address the needs of children and youth by the  
11 formation of a team that empowers families to make key decisions  
12 regarding the care of the child or youth in partnership with  
13 professionals and the family's natural community supports. The team  
14 produces a community-based and culturally competent intervention plan  
15 which identifies the strengths and needs of the child or youth and  
16 family and defines goals that the team collaborates on achieving with  
17 respect for the unique cultural values of the family. The "wraparound  
18 process" shall emphasize principles of persistence and outcome-based  
19 measurements of success.

20           **Sec. 5034.** RCW 71.36.025 and 2014 c 225 s 92 are each amended to  
21 read as follows:

22           (1) It is the goal of the legislature that, by 2012, the  
23 children's mental health system in Washington state include the  
24 following elements:

25           (a) A continuum of services from early identification,  
26 intervention, and prevention through crisis intervention and  
27 inpatient treatment, including peer support and parent mentoring  
28 services;

29           (b) Equity in access to services for similarly situated children,  
30 including children with co-occurring disorders;

31           (c) Developmentally appropriate, high quality, and culturally  
32 competent services available statewide;

33           (d) Treatment of each child in the context of his or her family  
34 and other persons that are a source of support and stability in his  
35 or her life;

36           (e) A sufficient supply of qualified and culturally competent  
37 children's mental health providers;

38           (f) Use of developmentally appropriate evidence-based and  
39 research-based practices;

1 (g) Integrated and flexible services to meet the needs of  
2 children who, due to mental illness or emotional or behavioral  
3 disturbance, are at risk of out-of-home placement or involved with  
4 multiple child-serving systems.

5 (2) The effectiveness of the children's mental health system  
6 shall be determined through the use of outcome-based performance  
7 measures. The ((department)) health care authority and the evidence-  
8 based practice institute established in RCW 71.24.061, in  
9 consultation with parents, caregivers, youth, behavioral health  
10 organizations, mental health services providers, health plans,  
11 primary care providers, tribes, and others, shall develop outcome-  
12 based performance measures such as:

13 (a) Decreased emergency room utilization;

14 (b) Decreased psychiatric hospitalization;

15 (c) Lessening of symptoms, as measured by commonly used  
16 assessment tools;

17 (d) Decreased out-of-home placement, including residential,  
18 group, and foster care, and increased stability of such placements,  
19 when necessary;

20 (e) Decreased runaways from home or residential placements;

21 (f) Decreased rates of chemical dependency;

22 (g) Decreased involvement with the juvenile justice system;

23 (h) Improved school attendance and performance;

24 (i) Reductions in school or child care suspensions or expulsions;

25 (j) Reductions in use of prescribed medication where cognitive  
26 behavioral therapies are indicated;

27 (k) Improved rates of high school graduation and employment; and

28 (l) Decreased use of mental health services upon reaching  
29 adulthood for mental disorders other than those that require ongoing  
30 treatment to maintain stability.

31 Performance measure reporting for children's mental health  
32 services should be integrated into existing performance measurement  
33 and reporting systems developed and implemented under chapter 71.24  
34 RCW.

35 **Sec. 5035.** RCW 71.36.040 and 2014 c 225 s 93 are each amended to  
36 read as follows:

37 (1) The legislature supports recommendations made in the August  
38 2002 study of the public mental health system for children conducted  
39 by the joint legislative audit and review committee.

1 (2) The ((~~department~~)) health care authority shall, within  
2 available funds:

3 (a) Identify internal business operation issues that limit the  
4 agency's ability to meet legislative intent to coordinate existing  
5 categorical children's mental health programs and funding;

6 (b) Collect reliable mental health cost, service, and outcome  
7 data specific to children. This information must be used to identify  
8 best practices and methods of improving fiscal management;

9 (c) Revise the early periodic screening diagnosis and treatment  
10 plan to reflect the mental health system structure in place on July  
11 27, 2003, and thereafter revise the plan as necessary to conform to  
12 subsequent changes in the structure.

13 (3) The ((~~department~~)) health care authority and the office of  
14 the superintendent of public instruction shall jointly identify  
15 school districts where mental health and education systems coordinate  
16 services and resources to provide public mental health care for  
17 children. The ((~~department~~)) health care authority and the office of  
18 the superintendent of public instruction shall work together to share  
19 information about these approaches with other school districts,  
20 behavioral health organizations, and state agencies.

21 **Sec. 5036.** RCW 71.36.060 and 2007 c 359 s 6 are each amended to  
22 read as follows:

23 The ((~~department~~)) health care authority shall explore the  
24 feasibility of obtaining a medicaid state plan amendment to allow the  
25 state to receive medicaid matching funds for health services provided  
26 to medicaid enrolled youth who are temporarily placed in a juvenile  
27 detention facility. Temporary placement shall be defined as until  
28 adjudication or up to sixty continuous days, whichever occurs first.

29 **PART 6**

30 **Sec. 6001.** RCW 70.96A.011 and 2014 c 225 s 19 are each amended  
31 to read as follows:

32 The legislature finds that the use of alcohol and other drugs has  
33 become a serious threat to the health of the citizens of the state of  
34 Washington. The use of psychoactive chemicals has been found to be a  
35 prime factor in the current AIDS epidemic. Therefore, a comprehensive  
36 statute to deal with alcoholism and other drug addiction is  
37 necessary.



1 The legislature agrees with the 1987 resolution of the American  
2 Medical Association that endorses the proposition that all chemical  
3 dependencies, including alcoholism, are diseases. It is the intent of  
4 the legislature to recognize that chemical dependency is a disease,  
5 and to insure that prevention and treatment services are available  
6 and are of high quality. It is the purpose of this chapter to provide  
7 the financial assistance necessary to enable the (~~department of~~  
8 ~~social and health services~~) health care authority to provide a  
9 program of alcoholism and other drug addiction services.

10 **Sec. 6002.** RCW 70.96A.020 and 2016 sp.s. c 29 s 101 are each  
11 amended to read as follows:

12 For the purposes of this chapter the following words and phrases  
13 shall have the following meanings unless the context clearly requires  
14 otherwise:

15 (1) "Alcoholism" means a disease, characterized by a dependency  
16 on alcoholic beverages, loss of control over the amount and  
17 circumstances of use, symptoms of tolerance, physiological or  
18 psychological withdrawal, or both, if use is reduced or discontinued,  
19 and impairment of health or disruption of social or economic  
20 functioning.

21 (2) "Approved substance use disorder treatment program" means a  
22 program for persons with a substance use disorder provided by a  
23 treatment program licensed or certified by the department of (~~social~~  
24 ~~and health services~~) health as meeting standards adopted under this  
25 chapter.

26 (3) "Authority" means the health care authority.

27 (4) "Behavioral health organization" means a county authority or  
28 group of county authorities or other entity recognized by the  
29 (~~secretary~~) director in contract in a defined regional service  
30 area.

31 (~~(4)~~) (5) "Behavioral health program" has the same meaning as  
32 in RCW 71.24.025.

33 (~~(5)~~) (6) "Behavioral health services" means mental health  
34 services as described in chapters 71.24 and 71.36 RCW and chemical  
35 dependency treatment services as described in this chapter.

36 (~~(6)~~) (7) "Chemical dependency" means: (a) Alcoholism; (b) drug  
37 addiction; or (c) dependence on alcohol and one or more other  
38 psychoactive chemicals, as the context requires.

1       ~~((7))~~ (8) "Commitment" means the determination by a court that  
2 a person should be detained for a period of either evaluation or  
3 treatment, or both, in an inpatient or a less restrictive setting.

4       ~~((8))~~ (9) "Department" means the department of social and  
5 health services.

6       ~~((9))~~ (10) "Designated chemical dependency specialist" or  
7 "specialist" means a person designated by the behavioral health  
8 organization or by the county substance use disorder treatment  
9 program coordinator designated by the behavioral health organization  
10 to perform the commitment duties described in RCW 70.96A.140 and  
11 qualified to do so by meeting standards adopted by the ~~((department))~~  
12 authority.

13       ~~((10))~~ (11) "Director" means the director of the authority.

14       (12) "Drug addiction" means a disease characterized by a  
15 dependency on psychoactive chemicals, loss of control over the amount  
16 and circumstances of use, symptoms of tolerance, physiological or  
17 psychological withdrawal, or both, if use is reduced or discontinued,  
18 and impairment of health or disruption of social or economic  
19 functioning.

20       ~~((11))~~ (13) "Gravely disabled by alcohol or other psychoactive  
21 chemicals" or "gravely disabled" means that a person, as a result of  
22 the use of alcohol or other psychoactive chemicals: (a) Is in danger  
23 of serious physical harm resulting from a failure to provide for his  
24 or her essential human needs of health or safety; or (b) manifests  
25 severe deterioration in routine functioning evidenced by a repeated  
26 and escalating loss of cognition or volitional control over his or  
27 her actions and is not receiving care as essential for his or her  
28 health or safety.

29       ~~((12))~~ (14) "History of one or more violent acts" refers to the  
30 period of time ten years prior to the filing of a petition under this  
31 chapter, excluding any time spent, but not any violent acts  
32 committed, in a mental health facility, or a long-term alcoholism or  
33 drug treatment facility, or in confinement.

34       ~~((13))~~ (15) "Incapacitated by alcohol or other psychoactive  
35 chemicals" means that a person, as a result of the use of alcohol or  
36 other psychoactive chemicals, is gravely disabled or presents a  
37 likelihood of serious harm to himself or herself, to any other  
38 person, or to property.

39       ~~((14))~~ (16) "Incompetent person" means a person who has been  
40 adjudged incompetent by the superior court.

1       (~~(15)~~) (17) "Intoxicated person" means a person whose mental or  
2 physical functioning is substantially impaired as a result of the use  
3 of alcohol or other psychoactive chemicals.

4       (~~(16)~~) (18) "Licensed physician" means a person licensed to  
5 practice medicine or osteopathic medicine and surgery in the state of  
6 Washington.

7       (~~(17)~~) (19) "Likelihood of serious harm" means:

8       (a) A substantial risk that: (i) Physical harm will be inflicted  
9 by an individual upon his or her own person, as evidenced by threats  
10 or attempts to commit suicide or inflict physical harm on one's self;  
11 (ii) physical harm will be inflicted by an individual upon another,  
12 as evidenced by behavior that has caused the harm or that places  
13 another person or persons in reasonable fear of sustaining the harm;  
14 or (iii) physical harm will be inflicted by an individual upon the  
15 property of others, as evidenced by behavior that has caused  
16 substantial loss or damage to the property of others; or

17       (b) The individual has threatened the physical safety of another  
18 and has a history of one or more violent acts.

19       (~~(18)~~) (20) "Medical necessity" for inpatient care of a minor  
20 means a requested licensed or certified inpatient service that is  
21 reasonably calculated to: (a) Diagnose, arrest, or alleviate a  
22 chemical dependency; or (b) prevent the progression of substance use  
23 disorders that endanger life or cause suffering and pain, or result  
24 in illness or infirmity or threaten to cause or aggravate a handicap,  
25 or cause physical deformity or malfunction, and there is no adequate  
26 less restrictive alternative available.

27       (~~(19)~~) (21) "Mental health professional" means a psychiatrist,  
28 psychologist, physician assistant working with a supervising  
29 psychiatrist, psychiatric advanced registered nurse practitioner,  
30 psychiatric nurse, or social worker, and such other mental health  
31 professionals as may be defined by rules adopted by the secretary of  
32 health pursuant to the provisions of chapter 71.05 RCW.

33       (~~(20)~~) (22) "Minor" means a person less than eighteen years of  
34 age.

35       (~~(21)~~) (23) "Parent" means the parent or parents who have the  
36 legal right to custody of the child. Parent includes custodian or  
37 guardian.

38       (~~(22)~~) (24) "Peace officer" means a law enforcement official of  
39 a public agency or governmental unit, and includes persons

1 specifically given peace officer powers by any state law, local  
2 ordinance, or judicial order of appointment.

3 ~~((+23+))~~ (25) "Person" means an individual, including a minor.

4 ~~((+24+))~~ (26) "Physician assistant" means a person licensed as a  
5 physician assistant under chapter 18.57A or 18.71A RCW.

6 ~~((+25+))~~ (27) "Professional person in charge" or "professional  
7 person" means a physician or chemical dependency counselor as defined  
8 in rule by the department of health, who is empowered by a licensed  
9 or certified treatment program with authority to make assessment,  
10 admission, continuing care, and discharge decisions on behalf of the  
11 licensed or certified program.

12 ~~((+26+))~~ (28) "Psychiatric advanced registered nurse  
13 practitioner" means a person who is licensed as an advanced  
14 registered nurse practitioner pursuant to chapter 18.79 RCW; and who  
15 is board certified in advanced practice psychiatric and mental health  
16 nursing.

17 ~~((+27+))~~ (29) "Secretary" means the secretary of the department  
18 of social and health services.

19 ~~((+28+))~~ (30) "Substance use disorder" means a cluster of  
20 cognitive, behavioral, and physiological symptoms indicating that an  
21 individual continues using the substance despite significant  
22 substance-related problems. The diagnosis of a substance use disorder  
23 is based on a pathological pattern of behaviors related to the use of  
24 the substances.

25 ~~((+29+))~~ (31) "Substance use disorder treatment program" means an  
26 organization, institution, or corporation, public or private, engaged  
27 in the care, treatment, or rehabilitation of persons with substance  
28 use disorders.

29 ~~((+30+))~~ (32) "Treatment" means the broad range of emergency,  
30 withdrawal management, residential, and outpatient services and care,  
31 including diagnostic evaluation, substance use disorder education and  
32 counseling, medical, psychiatric, psychological, and social service  
33 care, vocational rehabilitation and career counseling, which may be  
34 extended to persons with substance use disorders and their families,  
35 persons incapacitated by alcohol or other psychoactive chemicals, and  
36 intoxicated persons.

37 ~~((+31+))~~ (33) "Violent act" means behavior that resulted in  
38 homicide, attempted suicide, nonfatal injuries, or substantial damage  
39 to property.

1       **Sec. 6003.** RCW 70.96A.095 and 1998 c 296 s 23 are each amended  
2 to read as follows:

3       Any person thirteen years of age or older may give consent for  
4 himself or herself to the furnishing of outpatient treatment by a  
5 chemical dependency treatment program licensed or certified by the  
6 department of health. Parental authorization is required for any  
7 treatment of a minor under the age of thirteen.

8       **Sec. 6004.** RCW 70.96A.097 and 1998 c 296 s 28 are each amended  
9 to read as follows:

10       (1) The (~~department~~) authority shall ensure that, for any minor  
11 admitted to inpatient treatment under RCW 70.96A.245, a review is  
12 conducted by a physician or chemical dependency counselor, as defined  
13 in rule by the department of health, who is employed by the authority  
14 or an agency under contract with the (~~department~~) authority and who  
15 neither has a financial interest in continued inpatient treatment of  
16 the minor nor is affiliated with the program providing the treatment.  
17 The physician or chemical dependency counselor shall conduct the  
18 review not less than seven nor more than fourteen days following the  
19 date the minor was brought to the facility under RCW 70.96A.245(1) to  
20 determine whether it is a medical necessity to continue the minor's  
21 treatment on an inpatient basis.

22       (2) In making a determination under subsection (1) of this  
23 section whether it is a medical necessity to release the minor from  
24 inpatient treatment, the (~~department~~) authority shall consider the  
25 opinion of the treatment provider, the safety of the minor, the  
26 likelihood the minor's chemical dependency recovery will deteriorate  
27 if released from inpatient treatment, and the wishes of the parent.

28       (3) If, after any review conducted by the (~~department~~)  
29 authority under this section, the (~~department~~) authority determines  
30 it is no longer a medical necessity for a minor to receive inpatient  
31 treatment, the (~~department~~) authority shall immediately notify the  
32 parents and the professional person in charge. The professional  
33 person in charge shall release the minor to the parents within  
34 twenty-four hours of receiving notice. If the professional person in  
35 charge and the parent believe that it is a medical necessity for the  
36 minor to remain in inpatient treatment, the minor shall be released  
37 to the parent on the second judicial day following the  
38 (~~department's~~) authority's determination in order to allow the  
39 parent time to file an at-risk youth petition under chapter 13.32A

1 RCW. If the ((~~department~~)) authority determines it is a medical  
2 necessity for the minor to receive outpatient treatment and the minor  
3 declines to obtain such treatment, such refusal shall be grounds for  
4 the parent to file an at-risk youth petition.

5 (4) The ((~~department~~)) authority may, subject to available funds,  
6 contract with other governmental agencies for the conduct of the  
7 reviews conducted under this section and may seek reimbursement from  
8 the parents, their insurance, or medicaid for the expense of any  
9 review conducted by an agency under contract.

10 (5) In addition to the review required under this section, the  
11 ((~~department~~)) authority may periodically determine and redetermine  
12 the medical necessity of treatment for purposes of payment with  
13 public funds.

14 **Sec. 6005.** RCW 70.96A.110 and 2014 c 225 s 28 are each amended  
15 to read as follows:

16 (1) An individual with a substance use disorder may apply for  
17 voluntary treatment directly to an approved treatment program. If the  
18 proposed patient is a minor or an incompetent person, he or she, a  
19 parent, a legal guardian, or other legal representative may make the  
20 application.

21 (2) Subject to rules adopted by the ((~~secretary~~)) director, the  
22 administrator in charge of an approved treatment program may  
23 determine who shall be admitted for treatment. If a person is refused  
24 admission to an approved treatment program, the administrator,  
25 subject to rules adopted by the ((~~secretary~~)) director, shall refer  
26 the person to another approved treatment program for treatment if  
27 possible and appropriate.

28 (3) If a patient receiving inpatient care leaves an approved  
29 treatment program, he or she shall be encouraged to consent to  
30 appropriate outpatient treatment. If it appears to the administrator  
31 in charge of the treatment program that the patient is an individual  
32 with a substance use disorder who requires help, the ((~~department~~))  
33 authority may arrange for assistance in obtaining supportive services  
34 and residential programs.

35 (4) If a patient leaves an approved public treatment program,  
36 with or against the advice of the administrator in charge of the  
37 program, the ((~~department~~)) authority may make reasonable provisions  
38 for his or her transportation to another program or to his or her  
39 home. If the patient has no home he or she should be assisted in

1 obtaining shelter. If the patient is less than fourteen years of age  
2 or an incompetent person the request for discharge from an inpatient  
3 program shall be made by a parent, legal guardian, or other legal  
4 representative or by the minor or incompetent if he or she was the  
5 original applicant.

6 **Sec. 6006.** RCW 70.96A.120 and 1991 c 290 s 6 are each amended to  
7 read as follows:

8 (1) An intoxicated person may come voluntarily to an approved  
9 treatment program for treatment. A person who appears to be  
10 intoxicated in a public place and to be in need of help, if he or she  
11 consents to the proffered help, may be assisted to his or her home,  
12 an approved treatment program or other health facility.

13 (2) Except for a person who may be apprehended for possible  
14 violation of laws not relating to alcoholism, drug addiction, or  
15 intoxication and except for a person who may be apprehended for  
16 possible violation of laws relating to driving or being in physical  
17 control of a vehicle while under the influence of intoxicating liquor  
18 or any drug and except for a person who may wish to avail himself or  
19 herself of the provisions of RCW 46.20.308, a person who appears to  
20 be incapacitated or gravely disabled by alcohol or other drugs and  
21 who is in a public place or who has threatened, attempted, or  
22 inflicted physical harm on himself, herself, or another, shall be  
23 taken into protective custody by a peace officer or staff designated  
24 by the county or behavioral health organization and as soon as  
25 practicable, but in no event beyond eight hours brought to an  
26 approved treatment program for treatment. If no approved treatment  
27 program is readily available he or she shall be taken to an emergency  
28 medical service customarily used for incapacitated persons. The peace  
29 officer or staff designated by the county or behavioral health  
30 organization, in detaining the person and in taking him or her to an  
31 approved treatment program, is taking him or her into protective  
32 custody and shall make every reasonable effort to protect his or her  
33 health and safety. In taking the person into protective custody, the  
34 detaining peace officer or staff designated by the county or  
35 behavioral health organization may take reasonable steps including  
36 reasonable force if necessary to protect himself or herself or effect  
37 the custody. A taking into protective custody under this section is  
38 not an arrest. No entry or other record shall be made to indicate  
39 that the person has been arrested or charged with a crime.

1 (3) A person who comes voluntarily or is brought to an approved  
2 treatment program shall be examined by a qualified person. He or she  
3 may then be admitted as a patient or referred to another health  
4 facility, which provides emergency medical treatment, where it  
5 appears that such treatment may be necessary. The referring approved  
6 treatment program shall arrange for his or her transportation.

7 (4) A person who is found to be incapacitated or gravely disabled  
8 by alcohol or other drugs at the time of his or her admission or to  
9 have become incapacitated or gravely disabled at any time after his  
10 or her admission, may not be detained at the program for more than  
11 seventy-two hours after admission as a patient, unless a petition is  
12 filed under RCW 70.96A.140, as now or hereafter amended: PROVIDED,  
13 That the treatment personnel at an approved treatment program are  
14 authorized to use such reasonable physical restraint as may be  
15 necessary to retain an incapacitated or gravely disabled person for  
16 up to seventy-two hours from the time of admission. The seventy-two  
17 hour periods specified in this section shall be computed by excluding  
18 Saturdays, Sundays, and holidays. A person may consent to remain in  
19 the program as long as the physician in charge believes appropriate.

20 (5) A person who is not admitted to an approved treatment  
21 program, is not referred to another health facility, and has no  
22 funds, may be taken to his or her home, if any. If he or she has no  
23 home, the approved treatment program shall provide him or her with  
24 information and assistance to access available community shelter  
25 resources.

26 (6) If a patient is admitted to an approved treatment program,  
27 his or her family or next of kin shall be notified as promptly as  
28 possible by the treatment program. If an adult patient who is not  
29 incapacitated requests that there be no notification, his or her  
30 request shall be respected.

31 (7) The peace officer, staff designated by the county or  
32 behavioral health organization, or treatment facility personnel, who  
33 act in compliance with this chapter and are performing in the course  
34 of their official duty are not criminally or civilly liable therefor.

35 (8) If the person in charge of the approved treatment program  
36 determines that appropriate treatment is available, the patient shall  
37 be encouraged to agree to further diagnosis and appropriate voluntary  
38 treatment.



1       **Sec. 6007.** RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each  
2 amended to read as follows:

3       (1)(a) When a designated chemical dependency specialist receives  
4 information alleging that a person presents a likelihood of serious  
5 harm or is gravely disabled as a result of chemical dependency, the  
6 designated chemical dependency specialist, after investigation and  
7 evaluation of the specific facts alleged and of the reliability and  
8 credibility of the information, may file a petition for commitment of  
9 such person with the superior court, district court, or in another  
10 court permitted by court rule.

11       If a petition for commitment is not filed in the case of a minor,  
12 the parent, guardian, or custodian who has custody of the minor may  
13 seek review of that decision made by the designated chemical  
14 dependency specialist in superior or district court. The parent,  
15 guardian, or custodian shall file notice with the court and provide a  
16 copy of the designated chemical dependency specialist's report.

17       If the designated chemical dependency specialist finds that the  
18 initial needs of such person would be better served by placement  
19 within the mental health system, the person shall be referred to  
20 either a designated mental health professional or an evaluation and  
21 treatment facility as defined in RCW 71.05.020 or 71.34.020.

22       (b) If placement in a chemical dependency program is available  
23 and deemed appropriate, the petition shall allege that: The person is  
24 chemically dependent and presents a likelihood of serious harm or is  
25 gravely disabled by alcohol or drug addiction, or that the person has  
26 twice before in the preceding twelve months been admitted for  
27 withdrawal management, sobering services, or chemical dependency  
28 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of  
29 a more sustained treatment program, or that the person is chemically  
30 dependent and has threatened, attempted, or inflicted physical harm  
31 on another and is likely to inflict physical harm on another unless  
32 committed. A refusal to undergo treatment, by itself, does not  
33 constitute evidence of lack of judgment as to the need for treatment.

34       (c) If involuntary detention is sought, the petition must state  
35 facts that support a finding of the grounds identified in (b) of this  
36 subsection and that there are no less restrictive alternatives to  
37 detention in the best interest of such person or others. The petition  
38 must state specifically that less restrictive alternative treatment  
39 was considered and specify why treatment less restrictive than  
40 detention is not appropriate. If an involuntary less restrictive

1 alternative is sought, the petition must state facts that support a  
2 finding of the grounds for commitment identified in (b) of this  
3 subsection and set forth the proposed less restrictive alternative.

4 (d)(i) The petition must be signed by:

5 (A) Two physicians;

6 (B) One physician and a mental health professional;

7 (C) One physician assistant and a mental health professional; or

8 (D) One psychiatric advanced registered nurse practitioner and a  
9 mental health professional.

10 (ii) The persons signing the petition must have examined the  
11 person.

12 (2) Upon filing the petition, the court shall fix a date for a  
13 hearing no less than two and no more than seven days after the date  
14 the petition was filed unless the person petitioned against is  
15 presently being detained in a program, pursuant to RCW 70.96A.120,  
16 71.05.210, or 71.34.710, in which case the hearing shall be held  
17 within seventy-two hours of the filing of the petition: PROVIDED,  
18 HOWEVER, That the above specified seventy-two hours shall be computed  
19 by excluding Saturdays, Sundays, and holidays: PROVIDED FURTHER,  
20 That, the court may, upon motion of the person whose commitment is  
21 sought, or upon motion of petitioner with written permission of the  
22 person whose commitment is sought, or his or her counsel and, upon  
23 good cause shown, extend the date for the hearing. A copy of the  
24 petition and of the notice of the hearing, including the date fixed  
25 by the court, shall be served by the designated chemical dependency  
26 specialist on the person whose commitment is sought, his or her next  
27 of kin, a parent or his or her legal guardian if he or she is a  
28 minor, and any other person the court believes advisable. A copy of  
29 the petition and certificate shall be delivered to each person  
30 notified.

31 (3) At the hearing the court shall hear all relevant testimony  
32 including, if possible, the testimony, which may be telephonic, of at  
33 least one licensed physician, psychiatric advanced registered nurse  
34 practitioner, physician assistant, or mental health professional who  
35 has examined the person whose commitment is sought. Communications  
36 otherwise deemed privileged under the laws of this state are deemed  
37 to be waived in proceedings under this chapter when a court of  
38 competent jurisdiction in its discretion determines that the waiver  
39 is necessary to protect either the detained person or the public. The  
40 waiver of a privilege under this section is limited to records or

1 testimony relevant to evaluation of the detained person for purposes  
2 of a proceeding under this chapter. Upon motion by the detained  
3 person, or on its own motion, the court shall examine a record or  
4 testimony sought by a petitioner to determine whether it is within  
5 the scope of the waiver.

6 The record maker shall not be required to testify in order to  
7 introduce medical, nursing, or psychological records of detained  
8 persons so long as the requirements of RCW 5.45.020 are met, except  
9 that portions of the record that contain opinions as to whether the  
10 detained person is chemically dependent shall be deleted from the  
11 records unless the person offering the opinions is available for  
12 cross-examination. The person shall be present unless the court  
13 believes that his or her presence is likely to be injurious to him or  
14 her; in this event the court may deem it appropriate to appoint a  
15 guardian ad litem to represent him or her throughout the proceeding.  
16 If deemed advisable, the court may examine the person out of  
17 courtroom. If the person has refused to be examined by a licensed  
18 physician, psychiatric advanced registered nurse practitioner,  
19 physician assistant, or mental health professional, he or she shall  
20 be given an opportunity to be examined by a court appointed licensed  
21 physician, psychiatric advanced registered nurse practitioner,  
22 physician assistant, or other professional person qualified to  
23 provide such services. If he or she refuses and there is sufficient  
24 evidence to believe that the allegations of the petition are true, or  
25 if the court believes that more medical evidence is necessary, the  
26 court may make a temporary order committing him or her to the  
27 ((department)) authority for a period of not more than five days for  
28 purposes of a diagnostic examination.

29 (4)(a) If, after hearing all relevant evidence, including the  
30 results of any diagnostic examination, the court finds that grounds  
31 for involuntary commitment have been established by a preponderance  
32 of the evidence and, after considering less restrictive alternatives  
33 to involuntary detention and treatment, finds that no such  
34 alternatives are in the best interest of the person or others, it  
35 shall make an order of commitment to an approved substance use  
36 disorder treatment program. It shall not order commitment of a person  
37 unless it determines that an approved substance use disorder  
38 treatment program is available and able to provide adequate and  
39 appropriate treatment for him or her.

1 (b) If the court finds that the grounds for commitment have been  
2 established by a preponderance of the evidence, but that treatment in  
3 a less restrictive setting than detention is in the best interest of  
4 such person or others, the court shall order an appropriate less  
5 restrictive course of treatment. The less restrictive order may  
6 impose treatment conditions and other conditions that are in the best  
7 interest of the respondent and others. A copy of the less restrictive  
8 order must be given to the respondent, the designated chemical  
9 dependency specialist, and any program designated to provide less  
10 restrictive treatment. If the program designated to provide the less  
11 restrictive treatment is other than the program providing the initial  
12 involuntary treatment, the program so designated must agree in  
13 writing to assume such responsibility. The court may not order  
14 commitment of a person to a less restrictive course of treatment  
15 unless it determines that an approved substance use disorder  
16 treatment program is available and able to provide adequate and  
17 appropriate treatment for him or her.

18 (5) A person committed to inpatient treatment under this section  
19 shall remain in the program for treatment for a period of fourteen  
20 days unless sooner discharged. A person committed to a less  
21 restrictive course of treatment under this section shall remain in  
22 the program of treatment for a period of ninety days unless sooner  
23 discharged. At the end of the fourteen-day period, or ninety-day  
24 period in the case of a less restrictive alternative to inpatient  
25 treatment, he or she shall be discharged automatically unless the  
26 program or the designated chemical dependency specialist, before  
27 expiration of the period, files a petition for his or her  
28 recommitment upon the grounds set forth in subsection (1) of this  
29 section for a further period of ninety days of inpatient treatment or  
30 ninety days of less restrictive alternative treatment unless sooner  
31 discharged. The petition for ninety-day inpatient or less restrictive  
32 alternative treatment must be filed with the clerk of the court at  
33 least three days before expiration of the fourteen-day period of  
34 intensive treatment.

35 If a petition for recommitment is not filed in the case of a  
36 minor, the parent, guardian, or custodian who has custody of the  
37 minor may seek review of that decision made by the designated  
38 chemical dependency specialist in superior or district court. The  
39 parent, guardian, or custodian shall file notice with the court and  
40 provide a copy of the treatment progress report.

1 If a person has been committed because he or she is chemically  
2 dependent and likely to inflict physical harm on another, the program  
3 or designated chemical dependency specialist shall apply for  
4 recommitment if after examination it is determined that the  
5 likelihood still exists.

6 (6) Upon the filing of a petition for recommitment under  
7 subsection (5) of this section, the court shall fix a date for  
8 hearing no less than two and no more than seven days after the date  
9 the petition was filed: PROVIDED, That, the court may, upon motion of  
10 the person whose commitment is sought and upon good cause shown,  
11 extend the date for the hearing. A copy of the petition and of the  
12 notice of hearing, including the date fixed by the court, shall be  
13 served by the treatment program on the person whose commitment is  
14 sought, his or her next of kin, the original petitioner under  
15 subsection (1) of this section if different from the petitioner for  
16 recommitment, one of his or her parents or his or her legal guardian  
17 if he or she is a minor, and his or her attorney and any other person  
18 the court believes advisable. At the hearing the court shall proceed  
19 as provided in subsections (3) and (4) of this section, except that  
20 the burden of proof upon a hearing for recommitment must be proof by  
21 clear, cogent, and convincing evidence.

22 (7) The approved substance use disorder treatment program shall  
23 provide for adequate and appropriate treatment of a person committed  
24 to its custody on an inpatient or outpatient basis. A person  
25 committed under this section may be transferred from one approved  
26 public treatment program to another if transfer is medically  
27 advisable.

28 (8) A person committed to a program for treatment shall be  
29 discharged at any time before the end of the period for which he or  
30 she has been committed and he or she shall be discharged by order of  
31 the court if either of the following conditions are met:

32 (a) In case of a chemically dependent person committed on the  
33 grounds of likelihood of infliction of physical harm upon himself,  
34 herself, or another, the likelihood no longer exists; or further  
35 treatment will not be likely to bring about significant improvement  
36 in the person's condition, or treatment is no longer adequate or  
37 appropriate.

38 (b) In case of a chemically dependent person committed on the  
39 grounds of the need of treatment and incapacity, that the incapacity  
40 no longer exists.

1 (9) The court shall inform the person whose commitment or  
2 recommitment is sought of his or her right to contest the  
3 application, be represented by counsel at every stage of any  
4 proceedings relating to his or her commitment and recommitment, and  
5 have counsel appointed by the court or provided by the court, if he  
6 or she wants the assistance of counsel and is unable to obtain  
7 counsel. If the court believes that the person needs the assistance  
8 of counsel, the court shall require, by appointment if necessary,  
9 counsel for him or her regardless of his or her wishes. The person  
10 shall, if he or she is financially able, bear the costs of such legal  
11 service; otherwise such legal service shall be at public expense. The  
12 person whose commitment or recommitment is sought shall be informed  
13 of his or her right to be examined by a licensed physician,  
14 psychiatric advanced registered nurse practitioner, physician  
15 assistant, or other professional person of his or her choice who is  
16 qualified to provide such services. If the person is unable to obtain  
17 a qualified person and requests an examination, the court shall  
18 employ a licensed physician, psychiatric advanced registered nurse  
19 practitioner, physician assistant, or other professional person to  
20 conduct an examination and testify on behalf of the person.

21 (10) A person committed under this chapter may at any time seek  
22 to be discharged from commitment by writ of habeas corpus in a court  
23 of competent jurisdiction.

24 (11) The venue for proceedings under this section is the county  
25 in which person to be committed resides or is present.

26 (12) When in the opinion of the professional person in charge of  
27 the program providing involuntary inpatient treatment under this  
28 chapter, the committed patient can be appropriately served by less  
29 restrictive treatment before expiration of the period of commitment,  
30 then the less restrictive care may be required as a condition for  
31 early release for a period which, when added to the initial treatment  
32 period, does not exceed the period of commitment. If the program  
33 designated to provide the less restrictive treatment is other than  
34 the program providing the initial involuntary treatment, the program  
35 so designated must agree in writing to assume such responsibility. A  
36 copy of the conditions for early release shall be given to the  
37 patient, the designated chemical dependency specialist of original  
38 commitment, and the court of original commitment. The program  
39 designated to provide less restrictive care may modify the conditions  
40 for continued release when the modifications are in the best

1 interests of the patient. If the program providing less restrictive  
2 care and the designated chemical dependency specialist determine that  
3 a conditionally released patient is failing to adhere to the terms  
4 and conditions of his or her release, or that substantial  
5 deterioration in the patient's functioning has occurred, then the  
6 designated chemical dependency specialist shall notify the court of  
7 original commitment and request a hearing to be held no less than two  
8 and no more than seven days after the date of the request to  
9 determine whether or not the person should be returned to more  
10 restrictive care. The designated chemical dependency specialist shall  
11 file a petition with the court stating the facts substantiating the  
12 need for the hearing along with the treatment recommendations. The  
13 patient shall have the same rights with respect to notice, hearing,  
14 and counsel as for the original involuntary treatment proceedings.  
15 The issues to be determined at the hearing are whether the  
16 conditionally released patient did or did not adhere to the terms and  
17 conditions of his or her release to less restrictive care or that  
18 substantial deterioration of the patient's functioning has occurred  
19 and whether the conditions of release should be modified or the  
20 person should be returned to a more restrictive program. The hearing  
21 may be waived by the patient and his or her counsel and his or her  
22 guardian or conservator, if any, but may not be waived unless all  
23 such persons agree to the waiver. Upon waiver, the person may be  
24 returned for involuntary treatment or continued on conditional  
25 release on the same or modified conditions. The grounds and  
26 procedures for revocation of less restrictive alternative treatment  
27 ordered by the court must be the same as those set forth in this  
28 section for less restrictive care arranged by an approved substance  
29 use disorder treatment program as a condition for early release.

30 **Sec. 6008.** RCW 70.96A.148 and 2001 c 13 s 4 are each amended to  
31 read as follows:

32 The county alcoholism and other drug addiction program  
33 coordinator or behavioral health organization may designate the  
34 ((county)) designated mental health professional to perform the  
35 detention and commitment duties described in RCW 70.96A.120 and  
36 70.96A.140.

37 **Sec. 6009.** RCW 70.96A.160 and 1989 c 270 s 29 are each amended  
38 to read as follows:

1 (1) Subject to reasonable rules regarding hours of visitation  
2 which the secretary of health may adopt, patients in any approved  
3 treatment program shall be granted opportunities for adequate  
4 consultation with counsel, and for continuing contact with family and  
5 friends consistent with an effective treatment program.

6 (2) Neither mail nor other communication to or from a patient in  
7 any approved treatment program may be intercepted, read, or censored.  
8 The secretary of health may adopt reasonable rules regarding the use  
9 of telephone by patients in approved treatment programs.

10 **Sec. 6010.** RCW 70.96A.180 and 2012 c 117 s 413 are each amended  
11 to read as follows:

12 (1) If treatment is provided by an approved treatment program and  
13 the patient has not paid or is unable to pay the charge therefor, the  
14 program is entitled to any payment (a) received by the patient or to  
15 which he or she may be entitled because of the services rendered, and  
16 (b) from any public or private source available to the program  
17 because of the treatment provided to the patient.

18 (2) A patient in a program, or the estate of the patient, or a  
19 person obligated to provide for the cost of treatment and having  
20 sufficient financial ability, is liable to the program for cost of  
21 maintenance and treatment of the patient therein in accordance with  
22 rates established.

23 (3) The (~~secretary~~) director shall adopt rules governing  
24 financial ability that take into consideration the income, savings,  
25 and other personal and real property of the person required to pay,  
26 and any support being furnished by him or her to any person he or she  
27 is required by law to support.

28 **Sec. 6011.** RCW 70.96A.235 and 1998 c 296 s 25 are each amended  
29 to read as follows:

30 Parental consent is required for inpatient chemical dependency  
31 treatment of a minor, unless the child meets the definition of a  
32 child in need of services in RCW 13.32A.030(~~(+4)~~) (5)(c) as  
33 determined by the department: PROVIDED, That parental consent is  
34 required for any treatment of a minor under the age of thirteen.

35 This section does not apply to petitions filed under this  
36 chapter.



1       **Sec. 6012.** RCW 70.96A.240 and 1998 c 296 s 26 are each amended  
2 to read as follows:

3       (1) The parent of a minor is not liable for payment of inpatient  
4 or outpatient chemical dependency treatment unless the parent has  
5 joined in the consent to the treatment.

6       (2) The ability of a parent to apply to a licensed or certified  
7 treatment program for the admission of his or her minor child does  
8 not create a right to obtain or benefit from any funds or resources  
9 of the state. However, the state may provide services for indigent  
10 minors to the extent that funds are available therefor.

11       **Sec. 6013.** RCW 70.96A.245 and 1998 c 296 s 27 are each amended  
12 to read as follows:

13       (1) A parent may bring, or authorize the bringing of, his or her  
14 minor child to a licensed or certified treatment program and request  
15 that a chemical dependency assessment be conducted by a professional  
16 person to determine whether the minor is chemically dependent and in  
17 need of inpatient treatment.

18       (2) The consent of the minor is not required for admission,  
19 evaluation, and treatment if the parent brings the minor to the  
20 program.

21       (3) An appropriately trained professional person may evaluate  
22 whether the minor is chemically dependent. The evaluation shall be  
23 completed within twenty-four hours of the time the minor was brought  
24 to the program, unless the professional person determines that the  
25 condition of the minor necessitates additional time for evaluation.  
26 In no event shall a minor be held longer than seventy-two hours for  
27 evaluation. If, in the judgment of the professional person, it is  
28 determined it is a medical necessity for the minor to receive  
29 inpatient treatment, the minor may be held for treatment. The  
30 facility shall limit treatment to that which the professional person  
31 determines is medically necessary to stabilize the minor's condition  
32 until the evaluation has been completed. Within twenty-four hours of  
33 completion of the evaluation, the professional person shall notify  
34 the (~~department~~) authority if the child is held for treatment and  
35 of the date of admission.

36       (4) No provider is obligated to provide treatment to a minor  
37 under the provisions of this section. No provider may admit a minor  
38 to treatment under this section unless it is medically necessary.

1 (5) No minor receiving inpatient treatment under this section may  
2 be discharged from the program based solely on his or her request.

3 **Sec. 6014.** RCW 70.96A.260 and 1998 c 296 s 31 are each amended  
4 to read as follows:

5 If the minor is not released as a result of the petition filed  
6 under RCW 70.96A.255, he or she shall be released not later than  
7 thirty days following the later of: (1) The date of the  
8 ((~~department's~~)) authority's determination under RCW 70.96A.097(2);  
9 or (2) the filing of a petition for judicial review under RCW  
10 70.96A.255, unless a professional person or the designated chemical  
11 dependency specialist initiates proceedings under this chapter.

12 **Sec. 6015.** RCW 70.96A.265 and 1998 c 296 s 32 are each amended  
13 to read as follows:

14 For purposes of eligibility for medical assistance under chapter  
15 74.09 RCW, minors in inpatient chemical dependency treatment shall be  
16 considered to be part of their parent's or legal guardian's  
17 household, unless the minor has been assessed by the ((~~department~~))  
18 authority or its designee as likely to require such treatment for at  
19 least ninety consecutive days, or is in out-of-home care in  
20 accordance with chapter 13.34 RCW, or the parents are found to not be  
21 exercising responsibility for care and control of the minor. Payment  
22 for such care by the ((~~department~~)) authority shall be made only in  
23 accordance with rules, guidelines, and clinical criteria applicable  
24 to inpatient treatment of minors established by the department.

25 **Sec. 6016.** RCW 70.96A.915 and 1989 c 271 s 309 are each amended  
26 to read as follows:

27 The ((~~department~~)) authority is authorized to allocate  
28 appropriated funds in the manner that it determines best meets the  
29 purposes of this chapter. Nothing in this chapter shall be construed  
30 to entitle any individual to services authorized in this chapter, or  
31 to require the ((~~department~~)) authority or its contractors to  
32 reallocate funds in order to ensure that services are available to  
33 any eligible person upon demand.

34 **Sec. 6017.** RCW 70.96B.010 and 2014 c 225 s 74 are each amended  
35 to read as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Admission" or "admit" means a decision by a physician that a  
4 person should be examined or treated as a patient in a hospital, an  
5 evaluation and treatment facility, or other inpatient facility, or a  
6 decision by a professional person in charge or his or her designee  
7 that a person should be detained as a patient for evaluation and  
8 treatment in a secure detoxification facility or other licensed or  
9 certified chemical dependency provider.

10 (2) "Antipsychotic medications" means that class of drugs  
11 primarily used to treat serious manifestations of mental illness  
12 associated with thought disorders, which includes but is not limited  
13 to atypical antipsychotic medications.

14 (3) "Approved treatment program" means a discrete program of  
15 chemical dependency treatment provided by a treatment program  
16 licensed or certified by the department of health as meeting  
17 standards adopted under chapter 70.96A RCW.

18 (4) "Attending staff" means any person on the staff of a public  
19 or private agency having responsibility for the care and treatment of  
20 a patient.

21 (5) "Authority" means the health care authority.

22 (6) "Chemical dependency" means:

23 (a) Alcoholism;

24 (b) Drug addiction; or

25 (c) Dependence on alcohol and one or more other psychoactive  
26 chemicals, as the context requires.

27 ~~((6))~~ (7) "Chemical dependency professional" means a person  
28 certified as a chemical dependency professional by the department of  
29 health under chapter 18.205 RCW.

30 ~~((7))~~ (8) "Commitment" means the determination by a court that  
31 a person should be detained for a period of either evaluation or  
32 treatment, or both, in an inpatient or a less restrictive setting.

33 ~~((8))~~ (9) "Conditional release" means a revocable modification  
34 of a commitment that may be revoked upon violation of any of its  
35 terms.

36 ~~((9))~~ (10) "Custody" means involuntary detention under either  
37 chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any  
38 period of unconditional release from commitment from a facility  
39 providing involuntary care and treatment.

1        ~~((10))~~ (11) "Department" means the department of social and  
2 health services.

3        ~~((11))~~ (12) "Designated chemical dependency specialist" or  
4 "specialist" means a person designated by the county alcoholism and  
5 other drug addiction program coordinator designated under RCW  
6 70.96A.310 to perform the commitment duties described in RCW  
7 70.96A.140 and this chapter, and qualified to do so by meeting  
8 standards adopted by the ~~((department))~~ authority.

9        ~~((12))~~ (13) "Designated crisis responder" means a person  
10 designated by the county or behavioral health organization to perform  
11 the duties specified in this chapter.

12        ~~((13))~~ (14) "Designated mental health professional" means a  
13 mental health professional designated by the county or ~~((other  
14 authority authorized in rule))~~ behavioral health organization to  
15 perform the duties specified in this chapter.

16        ~~((14))~~ (15) "Detention" or "detain" means the lawful  
17 confinement of a person under this chapter, or chapter 70.96A or  
18 71.05 RCW.

19        ~~((15))~~ (16) "Developmental disabilities professional" means a  
20 person who has specialized training and three years of experience in  
21 directly treating or working with individuals with developmental  
22 disabilities and is a psychiatrist, psychologist, or social worker,  
23 and such other developmental disabilities professionals as may be  
24 defined by rules adopted by the secretary of health.

25        ~~((16))~~ (17) "Developmental disability" means that condition  
26 defined in RCW 71A.10.020.

27        ~~((17))~~ (18) "Director" means the director of the health care  
28 authority.

29        (19) "Discharge" means the termination of facility authority. The  
30 commitment may remain in place, be terminated, or be amended by court  
31 order.

32        ~~((18))~~ (20) "Evaluation and treatment facility" means any  
33 facility that can provide directly, or by direct arrangement with  
34 other public or private agencies, emergency evaluation and treatment,  
35 outpatient care, and timely and appropriate inpatient care to persons  
36 suffering from a mental disorder, and that is licensed or certified  
37 as such by the department of health. A physically separate and  
38 separately operated portion of a state hospital may be designated as  
39 an evaluation and treatment facility. A facility that is part of, or  
40 operated by, the department or any federal agency does not require

1 certification. No correctional institution or facility, or jail, may  
2 be an evaluation and treatment facility within the meaning of this  
3 chapter.

4 ~~((+19+))~~ (21) "Facility" means either an evaluation and treatment  
5 facility or a secure detoxification facility.

6 ~~((+20+))~~ (22) "Gravely disabled" means a condition in which a  
7 person, as a result of a mental disorder, or as a result of the use  
8 of alcohol or other psychoactive chemicals:

9 (a) Is in danger of serious physical harm resulting from a  
10 failure to provide for his or her essential human needs of health or  
11 safety; or

12 (b) Manifests severe deterioration in routine functioning  
13 evidenced by repeated and escalating loss of cognitive or volitional  
14 control over his or her actions and is not receiving such care as is  
15 essential for his or her health or safety.

16 ~~((+21+))~~ (23) "History of one or more violent acts" refers to the  
17 period of time ten years before the filing of a petition under this  
18 chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent,  
19 but not any violent acts committed, in a mental health facility or a  
20 long-term alcoholism or drug treatment facility, or in confinement as  
21 a result of a criminal conviction.

22 ~~((+22+))~~ (24) "Imminent" means the state or condition of being  
23 likely to occur at any moment or near at hand, rather than distant or  
24 remote.

25 ~~((+23+))~~ (25) "Intoxicated person" means a person whose mental or  
26 physical functioning is substantially impaired as a result of the use  
27 of alcohol or other psychoactive chemicals.

28 ~~((+24+))~~ (26) "Judicial commitment" means a commitment by a court  
29 under this chapter.

30 ~~((+25+))~~ (27) "Licensed physician" means a person licensed to  
31 practice medicine or osteopathic medicine and surgery in the state of  
32 Washington.

33 ~~((+26+))~~ (28) "Likelihood of serious harm" means:

34 (a) A substantial risk that:

35 (i) Physical harm will be inflicted by a person upon his or her  
36 own person, as evidenced by threats or attempts to commit suicide or  
37 inflict physical harm on oneself;

38 (ii) Physical harm will be inflicted by a person upon another, as  
39 evidenced by behavior that has caused such harm or that places

1 another person or persons in reasonable fear of sustaining such harm;  
2 or

3 (iii) Physical harm will be inflicted by a person upon the  
4 property of others, as evidenced by behavior that has caused  
5 substantial loss or damage to the property of others; or

6 (b) The person has threatened the physical safety of another and  
7 has a history of one or more violent acts.

8 ~~((+27))~~ (29) "Mental disorder" means any organic, mental, or  
9 emotional impairment that has substantial adverse effects on a  
10 person's cognitive or volitional functions.

11 ~~((+28))~~ (30) "Mental health professional" means a psychiatrist,  
12 psychiatric advanced registered nurse practitioner, psychologist,  
13 psychiatric nurse, or social worker, and such other mental health  
14 professionals as may be defined by rules adopted by the secretary of  
15 health under the authority of chapter 71.05 RCW.

16 ~~((+29))~~ (31) "Peace officer" means a law enforcement official of  
17 a public agency or governmental unit, and includes persons  
18 specifically given peace officer powers by any state law, local  
19 ordinance, or judicial order of appointment.

20 ~~((+30))~~ (32) "Person in charge" means a physician or chemical  
21 dependency counselor as defined in rule by the department of health,  
22 who is empowered by a licensed or certified treatment program with  
23 authority to make assessment, admission, continuing care, and  
24 discharge decisions on behalf of the licensed or certified program.

25 ~~((+31))~~ (33) "Private agency" means any person, partnership,  
26 corporation, or association that is not a public agency, whether or  
27 not financed in whole or in part by public funds, that constitutes an  
28 evaluation and treatment facility or private institution, or  
29 hospital, or approved treatment program, that is conducted for, or  
30 includes a department or ward conducted for, the care and treatment  
31 of persons who are mentally ill and/or chemically dependent.

32 ~~((+32))~~ (34) "Professional person" means a mental health  
33 professional or chemical dependency professional and shall also mean  
34 a physician, registered nurse, and such others as may be defined by  
35 rules adopted by the secretary of health pursuant to the provisions  
36 of this chapter.

37 ~~((+33))~~ (35) "Psychiatrist" means a person having a license as a  
38 physician and surgeon in this state who has in addition completed  
39 three years of graduate training in psychiatry in a program approved  
40 by the American medical association or the American osteopathic

1 association and is certified or eligible to be certified by the  
2 American board of psychiatry and neurology.

3 ~~((34))~~ (36) "Psychologist" means a person who has been licensed  
4 as a psychologist under chapter 18.83 RCW.

5 ~~((35))~~ (37) "Public agency" means any evaluation and treatment  
6 facility or institution, or hospital, or approved treatment program  
7 that is conducted for, or includes a department or ward conducted  
8 for, the care and treatment of persons who are mentally ill and/or  
9 chemically dependent, if the agency is operated directly by federal,  
10 state, county, or municipal government, or a combination of such  
11 governments.

12 ~~((36))~~ (38) "Registration records" means all the records of the  
13 department, the authority, behavioral health organizations, treatment  
14 facilities, and other persons providing services to the department,  
15 the authority, county departments, or facilities which identify  
16 persons who are receiving or who at any time have received services  
17 for mental illness.

18 ~~((37))~~ (39) "Release" means legal termination of the commitment  
19 under chapter 70.96A or 71.05 RCW or this chapter.

20 ~~((38))~~ (40) "Secretary" means the secretary of the department  
21 or the secretary's designee.

22 ~~((39))~~ (41) "Secure detoxification facility" means a facility  
23 operated by either a public or private agency or by the program of an  
24 agency that serves the purpose of providing evaluation and  
25 assessment, and acute and/or subacute detoxification services for  
26 intoxicated persons and includes security measures sufficient to  
27 protect the patients, staff, and community.

28 ~~((40))~~ (42) "Social worker" means a person with a master's or  
29 further advanced degree from a social work educational program  
30 accredited and approved as provided in RCW 18.320.010.

31 ~~((41))~~ (43) "Treatment records" means registration records and  
32 all other records concerning persons who are receiving or who at any  
33 time have received services for mental illness or chemical  
34 dependency, which are maintained by the department, by the authority,  
35 by behavioral health organizations and their staffs, and by treatment  
36 facilities. Treatment records do not include notes or records  
37 maintained for personal use by a person providing treatment services  
38 for the department, the authority, behavioral health organizations,  
39 or a treatment facility if the notes or records are not available to  
40 others.

1           (~~(42)~~) (44) "Violent act" means behavior that resulted in  
2 homicide, attempted suicide, nonfatal injuries, or substantial damage  
3 to property.

4           **Sec. 6018.** RCW 70.96B.020 and 2014 c 225 s 75 are each amended  
5 to read as follows:

6           (1) The (~~secretary~~) director, after consulting with the  
7 Washington state association of counties, shall select and contract  
8 with behavioral health organizations or counties to provide two  
9 integrated crisis response and involuntary treatment pilot programs  
10 for adults and shall allocate resources for both integrated services  
11 and secure detoxification services in the pilot areas. In selecting  
12 the two behavioral health organizations or counties, the  
13 (~~secretary~~) director shall endeavor to site one in an urban and one  
14 in a rural behavioral health organization or county; and to site them  
15 in counties other than those selected pursuant to RCW (~~(70.96A.800)~~)  
16 71.24.620, to the extent necessary to facilitate evaluation of pilot  
17 project results.

18           (2) The behavioral health organizations or counties shall  
19 implement the pilot programs by providing integrated crisis response  
20 and involuntary treatment to persons with a chemical dependency, a  
21 mental disorder, or both, consistent with this chapter. The pilot  
22 programs shall:

23           (a) Combine the crisis responder functions of a designated mental  
24 health professional under chapter 71.05 RCW and a designated chemical  
25 dependency specialist under chapter 70.96A RCW by establishing a new  
26 designated crisis responder who is authorized to conduct  
27 investigations and detain persons up to seventy-two hours to the  
28 proper facility;

29           (b) Provide training to the crisis responders as required by the  
30 (~~department~~) authority;

31           (c) Provide sufficient staff and resources to ensure availability  
32 of an adequate number of crisis responders twenty-four hours a day,  
33 seven days a week;

34           (d) Provide the administrative and court-related staff,  
35 resources, and processes necessary to facilitate the legal  
36 requirements of the initial detention and the commitment hearings for  
37 persons with a chemical dependency;



1 (e) Participate in the evaluation and report to assess the  
2 outcomes of the pilot programs including providing data and  
3 information as requested;

4 (f) Provide the other services necessary to the implementation of  
5 the pilot programs, consistent with this chapter as determined by the  
6 ((secretary)) director in contract; and

7 (g) Collaborate with the department of corrections where persons  
8 detained or committed are also subject to supervision by the  
9 department of corrections.

10 (3) The pilot programs established by this section shall begin  
11 providing services by March 1, 2006.

12 **Sec. 6019.** RCW 70.96B.030 and 2014 c 225 s 76 are each amended  
13 to read as follows:

14 To qualify as a designated crisis responder, a person must have  
15 received chemical dependency training as determined by the  
16 ((department)) authority and be a:

17 (1) Psychiatrist, psychologist, psychiatric nurse, or social  
18 worker;

19 (2) Person with a master's degree or further advanced degree in  
20 counseling or one of the social sciences from an accredited college  
21 or university and who have, in addition, at least two years of  
22 experience in direct treatment of persons with mental illness or  
23 emotional disturbance, such experience gained under the direction of  
24 a mental health professional;

25 (3) Person who meets the waiver criteria of RCW 71.24.260, which  
26 waiver was granted before 1986;

27 (4) Person who had an approved waiver to perform the duties of a  
28 mental health professional that was requested by the behavioral  
29 health organization and granted by the department before July 1,  
30 2001; or

31 (5) Person who has been granted a time-limited exception of the  
32 minimum requirements of a mental health professional by the  
33 department of health consistent with rules adopted by the secretary  
34 of health.

35 **Sec. 6020.** RCW 70.96B.045 and 2007 c 120 s 2 are each amended to  
36 read as follows:

37 (1) If a designated crisis responder receives information  
38 alleging that a person, as the result of:

1 (a) A mental disorder, presents an imminent likelihood of serious  
2 harm, or is in imminent danger because of being gravely disabled,  
3 after investigation and evaluation of the specific facts alleged and  
4 of the reliability and credibility of the person or persons providing  
5 the information if any, the designated crisis responder may take the  
6 person, or cause by oral or written order the person to be taken into  
7 emergency custody in an evaluation and treatment facility for not  
8 more than seventy-two hours as described in this chapter; or

9 (b) Chemical dependency, presents an imminent likelihood of  
10 serious harm, or is in imminent danger because of being gravely  
11 disabled, after investigation and evaluation of the specific facts  
12 alleged and of the reliability and credibility of the person or  
13 persons providing the information if any, the designated crisis  
14 responder may take the person, or cause by oral or written order the  
15 person to be taken into emergency custody in a secure detoxification  
16 facility for not more than seventy-two hours as described in this  
17 chapter.

18 (2) The evaluation and treatment facility, the secure  
19 detoxification facility, or other licensed or certified chemical  
20 dependency provider shall then evaluate the person's condition and  
21 admit, detain, transfer, or discharge such person in accordance with  
22 this chapter. The facility shall notify in writing the court and the  
23 designated crisis responder of the date and time of the initial  
24 detention of each person involuntarily detained so that a probable  
25 cause hearing will be held no later than seventy-two hours after  
26 detention.

27 (3) A peace officer may take or cause the person to be taken into  
28 custody and immediately delivered to an evaluation and treatment  
29 facility, secure detoxification facility, or other licensed or  
30 certified chemical dependency treatment provider: (a) Pursuant to  
31 this section; or (b) when he or she has reasonable cause to believe  
32 that such person, as a result of a mental disorder or chemical  
33 dependency, presents an imminent likelihood of serious harm, or is in  
34 imminent danger because of being gravely disabled. An individual  
35 brought to a facility by a peace officer may be held for up to twelve  
36 hours: PROVIDED, That the individual is examined by a designated  
37 crisis responder within three hours of arrival. Within twelve hours  
38 of arrival the designated crisis responder must determine whether the  
39 individual meets detention criteria. If the individual is detained,  
40 the designated mental health professional shall file a petition for

1 detention or supplemental petition as appropriate and commence  
2 service on the designated attorney for the detained person.

3 (4) Nothing in this chapter limits the power of a peace officer  
4 to take a person into custody and immediately deliver the person to  
5 the emergency department of a local hospital or to a detoxification  
6 facility.

7 **Sec. 6021.** RCW 70.96B.050 and 2008 c 320 s 5 are each amended to  
8 read as follows:

9 (1) When a designated crisis responder receives information  
10 alleging that a person, as a result of a mental disorder, chemical  
11 dependency disorder, or both, presents a likelihood of serious harm  
12 or is gravely disabled, the designated crisis responder may, after  
13 investigation and evaluation of the specific facts alleged and of the  
14 reliability and credibility of any person providing information to  
15 initiate detention, if satisfied that the allegations are true and  
16 that the person will not voluntarily seek appropriate treatment, file  
17 a petition for initial detention. Before filing the petition, the  
18 designated crisis responder must personally interview the person,  
19 unless the person refuses an interview, and determine whether the  
20 person will voluntarily receive appropriate evaluation and treatment  
21 at either an evaluation and treatment facility, a detoxification  
22 facility, or other licensed or certified chemical dependency  
23 provider.

24 (2)(a) An order to detain to an evaluation and treatment  
25 facility, a detoxification facility, or other licensed or certified  
26 chemical dependency provider for not more than a seventy-two hour  
27 evaluation and treatment period may be issued by a judge upon request  
28 of a designated crisis responder: (i) Whenever it appears to the  
29 satisfaction of a judge of the superior court, district court, or  
30 other court permitted by court rule, that there is probable cause to  
31 support the petition, and (ii) that the person has refused or failed  
32 to accept appropriate evaluation and treatment voluntarily.

33 (b) The petition for initial detention, signed under penalty of  
34 perjury or sworn telephonic testimony, may be considered by the court  
35 in determining whether there are sufficient grounds for issuing the  
36 order.

37 (c) The order shall designate retained counsel or, if counsel is  
38 appointed from a list provided by the court, the name, business

1 address, and telephone number of the attorney appointed to represent  
2 the person.

3 (3) The designated crisis responder shall then serve or cause to  
4 be served on such person, his or her guardian, and conservator, if  
5 any, a copy of the order to appear, together with a notice of rights  
6 and a petition for initial detention. After service on the person,  
7 the designated crisis responder shall file the return of service in  
8 court and provide copies of all papers in the court file to the  
9 evaluation and treatment facility or secure detoxification facility  
10 and the designated attorney. The designated crisis responder shall  
11 notify the court and the prosecuting attorney that a probable cause  
12 hearing will be held within seventy-two hours of the date and time of  
13 outpatient evaluation or admission to the evaluation and treatment  
14 facility, secure detoxification facility, or other licensed or  
15 certified chemical dependency provider. If requested by the detained  
16 person or his or her attorney, the hearing may be postponed for a  
17 period not to exceed forty-eight hours. The hearing may be continued  
18 subject to the petitioner's showing of good cause for a period not to  
19 exceed twenty-four hours. The person may be accompanied by one or  
20 more of his or her relatives, friends, an attorney, a personal  
21 physician, or other professional or religious advisor to the place of  
22 evaluation. An attorney accompanying the person to the place of  
23 evaluation shall be permitted to be present during the admission  
24 evaluation. Any other person accompanying the person may be present  
25 during the admission evaluation. The facility may exclude the person  
26 if his or her presence would present a safety risk, delay the  
27 proceedings, or otherwise interfere with the evaluation.

28 (4) The designated crisis responder may notify a peace officer to  
29 take the person or cause the person to be taken into custody and  
30 placed in an evaluation and treatment facility, a secure  
31 detoxification facility, or other licensed or certified chemical  
32 dependency provider. At the time the person is taken into custody  
33 there shall commence to be served on the person, his or her guardian,  
34 and conservator, if any, a copy of the original order together with a  
35 notice of detention, a notice of rights, and a petition for initial  
36 detention.

37 **Sec. 6022.** RCW 70.96B.070 and 2005 c 504 s 208 are each amended  
38 to read as follows:

1 If the evaluation and treatment facility, secure detoxification  
2 facility, or other licensed or certified chemical dependency provider  
3 admits the person, it may detain the person for evaluation and  
4 treatment for a period not to exceed seventy-two hours from the time  
5 of acceptance. The computation of the seventy-two hour period  
6 excludes Saturdays, Sundays, and holidays.

7 **Sec. 6023.** RCW 70.96B.090 and 2005 c 504 s 210 are each amended  
8 to read as follows:

9 (1) A person detained for seventy-two hour evaluation and  
10 treatment under RCW 70.96B.050 or 70.96A.120 may be detained for not  
11 more than fourteen additional days of involuntary chemical dependency  
12 treatment if there are beds available at the secure detoxification  
13 facility and the following conditions are met:

14 (a) The professional person in charge of the agency or facility  
15 or the person's designee providing evaluation and treatment services  
16 in a secure detoxification facility has assessed the person's  
17 condition and finds that the condition is caused by chemical  
18 dependency and either results in a likelihood of serious harm or in  
19 the detained person being gravely disabled, and the professional  
20 person or his or her designee is prepared to testify those conditions  
21 are met;

22 (b) The person has been advised of the need for voluntary  
23 treatment and the professional person in charge of the agency or  
24 facility or his or her designee has evidence that he or she has not  
25 in good faith volunteered for treatment; and

26 (c) The professional person in charge of the agency or facility  
27 or the person's designee has filed a petition for fourteen-day  
28 involuntary detention with the superior court, district court, or  
29 other court permitted by court rule. The petition must be signed by  
30 the chemical dependency professional who has examined the person.

31 (2) The petition under subsection (1)(c) of this section shall be  
32 accompanied by a certificate of a licensed physician who has examined  
33 the person, unless the person whose commitment is sought has refused  
34 to submit to a medical examination, in which case the fact of refusal  
35 shall be alleged in the petition. The certificate shall set forth the  
36 licensed physician's findings in support of the allegations of the  
37 petition. A physician employed by the petitioning program or the  
38 ((department)) authority is eligible to be the certifying physician.

1 (3) The petition shall state facts that support the finding that  
2 the person, as a result of chemical dependency, presents a likelihood  
3 of serious harm or is gravely disabled, and that there are no less  
4 restrictive alternatives to detention in the best interest of the  
5 person or others. The petition shall state specifically that less  
6 restrictive alternative treatment was considered and specify why  
7 treatment less restrictive than detention is not appropriate.

8 (4) A copy of the petition shall be served on the detained  
9 person, his or her attorney, and his or her guardian or conservator,  
10 if any, before the probable cause hearing.

11 (5)(a) The court shall inform the person whose commitment is  
12 sought of his or her right to contest the petition, be represented by  
13 counsel at every stage of any proceedings relating to his or her  
14 commitment, and have counsel appointed by the court or provided by  
15 the court, if he or she wants the assistance of counsel and is unable  
16 to obtain counsel. If the court believes that the person needs the  
17 assistance of counsel, the court shall require, by appointment if  
18 necessary, counsel for him or her regardless of his or her wishes.  
19 The person shall, if he or she is financially able, bear the costs of  
20 such legal service; otherwise such legal service shall be at public  
21 expense. The person whose commitment is sought shall be informed of  
22 his or her right to be examined by a licensed physician of his or her  
23 choice. If the person is unable to obtain a licensed physician and  
24 requests examination by a physician, the court shall appoint a  
25 reasonably available licensed physician designated by the person.

26 (b) At the conclusion of the probable cause hearing, if the court  
27 finds by a preponderance of the evidence that the person, as the  
28 result of chemical dependency, presents a likelihood of serious harm  
29 or is gravely disabled and, after considering less restrictive  
30 alternatives to involuntary detention and treatment, finds that no  
31 such alternatives are in the best interest of such person or others,  
32 the court shall order that the person be detained for involuntary  
33 chemical dependency treatment not to exceed fourteen days in a secure  
34 detoxification facility.

35 **Sec. 6024.** RCW 70.96B.140 and 2005 c 504 s 215 are each amended  
36 to read as follows:

37 The ((secretary)) director may adopt rules to implement this  
38 chapter.

PART 7

**Sec. 7001.** RCW 41.05.015 and 2011 1st sp.s. c 15 s 55 are each amended to read as follows:

The director shall designate a medical director who is licensed under chapter 18.57 or 18.71 RCW. The director shall also appoint such professional personnel and other assistants and employees, including professional medical screeners, as may be reasonably necessary to carry out the provisions of this chapter and chapter 74.09 RCW and other applicable law. The medical screeners must be supervised by one or more physicians whom the director or the director's designee shall appoint.

**Sec. 7002.** RCW 41.05.021 and 2012 c 87 s 23 are each amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have a director appointed by the governor, with the consent of the senate. The director shall serve at the pleasure of the governor. The director may employ a deputy director, and such assistant directors and special assistants as may be needed to administer the authority, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The director may delegate any power or duty vested in him or her by law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; administer the children's health program pursuant to chapter 74.09 RCW; study state purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services; and administer grants that further the mission and goals of the authority. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in

1 RCW 41.05.065 and in accordance with the methods described in RCW  
2 41.05.075, 41.05.140, and other provisions of this chapter;

3 (b) To analyze state purchased health care programs and to  
4 explore options for cost containment and delivery alternatives for  
5 those programs that are consistent with the purposes of those  
6 programs, including, but not limited to:

7 (i) Creation of economic incentives for the persons for whom the  
8 state purchases health care to appropriately utilize and purchase  
9 health care services, including the development of flexible benefit  
10 plans to offset increases in individual financial responsibility;

11 (ii) Utilization of provider arrangements that encourage cost  
12 containment, including but not limited to prepaid delivery systems,  
13 utilization review, and prospective payment methods, and that ensure  
14 access to quality care, including assuring reasonable access to local  
15 providers, especially for employees residing in rural areas;

16 (iii) Coordination of state agency efforts to purchase drugs  
17 effectively as provided in RCW 70.14.050;

18 (iv) Development of recommendations and methods for purchasing  
19 medical equipment and supporting services on a volume discount basis;

20 (v) Development of data systems to obtain utilization data from  
21 state purchased health care programs in order to identify cost  
22 centers, utilization patterns, provider and hospital practice  
23 patterns, and procedure costs, utilizing the information obtained  
24 pursuant to RCW 41.05.031; and

25 (vi) In collaboration with other state agencies that administer  
26 state purchased health care programs, private health care purchasers,  
27 health care facilities, providers, and carriers:

28 (A) Use evidence-based medicine principles to develop common  
29 performance measures and implement financial incentives in contracts  
30 with insuring entities, health care facilities, and providers that:

31 (I) Reward improvements in health outcomes for individuals with  
32 chronic diseases, increased utilization of appropriate preventive  
33 health services, and reductions in medical errors; and

34 (II) Increase, through appropriate incentives to insuring  
35 entities, health care facilities, and providers, the adoption and use  
36 of information technology that contributes to improved health  
37 outcomes, better coordination of care, and decreased medical errors;

38 (B) Through state health purchasing, reimbursement, or pilot  
39 strategies, promote and increase the adoption of health information  
40 technology systems, including electronic medical records, by



1 hospitals as defined in RCW 70.41.020(~~(4)~~) (7), integrated delivery  
2 systems, and providers that:

- 3 (I) Facilitate diagnosis or treatment;
- 4 (II) Reduce unnecessary duplication of medical tests;
- 5 (III) Promote efficient electronic physician order entry;
- 6 (IV) Increase access to health information for consumers and  
7 their providers; and
- 8 (V) Improve health outcomes;

9 (C) Coordinate a strategy for the adoption of health information  
10 technology systems using the final health information technology  
11 report and recommendations developed under chapter 261, Laws of 2005;

12 (c) To analyze areas of public and private health care  
13 interaction;

14 (d) To provide information and technical and administrative  
15 assistance to the board;

16 (e) To review and approve or deny applications from counties,  
17 municipalities, and other political subdivisions of the state to  
18 provide state-sponsored insurance or self-insurance programs to their  
19 employees in accordance with the provisions of RCW 41.04.205 and (g)  
20 of this subsection, setting the premium contribution for approved  
21 groups as outlined in RCW 41.05.050;

22 (f) To review and approve or deny the application when the  
23 governing body of a tribal government applies to transfer their  
24 employees to an insurance or self-insurance program administered  
25 under this chapter. In the event of an employee transfer pursuant to  
26 this subsection (1)(f), members of the governing body are eligible to  
27 be included in such a transfer if the members are authorized by the  
28 tribal government to participate in the insurance program being  
29 transferred from and subject to payment by the members of all costs  
30 of insurance for the members. The authority shall: (i) Establish the  
31 conditions for participation; (ii) have the sole right to reject the  
32 application; and (iii) set the premium contribution for approved  
33 groups as outlined in RCW 41.05.050. Approval of the application by  
34 the authority transfers the employees and dependents involved to the  
35 insurance, self-insurance, or health care program approved by the  
36 authority;

37 (g) To ensure the continued status of the employee insurance or  
38 self-insurance programs administered under this chapter as a  
39 governmental plan under section 3(32) of the employee retirement  
40 income security act of 1974, as amended, the authority shall limit

1 the participation of employees of a county, municipal, school  
2 district, educational service district, or other political  
3 subdivision, the Washington health benefit exchange, or a tribal  
4 government, including providing for the participation of those  
5 employees whose services are substantially all in the performance of  
6 essential governmental functions, but not in the performance of  
7 commercial activities;

8 (h) To establish billing procedures and collect funds from school  
9 districts in a way that minimizes the administrative burden on  
10 districts;

11 (i) To publish and distribute to nonparticipating school  
12 districts and educational service districts by October 1st of each  
13 year a description of health care benefit plans available through the  
14 authority and the estimated cost if school districts and educational  
15 service district employees were enrolled;

16 (j) To apply for, receive, and accept grants, gifts, and other  
17 payments, including property and service, from any governmental or  
18 other public or private entity or person, and make arrangements as to  
19 the use of these receipts to implement initiatives and strategies  
20 developed under this section;

21 (k) To issue, distribute, and administer grants that further the  
22 mission and goals of the authority;

23 (l) To adopt rules consistent with this chapter as described in  
24 RCW 41.05.160 including, but not limited to:

25 (i) Setting forth the criteria established by the board under RCW  
26 41.05.065 for determining whether an employee is eligible for  
27 benefits;

28 (ii) Establishing an appeal process in accordance with chapter  
29 34.05 RCW by which an employee may appeal an eligibility  
30 determination;

31 (iii) Establishing a process to assure that the eligibility  
32 determinations of an employing agency comply with the criteria under  
33 this chapter, including the imposition of penalties as may be  
34 authorized by the board;

35 (m)(i) To administer the medical services programs established  
36 under chapter 74.09 RCW as the designated single state agency for  
37 purposes of Title XIX of the federal social security act;

38 (ii) To administer the state children's health insurance program  
39 under chapter 74.09 RCW for purposes of Title XXI of the federal  
40 social security act;

1 (iii) To enter into agreements with the department of social and  
2 health services for administration of medical care services programs  
3 under Titles XIX and XXI of the social security act and programs  
4 under chapters 71.05, 71.24, and 71.34 RCW. The agreements shall  
5 establish the division of responsibilities between the authority and  
6 the department with respect to mental health, chemical dependency,  
7 and long-term care services, including services for persons with  
8 developmental disabilities. The agreements shall be revised as  
9 necessary, to comply with the final implementation plan adopted under  
10 section 116, chapter 15, Laws of 2011 1st sp. sess.;

11 (iv) To adopt rules to carry out the purposes of chapter 74.09  
12 RCW;

13 (v) To appoint such advisory committees or councils as may be  
14 required by any federal statute or regulation as a condition to the  
15 receipt of federal funds by the authority. The director may appoint  
16 statewide committees or councils in the following subject areas: (A)  
17 Health facilities; (B) children and youth services; (C) blind  
18 services; (D) medical and health care; (E) drug abuse and alcoholism;  
19 (F) rehabilitative services; and (G) such other subject matters as  
20 are or come within the authority's responsibilities. The statewide  
21 councils shall have representation from both major political parties  
22 and shall have substantial consumer representation. Such committees  
23 or councils shall be constituted as required by federal law or as the  
24 director in his or her discretion may determine. The members of the  
25 committees or councils shall hold office for three years except in  
26 the case of a vacancy, in which event appointment shall be only for  
27 the remainder of the unexpired term for which the vacancy occurs. No  
28 member shall serve more than two consecutive terms. Members of such  
29 state advisory committees or councils may be paid their travel  
30 expenses in accordance with RCW 43.03.050 and 43.03.060 as now  
31 existing or hereafter amended;

32 (n) To review and approve or deny the application from the  
33 governing board of the Washington health benefit exchange to provide  
34 state-sponsored insurance or self-insurance programs to employees of  
35 the exchange. The authority shall (i) establish the conditions for  
36 participation; (ii) have the sole right to reject an application; and  
37 (iii) set the premium contribution for approved groups as outlined in  
38 RCW 41.05.050.

39 (2) On and after January 1, 1996, the public employees' benefits  
40 board may implement strategies to promote managed competition among

1 employee health benefit plans. Strategies may include but are not  
2 limited to:

- 3 (a) Standardizing the benefit package;
- 4 (b) Soliciting competitive bids for the benefit package;
- 5 (c) Limiting the state's contribution to a percent of the lowest  
6 priced qualified plan within a geographical area;
- 7 (d) Monitoring the impact of the approach under this subsection  
8 with regards to: Efficiencies in health service delivery, cost shifts  
9 to subscribers, access to and choice of managed care plans statewide,  
10 and quality of health services. The health care authority shall also  
11 advise on the value of administering a benchmark employer-managed  
12 plan to promote competition among managed care plans.

13 **Sec. 7003.** RCW 41.05A.005 and 2011 1st sp.s. c 15 s 88 are each  
14 amended to read as follows:

15 The purpose of this chapter is to provide the health care  
16 authority with the powers, duties, and authority with respect to the  
17 collection of overpayments and the coordination of benefits that are  
18 currently provided to the department of social and health services in  
19 chapter 43.20B RCW. Providing the health care authority with these  
20 powers is necessary for the authority to administer medical services  
21 programs established under chapter 74.09 RCW currently administered  
22 by the department of social and health services programs but  
23 transferred to the authority under chapter 15, Laws of 2011 1st sp.  
24 sess., and programs transferred to the authority under chapter . . . ,  
25 Laws of 2017 2nd sp. sess. (this act). The authority is authorized to  
26 collaborate with other state agencies in carrying out its duties  
27 under this chapter and, to the extent appropriate, may enter into  
28 agreements with such other agencies. Nothing in this chapter may be  
29 construed as diminishing the powers, duties, and authority granted to  
30 the department of social and health services in chapter 43.20B RCW  
31 with respect to the programs that will remain under its jurisdiction  
32 following enactment of chapter 15, Laws of 2011 1st sp. sess. and  
33 chapter . . . , Laws of 2017 2nd sp. sess. (this act).

34 **Sec. 7004.** RCW 74.09.050 and 2011 1st sp.s. c 15 s 5 are each  
35 amended to read as follows:

36 (1) The director shall appoint such professional personnel and  
37 other assistants and employees, including professional medical  
38 screeners, as may be reasonably necessary to carry out the provisions

1 of this chapter or other applicable law. The medical screeners shall  
2 be supervised by one or more physicians who shall be appointed by the  
3 director or his or her designee. The director shall appoint a medical  
4 director who is licensed under chapter 18.57 or 18.71 RCW.

5 (2) Whenever the director's authority is not specifically limited  
6 by law, he or she has complete charge and supervisory powers over the  
7 authority. The director is authorized to create such administrative  
8 structures as deemed appropriate, except as otherwise specified by  
9 law. The director has the power to employ such assistants and  
10 personnel as may be necessary for the general administration of the  
11 authority. Except as elsewhere specified, such employment must be in  
12 accordance with the rules of the state civil service law, chapter  
13 41.06 RCW.

14 **Sec. 7005.** RCW 74.09.055 and 2011 1st sp.s. c 15 s 6 are each  
15 amended to read as follows:

16 The authority is authorized to establish copayment, deductible,  
17 or coinsurance, or other cost-sharing requirements for recipients of  
18 any medical programs defined in RCW 74.09.010 or other applicable  
19 law, except that premiums shall not be imposed on children in  
20 households at or below two hundred percent of the federal poverty  
21 level.

22 **Sec. 7006.** RCW 74.09.080 and 2011 1st sp.s. c 15 s 8 are each  
23 amended to read as follows:

24 In carrying out the administrative responsibility of this chapter  
25 or other applicable law, the department or authority, as appropriate:

26 (1) May contract with an individual or a group, may utilize  
27 existing local state public assistance offices, or establish separate  
28 welfare medical care offices on a county or multicounty unit basis as  
29 found necessary; and

30 (2) Shall determine both financial and functional eligibility for  
31 persons applying for long-term care services under chapter 74.39 or  
32 74.39A RCW as a unified process in a single long-term care  
33 organizational unit.

34 **Sec. 7007.** RCW 74.09.120 and 2012 c 10 s 60 are each amended to  
35 read as follows:

36 (1) The department shall purchase nursing home care by contract  
37 and payment for the care shall be in accordance with the provisions

1 of chapter 74.46 RCW and rules adopted by the department. No payment  
2 shall be made to a nursing home which does not permit inspection by  
3 the authority and the department of every part of its premises and an  
4 examination of all records, including financial records, methods of  
5 administration, general and special dietary programs, the  
6 disbursement of drugs and methods of supply, and any other records  
7 the authority or the department deems relevant to the regulation of  
8 nursing home operations, enforcement of standards for resident care,  
9 and payment for nursing home services.

10 (2) The department may purchase nursing home care by contract in  
11 veterans' homes operated by the state department of veterans affairs  
12 and payment for the care shall be in accordance with the provisions  
13 of chapter 74.46 RCW and rules adopted by the department under the  
14 authority of RCW 74.46.800.

15 (3) The department may purchase care in institutions for persons  
16 with intellectual disabilities, also known as intermediate care  
17 facilities for persons with intellectual disabilities. The department  
18 shall establish rules for reasonable accounting and reimbursement  
19 systems for such care. Institutions for persons with intellectual  
20 disabilities include licensed nursing homes, public institutions,  
21 licensed assisted living facilities with fifteen beds or less, and  
22 hospital facilities certified as intermediate care facilities for  
23 persons with intellectual disabilities under the federal medicaid  
24 program to provide health, habilitative, or rehabilitative services  
25 and twenty-four hour supervision for persons with intellectual  
26 disabilities or related conditions and includes in the program  
27 "active treatment" as federally defined.

28 (4) The department may purchase care in institutions for mental  
29 diseases by contract. The department shall establish rules for  
30 reasonable accounting and reimbursement systems for such care.  
31 Institutions for mental diseases are certified under the federal  
32 medicaid program and primarily engaged in providing diagnosis,  
33 treatment, or care to persons with mental diseases, including medical  
34 attention, nursing care, and related services.

35 (5) Both the department and the authority may each purchase all  
36 other services provided under this chapter or other applicable law by  
37 contract or at rates established by the department or the authority  
38 respectively.

1       **Sec. 7008.** RCW 74.09.160 and 2011 1st sp.s. c 15 s 10 are each  
2 amended to read as follows:

3       Each vendor or group who has a contract and is rendering service  
4 to eligible persons as defined in this chapter or other applicable  
5 law shall submit such charges as agreed upon between the department  
6 or authority, as appropriate, and the individual or group no later  
7 than twelve months from the date of service. If the final charges are  
8 not presented within the twelve-month period, they shall not be a  
9 charge against the state. Said twelve-month period may also be  
10 extended by regulation, but only if required by applicable federal  
11 law or regulation, and to no more than the extension of time so  
12 required.

13       **Sec. 7009.** RCW 74.09.210 and 2013 c 23 s 202 are each amended to  
14 read as follows:

15       (1) No person, firm, corporation, partnership, association,  
16 agency, institution, or other legal entity, but not including an  
17 individual public assistance recipient of health care, shall, on  
18 behalf of himself or herself or others, obtain or attempt to obtain  
19 benefits or payments under this chapter or other applicable law in a  
20 greater amount than that to which entitled by means of:

21       (a) A willful false statement;

22       (b) By willful misrepresentation, or by concealment of any  
23 material facts; or

24       (c) By other fraudulent scheme or device, including, but not  
25 limited to:

26       (i) Billing for services, drugs, supplies, or equipment that were  
27 unfurnished, of lower quality, or a substitution or misrepresentation  
28 of items billed; or

29       (ii) Repeated billing for purportedly covered items, which were  
30 not in fact so covered.

31       (2) Any person or entity knowingly violating any of the  
32 provisions of subsection (1) of this section shall be liable for  
33 repayment of any excess benefits or payments received, plus interest  
34 at the rate and in the manner provided in RCW 43.20B.695. Such person  
35 or other entity shall further, in addition to any other penalties  
36 provided by law, be subject to civil penalties. The director or the  
37 attorney general may assess civil penalties in an amount not to  
38 exceed three times the amount of such excess benefits or payments:  
39 PROVIDED, That these civil penalties shall not apply to any acts or

1 omissions occurring prior to September 1, 1979. RCW 43.20A.215  
2 governs notice of a civil fine assessed by the director and provides  
3 the right to an adjudicative proceeding.

4 (3) A criminal action need not be brought against a person for  
5 that person to be civilly liable under this section.

6 (4) In all administrative proceedings under this section,  
7 service, adjudicative proceedings, and judicial review of such  
8 determinations shall be in accordance with chapter 34.05 RCW, the  
9 administrative procedure act.

10 (5) Civil penalties shall be deposited upon their receipt into  
11 the medicaid fraud penalty account established in RCW 74.09.215.

12 (6) The attorney general may contract with private attorneys and  
13 local governments in bringing actions under this section as  
14 necessary.

15 **Sec. 7010.** RCW 74.09.220 and 1987 c 283 s 8 are each amended to  
16 read as follows:

17 Any person, firm, corporation, partnership, association, agency,  
18 institution or other legal entity, but not including an individual  
19 public assistance recipient of health care, that, without intent to  
20 violate this chapter or other applicable law, obtains benefits or  
21 payments under this code to which such person or entity is not  
22 entitled, or in a greater amount than that to which entitled, shall  
23 be liable for (1) any excess benefits or payments received, and (2)  
24 interest calculated at the rate and in the manner provided in RCW  
25 43.20B.695. Whenever a penalty is due under RCW 74.09.210 or interest  
26 is due under RCW 43.20B.695, such penalty or interest shall not be  
27 reimbursable by the state as an allowable cost under any of the  
28 provisions of this chapter or other applicable law.

29 **Sec. 7011.** RCW 74.09.230 and 2013 c 23 s 203 are each amended to  
30 read as follows:

31 Any person, including any corporation, that

32 (1) knowingly makes or causes to be made any false statement or  
33 representation of a material fact in any application for any payment  
34 under any medical care program authorized under this chapter or other  
35 applicable law, or

36 (2) at any time knowingly makes or causes to be made any false  
37 statement or representation of a material fact for use in determining  
38 rights to such payment, or knowingly falsifies, conceals, or covers



1 up by any trick, scheme, or device a material fact in connection with  
2 such application or payment, or

3 (3) having knowledge of the occurrence of any event affecting (a)  
4 the initial or continued right to any payment, or (b) the initial or  
5 continued right to any such payment of any other individual in whose  
6 behalf he or she has applied for or is receiving such payment,  
7 conceals or fails to disclose such event with an intent fraudulently  
8 to secure such payment either in a greater amount or quantity than is  
9 due or when no such payment is authorized,  
10 shall be guilty of a class C felony: PROVIDED, That the fine, if  
11 imposed, shall not be in an amount more than twenty-five thousand  
12 dollars, except as authorized by RCW 9A.20.030.

13 **Sec. 7012.** RCW 74.09.240 and 2011 1st sp.s. c 15 s 16 are each  
14 amended to read as follows:

15 (1) Any person, including any corporation, that solicits or  
16 receives any remuneration (including any kickback, bribe, or rebate)  
17 directly or indirectly, overtly or covertly, in cash or in kind

18 (a) in return for referring an individual to a person for the  
19 furnishing or arranging for the furnishing of any item or service for  
20 which payment may be made in whole or in part under this chapter or  
21 other applicable law, or

22 (b) in return for purchasing, leasing, ordering, or arranging for  
23 or recommending purchasing, leasing, or ordering any goods, facility,  
24 service, or item for which payment may be made in whole or in part  
25 under this chapter or other applicable law,  
26 shall be guilty of a class C felony; however, the fine, if imposed,  
27 shall not be in an amount more than twenty-five thousand dollars,  
28 except as authorized by RCW 9A.20.030.

29 (2) Any person, including any corporation, that offers or pays  
30 any remuneration (including any kickback, bribe, or rebate) directly  
31 or indirectly, overtly or covertly, in cash or in kind to any person  
32 to induce such person

33 (a) to refer an individual to a person for the furnishing or  
34 arranging for the furnishing of any item or service for which payment  
35 may be made, in whole or in part, under this chapter or other  
36 applicable law, or

37 (b) to purchase, lease, order, or arrange for or recommend  
38 purchasing, leasing, or ordering any goods, facility, service, or

1 item for which payment may be made in whole or in part under this  
2 chapter or other applicable law,  
3 shall be guilty of a class C felony; however, the fine, if imposed,  
4 shall not be in an amount more than twenty-five thousand dollars,  
5 except as authorized by RCW 9A.20.030.

6 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are  
7 prohibited from self-referring any client eligible under this chapter  
8 for the following designated health services to a facility in which  
9 the physician or an immediate family member has a financial  
10 relationship:

- 11 (i) Clinical laboratory services;
- 12 (ii) Physical therapy services;
- 13 (iii) Occupational therapy services;
- 14 (iv) Radiology including magnetic resonance imaging, computerized  
15 axial tomography, and ultrasound services;
- 16 (v) Durable medical equipment and supplies;
- 17 (vi) Parenteral and enteral nutrients equipment and supplies;
- 18 (vii) Prosthetics, orthotics, and prosthetic devices;
- 19 (viii) Home health services;
- 20 (ix) Outpatient prescription drugs;
- 21 (x) Inpatient and outpatient hospital services;
- 22 (xi) Radiation therapy services and supplies.

23 (b) For purposes of this subsection, "financial relationship"  
24 means the relationship between a physician and an entity that  
25 includes either:

- 26 (i) An ownership or investment interest; or
- 27 (ii) A compensation arrangement.

28 For purposes of this subsection, "compensation arrangement" means  
29 an arrangement involving remuneration between a physician, or an  
30 immediate family member of a physician, and an entity.

31 (c) The department or authority, as appropriate, is authorized to  
32 adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23,  
33 1995.

34 (d) This section shall not apply in any case covered by a general  
35 exception specified in 42 U.S.C. Sec. 1395 nn.

36 (4) Subsections (1) and (2) of this section shall not apply to:

37 (a) A discount or other reduction in price obtained by a provider  
38 of services or other entity under this chapter or other applicable  
39 law if the reduction in price is properly disclosed and appropriately

1 reflected in the costs claimed or charges made by the provider or  
2 entity under this chapter or other applicable law; and

3 (b) Any amount paid by an employer to an employee (who has a bona  
4 fide employment relationship with such employer) for employment in  
5 the provision of covered items or services.

6 (5) Subsections (1) and (2) of this section, if applicable to the  
7 conduct involved, shall supersede the criminal provisions of chapter  
8 19.68 RCW, but shall not preclude administrative proceedings  
9 authorized by chapter 19.68 RCW.

10 **Sec. 7013.** RCW 74.09.260 and 2011 1st sp.s. c 15 s 17 are each  
11 amended to read as follows:

12 Any person, including any corporation, that knowingly:

13 (1) Charges, for any service provided to a patient under any  
14 medical care plan authorized under this chapter or other applicable  
15 law, money or other consideration at a rate in excess of the rates  
16 established by the department or authority, as appropriate; or

17 (2) Charges, solicits, accepts, or receives, in addition to any  
18 amount otherwise required to be paid under such plan, any gift,  
19 money, donation, or other consideration (other than a charitable,  
20 religious, or philanthropic contribution from an organization or from  
21 a person unrelated to the patient):

22 (a) As a precondition of admitting a patient to a hospital or  
23 nursing facility; or

24 (b) As a requirement for the patient's continued stay in such  
25 facility,

26 when the cost of the services provided therein to the patient is paid  
27 for, in whole or in part, under such plan, shall be guilty of a class  
28 C felony: PROVIDED, That the fine, if imposed, shall not be in an  
29 amount more than twenty-five thousand dollars, except as authorized  
30 by RCW 9A.20.030.

31 **Sec. 7014.** RCW 74.09.280 and 2011 1st sp.s. c 15 s 18 are each  
32 amended to read as follows:

33 The secretary or director may by rule require that any  
34 application, statement, or form filled out by suppliers of medical  
35 care under this chapter or other applicable law shall contain or be  
36 verified by a written statement that it is made under the penalties  
37 of perjury and such declaration shall be in lieu of any oath  
38 otherwise required, and each such paper shall in such event so state.

1 The making or subscribing of any such papers or forms containing any  
2 false or misleading information may be prosecuted and punished under  
3 chapter 9A.72 RCW.

4 **Sec. 7015.** RCW 74.09.290 and 2011 1st sp.s. c 15 s 19 are each  
5 amended to read as follows:

6 The secretary or director shall have the authority to:

7 (1) Conduct audits and investigations of providers of medical and  
8 other services furnished pursuant to this chapter or other applicable  
9 law, except that the Washington state medical quality assurance  
10 commission shall generally serve in an advisory capacity to the  
11 secretary or director in the conduct of audits or investigations of  
12 physicians. Any overpayment discovered as a result of an audit of a  
13 provider under this authority shall be offset by any underpayments  
14 discovered in that same audit sample. In order to determine the  
15 provider's actual, usual, customary, or prevailing charges, the  
16 secretary or director may examine such random representative records  
17 as necessary to show accounts billed and accounts received except  
18 that in the conduct of such examinations, patient names, other than  
19 public assistance applicants or recipients, shall not be noted,  
20 copied, or otherwise made available to the department or authority.  
21 In order to verify costs incurred by the department or authority for  
22 treatment of public assistance applicants or recipients, the  
23 secretary or director may examine patient records or portions thereof  
24 in connection with services to such applicants or recipients rendered  
25 by a health care provider, notwithstanding the provisions of RCW  
26 5.60.060, 18.53.200, 18.83.110, or any other statute which may make  
27 or purport to make such records privileged or confidential: PROVIDED,  
28 That no original patient records shall be removed from the premises  
29 of the health care provider, and that the disclosure of any records  
30 or information by the department or the authority is prohibited and  
31 shall be punishable as a class C felony according to chapter 9A.20  
32 RCW, unless such disclosure is directly connected to the official  
33 purpose for which the records or information were obtained: PROVIDED  
34 FURTHER, That the disclosure of patient information as required under  
35 this section shall not subject any physician or other health services  
36 provider to any liability for breach of any confidential relationship  
37 between the provider and the patient, but no evidence resulting from  
38 such disclosure may be used in any civil, administrative, or criminal  
39 proceeding against the patient unless a waiver of the applicable

1 evidentiary privilege is obtained: PROVIDED FURTHER, That the  
2 secretary or director shall destroy all copies of patient medical  
3 records in their possession upon completion of the audit,  
4 investigation or proceedings;

5 (2) Approve or deny applications to participate as a provider of  
6 services furnished pursuant to this chapter or other applicable law;

7 (3) Terminate or suspend eligibility to participate as a provider  
8 of services furnished pursuant to this chapter or other applicable  
9 law; and

10 (4) Adopt, promulgate, amend, and repeal administrative rules, in  
11 accordance with the administrative procedure act, chapter 34.05 RCW,  
12 to carry out the policies and purposes of this section and RCW  
13 74.09.200 through ((74.09.290)) 74.09.280.

14 **Sec. 7016.** RCW 74.09.315 and 2012 c 241 s 104 are each amended  
15 to read as follows:

16 (1) For the purposes of this section:

17 (a) "Employer" means any person, firm, corporation, partnership,  
18 association, agency, institution, or other legal entity.

19 (b) "Whistleblower" means an employee of an employer that obtains  
20 or attempts to obtain benefits or payments under this chapter or  
21 other applicable law in violation of RCW 74.09.210, who in good faith  
22 reports a violation of RCW 74.09.210 to the authority.

23 (c) "Workplace reprisal or retaliatory action" includes, but is  
24 not limited to: Denial of adequate staff to fulfill duties; frequent  
25 staff changes; frequent and undesirable office changes; refusal to  
26 assign meaningful work; unwarranted and unsubstantiated report of  
27 misconduct under Title 18 RCW; unwarranted and unsubstantiated  
28 letters of reprimand or unsatisfactory performance evaluations;  
29 demotion; reduction in pay; denial of promotion; suspension;  
30 dismissal; denial of employment; ((or)) a supervisor or superior  
31 behaving in or encouraging coworkers to behave in a hostile manner  
32 toward the whistleblower; or a change in the physical location of the  
33 employee's workplace or a change in the basic nature of the  
34 employee's job, if either are in opposition to the employee's  
35 expressed wish.

36 (2) A whistleblower who has been subjected to workplace reprisal  
37 or retaliatory action has the remedies provided under chapter 49.60  
38 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to  
39 persons who communicate to government agencies, apply to complaints

1 made under this section. The identity of a whistleblower who  
2 complains, in good faith, to the authority about a suspected  
3 violation of RCW 74.09.210 may remain confidential if requested. The  
4 identity of the whistleblower must subsequently remain confidential  
5 unless the authority determines that the complaint was not made in  
6 good faith.

7 (3) This section does not prohibit an employer from exercising  
8 its authority to terminate, suspend, or discipline an employee who  
9 engages in workplace reprisal or retaliatory action against a  
10 whistleblower. The protections provided to whistleblowers under this  
11 chapter do not prevent an employer from: (a) Terminating, suspending,  
12 or disciplining a whistleblower for other lawful purposes; or (b)  
13 reducing the hours of employment or terminating employment as a  
14 result of the demonstrated inability to meet payroll requirements.  
15 The authority shall determine if the employer cannot meet payroll in  
16 cases where a whistleblower has been terminated or had hours of  
17 employment reduced due to the inability of a facility to meet  
18 payroll.

19 (4) The authority shall adopt rules to implement procedures for  
20 filing, investigation, and resolution of whistleblower complaints  
21 that are integrated with complaint procedures under this chapter. The  
22 authority shall adopt rules designed to discourage whistleblower  
23 complaints made in bad faith or for retaliatory purposes.

24 **Sec. 7017.** RCW 74.09.325 and 2015 c 23 s 4 are each amended to  
25 read as follows:

26 (1) Upon initiation or renewal of a contract with the Washington  
27 state health care authority to administer a medicaid managed care  
28 plan, a managed health care system shall reimburse a provider for a  
29 health care service provided to a covered person through telemedicine  
30 (~~(for)~~) or store and forward technology if:

31 (a) The medicaid managed care plan in which the covered person is  
32 enrolled provides coverage of the health care service when provided  
33 in person by the provider;

34 (b) The health care service is medically necessary; and

35 (c) The health care service is a service recognized as an  
36 essential health benefit under section 1302(b) of the federal patient  
37 protection and affordable care act in effect on January 1, 2017.

38 (2)(a) If the service is provided through store and forward  
39 technology there must be an associated visit between the covered

1 person and the referring health care provider. Nothing in this  
2 section prohibits the use of telemedicine for the associated office  
3 visit.

4 (b) For purposes of this section, reimbursement of store and  
5 forward technology is available only for those services specified in  
6 the negotiated agreement between the managed health care system and  
7 health care provider.

8 (3) An originating site for a telemedicine health care service  
9 subject to subsection (1) of this section includes a:

- 10 (a) Hospital;
- 11 (b) Rural health clinic;
- 12 (c) Federally qualified health center;
- 13 (d) Physician's or other health care provider's office;
- 14 (e) Community mental health center;
- 15 (f) Skilled nursing facility; or
- 16 (g) Renal dialysis center, except an independent renal dialysis  
17 center.

18 (4) Any originating site under subsection (3) of this section may  
19 charge a facility fee for infrastructure and preparation of the  
20 patient. Reimbursement must be subject to a negotiated agreement  
21 between the originating site and the managed health care system. A  
22 distant site or any other site not identified in subsection (3) of  
23 this section may not charge a facility fee.

24 (5) A managed health care system may not distinguish between  
25 originating sites that are rural and urban in providing the coverage  
26 required in subsection (1) of this section.

27 (6) A managed health care system may subject coverage of a  
28 telemedicine or store and forward technology health service under  
29 subsection (1) of this section to all terms and conditions of the  
30 plan in which the covered person is enrolled, including, but not  
31 limited to, utilization review, prior authorization, deductible,  
32 copayment, or coinsurance requirements that are applicable to  
33 coverage of a comparable health care service provided in person.

34 (7) This section does not require a managed health care system to  
35 reimburse:

- 36 (a) An originating site for professional fees;
- 37 (b) A provider for a health care service that is not a covered  
38 benefit under the plan; or
- 39 (c) An originating site or health care provider when the site or  
40 provider is not a contracted provider under the plan.

1 (8) For purposes of this section:  
2 (a) "Distant site" means the site at which a physician or other  
3 licensed provider, delivering a professional service, is physically  
4 located at the time the service is provided through telemedicine;  
5 (b) "Health care service" has the same meaning as in RCW  
6 48.43.005;  
7 (c) "Hospital" means a facility licensed under chapter 70.41,  
8 71.12, or 72.23 RCW;  
9 (d) "Managed health care system" means any health care  
10 organization, including health care providers, insurers, health care  
11 service contractors, health maintenance organizations, health  
12 insuring organizations, or any combination thereof, that provides  
13 directly or by contract health care services covered under this  
14 chapter and rendered by licensed providers, on a prepaid capitated  
15 basis and that meets the requirements of section 1903(m)(1)(A) of  
16 Title XIX of the federal social security act or federal demonstration  
17 waivers granted under section 1115(a) of Title XI of the federal  
18 social security act;  
19 (e) "Originating site" means the physical location of a patient  
20 receiving health care services through telemedicine;  
21 (f) "Provider" has the same meaning as in RCW 48.43.005;  
22 (g) "Store and forward technology" means use of an asynchronous  
23 transmission of a covered person's medical information from an  
24 originating site to the health care provider at a distant site which  
25 results in medical diagnosis and management of the covered person,  
26 and does not include the use of audio-only telephone, facsimile, or  
27 email; and  
28 (h) "Telemedicine" means the delivery of health care services  
29 through the use of interactive audio and video technology, permitting  
30 real-time communication between the patient at the originating site  
31 and the provider, for the purpose of diagnosis, consultation, or  
32 treatment. For purposes of this section only, "telemedicine" does not  
33 include the use of audio-only telephone, facsimile, or email.  
34 (9) To measure the impact on access to care for underserved  
35 communities and costs to the state and the medicaid managed health  
36 care system for reimbursement of telemedicine services, the  
37 Washington state health care authority, using existing data and  
38 resources, shall provide a report to the appropriate policy and  
39 fiscal committees of the legislature no later than December 31, 2018.



1       **Sec. 7018.** RCW 74.09.522 and 2015 c 256 s 1 are each amended to  
2 read as follows:

3       (1) For the purposes of this section:

4       (a) "Managed health care system" means any health care  
5 organization, including health care providers, insurers, health care  
6 service contractors, health maintenance organizations, health  
7 insuring organizations, or any combination thereof, that provides  
8 directly or by contract health care services covered under this  
9 chapter or other applicable law and rendered by licensed providers,  
10 on a prepaid capitated basis and that meets the requirements of  
11 section 1903(m)(1)(A) of Title XIX of the federal social security act  
12 or federal demonstration waivers granted under section 1115(a) of  
13 Title XI of the federal social security act;

14       (b) "Nonparticipating provider" means a person, health care  
15 provider, practitioner, facility, or entity, acting within their  
16 scope of practice, that does not have a written contract to  
17 participate in a managed health care system's provider network, but  
18 provides health care services to enrollees of programs authorized  
19 under this chapter or other applicable law whose health care services  
20 are provided by the managed health care system.

21       (2) The authority shall enter into agreements with managed health  
22 care systems to provide health care services to recipients of  
23 temporary assistance for needy families under the following  
24 conditions:

25       (a) Agreements shall be made for at least thirty thousand  
26 recipients statewide;

27       (b) Agreements in at least one county shall include enrollment of  
28 all recipients of temporary assistance for needy families;

29       (c) To the extent that this provision is consistent with section  
30 1903(m) of Title XIX of the federal social security act or federal  
31 demonstration waivers granted under section 1115(a) of Title XI of  
32 the federal social security act, recipients shall have a choice of  
33 systems in which to enroll and shall have the right to terminate  
34 their enrollment in a system: PROVIDED, That the authority may limit  
35 recipient termination of enrollment without cause to the first month  
36 of a period of enrollment, which period shall not exceed twelve  
37 months: AND PROVIDED FURTHER, That the authority shall not restrict a  
38 recipient's right to terminate enrollment in a system for good cause  
39 as established by the authority by rule;

1 (d) To the extent that this provision is consistent with section  
2 1903(m) of Title XIX of the federal social security act,  
3 participating managed health care systems shall not enroll a  
4 disproportionate number of medical assistance recipients within the  
5 total numbers of persons served by the managed health care systems,  
6 except as authorized by the authority under federal demonstration  
7 waivers granted under section 1115(a) of Title XI of the federal  
8 social security act;

9 (e)(i) In negotiating with managed health care systems the  
10 authority shall adopt a uniform procedure to enter into contractual  
11 arrangements, to be included in contracts issued or renewed on or  
12 after January 1, 2015, including:

13 (A) Standards regarding the quality of services to be provided;

14 (B) The financial integrity of the responding system;

15 (C) Provider reimbursement methods that incentivize chronic care  
16 management within health homes, including comprehensive medication  
17 management services for patients with multiple chronic conditions  
18 consistent with the findings and goals established in RCW 74.09.5223;

19 (D) Provider reimbursement methods that reward health homes that,  
20 by using chronic care management, reduce emergency department and  
21 inpatient use;

22 (E) Promoting provider participation in the program of training  
23 and technical assistance regarding care of people with chronic  
24 conditions described in RCW 43.70.533, including allocation of funds  
25 to support provider participation in the training, unless the managed  
26 care system is an integrated health delivery system that has programs  
27 in place for chronic care management;

28 (F) Provider reimbursement methods within the medical billing  
29 processes that incentivize pharmacists or other qualified providers  
30 licensed in Washington state to provide comprehensive medication  
31 management services consistent with the findings and goals  
32 established in RCW 74.09.5223;

33 (G) Evaluation and reporting on the impact of comprehensive  
34 medication management services on patient clinical outcomes and total  
35 health care costs, including reductions in emergency department  
36 utilization, hospitalization, and drug costs; and

37 (H) Established consistent processes to incentivize integration  
38 of behavioral health services in the primary care setting, promoting  
39 care that is integrated, collaborative, colocated, and preventive.

1 (ii)(A) Health home services contracted for under this subsection  
2 may be prioritized to enrollees with complex, high cost, or multiple  
3 chronic conditions.

4 (B) Contracts that include the items in (e)(i)(C) through (G) of  
5 this subsection must not exceed the rates that would be paid in the  
6 absence of these provisions;

7 (f) The authority shall seek waivers from federal requirements as  
8 necessary to implement this chapter;

9 (g) The authority shall, wherever possible, enter into prepaid  
10 capitation contracts that include inpatient care. However, if this is  
11 not possible or feasible, the authority may enter into prepaid  
12 capitation contracts that do not include inpatient care;

13 (h) The authority shall define those circumstances under which a  
14 managed health care system is responsible for out-of-plan services  
15 and assure that recipients shall not be charged for such services;

16 (i) Nothing in this section prevents the authority from entering  
17 into similar agreements for other groups of people eligible to  
18 receive services under this chapter; and

19 (j) The authority must consult with the federal center for  
20 medicare and medicaid innovation and seek funding opportunities to  
21 support health homes.

22 (3) The authority shall ensure that publicly supported community  
23 health centers and providers in rural areas, who show serious intent  
24 and apparent capability to participate as managed health care systems  
25 are seriously considered as contractors. The authority shall  
26 coordinate its managed care activities with activities under chapter  
27 70.47 RCW.

28 (4) The authority shall work jointly with the state of Oregon and  
29 other states in this geographical region in order to develop  
30 recommendations to be presented to the appropriate federal agencies  
31 and the United States congress for improving health care of the poor,  
32 while controlling related costs.

33 (5) The legislature finds that competition in the managed health  
34 care marketplace is enhanced, in the long term, by the existence of a  
35 large number of managed health care system options for medicaid  
36 clients. In a managed care delivery system, whose goal is to focus on  
37 prevention, primary care, and improved enrollee health status,  
38 continuity in care relationships is of substantial importance, and  
39 disruption to clients and health care providers should be minimized.  
40 To help ensure these goals are met, the following principles shall

1 guide the authority in its healthy options managed health care  
2 purchasing efforts:

3 (a) All managed health care systems should have an opportunity to  
4 contract with the authority to the extent that minimum contracting  
5 requirements defined by the authority are met, at payment rates that  
6 enable the authority to operate as far below appropriated spending  
7 levels as possible, consistent with the principles established in  
8 this section.

9 (b) Managed health care systems should compete for the award of  
10 contracts and assignment of medicaid beneficiaries who do not  
11 voluntarily select a contracting system, based upon:

12 (i) Demonstrated commitment to or experience in serving low-  
13 income populations;

14 (ii) Quality of services provided to enrollees;

15 (iii) Accessibility, including appropriate utilization, of  
16 services offered to enrollees;

17 (iv) Demonstrated capability to perform contracted services,  
18 including ability to supply an adequate provider network;

19 (v) Payment rates; and

20 (vi) The ability to meet other specifically defined contract  
21 requirements established by the authority, including consideration of  
22 past and current performance and participation in other state or  
23 federal health programs as a contractor.

24 (c) Consideration should be given to using multiple year  
25 contracting periods.

26 (d) Quality, accessibility, and demonstrated commitment to  
27 serving low-income populations shall be given significant weight in  
28 the contracting, evaluation, and assignment process.

29 (e) All contractors that are regulated health carriers must meet  
30 state minimum net worth requirements as defined in applicable state  
31 laws. The authority shall adopt rules establishing the minimum net  
32 worth requirements for contractors that are not regulated health  
33 carriers. This subsection does not limit the authority of the  
34 Washington state health care authority to take action under a  
35 contract upon finding that a contractor's financial status seriously  
36 jeopardizes the contractor's ability to meet its contract  
37 obligations.

38 (f) Procedures for resolution of disputes between the authority  
39 and contract bidders or the authority and contracting carriers

1 related to the award of, or failure to award, a managed care contract  
2 must be clearly set out in the procurement document.

3 (6) The authority may apply the principles set forth in  
4 subsection (5) of this section to its managed health care purchasing  
5 efforts on behalf of clients receiving supplemental security income  
6 benefits to the extent appropriate.

7 (7) By April 1, 2016, any contract with a managed health care  
8 system to provide services to medical assistance enrollees shall  
9 require that managed health care systems offer contracts to  
10 behavioral health organizations, mental health providers, or chemical  
11 dependency treatment providers to provide access to primary care  
12 services integrated into behavioral health clinical settings, for  
13 individuals with behavioral health and medical comorbidities.

14 (8) Managed health care system contracts effective on or after  
15 April 1, 2016, shall serve geographic areas that correspond to the  
16 regional service areas established in RCW 43.20A.893 (as recodified  
17 by this act).

18 (9) A managed health care system shall pay a nonparticipating  
19 provider that provides a service covered under this chapter or other  
20 applicable law to the system's enrollee no more than the lowest  
21 amount paid for that service under the managed health care system's  
22 contracts with similar providers in the state if the managed health  
23 care system has made good faith efforts to contract with the  
24 nonparticipating provider.

25 (10) For services covered under this chapter or other applicable  
26 law to medical assistance or medical care services enrollees and  
27 provided on or after August 24, 2011, nonparticipating providers must  
28 accept as payment in full the amount paid by the managed health care  
29 system under subsection (9) of this section in addition to any  
30 deductible, coinsurance, or copayment that is due from the enrollee  
31 for the service provided. An enrollee is not liable to any  
32 nonparticipating provider for covered services, except for amounts  
33 due for any deductible, coinsurance, or copayment under the terms and  
34 conditions set forth in the managed health care system contract to  
35 provide services under this section.

36 (11) Pursuant to federal managed care access standards, 42 C.F.R.  
37 Sec. 438, managed health care systems must maintain a network of  
38 appropriate providers that is supported by written agreements  
39 sufficient to provide adequate access to all services covered under  
40 the contract with the authority, including hospital-based physician

1 services. The authority will monitor and periodically report on the  
2 proportion of services provided by contracted providers and  
3 nonparticipating providers, by county, for each managed health care  
4 system to ensure that managed health care systems are meeting network  
5 adequacy requirements. No later than January 1st of each year, the  
6 authority will review and report its findings to the appropriate  
7 policy and fiscal committees of the legislature for the preceding  
8 state fiscal year.

9 (12) Payments under RCW 74.60.130 are exempt from this section.

10 (13) Subsections (9) through (11) of this section expire July 1,  
11 2021.

12 **Sec. 7019.** RCW 74.09.530 and 2011 1st sp.s. c 15 s 32 are each  
13 amended to read as follows:

14 (1)(a) The authority is designated as the single state agency for  
15 purposes of Title XIX of the federal social security act.

16 (b) The amount and nature of medical assistance and the  
17 determination of eligibility of recipients for medical assistance  
18 shall be the responsibility of the authority.

19 (c) The authority shall establish reasonable standards of  
20 assistance and resource and income exemptions which shall be  
21 consistent with the provisions of the social security act and federal  
22 regulations for determining eligibility of individuals for medical  
23 assistance and the extent of such assistance to the extent that funds  
24 are available from the state and federal government. The authority  
25 shall not consider resources in determining continuing eligibility  
26 for recipients eligible under section 1931 of the social security  
27 act.

28 (d) The authority is authorized to collaborate with other state  
29 or local agencies and nonprofit organizations in carrying out its  
30 duties under this chapter or other applicable law and, to the extent  
31 appropriate, may enter into agreements with such other entities.

32 (2) Individuals eligible for medical assistance under RCW  
33 74.09.510(3) shall be transitioned into coverage under that  
34 subsection immediately upon their termination from coverage under RCW  
35 74.09.510(2)(a). The authority shall use income eligibility standards  
36 and eligibility determinations applicable to children placed in  
37 foster care. The authority shall provide information regarding basic  
38 health plan enrollment and shall offer assistance with the

1 application and enrollment process to individuals covered under RCW  
2 74.09.510(3) who are approaching their twenty-first birthday.

3 **Sec. 7020.** RCW 74.09.540 and 2011 1st sp.s. c 15 s 33 are each  
4 amended to read as follows:

5 (1) It is the intent of the legislature to remove barriers to  
6 employment for individuals with disabilities by providing medical  
7 assistance to working individuals with disabilities through a buy-in  
8 program in accordance with section 1902(a)(10)(A)(ii) of the social  
9 security act and eligibility and cost-sharing requirements  
10 established by the authority.

11 (2) The authority shall establish income, resource, and cost-  
12 sharing requirements for the buy-in program in accordance with  
13 federal law and any conditions or limitations specified in the  
14 omnibus appropriations act. The authority shall establish and modify  
15 eligibility and cost-sharing requirements in order to administer the  
16 program within available funds. The authority shall make every effort  
17 to coordinate benefits with employer-sponsored coverage available to  
18 the working individuals with disabilities receiving benefits under  
19 this chapter or other applicable law.

20 **Sec. 7021.** RCW 74.09.730 and 2011 1st sp.s. c 15 s 47 are each  
21 amended to read as follows:

22 (1) In establishing Title XIX payments for inpatient hospital  
23 services:

24 ~~((1))~~ (a) To the extent funds are appropriated specifically for  
25 this purpose, and subject to any conditions placed on appropriations  
26 made for this purpose, the authority shall provide a disproportionate  
27 share hospital adjustment considering the following components:

28 ~~((a))~~ (i) A low-income care component based on a hospital's  
29 medicaid utilization rate, its low-income utilization rate, its  
30 provision of obstetric services, and other factors authorized by  
31 federal law;

32 ~~((b))~~ (ii) A medical indigency care component based on a  
33 hospital's services to persons who are medically indigent; and

34 ~~((c))~~ (iii) A state-only component, to be paid from available  
35 state funds to hospitals that do not qualify for federal payments  
36 under ~~((b))~~ (a)(ii) of this subsection, based on a hospital's  
37 services to persons who are medically indigent;

1       (~~(+2)~~) (b) The payment methodology for disproportionate share  
2 hospitals shall be specified by the authority in regulation.

3       (~~(+3)~~) (2) Nothing in this section shall be construed as a right  
4 or an entitlement by any hospital to any payment from the authority.

5       **Sec. 7022.** RCW 74.09.780 and 1989 1st ex.s. c 10 s 3 are each  
6 amended to read as follows:

7       The legislature reserves the right to amend or repeal all or any  
8 part of this (~~(chapter-[subchapter])~~) subchapter at any time and  
9 there shall be no vested private right of any kind against such  
10 amendment or repeal. All rights, privileges, or immunities conferred  
11 by this (~~(chapter-[subchapter])~~) subchapter or any acts done pursuant  
12 thereto shall exist subject to the power of the legislature to amend  
13 or repeal this (~~(chapter-[subchapter])~~) subchapter at any time.

14       **Sec. 7023.** RCW 74.64.010 and 2012 c 234 s 2 are each amended to  
15 read as follows:

16       The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18       (1) "Authority" means the Washington state health care authority.

19       (2) "Enrollee" means an individual who receives benefits through  
20 a medical services program.

21       (3) "Medical services programs" means those medical programs  
22 established under chapter 74.09 RCW or other applicable law,  
23 including medical assistance, the limited casualty program,  
24 children's health program, medical care services, and state  
25 children's health insurance program.

26       **Sec. 7024.** RCW 74.66.010 and 2012 c 241 s 201 are each amended  
27 to read as follows:

28       Unless the context clearly requires otherwise, the definitions in  
29 this section apply throughout this chapter:

30       (1)(a) "Claim" means any request or demand made for a medicaid  
31 payment under chapter 74.09 RCW or other applicable law, whether  
32 under a contract or otherwise, for money or property and whether or  
33 not a government entity has title to the money or property, that:

34       (i) Is presented to an officer, employee, or agent of a  
35 government entity; or

36       (ii) Is made to a contractor, grantee, or other recipient, if the  
37 money or property is to be spent or used on the government entity's



1 behalf or to advance a government entity program or interest, and the  
2 government entity:

3 (A) Provides or has provided any portion of the money or property  
4 requested or demanded; or

5 (B) Will reimburse such contractor, grantee, or other recipient  
6 for any portion of the money or property which is requested or  
7 demanded.

8 (b) A "claim" does not include requests or demands for money or  
9 property that the government entity has paid to an individual as  
10 compensation for employment or as an income subsidy with no  
11 restrictions on that individual's use of the money or property.

12 (2) "Custodian" means the custodian, or any deputy custodian,  
13 designated by the attorney general.

14 (3) "Documentary material" includes the original or any copy of  
15 any book, record, report, memorandum, paper, communication,  
16 tabulation, chart, or other document, or data compilations stored in  
17 or accessible through computer or other information retrieval  
18 systems, together with instructions and all other materials necessary  
19 to use or interpret the data compilations, and any product of  
20 discovery.

21 (4) "False claims act investigation" means any inquiry conducted  
22 by any false claims act investigator for the purpose of ascertaining  
23 whether any person is or has been engaged in any violation of this  
24 chapter.

25 (5) "False claims act investigator" means any attorney or  
26 investigator employed by the state attorney general who is charged  
27 with the duty of enforcing or carrying into effect any provision of  
28 this chapter, or any officer or employee of the state of Washington  
29 acting under the direction and supervision of the attorney or  
30 investigator in connection with an investigation pursuant to this  
31 chapter.

32 (6) "Government entity" means all Washington state agencies that  
33 administer medicaid-funded programs under this title.

34 (7)(a) "Knowing" and "knowingly" mean that a person, with respect  
35 to information:

36 (i) Has actual knowledge of the information;

37 (ii) Acts in deliberate ignorance of the truth or falsity of the  
38 information; or

39 (iii) Acts in reckless disregard of the truth or falsity of the  
40 information.

1 (b) "Knowing" and "knowingly" do not require proof of specific  
2 intent to defraud.

3 (8) "Material" means having a natural tendency to influence, or  
4 be capable of influencing, the payment or receipt of money or  
5 property.

6 (9) "Obligation" means an established duty, whether or not fixed,  
7 arising from an express or implied contractual, grantor-grantee, or  
8 licensor-licensee relationship, from a fee-based or similar  
9 relationship, from statute or rule, or from the retention of any  
10 overpayment.

11 (10) "Official use" means any use that is consistent with the  
12 law, and the rules and policies of the attorney general, including  
13 use in connection with: Internal attorney general memoranda and  
14 reports; communications between the attorney general and a federal,  
15 state, or local government agency, or a contractor of a federal,  
16 state, or local government agency, undertaken in furtherance of an  
17 investigation or prosecution of a case; interviews of any qui tam  
18 relator or other witness; oral examinations; depositions; preparation  
19 for and response to civil discovery requests; introduction into the  
20 record of a case or proceeding; applications, motions, memoranda, and  
21 briefs submitted to a court or other tribunal; and communications  
22 with attorney general investigators, auditors, consultants and  
23 experts, the counsel of other parties, and arbitrators or mediators,  
24 concerning an investigation, case, or proceeding.

25 (11) "Person" means any natural person, partnership, corporation,  
26 association, or other legal entity, including any local or political  
27 subdivision of a state.

28 (12) "Product of discovery" includes:

29 (a) The original or duplicate of any deposition, interrogatory,  
30 document, thing, result of the inspection of land or other property,  
31 examination, or admission, which is obtained by any method of  
32 discovery in any judicial or administrative proceeding of an  
33 adversarial nature;

34 (b) Any digest, analysis, selection, compilation, or derivation  
35 of any item listed in (a) of this subsection; and

36 (c) Any index or other manner of access to any item listed in (a)  
37 of this subsection.

38 (13) "Qui tam action" is an action brought by a person under RCW  
39 74.66.050.

1 (14) "Qui tam relator" or "relator" is a person who brings an  
2 action under RCW 74.66.050.

3 **PART 8**

4 **Sec. 8001.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4  
5 are each reenacted and amended to read as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

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

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

12 (a) Statutory, regulatory, fiscal, medical, or scientific  
13 standards;

14 (b) A private or public program of payments to a health care  
15 provider; or

16 (c) Requirements for licensing, accreditation, or certification.

17 (3) "Authority" means the Washington state health care authority.

18 (4) "Commitment" has the same meaning as in RCW 71.05.020.

19 ~~((+4))~~ (5) "Custody" has the same meaning as in RCW 71.05.020.

20 ~~((+5))~~ (6) "Deidentified" means health information that does not  
21 identify an individual and with respect to which there is no  
22 reasonable basis to believe that the information can be used to  
23 identify an individual.

24 ~~((+6))~~ (7) "Department" means the department of social and  
25 health services.

26 ~~((+7))~~ (8) "Designated mental health professional" has the same  
27 meaning as in RCW 71.05.020 or 71.34.020, as applicable.

28 ~~((+8))~~ (9) "Detention" or "detain" has the same meaning as in  
29 RCW 71.05.020.

30 ~~((+9))~~ (10) "Directory information" means information disclosing  
31 the presence, and for the purpose of identification, the name,  
32 location within a health care facility, and the general health  
33 condition of a particular patient who is a patient in a health care  
34 facility or who is currently receiving emergency health care in a  
35 health care facility.

36 ~~((+10))~~ (11) "Discharge" has the same meaning as in RCW  
37 71.05.020.

1        ~~((11))~~ (12) "Evaluation and treatment facility" has the same  
2 meaning as in RCW 71.05.020 or 71.34.020, as applicable.

3        ~~((12))~~ (13) "Federal, state, or local law enforcement  
4 authorities" means an officer of any agency or authority in the  
5 United States, a state, a tribe, a territory, or a political  
6 subdivision of a state, a tribe, or a territory who is empowered by  
7 law to: (a) Investigate or conduct an official inquiry into a  
8 potential criminal violation of law; or (b) prosecute or otherwise  
9 conduct a criminal proceeding arising from an alleged violation of  
10 law.

11        ~~((13))~~ (14) "General health condition" means the patient's  
12 health status described in terms of "critical," "poor," "fair,"  
13 "good," "excellent," or terms denoting similar conditions.

14        ~~((14))~~ (15) "Health care" means any care, service, or procedure  
15 provided by a health care provider:

16        (a) To diagnose, treat, or maintain a patient's physical or  
17 mental condition; or

18        (b) That affects the structure or any function of the human body.

19        ~~((15))~~ (16) "Health care facility" means a hospital, clinic,  
20 nursing home, laboratory, office, or similar place where a health  
21 care provider provides health care to patients.

22        ~~((16))~~ (17) "Health care information" means any information,  
23 whether oral or recorded in any form or medium, that identifies or  
24 can readily be associated with the identity of a patient and directly  
25 relates to the patient's health care, including a patient's  
26 deoxyribonucleic acid and identified sequence of chemical base pairs.  
27 The term includes any required accounting of disclosures of health  
28 care information.

29        ~~((17))~~ (18) "Health care operations" means any of the following  
30 activities of a health care provider, health care facility, or third-  
31 party payor to the extent that the activities are related to  
32 functions that make an entity a health care provider, a health care  
33 facility, or a third-party payor:

34        (a) Conducting: Quality assessment and improvement activities,  
35 including outcomes evaluation and development of clinical guidelines,  
36 if the obtaining of generalizable knowledge is not the primary  
37 purpose of any studies resulting from such activities; population-  
38 based activities relating to improving health or reducing health care  
39 costs, protocol development, case management and care coordination,  
40 contacting of health care providers and patients with information

1 about treatment alternatives; and related functions that do not  
2 include treatment;

3 (b) Reviewing the competence or qualifications of health care  
4 professionals, evaluating practitioner and provider performance and  
5 third-party payor performance, conducting training programs in which  
6 students, trainees, or practitioners in areas of health care learn  
7 under supervision to practice or improve their skills as health care  
8 providers, training of nonhealth care professionals, accreditation,  
9 certification, licensing, or credentialing activities;

10 (c) Underwriting, premium rating, and other activities relating  
11 to the creation, renewal, or replacement of a contract of health  
12 insurance or health benefits, and ceding, securing, or placing a  
13 contract for reinsurance of risk relating to claims for health care,  
14 including stop-loss insurance and excess of loss insurance, if any  
15 applicable legal requirements are met;

16 (d) Conducting or arranging for medical review, legal services,  
17 and auditing functions, including fraud and abuse detection and  
18 compliance programs;

19 (e) Business planning and development, such as conducting cost-  
20 management and planning-related analyses related to managing and  
21 operating the health care facility or third-party payor, including  
22 formulary development and administration, development, or improvement  
23 of methods of payment or coverage policies; and

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

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

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

33 (iii) Resolution of internal grievances;

34 (iv) The sale, transfer, merger, or consolidation of all or part  
35 of a health care provider, health care facility, or third-party payor  
36 with another health care provider, health care facility, or third-  
37 party payor or an entity that following such activity will become a  
38 health care provider, health care facility, or third-party payor, and  
39 due diligence related to such activity; and

1 (v) Consistent with applicable legal requirements, creating  
2 deidentified health care information or a limited dataset for the  
3 benefit of the health care provider, health care facility, or third-  
4 party payor.

5 ~~((+18+))~~ (19) "Health care provider" means a person who is  
6 licensed, certified, registered, or otherwise authorized by the law  
7 of this state to provide health care in the ordinary course of  
8 business or practice of a profession.

9 ~~((+19+))~~ (20) "Human immunodeficiency virus" or "HIV" has the  
10 same meaning as in RCW 70.24.017.

11 ~~((+20+))~~ (21) "Imminent" has the same meaning as in RCW  
12 71.05.020.

13 ~~((+21+))~~ (22) "Information and records related to mental health  
14 services" means a type of health care information that relates to all  
15 information and records compiled, obtained, or maintained in the  
16 course of providing services by a mental health service agency or  
17 mental health professional to persons who are receiving or have  
18 received services for mental illness. The term includes mental health  
19 information contained in a medical bill, registration records, as  
20 defined in RCW 71.05.020, and all other records regarding the person  
21 maintained by the department, by the authority, by ~~((regional support  
22 networks))~~ behavioral health organizations and their staff, and by  
23 treatment facilities. The term further includes documents of legal  
24 proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic  
25 health care information. For health care information maintained by a  
26 hospital as defined in RCW 70.41.020 or a health care facility or  
27 health care provider that participates with a hospital in an  
28 organized health care arrangement defined under federal law,  
29 "information and records related to mental health services" is  
30 limited to information and records of services provided by a mental  
31 health professional or information and records of services created by  
32 a hospital-operated community mental health program as defined in RCW  
33 71.24.025~~((+6+))~~ (7). The term does not include psychotherapy notes.

34 ~~((+22+))~~ (23) "Information and records related to sexually  
35 transmitted diseases" means a type of health care information that  
36 relates to the identity of any person upon whom an HIV antibody test  
37 or other sexually transmitted infection test is performed, the  
38 results of such tests, and any information relating to diagnosis of  
39 or treatment for any confirmed sexually transmitted infections.

1        ~~((23))~~ (24) "Institutional review board" means any board,  
2 committee, or other group formally designated by an institution, or  
3 authorized under federal or state law, to review, approve the  
4 initiation of, or conduct periodic review of research programs to  
5 assure the protection of the rights and welfare of human research  
6 subjects.

7        ~~((24))~~ (25) "Legal counsel" has the same meaning as in RCW  
8 71.05.020.

9        ~~((25))~~ (26) "Local public health officer" has the same meaning  
10 as in RCW 70.24.017.

11        ~~((26))~~ (27) "Maintain," as related to health care information,  
12 means to hold, possess, preserve, retain, store, or control that  
13 information.

14        ~~((27))~~ (28) "Mental health professional" means a psychiatrist,  
15 psychologist, psychiatric advanced registered nurse practitioner,  
16 psychiatric nurse, or social worker, and such other mental health  
17 professionals as may be defined by rules adopted by the secretary of  
18 ~~((social and health services))~~ health under chapter 71.05 RCW,  
19 whether that person works in a private or public setting.

20        ~~((28))~~ (29) "Mental health service agency" means a public or  
21 private agency that provides services to persons with mental  
22 disorders as defined under RCW 71.05.020 or 71.34.020 and receives  
23 funding from public sources. This includes evaluation and treatment  
24 facilities as defined in RCW 71.34.020, community mental health  
25 service delivery systems, or community mental health programs, as  
26 defined in RCW 71.24.025, and facilities conducting competency  
27 evaluations and restoration under chapter 10.77 RCW.

28        ~~((29))~~ (30) "Minor" has the same meaning as in RCW 71.34.020.

29        ~~((30))~~ (31) "Parent" has the same meaning as in RCW 71.34.020.

30        ~~((31))~~ (32) "Patient" means an individual who receives or has  
31 received health care. The term includes a deceased individual who has  
32 received health care.

33        ~~((32))~~ (33) "Payment" means:

34        (a) The activities undertaken by:

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

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

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

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

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

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

13 (iv) Review of health care services with respect to medical  
14 necessity, coverage under a health plan, appropriateness of care, or  
15 justification of charges;

16 (v) Utilization review activities, including precertification and  
17 preauthorization of services, and concurrent and retrospective review  
18 of services; and

19 (vi) Disclosure to consumer reporting agencies of any of the  
20 following health care information relating to collection of premiums  
21 or reimbursement:

22 (A) Name and address;

23 (B) Date of birth;

24 (C) Social security number;

25 (D) Payment history;

26 (E) Account number; and

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

29 ~~((+33+))~~ (34) "Person" means an individual, corporation, business  
30 trust, estate, trust, partnership, association, joint venture,  
31 government, governmental subdivision or agency, or any other legal or  
32 commercial entity.

33 ~~((+34+))~~ (35) "Professional person" has the same meaning as in  
34 RCW 71.05.020.

35 ~~((+35+))~~ (36) "Psychiatric advanced registered nurse  
36 practitioner" has the same meaning as in RCW 71.05.020.

37 ~~((+36+))~~ (37) "Psychotherapy notes" means notes recorded, in any  
38 medium, by a mental health professional documenting or analyzing the  
39 contents of conversations during a private counseling session or  
40 group, joint, or family counseling session, and that are separated



1 from the rest of the individual's medical record. The term excludes  
2 medication prescription and monitoring, counseling session start and  
3 stop times, the modalities and frequencies of treatment furnished,  
4 results of clinical tests, and any summary of the following items:  
5 Diagnosis, functional status, the treatment plan, symptoms,  
6 prognosis, and progress to date.

7 ~~((37))~~ (38) "Reasonable fee" means the charges for duplicating  
8 or searching the record, but shall not exceed sixty-five cents per  
9 page for the first thirty pages and fifty cents per page for all  
10 other pages. In addition, a clerical fee for searching and handling  
11 may be charged not to exceed fifteen dollars. These amounts shall be  
12 adjusted biennially in accordance with changes in the consumer price  
13 index, all consumers, for Seattle-Tacoma metropolitan statistical  
14 area as determined by the secretary of health. However, where editing  
15 of records by a health care provider is required by statute and is  
16 done by the provider personally, the fee may be the usual and  
17 customary charge for a basic office visit.

18 ~~((38))~~ (39) "Release" has the same meaning as in RCW 71.05.020.

19 ~~((39))~~ (40) "Resource management services" has the same meaning  
20 as in RCW 71.05.020.

21 ~~((40))~~ (41) "Serious violent offense" has the same meaning as  
22 in RCW 71.05.020.

23 ~~((41))~~ (42) "Sexually transmitted infection" or "sexually  
24 transmitted disease" has the same meaning as "sexually transmitted  
25 disease" in RCW 70.24.017.

26 ~~((42))~~ (43) "Test for a sexually transmitted disease" has the  
27 same meaning as in RCW 70.24.017.

28 ~~((43))~~ (44) "Third-party payor" means an insurer regulated  
29 under Title 48 RCW authorized to transact business in this state or  
30 other jurisdiction, including a health care service contractor, and  
31 health maintenance organization; or an employee welfare benefit plan,  
32 excluding fitness or wellness plans; or a state or federal health  
33 benefit program.

34 ~~((44))~~ (45) "Treatment" means the provision, coordination, or  
35 management of health care and related services by one or more health  
36 care providers or health care facilities, including the coordination  
37 or management of health care by a health care provider or health care  
38 facility with a third party; consultation between health care  
39 providers or health care facilities relating to a patient; or the

1 referral of a patient for health care from one health care provider  
2 or health care facility to another.

3 **Sec. 8002.** RCW 70.02.010 and 2016 sp.s. c 29 s 416 are each  
4 amended to read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

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

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

11 (a) Statutory, regulatory, fiscal, medical, or scientific  
12 standards;

13 (b) A private or public program of payments to a health care  
14 provider; or

15 (c) Requirements for licensing, accreditation, or certification.

16 (3) "Authority" means the Washington state health care authority.

17 (4) "Commitment" has the same meaning as in RCW 71.05.020.

18 ~~((4))~~ (5) "Custody" has the same meaning as in RCW 71.05.020.

19 ~~((5))~~ (6) "Deidentified" means health information that does not  
20 identify an individual and with respect to which there is no  
21 reasonable basis to believe that the information can be used to  
22 identify an individual.

23 ~~((6))~~ (7) "Department" means the department of social and  
24 health services.

25 ~~((7))~~ (8) "Designated crisis responder" has the same meaning as  
26 in RCW 71.05.020 or 71.34.020, as applicable.

27 ~~((8))~~ (9) "Detention" or "detain" has the same meaning as in  
28 RCW 71.05.020.

29 ~~((9))~~ (10) "Directory information" means information disclosing  
30 the presence, and for the purpose of identification, the name,  
31 location within a health care facility, and the general health  
32 condition of a particular patient who is a patient in a health care  
33 facility or who is currently receiving emergency health care in a  
34 health care facility.

35 ~~((10))~~ (11) "Discharge" has the same meaning as in RCW  
36 71.05.020.

37 ~~((11))~~ (12) "Evaluation and treatment facility" has the same  
38 meaning as in RCW 71.05.020 or 71.34.020, as applicable.

1       (~~(12)~~)   (13) "Federal, state, or local law enforcement  
2 authorities" means an officer of any agency or authority in the  
3 United States, a state, a tribe, a territory, or a political  
4 subdivision of a state, a tribe, or a territory who is empowered by  
5 law to: (a) Investigate or conduct an official inquiry into a  
6 potential criminal violation of law; or (b) prosecute or otherwise  
7 conduct a criminal proceeding arising from an alleged violation of  
8 law.

9       (~~(13)~~)   (14) "General health condition" means the patient's  
10 health status described in terms of "critical," "poor," "fair,"  
11 "good," "excellent," or terms denoting similar conditions.

12       (~~(14)~~)   (15) "Health care" means any care, service, or procedure  
13 provided by a health care provider:

14       (a) To diagnose, treat, or maintain a patient's physical or  
15 mental condition; or

16       (b) That affects the structure or any function of the human body.

17       (~~(15)~~)   (16) "Health care facility" means a hospital, clinic,  
18 nursing home, laboratory, office, or similar place where a health  
19 care provider provides health care to patients.

20       (~~(16)~~)   (17) "Health care information" means any information,  
21 whether oral or recorded in any form or medium, that identifies or  
22 can readily be associated with the identity of a patient and directly  
23 relates to the patient's health care, including a patient's  
24 deoxyribonucleic acid and identified sequence of chemical base pairs.  
25 The term includes any required accounting of disclosures of health  
26 care information.

27       (~~(17)~~)   (18) "Health care operations" means any of the following  
28 activities of a health care provider, health care facility, or third-  
29 party payor to the extent that the activities are related to  
30 functions that make an entity a health care provider, a health care  
31 facility, or a third-party payor:

32       (a) Conducting: Quality assessment and improvement activities,  
33 including outcomes evaluation and development of clinical guidelines,  
34 if the obtaining of generalizable knowledge is not the primary  
35 purpose of any studies resulting from such activities; population-  
36 based activities relating to improving health or reducing health care  
37 costs, protocol development, case management and care coordination,  
38 contacting of health care providers and patients with information  
39 about treatment alternatives; and related functions that do not  
40 include treatment;

1 (b) Reviewing the competence or qualifications of health care  
2 professionals, evaluating practitioner and provider performance and  
3 third-party payor performance, conducting training programs in which  
4 students, trainees, or practitioners in areas of health care learn  
5 under supervision to practice or improve their skills as health care  
6 providers, training of nonhealth care professionals, accreditation,  
7 certification, licensing, or credentialing activities;

8 (c) Underwriting, premium rating, and other activities relating  
9 to the creation, renewal, or replacement of a contract of health  
10 insurance or health benefits, and ceding, securing, or placing a  
11 contract for reinsurance of risk relating to claims for health care,  
12 including stop-loss insurance and excess of loss insurance, if any  
13 applicable legal requirements are met;

14 (d) Conducting or arranging for medical review, legal services,  
15 and auditing functions, including fraud and abuse detection and  
16 compliance programs;

17 (e) Business planning and development, such as conducting cost-  
18 management and planning-related analyses related to managing and  
19 operating the health care facility or third-party payor, including  
20 formulary development and administration, development, or improvement  
21 of methods of payment or coverage policies; and

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

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

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

31 (iii) Resolution of internal grievances;

32 (iv) The sale, transfer, merger, or consolidation of all or part  
33 of a health care provider, health care facility, or third-party payor  
34 with another health care provider, health care facility, or third-  
35 party payor or an entity that following such activity will become a  
36 health care provider, health care facility, or third-party payor, and  
37 due diligence related to such activity; and

38 (v) Consistent with applicable legal requirements, creating  
39 deidentified health care information or a limited dataset for the

1 benefit of the health care provider, health care facility, or third-  
2 party payor.

3 ~~((+18+))~~ (19) "Health care provider" means a person who is  
4 licensed, certified, registered, or otherwise authorized by the law  
5 of this state to provide health care in the ordinary course of  
6 business or practice of a profession.

7 ~~((+19+))~~ (20) "Human immunodeficiency virus" or "HIV" has the  
8 same meaning as in RCW 70.24.017.

9 ~~((+20+))~~ (21) "Imminent" has the same meaning as in RCW  
10 71.05.020.

11 ~~((+21+))~~ (22) "Information and records related to mental health  
12 services" means a type of health care information that relates to all  
13 information and records compiled, obtained, or maintained in the  
14 course of providing services by a mental health service agency or  
15 mental health professional to persons who are receiving or have  
16 received services for mental illness. The term includes mental health  
17 information contained in a medical bill, registration records, as  
18 defined in RCW 71.05.020, and all other records regarding the person  
19 maintained by the department, by the authority, by ~~((regional support  
20 networks))~~ behavioral health organizations and their staff, and by  
21 treatment facilities. The term further includes documents of legal  
22 proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic  
23 health care information. For health care information maintained by a  
24 hospital as defined in RCW 70.41.020 or a health care facility or  
25 health care provider that participates with a hospital in an  
26 organized health care arrangement defined under federal law,  
27 "information and records related to mental health services" is  
28 limited to information and records of services provided by a mental  
29 health professional or information and records of services created by  
30 a hospital-operated behavioral health program as defined in RCW  
31 71.24.025. The term does not include psychotherapy notes.

32 ~~((+22+))~~ (23) "Information and records related to sexually  
33 transmitted diseases" means a type of health care information that  
34 relates to the identity of any person upon whom an HIV antibody test  
35 or other sexually transmitted infection test is performed, the  
36 results of such tests, and any information relating to diagnosis of  
37 or treatment for any confirmed sexually transmitted infections.

38 ~~((+23+))~~ (24) "Institutional review board" means any board,  
39 committee, or other group formally designated by an institution, or  
40 authorized under federal or state law, to review, approve the

1 initiation of, or conduct periodic review of research programs to  
2 assure the protection of the rights and welfare of human research  
3 subjects.

4 ~~((+24))~~ (25) "Legal counsel" has the same meaning as in RCW  
5 71.05.020.

6 ~~((+25))~~ (26) "Local public health officer" has the same meaning  
7 as in RCW 70.24.017.

8 ~~((+26))~~ (27) "Maintain," as related to health care information,  
9 means to hold, possess, preserve, retain, store, or control that  
10 information.

11 ~~((+27))~~ (28) "Mental health professional" means a psychiatrist,  
12 psychologist, psychiatric advanced registered nurse practitioner,  
13 psychiatric nurse, or social worker, and such other mental health  
14 professionals as may be defined by rules adopted by the secretary of  
15 ~~((social and health services))~~ health under chapter 71.05 RCW,  
16 whether that person works in a private or public setting.

17 ~~((+28))~~ (29) "Mental health service agency" means a public or  
18 private agency that provides services to persons with mental  
19 disorders as defined under RCW 71.05.020 or 71.34.020 and receives  
20 funding from public sources. This includes evaluation and treatment  
21 facilities as defined in RCW 71.34.020, community mental health  
22 service delivery systems, or behavioral health programs, as defined  
23 in RCW 71.24.025, and facilities conducting competency evaluations  
24 and restoration under chapter 10.77 RCW.

25 ~~((+29))~~ (30) "Minor" has the same meaning as in RCW 71.34.020.

26 ~~((+30))~~ (31) "Parent" has the same meaning as in RCW 71.34.020.

27 ~~((+31))~~ (32) "Patient" means an individual who receives or has  
28 received health care. The term includes a deceased individual who has  
29 received health care.

30 ~~((+32))~~ (33) "Payment" means:

31 (a) The activities undertaken by:

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

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

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

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

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

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

10 (iv) Review of health care services with respect to medical  
11 necessity, coverage under a health plan, appropriateness of care, or  
12 justification of charges;

13 (v) Utilization review activities, including precertification and  
14 preauthorization of services, and concurrent and retrospective review  
15 of services; and

16 (vi) Disclosure to consumer reporting agencies of any of the  
17 following health care information relating to collection of premiums  
18 or reimbursement:

19 (A) Name and address;

20 (B) Date of birth;

21 (C) Social security number;

22 (D) Payment history;

23 (E) Account number; and

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

26 (~~(33)~~) (34) "Person" means an individual, corporation, business  
27 trust, estate, trust, partnership, association, joint venture,  
28 government, governmental subdivision or agency, or any other legal or  
29 commercial entity.

30 (~~(34)~~) (35) "Professional person" has the same meaning as in  
31 RCW 71.05.020.

32 (~~(35)~~) (36) "Psychiatric advanced registered nurse  
33 practitioner" has the same meaning as in RCW 71.05.020.

34 (~~(36)~~) (37) "Psychotherapy notes" means notes recorded, in any  
35 medium, by a mental health professional documenting or analyzing the  
36 contents of conversations during a private counseling session or  
37 group, joint, or family counseling session, and that are separated  
38 from the rest of the individual's medical record. The term excludes  
39 mediation prescription and monitoring, counseling session start and  
40 stop times, the modalities and frequencies of treatment furnished,

1 results of clinical tests, and any summary of the following items:  
2 Diagnosis, functional status, the treatment plan, symptoms,  
3 prognosis, and progress to date.

4 ~~((37))~~ (38) "Reasonable fee" means the charges for duplicating  
5 or searching the record, but shall not exceed sixty-five cents per  
6 page for the first thirty pages and fifty cents per page for all  
7 other pages. In addition, a clerical fee for searching and handling  
8 may be charged not to exceed fifteen dollars. These amounts shall be  
9 adjusted biennially in accordance with changes in the consumer price  
10 index, all consumers, for Seattle-Tacoma metropolitan statistical  
11 area as determined by the secretary of health. However, where editing  
12 of records by a health care provider is required by statute and is  
13 done by the provider personally, the fee may be the usual and  
14 customary charge for a basic office visit.

15 ~~((38))~~ (39) "Release" has the same meaning as in RCW 71.05.020.

16 ~~((39))~~ (40) "Resource management services" has the same meaning  
17 as in RCW 71.05.020.

18 ~~((40))~~ (41) "Serious violent offense" has the same meaning as  
19 in RCW 71.05.020.

20 ~~((41))~~ (42) "Sexually transmitted infection" or "sexually  
21 transmitted disease" has the same meaning as "sexually transmitted  
22 disease" in RCW 70.24.017.

23 ~~((42))~~ (43) "Test for a sexually transmitted disease" has the  
24 same meaning as in RCW 70.24.017.

25 ~~((43))~~ (44) "Third-party payor" means an insurer regulated  
26 under Title 48 RCW authorized to transact business in this state or  
27 other jurisdiction, including a health care service contractor, and  
28 health maintenance organization; or an employee welfare benefit plan,  
29 excluding fitness or wellness plans; or a state or federal health  
30 benefit program.

31 ~~((44))~~ (45) "Treatment" means the provision, coordination, or  
32 management of health care and related services by one or more health  
33 care providers or health care facilities, including the coordination  
34 or management of health care by a health care provider or health care  
35 facility with a third party; consultation between health care  
36 providers or health care facilities relating to a patient; or the  
37 referral of a patient for health care from one health care provider  
38 or health care facility to another.



1       **Sec. 8003.** RCW 70.02.230 and 2017 c 325 s 1 and 2017 c 298 s 5  
2 are each reenacted and amended to read as follows:

3       (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
4 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or  
5 pursuant to a valid authorization under RCW 70.02.030, the fact of  
6 admission to a provider for mental health services and all  
7 information and records compiled, obtained, or maintained in the  
8 course of providing mental health services to either voluntary or  
9 involuntary recipients of services at public or private agencies must  
10 be confidential.

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

14       (a) In communications between qualified professional persons to  
15 meet the requirements of chapter 71.05 RCW, in the provision of  
16 services or appropriate referrals, or in the course of guardianship  
17 proceedings if provided to a professional person:

18       (i) Employed by the facility;

19       (ii) Who has medical responsibility for the patient's care;

20       (iii) Who is a designated mental health professional;

21       (iv) Who is providing services under chapter 71.24 RCW;

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

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

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

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

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

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

39       (B) A statement evaluating the mental and physical condition of  
40 the patient, and a statement of the probable duration of the

1 patient's confinement, if such information is requested by the next  
2 of kin, attorney, personal representative, guardian, or conservator;  
3 and

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

7 (d)(i) To the courts as necessary to the administration of  
8 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
9 under chapter 10.77 RCW solely for the purpose of preventing the  
10 entry of any evaluation or treatment order that is inconsistent with  
11 any order entered under chapter 71.05 RCW.

12 (ii) To a court or its designee in which a motion under chapter  
13 10.77 RCW has been made for involuntary medication of a defendant for  
14 the purpose of competency restoration.

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

18 (e)(i) When a mental health professional is requested by a  
19 representative of a law enforcement or corrections agency, including  
20 a police officer, sheriff, community corrections officer, a municipal  
21 attorney, or prosecuting attorney to undertake an investigation or  
22 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the  
23 mental health professional shall, if requested to do so, advise the  
24 representative in writing of the results of the investigation  
25 including a statement of reasons for the decision to detain or  
26 release the person investigated. The written report must be submitted  
27 within seventy-two hours of the completion of the investigation or  
28 the request from the law enforcement or corrections representative,  
29 whichever occurs later.

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

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

34 (g) To the prosecuting attorney as necessary to carry out the  
35 responsibilities of the office under RCW 71.05.330(2),  
36 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
37 access to records regarding the committed person's treatment and  
38 prognosis, medication, behavior problems, and other records relevant  
39 to the issue of whether treatment less restrictive than inpatient  
40 treatment is in the best interest of the committed person or others.

1 Information must be disclosed only after giving notice to the  
2 committed person and the person's counsel;

3 (h)(i) To appropriate law enforcement agencies and to a person,  
4 when the identity of the person is known to the public or private  
5 agency, whose health and safety has been threatened, or who is known  
6 to have been repeatedly harassed, by the patient. The person may  
7 designate a representative to receive the disclosure. The disclosure  
8 must be made by the professional person in charge of the public or  
9 private agency or his or her designee and must include the dates of  
10 commitment, admission, discharge, or release, authorized or  
11 unauthorized absence from the agency's facility, and only any other  
12 information that is pertinent to the threat or harassment. The agency  
13 or its employees are not civilly liable for the decision to disclose  
14 or not, so long as the decision was reached in good faith and without  
15 gross negligence.

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

19 (i)(i) To appropriate corrections and law enforcement agencies  
20 all necessary and relevant information in the event of a crisis or  
21 emergent situation that poses a significant and imminent risk to the  
22 public. The mental health service agency or its employees are not  
23 civilly liable for the decision to disclose or not so long as the  
24 decision was reached in good faith and without gross negligence.

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

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

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

37 (l) To mark headstones or otherwise memorialize patients interred  
38 at state hospital cemeteries. The department of social and health  
39 services shall make available the name, date of birth, and date of

1 death of patients buried in state hospital cemeteries fifty years  
2 after the death of a patient;

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

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

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

16 (iii) Disclosure under this subsection is mandatory for the  
17 purposes of the federal health insurance portability and  
18 accountability act;

19 (n) When a patient would otherwise be subject to the provisions  
20 of this section and disclosure is necessary for the protection of the  
21 patient or others due to his or her unauthorized disappearance from  
22 the facility, and his or her whereabouts is unknown, notice of the  
23 disappearance, along with relevant information, may be made to  
24 relatives, the department of corrections when the person is under the  
25 supervision of the department, and governmental law enforcement  
26 agencies designated by the physician or psychiatric advanced  
27 registered nurse practitioner in charge of the patient or the  
28 professional person in charge of the facility, or his or her  
29 professional designee;

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

31 (p) To qualified staff members of the department, the authority,  
32 to the director of behavioral health organizations, to resource  
33 management services responsible for serving a patient, or to service  
34 providers designated by resource management services as necessary to  
35 determine the progress and adequacy of treatment and to determine  
36 whether the person should be transferred to a less restrictive or  
37 more appropriate treatment modality or facility;

38 (q) Within the mental health service agency where the patient is  
39 receiving treatment, confidential information may be disclosed to  
40 persons employed, serving in bona fide training programs, or

1 participating in supervised volunteer programs, at the facility when  
2 it is necessary to perform their duties;

3 (r) Within the department and the authority as necessary to  
4 coordinate treatment for mental illness, developmental disabilities,  
5 alcoholism, or (~~drug abuse~~) substance use disorder of persons who  
6 are under the supervision of the department;

7 (s) To a licensed physician or psychiatric advanced registered  
8 nurse practitioner who has determined that the life or health of the  
9 person is in danger and that treatment without the information and  
10 records related to mental health services could be injurious to the  
11 patient's health. Disclosure must be limited to the portions of the  
12 records necessary to meet the medical emergency;

13 (t)(i) Consistent with the requirements of the federal health  
14 insurance portability and accountability act, to:

15 (A) A health care provider who is providing care to a patient, or  
16 to whom a patient has been referred for evaluation or treatment; or

17 (B) Any other person who is working in a care coordinator role  
18 for a health care facility or health care provider or is under an  
19 agreement pursuant to the federal health insurance portability and  
20 accountability act with a health care facility or a health care  
21 provider and requires the information and records to assure  
22 coordinated care and treatment of that patient.

23 (ii) A person authorized to use or disclose information and  
24 records related to mental health services under this subsection  
25 (2)(t) must take appropriate steps to protect the information and  
26 records relating to mental health services.

27 (iii) Psychotherapy notes may not be released without  
28 authorization of the patient who is the subject of the request for  
29 release of information;

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

33 (v) To a facility that is to receive a person who is  
34 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
35 the person from one evaluation and treatment facility to another. The  
36 release of records under this subsection is limited to the  
37 information and records related to mental health services required by  
38 law, a record or summary of all somatic treatments, and a discharge  
39 summary. The discharge summary may include a statement of the  
40 patient's problem, the treatment goals, the type of treatment which

1 has been provided, and recommendation for future treatment, but may  
2 not include the patient's complete treatment record;

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

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

26 (y) To all current treating providers of the patient with  
27 prescriptive authority who have written a prescription for the  
28 patient within the last twelve months. For purposes of coordinating  
29 health care, the department or the authority may release without  
30 written authorization of the patient, information acquired for  
31 billing and collection purposes as described in RCW 70.02.050(1)(d).  
32 The department, or the authority, if applicable, shall notify the  
33 patient that billing and collection information has been released to  
34 named providers, and provide the substance of the information  
35 released and the dates of such release. Neither the department nor  
36 the authority may (~~not~~) release counseling, inpatient psychiatric  
37 hospitalization, or drug and alcohol treatment information without a  
38 signed written release from the client;

39 (z)(i) To the secretary of social and health services and the  
40 director of the health care authority for either program evaluation

1 or research, or both so long as the secretary or director, where  
2 applicable, adopts rules for the conduct of the evaluation or  
3 research, or both. Such rules must include, but need not be limited  
4 to, the requirement that all evaluators and researchers sign an oath  
5 of confidentiality substantially as follows:

6 "As a condition of conducting evaluation or research concerning  
7 persons who have received services from (fill in the facility,  
8 agency, or person) I, . . . . ., agree not to divulge, publish, or  
9 otherwise make known to unauthorized persons or the public any  
10 information obtained in the course of such evaluation or research  
11 regarding persons who have received services such that the person who  
12 received such services is identifiable.

13 I recognize that unauthorized release of confidential information  
14 may subject me to civil liability under the provisions of state law.  
15 /s/ . . . . ."

16 (ii) Nothing in this chapter may be construed to prohibit the  
17 compilation and publication of statistical data for use by government  
18 or researchers under standards, including standards to assure  
19 maintenance of confidentiality, set forth by the secretary, or  
20 director, where applicable;

21 (aa) To any person if the conditions in RCW 70.02.--- (section 1,  
22 chapter 298, Laws of 2017) are met.

23 (3) Whenever federal law or federal regulations restrict the  
24 release of information contained in the information and records  
25 related to mental health services of any patient who receives  
26 treatment for chemical dependency, the department or the authority  
27 may restrict the release of the information as necessary to comply  
28 with federal law and regulations.

29 (4) Civil liability and immunity for the release of information  
30 about a particular person who is committed to the department of  
31 social and health services or the authority under RCW 71.05.280(3)  
32 and 71.05.320(4)(c) after dismissal of a sex offense as defined in  
33 RCW 9.94A.030, is governed by RCW 4.24.550.

34 (5) The fact of admission to a provider of mental health  
35 services, as well as all records, files, evidence, findings, or  
36 orders made, prepared, collected, or maintained pursuant to chapter  
37 71.05 RCW are not admissible as evidence in any legal proceeding  
38 outside that chapter without the written authorization of the person  
39 who was the subject of the proceeding except as provided in RCW

1 70.02.260, in a subsequent criminal prosecution of a person committed  
2 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
3 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
4 trial, in a civil commitment proceeding pursuant to chapter 71.09  
5 RCW, or, in the case of a minor, a guardianship or dependency  
6 proceeding. The records and files maintained in any court proceeding  
7 pursuant to chapter 71.05 RCW must be confidential and available  
8 subsequent to such proceedings only to the person who was the subject  
9 of the proceeding or his or her attorney. In addition, the court may  
10 order the subsequent release or use of such records or files only  
11 upon good cause shown if the court finds that appropriate safeguards  
12 for strict confidentiality are and will be maintained.

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

18 (i) One thousand dollars; or

19 (ii) Three times the amount of actual damages sustained, if any.

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

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

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

30 (e) If an action is brought under this subsection, no action may  
31 be brought under RCW 70.02.170.

32 **Sec. 8004.** RCW 70.02.230 and 2017 c 325 s 2 and 2017 c 298 s 6  
33 are each reenacted and amended to read as follows:

34 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
35 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or  
36 pursuant to a valid authorization under RCW 70.02.030, the fact of  
37 admission to a provider for mental health services and all  
38 information and records compiled, obtained, or maintained in the  
39 course of providing mental health services to either voluntary or



1 involuntary recipients of services at public or private agencies must  
2 be confidential.

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

6 (a) In communications between qualified professional persons to  
7 meet the requirements of chapter 71.05 RCW, in the provision of  
8 services or appropriate referrals, or in the course of guardianship  
9 proceedings if provided to a professional person:

- 10 (i) Employed by the facility;  
11 (ii) Who has medical responsibility for the patient's care;  
12 (iii) Who is a designated crisis responder;  
13 (iv) Who is providing services under chapter 71.24 RCW;  
14 (v) Who is employed by a state or local correctional facility  
15 where the person is confined or supervised; or  
16 (vi) Who is providing evaluation, treatment, or follow-up  
17 services under chapter 10.77 RCW;

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

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

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

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

31 (B) A statement evaluating the mental and physical condition of  
32 the patient, and a statement of the probable duration of the  
33 patient's confinement, if such information is requested by the next  
34 of kin, attorney, personal representative, guardian, or conservator;  
35 and

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

39 (d)(i) To the courts as necessary to the administration of  
40 chapter 71.05 RCW or to a court ordering an evaluation or treatment

1 under chapter 10.77 RCW solely for the purpose of preventing the  
2 entry of any evaluation or treatment order that is inconsistent with  
3 any order entered under chapter 71.05 RCW.

4 (ii) To a court or its designee in which a motion under chapter  
5 10.77 RCW has been made for involuntary medication of a defendant for  
6 the purpose of competency restoration.

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

10 (e)(i) When a mental health professional or designated crisis  
11 responder is requested by a representative of a law enforcement or  
12 corrections agency, including a police officer, sheriff, community  
13 corrections officer, a municipal attorney, or prosecuting attorney to  
14 undertake an investigation or provide treatment under RCW 71.05.150,  
15 10.31.110, or 71.05.153, the mental health professional or designated  
16 crisis responder shall, if requested to do so, advise the  
17 representative in writing of the results of the investigation  
18 including a statement of reasons for the decision to detain or  
19 release the person investigated. The written report must be submitted  
20 within seventy-two hours of the completion of the investigation or  
21 the request from the law enforcement or corrections representative,  
22 whichever occurs later.

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

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

27 (g) To the prosecuting attorney as necessary to carry out the  
28 responsibilities of the office under RCW 71.05.330(2),  
29 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
30 access to records regarding the committed person's treatment and  
31 prognosis, medication, behavior problems, and other records relevant  
32 to the issue of whether treatment less restrictive than inpatient  
33 treatment is in the best interest of the committed person or others.  
34 Information must be disclosed only after giving notice to the  
35 committed person and the person's counsel;

36 (h)(i) To appropriate law enforcement agencies and to a person,  
37 when the identity of the person is known to the public or private  
38 agency, whose health and safety has been threatened, or who is known  
39 to have been repeatedly harassed, by the patient. The person may  
40 designate a representative to receive the disclosure. The disclosure

1 must be made by the professional person in charge of the public or  
2 private agency or his or her designee and must include the dates of  
3 commitment, admission, discharge, or release, authorized or  
4 unauthorized absence from the agency's facility, and only any other  
5 information that is pertinent to the threat or harassment. The agency  
6 or its employees are not civilly liable for the decision to disclose  
7 or not, so long as the decision was reached in good faith and without  
8 gross negligence.

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

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

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

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

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

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

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

38 (i) Only the fact, place, and date of involuntary commitment, an  
39 official copy of any order or orders of commitment, and an official  
40 copy of any written or oral notice of ineligibility to possess a

1 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
2 must be disclosed upon request;

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

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

11 (n) When a patient would otherwise be subject to the provisions  
12 of this section and disclosure is necessary for the protection of the  
13 patient or others due to his or her unauthorized disappearance from  
14 the facility, and his or her whereabouts is unknown, notice of the  
15 disappearance, along with relevant information, may be made to  
16 relatives, the department of corrections when the person is under the  
17 supervision of the department, and governmental law enforcement  
18 agencies designated by the physician or psychiatric advanced  
19 registered nurse practitioner in charge of the patient or the  
20 professional person in charge of the facility, or his or her  
21 professional designee;

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

23 (p) To qualified staff members of the department, the authority,  
24 to the director of behavioral health organizations, to resource  
25 management services responsible for serving a patient, or to service  
26 providers designated by resource management services as necessary to  
27 determine the progress and adequacy of treatment and to determine  
28 whether the person should be transferred to a less restrictive or  
29 more appropriate treatment modality or facility;

30 (q) Within the mental health service agency where the patient is  
31 receiving treatment, confidential information may be disclosed to  
32 persons employed, serving in bona fide training programs, or  
33 participating in supervised volunteer programs, at the facility when  
34 it is necessary to perform their duties;

35 (r) Within the department and the authority as necessary to  
36 coordinate treatment for mental illness, developmental disabilities,  
37 alcoholism, or (~~drug abuse~~) substance use disorder of persons who  
38 are under the supervision of the department;

39 (s) To a licensed physician or psychiatric advanced registered  
40 nurse practitioner who has determined that the life or health of the

1 person is in danger and that treatment without the information and  
2 records related to mental health services could be injurious to the  
3 patient's health. Disclosure must be limited to the portions of the  
4 records necessary to meet the medical emergency;

5 (t)(i) Consistent with the requirements of the federal health  
6 insurance portability and accountability act, to:

7 (A) A health care provider who is providing care to a patient, or  
8 to whom a patient has been referred for evaluation or treatment; or

9 (B) Any other person who is working in a care coordinator role  
10 for a health care facility or health care provider or is under an  
11 agreement pursuant to the federal health insurance portability and  
12 accountability act with a health care facility or a health care  
13 provider and requires the information and records to assure  
14 coordinated care and treatment of that patient.

15 (ii) A person authorized to use or disclose information and  
16 records related to mental health services under this subsection  
17 (2)(t) must take appropriate steps to protect the information and  
18 records relating to mental health services.

19 (iii) Psychotherapy notes may not be released without  
20 authorization of the patient who is the subject of the request for  
21 release of information;

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

25 (v) To a facility that is to receive a person who is  
26 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
27 the person from one evaluation and treatment facility to another. The  
28 release of records under this subsection is limited to the  
29 information and records related to mental health services required by  
30 law, a record or summary of all somatic treatments, and a discharge  
31 summary. The discharge summary may include a statement of the  
32 patient's problem, the treatment goals, the type of treatment which  
33 has been provided, and recommendation for future treatment, but may  
34 not include the patient's complete treatment record;

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

1 (x) To staff members of the protection and advocacy agency or to  
2 staff members of a private, nonprofit corporation for the purpose of  
3 protecting and advocating the rights of persons with mental disorders  
4 or developmental disabilities. Resource management services may limit  
5 the release of information to the name, birthdate, and county of  
6 residence of the patient, information regarding whether the patient  
7 was voluntarily admitted, or involuntarily committed, the date and  
8 place of admission, placement, or commitment, the name and address of  
9 a guardian of the patient, and the date and place of the guardian's  
10 appointment. Any staff member who wishes to obtain additional  
11 information must notify the patient's resource management services in  
12 writing of the request and of the resource management services' right  
13 to object. The staff member shall send the notice by mail to the  
14 guardian's address. If the guardian does not object in writing within  
15 fifteen days after the notice is mailed, the staff member may obtain  
16 the additional information. If the guardian objects in writing within  
17 fifteen days after the notice is mailed, the staff member may not  
18 obtain the additional information;

19 (y) To all current treating providers of the patient with  
20 prescriptive authority who have written a prescription for the  
21 patient within the last twelve months. For purposes of coordinating  
22 health care, the department or the authority may release without  
23 written authorization of the patient, information acquired for  
24 billing and collection purposes as described in RCW 70.02.050(1)(d).  
25 The department, or the authority, if applicable, shall notify the  
26 patient that billing and collection information has been released to  
27 named providers, and provide the substance of the information  
28 released and the dates of such release. Neither the department nor  
29 the authority may (~~not~~) release counseling, inpatient psychiatric  
30 hospitalization, or drug and alcohol treatment information without a  
31 signed written release from the client;

32 (z)(i) To the secretary of social and health services and the  
33 director of the health care authority for either program evaluation  
34 or research, or both so long as the secretary or director, where  
35 applicable, adopts rules for the conduct of the evaluation or  
36 research, or both. Such rules must include, but need not be limited  
37 to, the requirement that all evaluators and researchers sign an oath  
38 of confidentiality substantially as follows:

1 "As a condition of conducting evaluation or research concerning  
2 persons who have received services from (fill in the facility,  
3 agency, or person) I, . . . . ., agree not to divulge, publish, or  
4 otherwise make known to unauthorized persons or the public any  
5 information obtained in the course of such evaluation or research  
6 regarding persons who have received services such that the person who  
7 received such services is identifiable.

8 I recognize that unauthorized release of confidential information  
9 may subject me to civil liability under the provisions of state law.  
10 /s/ . . . . ."

11 (ii) Nothing in this chapter may be construed to prohibit the  
12 compilation and publication of statistical data for use by government  
13 or researchers under standards, including standards to assure  
14 maintenance of confidentiality, set forth by the secretary, or  
15 director, where applicable;

16 (aa) To any person if the conditions in RCW 70.02.--- (section 1,  
17 chapter 298, Laws of 2017) are met.

18 (3) Whenever federal law or federal regulations restrict the  
19 release of information contained in the information and records  
20 related to mental health services of any patient who receives  
21 treatment for chemical dependency, the department or the authority  
22 may restrict the release of the information as necessary to comply  
23 with federal law and regulations.

24 (4) Civil liability and immunity for the release of information  
25 about a particular person who is committed to the department of  
26 social and health services or the authority under RCW 71.05.280(3)  
27 and 71.05.320(4)(c) after dismissal of a sex offense as defined in  
28 RCW 9.94A.030, is governed by RCW 4.24.550.

29 (5) The fact of admission to a provider of mental health  
30 services, as well as all records, files, evidence, findings, or  
31 orders made, prepared, collected, or maintained pursuant to chapter  
32 71.05 RCW are not admissible as evidence in any legal proceeding  
33 outside that chapter without the written authorization of the person  
34 who was the subject of the proceeding except as provided in RCW  
35 70.02.260, in a subsequent criminal prosecution of a person committed  
36 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
37 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
38 trial, in a civil commitment proceeding pursuant to chapter 71.09  
39 RCW, or, in the case of a minor, a guardianship or dependency

1 proceeding. The records and files maintained in any court proceeding  
2 pursuant to chapter 71.05 RCW must be confidential and available  
3 subsequent to such proceedings only to the person who was the subject  
4 of the proceeding or his or her attorney. In addition, the court may  
5 order the subsequent release or use of such records or files only  
6 upon good cause shown if the court finds that appropriate safeguards  
7 for strict confidentiality are and will be maintained.

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

13 (i) One thousand dollars; or

14 (ii) Three times the amount of actual damages sustained, if any.

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

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

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

25 (e) If an action is brought under this subsection, no action may  
26 be brought under RCW 70.02.170.

27 **Sec. 8005.** RCW 70.02.240 and 2013 c 200 s 8 are each amended to  
28 read as follows:

29 The fact of admission and all information and records related to  
30 mental health services obtained through treatment under chapter 71.34  
31 RCW is confidential, except as authorized in RCW 70.02.050,  
32 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential  
33 information may be disclosed only:

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

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

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



1 (4) To the courts as necessary to administer chapter 71.34 RCW;  
2 (5) To law enforcement officers or public health officers as  
3 necessary to carry out the responsibilities of their office. However,  
4 only the fact and date of admission, and the date of discharge, the  
5 name and address of the treatment provider, if any, and the last  
6 known address must be disclosed upon request;  
7 (6) To law enforcement officers, public health officers,  
8 relatives, and other governmental law enforcement agencies, if a  
9 minor has escaped from custody, disappeared from an evaluation and  
10 treatment facility, violated conditions of a less restrictive  
11 treatment order, or failed to return from an authorized leave, and  
12 then only such information as may be necessary to provide for public  
13 safety or to assist in the apprehension of the minor. The officers  
14 are obligated to keep the information confidential in accordance with  
15 this chapter;  
16 (7) To the secretary of social and health services and the  
17 director of the health care authority for assistance in data  
18 collection and program evaluation or research so long as the  
19 secretary or director, where applicable, adopts rules for the conduct  
20 of such evaluation and research. The rules must include, but need not  
21 be limited to, the requirement that all evaluators and researchers  
22 sign an oath of confidentiality substantially as follows:  
23 "As a condition of conducting evaluation or research concerning  
24 persons who have received services from (fill in the facility,  
25 agency, or person) I, . . . . ., agree not to divulge, publish, or  
26 otherwise make known to unauthorized persons or the public any  
27 information obtained in the course of such evaluation or research  
28 regarding minors who have received services in a manner such that the  
29 minor is identifiable.  
30 I recognize that unauthorized release of confidential information  
31 may subject me to civil liability under state law.  
32 /s/ . . . . .";  
33 (8) To appropriate law enforcement agencies, upon request, all  
34 necessary and relevant information in the event of a crisis or  
35 emergent situation that poses a significant and imminent risk to the  
36 public. The mental health service agency or its employees are not  
37 civilly liable for the decision to disclose or not, so long as the  
38 decision was reached in good faith and without gross negligence;

1 (9) To appropriate law enforcement agencies and to a person, when  
2 the identity of the person is known to the public or private agency,  
3 whose health and safety has been threatened, or who is known to have  
4 been repeatedly harassed, by the patient. The person may designate a  
5 representative to receive the disclosure. The disclosure must be made  
6 by the professional person in charge of the public or private agency  
7 or his or her designee and must include the dates of admission,  
8 discharge, authorized or unauthorized absence from the agency's  
9 facility, and only any other information that is pertinent to the  
10 threat or harassment. The agency or its employees are not civilly  
11 liable for the decision to disclose or not, so long as the decision  
12 was reached in good faith and without gross negligence;

13 (10) To a minor's next of kin, attorney, guardian, or  
14 conservator, if any, the information that the minor is presently in  
15 the facility or that the minor is seriously physically ill and a  
16 statement evaluating the mental and physical condition of the minor  
17 as well as a statement of the probable duration of the minor's  
18 confinement;

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

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

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

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

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

37 (14) This section may not be construed to prohibit the  
38 compilation and publication of statistical data for use by government  
39 or researchers under standards, including standards to assure  
40 maintenance of confidentiality, set forth by the director of the

1 health care authority or the secretary of the department of social  
2 and health services, where applicable. The fact of admission and all  
3 information obtained pursuant to chapter 71.34 RCW are not admissible  
4 as evidence in any legal proceeding outside chapter 71.34 RCW, except  
5 guardianship or dependency, without the written consent of the minor  
6 or the minor's parent;

7 (15) For the purpose of a correctional facility participating in  
8 the postinstitutional medical assistance system supporting the  
9 expedited medical determinations and medical suspensions as provided  
10 in RCW 74.09.555 and 74.09.295;

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

12 **Sec. 8006.** RCW 70.02.250 and 2014 c 225 s 72 are each amended to  
13 read as follows:

14 (1) Information and records related to mental health services  
15 delivered to a person subject to chapter 9.94A or 9.95 RCW must be  
16 released, upon request, by a mental health service agency to  
17 department of corrections personnel for whom the information is  
18 necessary to carry out the responsibilities of their office. The  
19 information must be provided only for the purpose of completing  
20 presentence investigations, supervision of an incarcerated person,  
21 planning for and provision of supervision of a person, or assessment  
22 of a person's risk to the community. The request must be in writing  
23 and may not require the consent of the subject of the records.

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

29 (3) The (~~department~~) authority shall, subject to available  
30 resources, electronically, or by the most cost-effective means  
31 available, provide the department of corrections with the names, last  
32 dates of services, and addresses of specific behavioral health  
33 organizations and mental health service agencies that delivered  
34 mental health services to a person subject to chapter 9.94A or 9.95  
35 RCW pursuant to an agreement between the authority and the  
36 department(~~s~~) of corrections.

37 (4) The (~~department and the department of corrections~~)  
38 authority, in consultation with the department, the department of  
39 corrections, behavioral health organizations, mental health service

1 agencies as defined in RCW 70.02.010, mental health consumers, and  
2 advocates for persons with mental illness, shall adopt rules to  
3 implement the provisions of this section related to the type and  
4 scope of information to be released. These rules must:

5 (a) Enhance and facilitate the ability of the department of  
6 corrections to carry out its responsibility of planning and ensuring  
7 community protection with respect to persons subject to sentencing  
8 under chapter 9.94A or 9.95 RCW, including accessing and releasing or  
9 disclosing information of persons who received mental health services  
10 as a minor; and

11 (b) Establish requirements for the notification of persons under  
12 the supervision of the department of corrections regarding the  
13 provisions of this section.

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

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

22 (7) Whenever federal law or federal regulations restrict the  
23 release of information contained in the treatment records of any  
24 patient who receives treatment for alcoholism or drug dependency, the  
25 release of the information may be restricted as necessary to comply  
26 with federal law and regulations.

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

30 **Sec. 8007.** RCW 70.02.260 and 2013 c 200 s 10 are each amended to  
31 read as follows:

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

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

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

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

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

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

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

16 (2) The information subject to release under subsection (1) of  
17 this section must be released to law enforcement officers, personnel  
18 of a county or city jail, designated mental health professionals or  
19 designated crisis responders, as appropriate, public health officers,  
20 therapeutic court personnel as defined in RCW 71.05.020, or personnel  
21 of the department of corrections, including the indeterminate  
22 sentence review board and personnel assigned to perform board-related  
23 duties, when such information is requested during the course of  
24 business and for the purpose of carrying out the responsibilities of  
25 the requesting person's office. No mental health service agency or  
26 person employed by a mental health service agency, or its legal  
27 counsel, may be liable for information released to or used under the  
28 provisions of this section or rules adopted under this section except  
29 under RCW 71.05.680.

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

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

36 (i) Completing presentence investigations or risk assessment  
37 reports;

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

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

1 (iv) Planning for and provision of supervision of an offender,  
2 including decisions related to sanctions for violations of conditions  
3 of community supervision; and

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

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

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

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

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

19 (i) The information may be shared with other persons who have the  
20 right to request similar information under subsection (2) of this  
21 section, solely for the purpose of coordinating activities related to  
22 the individual who is the subject of the information in a manner  
23 consistent with the official responsibilities of the persons  
24 involved;

25 (ii) The information may be shared with a prosecuting attorney  
26 acting in an advisory capacity for a person who receives information  
27 under this section. A prosecuting attorney under this subsection is  
28 subject to the same restrictions and confidentiality limitations as  
29 the person who requested the information; and

30 (iii) As provided in RCW 72.09.585.

31 (4) A request for information and records related to mental  
32 health services under this section does not require the consent of  
33 the subject of the records. The request must be provided in writing,  
34 except to the extent authorized in subsection (5) of this section. A  
35 written request may include requests made by email or facsimile so  
36 long as the requesting person is clearly identified. The request must  
37 specify the information being requested.

38 (5) In the event of an emergency situation that poses a  
39 significant risk to the public or the offender, a mental health  
40 service agency, or its legal counsel, shall release information

1 related to mental health services delivered to the offender and, if  
2 known, information regarding where the offender is likely to be found  
3 to the department of corrections or law enforcement upon request. The  
4 initial request may be written or oral. All oral requests must be  
5 subsequently confirmed in writing. Information released in response  
6 to an oral request is limited to a statement as to whether the  
7 offender is or is not being treated by the mental health service  
8 agency and the address or information about the location or  
9 whereabouts of the offender.

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

13 (7) Whenever federal law or federal regulations restrict the  
14 release of information contained in the treatment records of any  
15 patient who receives treatment for alcoholism or drug dependency, the  
16 release of the information may be restricted as necessary to comply  
17 with federal law and regulations.

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

21 (9) In collaboration with interested organizations, the  
22 (~~department~~) authority shall develop a standard form for requests  
23 for information related to mental health services made under this  
24 section and a standard format for information provided in response to  
25 the requests. Consistent with the goals of the health information  
26 privacy provisions of the federal health insurance portability and  
27 accountability act, in developing the standard form for responsive  
28 information, the (~~department~~) authority shall design the form in  
29 such a way that the information disclosed is limited to the minimum  
30 necessary to serve the purpose for which the information is  
31 requested.

32 **Sec. 8008.** RCW 70.02.340 and 2014 c 220 s 13 are each amended to  
33 read as follows:

34 The (~~department of social and health services~~) authority shall  
35 adopt rules related to the disclosure of information and records  
36 related to mental health services (~~in this chapter~~).

37 **Sec. 8009.** RCW 70.02.350 and 2013 c 200 s 19 are each amended to  
38 read as follows:

1 In addition to any other information required to be released  
2 under this chapter, the department of social and health services  
3 (~~is~~) and the authority are authorized, pursuant to RCW 4.24.550, to  
4 release relevant information that is necessary to protect the public,  
5 concerning a specific person committed under RCW 71.05.280(3) or  
6 71.05.320(3)(c) following dismissal of a sex offense as defined in  
7 RCW 9.94A.030.

8 **Sec. 8010.** RCW 42.56.270 and 2017 c 317 s 17 are each amended to  
9 read as follows:

10 The following financial, commercial, and proprietary information  
11 is exempt from disclosure under this chapter:

12 (1) Valuable formulae, designs, drawings, computer source code or  
13 object code, and research data obtained by any agency within five  
14 years of the request for disclosure when disclosure would produce  
15 private gain and public loss;

16 (2) Financial information supplied by or on behalf of a person,  
17 firm, or corporation for the purpose of qualifying to submit a bid or  
18 proposal for (a) a ferry system construction or repair contract as  
19 required by RCW 47.60.680 through 47.60.750 or (b) highway  
20 construction or improvement as required by RCW 47.28.070;

21 (3) Financial and commercial information and records supplied by  
22 private persons pertaining to export services provided under chapters  
23 43.163 and 53.31 RCW, and by persons pertaining to export projects  
24 under RCW 43.23.035;

25 (4) Financial and commercial information and records supplied by  
26 businesses or individuals during application for loans or program  
27 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
28 43.168 RCW, or during application for economic development loans or  
29 program services provided by any local agency;

30 (5) Financial information, business plans, examination reports,  
31 and any information produced or obtained in evaluating or examining a  
32 business and industrial development corporation organized or seeking  
33 certification under chapter 31.24 RCW;

34 (6) Financial and commercial information supplied to the state  
35 investment board by any person when the information relates to the  
36 investment of public trust or retirement funds and when disclosure  
37 would result in loss to such funds or in private loss to the  
38 providers of this information;

39 (7) Financial and valuable trade information under RCW 51.36.120;



1 (8) Financial, commercial, operations, and technical and research  
2 information and data submitted to or obtained by the clean Washington  
3 center in applications for, or delivery of, program services under  
4 chapter 70.95H RCW;

5 (9) Financial and commercial information requested by the public  
6 stadium authority from any person or organization that leases or uses  
7 the stadium and exhibition center as defined in RCW 36.102.010;

8 (10)(a) Financial information, including but not limited to  
9 account numbers and values, and other identification numbers supplied  
10 by or on behalf of a person, firm, corporation, limited liability  
11 company, partnership, or other entity related to an application for a  
12 horse racing license submitted pursuant to RCW 67.16.260(1)(b),  
13 marijuana producer, processor, or retailer license, liquor license,  
14 gambling license, or lottery retail license;

15 (b) Internal control documents, independent auditors' reports and  
16 financial statements, and supporting documents: (i) Of house-banked  
17 social card game licensees required by the gambling commission  
18 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted  
19 by tribes with an approved tribal/state compact for class III gaming;

20 (11) Proprietary data, trade secrets, or other information that  
21 relates to: (a) A vendor's unique methods of conducting business; (b)  
22 data unique to the product or services of the vendor; or (c)  
23 determining prices or rates to be charged for services, submitted by  
24 any vendor to the department of social and health services or the  
25 health care authority for purposes of the development, acquisition,  
26 or implementation of state purchased health care as defined in RCW  
27 41.05.011;

28 (12)(a) When supplied to and in the records of the department of  
29 commerce:

30 (i) Financial and proprietary information collected from any  
31 person and provided to the department of commerce pursuant to RCW  
32 43.330.050(8); and

33 (ii) Financial or proprietary information collected from any  
34 person and provided to the department of commerce or the office of  
35 the governor in connection with the siting, recruitment, expansion,  
36 retention, or relocation of that person's business and until a siting  
37 decision is made, identifying information of any person supplying  
38 information under this subsection and the locations being considered  
39 for siting, relocation, or expansion of a business;

1 (b) When developed by the department of commerce based on  
2 information as described in (a)(i) of this subsection, any work  
3 product is not exempt from disclosure;

4 (c) For the purposes of this subsection, "siting decision" means  
5 the decision to acquire or not to acquire a site;

6 (d) If there is no written contact for a period of sixty days to  
7 the department of commerce from a person connected with siting,  
8 recruitment, expansion, retention, or relocation of that person's  
9 business, information described in (a)(ii) of this subsection will be  
10 available to the public under this chapter;

11 (13) Financial and proprietary information submitted to or  
12 obtained by the department of ecology or the authority created under  
13 chapter 70.95N RCW to implement chapter 70.95N RCW;

14 (14) Financial, commercial, operations, and technical and  
15 research information and data submitted to or obtained by the life  
16 sciences discovery fund authority in applications for, or delivery  
17 of, grants under chapter 43.350 RCW, to the extent that such  
18 information, if revealed, would reasonably be expected to result in  
19 private loss to the providers of this information;

20 (15) Financial and commercial information provided as evidence to  
21 the department of licensing as required by RCW 19.112.110 or  
22 19.112.120, except information disclosed in aggregate form that does  
23 not permit the identification of information related to individual  
24 fuel licensees;

25 (16) Any production records, mineral assessments, and trade  
26 secrets submitted by a permit holder, mine operator, or landowner to  
27 the department of natural resources under RCW 78.44.085;

28 (17)(a) Farm plans developed by conservation districts, unless  
29 permission to release the farm plan is granted by the landowner or  
30 operator who requested the plan, or the farm plan is used for the  
31 application or issuance of a permit;

32 (b) Farm plans developed under chapter 90.48 RCW and not under  
33 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject  
34 to RCW 42.56.610 and 90.64.190;

35 (18) Financial, commercial, operations, and technical and  
36 research information and data submitted to or obtained by a health  
37 sciences and services authority in applications for, or delivery of,  
38 grants under RCW 35.104.010 through 35.104.060, to the extent that  
39 such information, if revealed, would reasonably be expected to result  
40 in private loss to providers of this information;

1 (19) Information gathered under chapter 19.85 RCW or RCW  
2 34.05.328 that can be identified to a particular business;

3 (20) Financial and commercial information submitted to or  
4 obtained by the University of Washington, other than information the  
5 university is required to disclose under RCW 28B.20.150, when the  
6 information relates to investments in private funds, to the extent  
7 that such information, if revealed, would reasonably be expected to  
8 result in loss to the University of Washington consolidated endowment  
9 fund or to result in private loss to the providers of this  
10 information;

11 (21) Market share data submitted by a manufacturer under RCW  
12 70.95N.190(4);

13 (22) Financial information supplied to the department of  
14 financial institutions or to a portal under RCW 21.20.883, when filed  
15 by or on behalf of an issuer of securities for the purpose of  
16 obtaining the exemption from state securities registration for small  
17 securities offerings provided under RCW 21.20.880 or when filed by or  
18 on behalf of an investor for the purpose of purchasing such  
19 securities;

20 (23) Unaggregated or individual notices of a transfer of crude  
21 oil that is financial, proprietary, or commercial information,  
22 submitted to the department of ecology pursuant to RCW  
23 90.56.565(1)(a), and that is in the possession of the department of  
24 ecology or any entity with which the department of ecology has shared  
25 the notice pursuant to RCW 90.56.565;

26 (24) Financial institution and retirement account information,  
27 and building security plan information, supplied to the liquor and  
28 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and  
29 69.50.345, when filed by or on behalf of a licensee or prospective  
30 licensee for the purpose of obtaining, maintaining, or renewing a  
31 license to produce, process, transport, or sell marijuana as allowed  
32 under chapter 69.50 RCW;

33 (25) Marijuana transport information, vehicle and driver  
34 identification data, and account numbers or unique access identifiers  
35 issued to private entities for traceability system access, submitted  
36 by an individual or business to the liquor and cannabis board under  
37 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and  
38 69.50.345 for the purpose of marijuana product traceability.  
39 Disclosure to local, state, and federal officials is not considered  
40 public disclosure for purposes of this section;

1 (26) Financial and commercial information submitted to or  
2 obtained by the retirement board of any city that is responsible for  
3 the management of an employees' retirement system pursuant to the  
4 authority of chapter 35.39 RCW, when the information relates to  
5 investments in private funds, to the extent that such information, if  
6 revealed, would reasonably be expected to result in loss to the  
7 retirement fund or to result in private loss to the providers of this  
8 information except that (a) the names and commitment amounts of the  
9 private funds in which retirement funds are invested and (b) the  
10 aggregate quarterly performance results for a retirement fund's  
11 portfolio of investments in such funds are subject to disclosure;

12 (27) Proprietary financial, commercial, operations, and technical  
13 and research information and data submitted to or obtained by the  
14 liquor and cannabis board in applications for marijuana research  
15 licenses under RCW 69.50.372, or in reports submitted by marijuana  
16 research licensees in accordance with rules adopted by the liquor and  
17 cannabis board under RCW 69.50.372; and

18 (28) Trade secrets, technology, proprietary information, and  
19 financial considerations contained in any agreements or contracts,  
20 entered into by a licensed marijuana business under RCW 69.50.---  
21 (section 16, chapter 317, Laws of 2017), which may be submitted to or  
22 obtained by the state liquor and cannabis board.

23 **Sec. 8011.** RCW 43.70.080 and 1989 1st ex.s. c 9 s 201 are each  
24 amended to read as follows:

25 The powers and duties of the department of social and health  
26 services and the secretary of social and health services under the  
27 following statutes are hereby transferred to the department of health  
28 and the secretary of health: Chapters 16.70, 18.20, 18.46, 18.71,  
29 18.73, 18.76, 69.30, 70.28, 70.30, ((70.32, 70.33,)) 70.50, 70.58,  
30 70.62, 70.83, ((70.83B,)) 70.90, 70.98, 70.104, 70.116, 70.118,  
31 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More  
32 specifically, the following programs and services presently  
33 administered by the department of social and health services are  
34 hereby transferred to the department of health:

35 (1) Personal health and protection programs and related  
36 management and support services, including, but not limited to:  
37 Immunizations; tuberculosis; sexually transmitted diseases; AIDS;  
38 diabetes control; primary health care; cardiovascular risk reduction;  
39 kidney disease; regional genetic services; newborn metabolic

1 screening; sentinel birth defects; cytogenetics; communicable disease  
2 epidemiology; and chronic disease epidemiology;

3 (2) Environmental health protection services and related  
4 management and support services, including, but not limited to:  
5 Radiation, including X-ray control, radioactive materials, uranium  
6 mills, low-level waste, emergency response and reactor safety, and  
7 environmental radiation protection; drinking water; toxic substances;  
8 on-site sewage; recreational water contact facilities; food services  
9 sanitation; shellfish; and general environmental health services,  
10 including schools, vectors, parks, and camps;

11 (3) Public health laboratory;

12 (4) Public health support services, including, but not limited  
13 to: Vital records; health data; local public health services support;  
14 and health education and information;

15 (5) Licensing and certification services including, but not  
16 limited to: Behavioral health agencies, agencies providing problem  
17 and pathological gambling treatment, health and personal care  
18 facility survey, construction review, emergency medical services,  
19 laboratory quality assurance, and accommodations surveys; and

20 (6) Effective January 1, 1991, parent and child health services  
21 and related management support services, including, but not limited  
22 to: Maternal and infant health; child health; parental health;  
23 nutrition; (~~handicapped children's~~) services for children with  
24 disabilities; family planning; adolescent pregnancy services; high  
25 priority infant tracking; early intervention; parenting education;  
26 prenatal regionalization; and power and duties under RCW 43.20A.635.  
27 The director of the office of financial management may recommend to  
28 the legislature a delay in this transfer, if it is determined that  
29 this time frame is not adequate.

30 **Sec. 8012.** RCW 43.59.030 and 2016 c 206 s 2 are each amended to  
31 read as follows:

32 The governor shall be assisted in his or her duties and  
33 responsibilities by the Washington state traffic safety commission.  
34 The Washington traffic safety commission shall be composed of the  
35 governor as chair, the superintendent of public instruction, the  
36 director of licensing, the secretary of transportation, the chief of  
37 the state patrol, the secretary of health, the (~~secretary of social~~  
38 ~~and health services~~) director of the health care authority, a  
39 representative of the association of Washington cities to be

1 appointed by the governor, a member of the association of counties to  
2 be appointed by the governor, and a representative of the judiciary  
3 to be appointed by the governor. Appointments to any vacancies among  
4 appointee members shall be as in the case of original appointment.

5 The governor may designate an employee of the governor's office  
6 familiar with the traffic safety commission to act on behalf of the  
7 governor during the absence of the governor at one or more of the  
8 meetings of the commission. The vote of the designee shall have the  
9 same effect as if cast by the governor if the designation is in  
10 writing and is presented to the person presiding at the meetings  
11 included within the designation.

12 The governor may designate a member, other than the governor's  
13 designee, to preside during the governor's absence.

14 **Sec. 8013.** RCW 48.21.180 and 2003 c 248 s 9 are each amended to  
15 read as follows:

16 Each group disability insurance contract which is delivered or  
17 issued for delivery or renewed, on or after January 1, 1988, and  
18 which insures for hospital or medical care must contain provisions  
19 providing benefits for the treatment of chemical dependency rendered  
20 to the insured by a provider which is an "approved substance use  
21 disorder treatment program" under RCW 70.96A.020(~~((3))~~) (2).

22 **Sec. 8014.** RCW 48.44.240 and 2005 c 223 s 25 are each amended to  
23 read as follows:

24 Each group contract for health care services that is delivered or  
25 issued for delivery or renewed, on or after January 1, 1988, must  
26 contain provisions providing benefits for the treatment of chemical  
27 dependency rendered to covered persons by a provider that is an  
28 "approved substance use disorder treatment program" under RCW  
29 70.96A.020(~~((3))~~) (2).

30 **Sec. 8015.** RCW 48.46.350 and 2003 c 248 s 19 are each amended to  
31 read as follows:

32 Each group agreement for health care services that is delivered  
33 or issued for delivery or renewed on or after January 1, 1988, must  
34 contain provisions providing benefits for the treatment of chemical  
35 dependency rendered to covered persons by a provider which is an  
36 "approved substance use disorder treatment program" under RCW  
37 70.96A.020(~~((3))~~) (2). However, this section does not apply to any

1 agreement written as supplemental coverage to any federal or state  
2 programs of health care including, but not limited to, Title XVIII  
3 health insurance for the aged, which is commonly referred to as  
4 Medicare, Parts A&B, and amendments thereto. Treatment must be  
5 covered under the chemical dependency coverage if treatment is  
6 rendered by the health maintenance organization or if the health  
7 maintenance organization refers the enrolled participant or the  
8 enrolled participant's dependents to a physician licensed under  
9 chapter 18.57 or 18.71 RCW, or to a qualified counselor employed by  
10 an approved substance use disorder treatment program described in RCW  
11 70.96A.020(~~(+3)~~) (2). In all cases, a health maintenance  
12 organization retains the right to diagnose the presence of chemical  
13 dependency and select the modality of treatment that best serves the  
14 interest of the health maintenance organization's enrolled  
15 participant, or the enrolled participant's covered dependent.

16 **Sec. 8016.** RCW 69.50.540 and 2015 3rd sp.s. c 4 s 967 are each  
17 amended to read as follows:

18 The legislature must annually appropriate moneys in the dedicated  
19 marijuana account created in RCW 69.50.530 as follows:

20 (1) For the purposes listed in this subsection (1), the  
21 legislature must appropriate to the respective agencies amounts  
22 sufficient to make the following expenditures on a quarterly basis:

23 (a) Beginning July 1, (~~(2015)~~) 2017, one hundred twenty-five  
24 thousand dollars to the (~~department of social and health services~~)  
25 health care authority to design and administer the Washington state  
26 healthy youth survey, analyze the collected data, and produce  
27 reports, in collaboration with the office of the superintendent of  
28 public instruction, department of health, department of commerce,  
29 family policy council, and state liquor and cannabis board. The  
30 survey must be conducted at least every two years and include  
31 questions regarding, but not necessarily limited to, academic  
32 achievement, age at time of substance use initiation, antisocial  
33 behavior of friends, attitudes toward antisocial behavior, attitudes  
34 toward substance use, laws and community norms regarding antisocial  
35 behavior, family conflict, family management, parental attitudes  
36 toward substance use, peer rewarding of antisocial behavior,  
37 perceived risk of substance use, and rebelliousness. Funds disbursed  
38 under this subsection may be used to expand administration of the

1 healthy youth survey to student populations attending institutions of  
2 higher education in Washington;

3 (b) Beginning July 1, (~~(2015)~~) 2017, fifty thousand dollars to  
4 the (~~(department of social and health services)~~) health care  
5 authority for the purpose of contracting with the Washington state  
6 institute for public policy to conduct the cost-benefit evaluation  
7 and produce the reports described in RCW 69.50.550. This  
8 appropriation ends after production of the final report required by  
9 RCW 69.50.550;

10 (c) Beginning July 1, (~~(2015)~~) 2017, five thousand dollars to the  
11 University of Washington alcohol and drug abuse institute for the  
12 creation, maintenance, and timely updating of web-based public  
13 education materials providing medically and scientifically accurate  
14 information about the health and safety risks posed by marijuana use;

15 (d) An amount not less than one million two hundred fifty  
16 thousand dollars to the state liquor and cannabis board for  
17 administration of this chapter as appropriated in the omnibus  
18 appropriations act;

19 (e) Twenty-three thousand seven hundred fifty dollars to the  
20 department of enterprise services provided solely for the state  
21 building code council established under RCW 19.27.070, to develop and  
22 adopt fire and building code provisions related to marijuana  
23 processing and extraction facilities. The distribution under this  
24 subsection (1)(e) is for fiscal year 2016 only;

25 (2) From the amounts in the dedicated marijuana account after  
26 appropriation of the amounts identified in subsection (1) of this  
27 section, the legislature must appropriate for the purposes listed in  
28 this subsection (2) as follows:

29 (a)(i) Up to fifteen percent to the (~~(department of social and~~  
30 ~~health services division of behavioral health and recovery)~~) health  
31 care authority for the development, implementation, maintenance, and  
32 evaluation of programs and practices aimed at the prevention or  
33 reduction of maladaptive substance use, substance use disorder,  
34 substance abuse or substance dependence, as these terms are defined  
35 in the Diagnostic and Statistical Manual of Mental Disorders, among  
36 middle school and high school-age students, whether as an explicit  
37 goal of a given program or practice or as a consistently  
38 corresponding effect of its implementation, mental health services  
39 for children and youth, and services for pregnant and parenting  
40 women; PROVIDED, That:



1 (A) Of the funds appropriated under (a)(i) of this subsection for  
2 new programs and new services, at least eighty-five percent must be  
3 directed to evidence-based or research-based programs and practices  
4 that produce objectively measurable results and, by September 1,  
5 2020, are cost-beneficial; and

6 (B) Up to fifteen percent of the funds appropriated under (a)(i)  
7 of this subsection for new programs and new services may be directed  
8 to proven and tested practices, emerging best practices, or promising  
9 practices.

10 (ii) In deciding which programs and practices to fund, the  
11 (~~secretary of the department of social and health services~~)  
12 director of the health care authority must consult, at least  
13 annually, with the University of Washington's social development  
14 research group and the University of Washington's alcohol and drug  
15 abuse institute.

16 (iii) For the fiscal year beginning July 1, 2016, the legislature  
17 must appropriate a minimum of twenty-seven million seven hundred  
18 eighty-six thousand dollars, and for each subsequent fiscal year  
19 thereafter, the legislature must appropriate a minimum of twenty-five  
20 million five hundred thirty-six thousand dollars under this  
21 subsection (2)(a);

22 (b)(i) Up to ten percent to the department of health for the  
23 following, subject to (b)(ii) of this subsection (2):

24 (A) Creation, implementation, operation, and management of a  
25 marijuana education and public health program that contains the  
26 following:

27 (I) A marijuana use public health hotline that provides referrals  
28 to substance abuse treatment providers, utilizes evidence-based or  
29 research-based public health approaches to minimizing the harms  
30 associated with marijuana use, and does not solely advocate an  
31 abstinence-only approach;

32 (II) A grants program for local health departments or other local  
33 community agencies that supports development and implementation of  
34 coordinated intervention strategies for the prevention and reduction  
35 of marijuana use by youth; and

36 (III) Media-based education campaigns across television,  
37 internet, radio, print, and out-of-home advertising, separately  
38 targeting youth and adults, that provide medically and scientifically  
39 accurate information about the health and safety risks posed by  
40 marijuana use;

1 (B) The Washington poison control center; and

2 (C) During the 2015-2017 fiscal biennium, the funds appropriated  
3 under this subsection (2)(b) may be used for prevention activities  
4 that target youth and populations with a high incidence of tobacco  
5 use.

6 (ii) For the fiscal year beginning July 1, 2016, the legislature  
7 must appropriate a minimum of seven million five hundred thousand  
8 dollars and for each subsequent fiscal year thereafter, the  
9 legislature must appropriate a minimum of nine million seven hundred  
10 fifty thousand dollars under this subsection (2)(b);

11 (c)(i) Up to six-tenths of one percent to the University of  
12 Washington and four-tenths of one percent to Washington State  
13 University for research on the short and long-term effects of  
14 marijuana use, to include but not be limited to formal and informal  
15 methods for estimating and measuring intoxication and impairment, and  
16 for the dissemination of such research.

17 (ii) For the fiscal year beginning July 1, 2016, the legislature  
18 must appropriate a minimum of two hundred seven thousand dollars and  
19 for each subsequent fiscal year, the legislature must appropriate a  
20 minimum of one million twenty-one thousand dollars to the University  
21 of Washington. For the fiscal year beginning July 1, 2016, the  
22 legislature must appropriate a minimum of one hundred thirty-eight  
23 thousand dollars and for each subsequent fiscal year thereafter, a  
24 minimum of six hundred eighty-one thousand dollars to Washington  
25 State University under this subsection (2)(c);

26 (d) Fifty percent to the state basic health plan trust account to  
27 be administered by the Washington basic health plan administrator and  
28 used as provided under chapter 70.47 RCW;

29 (e) Five percent to the Washington state health care authority to  
30 be expended exclusively through contracts with community health  
31 centers to provide primary health and dental care services, migrant  
32 health services, and maternity health care services as provided under  
33 RCW 41.05.220;

34 (f)(i) Up to three-tenths of one percent to the office of the  
35 superintendent of public instruction to fund grants to building  
36 bridges programs under chapter 28A.175 RCW.

37 (ii) For the fiscal year beginning July 1, 2016, and each  
38 subsequent fiscal year, the legislature must appropriate a minimum of  
39 five hundred eleven thousand dollars to the office of the

1 superintendent of public instruction under this subsection (2)(f);  
2 and

3 (g) At the end of each fiscal year, the treasurer must transfer  
4 any amounts in the dedicated marijuana account that are not  
5 appropriated pursuant to subsection (1) of this section and this  
6 subsection (2) into the general fund, except as provided in (g)(i) of  
7 this subsection (2).

8 (i) Beginning in fiscal year 2018, if marijuana excise tax  
9 collections deposited into the general fund in the prior fiscal year  
10 exceed twenty-five million dollars, then each fiscal year the  
11 legislature must appropriate an amount equal to thirty percent of all  
12 marijuana excise taxes deposited into the general fund the prior  
13 fiscal year to the treasurer for distribution to counties, cities,  
14 and towns as follows:

15 (A) Thirty percent must be distributed to counties, cities, and  
16 towns where licensed marijuana retailers are physically located. Each  
17 jurisdiction must receive a share of the revenue distribution under  
18 this subsection (2)(g)(i)(A) based on the proportional share of the  
19 total revenues generated in the individual jurisdiction from the  
20 taxes collected under RCW 69.50.535, from licensed marijuana  
21 retailers physically located in each jurisdiction. For purposes of  
22 this subsection (2)(g)(i)(A), one hundred percent of the proportional  
23 amount attributed to a retailer physically located in a city or town  
24 must be distributed to the city or town.

25 (B) Seventy percent must be distributed to counties, cities, and  
26 towns ratably on a per capita basis. Counties must receive sixty  
27 percent of the distribution, which must be disbursed based on each  
28 county's total proportional population. Funds may only be distributed  
29 to jurisdictions that do not prohibit the siting of any state  
30 licensed marijuana producer, processor, or retailer.

31 (ii) Distribution amounts allocated to each county, city, and  
32 town must be distributed in four installments by the last day of each  
33 fiscal quarter.

34 (iii) By September 15th of each year, the state liquor and  
35 cannabis board must provide the state treasurer the annual  
36 distribution amount, if any, for each county and city as determined  
37 in (g)(i) of this subsection (2).

38 (iv) The total share of marijuana excise tax revenues distributed  
39 to counties and cities in (g)(i) of this subsection (2) may not

1 exceed fifteen million dollars in fiscal years 2018 and 2019 and  
2 twenty million dollars per fiscal year thereafter.

3 For the purposes of this section, "marijuana products" means  
4 "useable marijuana," "marijuana concentrates," and "marijuana-infused  
5 products" as those terms are defined in RCW 69.50.101.

6 **PART 9**

7 **Sec. 9001.** RCW 2.30.020 and 2015 c 291 s 2 are each amended to  
8 read as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Emerging best practice" or "promising practice" means a  
12 program or practice that, based on statistical analyses or a well-  
13 established theory of change, shows potential for meeting the  
14 evidence-based or research-based criteria, which may include the use  
15 of a program that is evidence-based for outcomes other than those  
16 listed in this section.

17 (2) "Evidence-based" means a program or practice that: (a) Has  
18 been tested in heterogeneous or intended populations with multiple  
19 randomized, or statistically controlled evaluations, or both; or one  
20 large multiple site randomized, or statistically controlled  
21 evaluation, or both, where the weight of the evidence from a systemic  
22 review demonstrates sustained improvements in at least one outcome;  
23 or (b) may be implemented with a set of procedures to allow  
24 successful replication in Washington and, when possible, is  
25 determined to be cost-beneficial.

26 (3) "Government authority" means prosecutor or other  
27 representative initiating action leading to a proceeding in  
28 therapeutic court.

29 (4) "Participant" means an accused person, offender, or  
30 respondent in the judicial proceeding.

31 (5) "Research-based" means a program or practice that has been  
32 tested with a single randomized, or statistically controlled  
33 evaluation, or both, demonstrating sustained desirable outcomes; or  
34 where the weight of the evidence from a systemic review supports  
35 sustained outcomes as described in this subsection but does not meet  
36 the full criteria for evidence-based.

37 (6) "Specialty court" and "therapeutic court" both mean a court  
38 utilizing a program or programs structured to achieve both a

1 reduction in recidivism and an increase in the likelihood of  
2 rehabilitation, or to reduce child abuse and neglect, out-of-home  
3 placements of children, termination of parental rights, and substance  
4 abuse and mental health symptoms among parents or guardians and their  
5 children through continuous and intense judicially supervised  
6 treatment and the appropriate use of services, sanctions, and  
7 incentives.

8 (7) "Therapeutic court personnel" means the staff of a  
9 therapeutic court including, but not limited to: Court and clerk  
10 personnel with therapeutic court duties, prosecuting attorneys, the  
11 attorney general or his or her representatives, defense counsel,  
12 monitoring personnel, and others acting within the scope of  
13 therapeutic court duties.

14 (8) "Trial court" means a superior court authorized under this  
15 title ((~~2~~-RCW)) or a district or municipal court authorized under  
16 Title 3 or 35 RCW.

17 **Sec. 9002.** RCW 2.30.030 and 2015 c 291 s 3 are each amended to  
18 read as follows:

19 (1) Every trial and juvenile court in the state of Washington is  
20 authorized and encouraged to establish and operate therapeutic  
21 courts. Therapeutic courts, in conjunction with the government  
22 authority and subject matter experts specific to the focus of the  
23 therapeutic court, develop and process cases in ways that depart from  
24 traditional judicial processes to allow defendants or respondents the  
25 opportunity to obtain treatment services to address particular issues  
26 that may have contributed to the conduct that led to their arrest or  
27 involvement in the child welfare system in exchange for resolution of  
28 the case or charges. In criminal cases, the consent of the prosecutor  
29 is required.

30 (2) While a therapeutic court judge retains the discretion to  
31 decline to accept a case into the therapeutic court, and while a  
32 therapeutic court retains discretion to establish processes and  
33 determine eligibility for admission to the therapeutic court process  
34 unique to their community and jurisdiction, the effectiveness and  
35 credibility of any therapeutic court will be enhanced when the court  
36 implements evidence-based practices, research-based practices,  
37 emerging best practices, or promising practices that have been  
38 identified and accepted at the state and national levels. Promising  
39 practices, emerging best practices, and/or research-based programs

1 are authorized where determined by the court to be appropriate. As  
2 practices evolve, the trial court shall regularly assess the  
3 effectiveness of its program and the methods by which it implements  
4 and adopts new best practices.

5 (3) Except under special findings by the court, the following  
6 individuals are not eligible for participation in therapeutic courts:

7 (a) Individuals who are currently charged or who have been  
8 previously convicted of a serious violent offense or sex offense as  
9 defined in RCW 9.94A.030;

10 (b) Individuals who are currently charged with an offense  
11 alleging intentional discharge, threat to discharge, or attempt to  
12 discharge a firearm in furtherance of the offense;

13 (c) Individuals who are currently charged with or who have been  
14 previously convicted of vehicular homicide or an equivalent out-of-  
15 state offense; or

16 (d) Individuals who are currently charged with or who have been  
17 previously convicted of: An offense alleging substantial bodily harm  
18 or great bodily harm as defined in RCW 9A.04.110, or death of another  
19 person.

20 (4) Any jurisdiction establishing a therapeutic court shall  
21 endeavor to incorporate the therapeutic court principles of best  
22 practices as recognized by state and national therapeutic court  
23 organizations in structuring a particular program, which may include:

24 (a) Determining the population;

25 (b) Performing a clinical assessment;

26 (c) Developing the treatment plan;

27 (d) Monitoring the participant, including any appropriate  
28 testing;

29 (e) Forging agency, organization, and community partnerships;

30 (f) Taking a judicial leadership role;

31 (g) Developing case management strategies;

32 (h) Addressing transportation, housing, and subsistence issues;

33 (i) Evaluating the program;

34 (j) Ensuring a sustainable program.

35 (5) Upon a showing of indigence under RCW 10.101.010, fees may be  
36 reduced or waived.

37 (6) The (~~department of social and health services~~) health care  
38 authority shall furnish services to therapeutic courts addressing  
39 dependency matters where substance abuse or mental health are an

1 issue unless the court contracts with providers outside of the  
2 ((department)) health care authority.

3 (7) Any jurisdiction that has established more than one  
4 therapeutic court under this chapter may combine the functions of  
5 these courts into a single therapeutic court.

6 (8) Nothing in this section prohibits a district or municipal  
7 court from ordering treatment or other conditions of sentence or  
8 probation following a conviction, without the consent of either the  
9 prosecutor or defendant.

10 (9) No therapeutic or specialty court may be established  
11 specifically for the purpose of applying foreign law, including  
12 foreign criminal, civil, or religious law, that is otherwise not  
13 required by treaty.

14 (10) No therapeutic or specialty court established by court rule  
15 shall enforce a foreign law, if doing so would violate a right  
16 guaranteed by the Constitution of this state or of the United States.

17 **Sec. 9003.** RCW 9.41.300 and 2011 c 221 s 2 are each amended to  
18 read as follows:

19 (1) It is unlawful for any person to enter the following places  
20 when he or she knowingly possesses or knowingly has under his or her  
21 control a weapon:

22 (a) The restricted access areas of a jail, or of a law  
23 enforcement facility, or any place used for the confinement of a  
24 person (i) arrested for, charged with, or convicted of an offense,  
25 (ii) held for extradition or as a material witness, or (iii)  
26 otherwise confined pursuant to an order of a court, except an order  
27 under chapter 13.32A or 13.34 RCW. Restricted access areas do not  
28 include common areas of egress or ingress open to the general public;

29 (b) Those areas in any building which are used in connection with  
30 court proceedings, including courtrooms, jury rooms, judge's  
31 chambers, offices and areas used to conduct court business, waiting  
32 areas, and corridors adjacent to areas used in connection with court  
33 proceedings. The restricted areas do not include common areas of  
34 ingress and egress to the building that is used in connection with  
35 court proceedings, when it is possible to protect court areas without  
36 restricting ingress and egress to the building. The restricted areas  
37 shall be the minimum necessary to fulfill the objective of this  
38 subsection (1)(b).

1 For purposes of this subsection (1)(b), "weapon" means any  
2 firearm, explosive as defined in RCW 70.74.010, or any weapon of the  
3 kind usually known as slung shot, sand club, or metal knuckles, or  
4 any knife, dagger, dirk, or other similar weapon that is capable of  
5 causing death or bodily injury and is commonly used with the intent  
6 to cause death or bodily injury.

7 In addition, the local legislative authority shall provide either  
8 a stationary locked box sufficient in size for pistols and key to a  
9 weapon owner for weapon storage, or shall designate an official to  
10 receive weapons for safekeeping, during the owner's visit to  
11 restricted areas of the building. The locked box or designated  
12 official shall be located within the same building used in connection  
13 with court proceedings. The local legislative authority shall be  
14 liable for any negligence causing damage to or loss of a weapon  
15 either placed in a locked box or left with an official during the  
16 owner's visit to restricted areas of the building.

17 The local judicial authority shall designate and clearly mark  
18 those areas where weapons are prohibited, and shall post notices at  
19 each entrance to the building of the prohibition against weapons in  
20 the restricted areas;

21 (c) The restricted access areas of a public mental health  
22 facility licensed or certified by the department of (~~social and~~  
23 ~~health services~~) health for inpatient hospital care and state  
24 institutions for the care of the mentally ill, excluding those  
25 facilities solely for evaluation and treatment. Restricted access  
26 areas do not include common areas of egress and ingress open to the  
27 general public;

28 (d) That portion of an establishment classified by the state  
29 liquor (~~control~~) and cannabis board as off-limits to persons under  
30 twenty-one years of age; or

31 (e) The restricted access areas of a commercial service airport  
32 designated in the airport security plan approved by the federal  
33 transportation security administration, including passenger screening  
34 checkpoints at or beyond the point at which a passenger initiates the  
35 screening process. These areas do not include airport drives, general  
36 parking areas and walkways, and shops and areas of the terminal that  
37 are outside the screening checkpoints and that are normally open to  
38 unscreened passengers or visitors to the airport. Any restricted  
39 access area shall be clearly indicated by prominent signs indicating  
40 that firearms and other weapons are prohibited in the area.



1 (2) Cities, towns, counties, and other municipalities may enact  
2 laws and ordinances:

3 (a) Restricting the discharge of firearms in any portion of their  
4 respective jurisdictions where there is a reasonable likelihood that  
5 humans, domestic animals, or property will be jeopardized. Such laws  
6 and ordinances shall not abridge the right of the individual  
7 guaranteed by Article I, section 24 of the state Constitution to bear  
8 arms in defense of self or others; and

9 (b) Restricting the possession of firearms in any stadium or  
10 convention center, operated by a city, town, county, or other  
11 municipality, except that such restrictions shall not apply to:

12 (i) Any pistol in the possession of a person licensed under RCW  
13 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

14 (ii) Any showing, demonstration, or lecture involving the  
15 exhibition of firearms.

16 (3)(a) Cities, towns, and counties may enact ordinances  
17 restricting the areas in their respective jurisdictions in which  
18 firearms may be sold, but, except as provided in (b) of this  
19 subsection, a business selling firearms may not be treated more  
20 restrictively than other businesses located within the same zone. An  
21 ordinance requiring the cessation of business within a zone shall not  
22 have a shorter grandfather period for businesses selling firearms  
23 than for any other businesses within the zone.

24 (b) Cities, towns, and counties may restrict the location of a  
25 business selling firearms to not less than five hundred feet from  
26 primary or secondary school grounds, if the business has a  
27 storefront, has hours during which it is open for business, and posts  
28 advertisements or signs observable to passersby that firearms are  
29 available for sale. A business selling firearms that exists as of the  
30 date a restriction is enacted under this subsection (3)(b) shall be  
31 grandfathered according to existing law.

32 (4) Violations of local ordinances adopted under subsection (2)  
33 of this section must have the same penalty as provided for by state  
34 law.

35 (5) The perimeter of the premises of any specific location  
36 covered by subsection (1) of this section shall be posted at  
37 reasonable intervals to alert the public as to the existence of any  
38 law restricting the possession of firearms on the premises.

39 (6) Subsection (1) of this section does not apply to:

1 (a) A person engaged in military activities sponsored by the  
2 federal or state governments, while engaged in official duties;

3 (b) Law enforcement personnel, except that subsection (1)(b) of  
4 this section does apply to a law enforcement officer who is present  
5 at a courthouse building as a party to an action under chapter 10.14,  
6 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party  
7 has alleged the existence of domestic violence as defined in RCW  
8 26.50.010; or

9 (c) Security personnel while engaged in official duties.

10 (7) Subsection (1)(a), (b), (c), and (e) of this section does not  
11 apply to correctional personnel or community corrections officers, as  
12 long as they are employed as such, who have completed government-  
13 sponsored law enforcement firearms training, except that subsection  
14 (1)(b) of this section does apply to a correctional employee or  
15 community corrections officer who is present at a courthouse building  
16 as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or  
17 an action under Title 26 RCW where any party has alleged the  
18 existence of domestic violence as defined in RCW 26.50.010.

19 (8) Subsection (1)(a) of this section does not apply to a person  
20 licensed pursuant to RCW 9.41.070 who, upon entering the place or  
21 facility, directly and promptly proceeds to the administrator of the  
22 facility or the administrator's designee and obtains written  
23 permission to possess the firearm while on the premises or checks his  
24 or her firearm. The person may reclaim the firearms upon leaving but  
25 must immediately and directly depart from the place or facility.

26 (9) Subsection (1)(c) of this section does not apply to any  
27 administrator or employee of the facility or to any person who, upon  
28 entering the place or facility, directly and promptly proceeds to the  
29 administrator of the facility or the administrator's designee and  
30 obtains written permission to possess the firearm while on the  
31 premises.

32 (10) Subsection (1)(d) of this section does not apply to the  
33 proprietor of the premises or his or her employees while engaged in  
34 their employment.

35 (11) Government-sponsored law enforcement firearms training must  
36 be training that correctional personnel and community corrections  
37 officers receive as part of their job requirement and reference to  
38 such training does not constitute a mandate that it be provided by  
39 the correctional facility.

1 (12) Any person violating subsection (1) of this section is  
2 guilty of a gross misdemeanor.

3 (13) "Weapon" as used in this section means any firearm,  
4 explosive as defined in RCW 70.74.010, or instrument or weapon listed  
5 in RCW 9.41.250.

6 **Sec. 9004.** RCW 9.94A.703 and 2015 c 81 s 3 are each amended to  
7 read as follows:

8 When a court sentences a person to a term of community custody,  
9 the court shall impose conditions of community custody as provided in  
10 this section.

11 (1) **Mandatory conditions.** As part of any term of community  
12 custody, the court shall:

13 (a) Require the offender to inform the department of court-  
14 ordered treatment upon request by the department;

15 (b) Require the offender to comply with any conditions imposed by  
16 the department under RCW 9.94A.704;

17 (c) If the offender was sentenced under RCW 9.94A.507 for an  
18 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense  
19 was under eighteen years of age at the time of the offense, prohibit  
20 the offender from residing in a community protection zone;

21 (d) If the offender was sentenced under RCW 9A.36.120, prohibit  
22 the offender from serving in any paid or volunteer capacity where he  
23 or she has control or supervision of minors under the age of  
24 thirteen.

25 (2) **Waivable conditions.** Unless waived by the court, as part of  
26 any term of community custody, the court shall order an offender to:

27 (a) Report to and be available for contact with the assigned  
28 community corrections officer as directed;

29 (b) Work at department-approved education, employment, or  
30 community restitution, or any combination thereof;

31 (c) Refrain from possessing or consuming controlled substances  
32 except pursuant to lawfully issued prescriptions;

33 (d) Pay supervision fees as determined by the department; and

34 (e) Obtain prior approval of the department for the offender's  
35 residence location and living arrangements.

36 (3) **Discretionary conditions.** As part of any term of community  
37 custody, the court may order an offender to:

38 (a) Remain within, or outside of, a specified geographical  
39 boundary;

1 (b) Refrain from direct or indirect contact with the victim of  
2 the crime or a specified class of individuals;

3 (c) Participate in crime-related treatment or counseling  
4 services;

5 (d) Participate in rehabilitative programs or otherwise perform  
6 affirmative conduct reasonably related to the circumstances of the  
7 offense, the offender's risk of reoffending, or the safety of the  
8 community;

9 (e) Refrain from possessing or consuming alcohol; or

10 (f) Comply with any crime-related prohibitions.

11 (4) **Special conditions.**

12 (a) In sentencing an offender convicted of a crime of domestic  
13 violence, as defined in RCW 10.99.020, if the offender has a minor  
14 child, or if the victim of the offense for which the offender was  
15 convicted has a minor child, the court may order the offender to  
16 participate in a domestic violence perpetrator program approved under  
17 RCW 26.50.150.

18 (b)(i) In sentencing an offender convicted of an alcohol or drug-  
19 related traffic offense, the court shall require the offender to  
20 complete a diagnostic evaluation by (~~an alcohol or drug dependency~~  
21 ~~agency~~) a substance use disorder treatment program approved by the  
22 department of social and health services or a qualified probation  
23 department, defined under RCW 46.61.516, that has been approved by  
24 the department of social and health services. If the offense was  
25 pursuant to chapter 46.61 RCW, the report shall be forwarded to the  
26 department of licensing. If the offender is found to have an alcohol  
27 or drug problem that requires treatment, the offender shall complete  
28 treatment in (~~a program approved by the department of social and~~  
29 ~~health services under chapter 70.96A RCW~~) an approved substance use  
30 disorder treatment program as defined in chapter 71.24 RCW. If the  
31 offender is found not to have an alcohol or drug problem that  
32 requires treatment, the offender shall complete a course in an  
33 alcohol and drug information school (~~approved~~) licensed or  
34 certified by the department of (~~social and health services~~) health  
35 under chapter 70.96A RCW. The offender shall pay all costs for any  
36 evaluation, education, or treatment required by this section, unless  
37 the offender is eligible for an existing program offered or approved  
38 by the department of social and health services.

39 (ii) For purposes of this section, "alcohol or drug-related  
40 traffic offense" means the following: Driving while under the

1 influence as defined by RCW 46.61.502, actual physical control while  
2 under the influence as defined by RCW 46.61.504, vehicular homicide  
3 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by  
4 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW  
5 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

6 (iii) This subsection (4)(b) does not require the department of  
7 social and health services to add new treatment or assessment  
8 facilities nor affect its use of existing programs and facilities  
9 authorized by law.

10 **Sec. 9005.** RCW 10.05.040 and 2002 c 219 s 9 are each amended to  
11 read as follows:

12 The ((~~facility~~)) program to which such person is referred, or the  
13 department of social and health services if the petition is brought  
14 under RCW 10.05.020(2), shall conduct an investigation and  
15 examination to determine:

- 16 (1) Whether the person suffers from the problem described;
- 17 (2) Whether the problem is such that if not treated, or if no  
18 child welfare services are provided, there is a probability that  
19 similar misconduct will occur in the future;
- 20 (3) Whether extensive and long term treatment is required;
- 21 (4) Whether effective treatment or child welfare services for the  
22 person's problem are available; and
- 23 (5) Whether the person is amenable to treatment or willing to  
24 cooperate with child welfare services.

25 **Sec. 9006.** RCW 10.05.050 and 2002 c 219 s 10 are each amended to  
26 read as follows:

27 (1) The ((~~facility~~)) program, or the department of social and  
28 health services if the petition is brought under RCW 10.05.020(2),  
29 shall make a written report to the court stating its findings and  
30 recommendations after the examination required by RCW 10.05.040. If  
31 its findings and recommendations support treatment or the  
32 implementation of a child welfare service plan, it shall also  
33 recommend a treatment or service plan setting out:

- 34 (a) The type;
- 35 (b) Nature;
- 36 (c) Length;
- 37 (d) A treatment or service time schedule; and
- 38 (e) Approximate cost of the treatment or child welfare services.

1 (2) In the case of a child welfare service plan, the plan shall  
2 be designed in a manner so that a parent who successfully completes  
3 the plan will not be likely to withhold the basic necessities of life  
4 from his or her child.

5 (3) The report with the treatment or service plan shall be filed  
6 with the court and a copy given to the petitioner and petitioner's  
7 counsel. A copy of the treatment or service plan shall be given to  
8 the prosecutor by petitioner's counsel at the request of the  
9 prosecutor. The evaluation facility, or the department of social and  
10 health services if the petition is brought under RCW 10.05.020(2),  
11 making the written report shall append to the report a commitment by  
12 the treatment ((~~facility~~)) program or the department of social and  
13 health services that it will provide the treatment or child welfare  
14 services in accordance with this chapter. The facility or the service  
15 provider shall agree to provide the court with a statement every  
16 three months for the first year and every six months for the second  
17 year regarding (a) the petitioner's cooperation with the treatment or  
18 child welfare service plan proposed and (b) the petitioner's progress  
19 or failure in treatment or child welfare services. These statements  
20 shall be made as a declaration by the person who is personally  
21 responsible for providing the treatment or services.

22 **Sec. 9007.** RCW 18.205.080 and 1998 c 243 s 8 are each amended to  
23 read as follows:

24 (1) The secretary shall appoint a chemical dependency  
25 certification advisory committee to further the purposes of this  
26 chapter. The committee shall be composed of seven members, one member  
27 initially appointed for a term of one year, three for a term of two  
28 years, and three for a term of three years. Subsequent appointments  
29 shall be for terms of three years. No person may serve as a member of  
30 the committee for more than two consecutive terms. Members of the  
31 committee shall be residents of this state. The committee shall be  
32 composed of four certified chemical dependency professionals; one  
33 chemical dependency treatment program director; one physician  
34 licensed under chapter 18.71 or 18.57 RCW who is certified in  
35 addiction medicine or a licensed or certified mental health  
36 practitioner; and one member of the public who has received chemical  
37 dependency counseling.

38 (2) The secretary may remove any member of the committee for  
39 cause as specified by rule. In the case of a vacancy, the secretary

1 shall appoint a person to serve for the remainder of the unexpired  
2 term.

3 (3) The committee shall meet at the times and places designated  
4 by the secretary and shall hold meetings during the year as necessary  
5 to provide advice to the director. The committee may elect a chair  
6 and a vice chair. A majority of the members currently serving shall  
7 constitute a quorum.

8 (4) Each member of the committee shall be reimbursed for travel  
9 expenses as authorized in RCW 43.03.050 and 43.03.060. In addition,  
10 members of the committee shall be compensated in accordance with RCW  
11 43.03.240 when engaged in the authorized business of the committee.

12 (5) The director of the (~~department of social and health~~  
13 ~~services division of alcohol and substance abuse or the director's~~)  
14 health care authority, or his or her designee, shall serve as an ex  
15 officio member of the committee.

16 (6) The secretary, members of the committee, or individuals  
17 acting on their behalf are immune from suit in any action, civil or  
18 criminal, based on any certification or disciplinary proceedings or  
19 other official acts performed in the course of their duties.

20 **Sec. 9008.** RCW 18.88A.020 and 2015 c 158 s 1 are each amended to  
21 read as follows:

22 Unless the context clearly requires otherwise, the definitions in  
23 this section apply throughout this chapter.

24 (1) "Alternative training" means a nursing assistant-certified  
25 program meeting criteria adopted by the commission under RCW  
26 18.88A.087 to meet the requirements of a state-approved nurse aide  
27 competency evaluation program consistent with 42 U.S.C. Sec.  
28 1395i-3(e) and (f) of the federal social security act.

29 (2) "Approved training program" means a nursing assistant-  
30 certified training program approved by the commission to meet the  
31 requirements of a state-approved nurse aide training and competency  
32 evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f)  
33 of the federal social security act. For community college,  
34 vocational-technical institutes, skill centers, and secondary school  
35 as defined in chapter 28B.50 RCW, nursing assistant-certified  
36 training programs shall be approved by the commission in cooperation  
37 with the board for community and technical colleges or the  
38 superintendent of public instruction.

1 (3) "Commission" means the Washington nursing care quality  
2 assurance commission.

3 (4) "Competency evaluation" means the measurement of an  
4 individual's knowledge and skills as related to safe, competent  
5 performance as a nursing assistant.

6 (5) "Department" means the department of health.

7 (6) "Health care facility" means a nursing home, hospital  
8 licensed under chapter 70.41 or 71.12 RCW, hospice care facility,  
9 home health care agency, hospice agency, licensed or certified  
10 service provider under chapter 71.24 RCW other than an individual  
11 health care provider, or other entity for delivery of health care  
12 services as defined by the commission.

13 (7) "Medication assistant" means a nursing assistant-certified  
14 with a medication assistant endorsement issued under RCW 18.88A.082  
15 who is authorized, in addition to his or her duties as a nursing  
16 assistant-certified, to administer certain medications and perform  
17 certain treatments in a nursing home under the supervision of a  
18 registered nurse under RCW 18.88A.082.

19 (8) "Nursing assistant" means an individual, regardless of title,  
20 who, under the direction and supervision of a registered nurse or  
21 licensed practical nurse, assists in the delivery of nursing and  
22 nursing-related activities to patients in a health care facility. The  
23 two levels of nursing assistants are:

24 (a) "Nursing assistant-certified," an individual certified under  
25 this chapter; and

26 (b) "Nursing assistant-registered," an individual registered  
27 under this chapter.

28 (9) "Nursing home" means a nursing home licensed under chapter  
29 18.51 RCW.

30 (10) "Secretary" means the secretary of health.

31 **Sec. 9009.** RCW 46.61.5055 and 2017 c 336 s 6 and 2017 c 335 s 3  
32 are each reenacted and amended to read as follows:

33 (1) **No prior offenses in seven years.** Except as provided in RCW  
34 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
35 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
36 within seven years shall be punished as follows:

37 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
38 of a person whose alcohol concentration was less than 0.15, or for  
39 whom for reasons other than the person's refusal to take a test



1 offered pursuant to RCW 46.20.308 there is no test result indicating  
2 the person's alcohol concentration:

3 (i) By imprisonment for not less than one day nor more than three  
4 hundred sixty-four days. Twenty-four consecutive hours of the  
5 imprisonment may not be suspended unless the court finds that the  
6 imposition of this mandatory minimum sentence would impose a  
7 substantial risk to the offender's physical or mental well-being.  
8 Whenever the mandatory minimum sentence is suspended, the court shall  
9 state in writing the reason for granting the suspension and the facts  
10 upon which the suspension is based. In lieu of the mandatory minimum  
11 term of imprisonment required under this subsection (1)(a)(i), the  
12 court may order not less than fifteen days of electronic home  
13 monitoring or a ninety-day period of 24/7 sobriety program  
14 monitoring. The court may consider the offender's pretrial 24/7  
15 sobriety program monitoring as fulfilling a portion of posttrial  
16 sentencing. The offender shall pay the cost of electronic home  
17 monitoring. The county or municipality in which the penalty is being  
18 imposed shall determine the cost. The court may also require the  
19 offender's electronic home monitoring device or other separate  
20 alcohol monitoring device to include an alcohol detection  
21 breathalyzer, and the court may restrict the amount of alcohol the  
22 offender may consume during the time the offender is on electronic  
23 home monitoring; and

24 (ii) By a fine of not less than three hundred fifty dollars nor  
25 more than five thousand dollars. Three hundred fifty dollars of the  
26 fine may not be suspended unless the court finds the offender to be  
27 indigent; or

28 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
29 of a person whose alcohol concentration was at least 0.15, or for  
30 whom by reason of the person's refusal to take a test offered  
31 pursuant to RCW 46.20.308 there is no test result indicating the  
32 person's alcohol concentration:

33 (i) By imprisonment for not less than two days nor more than  
34 three hundred sixty-four days. Forty-eight consecutive hours of the  
35 imprisonment may not be suspended unless the court finds that the  
36 imposition of this mandatory minimum sentence would impose a  
37 substantial risk to the offender's physical or mental well-being.  
38 Whenever the mandatory minimum sentence is suspended, the court shall  
39 state in writing the reason for granting the suspension and the facts  
40 upon which the suspension is based. In lieu of the mandatory minimum

1 term of imprisonment required under this subsection (1)(b)(i), the  
2 court may order not less than thirty days of electronic home  
3 monitoring or a one hundred twenty day period of 24/7 sobriety  
4 program monitoring. The court may consider the offender's pretrial  
5 24/7 sobriety program testing as fulfilling a portion of posttrial  
6 sentencing. The offender shall pay the cost of electronic home  
7 monitoring. The county or municipality in which the penalty is being  
8 imposed shall determine the cost. The court may also require the  
9 offender's electronic home monitoring device to include an alcohol  
10 detection breathalyzer or other separate alcohol monitoring device,  
11 and the court may restrict the amount of alcohol the offender may  
12 consume during the time the offender is on electronic home  
13 monitoring; and

14 (ii) By a fine of not less than five hundred dollars nor more  
15 than five thousand dollars. Five hundred dollars of the fine may not  
16 be suspended unless the court finds the offender to be indigent.

17 (2) **One prior offense in seven years.** Except as provided in RCW  
18 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
19 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
20 within seven years shall be punished as follows:

21 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
22 of a person whose alcohol concentration was less than 0.15, or for  
23 whom for reasons other than the person's refusal to take a test  
24 offered pursuant to RCW 46.20.308 there is no test result indicating  
25 the person's alcohol concentration:

26 (i) By imprisonment for not less than thirty days nor more than  
27 three hundred sixty-four days and sixty days of electronic home  
28 monitoring. In lieu of the mandatory term of imprisonment and  
29 electronic home monitoring under this subsection (2)(a)(i), the court  
30 may order a minimum of four days in jail and either one hundred  
31 eighty days of electronic home monitoring or a one hundred twenty-day  
32 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300  
33 through 36.28A.390. The court may consider the offender's pretrial  
34 24/7 sobriety program monitoring as fulfilling a portion of posttrial  
35 sentencing. The court shall order an expanded alcohol assessment and  
36 treatment, if deemed appropriate by the assessment. The offender  
37 shall pay for the cost of the electronic monitoring. The county or  
38 municipality where the penalty is being imposed shall determine the  
39 cost. The court may also require the offender's electronic home  
40 monitoring device include an alcohol detection breathalyzer or other

1 separate alcohol monitoring device, and may restrict the amount of  
2 alcohol the offender may consume during the time the offender is on  
3 electronic home monitoring. Thirty days of imprisonment and sixty  
4 days of electronic home monitoring may not be suspended unless the  
5 court finds that the imposition of this mandatory minimum sentence  
6 would impose a substantial risk to the offender's physical or mental  
7 well-being. Whenever the mandatory minimum sentence is suspended, the  
8 court shall state in writing the reason for granting the suspension  
9 and the facts upon which the suspension is based; and

10 (ii) By a fine of not less than five hundred dollars nor more  
11 than five thousand dollars. Five hundred dollars of the fine may not  
12 be suspended unless the court finds the offender to be indigent; or

13 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
14 of a person whose alcohol concentration was at least 0.15, or for  
15 whom by reason of the person's refusal to take a test offered  
16 pursuant to RCW 46.20.308 there is no test result indicating the  
17 person's alcohol concentration:

18 (i) By imprisonment for not less than forty-five days nor more  
19 than three hundred sixty-four days and ninety days of electronic home  
20 monitoring. In lieu of the mandatory minimum term of imprisonment and  
21 electronic home monitoring under this subsection (2)(b)(i), the court  
22 may order a minimum of six days in jail and either six months of  
23 electronic home monitoring or a one hundred twenty-day period of 24/7  
24 sobriety program monitoring pursuant to RCW 36.28A.300 through  
25 36.28A.390. The court may consider the offender's pretrial 24/7  
26 sobriety program monitoring as fulfilling a portion of posttrial  
27 sentencing. The court shall order an expanded alcohol assessment and  
28 treatment, if deemed appropriate by the assessment. The offender  
29 shall pay for the cost of the electronic monitoring. The county or  
30 municipality where the penalty is being imposed shall determine the  
31 cost. The court may also require the offender's electronic home  
32 monitoring device include an alcohol detection breathalyzer or other  
33 separate alcohol monitoring device, and may restrict the amount of  
34 alcohol the offender may consume during the time the offender is on  
35 electronic home monitoring. Forty-five days of imprisonment and  
36 ninety days of electronic home monitoring may not be suspended unless  
37 the court finds that the imposition of this mandatory minimum  
38 sentence would impose a substantial risk to the offender's physical  
39 or mental well-being. Whenever the mandatory minimum sentence is

1 suspended, the court shall state in writing the reason for granting  
2 the suspension and the facts upon which the suspension is based; and

3 (ii) By a fine of not less than seven hundred fifty dollars nor  
4 more than five thousand dollars. Seven hundred fifty dollars of the  
5 fine may not be suspended unless the court finds the offender to be  
6 indigent.

7 (3) **Two prior offenses in seven years.** Except as provided in RCW  
8 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
9 violation of RCW 46.61.502 or 46.61.504 and who has two prior  
10 offenses within seven years shall be punished as follows:

11 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
12 of a person whose alcohol concentration was less than 0.15, or for  
13 whom for reasons other than the person's refusal to take a test  
14 offered pursuant to RCW 46.20.308 there is no test result indicating  
15 the person's alcohol concentration:

16 (i) By imprisonment for not less than ninety days nor more than  
17 three hundred sixty-four days, if available in that county or city, a  
18 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
19 36.28A.300 through 36.28A.390, and one hundred twenty days of  
20 electronic home monitoring. In lieu of the mandatory minimum term of  
21 one hundred twenty days of electronic home monitoring, the court may  
22 order at least an additional eight days in jail. The court shall  
23 order an expanded alcohol assessment and treatment, if deemed  
24 appropriate by the assessment. The offender shall pay for the cost of  
25 the electronic monitoring. The county or municipality where the  
26 penalty is being imposed shall determine the cost. The court may also  
27 require the offender's electronic home monitoring device include an  
28 alcohol detection breathalyzer or other separate alcohol monitoring  
29 device, and may restrict the amount of alcohol the offender may  
30 consume during the time the offender is on electronic home  
31 monitoring. Ninety days of imprisonment and one hundred twenty days  
32 of electronic home monitoring may not be suspended unless the court  
33 finds that the imposition of this mandatory minimum sentence would  
34 impose a substantial risk to the offender's physical or mental well-  
35 being. Whenever the mandatory minimum sentence is suspended, the  
36 court shall state in writing the reason for granting the suspension  
37 and the facts upon which the suspension is based; and

38 (ii) By a fine of not less than one thousand dollars nor more  
39 than five thousand dollars. One thousand dollars of the fine may not  
40 be suspended unless the court finds the offender to be indigent; or

1           (b) **Penalty for alcohol concentration at least 0.15.** In the case  
2 of a person whose alcohol concentration was at least 0.15, or for  
3 whom by reason of the person's refusal to take a test offered  
4 pursuant to RCW 46.20.308 there is no test result indicating the  
5 person's alcohol concentration:

6           (i) By imprisonment for not less than one hundred twenty days nor  
7 more than three hundred sixty-four days, if available in that county  
8 or city, a six-month period of 24/7 sobriety program monitoring  
9 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty  
10 days of electronic home monitoring. In lieu of the mandatory minimum  
11 term of one hundred fifty days of electronic home monitoring, the  
12 court may order at least an additional ten days in jail. The offender  
13 shall pay for the cost of the electronic monitoring. The court shall  
14 order an expanded alcohol assessment and treatment, if deemed  
15 appropriate by the assessment. The county or municipality where the  
16 penalty is being imposed shall determine the cost. The court may also  
17 require the offender's electronic home monitoring device include an  
18 alcohol detection breathalyzer or other separate alcohol monitoring  
19 device, and may restrict the amount of alcohol the offender may  
20 consume during the time the offender is on electronic home  
21 monitoring. One hundred twenty days of imprisonment and one hundred  
22 fifty days of electronic home monitoring may not be suspended unless  
23 the court finds that the imposition of this mandatory minimum  
24 sentence would impose a substantial risk to the offender's physical  
25 or mental well-being. Whenever the mandatory minimum sentence is  
26 suspended, the court shall state in writing the reason for granting  
27 the suspension and the facts upon which the suspension is based; and

28           (ii) By a fine of not less than one thousand five hundred dollars  
29 nor more than five thousand dollars. One thousand five hundred  
30 dollars of the fine may not be suspended unless the court finds the  
31 offender to be indigent.

32           (4) **Three or more prior offenses in ten years.** A person who is  
33 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be  
34 punished under chapter 9.94A RCW if:

35           (a) The person has three or more prior offenses within ten years;  
36 or

37           (b) The person has ever previously been convicted of:

38           (i) A violation of RCW 46.61.520 committed while under the  
39 influence of intoxicating liquor or any drug;

1 (ii) A violation of RCW 46.61.522 committed while under the  
2 influence of intoxicating liquor or any drug;

3 (iii) An out-of-state offense comparable to the offense specified  
4 in (b)(i) or (ii) of this subsection; or

5 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

6 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall  
7 require any person convicted of a violation of RCW 46.61.502 or  
8 46.61.504 or an equivalent local ordinance to comply with the rules  
9 and requirements of the department regarding the installation and use  
10 of a functioning ignition interlock device installed on all motor  
11 vehicles operated by the person.

12 (b) **Monitoring devices.** If the court orders that a person refrain  
13 from consuming any alcohol, the court may order the person to submit  
14 to alcohol monitoring through an alcohol detection breathalyzer  
15 device, transdermal sensor device, or other technology designed to  
16 detect alcohol in a person's system. The person shall pay for the  
17 cost of the monitoring, unless the court specifies that the cost of  
18 monitoring will be paid with funds that are available from an  
19 alternative source identified by the court. The county or  
20 municipality where the penalty is being imposed shall determine the  
21 cost.

22 (c) **24/7 sobriety program monitoring.** In any county or city where  
23 a 24/7 sobriety program is available and verified by the Washington  
24 association of sheriffs and police chiefs, the court shall:

25 (i) Order the person to install and use a functioning ignition  
26 interlock or other device in lieu of such period of 24/7 sobriety  
27 program monitoring;

28 (ii) Order the person to a period of 24/7 sobriety program  
29 monitoring pursuant to subsections (1) through (3) of this section;  
30 or

31 (iii) Order the person to install and use a functioning ignition  
32 interlock or other device in addition to a period of 24/7 sobriety  
33 program monitoring pursuant to subsections (1) through (3) of this  
34 section.

35 (6) **Penalty for having a minor passenger in vehicle.** If a person  
36 who is convicted of a violation of RCW 46.61.502 or 46.61.504  
37 committed the offense while a passenger under the age of sixteen was  
38 in the vehicle, the court shall:

39 (a) Order the use of an ignition interlock or other device for an  
40 additional six months;

1 (b) In any case in which the person has no prior offenses within  
2 seven years, and except as provided in RCW 46.61.502(6) or  
3 46.61.504(6), order an additional twenty-four hours of imprisonment  
4 and a fine of not less than one thousand dollars and not more than  
5 five thousand dollars. One thousand dollars of the fine may not be  
6 suspended unless the court finds the offender to be indigent;

7 (c) In any case in which the person has one prior offense within  
8 seven years, and except as provided in RCW 46.61.502(6) or  
9 46.61.504(6), order an additional five days of imprisonment and a  
10 fine of not less than two thousand dollars and not more than five  
11 thousand dollars. One thousand dollars of the fine may not be  
12 suspended unless the court finds the offender to be indigent;

13 (d) In any case in which the person has two prior offenses within  
14 seven years, and except as provided in RCW 46.61.502(6) or  
15 46.61.504(6), order an additional ten days of imprisonment and a fine  
16 of not less than three thousand dollars and not more than ten  
17 thousand dollars. One thousand dollars of the fine may not be  
18 suspended unless the court finds the offender to be indigent.

19 (7) **Other items courts must consider while setting penalties.** In  
20 exercising its discretion in setting penalties within the limits  
21 allowed by this section, the court shall particularly consider the  
22 following:

23 (a) Whether the person's driving at the time of the offense was  
24 responsible for injury or damage to another or another's property;

25 (b) Whether at the time of the offense the person was driving or  
26 in physical control of a vehicle with one or more passengers;

27 (c) Whether the driver was driving in the opposite direction of  
28 the normal flow of traffic on a multiple lane highway, as defined by  
29 RCW 46.04.350, with a posted speed limit of forty-five miles per hour  
30 or greater; and

31 (d) Whether a child passenger under the age of sixteen was an  
32 occupant in the driver's vehicle.

33 (8) **Treatment and information school.** An offender punishable  
34 under this section is subject to the alcohol assessment and treatment  
35 provisions of RCW 46.61.5056.

36 (9) **Driver's license privileges of the defendant.** The license,  
37 permit, or nonresident privilege of a person convicted of driving or  
38 being in physical control of a motor vehicle while under the  
39 influence of intoxicating liquor or drugs must:

1           (a) **Penalty for alcohol concentration less than 0.15.** If the  
2 person's alcohol concentration was less than 0.15, or if for reasons  
3 other than the person's refusal to take a test offered under RCW  
4 46.20.308 there is no test result indicating the person's alcohol  
5 concentration:

6           (i) Where there has been no prior offense within seven years, be  
7 suspended or denied by the department for ninety days or until the  
8 person is evaluated by an alcoholism agency or probation department  
9 pursuant to RCW 46.20.311 and the person completes or is enrolled in  
10 a ninety-day period of 24/7 sobriety program monitoring. In no  
11 circumstances shall the license suspension be for fewer than two  
12 days;

13           (ii) Where there has been one prior offense within seven years,  
14 be revoked or denied by the department for two years or until the  
15 person is evaluated by an alcoholism agency or probation department  
16 pursuant to RCW 46.20.311 and the person completes or is enrolled in  
17 a six-month period of 24/7 sobriety program monitoring. In no  
18 circumstances shall the license suspension be for less than one year;  
19 or

20           (iii) Where there have been two or more prior offenses within  
21 seven years, be revoked or denied by the department for three years;

22           (b) **Penalty for alcohol concentration at least 0.15.** If the  
23 person's alcohol concentration was at least 0.15:

24           (i) Where there has been no prior offense within seven years, be  
25 revoked or denied by the department for one year or until the person  
26 is evaluated by an alcoholism agency or probation department pursuant  
27 to RCW 46.20.311 and the person completes or is enrolled in a one  
28 hundred twenty day period of 24/7 sobriety program monitoring. In no  
29 circumstances shall the license revocation be for fewer than four  
30 days;

31           (ii) Where there has been one prior offense within seven years,  
32 be revoked or denied by the department for nine hundred days; or

33           (iii) Where there have been two or more prior offenses within  
34 seven years, be revoked or denied by the department for four years;  
35 or

36           (c) **Penalty for refusing to take test.** If by reason of the  
37 person's refusal to take a test offered under RCW 46.20.308, there is  
38 no test result indicating the person's alcohol concentration:

39           (i) Where there have been no prior offenses within seven years,  
40 be revoked or denied by the department for two years;



1 (ii) Where there has been one prior offense within seven years,  
2 be revoked or denied by the department for three years; or

3 (iii) Where there have been two or more previous offenses within  
4 seven years, be revoked or denied by the department for four years.

5 The department shall grant credit on a day-for-day basis for any  
6 portion of a suspension, revocation, or denial already served under  
7 this subsection for a suspension, revocation, or denial imposed under  
8 RCW 46.20.3101 arising out of the same incident.

9 Upon receipt of a notice from the court under RCW 36.28A.390 that  
10 a participant has been removed from a 24/7 sobriety program, the  
11 department must resume any suspension, revocation, or denial that had  
12 been terminated early under this subsection due to participation in  
13 the program, granting credit on a day-for-day basis for any portion  
14 of a suspension, revocation, or denial already served under RCW  
15 46.20.3101 or this section arising out of the same incident.

16 Upon its own motion or upon motion by a person, a court may find,  
17 on the record, that notice to the department under RCW 46.20.270 has  
18 been delayed for three years or more as a result of a clerical or  
19 court error. If so, the court may order that the person's license,  
20 permit, or nonresident privilege shall not be revoked, suspended, or  
21 denied for that offense. The court shall send notice of the finding  
22 and order to the department and to the person. Upon receipt of the  
23 notice from the court, the department shall not revoke, suspend, or  
24 deny the license, permit, or nonresident privilege of the person for  
25 that offense.

26 For purposes of this subsection (9), the department shall refer  
27 to the driver's record maintained under RCW 46.52.120 when  
28 determining the existence of prior offenses.

29 **(10) Probation of driving privilege.** After expiration of any  
30 period of suspension, revocation, or denial of the offender's  
31 license, permit, or privilege to drive required by this section, the  
32 department shall place the offender's driving privilege in  
33 probationary status pursuant to RCW 46.20.355.

34 **(11) Conditions of probation.** (a) In addition to any  
35 nonsuspendable and nondeferrable jail sentence required by this  
36 section, whenever the court imposes up to three hundred sixty-four  
37 days in jail, the court shall also suspend but shall not defer a  
38 period of confinement for a period not exceeding five years. The  
39 court shall impose conditions of probation that include: (i) Not  
40 driving a motor vehicle within this state without a valid license to

1 drive; (ii) not driving a motor vehicle within this state without  
2 proof of liability insurance or other financial responsibility for  
3 the future pursuant to RCW 46.30.020; (iii) not driving or being in  
4 physical control of a motor vehicle within this state while having an  
5 alcohol concentration of 0.08 or more or a THC concentration of 5.00  
6 nanograms per milliliter of whole blood or higher, within two hours  
7 after driving; (iv) not refusing to submit to a test of his or her  
8 breath or blood to determine alcohol or drug concentration upon  
9 request of a law enforcement officer who has reasonable grounds to  
10 believe the person was driving or was in actual physical control of a  
11 motor vehicle within this state while under the influence of  
12 intoxicating liquor or drug; and (v) not driving a motor vehicle in  
13 this state without a functioning ignition interlock device as  
14 required by the department under RCW 46.20.720. The court may impose  
15 conditions of probation that include nonrepetition, installation of  
16 an ignition interlock device on the probationer's motor vehicle,  
17 alcohol or drug treatment, supervised probation, or other conditions  
18 that may be appropriate. The sentence may be imposed in whole or in  
19 part upon violation of a condition of probation during the suspension  
20 period.

21 (b) For each violation of mandatory conditions of probation under  
22 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall  
23 order the convicted person to be confined for thirty days, which  
24 shall not be suspended or deferred.

25 (c) For each incident involving a violation of a mandatory  
26 condition of probation imposed under this subsection, the license,  
27 permit, or privilege to drive of the person shall be suspended by the  
28 court for thirty days or, if such license, permit, or privilege to  
29 drive already is suspended, revoked, or denied at the time the  
30 finding of probation violation is made, the suspension, revocation,  
31 or denial then in effect shall be extended by thirty days. The court  
32 shall notify the department of any suspension, revocation, or denial  
33 or any extension of a suspension, revocation, or denial imposed under  
34 this subsection.

35 (12) **Waiver of electronic home monitoring.** A court may waive the  
36 electronic home monitoring requirements of this chapter when:

37 (a) The offender does not have a dwelling, telephone service, or  
38 any other necessity to operate an electronic home monitoring system.  
39 However, if a court determines that an alcohol monitoring device  
40 utilizing wireless reporting technology is reasonably available, the

1 court may require the person to obtain such a device during the  
2 period of required electronic home monitoring;

3 (b) The offender does not reside in the state of Washington; or

4 (c) The court determines that there is reason to believe that the  
5 offender would violate the conditions of the electronic home  
6 monitoring penalty.

7 Whenever the mandatory minimum term of electronic home monitoring  
8 is waived, the court shall state in writing the reason for granting  
9 the waiver and the facts upon which the waiver is based, and shall  
10 impose an alternative sentence with similar punitive consequences.  
11 The alternative sentence may include, but is not limited to, use of  
12 an ignition interlock device, the 24/7 sobriety program monitoring,  
13 additional jail time, work crew, or work camp.

14 Whenever the combination of jail time and electronic home  
15 monitoring or alternative sentence would exceed three hundred sixty-  
16 four days, the offender shall serve the jail portion of the sentence  
17 first, and the electronic home monitoring or alternative portion of  
18 the sentence shall be reduced so that the combination does not exceed  
19 three hundred sixty-four days.

20 (13) **Extraordinary medical placement.** An offender serving a  
21 sentence under this section, whether or not a mandatory minimum term  
22 has expired, may be granted an extraordinary medical placement by the  
23 jail administrator subject to the standards and limitations set forth  
24 in RCW 9.94A.728(1)(c).

25 (14) **Definitions.** For purposes of this section and RCW 46.61.502  
26 and 46.61.504:

27 (a) A "prior offense" means any of the following:

28 (i) A conviction for a violation of RCW 46.61.502 or an  
29 equivalent local ordinance;

30 (ii) A conviction for a violation of RCW 46.61.504 or an  
31 equivalent local ordinance;

32 (iii) A conviction for a violation of RCW 46.25.110 or an  
33 equivalent local ordinance;

34 (iv) A conviction for a violation of RCW 79A.60.040(2) or an  
35 equivalent local ordinance;

36 (v) A conviction for a violation of RCW 79A.60.040(1) or an  
37 equivalent local ordinance committed in a reckless manner if the  
38 conviction is the result of a charge that was originally filed as a  
39 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

1 (vi) A conviction for a violation of RCW 47.68.220 or an  
2 equivalent local ordinance committed while under the influence of  
3 intoxicating liquor or any drug;

4 (vii) A conviction for a violation of RCW 47.68.220 or an  
5 equivalent local ordinance committed in a careless or reckless manner  
6 if the conviction is the result of a charge that was originally filed  
7 as a violation of RCW 47.68.220 or an equivalent local ordinance  
8 while under the influence of intoxicating liquor or any drug;

9 (viii) A conviction for a violation of RCW 46.09.470(2) or an  
10 equivalent local ordinance;

11 (ix) A conviction for a violation of RCW 46.10.490(2) or an  
12 equivalent local ordinance;

13 (x) A conviction for a violation of RCW 46.61.520 committed while  
14 under the influence of intoxicating liquor or any drug, or a  
15 conviction for a violation of RCW 46.61.520 committed in a reckless  
16 manner or with the disregard for the safety of others if the  
17 conviction is the result of a charge that was originally filed as a  
18 violation of RCW 46.61.520 committed while under the influence of  
19 intoxicating liquor or any drug;

20 (xi) A conviction for a violation of RCW 46.61.522 committed  
21 while under the influence of intoxicating liquor or any drug, or a  
22 conviction for a violation of RCW 46.61.522 committed in a reckless  
23 manner or with the disregard for the safety of others if the  
24 conviction is the result of a charge that was originally filed as a  
25 violation of RCW 46.61.522 committed while under the influence of  
26 intoxicating liquor or any drug;

27 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,  
28 or 9A.36.050 or an equivalent local ordinance, if the conviction is  
29 the result of a charge that was originally filed as a violation of  
30 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of  
31 RCW 46.61.520 or 46.61.522;

32 (xiii) An out-of-state conviction for a violation that would have  
33 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this  
34 subsection if committed in this state;

35 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a  
36 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
37 equivalent local ordinance;

38 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
39 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
40 ordinance, if the charge under which the deferred prosecution was

1 granted was originally filed as a violation of RCW 46.61.502 or  
2 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
3 46.61.522;

4 (xvi) A deferred prosecution granted in another state for a  
5 violation of driving or having physical control of a vehicle while  
6 under the influence of intoxicating liquor or any drug if the out-of-  
7 state deferred prosecution is equivalent to the deferred prosecution  
8 under chapter 10.05 RCW, including a requirement that the defendant  
9 participate in a chemical dependency treatment program; or

10 (xvii) A deferred sentence imposed in a prosecution for a  
11 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
12 equivalent local ordinance, if the charge under which the deferred  
13 sentence was imposed was originally filed as a violation of RCW  
14 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
15 violation of RCW 46.61.520 or 46.61.522;

16 If a deferred prosecution is revoked based on a subsequent  
17 conviction for an offense listed in this subsection (14)(a), the  
18 subsequent conviction shall not be treated as a prior offense of the  
19 revoked deferred prosecution for the purposes of sentencing;

20 (b) "Treatment" means substance use disorder treatment  
21 ((approved)) licensed or certified by the department of ((social and  
22 health services)) health;

23 (c) "Within seven years" means that the arrest for a prior  
24 offense occurred within seven years before or after the arrest for  
25 the current offense; and

26 (d) "Within ten years" means that the arrest for a prior offense  
27 occurred within ten years before or after the arrest for the current  
28 offense.

29 (15) All fines imposed by this section apply to adult offenders  
30 only.

31 **Sec. 9010.** RCW 46.61.5056 and 2016 sp.s. c 29 s 531 are each  
32 amended to read as follows:

33 (1) A person subject to alcohol assessment and treatment under  
34 RCW 46.61.5055 shall be required by the court to complete a course in  
35 an alcohol and drug information school ((approved)) licensed or  
36 certified by the department of ((social and)) health ((services)) or  
37 to complete more intensive treatment in a substance use disorder  
38 treatment program ((approved)) licensed or certified by the  
39 department of ((social and)) health ((services)), as determined by

1 the court. The court shall notify the department of licensing  
2 whenever it orders a person to complete a course or treatment program  
3 under this section.

4 (2) A diagnostic evaluation and treatment recommendation shall be  
5 prepared under the direction of the court by ~~((an alcoholism agency  
6 approved))~~ a substance use disorder treatment program licensed or  
7 certified by the department of ~~((social and))~~ health ~~((services))~~ or  
8 a qualified probation department approved by the department of social  
9 and health services. A copy of the report shall be forwarded to the  
10 court and the department of licensing. Based on the diagnostic  
11 evaluation, the court shall determine whether the person shall be  
12 required to complete a course in an alcohol and drug information  
13 school ~~((approved))~~ licensed or certified by the department of  
14 ~~((social and))~~ health ~~((services))~~ or more intensive treatment in  
15 ~~((a))~~ an approved substance use disorder treatment program  
16 ~~((approved))~~ licensed or certified by the department of ~~((social  
17 and))~~ health ~~((services))~~.

18 (3) Standards for approval for alcohol treatment programs shall  
19 be prescribed by the department of ~~((social and))~~ health  
20 ~~((services))~~. The department of ~~((social and))~~ health ~~((services))~~  
21 shall periodically review the costs of alcohol and drug information  
22 schools and treatment programs.

23 (4) Any agency that provides treatment ordered under RCW  
24 46.61.5055, shall immediately report to the appropriate probation  
25 department where applicable, otherwise to the court, and to the  
26 department of licensing any noncompliance by a person with the  
27 conditions of his or her ordered treatment. The court shall notify  
28 the department of licensing and the department of ~~((social and))~~  
29 health ~~((services))~~ of any failure by an agency to so report  
30 noncompliance. Any agency with knowledge of noncompliance that fails  
31 to so report shall be fined two hundred fifty dollars by the  
32 department of ~~((social and))~~ health ~~((services))~~. Upon three such  
33 failures by an agency within one year, the department of ~~((social  
34 and))~~ health ~~((services))~~ shall revoke the agency's ~~((approval))~~  
35 license or certification under this section.

36 (5) The department of licensing and the department of ~~((social  
37 and))~~ health ~~((services))~~ may adopt such rules as are necessary to  
38 carry out this section.

1       **Sec. 9011.** RCW 72.09.350 and 2014 c 225 s 94 are each amended to  
2 read as follows:

3       (1) The department of corrections and the University of  
4 Washington may enter into a collaborative arrangement to provide  
5 improved services for offenders with mental illness with a focus on  
6 prevention, treatment, and reintegration into society. The  
7 participants in the collaborative arrangement may develop a strategic  
8 plan within sixty days after May 17, 1993, to address the management  
9 of offenders with mental illness within the correctional system,  
10 facilitating their reentry into the community and the mental health  
11 system, and preventing the inappropriate incarceration of individuals  
12 with mental illness. The collaborative arrangement may also specify  
13 the establishment and maintenance of a corrections mental health  
14 center located at McNeil Island corrections center. The collaborative  
15 arrangement shall require that an advisory panel of key stakeholders  
16 be established and consulted throughout the development and  
17 implementation of the center. The stakeholders advisory panel shall  
18 include a broad array of interest groups drawn from representatives  
19 of mental health, criminal justice, and correctional systems. The  
20 stakeholders advisory panel shall include, but is not limited to,  
21 membership from: The department of corrections, the department of  
22 social and health services mental health division and division of  
23 juvenile rehabilitation, the health care authority, behavioral health  
24 organizations, local and regional law enforcement agencies, the  
25 sentencing guidelines commission, county and city jails, mental  
26 health advocacy groups for individuals with mental illness or  
27 developmental disabilities, ~~((and))~~ the traumatically brain-injured,  
28 and the general public. The center established by the department of  
29 corrections and University of Washington, in consultation with the  
30 stakeholder advisory groups, shall have the authority to:

31       (a) Develop new and innovative treatment approaches for  
32 corrections mental health clients;

33       (b) Improve the quality of mental health services within the  
34 department and throughout the corrections system;

35       (c) Facilitate mental health staff recruitment and training to  
36 meet departmental, county, and municipal needs;

37       (d) Expand research activities within the department in the area  
38 of treatment services, the design of delivery systems, the  
39 development of organizational models, and training for corrections  
40 mental health care professionals;

1 (e) Improve the work environment for correctional employees by  
2 developing the skills, knowledge, and understanding of how to work  
3 with offenders with special chronic mental health challenges;

4 (f) Establish a more positive rehabilitative environment for  
5 offenders;

6 (g) Strengthen multidisciplinary mental health collaboration  
7 between the University of Washington, other groups committed to the  
8 intent of this section, and the department of corrections;

9 (h) Strengthen department linkages between institutions of higher  
10 education, public sector mental health systems, and county and  
11 municipal corrections;

12 (i) Assist in the continued formulation of corrections mental  
13 health policies;

14 (j) Develop innovative and effective recruitment and training  
15 programs for correctional personnel working with offenders with  
16 mental illness;

17 (k) Assist in the development of a coordinated continuum of  
18 mental health care capable of providing services from corrections  
19 entry to community return; and

20 (l) Evaluate all current and innovative approaches developed  
21 within this center in terms of their effective and efficient  
22 achievement of improved mental health of inmates, development and  
23 utilization of personnel, the impact of these approaches on the  
24 functioning of correctional institutions, and the relationship of the  
25 corrections system to mental health and criminal justice systems.  
26 Specific attention should be paid to evaluating the effects of  
27 programs on the reintegration of offenders with mental illness into  
28 the community and the prevention of inappropriate incarceration of  
29 persons with mental illness.

30 (2) The corrections mental health center may conduct research,  
31 training, and treatment activities for the offender with mental  
32 illness within selected sites operated by the department. The  
33 department shall provide support services for the center such as food  
34 services, maintenance, perimeter security, classification, offender  
35 supervision, and living unit functions. The University of Washington  
36 may develop, implement, and evaluate the clinical, treatment,  
37 research, and evaluation components of the mentally ill offender  
38 center. The institute of for public policy and management may be  
39 consulted regarding the development of the center and in the  
40 recommendations regarding public policy. As resources permit,



1 training within the center shall be available to state, county, and  
2 municipal agencies requiring the services. Other state colleges,  
3 state universities, and mental health providers may be involved in  
4 activities as required on a subcontract basis. Community mental  
5 health organizations, research groups, and community advocacy groups  
6 may be critical components of the center's operations and involved as  
7 appropriate to annual objectives. Clients with mental illness may be  
8 drawn from throughout the department's population and transferred to  
9 the center as clinical need, available services, and department  
10 jurisdiction permits.

11 (3) The department shall prepare a report of the center's  
12 progress toward the attainment of stated goals and provide the report  
13 to the legislature annually.

14 **Sec. 9012.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to  
15 read as follows:

16 (1) The offender reentry community safety program is established  
17 to provide intensive services to offenders identified under this  
18 subsection and to thereby promote public safety. The secretary shall  
19 identify offenders in confinement or partial confinement who: (a) Are  
20 reasonably believed to be dangerous to themselves or others; and (b)  
21 have a mental disorder. In determining an offender's dangerousness,  
22 the secretary shall consider behavior known to the department and  
23 factors, based on research, that are linked to an increased risk for  
24 dangerousness of offenders with mental illnesses and shall include  
25 consideration of an offender's chemical dependency or abuse.

26 (2) Prior to release of an offender identified under this  
27 section, a team consisting of representatives of the department of  
28 corrections, the ~~((division of mental health))~~ health care authority,  
29 and, as necessary, the indeterminate sentence review board, ~~((other))~~  
30 divisions or administrations within the department of social and  
31 health services, specifically including ~~((the division of alcohol and  
32 substance abuse and))~~ the division of developmental disabilities, the  
33 appropriate behavioral health organization, and the providers, as  
34 appropriate, shall develop a plan, as determined necessary by the  
35 team, for delivery of treatment and support services to the offender  
36 upon release. In developing the plan, the offender shall be offered  
37 assistance in executing a mental health directive under chapter 71.32  
38 RCW, after being fully informed of the benefits, scope, and purposes  
39 of such directive. The team may include a school district

1 representative for offenders under the age of twenty-one. The team  
2 shall consult with the offender's counsel, if any, and, as  
3 appropriate, the offender's family and community. The team shall  
4 notify the crime victim/witness program, which shall provide notice  
5 to all people registered to receive notice under RCW 72.09.712 of the  
6 proposed release plan developed by the team. Victims, witnesses, and  
7 other interested people notified by the department may provide  
8 information and comments to the department on potential safety risk  
9 to specific individuals or classes of individuals posed by the  
10 specific offender. The team may recommend: (a) That the offender be  
11 evaluated by the designated mental health professional, as defined in  
12 chapter 71.05 RCW; (b) department-supervised community treatment; or  
13 (c) voluntary community mental health or chemical dependency or abuse  
14 treatment.

15 (3) Prior to release of an offender identified under this  
16 section, the team shall determine whether or not an evaluation by a  
17 designated mental health professional is needed. If an evaluation is  
18 recommended, the supporting documentation shall be immediately  
19 forwarded to the appropriate designated mental health professional.  
20 The supporting documentation shall include the offender's criminal  
21 history, history of judicially required or administratively ordered  
22 involuntary antipsychotic medication while in confinement, and any  
23 known history of involuntary civil commitment.

24 (4) If an evaluation by a designated mental health professional  
25 is recommended by the team, such evaluation shall occur not more than  
26 ten days, nor less than five days, prior to release.

27 (5) A second evaluation by a designated mental health  
28 professional shall occur on the day of release if requested by the  
29 team, based upon new information or a change in the offender's mental  
30 condition, and the initial evaluation did not result in an emergency  
31 detention or a summons under chapter 71.05 RCW.

32 (6) If the designated mental health professional determines an  
33 emergency detention under chapter 71.05 RCW is necessary, the  
34 department shall release the offender only to a state hospital or to  
35 a consenting evaluation and treatment facility. The department shall  
36 arrange transportation of the offender to the hospital or facility.

37 (7) If the designated mental health professional believes that a  
38 less restrictive alternative treatment is appropriate, he or she  
39 shall seek a summons, pursuant to the provisions of chapter 71.05  
40 RCW, to require the offender to appear at an evaluation and treatment

1 facility. If a summons is issued, the offender shall remain within  
2 the corrections facility until completion of his or her term of  
3 confinement and be transported, by corrections personnel on the day  
4 of completion, directly to the identified evaluation and treatment  
5 facility.

6 (8) The secretary shall adopt rules to implement this section.

7 **Sec. 9013.** RCW 72.09.370 and 2016 sp.s. c 29 s 427 are each  
8 amended to read as follows:

9 (1) The offender reentry community safety program is established  
10 to provide intensive services to offenders identified under this  
11 subsection and to thereby promote public safety. The secretary shall  
12 identify offenders in confinement or partial confinement who: (a) Are  
13 reasonably believed to be dangerous to themselves or others; and (b)  
14 have a mental disorder. In determining an offender's dangerousness,  
15 the secretary shall consider behavior known to the department and  
16 factors, based on research, that are linked to an increased risk for  
17 dangerousness of offenders with mental illnesses and shall include  
18 consideration of an offender's chemical dependency or abuse.

19 (2) Prior to release of an offender identified under this  
20 section, a team consisting of representatives of the department of  
21 corrections, the ~~((division of mental health))~~ health care authority,  
22 and, as necessary, the indeterminate sentence review board, ~~((other))~~  
23 divisions or administrations within the department of social and  
24 health services, specifically including ~~((the division of alcohol and  
25 substance abuse and))~~ the division of developmental disabilities, the  
26 appropriate behavioral health organization, and the providers, as  
27 appropriate, shall develop a plan, as determined necessary by the  
28 team, for delivery of treatment and support services to the offender  
29 upon release. In developing the plan, the offender shall be offered  
30 assistance in executing a mental health directive under chapter 71.32  
31 RCW, after being fully informed of the benefits, scope, and purposes  
32 of such directive. The team may include a school district  
33 representative for offenders under the age of twenty-one. The team  
34 shall consult with the offender's counsel, if any, and, as  
35 appropriate, the offender's family and community. The team shall  
36 notify the crime victim/witness program, which shall provide notice  
37 to all people registered to receive notice under RCW 72.09.712 of the  
38 proposed release plan developed by the team. Victims, witnesses, and  
39 other interested people notified by the department may provide

1 information and comments to the department on potential safety risk  
2 to specific individuals or classes of individuals posed by the  
3 specific offender. The team may recommend: (a) That the offender be  
4 evaluated by the designated crisis responder, as defined in chapter  
5 71.05 RCW; (b) department-supervised community treatment; or (c)  
6 voluntary community mental health or chemical dependency or abuse  
7 treatment.

8 (3) Prior to release of an offender identified under this  
9 section, the team shall determine whether or not an evaluation by a  
10 designated crisis responder is needed. If an evaluation is  
11 recommended, the supporting documentation shall be immediately  
12 forwarded to the appropriate designated crisis responder. The  
13 supporting documentation shall include the offender's criminal  
14 history, history of judicially required or administratively ordered  
15 involuntary antipsychotic medication while in confinement, and any  
16 known history of involuntary civil commitment.

17 (4) If an evaluation by a designated crisis responder is  
18 recommended by the team, such evaluation shall occur not more than  
19 ten days, nor less than five days, prior to release.

20 (5) A second evaluation by a designated crisis responder shall  
21 occur on the day of release if requested by the team, based upon new  
22 information or a change in the offender's mental condition, and the  
23 initial evaluation did not result in an emergency detention or a  
24 summons under chapter 71.05 RCW.

25 (6) If the designated crisis responder determines an emergency  
26 detention under chapter 71.05 RCW is necessary, the department shall  
27 release the offender only to a state hospital or to a consenting  
28 evaluation and treatment facility. The department shall arrange  
29 transportation of the offender to the hospital or facility.

30 (7) If the designated crisis responder believes that a less  
31 restrictive alternative treatment is appropriate, he or she shall  
32 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to  
33 require the offender to appear at an evaluation and treatment  
34 facility. If a summons is issued, the offender shall remain within  
35 the corrections facility until completion of his or her term of  
36 confinement and be transported, by corrections personnel on the day  
37 of completion, directly to the identified evaluation and treatment  
38 facility.

39 (8) The secretary shall adopt rules to implement this section.

1       **Sec. 9014.** RCW 72.09.380 and 1999 c 214 s 3 are each amended to  
2 read as follows:

3       The (~~secretaries~~) secretary of the department of corrections  
4 and the (~~department of social and health services~~) director of the  
5 health care authority shall adopt rules and develop working  
6 agreements which will ensure that offenders identified under RCW  
7 72.09.370(1) will be assisted in making application for medicaid to  
8 facilitate a decision regarding their eligibility for such  
9 entitlements prior to the end of their term of confinement in a  
10 correctional facility.

11       **Sec. 9015.** RCW 72.09.381 and 2014 c 225 s 96 are each amended to  
12 read as follows:

13       The secretary of the department of corrections and the  
14 (~~secretary of the department of social and health services~~)  
15 director of the health care authority shall, in consultation with the  
16 behavioral health organizations and provider representatives, each  
17 adopt rules as necessary to implement chapter 214, Laws of 1999.

18       **Sec. 9016.** RCW 72.09.585 and 2013 c 200 s 32 are each amended to  
19 read as follows:

20       (1) When the department is determining an offender's risk  
21 management level, the department shall inquire of the offender and  
22 shall be told whether the offender is subject to court-ordered  
23 treatment for mental health services or chemical dependency services.  
24 The department shall request and the offender shall provide an  
25 authorization to release information form that meets applicable state  
26 and federal requirements and shall provide the offender with written  
27 notice that the department will request the offender's mental health  
28 and substance (~~abuse~~) use disorder treatment information. An  
29 offender's failure to inform the department of court-ordered  
30 treatment is a violation of the conditions of supervision if the  
31 offender is in the community and an infraction if the offender is in  
32 confinement, and the violation or infraction is subject to sanctions.

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

1 adopted by the (~~department of social and health services~~) health  
2 care authority or protocols developed jointly by the department and  
3 the (~~department of social and health services~~) health care  
4 authority. A single request shall be valid for the duration of the  
5 offender's supervision in the community. Disclosures of information  
6 related to mental health services made pursuant to a department  
7 request shall not require consent of the offender.

8 (3) The information received by the department under RCW  
9 71.05.445 or 70.02.250 may be released to the indeterminate sentence  
10 review board as relevant to carry out its responsibility of planning  
11 and ensuring community protection with respect to persons under its  
12 jurisdiction. Further disclosure by the indeterminate sentence review  
13 board is subject to the limitations set forth in subsections (5) and  
14 (6) of this section and must be consistent with the written policy of  
15 the indeterminate sentence review board. The decision to disclose or  
16 not shall not result in civil liability for the indeterminate  
17 sentence review board or staff assigned to perform board-related  
18 duties provided that the decision was reached in good faith and  
19 without gross negligence.

20 (4) The information received by the department under RCW  
21 71.05.445 or 70.02.250 may be used to meet the statutory duties of  
22 the department to provide evidence or report to the court. Disclosure  
23 to the public of information provided to the court by the department  
24 related to mental health services shall be limited in accordance with  
25 RCW 9.94A.500 or this section.

26 (5) The information received by the department under RCW  
27 71.05.445 or 70.02.250 may be disclosed by the department to other  
28 state and local agencies as relevant to plan for and provide  
29 offenders transition, treatment, and supervision services, or as  
30 relevant and necessary to protect the public and counteract the  
31 danger created by a particular offender, and in a manner consistent  
32 with the written policy established by the secretary. The decision to  
33 disclose or not shall not result in civil liability for the  
34 department or its employees so long as the decision was reached in  
35 good faith and without gross negligence. The information received by  
36 a state or local agency from the department shall remain confidential  
37 and subject to the limitations on disclosure set forth in chapters  
38 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be  
39 released only as relevant and necessary to counteract the danger  
40 created by a particular offender.

1 (6) The information received by the department under RCW  
2 71.05.445 or 70.02.250 may be disclosed by the department to  
3 individuals only with respect to offenders who have been determined  
4 by the department to have a high risk of reoffending by a risk  
5 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  
9 public in a system of supervision, monitoring, and reporting offender  
10 behavior to the department. The department must limit the disclosure  
11 of 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  
15 of treatment documents or records, except as otherwise provided by  
16 law. All disclosure of information to the public must be done in a  
17 manner consistent with the written policy established by the  
18 secretary. The decision to disclose or not shall not result in civil  
19 liability for the department or its employees so long as the decision  
20 was reached in good faith and without gross negligence. Nothing in  
21 this subsection prevents any person from reporting to law enforcement  
22 or the department behavior that he or she believes creates a public  
23 safety risk.

24 **Sec. 9017.** RCW 74.34.020 and 2015 c 268 s 1 are each amended to  
25 read as follows:

26 The definitions in this section apply throughout this chapter  
27 unless the context clearly requires otherwise.

28 (1) "Abandonment" means action or inaction by a person or entity  
29 with a duty of care for a vulnerable adult that leaves the vulnerable  
30 person without the means or ability to obtain necessary food,  
31 clothing, shelter, or health care.

32 (2) "Abuse" means the willful action or inaction that inflicts  
33 injury, unreasonable confinement, intimidation, or punishment on a  
34 vulnerable adult. In instances of abuse of a vulnerable adult who is  
35 unable to express or demonstrate physical harm, pain, or mental  
36 anguish, the abuse is presumed to cause physical harm, pain, or  
37 mental anguish. Abuse includes sexual abuse, mental abuse, physical  
38 abuse, and personal exploitation of a vulnerable adult, and improper

1 use of restraint against a vulnerable adult which have the following  
2 meanings:

3 (a) "Sexual abuse" means any form of nonconsensual sexual  
4 conduct, including but not limited to unwanted or inappropriate  
5 touching, rape, sodomy, sexual coercion, sexually explicit  
6 photographing, and sexual harassment. Sexual abuse also includes any  
7 sexual conduct between a staff person, who is not also a resident or  
8 client, of a facility or a staff person of a program authorized under  
9 chapter 71A.12 RCW, and a vulnerable adult living in that facility or  
10 receiving service from a program authorized under chapter 71A.12 RCW,  
11 whether or not it is consensual.

12 (b) "Physical abuse" means the willful action of inflicting  
13 bodily injury or physical mistreatment. Physical abuse includes, but  
14 is not limited to, striking with or without an object, slapping,  
15 pinching, choking, kicking, shoving, or prodding.

16 (c) "Mental abuse" means a willful verbal or nonverbal action  
17 that threatens, humiliates, harasses, coerces, intimidates, isolates,  
18 unreasonably confines, or punishes a vulnerable adult. Mental abuse  
19 may include ridiculing, yelling, or swearing.

20 (d) "Personal exploitation" means an act of forcing, compelling,  
21 or exerting undue influence over a vulnerable adult causing the  
22 vulnerable adult to act in a way that is inconsistent with relevant  
23 past behavior, or causing the vulnerable adult to perform services  
24 for the benefit of another.

25 (e) "Improper use of restraint" means the inappropriate use of  
26 chemical, physical, or mechanical restraints for convenience or  
27 discipline or in a manner that: (i) Is inconsistent with federal or  
28 state licensing or certification requirements for facilities,  
29 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is  
30 not medically authorized; or (iii) otherwise constitutes abuse under  
31 this section.

32 (3) "Chemical restraint" means the administration of any drug to  
33 manage a vulnerable adult's behavior in a way that reduces the safety  
34 risk to the vulnerable adult or others, has the temporary effect of  
35 restricting the vulnerable adult's freedom of movement, and is not  
36 standard treatment for the vulnerable adult's medical or psychiatric  
37 condition.

38 (4) "Consent" means express written consent granted after the  
39 vulnerable adult or his or her legal representative has been fully



1 informed of the nature of the services to be offered and that the  
2 receipt of services is voluntary.

3 (5) "Department" means the department of social and health  
4 services.

5 (6) "Facility" means a residence licensed or required to be  
6 licensed under chapter 18.20 RCW, assisted living facilities; chapter  
7 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;  
8 chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW,  
9 residential habilitation centers; or any other facility licensed or  
10 certified by the department or the department of health.

11 (7) "Financial exploitation" means the illegal or improper use,  
12 control over, or withholding of the property, income, resources, or  
13 trust funds of the vulnerable adult by any person or entity for any  
14 person's or entity's profit or advantage other than for the  
15 vulnerable adult's profit or advantage. "Financial exploitation"  
16 includes, but is not limited to:

17 (a) The use of deception, intimidation, or undue influence by a  
18 person or entity in a position of trust and confidence with a  
19 vulnerable adult to obtain or use the property, income, resources, or  
20 trust funds of the vulnerable adult for the benefit of a person or  
21 entity other than the vulnerable adult;

22 (b) The breach of a fiduciary duty, including, but not limited  
23 to, the misuse of a power of attorney, trust, or a guardianship  
24 appointment, that results in the unauthorized appropriation, sale, or  
25 transfer of the property, income, resources, or trust funds of the  
26 vulnerable adult for the benefit of a person or entity other than the  
27 vulnerable adult; or

28 (c) Obtaining or using a vulnerable adult's property, income,  
29 resources, or trust funds without lawful authority, by a person or  
30 entity who knows or clearly should know that the vulnerable adult  
31 lacks the capacity to consent to the release or use of his or her  
32 property, income, resources, or trust funds.

33 (8) "Financial institution" has the same meaning as in RCW  
34 30A.22.040 and 30A.22.041. For purposes of this chapter only,  
35 "financial institution" also means a "broker-dealer" or "investment  
36 adviser" as defined in RCW 21.20.005.

37 (9) "Hospital" means a facility licensed under chapter 70.41,  
38 71.12, or 72.23 RCW and any employee, agent, officer, director, or  
39 independent contractor thereof.

1 (10) "Incapacitated person" means a person who is at a  
2 significant risk of personal or financial harm under RCW 11.88.010(1)  
3 (a), (b), (c), or (d).

4 (11) "Individual provider" means a person under contract with the  
5 department to provide services in the home under chapter 74.09 or  
6 74.39A RCW.

7 (12) "Interested person" means a person who demonstrates to the  
8 court's satisfaction that the person is interested in the welfare of  
9 the vulnerable adult, that the person has a good faith belief that  
10 the court's intervention is necessary, and that the vulnerable adult  
11 is unable, due to incapacity, undue influence, or duress at the time  
12 the petition is filed, to protect his or her own interests.

13 (13) "Mandated reporter" is an employee of the department; law  
14 enforcement officer; social worker; professional school personnel;  
15 individual provider; an employee of a facility; an operator of a  
16 facility; an employee of a social service, welfare, mental health,  
17 adult day health, adult day care, home health, home care, or hospice  
18 agency; county coroner or medical examiner; Christian Science  
19 practitioner; or health care provider subject to chapter 18.130 RCW.

20 (14) "Mechanical restraint" means any device attached or adjacent  
21 to the vulnerable adult's body that he or she cannot easily remove  
22 that restricts freedom of movement or normal access to his or her  
23 body. "Mechanical restraint" does not include the use of devices,  
24 materials, or equipment that are (a) medically authorized, as  
25 required, and (b) used in a manner that is consistent with federal or  
26 state licensing or certification requirements for facilities,  
27 hospitals, or programs authorized under chapter 71A.12 RCW.

28 (15) "Neglect" means (a) a pattern of conduct or inaction by a  
29 person or entity with a duty of care that fails to provide the goods  
30 and services that maintain physical or mental health of a vulnerable  
31 adult, or that fails to avoid or prevent physical or mental harm or  
32 pain to a vulnerable adult; or (b) an act or omission by a person or  
33 entity with a duty of care that demonstrates a serious disregard of  
34 consequences of such a magnitude as to constitute a clear and present  
35 danger to the vulnerable adult's health, welfare, or safety,  
36 including but not limited to conduct prohibited under RCW 9A.42.100.

37 (16) "Permissive reporter" means any person, including, but not  
38 limited to, an employee of a financial institution, attorney, or  
39 volunteer in a facility or program providing services for vulnerable  
40 adults.

1 (17) "Physical restraint" means the application of physical force  
2 without the use of any device, for the purpose of restraining the  
3 free movement of a vulnerable adult's body. "Physical restraint" does  
4 not include (a) briefly holding without undue force a vulnerable  
5 adult in order to calm or comfort him or her, or (b) holding a  
6 vulnerable adult's hand to safely escort him or her from one area to  
7 another.

8 (18) "Protective services" means any services provided by the  
9 department to a vulnerable adult with the consent of the vulnerable  
10 adult, or the legal representative of the vulnerable adult, who has  
11 been abandoned, abused, financially exploited, neglected, or in a  
12 state of self-neglect. These services may include, but are not  
13 limited to case management, social casework, home care, placement,  
14 arranging for medical evaluations, psychological evaluations, day  
15 care, or referral for legal assistance.

16 (19) "Self-neglect" means the failure of a vulnerable adult, not  
17 living in a facility, to provide for himself or herself the goods and  
18 services necessary for the vulnerable adult's physical or mental  
19 health, and the absence of which impairs or threatens the vulnerable  
20 adult's well-being. This definition may include a vulnerable adult  
21 who is receiving services through home health, hospice, or a home  
22 care agency, or an individual provider when the neglect is not a  
23 result of inaction by that agency or individual provider.

24 (20) "Social worker" means:

25 (a) A social worker as defined in RCW 18.320.010(2); or

26 (b) Anyone engaged in a professional capacity during the regular  
27 course of employment in encouraging or promoting the health, welfare,  
28 support, or education of vulnerable adults, or providing social  
29 services to vulnerable adults, whether in an individual capacity or  
30 as an employee or agent of any public or private organization or  
31 institution.

32 (21) "Vulnerable adult" includes a person:

33 (a) Sixty years of age or older who has the functional, mental,  
34 or physical inability to care for himself or herself; or

35 (b) Found incapacitated under chapter 11.88 RCW; or

36 (c) Who has a developmental disability as defined under RCW  
37 71A.10.020; or

38 (d) Admitted to any facility; or

1 (e) Receiving services from home health, hospice, or home care  
2 agencies licensed or required to be licensed under chapter 70.127  
3 RCW; or

4 (f) Receiving services from an individual provider; or

5 (g) Who self-directs his or her own care and receives services  
6 from a personal aide under chapter 74.39 RCW.

7 **PART 10**

8 NEW SECTION. **Sec. 10001.** A new section is added to chapter  
9 41.05 RCW to read as follows:

10 (1) The powers, duties, and functions of the department of social  
11 and health services pertaining to the behavioral health system and  
12 purchasing function of the behavioral health administration, except  
13 for oversight and management of state-run mental health institutions  
14 and licensing and certification activities, are hereby transferred to  
15 the Washington state health care authority to the extent necessary to  
16 carry out the purposes of this act. All references to the secretary  
17 or the department of social and health services in the Revised Code  
18 of Washington shall be construed to mean the director of the health  
19 care authority or the health care authority when referring to the  
20 functions transferred in this section.

21 (2)(a) All reports, documents, surveys, books, records, files,  
22 papers, or written material in the possession of the department of  
23 social and health services pertaining to the powers, duties, and  
24 functions transferred shall be delivered to the custody of the health  
25 care authority. All cabinets, furniture, office equipment, motor  
26 vehicles, and other tangible property employed by the department of  
27 social and health services in carrying out the powers, duties, and  
28 functions transferred shall be made available to the health care  
29 authority. All funds, credits, or other assets held by the department  
30 of social and health services in connection with the powers, duties,  
31 and functions transferred shall be assigned to the health care  
32 authority.

33 (b) Any appropriations made to the department of social and  
34 health services for carrying out the powers, functions, and duties  
35 transferred shall, on the effective date of this section, be  
36 transferred and credited to the health care authority.

37 (c) Whenever any question arises as to the transfer of any  
38 personnel, funds, books, documents, records, papers, files,

1 equipment, or other tangible property used or held in the exercise of  
2 the powers and the performance of the duties and functions  
3 transferred, the director of financial management shall make a  
4 determination as to the proper allocation and certify the same to the  
5 state agencies concerned.

6 (3) All rules and all pending business before the department of  
7 social and health services pertaining to the powers, duties, and  
8 functions transferred shall be continued and acted upon by the health  
9 care authority. All existing contracts and obligations shall remain  
10 in full force and shall be performed by the health care authority.

11 (4) The transfer of the powers, duties, functions, and personnel  
12 of the department of social and health services shall not affect the  
13 validity of any act performed before the effective date of this  
14 section.

15 (5) If apportionments of budgeted funds are required because of  
16 the transfers directed by this section, the director of financial  
17 management shall certify the apportionments to the agencies affected,  
18 the state auditor, and the state treasurer. Each of these shall make  
19 the appropriate transfer and adjustments in funds and appropriation  
20 accounts and equipment records in accordance with the certification.

21 (6) By January 1, 2018, all employees of the department of social  
22 and health services engaged in performing the powers, functions, and  
23 duties transferred to the health care authority are transferred to  
24 the health care authority. All employees classified under chapter  
25 41.06 RCW, the state civil service law, are assigned to the health  
26 care authority to perform their usual duties upon the same terms as  
27 formerly, without any loss of rights, subject to any action that may  
28 be appropriate thereafter in accordance with the laws and rules  
29 governing state civil service law.

30 (7) Positions in any bargaining unit within the health care  
31 authority existing on the effective date of this section will not be  
32 removed from an existing bargaining unit as a result of this section  
33 unless and until the existing bargaining unit is modified by the  
34 public employment relations commission pursuant to Title 391 WAC. The  
35 portions of any bargaining units of employees at the department of  
36 social and health services existing on the effective date of this  
37 section that are transferred to the health care authority shall be  
38 considered separate appropriate units within the health care  
39 authority unless and until modified by the public employment  
40 relations commission pursuant to Title 391 WAC. The exclusive

1 bargaining representatives recognized as representing the portions of  
2 the bargaining units of employees at the department of social and  
3 health services existing on the effective date of this section shall  
4 continue as the exclusive bargaining representatives of the  
5 transferred bargaining units without the necessity of an election.

6 (8) The public employment relations commission may review the  
7 appropriateness of the collective bargaining units that are a result  
8 of the transfer from the department of social and health services to  
9 the health care authority under this act. The employer or the  
10 exclusive bargaining representative may petition the public  
11 employment relations commission to review the bargaining units in  
12 accordance with this section.

13 (9) By July 1, 2017, the health care authority must enter into an  
14 agreement with the department of social and health services. This  
15 agreement will allow the department of social and health services to  
16 continue to operate and administer the duties and obligations  
17 transferred in this act to the health care authority until the staff  
18 are fully transferred to the health care authority by January 1,  
19 2018.

20 (10) By January 1, 2018, the health care authority must enter  
21 into an agreement with the department of health to ensure  
22 coordination of preventative behavioral health services.

23 NEW SECTION. **Sec. 10002.** A new section is added to chapter  
24 43.70 RCW to read as follows:

25 (1) The powers, duties, and functions of the department of social  
26 and health services pertaining to licensing and certification of  
27 behavioral health provider agencies and facilities, except for state-  
28 run mental health institutions, are hereby transferred to the  
29 department of health to the extent necessary to carry out the  
30 purposes of this act. All references to the secretary or the  
31 department of social and health services in the Revised Code of  
32 Washington shall be construed to mean the secretary of the department  
33 of health or the department of health when referring to the functions  
34 transferred in this section.

35 (2)(a) All reports, documents, surveys, books, records, files,  
36 papers, or written material in the possession of the department of  
37 social and health services pertaining to the powers, duties, and  
38 functions transferred shall be delivered to the custody of the  
39 department of health. All cabinets, furniture, office equipment,

1 motor vehicles, and other tangible property employed by the  
2 department of social and health services in carrying out the powers,  
3 duties, and functions transferred shall be made available to the  
4 department of health. All funds, credits, or other assets held by the  
5 department of social and health services in connection with the  
6 powers, duties, and functions transferred shall be assigned to the  
7 department of health.

8 (b) Any appropriations made to the department of social and  
9 health services for carrying out the powers, functions, and duties  
10 transferred shall, on the effective date of this section, be  
11 transferred and credited to the department of health.

12 (c) If any question arises as to the transfer of any personnel,  
13 funds, books, documents, records, papers, files, equipment, or other  
14 tangible property used or held in the exercise of the powers and the  
15 performance of the duties and functions transferred, the director of  
16 financial management shall make a determination as to the proper  
17 allocation and certify the same to the state agencies concerned.

18 (3) All rules and all pending business before the department of  
19 social and health services pertaining to the powers, duties, and  
20 functions transferred shall be continued and acted upon by the  
21 department of health. All existing contracts and obligations shall  
22 remain in full force and shall be performed by the department of  
23 health.

24 (4) The transfer of the powers, duties, functions, and personnel  
25 of the department of social and health services shall not affect the  
26 validity of any act performed before the effective date of this  
27 section.

28 (5) If apportionments of budgeted funds are required because of  
29 the transfers directed by this section, the director of financial  
30 management shall certify the apportionments to the agencies affected,  
31 the state auditor, and the state treasurer. Each of these shall make  
32 the appropriate transfer and adjustments in funds and appropriation  
33 accounts and equipment records in accordance with the certification.

34 (6) By January 1, 2018, all employees of the department of social  
35 and health services engaged in performing the powers, functions, and  
36 duties transferred to the department of health are transferred to the  
37 department of health. All employees classified under chapter 41.06  
38 RCW, the state civil service law, are assigned to the department of  
39 health to perform their usual duties upon the same terms as formerly,  
40 without any loss of rights, subject to any action that may be

1 appropriate thereafter in accordance with the laws and rules  
2 governing state civil service law.

3 (7) Positions in any bargaining unit within the department of  
4 health existing on the effective date of this section will not be  
5 removed from an existing bargaining unit as a result of this section  
6 unless and until the existing bargaining unit is modified by the  
7 public employment relations commission pursuant to Title 391 WAC.  
8 Nonsupervisory civil service employees of the department of social  
9 and health services assigned to the department of health under this  
10 section whose positions are within the existing bargaining unit  
11 description at the department of health shall become a part of that  
12 unit under the provision of chapter 41.80 RCW. The existing  
13 bargaining representative of the existing bargaining unit at the  
14 department of health shall continue to be certified as the exclusive  
15 bargaining representative without the necessity of an election.

16 (8) By July 1, 2017, the department of health must enter into an  
17 agreement with the department of social and health services. This  
18 agreement will allow the department of social and health services to  
19 continue to operate and administer the duties and obligations  
20 transferred in this act to the department of health until the staff  
21 are fully transferred to the department of health by January 1, 2018.

22 NEW SECTION. **Sec. 10003.** The code reviser shall note wherever  
23 the secretary or department of any agency or agency's duties  
24 transferred or consolidated under this act is used or referred to in  
25 statute that the name of the secretary or department has changed. The  
26 code reviser shall prepare legislation for the 2018 regular session  
27 that: (1) Changes all statutory references to the secretary or  
28 department of any agency transferred or consolidated under this act;  
29 and (2) changes statutory references to sections recodified by this  
30 act but not amended in this act.

31 **PART 11**

32 NEW SECTION. **Sec. 11001.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected.



1        NEW SECTION.    **Sec. 11002.**    RCW 71.24.065 (Wraparound model of  
2 integrated children's mental health services delivery—Contracts—  
3 Evaluation—Report) is decodified.

4        NEW SECTION.    **Sec. 11003.**    (1) RCW 43.20A.025 is recodified as a  
5 section in chapter 71.34 RCW.

6        (2) RCW 43.20A.065 and 43.20A.433 are each recodified as sections  
7 in chapter 71.24 RCW.

8        (3) RCW 43.20A.890 and 43.20A.892 are each recodified as sections  
9 in chapter 41.05 RCW.

10       (4) RCW 43.20A.893, 43.20A.894, 43.20A.896, and 43.20A.897 are  
11 each recodified as sections in chapter 74.09 RCW.

12       NEW SECTION.    **Sec. 11004.**    Sections 2001, 3001, 3003, 3008, 3010,  
13 3012, 3017, 3020, 3024, 3027, 3029, 3035, 3037, 3040, 3045, 3047,  
14 4002, 4007, 4019, 5002, 5006, 5009, 5013, 5016, 5018, 5021, 5024,  
15 5027, 5029, 6001 through 6024, 8001, 8003, and 9012 of this act  
16 expire April 1, 2018.

17       NEW SECTION.    **Sec. 11005.**    Sections 2002, 3002, 3004, 3009, 3011,  
18 3013, 3014, 3018, 3021, 3025, 3030, 3036, 3038, 3041, 3046, 3048,  
19 3050, 4003, 4008, 4020, 5003, 5007, 5010, 5014, 5017, 5019, 5022,  
20 5025, 5028, 5030, 8002, 8004, and 9013 of this act take effect April  
21 1, 2018.

22       NEW SECTION.    **Sec. 11006.**    Section 7017 of this act expires  
23 January 1, 2018.

24       NEW SECTION.    **Sec. 11007.**    Sections 3014, 3018, 3038, 5025, and  
25 5030 of this act expire July 1, 2026.

26       NEW SECTION.    **Sec. 11008.**    Sections 3015, 3019, 3039, 5026, and  
27 5031 of this act take effect July 1, 2026.

28       NEW SECTION.    **Sec. 11009.**    Except as provided in sections 11005  
29 and 11008 of this act, this act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect July 1, 2017.

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