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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1218**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Farivar, Macri, Reed, Simmons, Wylie, Pollet, Street, Ormsby, Scott, Salahuddin, Parshley, and Hill; by request of Governor Inslee)

READ FIRST TIME 02/28/25.

1           AN ACT Relating to persons referred for competency evaluation and  
2 restoration services within the framework of the forensic mental  
3 health care system consistent with the requirements agreed to in the  
4 Trueblood settlement agreement; amending RCW 10.77.074, 10.77.086,  
5 10.77.088, and 10.77.092; reenacting and amending RCW 43.84.092 and  
6 43.84.092; adding new sections to chapter 10.77 RCW; creating new  
7 sections; providing an effective date; and providing expiration  
8 dates.

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

10           NEW SECTION.   **Sec. 1.**   The legislature finds that individuals  
11 referred for services related to competency to stand trial requiring  
12 admission into a psychiatric facility are experiencing significantly  
13 reduced wait times for competency services. In order to preserve  
14 these critical gains, for the benefit of the state and those  
15 individuals awaiting services, the legislature finds that  
16 implementing measures to reduce the continued growth of referrals to  
17 the competency system are necessary. The state's forensic bed  
18 capacity forecast model indicates that if the state continues to  
19 receive competency referrals from local superior, district, and  
20 municipal courts at the same volume, the state will again fall  
21 behind.

1       The legislature further finds that historical investments and  
2 policy changes have been made in behavioral health services over the  
3 past several years, designed to both increase capacity to provide  
4 competency to stand trial services and to reduce the need for them by  
5 creating opportunities for diversion, prevention, and improved  
6 community health. New construction at western state hospital has  
7 resulted in the opening of 58 forensic psychiatric beds in the first  
8 quarter of 2023, while emergency community hospital contracts  
9 expanded to allow for the discharge or transfer of over 50 civil  
10 conversion patients occupying forensic state hospital beds over the  
11 same period. Sixteen beds for civil conversion patients opened at  
12 Maple Lane school in the first quarter of 2023, with 30 additional  
13 beds for patients acquitted by reason of insanity opened in early  
14 2024. The state also acquired a new facility in 2024, now known as  
15 Olympic Heritage behavioral health, which added to this historic rise  
16 in bed capacity in the state of Washington. Over a longer time  
17 period, 350 forensic beds are planned to open within a new forensic  
18 hospital on the western state hospital campus between 2028 and 2029.  
19 Policy and budget changes have increased capacity for assisted  
20 outpatient treatment, 988 crisis response, use of medication for  
21 opioid use disorders in jails and community settings, reentry  
22 services, and mental health advance directives, and created new  
23 behavioral health facility types, supportive housing, and supportive  
24 employment services. Forensic navigator services, outpatient  
25 competency restoration programs, clinical intervention specialists  
26 and other specialty forensic services are now available and  
27 continuing to be deployed in phase one, two, and three Trueblood  
28 settlement regions.

29       The legislature further finds that these investments over a  
30 period of many years have made significant improvements in the wait  
31 times for competency services. Even so, there remains a need for  
32 everyone to come together to find solutions to both reduce demand for  
33 forensic services and shrink the number of individuals whose only  
34 access to behavioral health care is through the criminal justice  
35 system. Forensic services should be reserved only for those where the  
36 state's interest is sufficient to justify the detention and greater  
37 efforts are needed to prevent or divert individuals with behavioral  
38 health needs from being unnecessarily incarcerated. The state needs  
39 collaboration from local governments and other entities to provide  
40 and develop services and supports to patients connected to the

1 forensic system, to reduce the flow of competency referrals coming  
2 from municipal, district, and superior courts, and to improve  
3 availability and effectiveness of behavioral health services provided  
4 outside the criminal justice system.

5 **Sec. 2.** RCW 10.77.074 and 2023 c 453 s 5 are each amended to  
6 read as follows:

7 (1) Subject to the limitations described in subsection (2) of  
8 this section, a court may appoint an impartial forensic navigator  
9 employed by or contracted by the department to assist individuals who  
10 have been referred for competency evaluation for class B and class C  
11 felonies and all misdemeanors and shall appoint a forensic navigator  
12 in circumstances described under RCW 10.77.072. Class A felonies will  
13 not be referred to forensic navigators unless requested by a party to  
14 the proceedings or the court.

15 (2) A forensic navigator must assist the individual to access  
16 services related to diversion and community outpatient competency  
17 restoration. The forensic navigator must assist the individual,  
18 prosecuting attorney, defense attorney, and the court to understand  
19 the options available to the individual and be accountable as an  
20 officer of the court for faithful execution of the responsibilities  
21 outlined in this section.

22 (3) The duties of the forensic navigator include, but are not  
23 limited to, the following:

24 (a) To collect relevant information about the individual,  
25 including behavioral health services and supports available to the  
26 individual that might support placement in outpatient restoration,  
27 diversion, or some combination of these;

28 (b) To meet with, interview, and observe the individual;

29 (c) To gather collateral information regarding the presence of  
30 disabilities, injuries, or cognitive disorders, and other records  
31 when appropriate to help inform referrals for diversion or services;

32 (d) When able to meet with the individual, to gather accurate  
33 contact information for the individual, the individual's next of kin  
34 or legal guardian, and other relevant persons to facilitate timely  
35 contact if the individual is referred for services;

36 (e) To assess the individual for appropriateness for assisted  
37 outpatient treatment under chapter 71.05 RCW;

38 ~~((d))~~ (f) To present information to the court in order to  
39 assist the court in understanding the treatment options available to

1 the individual to support the entry of orders for diversion from the  
2 forensic mental health system or for community outpatient competency  
3 restoration, to facilitate that transition;

4 ~~((e))~~ (g) To provide regular updates to the court and parties  
5 of the status of the individual's participation in diversion or  
6 outpatient services and be responsive to inquiries by the parties  
7 about treatment status;

8 ~~((f))~~ (h) When the individual is ordered to receive community  
9 outpatient restoration, to provide services to the individual  
10 including:

11 (i) Assisting the individual with attending appointments and  
12 classes relating to outpatient competency restoration;

13 (ii) Coordinating access to housing for the individual;

14 (iii) Meeting with the individual on a regular basis;

15 (iv) Providing information to the court concerning the  
16 individual's progress and compliance with court-ordered conditions of  
17 release, which may include appearing at court hearings to provide  
18 information to the court;

19 (v) Coordinating the individual's access to community case  
20 management services and mental health services;

21 (vi) Assisting the individual with obtaining prescribed  
22 medication and encouraging adherence with prescribed medication;

23 (vii) Assessing the individual for appropriateness for assisted  
24 outpatient treatment under chapter 71.05 RCW and coordinating the  
25 initiation of an assisted outpatient treatment order if appropriate;

26 (viii) Planning for a coordinated transition of the individual to  
27 a case manager in the community behavioral health system;

28 (ix) Attempting to follow-up with the individual to check whether  
29 the meeting with a community-based case manager took place;

30 (x) When the individual is a high utilizer, attempting to connect  
31 the individual with high utilizer services; and

32 (xi) Attempting to check up on the individual at least once per  
33 month for up to sixty days after coordinated transition to community  
34 behavioral health services, without duplicating the services of the  
35 community-based case manager;

36 ~~((g))~~ (i) For individuals who are found by the court to be not  
37 competent to stand trial and not restorable due to an intellectual or  
38 developmental disability, dementia, or traumatic brain injury and  
39 diverted for services under RCW 10.77.202, to make a coordinated

1 transition of the individual to appropriate case managers within the  
2 department;

3 (j) If the individual is an American Indian or Alaska Native who  
4 receives medical, behavioral health, housing, or other supportive  
5 services from a tribe within this state, to notify and coordinate  
6 with the tribe and Indian health care provider. Notification shall be  
7 made in person or by telephonic or electronic communication to the  
8 tribal contact listed in the authority's tribal crisis coordination  
9 plan as soon as possible.

10 (4) Forensic navigators may submit recommendations to the court  
11 regarding treatment and restoration options for the individual, which  
12 the court may consider and weigh in conjunction with the  
13 recommendations of all of the parties.

14 (5) Forensic navigators shall be deemed officers of the court for  
15 the purpose of immunity from civil liability.

16 (6) The signed order for competency evaluation from the court  
17 shall serve as authority for the forensic navigator to be given  
18 access to all records held by a behavioral health, educational, or  
19 law enforcement agency or a correctional facility that relates to an  
20 individual. Information that is protected by state or federal law,  
21 including health information, shall not be entered into the court  
22 record without the consent of the individual or their defense  
23 attorney.

24 (7) Admissions made by the individual in the course of receiving  
25 services from the forensic navigator may not be used against the  
26 individual in the prosecution's case in chief.

27 (8) A court may not issue an order appointing a forensic  
28 navigator unless the department certifies that there is adequate  
29 forensic navigator capacity to provide these services at the time the  
30 order is issued.

31 **Sec. 3.** RCW 10.77.086 and 2024 c 290 s 3 are each amended to  
32 read as follows:

33 (1)(a) Except as otherwise provided in this section, if the  
34 defendant is charged with a felony and determined to be incompetent,  
35 until he or she has regained the competency necessary to understand  
36 the proceedings against him or her and assist in his or her own  
37 defense, but in any event for a period of no longer than 90 days, the  
38 court shall commit the defendant to the custody of the secretary for  
39 inpatient competency restoration, or may alternatively order the

1 defendant to receive outpatient competency restoration based on a  
2 recommendation from a forensic navigator and input from the parties.

3 (b) For a defendant who is determined to be incompetent and whose  
4 highest charge is a class C felony other than assault in the third  
5 degree under RCW 9A.36.031(1) (d) or (f), felony physical control of  
6 a vehicle under RCW 46.61.504(6), felony hit and run resulting in  
7 injury under RCW 46.52.020(4)(b), a hate crime offense under RCW  
8 9A.36.080, a class C felony with a domestic violence designation, a  
9 class C felony sex offense as defined in RCW 9.94A.030, or a class C  
10 felony with a sexual motivation allegation, the court shall first  
11 consider all available and appropriate alternatives to inpatient  
12 competency restoration. The court shall dismiss the proceedings  
13 without prejudice upon agreement of the parties if the forensic  
14 navigator has found an appropriate and available diversion program  
15 willing to accept the defendant. If the parties do not agree that  
16 there is an appropriate diversion program available to accept the  
17 defendant:

18 (i) The court shall dismiss the proceedings without prejudice and  
19 order that the defendant be referred for evaluation for civil  
20 commitment under subsection (7) of this section, unless the  
21 prosecutor objects to the dismissal and provides notice of a motion  
22 for an order for competency restoration treatment, in which case the  
23 court shall schedule a hearing within seven days. The prosecutor  
24 shall provide notice of the objection and motion for an order of  
25 competency restoration treatment to the department.

26 (ii) The prosecuting attorney shall inquire into and make a full  
27 examination of all the facts and circumstances regarding whether  
28 there is a compelling state interest in pursuing competency  
29 restoration. This must include a review of any history that suggests  
30 the likelihood of success for competency restoration. Upon  
31 examination and prior to the hearing the prosecuting attorney shall  
32 file a statement regarding whether there is a compelling state  
33 interest in pursuing competency restoration. The statement must  
34 include relevant information related to the state's interest in  
35 continuing the prosecution of the charges including whether doing so  
36 serves the interests of justice.

37 (iii) At the hearing, the prosecuting attorney must establish  
38 that there is a compelling state interest to order competency  
39 restoration treatment for the defendant. The court must consider the  
40 statement of the prosecuting attorney and any history that suggests

1 whether competency restoration treatment is likely to be successful.  
2 The court also may consider prior criminal history, prior history in  
3 treatment, prior history of violence, or the quality and severity of  
4 the pending charges, in addition to the factors listed under RCW  
5 10.77.092. If the defendant is subject to an order under chapter  
6 71.05 RCW or proceedings under chapter 71.05 RCW have been initiated,  
7 or the court determines based on history that competency restoration  
8 is unlikely to be successful, there is a rebuttable presumption that  
9 there is no compelling state interest in ordering competency  
10 restoration treatment. If the prosecuting attorney proves by a  
11 preponderance of the evidence that there is a compelling state  
12 interest in ordering competency restoration treatment, then the court  
13 shall issue an order for either outpatient or inpatient competency  
14 restoration in accordance with this section.

15 (iv) The court shall enter written findings of fact and  
16 conclusions of law at the conclusion of any hearing conducted under  
17 this subsection.

18 (2) (a) To be eligible for an order for outpatient competency  
19 restoration, a defendant must be clinically appropriate and be  
20 willing to:

21 (i) Adhere to medications or receive prescribed intramuscular  
22 medication; and

23 (ii) ~~((Abstain from alcohol and unprescribed drugs; and~~

24 ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~  
25 ~~needed)) Adhere to all rules and conditions of the identified~~

26 outpatient competency restoration.  
27 (b) If the court orders inpatient competency restoration, the  
28 department shall place the defendant in an appropriate facility of  
29 the department for competency restoration.

30 (c) For a defendant ordered to inpatient competency restoration,  
31 the department shall promptly notify the court and parties whenever  
32 it appears the defendant's condition is such that a transfer to  
33 outpatient competency restoration is appropriate. Any such notice to  
34 the court and parties shall provide pertinent information concerning  
35 the change in condition or the reasons supporting transfer to  
36 outpatient competency restoration. Upon receipt of this notice, the  
37 court shall schedule a hearing within 10 days to review the  
38 information provided by the department, conditions of release of the  
39 defendant, and anticipated release date from inpatient treatment. The  
40 court shall issue appropriate orders if it finds that the defendant's

1 condition has so changed that they are a suitable candidate for  
2 outpatient competency restoration.

3 (d) If the court orders outpatient competency restoration, the  
4 court shall modify conditions of release as needed to authorize the  
5 department to place the person in approved housing, which may include  
6 access to supported housing, affiliated with a contracted outpatient  
7 competency restoration program. The department, in conjunction with  
8 the health care authority, must establish rules for conditions of  
9 participation in the outpatient competency restoration program, which  
10 must include the defendant being subject to medication management.  
11 The court may order regular urinalysis testing. The outpatient  
12 competency restoration program shall monitor the defendant during the  
13 defendant's placement in the program and report any noncompliance or  
14 significant changes with respect to the defendant to the department  
15 and, if applicable, the forensic navigator.

16 ~~((d))~~ (e) If a defendant fails to comply with the restrictions  
17 of the outpatient competency restoration program such that  
18 restoration is no longer appropriate in that setting or the defendant  
19 is no longer clinically appropriate for outpatient competency  
20 restoration, the director of the outpatient competency restoration  
21 program shall notify the authority and the department of the need to  
22 terminate the outpatient competency restoration placement and intent  
23 to request placement for the defendant in an appropriate facility of  
24 the department for inpatient competency restoration. The outpatient  
25 competency restoration program shall coordinate with the authority,  
26 the department, and any law enforcement personnel under ~~((d))~~ (e)  
27 (i) of this subsection to ensure that the time period between  
28 termination and admission into the inpatient facility is as minimal  
29 as possible. The time period for inpatient competency restoration  
30 shall be reduced by the time period spent in active treatment within  
31 the outpatient competency restoration program, excluding time periods  
32 in which the defendant was absent from the program and all time from  
33 notice of termination of the outpatient competency restoration period  
34 through the defendant's admission to the facility. The department  
35 shall obtain a placement for the defendant within seven days of the  
36 notice of intent to terminate the outpatient competency restoration  
37 placement.

38 (i) The department may authorize a peace officer to detain the  
39 defendant into emergency custody for transport to the designated  
40 inpatient competency restoration facility. If medical clearance is



1 required by the designated competency restoration facility before  
2 admission, the peace officer must transport the defendant to a crisis  
3 stabilization unit, evaluation and treatment facility, or emergency  
4 department of a local hospital for medical clearance once a bed is  
5 available at the designated inpatient competency restoration  
6 facility. The signed outpatient competency restoration order of the  
7 court shall serve as authority for the detention of the defendant  
8 under this subsection. This subsection does not preclude voluntary  
9 transportation of the defendant to a facility for inpatient  
10 competency restoration or for medical clearance, or authorize  
11 admission of the defendant into jail.

12 (ii) The department shall notify the court and parties of the  
13 defendant's admission for inpatient competency restoration before the  
14 close of the next judicial day. The court shall schedule a hearing  
15 within five days to review the conditions of release of the defendant  
16 and anticipated release from treatment and issue appropriate orders.

17 (~~(e)~~) (f) The court may not issue an order for outpatient  
18 competency restoration unless the department certifies that there is  
19 an available appropriate outpatient competency restoration program  
20 that has adequate space for the person at the time the order is  
21 issued or the court places the defendant under the guidance and  
22 control of a professional person identified in the court order.

23 (3) For a defendant whose highest charge is a class C felony, or  
24 a class B felony that is not classified as violent under RCW  
25 9.94A.030, the maximum time allowed for the initial competency  
26 restoration period is 45 days if the defendant is referred for  
27 inpatient competency restoration, or 90 days if the defendant is  
28 referred for outpatient competency restoration, provided that if the  
29 outpatient competency restoration placement is terminated and the  
30 defendant is subsequently admitted to an inpatient facility, the  
31 period of inpatient treatment during the first competency restoration  
32 period under this subsection shall not exceed 45 days.

33 (4) When any defendant whose highest charge is a class C felony  
34 other than assault in the third degree under RCW 9A.36.031(1) (d) or  
35 (f), felony physical control of a vehicle under RCW 46.61.504(6),  
36 felony hit and run resulting in injury under RCW 46.52.020(4)(b), a  
37 hate crime offense under RCW 9A.36.080, a class C felony with a  
38 domestic violence designation, a class C felony sex offense as  
39 defined in RCW 9.94A.030, or a class C felony with a sexual  
40 motivation allegation is admitted for inpatient competency

1 restoration with an accompanying court order for involuntary  
2 medication under RCW 10.77.092, and the defendant is found not  
3 competent to stand trial following that period of competency  
4 restoration, the court shall dismiss the charges pursuant to  
5 subsection (7) of this section.

6 (5) If the court determines or the parties agree before the  
7 initial competency restoration period or at any subsequent stage of  
8 the proceedings that the defendant is unlikely to regain competency,  
9 the court may dismiss the charges without prejudice without ordering  
10 the defendant to undergo an initial or further period of competency  
11 restoration treatment, in which case the court shall order that the  
12 defendant be referred for evaluation for civil commitment in the  
13 manner provided in subsection (7) of this section.

14 (6) On or before expiration of the initial competency restoration  
15 period the court shall conduct a hearing to determine whether the  
16 defendant is now competent to stand trial. If the court finds by a  
17 preponderance of the evidence that the defendant is incompetent to  
18 stand trial, the court may order an extension of the competency  
19 restoration period for an additional period of 90 days, but the court  
20 must at the same time set a date for a new hearing to determine the  
21 defendant's competency to stand trial before the expiration of this  
22 second restoration period. The defendant, the defendant's attorney,  
23 and the prosecutor have the right to demand that the hearing be  
24 before a jury. No extension shall be ordered for a second or third  
25 competency restoration period if the defendant is ineligible for a  
26 subsequent competency restoration period under subsection (4) of this  
27 section or the defendant's incompetence has been determined by the  
28 secretary to be solely the result of an intellectual or developmental  
29 disability, dementia, or traumatic brain injury which is such that  
30 competence is not reasonably likely to be regained during an  
31 extension.

32 (7) (a) Except as provided in (b) of this subsection, at the  
33 hearing upon the expiration of the second competency restoration  
34 period, or at the end of the first competency restoration period if  
35 the defendant is ineligible for a second or third competency  
36 restoration period under subsection (4) or (6) of this section, if  
37 the jury or court finds that the defendant is incompetent to stand  
38 trial, the court shall dismiss the charges without prejudice and  
39 order the defendant to be committed to the department for placement  
40 in a facility operated or contracted by the department or committed

1 to the health care authority for placement in a facility operated or  
2 contracted by the health care authority for evaluation for the  
3 purpose of filing a civil commitment petition under chapter 71.05  
4 RCW. The commitment may be for up to 120 hours if the defendant has  
5 not undergone competency restoration services or has engaged in  
6 outpatient competency restoration services, and up to 72 hours if the  
7 defendant engaged in inpatient competency restoration services  
8 starting from admission to the facility, excluding Saturdays,  
9 Sundays, and holidays (~~(, for evaluation for the purpose of filing a~~  
10 ~~civil commitment petition under chapter 71.05 RCW)~~). If at the time  
11 the order to dismiss the charges without prejudice is entered by the  
12 court the defendant is already in a facility operated or contracted  
13 by the department, the 72-hour or 120-hour period shall instead begin  
14 upon department receipt of the court order.

15 (b) The court shall not dismiss the charges if the defendant is  
16 eligible for a second or third competency restoration period under  
17 subsection (6) of this section and the court or jury finds that: (i)  
18 The defendant (A) is a substantial danger to other persons; or (B)  
19 presents a substantial likelihood of committing criminal acts  
20 jeopardizing public safety or security; and (ii) there is a  
21 substantial probability that the defendant will regain competency  
22 within a reasonable period of time. If the court or jury makes such a  
23 finding, the court may extend the period of commitment for up to an  
24 additional six months.

25 (8) Any period of competency restoration treatment under this  
26 section includes only the time the defendant is actually at the  
27 facility or is actively participating in an outpatient competency  
28 restoration program and is in addition to reasonable time for  
29 transport to or from the facility.

30 (9) If at any time the court dismisses charges based on  
31 incompetency to stand trial under this section, the court shall issue  
32 an order prohibiting the defendant from the possession of firearms  
33 until a court restores his or her right to possess a firearm under  
34 RCW 9.41.047. The court shall notify the defendant orally and in  
35 writing that the defendant may not possess a firearm unless the  
36 defendant's right to do so is restored by the superior court that  
37 issued the order under RCW 9.41.047, and that the defendant must  
38 immediately surrender all firearms and any concealed pistol license  
39 to their local law enforcement agency.

1       **Sec. 4.** RCW 10.77.088 and 2024 c 290 s 4 are each amended to  
2 read as follows:

3       (1) If the defendant is charged with a nonfelony crime which is a  
4 serious offense as identified in RCW 10.77.092 and found by the court  
5 to be not competent, the court shall first consider all available and  
6 appropriate alternatives to inpatient competency restoration. If the  
7 parties agree that there is an appropriate diversion program  
8 available to accept the defendant, the court shall dismiss the  
9 proceedings without prejudice and refer the defendant to the  
10 recommended diversion program. If the parties do not agree that there  
11 is an appropriate diversion program available to accept the  
12 defendant (~~, then the court~~):

13       (a) (~~Shall~~) The court shall dismiss the proceedings without  
14 prejudice and detain the defendant pursuant to subsection (6) of this  
15 section, unless the prosecutor objects to the dismissal and provides  
16 notice of a motion for an order for competency restoration treatment,  
17 in which case the court shall schedule a hearing within seven days.  
18 The prosecutor shall provide notice of the objection and motion for  
19 an order of competency restoration treatment to the department.

20       (b) The prosecuting attorney shall inquire into and make a full  
21 examination of all the facts and circumstances regarding whether  
22 there is a compelling state interest in pursuing competency  
23 restoration. This must include a review of any history that suggests  
24 the likelihood of success for competency restoration. Upon  
25 examination and prior to the hearing the prosecuting attorney shall  
26 file a statement regarding whether there is a compelling state  
27 interest in pursuing competency restoration. The statement must  
28 include relevant information related to the state's interest in  
29 continuing the prosecution of the charges including whether doing so  
30 serves the interests of justice.

31       (c) At the hearing, the prosecuting attorney must establish that  
32 there is a compelling state interest to order competency restoration  
33 treatment for the defendant. The court must consider the statement of  
34 the prosecuting attorney and any history that suggests whether  
35 competency restoration treatment is likely to be successful. The  
36 court also may consider prior criminal history, prior history in  
37 treatment, prior history of violence, or the quality and severity of  
38 the pending charges, (~~any history that suggests whether competency~~  
39 ~~restoration treatment is likely to be successful,~~) in addition to  
40 the factors listed under RCW 10.77.092. If the defendant is subject

1 to an order under chapter 71.05 RCW or proceedings under chapter  
2 71.05 RCW have been initiated, or the court determines based on  
3 history that competency restoration is unlikely to be successful,  
4 there is a rebuttable presumption that there is no compelling state  
5 interest in ordering competency restoration treatment. If the  
6 prosecuting attorney proves by a preponderance of the evidence that  
7 there is a compelling state interest in ordering competency  
8 restoration treatment, then the court shall issue an order in  
9 accordance with subsection (2) of this section.

10 (d) The court shall enter written findings of fact and  
11 conclusions of law at the conclusion of any hearing conducted under  
12 this subsection.

13 (2) (a) If a court finds pursuant to subsection (1) ~~((b))~~ (c) of  
14 this section that there is a compelling state interest in pursuing  
15 competency restoration treatment, the court shall order the defendant  
16 to receive outpatient competency restoration consistent with the  
17 recommendation of the forensic navigator, unless the court finds that  
18 an order for outpatient competency restoration is inappropriate  
19 considering the health and safety of the defendant and risks to  
20 public safety.

21 (b) To be eligible for an order for outpatient competency  
22 restoration, a defendant must be willing to:

23 (i) Adhere to medications or receive prescribed intramuscular  
24 medication; and

25 (ii) ~~((Abstain from alcohol and unprescribed drugs; and~~  
26 ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~  
27 ~~needed)) Adhere to the rules and conditions of the identified  
28 outpatient competency restoration program.~~

29 (c) If the court orders inpatient competency restoration, the  
30 department shall place the defendant in an appropriate facility of  
31 the department for competency restoration under subsection (3) of  
32 this section.

33 (d) For a defendant ordered to inpatient competency restoration,  
34 the department shall promptly notify the court and parties whenever  
35 it appears the defendant's condition is such that a transfer to  
36 outpatient competency restoration is appropriate. Any such notice to  
37 the court and parties shall provide pertinent information concerning  
38 the change in condition or the reasons supporting transfer to  
39 outpatient competency restoration. Upon receipt of this notice, the  
40 court shall schedule a hearing within 10 days to review the

1 information provided by the department, conditions of release of the  
2 defendant, and anticipated release date from inpatient treatment. The  
3 court shall issue appropriate orders if it finds that the defendant's  
4 condition has so changed that they are a suitable candidate for  
5 outpatient competency restoration.

6 (e) If the court orders outpatient competency restoration, the  
7 court shall modify conditions of release as needed to authorize the  
8 department to place the person in approved housing, which may include  
9 access to supported housing, affiliated with a contracted outpatient  
10 competency restoration program. The department, in conjunction with  
11 the health care authority, must establish rules for conditions of  
12 participation in the outpatient competency restoration program, which  
13 must include the defendant being subject to medication management.  
14 The court may order regular urinalysis testing. The outpatient  
15 competency restoration program shall monitor the defendant during the  
16 defendant's placement in the program and report any noncompliance or  
17 significant changes with respect to the defendant to the department  
18 and, if applicable, the forensic navigator.

19 ((+e)) (f) If a defendant fails to comply with the restrictions  
20 of the outpatient competency restoration program such that  
21 restoration is no longer appropriate in that setting or the defendant  
22 is no longer clinically appropriate for outpatient competency  
23 restoration, the director of the outpatient competency restoration  
24 program shall notify the authority and the department of the need to  
25 terminate the outpatient competency restoration placement and intent  
26 to request placement for the defendant in an appropriate facility of  
27 the department for inpatient competency restoration. The outpatient  
28 competency restoration program shall coordinate with the authority,  
29 the department, and any law enforcement personnel under ((+e)) (f)  
30 (i) of this subsection to ensure that the time period between  
31 termination and admission into the inpatient facility is as minimal  
32 as possible. The time period for inpatient competency restoration  
33 shall be reduced by the time period spent in active treatment within  
34 the outpatient competency restoration program, excluding time periods  
35 in which the defendant was absent from the program and all time from  
36 notice of termination of the outpatient competency restoration period  
37 through the defendant's admission to the facility. The department  
38 shall obtain a placement for the defendant within seven days of the  
39 notice of intent to terminate the outpatient competency restoration  
40 placement.

1 (i) The department may authorize a peace officer to detain the  
2 defendant into emergency custody for transport to the designated  
3 inpatient competency restoration facility. If medical clearance is  
4 required by the designated competency restoration facility before  
5 admission, the peace officer must transport the defendant to a crisis  
6 stabilization unit, evaluation and treatment facility, or emergency  
7 department of a local hospital for medical clearance once a bed is  
8 available at the designated inpatient competency restoration  
9 facility. The signed outpatient competency restoration order of the  
10 court shall serve as authority for the detention of the defendant  
11 under this subsection. This subsection does not preclude voluntary  
12 transportation of the defendant to a facility for inpatient  
13 competency restoration or for medical clearance, or authorize  
14 admission of the defendant into jail.

15 (ii) The department shall notify the court and parties of the  
16 defendant's admission for inpatient competency restoration before the  
17 close of the next judicial day. The court shall schedule a hearing  
18 within five days to review the conditions of release of the defendant  
19 and anticipated release from treatment and issue appropriate orders.

20 ~~((f))~~ (g) The court may not issue an order for outpatient  
21 competency restoration unless the department certifies that there is  
22 an available appropriate outpatient competency restoration program  
23 that has adequate space for the person at the time the order is  
24 issued or the court places the defendant under the guidance and  
25 control of a professional person identified in the court order.

26 ~~((g))~~ (h) If the court does not order the defendant to receive  
27 outpatient competency restoration under (a) of this subsection, the  
28 court shall commit the defendant to the department for placement in a  
29 facility operated or contracted by the department for inpatient  
30 competency restoration.

31 (3) The placement under subsection (2) of this section shall not  
32 exceed 29 days if the defendant is ordered to receive inpatient  
33 competency restoration, and shall not exceed 90 days if the defendant  
34 is ordered to receive outpatient competency restoration. The court  
35 may order any combination of this subsection, but the total period of  
36 inpatient competency restoration may not exceed 29 days.

37 (4) Beginning October 1, 2023, if the defendant is charged with a  
38 serious traffic offense under RCW 9.94A.030, the court may order the  
39 clerk to transmit an order to the department of licensing for  
40 revocation of the defendant's driver's license for a period of one

1 year. The court shall direct the clerk to transmit an order to the  
2 department of licensing reinstating the defendant's driver's license  
3 if the defendant is subsequently restored to competency, and may do  
4 so at any time before the end of one year for good cause upon the  
5 petition of the defendant.

6 (5) If the court has determined or the parties agree that the  
7 defendant is unlikely to regain competency, the court may dismiss the  
8 charges without prejudice without ordering the defendant to undergo  
9 competency restoration treatment, in which case the court shall order  
10 that the defendant be referred for evaluation for civil commitment in  
11 the manner provided in subsection (6) of this section.

12 (6) (a) If the proceedings are dismissed under RCW 10.77.084 and  
13 the defendant was on conditional release at the time of dismissal,  
14 the court shall order the designated crisis responder within that  
15 county to evaluate the defendant pursuant to chapter 71.05 RCW. The  
16 evaluation may be conducted in any location chosen by the  
17 professional.

18 (b) If the defendant was in custody and not on conditional  
19 release at the time of dismissal, the defendant shall be detained and  
20 sent to an evaluation and treatment facility for up to 120 hours if  
21 the defendant has not undergone competency restoration services or  
22 has engaged in outpatient competency restoration services and up to  
23 72 hours if the defendant engaged in inpatient competency restoration  
24 services, excluding Saturdays, Sundays, and holidays, for evaluation  
25 for purposes of filing a petition under chapter 71.05 RCW. The 120-  
26 hour or 72-hour period shall commence upon the next nonholiday  
27 weekday following the court order and shall run to the end of the  
28 last nonholiday weekday within the 120-hour or 72-hour period.

29 (7) If the defendant is charged with a nonfelony crime that is  
30 not a serious offense as defined in RCW 10.77.092 and found by the  
31 court to be not competent, the court may stay or dismiss proceedings  
32 and detain the defendant for sufficient time to allow the designated  
33 crisis responder to evaluate the defendant and consider initial  
34 detention proceedings under chapter 71.05 RCW. The court must give  
35 notice to all parties at least 24 hours before the dismissal of any  
36 proceeding under this subsection, and provide an opportunity for a  
37 hearing on whether to dismiss the proceedings.

38 (8) If at any time the court dismisses charges under subsections  
39 (1) through (7) of this section, the court shall make a finding as to  
40 whether the defendant has a history of one or more violent acts. If



1 the court so finds, the court shall issue an order prohibiting the  
2 defendant from the possession of firearms until a court restores his  
3 or her right to possess a firearm under RCW 9.41.047. The court shall  
4 notify the defendant orally and in writing that the defendant may not  
5 possess a firearm unless the defendant's right to do so is restored  
6 by the superior court that issued the order under RCW 9.41.047, and  
7 that the defendant must immediately surrender all firearms and any  
8 concealed pistol license to their local law enforcement agency.

9 (9) Any period of competency restoration treatment under this  
10 section includes only the time the defendant is actually at the  
11 facility or is actively participating in an outpatient competency  
12 restoration program and is in addition to reasonable time for  
13 transport to or from the facility.

14 **Sec. 5.** RCW 10.77.092 and 2023 c 453 s 11 are each amended to  
15 read as follows:

16 (1) For purposes of determining whether a court may authorize  
17 involuntary medication for the purpose of competency restoration  
18 pursuant to RCW 10.77.084 and for maintaining the level of  
19 restoration in the jail following the restoration period, a pending  
20 charge involving any one or more of the following crimes is a serious  
21 offense per se in the context of competency restoration:

22 (a) Any violent offense, sex offense, serious traffic offense,  
23 and most serious offense, as those terms are defined in RCW  
24 9.94A.030;

25 (b) Any offense, except nonfelony counterfeiting offenses,  
26 included in crimes against persons in RCW 9.94A.411;

27 (c) Any offense contained in chapter 9.41 RCW (firearms and  
28 dangerous weapons);

29 (d) Any offense listed as domestic violence in RCW 10.99.020;

30 (e) Any offense listed as a harassment offense in chapter 9A.46  
31 RCW, except for criminal trespass in the first or second degree;

32 (f) Any violation of chapter 69.50 RCW that is a class B felony;  
33 or

34 (g) Any city or county ordinance or statute that is equivalent to  
35 an offense referenced in this subsection.

36 (2) Any time a petition is filed seeking a court order  
37 authorizing the involuntary medication for purposes of competency  
38 restoration pursuant to RCW 10.77.084, the petition must also seek  
39 authorization to continue involuntary medication for purposes of

1 maintaining the level of restoration in the jail or juvenile  
2 detention facility following the restoration period.

3 (3) (a) In a particular case, a court may determine that a pending  
4 charge not otherwise defined as serious by state or federal law or by  
5 a city or county ordinance is, nevertheless, a serious offense within  
6 the context of competency restoration treatment when the conduct in  
7 the charged offense falls within the standards established in (b) of  
8 this subsection.

9 (b) To determine that the particular case is a serious offense  
10 within the context of competency restoration, the court must consider  
11 the following factors and determine that one or more of the following  
12 factors creates a situation in which the offense is serious:

13 (i) The charge includes an allegation that the defendant actually  
14 inflicted bodily or emotional harm on another person or that the  
15 defendant created a reasonable apprehension of bodily or emotional  
16 harm to another;

17 (ii) The extent of the impact of the alleged offense on the basic  
18 human need for security of the citizens within the jurisdiction;

19 (iii) The number and nature of related charges pending against  
20 the defendant;

21 (iv) The length of potential confinement if the defendant is  
22 convicted; and

23 (v) The number of potential and actual victims or persons  
24 impacted by the defendant's alleged acts.

25 (4) For a defendant ordered to inpatient competency restoration,  
26 the department shall promptly notify the court and parties whenever  
27 it appears the defendant's condition and amenability to treatment are  
28 such that an order for involuntary medication is necessary. Any such  
29 notice to the court and parties shall provide pertinent information  
30 concerning the applicable criteria under *Sell v. United States*, 539  
31 U.S. 166, 123 S.Ct. 2174, 156 L.Ed.2d 197 (2003). Upon receipt of  
32 this notice, the court shall schedule a hearing within 10 days to  
33 consider an order for involuntary medication.

34 (5) For any hearing pertaining to involuntary medication, the  
35 parties, the witnesses, the interpreters, and the presiding judicial  
36 officer shall be present and participate by video. The term "video,"  
37 as used in this section, includes any functional equivalent. At any  
38 hearing conducted by video, the technology used must permit the  
39 judicial officer, counsel, all parties, and the witnesses to be able  
40 to see, hear, and speak, when authorized, during the hearing; to

1 allow attorneys to use exhibits or other materials during the  
2 hearing; and to allow the respondent's counsel to be in the same  
3 location as the respondent unless otherwise requested by the  
4 respondent or the respondent's counsel. Witnesses in a proceeding may  
5 also appear in court through other means, including telephonically,  
6 pursuant to the requirements of superior court civil rule 43.  
7 Notwithstanding the foregoing, the court, upon its own motion or upon  
8 a motion for good cause by any party, may require some or all parties  
9 and witnesses to participate in the hearing in person rather than by  
10 video. In ruling on any such motion, the court may allow in-person or  
11 video testimony; and the court may consider, among other things,  
12 whether the respondent's alleged behavioral health disorder affects  
13 the respondent's ability to perceive or participate in the proceeding  
14 by video.

15 **Sec. 6.** RCW 43.84.092 and 2024 c 210 s 4 and 2024 c 168 s 12 are  
16 each reenacted and amended to read as follows:

17 (1) All earnings of investments of surplus balances in the state  
18 treasury shall be deposited to the treasury income account, which  
19 account is hereby established in the state treasury.

20 (2) The treasury income account shall be utilized to pay or  
21 receive funds associated with federal programs as required by the  
22 federal cash management improvement act of 1990. The treasury income  
23 account is subject in all respects to chapter 43.88 RCW, but no  
24 appropriation is required for refunds or allocations of interest  
25 earnings required by the cash management improvement act. Refunds of  
26 interest to the federal treasury required under the cash management  
27 improvement act fall under RCW 43.88.180 and shall not require  
28 appropriation. The office of financial management shall determine the  
29 amounts due to or from the federal government pursuant to the cash  
30 management improvement act. The office of financial management may  
31 direct transfers of funds between accounts as deemed necessary to  
32 implement the provisions of the cash management improvement act, and  
33 this subsection. Refunds or allocations shall occur prior to the  
34 distributions of earnings set forth in subsection (4) of this  
35 section.

36 (3) Except for the provisions of RCW 43.84.160, the treasury  
37 income account may be utilized for the payment of purchased banking  
38 services on behalf of treasury funds including, but not limited to,  
39 depository, safekeeping, and disbursement functions for the state

1 treasury and affected state agencies. The treasury income account is  
2 subject in all respects to chapter 43.88 RCW, but no appropriation is  
3 required for payments to financial institutions. Payments shall occur  
4 prior to distribution of earnings set forth in subsection (4) of this  
5 section.

6 (4) Monthly, the state treasurer shall distribute the earnings  
7 credited to the treasury income account. The state treasurer shall  
8 credit the general fund with all the earnings credited to the  
9 treasury income account except:

10 (a) The following accounts and funds shall receive their  
11 proportionate share of earnings based upon each account's and fund's  
12 average daily balance for the period: The abandoned recreational  
13 vehicle disposal account, the aeronautics account, the Alaskan Way  
14 viaduct replacement project account, the ambulance transport fund,  
15 behavioral health diversion fund, the budget stabilization account,  
16 the capital vessel replacement account, the capitol building  
17 construction account, the Central Washington University capital  
18 projects account, the charitable, educational, penal and reformatory  
19 institutions account, the Chehalis basin account, the Chehalis basin  
20 taxable account, the clean fuels credit account, the clean fuels  
21 transportation investment account, the cleanup settlement account,  
22 the climate active transportation account, the climate transit  
23 programs account, the Columbia river basin water supply development  
24 account, the Columbia river basin taxable bond water supply  
25 development account, the Columbia river basin water supply revenue  
26 recovery account, the common school construction fund, the community  
27 forest trust account, the connecting Washington account, the county  
28 arterial preservation account, the county criminal justice assistance  
29 account, the covenant homeownership account, the deferred  
30 compensation administrative account, the deferred compensation  
31 principal account, the department of licensing services account, the  
32 department of retirement systems expense account, the developmental  
33 disabilities community services account, the diesel idle reduction  
34 account, the opioid abatement settlement account, the drinking water  
35 assistance account, the administrative subaccount of the drinking  
36 water assistance account, the early learning facilities development  
37 account, the early learning facilities revolving account, the Eastern  
38 Washington University capital projects account, the education  
39 construction fund, the education legacy trust account, the election  
40 account, the electric vehicle account, the energy freedom account,

1 the energy recovery act account, the essential rail assistance  
2 account, The Evergreen State College capital projects account, the  
3 fair start for kids account, the family medicine workforce  
4 development account, the ferry bond retirement fund, the fish,  
5 wildlife, and conservation account, the freight mobility investment  
6 account, the freight mobility multimodal account, the grade crossing  
7 protective fund, the higher education retirement plan supplemental  
8 benefit fund, the Washington student loan account, the highway bond  
9 retirement fund, the highway infrastructure account, the highway  
10 safety fund, the hospital safety net assessment fund, the Interstate  
11 5 bridge replacement project account, the Interstate 405 and state  
12 route number 167 express toll lanes account, the judges' retirement  
13 account, the judicial retirement administrative account, the judicial  
14 retirement principal account, the limited fish and wildlife account,  
15 the local leasehold excise tax account, the local real estate excise  
16 tax account, the local sales and use tax account, the marine  
17 resources stewardship trust account, the medical aid account, the  
18 money-purchase retirement savings administrative account, the money-  
19 purchase retirement savings principal account, the motor vehicle  
20 fund, the motorcycle safety education account, the move ahead WA  
21 account, the move ahead WA flexible account, the multimodal  
22 transportation account, the multiuse roadway safety account, the  
23 municipal criminal justice assistance account, the oyster reserve  
24 land account, the pension funding stabilization account, the  
25 perpetual surveillance and maintenance account, the pilotage account,  
26 the pollution liability insurance agency underground storage tank  
27 revolving account, the public employees' retirement system plan 1  
28 account, the public employees' retirement system combined plan 2 and  
29 plan 3 account, the public facilities construction loan revolving  
30 account, the public health supplemental account, the public works  
31 assistance account, the Puget Sound capital construction account, the  
32 Puget Sound ferry operations account, the Puget Sound Gateway  
33 facility account, the Puget Sound taxpayer accountability account,  
34 the real estate appraiser commission account, the recreational  
35 vehicle account, the regional mobility grant program account, the  
36 reserve officers' relief and pension principal fund, the resource  
37 management cost account, the rural arterial trust account, the rural  
38 mobility grant program account, the rural Washington loan fund, the  
39 second injury fund, the sexual assault prevention and response  
40 account, the site closure account, the skilled nursing facility

1 safety net trust fund, the small city pavement and sidewalk account,  
2 the special category C account, the special wildlife account, the  
3 state hazard mitigation revolving loan account, the state investment  
4 board expense account, the state investment board commingled trust  
5 fund accounts, the state patrol highway account, the state  
6 reclamation revolving account, the state route number 520 civil  
7 penalties account, the state route number 520 corridor account, the  
8 statewide broadband account, the statewide tourism marketing account,  
9 the supplemental pension account, the Tacoma Narrows toll bridge  
10 account, the teachers' retirement system plan 1 account, the  
11 teachers' retirement system combined plan 2 and plan 3 account, the  
12 tobacco prevention and control account, the tobacco settlement  
13 account, the toll facility bond retirement account, the  
14 transportation 2003 account (nickel account), the transportation  
15 equipment fund, the JUDY transportation future funding program  
16 account, the transportation improvement account, the transportation  
17 improvement board bond retirement account, the transportation  
18 infrastructure account, the transportation partnership account, the  
19 traumatic brain injury account, the tribal opioid prevention and  
20 treatment account, the University of Washington bond retirement fund,  
21 the University of Washington building account, the voluntary cleanup  
22 account, the volunteer firefighters' relief and pension principal  
23 fund, the volunteer firefighters' and reserve officers'  
24 administrative fund, the vulnerable roadway user education account,  
25 the Washington judicial retirement system account, the Washington law  
26 enforcement officers' and firefighters' system plan 1 retirement  
27 account, the Washington law enforcement officers' and firefighters'  
28 system plan 2 retirement account, the Washington public safety  
29 employees' plan 2 retirement account, the Washington school  
30 employees' retirement system combined plan 2 and 3 account, the  
31 Washington state patrol retirement account, the Washington State  
32 University building account, the Washington State University bond  
33 retirement fund, the water pollution control revolving administration  
34 account, the water pollution control revolving fund, the Western  
35 Washington University capital projects account, the Yakima integrated  
36 plan implementation account, the Yakima integrated plan  
37 implementation revenue recovery account, and the Yakima integrated  
38 plan implementation taxable bond account. Earnings derived from  
39 investing balances of the agricultural permanent fund, the normal  
40 school permanent fund, the permanent common school fund, the

1 scientific permanent fund, and the state university permanent fund  
2 shall be allocated to their respective beneficiary accounts.

3 (b) Any state agency that has independent authority over accounts  
4 or funds not statutorily required to be held in the state treasury  
5 that deposits funds into a fund or account in the state treasury  
6 pursuant to an agreement with the office of the state treasurer shall  
7 receive its proportionate share of earnings based upon each account's  
8 or fund's average daily balance for the period.

9 (5) In conformance with Article II, section 37 of the state  
10 Constitution, no treasury accounts or funds shall be allocated  
11 earnings without the specific affirmative directive of this section.

12 **Sec. 7.** RCW 43.84.092 and 2024 c 210 s 5 and 2024 c 168 s 13 are  
13 each reenacted and amended to read as follows:

14 (1) All earnings of investments of surplus balances in the state  
15 treasury shall be deposited to the treasury income account, which  
16 account is hereby established in the state treasury.

17 (2) The treasury income account shall be utilized to pay or  
18 receive funds associated with federal programs as required by the  
19 federal cash management improvement act of 1990. The treasury income  
20 account is subject in all respects to chapter 43.88 RCW, but no  
21 appropriation is required for refunds or allocations of interest  
22 earnings required by the cash management improvement act. Refunds of  
23 interest to the federal treasury required under the cash management  
24 improvement act fall under RCW 43.88.180 and shall not require  
25 appropriation. The office of financial management shall determine the  
26 amounts due to or from the federal government pursuant to the cash  
27 management improvement act. The office of financial management may  
28 direct transfers of funds between accounts as deemed necessary to  
29 implement the provisions of the cash management improvement act, and  
30 this subsection. Refunds or allocations shall occur prior to the  
31 distributions of earnings set forth in subsection (4) of this  
32 section.

33 (3) Except for the provisions of RCW 43.84.160, the treasury  
34 income account may be utilized for the payment of purchased banking  
35 services on behalf of treasury funds including, but not limited to,  
36 depository, safekeeping, and disbursement functions for the state  
37 treasury and affected state agencies. The treasury income account is  
38 subject in all respects to chapter 43.88 RCW, but no appropriation is  
39 required for payments to financial institutions. Payments shall occur

1 prior to distribution of earnings set forth in subsection (4) of this  
2 section.

3 (4) Monthly, the state treasurer shall distribute the earnings  
4 credited to the treasury income account. The state treasurer shall  
5 credit the general fund with all the earnings credited to the  
6 treasury income account except:

7 (a) The following accounts and funds shall receive their  
8 proportionate share of earnings based upon each account's and fund's  
9 average daily balance for the period: The abandoned recreational  
10 vehicle disposal account, the aeronautics account, the Alaskan Way  
11 viaduct replacement project account, behavioral health diversion  
12 fund, the budget stabilization account, the capital vessel  
13 replacement account, the capitol building construction account, the  
14 Central Washington University capital projects account, the  
15 charitable, educational, penal and reformatory institutions account,  
16 the Chehalis basin account, the Chehalis basin taxable account, the  
17 clean fuels credit account, the clean fuels transportation investment  
18 account, the cleanup settlement account, the climate active  
19 transportation account, the climate transit programs account, the  
20 Columbia river basin water supply development account, the Columbia  
21 river basin taxable bond water supply development account, the  
22 Columbia river basin water supply revenue recovery account, the  
23 common school construction fund, the community forest trust account,  
24 the connecting Washington account, the county arterial preservation  
25 account, the county criminal justice assistance account, the covenant  
26 homeownership account, the deferred compensation administrative  
27 account, the deferred compensation principal account, the department  
28 of licensing services account, the department of retirement systems  
29 expense account, the developmental disabilities community services  
30 account, the diesel idle reduction account, the opioid abatement  
31 settlement account, the drinking water assistance account, the  
32 administrative subaccount of the drinking water assistance account,  
33 the early learning facilities development account, the early learning  
34 facilities revolving account, the Eastern Washington University  
35 capital projects account, the education construction fund, the  
36 education legacy trust account, the election account, the electric  
37 vehicle account, the energy freedom account, the energy recovery act  
38 account, the essential rail assistance account, The Evergreen State  
39 College capital projects account, the fair start for kids account,  
40 the family medicine workforce development account, the ferry bond



1 retirement fund, the fish, wildlife, and conservation account, the  
2 freight mobility investment account, the freight mobility multimodal  
3 account, the grade crossing protective fund, the higher education  
4 retirement plan supplemental benefit fund, the Washington student  
5 loan account, the highway bond retirement fund, the highway  
6 infrastructure account, the highway safety fund, the hospital safety  
7 net assessment fund, the Interstate 5 bridge replacement project  
8 account, the Interstate 405 and state route number 167 express toll  
9 lanes account, the judges' retirement account, the judicial  
10 retirement administrative account, the judicial retirement principal  
11 account, the limited fish and wildlife account, the local leasehold  
12 excise tax account, the local real estate excise tax account, the  
13 local sales and use tax account, the marine resources stewardship  
14 trust account, the medical aid account, the money-purchase retirement  
15 savings administrative account, the money-purchase retirement savings  
16 principal account, the motor vehicle fund, the motorcycle safety  
17 education account, the move ahead WA account, the move ahead WA  
18 flexible account, the multimodal transportation account, the multiuse  
19 roadway safety account, the municipal criminal justice assistance  
20 account, the oyster reserve land account, the pension funding  
21 stabilization account, the perpetual surveillance and maintenance  
22 account, the pilotage account, the pollution liability insurance  
23 agency underground storage tank revolving account, the public  
24 employees' retirement system plan 1 account, the public employees'  
25 retirement system combined plan 2 and plan 3 account, the public  
26 facilities construction loan revolving account, the public health  
27 supplemental account, the public works assistance account, the Puget  
28 Sound capital construction account, the Puget Sound ferry operations  
29 account, the Puget Sound Gateway facility account, the Puget Sound  
30 taxpayer accountability account, the real estate appraiser commission  
31 account, the recreational vehicle account, the regional mobility  
32 grant program account, the reserve officers' relief and pension  
33 principal fund, the resource management cost account, the rural  
34 arterial trust account, the rural mobility grant program account, the  
35 rural Washington loan fund, the second injury fund, the sexual  
36 assault prevention and response account, the site closure account,  
37 the skilled nursing facility safety net trust fund, the small city  
38 pavement and sidewalk account, the special category C account, the  
39 special wildlife account, the state hazard mitigation revolving loan  
40 account, the state investment board expense account, the state

1 investment board commingled trust fund accounts, the state patrol  
2 highway account, the state reclamation revolving account, the state  
3 route number 520 civil penalties account, the state route number 520  
4 corridor account, the statewide broadband account, the statewide  
5 tourism marketing account, the supplemental pension account, the  
6 Tacoma Narrows toll bridge account, the teachers' retirement system  
7 plan 1 account, the teachers' retirement system combined plan 2 and  
8 plan 3 account, the tobacco prevention and control account, the  
9 tobacco settlement account, the toll facility bond retirement  
10 account, the transportation 2003 account (nickel account), the  
11 transportation equipment fund, the JUDY transportation future funding  
12 program account, the transportation improvement account, the  
13 transportation improvement board bond retirement account, the  
14 transportation infrastructure account, the transportation partnership  
15 account, the traumatic brain injury account, the tribal opioid  
16 prevention and treatment account, the University of Washington bond  
17 retirement fund, the University of Washington building account, the  
18 voluntary cleanup account, the volunteer firefighters' relief and  
19 pension principal fund, the volunteer firefighters' and reserve  
20 officers' administrative fund, the vulnerable roadway user education  
21 account, the Washington judicial retirement system account, the  
22 Washington law enforcement officers' and firefighters' system plan 1  
23 retirement account, the Washington law enforcement officers' and  
24 firefighters' system plan 2 retirement account, the Washington public  
25 safety employees' plan 2 retirement account, the Washington school  
26 employees' retirement system combined plan 2 and 3 account, the  
27 Washington state patrol retirement account, the Washington State  
28 University building account, the Washington State University bond  
29 retirement fund, the water pollution control revolving administration  
30 account, the water pollution control revolving fund, the Western  
31 Washington University capital projects account, the Yakima integrated  
32 plan implementation account, the Yakima integrated plan  
33 implementation revenue recovery account, and the Yakima integrated  
34 plan implementation taxable bond account. Earnings derived from  
35 investing balances of the agricultural permanent fund, the normal  
36 school permanent fund, the permanent common school fund, the  
37 scientific permanent fund, and the state university permanent fund  
38 shall be allocated to their respective beneficiary accounts.

39 (b) Any state agency that has independent authority over accounts  
40 or funds not statutorily required to be held in the state treasury

1 that deposits funds into a fund or account in the state treasury  
2 pursuant to an agreement with the office of the state treasurer shall  
3 receive its proportionate share of earnings based upon each account's  
4 or fund's average daily balance for the period.

5 (5) In conformance with Article II, section 37 of the state  
6 Constitution, no treasury accounts or funds shall be allocated  
7 earnings without the specific affirmative directive of this section.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 10.77  
9 RCW to read as follows:

10 (1) The department shall establish an incentive program to manage  
11 inpatient competency orders under this chapter.

12 (2) (a) The department shall establish an incentive level of  
13 referrals for each city and county that refers individuals for  
14 inpatient competency services by utilizing the average number of  
15 inpatient competency orders referred to the department from any court  
16 within a city's or county's jurisdiction in fiscal years 2018 and  
17 2019. For any city or county with an average of less than two  
18 inpatient competency orders in fiscal years 2018 and 2019, the  
19 incentive level shall be set at one individual.

20 (b) The department shall establish a baseline level of referrals  
21 for each city and county that refers individuals for inpatient  
22 competency services by utilizing the average number of inpatient  
23 competency orders referred to the department from any court within a  
24 city's or county's jurisdiction in fiscal years 2024 and 2025. For  
25 any city or county with an average of less than two inpatient  
26 competency orders in fiscal years 2024 and 2025, the baseline level  
27 shall be set at one.

28 (3) Any city or county that reduces its total annual inpatient  
29 competency referrals below the incentive level established by the  
30 department, or that reduces its overall orders for any competency  
31 service by at least 40 percent for a given fiscal year, shall be  
32 eligible to request an appropriation from the behavioral health  
33 diversion fund created in section 9 of this act. Any funds  
34 appropriated to a city or county from the behavioral health diversion  
35 fund must be used toward services or supports that either prevent  
36 individuals with behavioral health needs from entering the criminal  
37 justice system or divert them away from the criminal justice system  
38 once incarcerated. Cities and counties that have an average incentive  
39 level of less than five individuals may apply based on a 50 percent

1 or greater reduction in their total number of inpatient competency  
2 orders.

3 (4) Commencing January 1, 2026, the department shall provide  
4 notice on a quarterly basis to the superior, district, and municipal  
5 courts and relevant agencies of each city and county including, but  
6 not limited to, the city or county administrator, behavioral health  
7 department, sheriff or police chief, public defender, and prosecuting  
8 authority of the total number of inpatient competency orders made in  
9 the city or county for the current fiscal year compared to the  
10 incentive level for the city or county.

11 NEW SECTION. **Sec. 9.** A new section is added to chapter 10.77  
12 RCW to read as follows:

13 The behavioral health diversion fund is hereby created in the  
14 state treasury. The fund shall consist of funds appropriated by the  
15 legislature. Moneys in the fund may be spent only after  
16 appropriation. Expenditures from the fund may only be used for  
17 services or supports that either prevent individuals with behavioral  
18 health needs from entering the criminal justice system or that  
19 diverts them away from the criminal justice system once incarcerated.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 10.77  
21 RCW to read as follows:

22 The department shall adopt rules necessary for implementation of  
23 the incentive program for inpatient competency services established  
24 under section 8 of this act.

25 NEW SECTION. **Sec. 11.** A new section is added to chapter 10.77  
26 RCW to read as follows:

27 (1) For purposes of this section, "behavioral health diversion"  
28 means adult jail diversion, whereby a person who has a behavioral  
29 health need may still have involvement with the criminal justice  
30 system but spends little to no time in a jail facility and is instead  
31 connected to community-based treatment and support services either  
32 with or without court involvement or correctional supervision.

33 (2)(a) For purposes of this section, "behavioral health diversion  
34 plan" means a plan or strategy to ensure the availability and  
35 utilization of community-based treatment and support services  
36 designed to reduce or eliminate the amount of time persons with

1 behavioral health needs spend in a jail facility. The plan must  
2 include, but is not limited to:

3 (i) Specific measures to reduce the number of individuals with  
4 behavioral health needs whose highest charge is up to a class C  
5 felony from entering or remaining in the criminal justice system;

6 (ii) Specific measures to increase diversion of individuals with  
7 behavioral health needs whose highest charge is up to a class C  
8 felony away from the competency system;

9 (iii) Specific measures to identify individuals for whom a court  
10 has made multiple prior findings of nonrestorability, and strategies  
11 to prevent future competency evaluation or restoration orders and  
12 instead utilize diversion options for these individuals;

13 (iv) Strategies to reduce recidivism for individuals with  
14 behavioral health needs who are likely to be referred for a  
15 competency service within the next six months based on history of  
16 prior referrals, prior inpatient psychiatric treatment episodes,  
17 criminal justice system involvement, or homelessness;

18 (v) A strategic plan to create programming, services, and  
19 supports, including housing supports, along each intercept in the  
20 sequential intercept model for the county. The plan must include  
21 strategies to address housing and case management for people with  
22 significant behavioral health needs who have or are at risk of having  
23 involvement with the criminal justice system;

24 (vi) A communications and collaboration plan that will  
25 incorporate key stakeholders into the development of the behavioral  
26 health diversion plan. This may include the development of a steering  
27 committee or task force. Key stakeholders for this purpose must  
28 include people with lived experience, participants representing  
29 prosecuting attorneys, defense attorneys, and judicial officers in  
30 superior court, district court, and municipal court, an individual  
31 with housing and homelessness expertise, the behavioral health  
32 administrative service organization for the county, behavioral health  
33 providers, and tribes.

34 (b) The department may provide technical assistance and data to  
35 counties developing behavioral health diversion plans.

36 NEW SECTION. **Sec. 12.** Section 6 of this act expires July 1,  
37 2028.

1        NEW SECTION.    **Sec. 13.**    Section 7 of this act takes effect July  
2    1, 2028.

3        NEW SECTION.    **Sec. 14.**    If specific funding for the purposes of  
4    this act, referencing this act by bill or chapter number, is not  
5    provided by June 30, 2025, in the omnibus appropriations act, this  
6    act is null and void.

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