

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5157

Chapter 267, Laws of 2021

67th Legislature
2021 Regular Session

PERSONS WITH BEHAVIORAL DISORDERS—CRIMINAL JUSTICE SYSTEM—
PERFORMANCE IMPROVEMENT

EFFECTIVE DATE: July 25, 2021

Passed by the Senate April 14, 2021
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 7, 2021
Yeas 97 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 12, 2021 2:48 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5157** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 12, 2021

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5157

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senate Behavioral Health Subcommittee to Health & Long Term Care
(originally sponsored by Senators Wagoner, Dhingra, and Nobles)

READ FIRST TIME 02/01/21.

1 AN ACT Relating to providing incentives to reduce involvement by
2 persons with behavioral disorders in the criminal justice system;
3 amending RCW 70.320.020 and 70.320.030; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in 2013 the
6 legislature adopted outcome expectations for entities that contract
7 with the state to provide health services in order to guide
8 purchasing strategies by the health care authority and department of
9 social and health services. Since then, the health care authority has
10 established a performance measures coordinating committee and
11 implemented performance terms in managed care contracts including,
12 but not limited to, performance measurement requirements, mandatory
13 performance improvement projects, and value-based purchasing terms.

14 The legislature finds that two outcomes established by chapter
15 320, Laws of 2013 (Engrossed Substitute House Bill No. 1519) and
16 chapter 338, Laws of 2013 (Second Substitute Senate Bill No. 5732)
17 which are key to the integration of behavioral health into primary
18 health networks are (1) reduction in client involvement with the
19 criminal justice system; and (2) reduction in avoidable costs in
20 jails and prisons. These outcomes reflect Washington's priorities to
21 incentivize cross-system collaboration between health networks,

1 government entities, and the criminal justice system; to emphasize
2 prevention over crisis response; and to remove individuals whose
3 offending is driven primarily by health status instead of criminality
4 from the criminal justice system.

5 The legislature further finds that indicators since 2013 show
6 worsening trends for interaction between persons with behavioral
7 health disorders and the criminal justice system. According to data
8 presented in October 2018 by the research and data administration of
9 the department of social and health services, arrests of persons
10 enrolled in public health with an identified mental health or
11 substance use disorder condition increased by 67 percent during this
12 five-year period, while the overall rate of arrest declined by 11
13 percent. According to the same data source, referrals for state
14 mental health services related to competency to stand trial have
15 increased by 64 percent, incurring substantial liability for the
16 state in the case of *Trueblood v. Department of Social and Health*
17 *Services*. The purpose of this act is to focus the health care
18 authority's purchasing efforts on providing incentives to its
19 contractors to reverse these trends and achieve the outcome of
20 reduced criminal justice system involvement for public health system
21 clients with behavioral health disorders.

22 **Sec. 2.** RCW 70.320.020 and 2017 c 226 s 8 are each amended to
23 read as follows:

24 (1) The authority and the department shall base contract
25 performance measures developed under RCW 70.320.030 on the following
26 outcomes when contracting with service contracting entities:
27 Improvements in client health status and wellness; increases in
28 client participation in meaningful activities; reductions in client
29 involvement with criminal justice systems; reductions in avoidable
30 costs in hospitals, emergency rooms, crisis services, and jails and
31 prisons; increases in stable housing in the community; improvements
32 in client satisfaction with quality of life; and reductions in
33 population-level health disparities.

34 (2) The performance measures must demonstrate the manner in which
35 the following principles are achieved within each of the outcomes
36 under subsection (1) of this section:

37 (a) Maximization of the use of evidence-based practices will be
38 given priority over the use of research-based and promising
39 practices, and research-based practices will be given priority over

1 the use of promising practices. The agencies will develop strategies
2 to identify programs that are effective with ethnically diverse
3 clients and to consult with tribal governments, experts within
4 ethnically diverse communities and community organizations that serve
5 diverse communities;

6 (b) The maximization of the client's independence, recovery, and
7 employment;

8 (c) The maximization of the client's participation in treatment
9 decisions; and

10 (d) The collaboration between consumer-based support programs in
11 providing services to the client.

12 (3) In developing performance measures under RCW 70.320.030, the
13 authority and the department shall consider expected outcomes
14 relevant to the general populations that each agency serves. The
15 authority and the department may adapt the outcomes to account for
16 the unique needs and characteristics of discrete subcategories of
17 populations receiving services, including ethnically diverse
18 communities.

19 (4) The authority and the department shall coordinate the
20 establishment of the expected outcomes and the performance measures
21 between each agency as well as each program to identify expected
22 outcomes and performance measures that are common to the clients
23 enrolled in multiple programs and to eliminate conflicting standards
24 among the agencies and programs.

25 (5) (a) The authority and the department shall establish timelines
26 and mechanisms for service contracting entities to report data
27 related to performance measures and outcomes, including phased
28 implementation of public reporting of outcome and performance
29 measures in a form that allows for comparison of performance measures
30 and levels of improvement between geographic regions of Washington.

31 (b) The authority and the department may not release any public
32 reports of client outcomes unless the data has been deidentified and
33 aggregated in such a way that the identity of individual clients
34 cannot be determined through directly identifiable data or the
35 combination of multiple data elements.

36 (6) (a) The ((authority and department)) performance measures
37 coordinating committee must establish ((a)): (i) A performance
38 measure to be integrated into the statewide common measure set which
39 tracks effective integration practices of behavioral health services
40 in primary care settings; and (ii) performance measures which track

1 rates of criminal justice system involvement among public health
2 system clients with an identified behavioral health need including,
3 but not limited to, rates of arrest and incarceration. The authority
4 must set improvement targets related to these measures.

5 (b) The performance measures coordinating committee must report
6 to the governor and appropriate committees of the legislature
7 regarding the implementation of this subsection by July 1, 2022.

8 (c) For purposes of establishing performance measures as
9 specified in (a)(ii) of this subsection, the performance measures
10 coordinating committee shall convene a work group of stakeholders
11 including the authority, medicaid managed care organizations, the
12 department of corrections, and others with expertise in criminal
13 justice and behavioral health. The work group shall review current
14 performance measures that have been adopted in other states or
15 nationally to inform this effort.

16 (7) The authority must report to the governor and appropriate
17 committees of the legislature by October 1, 2022, regarding options
18 and recommendations for integrating value-based purchasing terms and
19 a performance improvement project into managed health care contracts
20 relating to the criminal justice outcomes specified under subsection
21 (1) of this section.

22 **Sec. 3.** RCW 70.320.030 and 2015 c 209 s 1 are each amended to
23 read as follows:

24 ~~((By September 1, 2014:))~~

25 (1) The authority shall adopt performance measures to determine
26 whether service contracting entities are achieving the outcomes
27 described in RCW 70.320.020 and 41.05.690 for clients enrolled in
28 medical managed care programs operated according to Title XIX or XXI
29 of the federal social security act.

30 (2) The ~~((department))~~ authority shall adopt performance measures
31 to determine whether service contracting entities are achieving the
32 outcomes described in RCW 70.320.020 for clients receiving mental
33 health, long-term care, or chemical dependency services.

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

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