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**HOUSE BILL 1218**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Representatives Farivar, Macri, Reed, Simmons, Wylie, Pollet, Street, Ormsby, Scott, Salahuddin, Parshley, and Hill; by request of Governor Inslee

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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, 10.77.084,  
5 10.77.086, 10.77.088, and 10.77.092; reenacting and amending RCW  
6 43.84.092 and 43.84.092; adding new sections to chapter 10.77 RCW;  
7 creating a new section; providing an effective date; and providing  
8 expiration 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 level B and level C  
11 felonies and all misdemeanors and shall appoint a forensic navigator  
12 in circumstances described under RCW 10.77.072. Level A felonies will  
13 not be referred to forensic navigators unless requested by the court.

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

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

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

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

28 (c) To assess the individual for appropriateness for assisted  
29 outpatient treatment under chapter 71.05 RCW;

30 (d) To present information to the court in order to assist the  
31 court in understanding the treatment options available to the  
32 individual to support the entry of orders for diversion from the  
33 forensic mental health system or for community outpatient competency  
34 restoration, to facilitate that transition;

35 (e) To provide regular updates to the court and parties of the  
36 status of the individual's participation in diversion or outpatient  
37 services and be responsive to inquiries by the parties about  
38 treatment status;

1 (f) When the individual is ordered to receive community  
2 outpatient restoration, to provide services to the individual  
3 including:

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

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

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

8 (iv) Providing information to the court concerning the  
9 individual's progress and compliance with court-ordered conditions of  
10 release, which may include appearing at court hearings to provide  
11 information to the court;

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

14 (vi) Assisting the individual with obtaining prescribed  
15 medication and encouraging adherence with prescribed medication;

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

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

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

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

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

29 (g) If the individual is an American Indian or Alaska Native who  
30 receives medical, behavioral health, housing, or other supportive  
31 services from a tribe within this state, to notify and coordinate  
32 with the tribe and Indian health care provider. Notification shall be  
33 made in person or by telephonic or electronic communication to the  
34 tribal contact listed in the authority's tribal crisis coordination  
35 plan as soon as possible.

36 (4) Forensic navigators may submit recommendations to the court  
37 regarding treatment and restoration options for the individual, which  
38 the court may consider and weigh in conjunction with the  
39 recommendations of all of the parties.

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

3 (6) The signed order for competency evaluation from the court  
4 shall serve as authority for the forensic navigator to be given  
5 access to all records held by a behavioral health, educational, or  
6 law enforcement agency or a correctional facility that relates to an  
7 individual. Information that is protected by state or federal law,  
8 including health information, shall not be entered into the court  
9 record without the consent of the individual or their defense  
10 attorney.

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

14 (8) A court may not issue an order appointing a forensic  
15 navigator unless the department certifies that there is adequate  
16 forensic navigator capacity to provide these services at the time the  
17 order is issued.

18 **Sec. 3.** RCW 10.77.084 and 2023 c 453 s 6 are each amended to  
19 read as follows:

20 (1)(a) If at any time during the pendency of an action and prior  
21 to judgment the court finds, following a report as provided in RCW  
22 10.77.060, a defendant is incompetent, the court shall order the  
23 proceedings against the defendant be stayed except as provided in  
24 subsection (4) of this section. Beginning October 1, 2023, if the  
25 defendant is charged with a serious traffic offense under RCW  
26 9.94A.030, or a felony version of a serious traffic offense, the  
27 court may order the clerk to transmit an order to the department of  
28 licensing for revocation of the defendant's driver's license for a  
29 period of one year.

30 (b) The court may order a defendant who has been found to be  
31 incompetent to undergo competency restoration treatment at a facility  
32 designated by the department if the defendant is eligible under RCW  
33 10.77.086 or 10.77.088. At the end of each competency restoration  
34 period or at any time a professional person determines competency has  
35 been, or is unlikely to be, restored, the defendant shall be returned  
36 to court for a hearing, except that if the opinion of the  
37 professional person is that the defendant remains incompetent and the  
38 hearing is held before the expiration of the current competency  
39 restoration period, the parties may agree to waive the defendant's

1 presence, to remote participation by the defendant at a hearing, or  
2 to presentation of an agreed order in lieu of a hearing. The facility  
3 shall promptly notify the court and all parties of the date on which  
4 the competency restoration period commences and expires so that a  
5 timely hearing date may be scheduled.

6 (c) If, following notice and hearing or entry of an agreed order  
7 under (b) of this subsection, the court finds that competency has  
8 been restored, the court shall lift the stay entered under (a) of  
9 this subsection. If the court finds that competency has not been  
10 restored, the court shall dismiss the proceedings without prejudice,  
11 except that the court may order a further period of competency  
12 restoration treatment if it finds that further treatment within the  
13 time limits established by RCW 10.77.086 or 10.77.088 is likely to  
14 restore competency, and a further period of treatment is allowed  
15 under RCW 10.77.086 or 10.77.088.

16 (d) If at any time during the proceeding the court finds,  
17 following notice and hearing, a defendant is not likely to regain  
18 competency, the court shall dismiss the proceedings without prejudice  
19 and refer the defendant for civil commitment evaluation or  
20 proceedings if appropriate under RCW 10.77.065, 10.77.086, or  
21 10.77.088.

22 (e) Beginning October 1, 2023, if the court issues an order  
23 directing revocation of the defendant's driver's license under (a) of  
24 this subsection, and the court subsequently finds that the  
25 defendant's competency has been restored, the court shall order the  
26 clerk to transmit an order to the department of licensing for  
27 reinstatement of the defendant's driver's license. The court may  
28 direct the clerk to transmit an order reinstating the defendant's  
29 driver's license before the end of one year for good cause upon the  
30 petition of the defendant.

31 (2) If the defendant is referred for evaluation by a designated  
32 crisis responder under this chapter, the designated crisis responder  
33 shall provide prompt written notification of the results of the  
34 evaluation and whether the person was detained. The notification  
35 shall be provided to the court in which the criminal action was  
36 pending, the prosecutor, the defense attorney in the criminal action,  
37 and the facility that evaluated the defendant for competency.

38 (3) The fact that the defendant is unfit to proceed does not  
39 preclude any pretrial proceedings which do not require the personal  
40 participation of the defendant.

1 (4) A defendant receiving medication for either physical or  
2 mental problems shall not be prohibited from standing trial, if the  
3 medication either enables the defendant to understand the proceedings  
4 against him or her and to assist in his or her own defense, or does  
5 not disable him or her from so understanding and assisting in his or  
6 her own defense.

7 (5) At or before the conclusion of any commitment period provided  
8 for by this section, the facility providing evaluation and treatment  
9 shall provide to the court a written report of evaluation which meets  
10 the requirements of RCW 10.77.060(3). For defendants charged with a  
11 felony, the report following the second competency restoration period  
12 or first competency restoration period if the defendant's  
13 incompetence is determined to be solely due to a developmental  
14 disability or the evaluator concludes that the defendant is not  
15 likely to regain competency must include an assessment of the  
16 defendant's future dangerousness which is evidence-based regarding  
17 predictive validity.

18 (6) For defendants who are on personal recognizance who are  
19 waiting for competency restoration services, in a county with an  
20 outpatient competency restoration program that has adequate space,  
21 the department shall provide a recommended services plan to the court  
22 and parties. Upon receipt of this recommended services plan, if  
23 restoration is still required, the court shall order outpatient  
24 competency restoration.

25 (7) If, after two attempts to schedule or admit a defendant on  
26 personal recognizance status to a department facility for competency  
27 evaluation or restoration, the department is not able to complete  
28 scheduling the admission or the defendant does not arrive at the  
29 scheduled time of the admission, the department shall submit a report  
30 to the court and parties and include a date and time for another  
31 admission which must be at least two weeks later. The court shall  
32 provide notice to the defendant of the date and time of the  
33 admission. If the defendant fails to appear at that admission, the  
34 court shall recall the order for competency evaluation or restoration  
35 and may issue a warrant for the failure to appear. The secretary may  
36 adopt rules and regulations necessary to implement this section.

37 **Sec. 4.** RCW 10.77.086 and 2024 c 290 s 3 are each amended to  
38 read as follows:

1 (1) (a) Except as otherwise provided in this section, if the  
2 defendant is charged with a felony and determined to be incompetent,  
3 until he or she has regained the competency necessary to understand  
4 the proceedings against him or her and assist in his or her own  
5 defense, but in any event for a period of no longer than 90 days, the  
6 court shall commit the defendant to the custody of the secretary for  
7 inpatient competency restoration, or may alternatively order the  
8 defendant to receive outpatient competency restoration based on a  
9 recommendation from a forensic navigator and input from the parties.

10 (b) For a defendant who is determined to be incompetent and whose  
11 highest charge is a class C felony other than assault in the third  
12 degree under RCW 9A.36.031(1) (d) or (f), felony physical control of  
13 a vehicle under RCW 46.61.504(6), felony hit and run resulting in  
14 injury under RCW 46.52.020(4)(b), a hate crime offense under RCW  
15 9A.36.080, a class C felony with a domestic violence designation, a  
16 class C felony sex offense as defined in RCW 9.94A.030, or a class C  
17 felony with a sexual motivation allegation, the court shall first  
18 consider all available and appropriate alternatives to inpatient  
19 competency restoration. The court shall dismiss the proceedings  
20 without prejudice upon agreement of the parties if the forensic  
21 navigator has found an appropriate and available diversion program  
22 willing to accept the defendant.

23 (2) (a) To be eligible for an order for outpatient competency  
24 restoration, a defendant must be clinically appropriate and be  
25 willing to:

26 (i) Adhere to medications or receive prescribed intramuscular  
27 medication; and

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

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

31 outpatient competency restoration.  
32 (b) If the court orders inpatient competency restoration, the  
33 department shall place the defendant in an appropriate facility of  
34 the department for competency restoration.

35 (c) For a defendant ordered to inpatient competency restoration,  
36 the department shall promptly notify the court and parties whenever  
37 it appears the defendant's condition is such that a transfer to  
38 outpatient competency restoration is appropriate. Any such notice to  
39 the court and parties shall provide pertinent information concerning  
40 the change in condition or the reasons supporting transfer to



1 outpatient competency restoration. Upon receipt of this notice, the  
2 court shall schedule a hearing within five days to review the  
3 information provided by the department, conditions of release of the  
4 defendant, and anticipated release date from inpatient treatment. The  
5 court shall issue appropriate orders if it finds that the defendant's  
6 condition has so changed that they are a suitable candidate for  
7 outpatient competency restoration.

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

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

1 notice of intent to terminate the outpatient competency restoration  
2 placement.

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

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

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

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

38 (4) When any defendant whose highest charge is a class C felony  
39 other than assault in the third degree under RCW 9A.36.031(1) (d) or  
40 (f), felony physical control of a vehicle under RCW 46.61.504(6),

1 felony hit and run resulting in injury under RCW 46.52.020(4)(b), a  
2 hate crime offense under RCW 9A.36.080, a class C felony with a  
3 domestic violence designation, a class C felony sex offense as  
4 defined in RCW 9.94A.030, or a class C felony with a sexual  
5 motivation allegation is admitted for inpatient competency  
6 restoration with an accompanying court order for involuntary  
7 medication under RCW 10.77.092, and the defendant is found not  
8 competent to stand trial following that period of competency  
9 restoration, the court shall dismiss the charges pursuant to  
10 subsection (7) of this section.

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

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

37 (7) (a) Except as provided in (b) of this subsection, at the  
38 hearing upon the expiration of the second competency restoration  
39 period, or at the end of the first competency restoration period if  
40 the defendant is ineligible for a second or third competency

1 restoration period under subsection (4) or (6) of this section, if  
2 the jury or court finds that the defendant is incompetent to stand  
3 trial, the court shall dismiss the charges without prejudice and  
4 order the defendant to be committed to the department for placement  
5 in a facility operated or contracted by the department for up to 120  
6 hours if the defendant has not undergone competency restoration  
7 services or has engaged in outpatient competency restoration  
8 services, and up to 72 hours if the defendant engaged in inpatient  
9 competency restoration services starting from admission to the  
10 facility, excluding Saturdays, Sundays, and holidays, for evaluation  
11 for the purpose of filing a civil commitment petition under chapter  
12 71.05 RCW. If at the time the order to dismiss the charges without  
13 prejudice is entered by the court the defendant is already in a  
14 facility operated or contracted by the department, the 72-hour or  
15 120-hour period shall instead begin upon department receipt of the  
16 court order.

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

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

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

1 immediately surrender all firearms and any concealed pistol license  
2 to their local law enforcement agency.

3 **Sec. 5.** RCW 10.77.088 and 2024 c 290 s 4 are each amended to  
4 read as follows:

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

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

20 (b) At the hearing, the prosecuting attorney must establish that  
21 there is a compelling state interest to order competency restoration  
22 treatment for the defendant. The court may consider prior criminal  
23 history, prior history in treatment, prior history of violence, the  
24 quality and severity of the pending charges, any history that  
25 suggests whether competency restoration treatment is likely to be  
26 successful, in addition to the factors listed under RCW 10.77.092. If  
27 the defendant is subject to an order under chapter 71.05 RCW or  
28 proceedings under chapter 71.05 RCW have been initiated, there is a  
29 rebuttable presumption that there is no compelling state interest in  
30 ordering competency restoration treatment. If the prosecuting  
31 attorney proves by a preponderance of the evidence that there is a  
32 compelling state interest in ordering competency restoration  
33 treatment, then the court shall issue an order in accordance with  
34 subsection (2) of this section.

35 (2)(a) If a court finds pursuant to subsection (1)(b) of this  
36 section that there is a compelling state interest in pursuing  
37 competency restoration treatment, the court shall order the defendant  
38 to receive outpatient competency restoration consistent with the  
39 recommendation of the forensic navigator, unless the court finds that

1 an order for outpatient competency restoration is inappropriate  
2 considering the health and safety of the defendant and risks to  
3 public safety.

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

6 (i) Adhere to medications or receive prescribed intramuscular  
7 medication; and

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

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

11 outpatient competency restoration program.  
12 (c) If the court orders inpatient competency restoration, the  
13 department shall place the defendant in an appropriate facility of  
14 the department for competency restoration under subsection (3) of  
15 this section.

16 (d) For a defendant ordered to inpatient competency restoration,  
17 the department shall promptly notify the court and parties whenever  
18 it appears the defendant's condition is such that a transfer to  
19 outpatient competency restoration is appropriate. Any such notice to  
20 the court and parties shall provide pertinent information concerning  
21 the change in condition or the reasons supporting transfer to  
22 outpatient competency restoration. Upon receipt of this notice, the  
23 court shall schedule a hearing within five days to review the  
24 information provided by the department, conditions of release of the  
25 defendant, and anticipated release date from inpatient treatment. The  
26 court shall issue appropriate orders if it finds that the defendant's  
27 condition has so changed that they are a suitable candidate for  
28 outpatient competency restoration.

29 (e) If the court orders outpatient competency restoration, the  
30 court shall modify conditions of release as needed to authorize the  
31 department to place the person in approved housing, which may include  
32 access to supported housing, affiliated with a contracted outpatient  
33 competency restoration program. The department, in conjunction with  
34 the health care authority, must establish rules for conditions of  
35 participation in the outpatient competency restoration program, which  
36 must include the defendant being subject to medication management.  
37 The court may order regular urinalysis testing. The outpatient  
38 competency restoration program shall monitor the defendant during the  
39 defendant's placement in the program and report any noncompliance or

1 significant changes with respect to the defendant to the department  
2 and, if applicable, the forensic navigator.

3 ~~((e))~~ (f) If a defendant fails to comply with the restrictions  
4 of the outpatient competency restoration program such that  
5 restoration is no longer appropriate in that setting or the defendant  
6 is no longer clinically appropriate for outpatient competency  
7 restoration, the director of the outpatient competency restoration  
8 program shall notify the authority and the department of the need to  
9 terminate the outpatient competency restoration placement and intent  
10 to request placement for the defendant in an appropriate facility of  
11 the department for inpatient competency restoration. The outpatient  
12 competency restoration program shall coordinate with the authority,  
13 the department, and any law enforcement personnel under ~~((e))~~ (f)  
14 (i) of this subsection to ensure that the time period between  
15 termination and admission into the inpatient facility is as minimal  
16 as possible. The time period for inpatient competency restoration  
17 shall be reduced by the time period spent in active treatment within  
18 the outpatient competency restoration program, excluding time periods  
19 in which the defendant was absent from the program and all time from  
20 notice of termination of the outpatient competency restoration period  
21 through the defendant's admission to the facility. The department  
22 shall obtain a placement for the defendant within seven days of the  
23 notice of intent to terminate the outpatient competency restoration  
24 placement.

25 (i) The department may authorize a peace officer to detain the  
26 defendant into emergency custody for transport to the designated  
27 inpatient competency restoration facility. If medical clearance is  
28 required by the designated competency restoration facility before  
29 admission, the peace officer must transport the defendant to a crisis  
30 stabilization unit, evaluation and treatment facility, or emergency  
31 department of a local hospital for medical clearance once a bed is  
32 available at the designated inpatient competency restoration  
33 facility. The signed outpatient competency restoration order of the  
34 court shall serve as authority for the detention of the defendant  
35 under this subsection. This subsection does not preclude voluntary  
36 transportation of the defendant to a facility for inpatient  
37 competency restoration or for medical clearance, or authorize  
38 admission of the defendant into jail.

39 (ii) The department shall notify the court and parties of the  
40 defendant's admission for inpatient competency restoration before the

1 close of the next judicial day. The court shall schedule a hearing  
2 within five days to review the conditions of release of the defendant  
3 and anticipated release from treatment and issue appropriate orders.

4 ~~((f))~~ (g) The court may not issue an order for outpatient  
5 competency restoration unless the department certifies that there is  
6 an available appropriate outpatient restoration program that has  
7 adequate space for the person at the time the order is issued or the  
8 court places the defendant under the guidance and control of a  
9 professional person identified in the court order.

10 ~~((g))~~ (h) If the court does not order the defendant to receive  
11 outpatient competency restoration under (a) of this subsection, the  
12 court shall commit the defendant to the department for placement in a  
13 facility operated or contracted by the department for inpatient  
14 competency restoration.

15 (3) The placement under subsection (2) of this section shall not  
16 exceed 29 days if the defendant is ordered to receive inpatient  
17 competency restoration, and shall not exceed 90 days if the defendant  
18 is ordered to receive outpatient competency restoration. The court  
19 may order any combination of this subsection, but the total period of  
20 inpatient competency restoration may not exceed 29 days.

21 (4) Beginning October 1, 2023, if the defendant is charged with a  
22 serious traffic offense under RCW 9.94A.030, the court may order the  
23 clerk to transmit an order to the department of licensing for  
24 revocation of the defendant's driver's license for a period of one  
25 year. The court shall direct the clerk to transmit an order to the  
26 department of licensing reinstating the defendant's driver's license  
27 if the defendant is subsequently restored to competency, and may do  
28 so at any time before the end of one year for good cause upon the  
29 petition of the defendant.

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

36 (6) (a) If the proceedings are dismissed under RCW 10.77.084 and  
37 the defendant was on conditional release at the time of dismissal,  
38 the court shall order the designated crisis responder within that  
39 county to evaluate the defendant pursuant to chapter 71.05 RCW. The



1 evaluation may be conducted in any location chosen by the  
2 professional.

3 (b) If the defendant was in custody and not on conditional  
4 release at the time of dismissal, the defendant shall be detained and  
5 sent to an evaluation and treatment facility for up to 120 hours if  
6 the defendant has not undergone competency restoration services or  
7 has engaged in outpatient competency restoration services and up to  
8 72 hours if the defendant engaged in inpatient competency restoration  
9 services, excluding Saturdays, Sundays, and holidays, for evaluation  
10 for purposes of filing a petition under chapter 71.05 RCW. The 120-  
11 hour or 72-hour period shall commence upon the next nonholiday  
12 weekday following the court order and shall run to the end of the  
13 last nonholiday weekday within the 120-hour or 72-hour period.

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

23 (8) If at any time the court dismisses charges under subsections  
24 (1) through (7) of this section, the court shall make a finding as to  
25 whether the defendant has a history of one or more violent acts. If  
26 the court so finds, the court shall issue an order prohibiting the  
27 defendant from the possession of firearms until a court restores his  
28 or her right to possess a firearm under RCW 9.41.047. The court shall  
29 notify the defendant orally and in writing that the defendant may not  
30 possess a firearm unless the defendant's right to do so is restored  
31 by the superior court that issued the order under RCW 9.41.047, and  
32 that the defendant must immediately surrender all firearms and any  
33 concealed pistol license to their local law enforcement agency.

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

1       **Sec. 6.** RCW 10.77.092 and 2023 c 453 s 11 are each amended to  
2 read as follows:

3       (1) For purposes of determining whether a court may authorize  
4 involuntary medication for the purpose of competency restoration  
5 pursuant to RCW 10.77.084 and for maintaining the level of  
6 restoration in the jail following the restoration period, a pending  
7 charge involving any one or more of the following crimes is a serious  
8 offense per se in the context of competency restoration:

9       (a) Any violent offense, sex offense, serious traffic offense,  
10 and most serious offense, as those terms are defined in RCW  
11 9.94A.030;

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

14       (c) Any offense contained in chapter 9.41 RCW (firearms and  
15 dangerous weapons);

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

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

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

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

23       (2) Upon order for inpatient competency restoration under RCW  
24 10.77.086, if the court has sufficient information to determine the  
25 criteria established under *Sell v. United States* has been  
26 established, then the court must make a medication determination  
27 under this section.

28       (3) Any time a petition is filed seeking a court order  
29 authorizing the involuntary medication for purposes of competency  
30 restoration pursuant to RCW 10.77.084, the petition must also seek  
31 authorization to continue involuntary medication for purposes of  
32 maintaining the level of restoration in the jail or juvenile  
33 detention facility following the restoration period.

34       (~~(3)~~) (4) (a) In a particular case, a court may determine that a  
35 pending charge not otherwise defined as serious by state or federal  
36 law or by a city or county ordinance is, nevertheless, a serious  
37 offense within the context of competency restoration treatment when  
38 the conduct in the charged offense falls within the standards  
39 established in (b) of this subsection.

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

5 (i) The charge includes an allegation that the defendant actually  
6 inflicted bodily or emotional harm on another person or that the  
7 defendant created a reasonable apprehension of bodily or emotional  
8 harm to another;

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

11 (iii) The number and nature of related charges pending against  
12 the defendant;

13 (iv) The length of potential confinement if the defendant is  
14 convicted; and

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

17 **Sec. 7.** RCW 43.84.092 and 2024 c 210 s 4 and 2024 c 168 s 12 are  
18 each reenacted and amended to read as follows:

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

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

38 (3) Except for the provisions of RCW 43.84.160, the treasury  
39 income account may be utilized for the payment of purchased banking

1 services on behalf of treasury funds including, but not limited to,  
2 depository, safekeeping, and disbursement functions for the state  
3 treasury and affected state agencies. The treasury income account is  
4 subject in all respects to chapter 43.88 RCW, but no appropriation is  
5 required for payments to financial institutions. Payments shall occur  
6 prior to distribution of earnings set forth in subsection (4) of this  
7 section.

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

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

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

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

1 investing balances of the agricultural permanent fund, the normal  
2 school permanent fund, the permanent common school fund, the  
3 scientific permanent fund, and the state university permanent fund  
4 shall be allocated to their respective beneficiary accounts.

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

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

14 **Sec. 8.** RCW 43.84.092 and 2024 c 210 s 5 and 2024 c 168 s 13 are  
15 each reenacted and amended to read as follows:

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

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

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

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

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

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



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

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

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

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

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

12 (1)(a) The department shall develop and implement a growth cap  
13 program to manage inpatient competency orders under this chapter. The  
14 department shall assess penalties as described in this section to  
15 implement the growth cap program.

16 (b) The department shall establish a baseline cap for each county  
17 by utilizing the average number of inpatient competency orders to the  
18 department from any court within a county's jurisdiction in fiscal  
19 years 2024 and 2025. For any county with an average of less than two  
20 inpatient competency orders in fiscal years 2024 and 2025, the  
21 baseline shall be set at one.

22 (c) The department shall establish an incentive cap for each  
23 county by utilizing the average number of inpatient competency orders  
24 to the department from any court within a county's jurisdiction in  
25 fiscal years 2018 and 2019. For any county with an average less than  
26 two inpatient competency orders in fiscal years 2017 and 2018, the  
27 baseline shall be set at one individual.

28 (d) Commencing in fiscal year 2026 and each fiscal year  
29 thereafter, for each inpatient competency order that exceeds the  
30 baseline number identified in (b) of this subsection, a county shall  
31 pay the penalty amount described in (f) of this subsection.

32 (e) The department shall reconcile the total county inpatient  
33 competency orders against the baseline by August 15th each year. The  
34 first reconciliation will be August 15, 2026.

35 (f) Calculations shall be based on the per day individual rate as  
36 calculated by the department for state hospital treatment for  
37 individuals referred for inpatient competency services, as follows:

38 (i) Each county shall make penalty payments equivalent to 25  
39 percent of the rate for the third and fourth inpatient competency

1 orders over the baseline, 50 percent of the rate for the fifth,  
2 sixth, and seventh inpatient competency orders over the baseline, 75  
3 percent of the rate for the eighth and ninth inpatient competency  
4 orders over the baseline, and 100 percent of the rate for the 10th  
5 and all inpatient competency orders over the baseline;

6 (ii) Commencing with fiscal year 2027 and each fiscal year  
7 thereafter, a county that creates a behavioral health diversion plan  
8 as defined in section 14 of this act designed to prevent further  
9 growth of inpatient competency orders, for the third and any  
10 subsequent individual inpatient competency orders over the baseline,  
11 shall make penalty payments equivalent to 100 percent of the rate;

12 (iii) Commencing with fiscal year 2027 and each fiscal year  
13 thereafter, any county without a behavioral health diversion plan as  
14 defined in section 14 of this act, for the third and any subsequent  
15 individual inpatient competency orders over the baseline, shall make  
16 penalty payments equivalent to 150 percent of the rate.

17 (g) Commencing with fiscal year 2026, each county shall remit  
18 payment to the department in an amount equal to the amount identified  
19 in the invoice issued to the county administrator or their designee  
20 by the department. The penalty payment shall be due no later than 90  
21 days after the date that the invoice is received by the county. The  
22 penalty funds shall be collected as revenue by the department and  
23 deposited into the behavioral health diversion fund, created in  
24 section 10 of this act.

25 (h) A county may not use state funds to pay for any penalty under  
26 this act.

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

29 The behavioral health diversion fund is hereby created in the  
30 state treasury. All penalty payments from each county as collected by  
31 the department pursuant to section 9 of this act and all receipts  
32 from assessed penalties pursuant to this act must be deposited into  
33 the fund. Moneys in the fund may be spent only after appropriation.  
34 Expenditures from the fund may only be used for services or supports  
35 that either prevent individuals with behavioral health needs from  
36 entering the criminal justice system or that diverts them away from  
37 the criminal justice system once incarcerated.

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

3        Any county that reduces its total annual inpatient competency  
4    referrals below the incentive cap established by the department in  
5    section 9(1)(c) of this act or that reduces its overall orders for  
6    any competency service by at least 40 percent for a given fiscal year  
7    shall be eligible to request an appropriation from the behavioral  
8    health diversion fund. Any funds appropriated to a county from the  
9    behavioral health diversion fund shall be used toward services or  
10   supports that either prevent individuals with behavioral health needs  
11   from entering the criminal justice system or that diverts them away  
12   from the criminal justice system once incarcerated. Counties that  
13   have an average incentive cap of less than five individuals may apply  
14   based on a 50 percent or greater reduction in their total number of  
15   inpatient competency orders.

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

18        Commencing January 1, 2026, the department shall notify the  
19    superior, district, and municipal courts and relevant county agencies  
20    of each county including, but not limited to, the county  
21    administrator, behavioral health department, sheriff, public  
22    defender, and district attorney on a quarterly basis the total number  
23    of inpatient competency restoration orders made in that county for  
24    the current fiscal year compared to the baseline determination for  
25    that county.

26       NEW SECTION.    **Sec. 13.**    A new section is added to chapter 10.77  
27    RCW to read as follows:

28        (1) Beginning in fiscal year 2026 and commencing no later than  
29    August 15, 2025, the department of social and health services in  
30    partnership with the health care authority shall convene a taskforce  
31    to determine rules, policies, protocols, and other related  
32    requirements to implement a growth cap system for inpatient  
33    competency services. This must include eligibility requirements on  
34    the necessary elements for a behavioral health diversion plan to meet  
35    the threshold as described in section 9(1)(f) of this act. The  
36    taskforce must also include a determination on rules and requirements  
37    to determine county of origin for purposes of this act. The taskforce  
38    shall produce a report no later than June 1, 2026, to the governor

1 and appropriate committees of the legislature. The taskforce shall,  
2 at a minimum, include partners from local government, the criminal  
3 justice system, behavioral health providers, tribes, people with  
4 lived experience, and disability rights Washington or a designee.

5 (2) This section expires December 31, 2026.

6 NEW SECTION. **Sec. 14.** A new section is added to chapter 10.77  
7 RCW to read as follows:

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

14 (2)(a) For purposes of this section, "behavioral health diversion  
15 plan" means a plan or strategy to ensure the availability and  
16 utilization of community-based treatment and support services  
17 designed to reduce or eliminate the amount of time persons with  
18 behavioral health needs spend in a jail facility.

19 (b) The department shall establish rules to determine the  
20 eligibility, elements, and criteria needed to establish a behavioral  
21 health diversion plan under this subsection.

22 NEW SECTION. **Sec. 15.** Section 7 of this act expires July 1,  
23 2028.

24 NEW SECTION. **Sec. 16.** Section 8 of this act takes effect July  
25 1, 2028.

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