
ENGROSSED SUBSTITUTE SENATE BILL 6638

State of Washington

66th Legislature

2020 Regular Session

By Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Wilson, C., Lovelett, Randall, Nguyen, Das, and Darneille)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to providing reentry services to persons
2 releasing from prison, jail, and other institutions; amending RCW
3 74.09.670, 10.77.150, 72.09.370, 71.24.470, and 71.24.480; reenacting
4 and amending RCW 71.24.025 and 71.24.385; adding a new section to
5 chapter 71.24 RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is
8 critical to successful community reintegration and recovery for
9 persons who are being released from prison, jail, juvenile
10 rehabilitation, or other state institutions to have access to
11 supportive services and for those who have behavioral health services
12 needs to receive targeted assistance. This act employs multiple
13 strategies to improve reentry services for these individuals. It
14 provides for suspension of medicaid benefits to end before a person's
15 release from custody so that medical assistance benefits can be made
16 available immediately upon the person's release and so that
17 authorized medicaid services can be provided before the person's
18 release if the state receives a medicaid waiver. It creates a reentry
19 services modality within the community behavioral health services act
20 and directs the Washington state health care authority to apply for a
21 section 1115 medicaid waiver so that the state can leverage federal

1 funding to provide reentry services before the person's release. It
2 provides persons applying for a conditional release under chapter
3 10.77 RCW with access to the same community support services
4 available to persons receiving community services under a less
5 restrictive alternative order under chapter 71.05 RCW. Finally, it
6 removes stigmatizing language from the program created under RCW
7 72.09.370 and 71.24.470 and creates a work group to advise the state
8 how to use strategies based on evidence-based, research-based, and
9 promising practices to expand the provision of cost-effective reentry
10 services to new populations.

11 (2) The legislature finds that the support for patients and
12 communities act, H.R. 6 115th Cong. Sec. 271 (2018), provided federal
13 recognition of the importance of providing transition services to
14 persons who are soon to be former inmates of public institutions.
15 This act requires the secretary of health and human services to issue
16 a state medicaid director letter by October 2019 regarding
17 opportunities for states to apply for a section 1115 waiver to
18 improve care transitions by providing medicaid services up to thirty
19 days before a person's expected release. This guidance has not yet
20 been released. New York state and the District of Columbia have
21 already submitted section 1115 waiver applications which remain
22 pending in the year 2019 in anticipation of this opportunity.

23 **Sec. 2.** RCW 74.09.670 and 2016 c 154 s 2 are each amended to
24 read as follows:

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

34 (2) When a release date is scheduled for an individual whose
35 medical assistance benefits are suspended under this section, the
36 medical assistance benefits of a person may be restored up to ninety
37 days prior to the person's release to facilitate reentry services,
38 provided that no federal funds may be expended during this period for

1 purposes not permitted by the state's agreements with the federal
2 government.

3 (3) Starting January 1, 2022, the medical assistance benefits of
4 a person that have been suspended under this section must be restored
5 up to ninety days and not less than seven days prior to the person's
6 scheduled release to facilitate reentry services, provided that no
7 federal funds may be expended during this period for purposes not
8 permitted by the state's agreements with the federal government.

9 (4) For the purpose of this section, "reentry services" has the
10 same meaning as under RCW 71.24.025.

11 **Sec. 3.** RCW 71.24.025 and 2019 c 325 s 1004 and 2019 c 324 s 2
12 are each reenacted and amended to read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

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

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

19 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
20 case of a child, a gravely disabled minor as defined in RCW
21 71.34.020; or

22 (c) Presenting a likelihood of serious harm as defined in RCW
23 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

24 (2) "Alcoholism" means a disease, characterized by a dependency
25 on alcoholic beverages, loss of control over the amount and
26 circumstances of use, symptoms of tolerance, physiological or
27 psychological withdrawal, or both, if use is reduced or discontinued,
28 and impairment of health or disruption of social or economic
29 functioning.

30 (3) "Approved substance use disorder treatment program" means a
31 program for persons with a substance use disorder provided by a
32 treatment program licensed or certified by the department as meeting
33 standards adopted under this chapter.

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

35 (5) "Available resources" means funds appropriated for the
36 purpose of providing community behavioral health programs, federal
37 funds, except those provided according to Title XIX of the Social
38 Security Act, and state funds appropriated under this chapter or
39 chapter 71.05 RCW by the legislature during any biennium for the

1 purpose of providing residential services, resource management
2 services, community support services, and other behavioral health
3 services. This does not include funds appropriated for the purpose of
4 operating and administering the state psychiatric hospitals.

5 (6) "Behavioral health administrative services organization"
6 means an entity contracted with the authority to administer
7 behavioral health services and programs under RCW 71.24.381,
8 including crisis services and administration of chapter 71.05 RCW,
9 the involuntary treatment act, for all individuals in a defined
10 regional service area.

11 (7) "Behavioral health provider" means a person licensed under
12 chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79
13 RCW, as it applies to registered nurses and advanced registered nurse
14 practitioners.

15 (8) "Behavioral health services" means mental health services as
16 described in this chapter and chapter 71.36 RCW and substance use
17 disorder treatment services as described in this chapter that,
18 depending on the type of service, are provided by licensed or
19 certified behavioral health agencies, behavioral health providers, or
20 integrated into other health care providers.

21 (9) "Child" means a person under the age of eighteen years.

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

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

27 (b) Has experienced a continuous psychiatric hospitalization or
28 residential treatment exceeding six months' duration within the
29 preceding year; or

30 (c) Has been unable to engage in any substantial gainful activity
31 by reason of any mental disorder which has lasted for a continuous
32 period of not less than twelve months. "Substantial gainful activity"
33 shall be defined by the authority by rule consistent with Public Law
34 92-603, as amended.

35 (11) "Clubhouse" means a community-based program that provides
36 rehabilitation services and is licensed or certified by the
37 department.

38 (12) "Community behavioral health program" means all
39 expenditures, services, activities, or programs, including reasonable
40 administration and overhead, designed and conducted to prevent or

1 treat substance use disorder, mental illness, or both in the
2 community behavioral health system.

3 (13) "Community behavioral health service delivery system" means
4 public, private, or tribal agencies that provide services
5 specifically to persons with mental disorders, substance use
6 disorders, or both, as defined under RCW 71.05.020 and receive
7 funding from public sources.

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

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

30 (16) "County authority" means the board of county commissioners,
31 county council, or county executive having authority to establish a
32 behavioral health administrative services organization, or two or
33 more of the county authorities specified in this subsection which
34 have entered into an agreement to establish a behavioral health
35 administrative services organization.

36 (17) "Department" means the department of health.

37 (18) "Designated crisis responder" has the same meaning as in RCW
38 71.05.020.

39 (19) "Director" means the director of the authority.

1 (20) "Drug addiction" means a disease characterized by a
2 dependency on psychoactive chemicals, loss of control over the amount
3 and circumstances of use, symptoms of tolerance, physiological or
4 psychological withdrawal, or both, if use is reduced or discontinued,
5 and impairment of health or disruption of social or economic
6 functioning.

7 (21) "Early adopter" means a regional service area for which all
8 of the county authorities have requested that the authority purchase
9 medical and behavioral health services through a managed care health
10 system as defined under RCW 71.24.380(6).

11 (22) "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 subsection (23) of this section.

17 (23) "Evidence-based" means a program or practice that has been
18 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 "Evidence-based" also means a program or practice that can be
24 implemented with a set of procedures to allow successful replication
25 in Washington and, when possible, is determined to be cost-
26 beneficial.

27 (24) "Indian health care provider" means a health care program
28 operated by the Indian health service or by a tribe, tribal
29 organization, or urban Indian organization as those terms are defined
30 in the Indian health care improvement act (25 U.S.C. Sec. 1603).

31 (25) "Intensive behavioral health treatment facility" means a
32 community-based specialized residential treatment facility for
33 individuals with behavioral health conditions, including individuals
34 discharging from or being diverted from state and local hospitals,
35 whose impairment or behaviors do not meet, or no longer meet,
36 criteria for involuntary inpatient commitment under chapter 71.05
37 RCW, but whose care needs cannot be met in other community-based
38 placement settings.

39 (26) "Licensed or certified behavioral health agency" means:

1 (a) An entity licensed or certified according to this chapter or
2 chapter 71.05 RCW;

3 (b) An entity deemed to meet state minimum standards as a result
4 of accreditation by a recognized behavioral health accrediting body
5 recognized and having a current agreement with the department; or

6 (c) An entity with a tribal attestation that it meets state
7 minimum standards for a licensed or certified behavioral health
8 agency.

9 (27) "Licensed physician" means a person licensed to practice
10 medicine or osteopathic medicine and surgery in the state of
11 Washington.

12 (28) "Long-term inpatient care" means inpatient services for
13 persons committed for, or voluntarily receiving intensive treatment
14 for, periods of ninety days or greater under chapter 71.05 RCW.

15 "Long-term inpatient care" as used in this chapter does not include:

16 (a) Services for individuals committed under chapter 71.05 RCW who
17 are receiving services pursuant to a conditional release or a court-
18 ordered less restrictive alternative to detention; or (b) services
19 for individuals voluntarily receiving less restrictive alternative
20 treatment on the grounds of the state hospital.

21 (29) "Managed care organization" means an organization, having a
22 certificate of authority or certificate of registration from the
23 office of the insurance commissioner, that contracts with the
24 authority under a comprehensive risk contract to provide prepaid
25 health care services to enrollees under the authority's managed care
26 programs under chapter 74.09 RCW.

27 (30) "Mental health peer respite center" means a peer-run program
28 to serve individuals in need of voluntary, short-term, noncrisis
29 services that focus on recovery and wellness.

30 (31) Mental health "treatment records" include registration and
31 all other records concerning persons who are receiving or who at any
32 time have received services for mental illness, which are maintained
33 by the department of social and health services or the authority, by
34 behavioral health administrative services organizations and their
35 staffs, by managed care organizations and their staffs, or by
36 treatment facilities. "Treatment records" do not include notes or
37 records maintained for personal use by a person providing treatment
38 services for the entities listed in this subsection, or a treatment
39 facility if the notes or records are not available to others.

1 (32) "Mentally ill persons," "persons who are mentally ill," and
2 "the mentally ill" mean persons and conditions defined in subsections
3 (1), (10), (39), and (40) of this section.

4 (33) "Recovery" means a process of change through which
5 individuals improve their health and wellness, live a self-directed
6 life, and strive to reach their full potential.

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

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

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

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

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

14 (38) "Secretary" means the secretary of the department of health.

15 (39) "Seriously disturbed person" means a person who:

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

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

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

25 (d) Exhibits suicidal preoccupation or attempts; or

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

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

39 (a) Has undergone inpatient treatment or placement outside of the
40 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 (41) "State minimum standards" means minimum requirements
18 established by rules adopted and necessary to implement this chapter
19 by:

20 (a) The authority for:

21 (i) Delivery of mental health and substance use disorder
22 services; and

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

24 (b) The department of health for:

25 (i) Licensed or certified behavioral health agencies for the
26 purpose of providing mental health or substance use disorder programs
27 and services, or both;

28 (ii) Licensed behavioral health providers for the provision of
29 mental health or substance use disorder services, or both; and

30 (iii) Residential services.

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

37 (43) "Tribe," for the purposes of this section, means a federally
38 recognized Indian tribe.

39 (44) "Reentry services" means targeted services to support
40 community reintegration and recovery for a person with an identified

1 behavioral health services need who is scheduled or expected to be
2 released from a prison, jail, juvenile rehabilitation facility, state
3 hospital, or other institution or facility within ninety days.
4 "Reentry services" also means targeted services provided to such a
5 person following release to support the person's recovery and
6 stability in the community. "Reentry services" may include:

7 (a) Engagement, assessment, recovery support, and release
8 planning provided up to ninety days prior to a scheduled or expected
9 release provided by behavioral health clinicians, certified peer
10 counselors, or both;

11 (b) Intensive case management, peer bridger services, or both
12 provided during the period beginning immediately upon the person's
13 release which may decrease in intensity over time depending on the
14 specific needs of the individual;

15 (c) Coordination of mental health services, assistance with
16 unfunded medical expenses, assistance obtaining substance use
17 disorder treatment, housing, employment services, educational or
18 vocational training, transportation, independent living skills,
19 parenting education, anger management services, peer services, and
20 such other services as the case manager deems necessary; and

21 (d) Provision of services under contract through the reentry
22 community services program under RCW 72.09.370 and 71.24.470.

23 NEW SECTION. Sec. 4. (1) The health care authority shall, after
24 the release of federal guidance, apply for a section 1115 medicaid
25 waiver to provide reentry services as defined under RCW 71.24.025
26 through the state medicaid program to persons who are expecting to be
27 released from a public institution and are otherwise eligible to
28 receive medical assistance. The authority shall consult with the work
29 group established under section 10 of this act about the details of
30 the application and how to maximize support for Washington state
31 reentry programs within the limitations of what the centers of
32 medicare and medicaid services are likely to approve.

33 (2) In developing its application, the health care authority must
34 explicitly consider how to best leverage the 1115 medicaid waiver
35 application for the following purposes:

36 (a) To provide federal funding support for the state-only
37 portions of the reentry community services program under RCW
38 72.09.370 and 71.24.470;

1 (b) To provide sustainable funding for cost-effective or cost-
2 neutral reentry or diversion services provided by pilot programs
3 funded by contempt fines in *Trueblood, et al., v. DSHS, et al.*, No.
4 15-35462; and

5 (c) To accommodate the special needs of persons in jail who tend
6 to stay for short periods of time and not have access to a documented
7 anticipated release date.

8 (3) The authority shall consider how evaluations of the reentry
9 community services program created under RCW 72.09.370 and 71.24.470
10 conducted by the Washington state institute for public policy may be
11 used to establish an evidence base for its waiver application
12 demonstrating the potential for delivering cost-effective reentry
13 services in the state of Washington.

14 (4) The health care authority shall update the governor and
15 appropriate committees of the legislature in writing upon submission
16 of its section 1115 medicaid waiver application, at the point at
17 which such application obtains final approval or denial from the
18 centers for medicaid and medicare services, and at other critical
19 junctures at the discretion of the health care authority.

20 **Sec. 5.** RCW 71.24.385 and 2019 c 325 s 1023 and 2019 c 264 s 6
21 are each reenacted and amended to read as follows:

22 (1) Within funds appropriated by the legislature for this
23 purpose, behavioral health administrative services organizations and
24 managed care organizations, as applicable, shall develop the means to
25 serve the needs of people:

26 (a) With mental disorders residing within the boundaries of their
27 regional service area. Elements of the program may include:

- 28 (i) Crisis diversion services;
- 29 (ii) Evaluation and treatment and community hospital beds;
- 30 (iii) Residential treatment;
- 31 (iv) Programs for intensive community treatment;
- 32 (v) Outpatient services, including family support;
- 33 (vi) Peer support services;
- 34 (vii) Community support services;
- 35 (viii) Resource management services; (~~and~~)
- 36 (ix) Reentry services; and
- 37 (x) Supported housing and supported employment services.

1 (b) With substance use disorders and their families, people
2 incapacitated by alcohol or other psychoactive chemicals, and
3 intoxicated people.

4 (i) Elements of the program shall include, but not necessarily be
5 limited to, a continuum of substance use disorder treatment services
6 that includes:

7 (A) Withdrawal management;

8 (B) Residential treatment; and

9 (C) Outpatient treatment.

10 (ii) The program may include peer support, supported housing,
11 supported employment, crisis diversion, recovery support services,
12 reentry services, or technology-based recovery supports.

13 (iii) The authority may contract for the use of an approved
14 substance use disorder treatment program or other individual or
15 organization if the director considers this to be an effective and
16 economical course to follow.

17 (2) (a) The managed care organization and the behavioral health
18 administrative services organization shall have the flexibility,
19 within the funds appropriated by the legislature for this purpose and
20 the terms of their contract, to design the mix of services that will
21 be most effective within their service area of meeting the needs of
22 people with behavioral health disorders and avoiding placement of
23 such individuals at the state mental hospital. Managed care
24 organizations and behavioral health administrative services
25 organizations are encouraged to maximize the use of evidence-based
26 practices and alternative resources with the goal of substantially
27 reducing and potentially eliminating the use of institutions for
28 mental diseases.

29 (b) Managed care organizations and behavioral health
30 administrative services organizations may allow reimbursement to
31 providers for services delivered through a partial hospitalization or
32 intensive outpatient program. Such payment and services are distinct
33 from the state's delivery of wraparound with intensive services under
34 the *T.R. v. Strange and Birch* settlement agreement.

35 (3) (a) Treatment provided under this chapter must be purchased
36 primarily through managed care contracts.

37 (b) Consistent with RCW 71.24.580, services and funding provided
38 through the criminal justice treatment account are intended to be
39 exempted from managed care contracting.

1 **Sec. 6.** RCW 10.77.150 and 2010 c 263 s 5 are each amended to
2 read as follows:

3 (1) Persons examined pursuant to RCW 10.77.140 may make
4 application to the secretary for conditional release. The secretary
5 shall, after considering the reports of experts or professional
6 persons conducting the examination pursuant to RCW 10.77.140, forward
7 to the court of the county which ordered the person's commitment the
8 person's application for conditional release as well as the
9 secretary's recommendations concerning the application and any
10 proposed terms and conditions upon which the secretary reasonably
11 believes the person can be conditionally released. Conditional
12 release may also contemplate partial release for work, training, or
13 educational purposes.

14 (2) In instances in which persons examined pursuant to RCW
15 10.77.140 have not made application to the secretary for conditional
16 release, but the secretary, after considering the reports of experts
17 or professional persons conducting the examination pursuant to RCW
18 10.77.140, reasonably believes the person may be conditionally
19 released, the secretary may submit a recommendation for release to
20 the court of the county that ordered the person's commitment. The
21 secretary's recommendation must include any proposed terms and
22 conditions upon which the secretary reasonably believes the person
23 may be conditionally released. Conditional release may also include
24 partial release for work, training, or educational purposes. Notice
25 of the secretary's recommendation under this subsection must be
26 provided to the person for whom the secretary has made the
27 recommendation for release and to his or her attorney.

28 (3) (a) The court of the county which ordered the person's
29 commitment, upon receipt of an application or recommendation for
30 conditional release with the secretary's recommendation for
31 conditional release terms and conditions, shall within thirty days
32 schedule a hearing. The court may schedule a hearing on applications
33 recommended for disapproval by the secretary.

34 (b) The prosecuting attorney shall represent the state at such
35 hearings and shall have the right to have the patient examined by an
36 expert or professional person of the prosecuting attorney's choice.
37 If the committed person is indigent, and he or she so requests, the
38 court shall appoint a qualified expert or professional person to
39 examine the person on his or her behalf.

1 (c) The issue to be determined at such a hearing is whether or
2 not the person may be released conditionally without substantial
3 danger to other persons, or substantial likelihood of committing
4 criminal acts jeopardizing public safety or security.

5 (d) The court, after the hearing, shall rule on the secretary's
6 recommendations, and if it disapproves of conditional release, may do
7 so only on the basis of substantial evidence. The court may modify
8 the suggested terms and conditions on which the person is to be
9 conditionally released. Pursuant to the determination of the court
10 after hearing, the committed person shall thereupon be released on
11 such conditions as the court determines to be necessary, or shall be
12 remitted to the custody of the secretary. If the order of conditional
13 release includes a requirement for the committed person to report to
14 a community corrections officer, the order shall also specify that
15 the conditionally released person shall be under the supervision of
16 the secretary of corrections or such person as the secretary of
17 corrections may designate and shall follow explicitly the
18 instructions of the secretary of corrections including reporting as
19 directed to a community corrections officer, remaining within
20 prescribed geographical boundaries, and notifying the community
21 corrections officer prior to making any change in the offender's
22 address or employment. If the order of conditional release includes a
23 requirement for the committed person to report to a community
24 corrections officer, the community corrections officer shall notify
25 the secretary or the secretary's designee, if the person is not in
26 compliance with the court-ordered conditions of release.

27 (4) If the court determines that receiving regular or periodic
28 medication or other medical treatment shall be a condition of the
29 committed person's release, then the court shall require him or her
30 to report to a physician or other medical or mental health
31 practitioner for the medication or treatment. In addition to
32 submitting any report required by RCW 10.77.160, the physician or
33 other medical or mental health practitioner shall immediately upon
34 the released person's failure to appear for the medication or
35 treatment or upon a change in mental health condition that renders
36 the patient a potential risk to the public report to the court, to
37 the prosecuting attorney of the county in which the released person
38 was committed, to the secretary, and to the supervising community
39 corrections officer.

1 (5) Any person, whose application for conditional release has
2 been denied, may reapply after a period of six months from the date
3 of denial.

4 (6) A licensed or certified behavioral health agency as defined
5 under RCW 71.24.025 that provides community behavioral health
6 services to a person placed on conditional release under this section
7 or agrees to provide such services upon the person's conditional
8 release shall provide equivalent services to the person as it would
9 provide to a person who is court ordered to receive less restrictive
10 alternative treatment under RCW 71.05.585. A licensed or certified
11 behavioral health agency must participate in reentry planning when a
12 person is recommended for conditional release under this section and
13 may provide reentry services as defined in RCW 71.24.025 in
14 coordination with state hospital staff and the person's managed care
15 organization, behavioral health administrative services organization,
16 or private insurance carrier.

17 **Sec. 7.** RCW 72.09.370 and 2019 c 325 s 5025 are each amended to
18 read as follows:

19 (1) The ~~((offender))~~ reentry community ~~((safety))~~ services
20 program is established to provide intensive services to ~~((offenders))~~
21 incarcerated persons identified under this subsection and to thereby
22 promote successful reentry, public safety, and recovery. The
23 secretary shall identify ~~((offenders))~~ persons in confinement or
24 partial confinement who: (a) Are reasonably believed to ~~((be~~
25 ~~dangerous))~~ present a danger to themselves or others if released to
26 the community without supportive services; and (b) have a mental
27 disorder. In determining ~~((an offender's dangerousness))~~ whether an
28 incarcerated person may meet these criteria, the secretary shall
29 consider behavior known to the department and factors, based on
30 research, that are linked to ~~((an increased))~~ risk ~~((for))~~ of
31 dangerousness ~~((of offenders))~~ for persons with mental illnesses who
32 are involved with the criminal justice system and shall include
33 consideration of ~~((an offender's))~~ the person's substance use
34 disorder or history of substance abuse.

35 (2) Prior to release of ~~((an offender))~~ a person identified under
36 this section, a team consisting of representatives of the department
37 of corrections, the health care authority, and, as necessary, the
38 indeterminate sentence review board, divisions or administrations
39 within the department of social and health services, specifically

1 including the division of developmental disabilities, the appropriate
2 managed care organization (~~(contracted with the health care~~
3 ~~authority, the appropriate)) or behavioral health administrative~~
4 services organization, and (~~the~~) reentry community services
5 providers, as appropriate, shall develop a plan, as determined
6 necessary by the team, for delivery of treatment and support services
7 to the (~~offender~~) incarcerated person upon release. In developing
8 the plan, the (~~offender~~) person shall be offered assistance in
9 executing a mental health advance directive under chapter 71.32 RCW,
10 after being fully informed of the benefits, scope, and purposes of
11 such directive. The team may include a school district representative
12 for (~~offenders~~) incarcerated persons under the age of twenty-one.
13 The team shall consult with the (~~offender's~~) person's counsel, if
14 any, and, as appropriate, the (~~offender's~~) person's family and
15 community. The team shall notify the crime victim/witness program,
16 which shall provide notice to all people registered to receive notice
17 under RCW 72.09.712 of the proposed release plan developed by the
18 team. Victims, witnesses, and other interested people notified by the
19 department may provide information and comments to the department on
20 potential safety risk to specific individuals or classes of
21 individuals posed by the specific (~~offender~~) incarcerated person.
22 The team may recommend: (a) That the (~~offender~~) person be evaluated
23 by (~~the~~) a designated crisis responder, as defined in chapter 71.05
24 RCW; (b) department-supervised community treatment; or (c) voluntary
25 community mental health or substance use disorder or abuse treatment.

26 (3) Prior to release of an (~~offender~~) incarcerated person
27 identified under this section, the team shall determine whether or
28 not an evaluation by a designated crisis responder is needed. If an
29 evaluation is recommended, the supporting documentation shall be
30 immediately forwarded to the appropriate designated crisis responder.
31 The supporting documentation shall include the (~~offender's~~)
32 person's criminal history, history of judicially required or
33 administratively ordered involuntary antipsychotic medication while
34 in confinement, and any known history of involuntary civil
35 commitment.

36 (4) If an evaluation by a designated crisis responder is
37 recommended by the team, such evaluation shall occur not more than
38 ten days, nor less than five days, prior to release.

39 (5) A second evaluation by a designated crisis responder shall
40 occur on the day of release if requested by the team, based upon new

1 information or a change in the (~~offender's~~) person's mental
2 condition, and the initial evaluation did not result in an emergency
3 detention or a summons under chapter 71.05 RCW.

4 (6) If the designated crisis responder determines an emergency
5 detention under chapter 71.05 RCW is necessary, the department shall
6 release the (~~offender~~) person only to a state hospital or to a
7 consenting evaluation and treatment facility or secure withdrawal
8 management and stabilization facility. The department shall arrange
9 transportation of the (~~offender~~) person to the hospital or
10 facility.

11 (7) If the designated crisis responder believes that a less
12 restrictive alternative treatment is appropriate, he or she shall
13 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to
14 require the (~~offender~~) person to appear at an evaluation and
15 treatment facility or secure withdrawal management and stabilization
16 facility. If a summons is issued, the (~~offender~~) person shall
17 remain within the corrections facility until completion of his or her
18 term of confinement and be transported, by corrections personnel on
19 the day of completion, directly to the identified (~~evaluation and~~
20 ~~treatment~~) facility.

21 (8) The secretary shall adopt rules to implement this section.

22 **Sec. 8.** RCW 71.24.470 and 2019 c 325 s 1030 are each amended to
23 read as follows:

24 (1) The director shall contract, to the extent that funds are
25 appropriated for this purpose, for case management services and such
26 other services as the director deems necessary to assist
27 (~~offenders~~) incarcerated persons identified under RCW 72.09.370 for
28 participation in the (~~offender~~) reentry community (~~safety~~)
29 services program. The contracts may be with any qualified and
30 appropriate entities.

31 (2) The case manager has the authority to assist these
32 (~~offenders~~) individuals in obtaining the services, as set forth in
33 the plan created under RCW 72.09.370(2), for up to five years. The
34 services may include coordination of mental health services,
35 assistance with unfunded medical expenses, assistance obtaining
36 substance use disorder treatment, housing, employment services,
37 educational or vocational training, independent living skills,
38 parenting education, anger management services, peer services, and
39 such other services as the case manager deems necessary.

1 (3) The legislature intends that funds appropriated for the
2 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section
3 are to supplement and not to supplant general funding. Funds
4 appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212,
5 and this section are not to be considered available resources as
6 defined in RCW 71.24.025 and are not subject to the priorities,
7 terms, or conditions in the appropriations act established pursuant
8 to RCW 71.24.035.

9 (4) The ~~((offender))~~ reentry community ~~((safety))~~ services
10 program was formerly known as the community integration assistance
11 program.

12 **Sec. 9.** RCW 71.24.480 and 2019 c 325 s 1031 are each amended to
13 read as follows:

14 (1) A licensed or certified behavioral health agency acting in
15 the course of the ~~((provider's))~~ agency's duties under this
16 chapter~~((, is))~~ and its individual employees are not liable for civil
17 damages resulting from the injury or death of another caused by a
18 participant in the ~~((offender))~~ reentry community ~~((safety))~~ services
19 program who is a client of the ~~((provider or organization))~~ agency,
20 unless the act or omission of the ~~((provider or organization))~~ agency
21 or employee constitutes:

22 (a) Gross negligence;

23 (b) Willful or wanton misconduct; or

24 (c) A breach of the duty to warn of and protect from a client's
25 threatened violent behavior if the client has communicated a serious
26 threat of physical violence against a reasonably ascertainable victim
27 or victims.

28 (2) In addition to any other requirements to report violations,
29 the licensed or certified behavioral health agency shall report ~~((an~~
30 ~~offender's))~~ a reentry community services program participant's
31 expressions of intent to harm or other predatory behavior, regardless
32 of whether there is an ascertainable victim, in progress reports and
33 other established processes that enable courts and supervising
34 entities to assess and address the progress and appropriateness of
35 treatment.

36 (3) A licensed or certified behavioral health agency's mere act
37 of treating a participant in the ~~((offender))~~ reentry community
38 ~~((safety))~~ services program is not negligence. Nothing in this

1 subsection alters the licensed or certified behavioral health
2 agency's normal duty of care with regard to the client.

3 (4) The limited liability provided by this section applies only
4 to the conduct of licensed or certified behavioral health agencies
5 and their employees and does not apply to conduct of the state.

6 (5) For purposes of this section, "participant in the
7 (~~offender~~) reentry community (~~safety~~) services program" means a
8 person who has been identified under RCW 72.09.370 as (~~an offender~~)
9 a person who: (a) Is reasonably believed to (~~be dangerous~~) present
10 a danger to himself or herself or others if released to the community
11 without supportive services; and (b) has a mental disorder.

12 NEW SECTION. **Sec. 10.** A new section is added to chapter 71.24
13 RCW to read as follows:

14 (1) The authority shall convene a reentry services work group to
15 consider ways to improve reentry services for persons with an
16 identified behavioral health services need. The work group shall:

17 (a) Advise the authority on its waiver application under section
18 4 of this act;

19 (b) Consider how to expand, replicate, or adapt the essential
20 elements of the reentry community services program under RCW
21 72.09.370 and 71.24.470 while preserving those aspects most essential
22 to stable reentry and recovery to provide reentry community services
23 to:

24 (i) A larger set of persons incarcerated in prison including up
25 to all persons releasing from prison who are reasonably believed to
26 present either a high risk of violent recidivism, a high risk of
27 nonviolent recidivism, or both in combination with a mental disorder
28 or a substance use disorder, or other subsets of persons at the
29 discretion of the work group;

30 (ii) Persons who are committed to a state hospital or long-term
31 involuntary behavioral health treatment facility under chapter 10.77
32 RCW or RCW 71.05.280(3), who are reasonably believed to be ready for
33 safe discharge to an appropriate community placement;

34 (iii) Persons expecting release from confinement under chapter
35 13.40 RCW;

36 (iv) Persons expecting release from confinement in jail; and/or

37 (v) Other populations recommended by the work group;

38 (c) Evaluate whether it would be better for administration of
39 contracts for services under the reentry community services program

1 remain at the state level or instead be administered by managed care
2 organizations or behavioral health administrative services
3 organizations;

4 (d) Identify the costs and savings that could be realized through
5 expanding or replicating the reentry community services program as
6 described under (b) of this subsection or through other means of
7 providing reentry services;

8 (e) Evaluate the sustainability of promising reentry services or
9 diversion services provided by pilot programs funded by contempt
10 fines in *Trueblood, et al., v. DSHS, et al.*, No. 15-35462;

11 (f) Recommend means of funding and staffing expanded reentry
12 services; and

13 (g) Consider how peer services can be incorporated into the
14 reentry services programs.

15 (2) The authority shall invite participation in the work group by
16 stakeholders including but not limited to representatives from:
17 Disability rights Washington; behavioral health advocacy
18 organizations; behavioral health peers; reentry community services
19 providers; community behavioral health agencies; advocates for
20 persons with developmental disabilities; the department of
21 corrections; the department of children, youth, and families; the
22 Washington association of sheriffs and police chiefs; prosecutors;
23 defense attorneys; the Washington state association of counties; King
24 county behavioral health and recovery division; the department of
25 social and health services; state hospital employees who serve
26 patients committed under chapters 10.77 and 71.05 RCW; the public
27 safety review panel under RCW 10.77.270; managed care organizations;
28 behavioral health administrative services organizations; the
29 Washington statewide reentry council; the Washington state senate and
30 house of representatives; and the Washington state institute for
31 public policy.

32 (3) The work group must provide a progress report to the governor
33 and appropriate committees of the legislature by December 1, 2020,
34 and a final report by December 1, 2021.

35 NEW SECTION. **Sec. 11.** The Washington state health care
36 authority shall revise its contracts with managed care organizations
37 and behavioral health administrative services organizations to
38 require those entities to ensure that providers that contract to
39 provide services through the reentry community services program under

1 RCW 72.09.370 and 71.24.330 are available to their eligible clients
2 in every regional service area.

3 NEW SECTION. **Sec. 12.** The Washington state institute for public
4 policy shall update its previous evaluations of the reentry community
5 services program under RCW 72.09.370 and 71.24.470, considering
6 impacts on both recidivism and the use of public services. The
7 institute shall collaborate with the work group established under
8 section 10 of this act to determine research parameters and
9 additional research questions that would support the work of the work
10 group including, but not limited to, the potential cost, benefit, and
11 risks to the state of expanding or replicating the reentry community
12 services program; and what modifications to the program are most and
13 least likely to prove advantageous based on the current state of
14 knowledge about evidence-based, research-based, and promising
15 programs. The department of corrections, health care authority,
16 administrative office of the courts, King county, and department of
17 social and health services must cooperate with the institute to
18 facilitate access to data or other resources necessary to complete
19 this work. The institute must provide a preliminary report by
20 December 1, 2020, and a final report by November 1, 2021, to the
21 governor and relevant committees of the legislature.

--- END ---