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By Representatives Thibaudeau, Leonard, Brown, Patterson, J. Kohl and L. Johnson

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1 AN ACT Relating to mental health; amending RCW 71.24.300 and
2 72.23.027; and reenacting and amending RCW 71.24.035.

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

4 **Sec. 1.** RCW 71.24.035 and 1991 c 306 s 3, 1991 c 262 s 1, and 1991
5 c 29 s 1 are each reenacted and amended to read as follows:

6 (1) The department is designated as the state mental health
7 authority.

8 (2) The secretary (~~may~~) shall provide for public, regional
9 support network, client, and licensed service provider participation in
10 developing the state mental health program. The program shall promote
11 a partnership between all individuals and organizations, and all levels
12 of government, involved in mental health care and treatment.

13 (3) The secretary shall provide for participation in developing the
14 state mental health program for children and other underserved
15 populations, by including representatives on any committee established
16 to provide oversight to the state mental health program.

17 (4) The secretary shall be designated as the county authority if a
18 county fails to meet state minimum standards or refuses to exercise
19 responsibilities under RCW 71.24.045.

1 (5) The secretary shall:

2 (a) Develop a biennial state mental health program that
3 incorporates county biennial needs assessments and county mental health
4 service plans and state services for mentally ill adults and children.
5 The secretary may also develop a six-year state mental health plan;

6 (b) Assure that any county community mental health program provides
7 access to treatment for the county's residents in the following order
8 of priority: (i) The acutely mentally ill; (ii) chronically mentally
9 ill adults and severely emotionally disturbed children; and (iii) the
10 seriously disturbed. Such programs shall provide:

11 (A) Outpatient services;

12 (B) Emergency care services for twenty-four hours per day;

13 (C) Day treatment for mentally ill persons which includes training
14 in basic living and social skills, supported work, vocational
15 rehabilitation, and day activities. Such services may include
16 therapeutic treatment. In the case of a child, day treatment includes
17 age-appropriate basic living and social skills, educational and
18 prevocational services, day activities, and therapeutic treatment;

19 (D) Screening for patients being considered for admission to state
20 mental health facilities to determine the appropriateness of admission;

21 (E) Employment services, which may include supported employment,
22 transitional work, placement in competitive employment, and other work-
23 related services, that result in mentally ill persons becoming engaged
24 in meaningful and gainful full or part-time work. Other sources of
25 funding such as the division of vocational rehabilitation may be
26 utilized by the secretary to maximize federal funding and provide for
27 integration of services;

28 (F) Consultation and education services; and

29 (G) Community support services;

30 (c) Develop and promulgate rules establishing state minimum
31 standards for the delivery of mental health services including, but not
32 limited to:

33 (i) Licensed service providers;

34 (ii) Regional support networks; and

35 (iii) Residential and inpatient services, evaluation and treatment
36 services and facilities under chapter 71.05 RCW, resource management
37 services, and community support services;

1 (d) Assure that the special needs of minorities, the elderly,
2 disabled, children, and low-income persons are met within the
3 priorities established in this section;

4 (e) Establish a standard contract or contracts, consistent with
5 state minimum standards, which shall be used by the counties;

6 (f) Establish, to the extent possible, a standardized auditing
7 procedure which minimizes paperwork requirements of county authorities
8 and licensed service providers;

9 (g) Develop and maintain an information system to be used by the
10 state, counties, and regional support networks when they are
11 established which shall include a tracking method which allows the
12 department and regional support networks to identify mental health
13 clients' participation in any mental health service or public program
14 on an immediate basis. The information system shall not include
15 individual patient's case history files. Confidentiality of client
16 information and records shall be maintained as provided in this chapter
17 and in RCW 71.05.390, 71.05.400, 71.05.410, 71.05.420, 71.05.430, and
18 71.05.440. The system shall be fully operational no later than January
19 1, 1993: PROVIDED, HOWEVER, That when a regional support network is
20 established, the department shall have an operational interim tracking
21 system for that network that will be adequate for the regional support
22 network to perform its required duties under this chapter;

23 (h) License service providers who meet state minimum standards;

24 (i) Certify regional support networks that meet state minimum
25 standards;

26 (j) Periodically inspect certified regional support networks and
27 licensed service providers at reasonable times and in a reasonable
28 manner; and

29 (k) Fix fees to be paid by evaluation and treatment centers to the
30 secretary for the required inspections;

31 (l) Monitor and audit counties, regional support networks, and
32 licensed service providers as needed to assure compliance with
33 contractual agreements authorized by this chapter;

34 (m) Prior to September 1, 1989, adopt such rules as are necessary
35 to implement the department's responsibilities under this chapter
36 pursuant to chapter 34.05 RCW: PROVIDED, That such rules shall be
37 submitted to the appropriate committees of the legislature for review
38 and comment prior to adoption; and

1 (n) Beginning July 1, 1989, and continuing through July 1, 1993,
2 track by region and county the use and cost of state hospital and local
3 evaluation and treatment facilities for seventy-two hour detention,
4 fourteen, ninety, and one hundred eighty day commitments pursuant to
5 chapter 71.05 RCW, voluntary care in state hospitals, and voluntary
6 community inpatient care covered by the medical assistance program.
7 Service use and cost reports shall be provided to regions in a timely
8 fashion at six-month intervals.

9 (6) The secretary shall use available resources appropriated
10 specifically for community mental health programs only for programs
11 under RCW 71.24.045. After July 1, 1995, or when regional support
12 networks are established, available resources may be used only for
13 regional support networks.

14 (7) Each certified regional support network and licensed service
15 provider shall file with the secretary, on request, such data,
16 statistics, schedules, and information as the secretary reasonably
17 requires. A certified regional support network or licensed service
18 provider which, without good cause, fails to furnish any data,
19 statistics, schedules, or information as requested, or files fraudulent
20 reports thereof, may have its certification or license revoked or
21 suspended.

22 (8) The secretary may suspend, revoke, limit, or restrict a
23 certification or license, or refuse to grant a certification or license
24 for failure to conform to the law, applicable rules and regulations, or
25 applicable standards, or failure to meet the minimum standards
26 established pursuant to this section.

27 (9) The superior court may restrain any regional support network or
28 service provider from operating without certification or a license or
29 any other violation of this section. The court may also review,
30 pursuant to procedures contained in chapter 34.05 RCW, any denial,
31 suspension, limitation, restriction, or revocation of certification or
32 license, and grant other relief required to enforce the provisions of
33 this chapter.

34 (10) Upon petition by the secretary, and after hearing held upon
35 reasonable notice to the facility, the superior court may issue a
36 warrant to an officer or employee of the secretary authorizing him or
37 her to enter at reasonable times, and examine the records, books, and
38 accounts of any regional support network or service provider refusing
39 to consent to inspection or examination by the authority.

1 (11) The secretary shall adopt such rules as may be necessary to
2 effectuate the intent and purposes of this chapter, which shall include
3 but not be limited to certification and licensing and other action
4 relevant to certifying regional support networks and licensing service
5 providers. Such rules shall be relevant to childrens' services as well
6 as adult services; eliminate duplicative responsibilities and
7 procedures at the state, regional support network, and provider levels;
8 streamline administrative requirements to focus on outcomes rather than
9 process; create the flexibility intended by this chapter; and
10 incorporate changes required by negotiating federal waivers. Existing
11 rules will be revised under these criteria by January 1, 1994.

12 (12) Notwithstanding the existence or pursuit of any other remedy,
13 the secretary may, in the manner provided by law, upon the advice of
14 the attorney general who shall represent the secretary in the
15 proceedings, maintain an action in the name of the state for an
16 injunction or other process against any person or governmental unit to
17 restrain or prevent the establishment, conduct, or operation of a
18 regional support network or service provider without certification or
19 a license under this chapter.

20 (13) The standards for certification of evaluation and treatment
21 facilities shall include standards relating to maintenance of good
22 physical and mental health and other services to be afforded persons
23 pursuant to this chapter and chapter 71.05 RCW, and shall otherwise
24 assure the effectuation of the purposes and intent of this chapter and
25 chapter 71.05 RCW.

26 (14)(a) The department, in consultation with affected parties,
27 shall establish a distribution formula that reflects county needs
28 assessments based on the number of persons who are acutely mentally
29 ill, chronically mentally ill, severely emotionally disturbed, and
30 seriously disturbed as defined in chapter 71.24 RCW. The formula shall
31 take into consideration the impact on counties of demographic factors
32 in counties which result in concentrations of priority populations as
33 defined in subsection (15) of this section. These factors shall
34 include the population concentrations resulting from commitments under
35 the involuntary treatment act, chapter 71.05 RCW, to state psychiatric
36 hospitals, as well as concentration in urban areas, at border crossings
37 at state boundaries, and other significant demographic and workload
38 factors.

1 (b) The department shall submit a proposed distribution formula in
2 accordance with this section to the ways and means and health and long-
3 term care committees of the senate and to the ways and means and human
4 services committees of the house of representatives by October 1, 1991.
5 The formula shall also include a projection of the funding allocations
6 that will result for each county, which specifies allocations according
7 to priority populations, including the allocation for services to
8 children and other underserved populations.

9 (15) To supersede duties assigned under subsection (5) (a) and (b)
10 of this section, and to assure a county-based, integrated system of
11 care for acutely mentally ill adults and children, chronically mentally
12 ill adults, severely emotionally disturbed children, and seriously
13 disturbed adults and children who are determined by regional support
14 networks at their sole discretion to be at risk of becoming acutely or
15 chronically mentally ill, or severely emotionally disturbed, the
16 secretary shall encourage the development of regional support networks
17 as follows:

18 By December 1, 1989, the secretary shall recognize regional support
19 networks requested by counties or groups of counties.

20 All counties wishing to be recognized as a regional support network
21 on December 1, 1989, shall submit their intentions regarding
22 participation in the regional support networks by October 30, 1989,
23 along with preliminary plans. Counties wishing to be recognized as a
24 regional support network by January 1 of any year thereafter shall
25 submit their intentions by October 30 of the previous year along with
26 preliminary plans. The secretary shall assume all duties assigned to
27 the nonparticipating counties under chapters 71.05 and 71.24 RCW on
28 July 1, 1995. Such responsibilities shall include those which would
29 have been assigned to the nonparticipating counties under regional
30 support networks.

31 The implementation of regional support networks, or the secretary's
32 assumption of all responsibilities under chapters 71.05 and 71.24 RCW,
33 shall be included in all state and federal plans affecting the state
34 mental health program including at least those required by this
35 chapter, the medicaid program, and P.L. 99-660. Nothing in these plans
36 shall be inconsistent with the intent and requirements of this chapter.

37 (16) By January 1, 1992, the secretary shall provide available
38 resources to regional support networks to operate freestanding
39 evaluation and treatment facilities or for regional support networks to

1 contract with local hospitals to assure access for regional support
2 network patients. Any savings achieved through reduction in the use of
3 voluntary and involuntary care in state and local hospitals shall be
4 retained by the regional support network, and may not be diverted to
5 other state programs or purposes. These savings shall be calculated
6 using data, methodology, and assumptions at the sole discretion of the
7 secretary, in consultation with regional support networks.

8 (17) The secretary shall:

9 (a) Disburse the first funds for the regional support networks that
10 are ready to begin implementation by January 1, 1990, or within sixty
11 days of approval of the biennial contract. The department must either
12 approve or reject the biennial contract within sixty days of receipt.

13 (b) Enter into biennial contracts with regional support networks to
14 begin implementation between January 1, 1990, and March 1, 1990, and
15 complete implementation by June 1995. The contracts shall be
16 consistent with available resources. No contract shall be approved
17 that does not include progress toward meeting the goals of this chapter
18 by taking responsibility for: (i) Short-term commitments; (ii)
19 residential care; and (iii) emergency response systems.

20 (c) By July 1, 1993, allocate one hundred percent of available
21 resources to regional support networks created by January 1, 1990, in
22 a single grant. Regional support networks created by January 1, 1991,
23 shall receive a single block grant by July 1, 1993; regional support
24 networks created by January 1, 1992, shall receive a single block grant
25 by July 1, 1994; and regional support networks created by January 1,
26 1993, shall receive a single block grant by July 1, 1995. The grants
27 shall include funds currently provided for all residential services,
28 all services pursuant to chapter 71.05 RCW, and all community support
29 services and shall be distributed in accordance with a formula
30 submitted to the legislature by January 1, 1993, in accordance with
31 subsection (14) of this section.

32 (d) By January 1, 1990, allocate available resources to regional
33 support networks for community support services, resource management
34 services, and residential services excluding evaluation and treatment
35 facilities provided pursuant to chapter 71.05 RCW in a single grant
36 using the distribution formula established in subsection (14) of this
37 section.

38 (e) By March 1, 1990, or within sixty days of approval of the
39 contract continuing through July 1, 1993, provide grants as

1 specifically appropriated by the legislature to regional support
2 networks for evaluation and treatment facilities for persons detained
3 or committed for periods up to seventeen days according to chapter
4 71.05 RCW. For regional support networks created by January 1, 1993,
5 provide grants as specifically appropriated by the legislature to
6 regional support networks for evaluation and treatment facilities for
7 persons detained or committed for periods up to seventeen days
8 according to chapter 71.05 RCW through July 1, 1995.

9 (f) Notify regional support networks of their allocation of
10 available resources at least sixty days prior to the start of a new
11 biennial contract period.

12 (g) Deny funding allocations to regional support networks based
13 solely upon formal findings of noncompliance with the terms of the
14 regional support network's contract with the department. Written
15 notice and at least thirty days for corrective action must precede any
16 such action. In such cases, regional support networks shall have full
17 rights to appeal under chapter 34.05 RCW.

18 (h) Identify in its departmental biennial operating and capital
19 budget requests the funds requested by regional support networks to
20 implement their responsibilities under this chapter.

21 (i) Contract to provide or, if requested, make grants to counties
22 to provide technical assistance to county authorities or groups of
23 county authorities to develop regional support networks.

24 (j) By July 1, 1993, make a portion of state hospital funds
25 appropriated by the legislature available for administer a portion
26 agreements.

27 (18) The department of social and health services, in cooperation
28 with the state congressional delegation, shall actively seek waivers of
29 federal requirements and such modifications of federal regulations as
30 are necessary to allow federal medicaid reimbursement for services
31 provided by free-standing evaluation and treatment facilities certified
32 under chapter 71.05 RCW. The department shall periodically report its
33 efforts to the health care and corrections committee of the senate and
34 the human services committee of the house of representatives.

35 (19) The secretary shall establish a task force to examine the
36 recruitment, training, and compensation of qualified mental health
37 professionals in the community, which shall include the advantages and
38 disadvantages of establishing a training academy, loan forgiveness
39 program, or educational stipends offered in exchange for commitments of

1 employment in mental health. The task force shall report back to the
2 appropriate committees of the legislature by January 1, 1990.

3 **Sec. 2.** RCW 71.24.300 and 1992 c 230 s 6 are each amended to read
4 as follows:

5 A county authority or a group of county authorities whose combined
6 population is no less than forty thousand may enter into a joint
7 operating agreement to form a regional support network. The roles and
8 responsibilities of county authorities shall be determined by the terms
9 of that agreement and the provisions of law. The state mental health
10 authority may not determine the roles and responsibilities of county
11 authorities as to each other under regional support networks by rule,
12 except to assure that all duties required of regional support networks
13 are assigned and that a single authority has final responsibility for
14 all available resources and performance under the regional support
15 network's contract with the secretary.

16 (1) Regional support networks shall within three months of
17 recognition submit an overall six-year operating and capital plan,
18 timeline, and budget and submit progress reports and an updated
19 two-year plan biennially thereafter, to assume within available
20 resources all of the following duties by July 1, 1995, instead of those
21 presently assigned to counties under RCW 71.24.045(1):

22 (a) Administer and provide for the availability of all resource
23 management services, residential services, and community support
24 services.

25 (b) Administer and provide for the availability of all
26 investigation, transportation, court-related, and other services
27 provided by the state or counties pursuant to chapter 71.05 RCW.

28 (c) By July 1, 1993, provide within the boundaries of each regional
29 support network evaluation and treatment services in local or state
30 hospitals for at least eighty-five percent of persons detained or
31 committed for periods up to seventeen days according to chapter 71.05
32 RCW. Regional support networks with populations of less than one
33 hundred fifty thousand may contract to purchase evaluation and
34 treatment services from other networks. Insofar as the original intent
35 of serving persons in the community is maintained, the secretary is
36 authorized to approve exceptions on a case-by-case basis to the
37 requirement to provide evaluation and treatment services within the
38 boundaries of each regional support network. Such exceptions are

1 limited to contracts with neighboring or contiguous regions. For
2 regional support networks that are created after June 30, 1991, the
3 requirements of (c) of this subsection must be met by July 1, 1995.

4 (d) By July 1, 1993, or as soon thereafter as an agreement can be
5 negotiated with the secretary, administer a portion of funds
6 appropriated by the legislature to house mentally ill persons in state
7 institutions from counties within the boundaries of any regional
8 support network, with the exception of mentally ill offenders(~~(,~~and
9 ~~provide for the care of all persons needing evaluation and treatment~~
10 ~~services for periods up to seventeen days according to chapter 71.05~~
11 ~~RCW in appropriate residential services, which may include state~~
12 ~~institutions))~~. The regional support networks shall reimburse the
13 state for use of state institutions at a rate equal to that assumed by
14 the legislature when appropriating funds for such care at state
15 institutions during the biennium when reimbursement occurs. The daily
16 rates for use of the state institutions by the regional support
17 networks shall not exceed the daily rates used to determine the amount
18 of funds allocated to the regional support networks through this
19 subsection. The duty of a state hospital to accept persons for
20 evaluation and treatment under chapter 71.05 RCW is limited by the
21 responsibilities assigned to regional support networks under this
22 section. For regional support networks that are created after June 30,
23 1991, the requirements of (d) of this subsection must be met by July 1,
24 1995. In order to further the partnership between the hospitals and
25 the community, the state operating budget will allocate institutional
26 and community funds in a single line entry to the department.

27 (e) Administer and provide for the availability of all other mental
28 health services, which shall include patient counseling, day treatment,
29 consultation, education services, employment services as defined in RCW
30 71.24.035, and mental health services to children as provided in this
31 chapter.

32 (f) Establish standards and procedures for reviewing individual
33 service plans and determining when that person may be discharged from
34 resource management services.

35 (2) Regional support networks shall assume all duties assigned to
36 county authorities by this chapter and chapter 71.05 RCW.

37 (3) A regional support network may request that any state-owned
38 land, building, facility, or other capital asset which was ever
39 purchased, deeded, given, or placed in trust for the care of the

1 mentally ill and which is within the boundaries of a regional support
2 network be made available to support the operations of the regional
3 support network. State agencies managing such capital assets shall
4 give first priority to requests for their use pursuant to this chapter.

5 (4) Each regional support network shall appoint a mental health
6 advisory board which shall review and provide comments on plans and
7 policies developed under this chapter. The composition of the board
8 shall be broadly representative of the demographic character of the
9 region and the mentally ill persons served therein. Length of terms of
10 board members shall be determined by the regional support network.

11 (5) Regional support networks shall assume all duties specified in
12 their plans and joint operating agreements through biennial contractual
13 agreements with the secretary. Such contracts may include agreements
14 to provide periods of stable community living and work or other day
15 activities for specific chronically mentally ill persons who have
16 completed commitments at state hospitals on ninety-day or one hundred
17 eighty-day civil commitments or who have been residents at state
18 hospitals for no less than one hundred eighty days within the previous
19 year. Periods of stable community living may involve acute care in
20 local evaluation and treatment facilities but may not involve use of
21 state hospitals.

22 (6) Counties or groups of counties participating in a regional
23 support network are not subject to RCW 71.24.045(7). The office of
24 financial management shall consider information gathered in studies
25 required in this chapter and information about the experience of other
26 states to propose a mental health services administrative cost lid to
27 the 1993 legislature which shall include administrative costs of
28 licensed service providers, the state psychiatric hospitals and the
29 department.

30 (7) By November 1, 1991, and as part of each biennial plan
31 thereafter, each regional support network shall establish and submit to
32 the state, procedures and agreements to assure access to sufficient
33 additional local evaluation and treatment facilities to meet the
34 requirements of this chapter while reducing short-term admissions to
35 state hospitals. These shall be commitments to construct and operate,
36 or contract for the operation of, freestanding evaluation and treatment
37 facilities or agreements with local evaluation and treatment facilities
38 which shall include (a) required admission and treatment for short-term
39 inpatient care for any person enrolled in community support or

1 residential services, (b) discharge planning procedures, (c)
2 limitations on admissions or transfers to state hospitals, (d) adequate
3 psychiatric supervision, (e) prospective payment methods, and (f)
4 contractual assurances regarding referrals to local evaluation and
5 treatment facilities from regional support networks.

6 (8) Regional support networks may receive technical assistance from
7 the housing trust fund and may identify and submit projects for housing
8 and housing support services to the housing trust fund established
9 under chapter 43.185 RCW. Projects identified or submitted under this
10 subsection must be fully integrated with the regional support network
11 six-year operating and capital plan, timeline, and budget required by
12 subsection (1) of this section.

13 (9) The activities and operations of regional support networks, to
14 the extent they pertain to the operation of a Title XIX managed care
15 system, are exempt from the provisions and requirements of Title 48
16 RCW.

17 **Sec. 3.** RCW 72.23.027 and 1992 c 230 s 2 are each amended to read
18 as follows:

19 The secretary shall develop a system of more integrated service
20 delivery, including incentives to discourage the inappropriate
21 placement of persons with developmental disabilities, head injury, and
22 substance abuse, at state mental hospitals and encourage their care in
23 community settings. ~~((By December 1, 1992, the department shall submit~~
24 ~~an implementation strategy, including budget proposals, to the~~
25 ~~appropriate committees of the legislature for this system.)) By August~~
26 30, 1993, the secretary shall present a policy statement and budget
27 proposal to the office of financial management and the appropriate
28 committees of the legislature on how the various divisions of the
29 department will share the financial responsibility for the long-term
30 care of the elderly and those persons with developmental disabilities,
31 head injury, and chemical dependency currently, or in the future,
32 placed at the state hospital. Such statements and proposals shall
33 include mechanisms permitting flexible sharing of funds and services to
34 meet multiple needs of individuals at the local level. Such long-term
35 care may be either in the community or the state hospital. However, if
36 it occurs in the state hospital, the mental health division of the
37 department shall only be responsible for the acute and long-term mental
38 health care needs of the patient.

1 Under the system, state, local, or community agencies may be given
2 financial or other incentives to develop appropriate crisis
3 intervention and community care arrangements.

4 The secretary may establish specialized care programs for persons
5 described in this section on the grounds of the state hospitals. Such
6 programs may operate according to professional standards that do not
7 conform to existing federal or private hospital accreditation
8 standards.

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