
SENATE BILL 5071

State of Washington

67th Legislature

2021 Regular Session

By Senators Dhingra, Darneille, Das, Hunt, Kuderer, Nguyen, and Wilson, C.

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1 AN ACT Relating to creating transition teams to assist specified
2 persons under civil commitment; amending RCW 10.77.150, 71.05.320,
3 71.05.320, 71.05.585, 70.02.230, 70.02.240, and 71.24.035; providing
4 an effective date; and providing an expiration date.

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

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

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

19 (2) In instances in which persons examined pursuant to RCW
20 10.77.140 have not made application to the secretary for conditional
21 release, but the secretary, after considering the reports of experts

1 or professional persons conducting the examination pursuant to RCW
2 10.77.140, reasonably believes the person may be conditionally
3 released, the secretary may submit a recommendation for release to
4 the court of the county that ordered the person's commitment. The
5 secretary's recommendation must include any proposed terms and
6 conditions upon which the secretary reasonably believes the person
7 may be conditionally released. Conditional release may also include
8 partial release for work, training, or educational purposes. Notice
9 of the secretary's recommendation under this subsection must be
10 provided to the person for whom the secretary has made the
11 recommendation for release and to his or her attorney.

12 (3) (a) The court of the county which ordered the person's
13 commitment, upon receipt of an application or recommendation for
14 conditional release with the secretary's recommendation for
15 conditional release terms and conditions, shall within thirty days
16 schedule a hearing. The court may schedule a hearing on applications
17 recommended for disapproval by the secretary.

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

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

28 (d) The court, after the hearing, shall rule on the secretary's
29 recommendations, and if it disapproves of conditional release, may do
30 so only on the basis of substantial evidence. The court may modify
31 the suggested terms and conditions on which the person is to be
32 conditionally released. Pursuant to the determination of the court
33 after hearing, the committed person shall thereupon be released on
34 such conditions as the court determines to be necessary, or shall be
35 remitted to the custody of the secretary.

36 (4) If the order of conditional release includes ((a)) provisions
37 that require the discharge of the person to the community, the
38 conditional release order must also include:

39 (a) A requirement for the committed person to ((report to a)) be
40 supervised by a specially trained community corrections officer,

1 ~~((the order shall also specify that the conditionally released person~~
2 ~~shall be under the supervision of the secretary of corrections or~~
3 ~~such person as the secretary of corrections may designate and shall~~
4 ~~follow explicitly the instructions of the secretary of corrections))~~
5 to comply with conditions of supervision including reporting as
6 directed ~~((to a community corrections officer)),~~ remaining within
7 prescribed geographical boundaries, and notifying the community
8 corrections officer prior to making any change in the ~~((offender's))~~
9 person's address or employment. ~~((If the order of conditional release~~
10 ~~includes a requirement for the committed person to report to a~~
11 ~~community corrections officer, the))~~ The community corrections
12 officer shall notify the secretary or the secretary's designee, if
13 the person is not in compliance with the court-ordered conditions of
14 release~~((-))~~;

15 ~~((4))~~ (b) If the court ~~((determines that receiving regular or~~
16 ~~periodic medication or other medical treatment shall be a condition~~
17 ~~of the committed person's release, then the court shall require him~~
18 ~~or her to report to a physician or other medical or mental health~~
19 ~~practitioner for the medication or treatment. In addition to~~
20 ~~submitting any report required by RCW 10.77.160, the physician or~~
21 ~~other medical or mental health practitioner shall immediately upon~~
22 ~~the released person's))~~ requires participation in behavioral health
23 treatment as a condition of release, the name of the licensed or
24 certified behavioral health agency responsible for identifying the
25 services the person will receive in accordance with RCW 71.05.585,
26 and must require the person to cooperate with the services planned by
27 the licensed or certified behavioral health agency. The licensed or
28 certified behavioral health agency must comply with the reporting
29 requirements of RCW 10.77.160, and must immediately report to the
30 court, the prosecuting attorney of the court of commitment, the
31 secretary, and the supervising community corrections officer any
32 failure to appear for ~~((the))~~ medication or treatment, or ~~((upon a))~~
33 any change in the person's mental health condition that renders ~~((the~~
34 ~~patient))~~ him or her a potential risk to the public ~~((report to the~~
35 ~~court, to the prosecuting attorney of the county in which the~~
36 ~~released person was committed, to the secretary, and to the~~
37 ~~supervising community corrections officer))~~; and

38 (c) The appointment of a transition team to assist the person
39 consisting of a care coordinator, a representative of the department
40 of social and health services, and the person's supervising community

1 corrections officer. The transition team shall have duties as
2 specified under RCW 71.05.585(6).

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

6 **Sec. 2.** RCW 71.05.320 and 2020 c 302 s 45 are each amended to
7 read as follows:

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

16 (b) If the order for inpatient treatment is based on a substance
17 use disorder, treatment must take place at an approved substance use
18 disorder treatment program. The court may only enter an order for
19 commitment based on a substance use disorder if there is an available
20 approved substance use disorder treatment program with adequate space
21 for the person.

22 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
23 commitment, then the period of treatment may be up to but not exceed
24 one hundred eighty days from the date of judgment to the custody of
25 the department of social and health services or to a facility
26 certified for one hundred eighty-day treatment by the department or
27 under RCW 71.05.745.

28 (2) If the court or jury finds that grounds set forth in RCW
29 71.05.280 have been proven, but finds that treatment less restrictive
30 than detention will be in the best interest of the person or others,
31 then the court shall remand him or her to the custody of the
32 department of social and health services or to a facility certified
33 for ninety day treatment by the department or to a less restrictive
34 alternative for a further period of less restrictive treatment not to
35 exceed ninety days from the date of judgment. If the grounds set
36 forth in RCW 71.05.280(3) are the basis of commitment, then the
37 period of treatment may be up to but not exceed one hundred eighty
38 days from the date of judgment. If the court or jury finds that the
39 grounds set forth in RCW 71.05.280(5) have been proven, and provide

1 the only basis for commitment, the court must enter an order for less
2 restrictive alternative treatment for up to ninety days from the date
3 of judgment and may not order inpatient treatment.

4 (3) An order for less restrictive alternative treatment entered
5 under subsection (2) of this section must name the behavioral health
6 service provider responsible for identifying the services the person
7 will receive in accordance with RCW 71.05.585, and must include a
8 requirement that the person cooperate with the services planned by
9 the behavioral health service provider.

10 (4) The person shall be released from involuntary treatment at
11 the expiration of the period of commitment imposed under subsection
12 (1) or (2) of this section unless the superintendent or professional
13 person in charge of the facility in which he or she is confined, or
14 in the event of a less restrictive alternative, the designated crisis
15 responder, files a new petition for involuntary treatment on the
16 grounds that the committed person:

17 (a) During the current period of court ordered treatment: (i) Has
18 threatened, attempted, or inflicted physical harm upon the person of
19 another, or substantial damage upon the property of another, and (ii)
20 as a result of a behavioral health disorder or developmental
21 disability presents a likelihood of serious harm; or

22 (b) Was taken into custody as a result of conduct in which he or
23 she attempted or inflicted serious physical harm upon the person of
24 another, and continues to present, as a result of a behavioral health
25 disorder or developmental disability, a likelihood of serious harm;
26 or

27 (c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result
28 of a behavioral health disorder or developmental disability continues
29 to present a substantial likelihood of repeating acts similar to the
30 charged criminal behavior, when considering the person's life
31 history, progress in treatment, and the public safety.

32 (ii) In cases under this subsection where the court has made an
33 affirmative special finding under RCW 71.05.280(3)(b), the commitment
34 shall continue for up to an additional one hundred eighty-day period
35 whenever the petition presents prima facie evidence that the person
36 continues to suffer from a behavioral health disorder or
37 developmental disability that results in a substantial likelihood of
38 committing acts similar to the charged criminal behavior, unless the
39 person presents proof through an admissible expert opinion that the
40 person's condition has so changed such that the behavioral health

1 disorder or developmental disability no longer presents a substantial
2 likelihood of the person committing acts similar to the charged
3 criminal behavior. The initial or additional commitment period may
4 include transfer to a specialized program of intensive support and
5 treatment, which may be initiated prior to or after discharge from
6 the state hospital; or

7 (d) Continues to be gravely disabled; or

8 (e) Is in need of assisted outpatient behavioral health
9 treatment.

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

13 If less restrictive alternative treatment is sought, the petition
14 shall set forth any recommendations for less restrictive alternative
15 treatment services.

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

22 (6) (a) The hearing shall be held as provided in RCW 71.05.310,
23 and if the court or jury finds that the grounds for additional
24 confinement as set forth in this section are present, subject to
25 subsection (1) (b) of this section, the court may order the committed
26 person returned for an additional period of treatment not to exceed
27 one hundred eighty days from the date of judgment, except as provided
28 in subsection (7) of this section. If the court's order is based
29 solely on the grounds identified in subsection (4) (e) of this
30 section, the court may enter an order for less restrictive
31 alternative treatment not to exceed one hundred eighty days from the
32 date of judgment, and may not enter an order for inpatient treatment.
33 An order for less restrictive alternative treatment must name the
34 behavioral health service provider responsible for identifying the
35 services the person will receive in accordance with RCW 71.05.585,
36 and must include a requirement that the person cooperate with the
37 services planned by the behavioral health service provider. In cases
38 where the court has made an affirmative special finding under RCW
39 71.05.280(3) (b), the court shall appoint a transition team to assist
40 the person including a care coordinator, a representative of the

1 department of social and health services, and a specially trained
2 supervising community corrections officer. The transition team shall
3 have duties as specified under RCW 71.05.585(6).

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

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

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

20 **Sec. 3.** RCW 71.05.320 and 2020 c 302 s 46 are each amended to
21 read as follows:

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

30 If the order for inpatient treatment is based on a substance use
31 disorder, treatment must take place at an approved substance use
32 disorder treatment program. If the grounds set forth in RCW
33 71.05.280(3) are the basis of commitment, then the period of
34 treatment may be up to but not exceed one hundred eighty days from
35 the date of judgment to the custody of the department of social and
36 health services or to a facility certified for one hundred eighty-day
37 treatment by the department or under RCW 71.05.745.

38 (2) If the court or jury finds that grounds set forth in RCW
39 71.05.280 have been proven, but finds that treatment less restrictive

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

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

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

27 (a) During the current period of court ordered treatment: (i) Has
28 threatened, attempted, or inflicted physical harm upon the person of
29 another, or substantial damage upon the property of another, and (ii)
30 as a result of a behavioral health disorder or developmental
31 disability presents a likelihood of serious harm; or

32 (b) Was taken into custody as a result of conduct in which he or
33 she attempted or inflicted serious physical harm upon the person of
34 another, and continues to present, as a result of a behavioral health
35 disorder or developmental disability, a likelihood of serious harm;
36 or

37 (c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result
38 of a behavioral health disorder or developmental disability continues
39 to present a substantial likelihood of repeating acts similar to the

1 charged criminal behavior, when considering the person's life
2 history, progress in treatment, and the public safety.

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

18 (d) Continues to be gravely disabled; or

19 (e) Is in need of assisted outpatient behavioral health
20 treatment.

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

24 If less restrictive alternative treatment is sought, the petition
25 shall set forth any recommendations for less restrictive alternative
26 treatment services.

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

33 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
34 and if the court or jury finds that the grounds for additional
35 confinement as set forth in this section are present, the court may
36 order the committed person returned for an additional period of
37 treatment not to exceed one hundred eighty days from the date of
38 judgment, except as provided in subsection (7) of this section. If
39 the court's order is based solely on the grounds identified in
40 subsection (4)(e) of this section, the court may enter an order for

1 less restrictive alternative treatment not to exceed one hundred
2 eighty days from the date of judgment, and may not enter an order for
3 inpatient treatment. An order for less restrictive alternative
4 treatment must name the behavioral health service provider
5 responsible for identifying the services the person will receive in
6 accordance with RCW 71.05.585, and must include a requirement that
7 the person cooperate with the services planned by the behavioral
8 health service provider. In cases where the court has made an
9 affirmative special finding under RCW 71.05.280(3)(b), the court
10 shall appoint a transition team to assist the person including a care
11 coordinator, a representative of the department of social and health
12 services, and a specially trained supervising community corrections
13 officer. The transition team shall have duties as specified under RCW
14 71.05.585(6).

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

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

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

31 **Sec. 4.** RCW 71.05.585 and 2020 c 302 s 53 are each amended to
32 read as follows:

33 (1) (~~Less restrictive alternative~~) Court-ordered involuntary
34 outpatient behavioral health treatment, at a minimum, includes the
35 following services:

36 (a) Assignment of a care coordinator;

37 (b) An intake evaluation with the provider of the (~~less~~
38 ~~restrictive alternative~~) treatment;

1 (c) A psychiatric evaluation or a substance use disorder
2 evaluation, or both;

3 (d) A schedule of regular contacts with the provider of the
4 (~~less restrictive alternative~~) treatment services for the duration
5 of the order;

6 (e) A transition plan addressing access to continued services at
7 the expiration of the order;

8 (f) An individual crisis plan; (~~and~~)

9 (g) Notification to the care coordinator assigned in (a) of this
10 subsection if reasonable efforts to engage the client fail to produce
11 substantial compliance with court-ordered treatment conditions; and

12 (h) In cases where the court has made an affirmative special
13 finding under RCW 71.05.280(3)(b) or which involve conditional
14 release under RCW 10.77.150, the services of a transition team as
15 provided under subsection (6) of this section.

16 (2) (~~Less restrictive alternative~~) Court-ordered involuntary
17 outpatient behavioral health treatment may additionally include
18 requirements to participate in the following services:

19 (a) Medication management;

20 (b) Psychotherapy;

21 (c) Nursing;

22 (d) Substance abuse counseling;

23 (e) Residential treatment; and

24 (f) Support for housing, benefits, education, and employment.

25 (3) If the person was provided with involuntary medication under
26 RCW 71.05.215 or pursuant to a judicial order during the involuntary
27 commitment period, the (~~less restrictive alternative~~) court-ordered
28 involuntary outpatient behavioral health treatment order may
29 authorize the (~~less restrictive alternative~~) treatment provider or
30 its designee to administer involuntary antipsychotic medication to
31 the person if the provider has attempted and failed to obtain the
32 informed consent of the person and there is a concurring medical
33 opinion approving the medication by a psychiatrist, physician
34 assistant working with a supervising psychiatrist, psychiatric
35 advanced registered nurse practitioner, or physician or physician
36 assistant in consultation with an independent mental health
37 professional with prescribing authority.

38 (4) (~~Less restrictive alternative~~) Court-ordered involuntary
39 outpatient behavioral health treatment must be administered by a
40 provider that is certified or licensed to provide or coordinate the

1 full scope of services required under the (~~less restrictive~~
2 ~~alternative~~)) order and that has agreed to assume this
3 responsibility.

4 (5) The care coordinator assigned to a person ordered to (~~less~~
5 ~~restrictive alternative~~)) court-ordered involuntary outpatient
6 behavioral health treatment must submit an individualized plan for
7 the person's treatment services to the court that entered the order.
8 An initial plan must be submitted as soon as possible following the
9 intake evaluation and a revised plan must be submitted upon any
10 subsequent modification in which a type of service is removed from or
11 added to the treatment plan.

12 (6) In cases where the court has made an affirmative special
13 finding under RCW 71.05.280(3)(b) or which involve conditional
14 release under RCW 10.77.150, the role of the care coordinator shall
15 include participation in a transition team including the care
16 coordinator, a court-appointed representative of the department of
17 social and health services, and the person's supervising community
18 corrections officer. The transition team may be expanded to include
19 additional parties with a direct role in the person's community
20 treatment or housing. The role of the transition team shall be to
21 problem solve and consult about day-to-day activities and logistics
22 for the person in order to facilitate their success on the order and
23 protect the safety of the person and the community. The transition
24 team shall meet on a monthly basis during the order and shall
25 communicate as needed if issues arise that require immediate
26 attention.

27 (7) A care coordinator may share information, including treatment
28 and compliance records, to parties necessary for the implementation
29 of proceedings under this chapter or chapter 10.77 RCW without a
30 release of information.

31 (8) For the purpose of this section(~~(, "care)~~):

32 (a) "Care coordinator" means a clinical practitioner who
33 coordinates the activities of (~~less restrictive alternative~~)) court-
34 ordered involuntary outpatient behavioral health treatment. The care
35 coordinator coordinates activities with the designated crisis
36 responders that are necessary for enforcement and continuation of
37 less restrictive alternative orders and assisted outpatient
38 behavioral health treatment orders, coordinates activities with the
39 department of social and health services regarding conditional
40 release orders under chapter 10.77 RCW, and is responsible for

1 coordinating service activities with other agencies and establishing
2 and maintaining a therapeutic relationship with the individual on a
3 continuing basis.

4 (b) "Court-ordered involuntary outpatient behavioral health
5 treatment" means treatment pursuant to a less restrictive alternative
6 treatment, conditional release, or assisted outpatient behavioral
7 health treatment order under this chapter, or pursuant to a
8 conditional release order under chapter 10.77 RCW.

9 **Sec. 5.** RCW 70.02.230 and 2020 c 256 s 402 are each amended to
10 read as follows:

11 (1) ~~((Except as provided in this section, RCW 70.02.050,~~
12 ~~71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and~~
13 ~~70.02.265, or pursuant to a valid authorization under RCW 70.02.030,~~
14 ~~the)) The fact of admission to a provider for mental health services
15 and all information and records compiled, obtained, or maintained in
16 the course of providing mental health services to either voluntary or
17 involuntary recipients of services at public or private agencies
18 ((must be confidential)) may not be disclosed except as provided in
19 this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210,
20 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a
21 valid authorization under RCW 70.02.030.~~

22 (2) Information and records related to mental health services,
23 other than those obtained through treatment under chapter 71.34 RCW,
24 may be disclosed ~~((only))~~:

25 (a) In communications between qualified professional persons to
26 meet the requirements of chapter 71.05 RCW, including Indian health
27 care providers, in the provision of services or appropriate
28 referrals, or in the course of guardianship proceedings if provided
29 to a professional person:

30 (i) Employed by the facility;

31 (ii) Who has medical responsibility for the patient's care;

32 (iii) Who is a designated crisis responder;

33 (iv) Who is providing services under chapter 71.24 RCW;

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

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

38 (b) When the communications regard the special needs of a patient
39 and the necessary circumstances giving rise to such needs and the

1 disclosure is made by a facility providing services to the operator
2 of a facility in which the patient resides or will reside;

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

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

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

12 (B) A statement evaluating the mental and physical condition of
13 the patient, and a statement of the probable duration of the
14 patient's confinement, if such information is requested by the next
15 of kin, attorney, personal representative, guardian, or conservator;
16 and

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

20 (d) (i) To the courts, including tribal courts, as necessary to
21 the administration of chapter 71.05 RCW or to a court ordering an
22 evaluation or treatment under chapter 10.77 RCW solely for the
23 purpose of preventing the entry of any evaluation or treatment order
24 that is inconsistent with any order entered under chapter 71.05 RCW.

25 (ii) To a court or its designee in which a motion under chapter
26 10.77 RCW has been made for involuntary medication of a defendant for
27 the purpose of competency restoration.

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

31 (e) (i) When a mental health professional or designated crisis
32 responder is requested by a representative of a law enforcement or
33 corrections agency, including a police officer, sheriff, community
34 corrections officer, a municipal attorney, or prosecuting attorney to
35 undertake an investigation or provide treatment under RCW 71.05.150,
36 10.31.110, or 71.05.153, the mental health professional or designated
37 crisis responder shall, if requested to do so, advise the
38 representative in writing of the results of the investigation
39 including a statement of reasons for the decision to detain or
40 release the person investigated. The written report must be submitted

1 within seventy-two hours of the completion of the investigation or
2 the request from the law enforcement or corrections representative,
3 whichever occurs later.

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

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

8 (g) To the prosecuting attorney as necessary to carry out the
9 responsibilities of the office under RCW 71.05.330(2),
10 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
11 access to records regarding the committed person's treatment and
12 prognosis, medication, behavior problems, and other records relevant
13 to the issue of whether treatment less restrictive than inpatient
14 treatment is in the best interest of the committed person or others.
15 Information must be disclosed only after giving notice to the
16 committed person and the person's counsel;

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

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

33 (i)(i) To appropriate corrections and law enforcement agencies
34 all 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.

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

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

3 (k) By a care coordinator under RCW 71.05.585 assigned to a
4 person ordered to receive court-ordered involuntary outpatient
5 behavioral health treatment for the purpose of sharing information to
6 parties necessary for the implementation of proceedings under chapter
7 71.05 or 10.77 RCW;

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

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

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

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

29 (ii) The law enforcement and prosecuting attorneys may only
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)(iv);

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

37 (~~(n)~~) (o) When a patient would otherwise be subject to the
38 provisions of this section and disclosure is necessary for the
39 protection of the patient or others due to his or her unauthorized
40 disappearance from the facility, and his or her whereabouts is

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

8 ~~((o))~~ (p) Pursuant to lawful order of a court, including a
9 tribal court;

10 ~~((p))~~ (q) To qualified staff members of the department, to the
11 authority, to behavioral health administrative services
12 organizations, to managed care organizations, to resource management
13 services responsible for serving a patient, or to service providers
14 designated by resource management services as necessary to determine
15 the progress and adequacy of treatment and to determine whether the
16 person should be transferred to a less restrictive or more
17 appropriate treatment modality or facility;

18 ~~((q))~~ (r) Within the mental health service agency or Indian
19 health care provider facility where the patient is receiving
20 treatment, confidential information may be disclosed to persons
21 employed, serving in bona fide training programs, or participating in
22 supervised volunteer programs, at the facility when it is necessary
23 to perform their duties;

24 ~~((r))~~ (s) Within the department and the authority as necessary
25 to coordinate treatment for mental illness, developmental
26 disabilities, alcoholism, or substance use disorder of persons who
27 are under the supervision of the department;

28 ~~((s))~~ (t) Between the department of social and health services,
29 the department of children, youth, and families, and the health care
30 authority as necessary to coordinate treatment for mental illness,
31 developmental disabilities, alcoholism, or drug abuse of persons who
32 are under the supervision of the department of social and health
33 services or the department of children, youth, and families;

34 ~~((t))~~ (u) To a licensed physician or psychiatric advanced
35 registered nurse practitioner who has determined that the life or
36 health of the person is in danger and that treatment without the
37 information and records related to mental health services could be
38 injurious to the patient's health. Disclosure must be limited to the
39 portions of the records necessary to meet the medical emergency;

1 (~~(u)~~) (v) (i) Consistent with the requirements of the federal
2 health insurance portability and accountability act, to:

3 (A) A health care provider, including an Indian health care
4 provider, who is providing care to a patient, or to whom a patient
5 has been referred for evaluation or treatment; or

6 (B) Any other person who is working in a care coordinator role
7 for a health care facility, health care provider, or Indian health
8 care provider, or is under an agreement pursuant to the federal
9 health insurance portability and accountability act with a health
10 care facility or a health care provider and requires the information
11 and records to assure coordinated care and treatment of that patient.

12 (ii) A person authorized to use or disclose information and
13 records related to mental health services under this subsection (2)
14 (~~(u)~~) (v) must take appropriate steps to protect the information
15 and records relating to mental health services.

16 (iii) Psychotherapy notes may not be released without
17 authorization of the patient who is the subject of the request for
18 release of information;

19 (~~(v)~~) (w) To administrative and office support staff designated
20 to obtain medical records for those licensed professionals listed in
21 (~~(u)~~) (v) of this subsection;

22 (~~(w)~~) (x) To a facility that is to receive a person who is
23 involuntarily committed under chapter 71.05 RCW, or upon transfer of
24 the person from one evaluation and treatment facility to another. The
25 release of records under this subsection is limited to the
26 information and records related to mental health services required by
27 law, a record or summary of all somatic treatments, and a discharge
28 summary. The discharge summary may include a statement of the
29 patient's problem, the treatment goals, the type of treatment which
30 has been provided, and recommendation for future treatment, but may
31 not include the patient's complete treatment record;

32 (~~(x)~~) (y) To the person's counsel or guardian ad litem, without
33 modification, at any time in order to prepare for involuntary
34 commitment or recommitment proceedings, reexaminations, appeals, or
35 other actions relating to detention, admission, commitment, or
36 patient's rights under chapter 71.05 RCW;

37 (~~(y)~~) (z) To staff members of the protection and advocacy
38 agency or to staff members of a private, nonprofit corporation for
39 the purpose of protecting and advocating the rights of persons with
40 mental disorders or developmental disabilities. Resource management

1 services may limit the release of information to the name, birthdate,
2 and county of residence of the patient, information regarding whether
3 the patient was voluntarily admitted, or involuntarily committed, the
4 date and place of admission, placement, or commitment, the name and
5 address of a guardian of the patient, and the date and place of the
6 guardian's appointment. Any staff member who wishes to obtain
7 additional information must notify the patient's resource management
8 services in writing of the request and of the resource management
9 services' right to object. The staff member shall send the notice by
10 mail to the guardian's address. If the guardian does not object in
11 writing within fifteen days after the notice is mailed, the staff
12 member may obtain the additional information. If the guardian objects
13 in writing within fifteen days after the notice is mailed, the staff
14 member may not obtain the additional information;

15 ~~((z))~~ (aa) To all current treating providers, including Indian
16 health care providers, of the patient with prescriptive authority who
17 have written a prescription for the patient within the last twelve
18 months. For purposes of coordinating health care, the department or
19 the authority may release without written authorization of the
20 patient, information acquired for billing and collection purposes as
21 described in RCW 70.02.050(1)(d). The department, or the authority,
22 if applicable, shall notify the patient that billing and collection
23 information has been released to named providers, and provide the
24 substance of the information released and the dates of such release.
25 Neither the department nor the authority may release counseling,
26 inpatient psychiatric hospitalization, or drug and alcohol treatment
27 information without a signed written release from the client;

28 ~~((aa))~~ (bb) (i) To the secretary of social and health services
29 and the director of the health care authority for either program
30 evaluation or research, or both so long as the secretary or director,
31 where applicable, adopts rules for the conduct of the evaluation or
32 research, or both. Such rules must include, but need not be limited
33 to, the requirement that all evaluators and researchers sign an oath
34 of confidentiality substantially as follows:

35 "As a condition of conducting evaluation or research concerning
36 persons who have received services from (fill in the facility,
37 agency, or person) I,, agree not to divulge, publish, or
38 otherwise make known to unauthorized persons or the public any
39 information obtained in the course of such evaluation or research

1 regarding persons who have received services such that the person who
2 received such services is identifiable.

3 I recognize that unauthorized release of confidential information
4 may subject me to civil liability under the provisions of state law.
5 /s/"

6 (ii) Nothing in this chapter may be construed to prohibit the
7 compilation and publication of statistical data for use by government
8 or researchers under standards, including standards to assure
9 maintenance of confidentiality, set forth by the secretary, or
10 director, where applicable;

11 (~~(bb)~~) (cc) To any person if the conditions in RCW 70.02.205
12 are met;

13 (~~(ee)~~) (dd) To the secretary of health for the purposes of the
14 maternal mortality review panel established in RCW 70.54.450;

15 (~~(dd)~~) (ee) To a tribe or Indian health care provider to carry
16 out the requirements of RCW 71.05.150(7).

17 (3) Whenever federal law or federal regulations restrict the
18 release of information contained in the information and records
19 related to mental health services of any patient who receives
20 treatment for a substance use disorder, the department or the
21 authority may restrict the release of the information as necessary to
22 comply with federal law and regulations.

23 (4) Civil liability and immunity for the release of information
24 about a particular person who is committed to the department of
25 social and health services or the authority under RCW 71.05.280(3)
26 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
27 RCW 9.94A.030, is governed by RCW 4.24.550.

28 (5) The fact of admission to a provider of mental health
29 services, as well as all records, files, evidence, findings, or
30 orders made, prepared, collected, or maintained pursuant to chapter
31 71.05 RCW are not admissible as evidence in any legal proceeding
32 outside that chapter without the written authorization of the person
33 who was the subject of the proceeding except as provided in RCW
34 70.02.260, in a subsequent criminal prosecution of a person committed
35 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
36 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
37 trial, in a civil commitment proceeding pursuant to chapter 71.09
38 RCW, or, in the case of a minor, a guardianship or dependency
39 proceeding. The records and files maintained in any court proceeding

1 pursuant to chapter 71.05 RCW must be confidential and available
2 subsequent to such proceedings only to the person who was the subject
3 of the proceeding or his or her attorney. In addition, the court may
4 order the subsequent release or use of such records or files only
5 upon good cause shown if the court finds that appropriate safeguards
6 for strict confidentiality are and will be maintained.

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

12 (i) One thousand dollars; or

13 (ii) Three times the amount of actual damages sustained, if any.

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

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

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

24 (e) If an action is brought under this subsection, no action may
25 be brought under RCW 70.02.170.

26 **Sec. 6.** RCW 70.02.240 and 2019 c 381 s 20 are each amended to
27 read as follows:

28 The fact of admission and all information and records related to
29 mental health services obtained through inpatient or outpatient
30 treatment of a minor under chapter 71.34 RCW must be kept
31 confidential, except as authorized by this section or under RCW
32 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.
33 Confidential information under this section 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;

1 (3) To the minor, the minor's parent, including those acting as a
2 parent as defined in RCW 71.34.020 for purposes of family-initiated
3 treatment, and the minor's attorney, subject to RCW 13.50.100;

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

5 (5) By a care coordinator under RCW 71.34.755 assigned to a
6 person ordered to receive court-ordered involuntary outpatient
7 behavioral health treatment for the purpose of sharing information to
8 parties necessary for the implementation of proceedings under chapter
9 71.34 or 10.77 RCW;

10 (6) To law enforcement officers or public health officers as
11 necessary to carry out the responsibilities of their office. However,
12 only the fact and date of admission, and the date of discharge, the
13 name and address of the treatment provider, if any, and the last
14 known address must be disclosed upon request;

15 ((+6)) (7) To law enforcement officers, public health officers,
16 relatives, and other governmental law enforcement agencies, if a
17 minor has escaped from custody, disappeared from an evaluation and
18 treatment facility, violated conditions of a less restrictive
19 treatment order, or failed to return from an authorized leave, and
20 then only such information as may be necessary to provide for public
21 safety or to assist in the apprehension of the minor. The officers
22 are obligated to keep the information confidential in accordance with
23 this chapter;

24 ((+7)) (8) To the secretary of social and health services and
25 the director of the health care authority for assistance in data
26 collection and program evaluation or research so long as the
27 secretary or director, where applicable, adopts rules for the conduct
28 of such evaluation and research. The rules must include, but need not
29 be limited to, the requirement that all evaluators and researchers
30 sign an oath of confidentiality substantially as follows:

31 "As a condition of conducting evaluation or research concerning
32 persons who have received services from (fill in the facility,
33 agency, or person) I,, agree not to divulge, publish, or
34 otherwise make known to unauthorized persons or the public any
35 information obtained in the course of such evaluation or research
36 regarding minors who have received services in a manner such that the
37 minor is identifiable.

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

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

~~((9))~~ (10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

~~((11))~~ (12) Upon the death of a minor, to the minor's next of kin;

~~((12))~~ (13) To a facility in which the minor resides or will reside;

~~((13))~~ (14) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The extent of information that may be released is limited as follows:

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

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

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

9 (~~(14)~~) (15) This section may not be construed to prohibit the
10 compilation and publication of statistical data for use by government
11 or researchers under standards, including standards to assure
12 maintenance of confidentiality, set forth by the director of the
13 health care authority or the secretary of the department of social
14 and health services, where applicable. The fact of admission and all
15 information obtained pursuant to chapter 71.34 RCW are not admissible
16 as evidence in any legal proceeding outside chapter 71.34 RCW, except
17 guardianship or dependency, without the written consent of the minor
18 or the minor's parent;

19 (~~(15)~~) (16) For the purpose of a correctional facility
20 participating in the postinstitutional medical assistance system
21 supporting the expedited medical determinations and medical
22 suspensions as provided in RCW 74.09.555 and 74.09.295;

23 (~~(16)~~) (17) Pursuant to a lawful order of a court.

24 **Sec. 7.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to
25 read as follows:

26 (1) The authority is designated as the state behavioral health
27 authority which includes recognition as the single state authority
28 for substance use disorders and state mental health authority.

29 (2) The director shall provide for public, client, tribal, and
30 licensed or certified behavioral health agency participation in
31 developing the state behavioral health program, developing related
32 contracts, and any waiver request to the federal government under
33 medicaid.

34 (3) The director shall provide for participation in developing
35 the state behavioral health program for children and other
36 underserved populations, by including representatives on any
37 committee established to provide oversight to the state behavioral
38 health program.

1 (4) The authority shall be designated as the behavioral health
2 administrative services organization for a regional service area if a
3 behavioral health administrative services organization fails to meet
4 the authority's contracting requirements or refuses to exercise the
5 responsibilities under its contract or state law, until such time as
6 a new behavioral health administrative services organization is
7 designated.

8 (5) The director shall:

9 (a) Assure that any behavioral health administrative services
10 organization, managed care organization, or community behavioral
11 health program provides medically necessary services to medicaid
12 recipients consistent with the state's medicaid state plan or federal
13 waiver authorities, and nonmedicaid services consistent with
14 priorities established by the authority;

15 (b) Develop contracts in a manner to ensure an adequate network
16 of inpatient services, evaluation and treatment services, and
17 facilities under chapter 71.05 RCW to ensure access to treatment,
18 resource management services, and community support services;

19 (c) 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 behavioral health
24 services;

25 (d) Define administrative costs and ensure that the behavioral
26 health administrative services organization does not exceed an
27 administrative cost of ten percent of available funds;

28 (e) Establish, to the extent possible, a standardized auditing
29 procedure which is designed to assure compliance with contractual
30 agreements authorized by this chapter and minimizes paperwork
31 requirements. The audit procedure shall focus on the outcomes of
32 service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

33 (f) Develop and maintain an information system to be used by the
34 state and behavioral health administrative services organizations and
35 managed care organizations that includes a tracking method which
36 allows the authority to identify behavioral health clients'
37 participation in any behavioral health service or public program on
38 an immediate basis. The information system shall not include
39 individual patient's case history files. Confidentiality of client

1 information and records shall be maintained as provided in this
2 chapter and chapter 70.02 RCW;

3 (g) Monitor and audit behavioral health administrative services
4 organizations as needed to assure compliance with contractual
5 agreements authorized by this chapter;

6 (h) Monitor and audit access to behavioral health services for
7 individuals eligible for medicaid who are not enrolled in a managed
8 care organization;

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

11 (j) Administer or supervise the administration of the provisions
12 relating to persons with substance use disorders and intoxicated
13 persons of any state plan submitted for federal funding pursuant to
14 federal health, welfare, or treatment legislation;

15 (k) Require the behavioral health administrative services
16 organizations and the managed care organizations to develop
17 agreements with tribal, city, and county jails and the department of
18 corrections to accept referrals for enrollment on behalf of a
19 confined person, prior to the person's release;

20 (l) Require behavioral health administrative services
21 organizations and managed care organizations, as applicable, to
22 provide services as identified in RCW 71.05.585 to individuals
23 committed for (~~involuntary commitment under less restrictive~~
24 ~~alternative court orders~~)) court-ordered involuntary outpatient
25 behavioral health treatment when:

26 (i) The individual is enrolled in the medicaid program; or

27 (ii) The individual is not enrolled in medicaid, does not have
28 other insurance which can pay for the services, and the behavioral
29 health administrative services organization has adequate available
30 resources to provide the services; and

31 (m) Coordinate with the centers for medicare and medicaid
32 services to provide that behavioral health aide services are eligible
33 for federal funding of up to one hundred percent.

34 (6) The director shall use available resources only for
35 behavioral health administrative services organizations and managed
36 care organizations, except:

37 (a) To the extent authorized, and in accordance with any
38 priorities or conditions specified, in the biennial appropriations
39 act; or

1 (b) To incentivize improved performance with respect to the
2 client outcomes established in RCW 71.24.435, 70.320.020, and
3 71.36.025, integration of behavioral health and medical services at
4 the clinical level, and improved care coordination for individuals
5 with complex care needs.

6 (7) Each behavioral health administrative services organization,
7 managed care organization, and licensed or certified behavioral
8 health agency shall file with the secretary of the department of
9 health or the director, on request, such data, statistics, schedules,
10 and information as the secretary of the department of health or the
11 director reasonably requires. A behavioral health administrative
12 services organization, managed care organization, or licensed or
13 certified behavioral health agency which, without good cause, fails
14 to furnish any data, statistics, schedules, or information as
15 requested, or files fraudulent reports thereof, may be subject to the
16 contractual remedies in RCW 74.09.871 or may have its service
17 provider certification or license revoked or suspended.

18 (8) The superior court may restrain any behavioral health
19 administrative services organization, managed care organization, or
20 service provider from operating without a contract, certification, or
21 a license or any other violation of this section. The court may also
22 review, pursuant to procedures contained in chapter 34.05 RCW, any
23 denial, suspension, limitation, restriction, or revocation of
24 certification or license, and grant other relief required to enforce
25 the provisions of this chapter.

26 (9) Upon petition by the secretary of the department of health or
27 the director, and after hearing held upon reasonable notice to the
28 facility, the superior court may issue a warrant to an officer or
29 employee of the secretary of the department of health or the director
30 authorizing him or her to enter at reasonable times, and examine the
31 records, books, and accounts of any behavioral health administrative
32 services organization, managed care organization, or service provider
33 refusing to consent to inspection or examination by the authority.

34 (10) Notwithstanding the existence or pursuit of any other
35 remedy, the secretary of the department of health or the director may
36 file an action for an injunction or other process against any person
37 or governmental unit to restrain or prevent the establishment,
38 conduct, or operation of a behavioral health administrative services
39 organization, managed care organization, or service provider without
40 a contract, certification, or a license under this chapter.

1 (11) The authority shall distribute appropriated state and
2 federal funds in accordance with any priorities, terms, or conditions
3 specified in the appropriations act.

4 (12) The authority, in cooperation with the state congressional
5 delegation, shall actively seek waivers of federal requirements and
6 such modifications of federal regulations as are necessary to allow
7 federal medicaid reimbursement for services provided by freestanding
8 evaluation and treatment facilities licensed under chapter 71.12 RCW
9 or certified under chapter 71.05 RCW. The authority shall
10 periodically share the results of its efforts with the appropriate
11 committees of the senate and the house of representatives.

12 (13) The authority may:

13 (a) Plan, establish, and maintain substance use disorder
14 prevention and substance use disorder treatment programs as necessary
15 or desirable;

16 (b) Coordinate its activities and cooperate with behavioral
17 programs in this and other states, and make contracts and other joint
18 or cooperative arrangements with state, tribal, local, or private
19 agencies in this and other states for behavioral health services and
20 for the common advancement of substance use disorder programs;

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

27 (d) Keep records and engage in research and the gathering of
28 relevant statistics; and

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

32 NEW SECTION. **Sec. 8.** Section 2 of this act expires July 1,
33 2026.

34 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect July 1,
35 2026.

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