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SENATE BILL 5048

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State of Washington

56th Legislature

1999 Regular Session

By Senators Long and Hargrove

Read first time 01/11/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to technical corrections to chapters 10.77 and  
2 71.05 RCW; amending RCW 10.77.010, 10.77.240, 10.77.940, 71.05.020,  
3 71.05.245, 71.05.320, 71.05.425, and 71.05.940; reenacting RCW  
4 71.05.640, 71.05.670, 71.05.680, and 71.05.690; and creating a new  
5 section.

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

7 NEW SECTION. **Sec. 1.** The purpose of this act is to make technical  
8 nonsubstantive changes to chapters 10.77 and 71.05 RCW. No provision  
9 of this act shall be construed as a substantive change in the  
10 provisions dealing with persons charged with crimes who are subject to  
11 evaluation under chapter 10.77 or 71.05 RCW.

12 **Sec. 2.** RCW 10.77.010 and 1998 c 297 s 29 are each amended to read  
13 as follows:

14 As used in this chapter:

15 (1) "County designated mental health professional" has the same  
16 meaning as provided in RCW 71.05.020.

17 (2) A "criminally insane" person means any person who has been  
18 acquitted of a crime charged by reason of insanity, and thereupon found

1 to be a substantial danger to other persons or to present a substantial  
2 likelihood of committing criminal acts jeopardizing public safety or  
3 security unless kept under further control by the court or other  
4 persons or institutions.

5 (3) "Department" means the state department of social and health  
6 services.

7 (4) "Developmental disabilities professional" means a person who  
8 has specialized training and three years of experience in directly  
9 treating or working with persons with developmental disabilities and is  
10 a psychiatrist or psychologist, or a social worker, and such other  
11 developmental disabilities professionals as may be defined by rules  
12 adopted by the secretary.

13 (5) "Developmental disability" means the condition defined in RCW  
14 71A.10.020(~~(+2)~~) (3).

15 (6) "~~(Expert or)~~ Professional person" means:

16 (a) A psychiatrist licensed as a physician and surgeon in this  
17 state who has, in addition, completed three years of graduate training  
18 in psychiatry in a program approved by the American medical association  
19 or the American osteopathic association and is certified or eligible to  
20 be certified by the American board of psychiatry and neurology;

21 (b) A psychologist licensed as a psychologist pursuant to chapter  
22 18.83 RCW; or

23 (c) A social worker with a master's or further advanced degree from  
24 an accredited school of social work or a degree deemed equivalent under  
25 rules adopted by the secretary.

26 (7) "Furlough" means an authorized leave of absence for a resident  
27 of a state institution operated by the department designated for the  
28 custody, care, and treatment of the criminally insane, consistent with  
29 an order of conditional release from the court under this chapter,  
30 without any requirement that the resident be accompanied by, or be in  
31 the custody of, any law enforcement or institutional staff, while on  
32 such unescorted leave.

33 (8) "Habilitative services" means those services provided by  
34 program personnel to assist persons in acquiring and maintaining life  
35 skills and in raising their levels of physical, mental, social, and  
36 vocational functioning. Habilitative services include education,  
37 training for employment, and therapy. The habilitative process shall  
38 be undertaken with recognition of the risk to the public safety

1 presented by the individual being assisted as manifested by prior  
2 charged criminal conduct.

3 (9) "History of one or more violent acts" means violent acts  
4 committed during: (a) The ten-year period of time prior to the filing  
5 of criminal charges; plus (b) the amount of time equal to time spent  
6 during the ten-year period in a mental health facility or in  
7 confinement as a result of a criminal conviction.

8 (10) "Incompetency" means a person lacks the capacity to understand  
9 the nature of the proceedings against him or her or to assist in his or  
10 her own defense as a result of mental disease or defect.

11 (11) "Indigent" means any person who is financially unable to  
12 obtain counsel or other necessary expert or professional services  
13 without causing substantial hardship to the person or his or her  
14 family.

15 (12) "Individualized service plan" means a plan prepared by a  
16 developmental disabilities professional with other professionals as a  
17 team, for an individual with developmental disabilities, which shall  
18 state:

19 (a) The nature of the person's specific problems, prior charged  
20 criminal behavior, and habilitation needs;

21 (b) The conditions and strategies necessary to achieve the purposes  
22 of habilitation;

23 (c) The intermediate and long-range goals of the habilitation  
24 program, with a projected timetable for the attainment;

25 (d) The rationale for using this plan of habilitation to achieve  
26 those intermediate and long-range goals;

27 (e) The staff responsible for carrying out the plan;

28 (f) Where relevant in light of past criminal behavior and due  
29 consideration for public safety, the criteria for proposed movement to  
30 less-restrictive settings, criteria for proposed eventual discharge  
31 from involuntary confinement, and a projected possible date for  
32 discharge from involuntary confinement; and

33 (g) The type of residence immediately anticipated for the person  
34 and possible future types of residences.

35 (13) "Secretary" means the secretary of the department of social  
36 and health services or his or her designee.

37 (14) "Treatment" means any currently standardized medical or mental  
38 health procedure including medication.

1 (15) "Violent act" means behavior that: (a)(i) Resulted in; (ii)  
2 if completed as intended would have resulted in; or (iii) was  
3 threatened to be carried out by a person who had the intent and  
4 opportunity to carry out the threat and would have resulted in,  
5 homicide, nonfatal injuries, or substantial damage to property; or (b)  
6 recklessly creates an immediate risk of serious physical injury to  
7 another person.

8 **Sec. 3.** RCW 10.77.240 and 1973 1st ex.s. c 117 s 24 are each  
9 amended to read as follows:

10 Nothing in this chapter shall prohibit a person presently committed  
11 from exercising a right presently available to him or her for obtaining  
12 release from confinement, including the right to petition for a writ of  
13 habeas corpus.

14 **Sec. 4.** RCW 10.77.940 and 1989 c 420 s 17 are each amended to read  
15 as follows:

16 The provisions of (~~this act~~) chapter 420, Laws of 1989 shall  
17 apply equally to persons (~~presently~~) in the custody of the department  
18 on May 13, 1989, who were found by a court to be not guilty by reason  
19 of insanity or incompetent to stand trial, or who have been found to  
20 have committed acts constituting a felony pursuant to RCW 71.05.280(3)  
21 and present a substantial likelihood of repeating similar acts, and the  
22 secretary shall cause such persons to be evaluated to ascertain if such  
23 persons are developmentally disabled for placement in a program  
24 specifically reserved for the treatment and training of persons with  
25 developmental disabilities.

26 **Sec. 5.** RCW 71.05.020 and 1998 c 297 s 3 are each amended to read  
27 as follows:

28 For the purposes of this chapter:

29 (1) "Antipsychotic medications" means that class of drugs primarily  
30 used to treat serious manifestations of mental illness associated with  
31 thought disorders, which includes, but is not limited to atypical  
32 antipsychotic medications;

33 (2) "Attending staff" means any person on the staff of a public or  
34 private agency having responsibility for the care and treatment of a  
35 patient;

1 (3) "County designated mental health professional" means a mental  
2 health professional appointed by the county to perform the duties  
3 specified in this chapter;

4 (4) "Custody" means involuntary detention under the provisions of  
5 this chapter or chapter 10.77 RCW, uninterrupted by any period of  
6 unconditional release from a facility providing involuntary care and  
7 treatment;

8 (5) "Department" means the department of social and health  
9 services;

10 (6) "Developmental disabilities professional" means a person who  
11 has specialized training and three years of experience in directly  
12 treating or working with persons with developmental disabilities and is  
13 a psychiatrist, psychologist, or social worker, and such other  
14 developmental disabilities professionals as may be defined by rules  
15 adopted by the secretary;

16 (7) "Developmental disability" means that condition defined in RCW  
17 71A.10.020(~~(+2)~~) (3);

18 (8) "Evaluation and treatment facility" means any facility which  
19 can provide directly, or by direct arrangement with other public or  
20 private agencies, emergency evaluation and treatment, outpatient care,  
21 and timely and appropriate inpatient care to persons suffering from a  
22 mental disorder, and which is certified as such by the department. A  
23 physically separate and separately operated portion of a state hospital  
24 may be designated as an evaluation and treatment facility. A facility  
25 which is part of, or operated by, the department or any federal agency  
26 will not require certification. No correctional institution or  
27 facility, or jail, shall be an evaluation and treatment facility within  
28 the meaning of this chapter;

29 (9) "Gravely disabled" means a condition in which a person, as a  
30 result of a mental disorder: (a) Is in danger of serious physical harm  
31 resulting from a failure to provide for his or her essential human  
32 needs of health or safety; or (b) manifests severe deterioration in  
33 routine functioning evidenced by repeated and escalating loss of  
34 cognitive or volitional control over his or her actions and is not  
35 receiving such care as is essential for his or her health or safety;

36 (10) "Habilitative services" means those services provided by  
37 program personnel to assist persons in acquiring and maintaining life  
38 skills and in raising their levels of physical, mental, social, and  
39 vocational functioning. Habilitative services include education,

1 training for employment, and therapy. The habilitative process shall  
2 be undertaken with recognition of the risk to the public safety  
3 presented by the individual being assisted as manifested by prior  
4 charged criminal conduct;

5 (11) "History of one or more violent acts" refers to the period of  
6 time ten years prior to the filing of a petition under this chapter,  
7 excluding any time spent, but not any violent acts committed, in a  
8 mental health facility or in confinement as a result of a criminal  
9 conviction;

10 (12) "Individualized service plan" means a plan prepared by a  
11 developmental disabilities professional with other professionals as a  
12 team, for an individual with developmental disabilities, which shall  
13 state:

14 (a) The nature of the person's specific problems, prior charged  
15 criminal behavior, and habilitation needs;

16 (b) The conditions and strategies necessary to achieve the purposes  
17 of habilitation;

18 (c) The intermediate and long-range goals of the habilitation  
19 program, with a projected timetable for the attainment;

20 (d) The rationale for using this plan of habilitation to achieve  
21 those intermediate and long-range goals;

22 (e) The staff responsible for carrying out the plan;

23 (f) Where relevant in light of past criminal behavior and due  
24 consideration for public safety, the criteria for proposed movement to  
25 less-restrictive settings, criteria for proposed eventual discharge  
26 from involuntary confinement, and a projected possible date for  
27 discharge from involuntary confinement; and

28 (g) The type of residence immediately anticipated for the person  
29 and possible future types of residences;

30 (13) "Judicial commitment" means a commitment by a court pursuant  
31 to the provisions of this chapter;

32 (14) "Likelihood of serious harm" means:

33 (a) A substantial risk that: (i) Physical harm will be inflicted  
34 by an individual upon his or her own person, as evidenced by threats or  
35 attempts to commit suicide or inflict physical harm on oneself; (ii)  
36 physical harm will be inflicted by an individual upon another, as  
37 evidenced by behavior which has caused such harm or which places  
38 another person or persons in reasonable fear of sustaining such harm;  
39 or (iii) physical harm will be inflicted by an individual upon the

1 property of others, as evidenced by behavior which has caused  
2 substantial loss or damage to the property of others; or

3 (b) The individual has threatened the physical safety of another  
4 and has a history of one or more violent acts;

5 (15) "Mental disorder" means any organic, mental, or emotional  
6 impairment which has substantial adverse effects on an individual's  
7 cognitive or volitional functions;

8 (16) "Mental health professional" means a psychiatrist,  
9 psychologist, psychiatric nurse, or social worker, and such other  
10 mental health professionals as may be defined by rules adopted by the  
11 secretary pursuant to the provisions of this chapter;

12 (17) "Peace officer" means a law enforcement official of a public  
13 agency or governmental unit, and includes persons specifically given  
14 peace officer powers by any state law, local ordinance, or judicial  
15 order of appointment;

16 (18) "Private agency" means any person, partnership, corporation,  
17 or association that is not (~~defined as~~) a public agency, whether or  
18 not financed in whole or in part by public funds, which constitutes an  
19 evaluation and treatment facility or private institution, hospital, or  
20 sanitarium, which is conducted for, or includes a department or ward  
21 conducted for, the care and treatment of persons who are mentally ill;

22 (19) "Professional person" means a mental health professional and  
23 shall also mean a physician, registered nurse, and such others as may  
24 be defined by rules adopted by the secretary pursuant to the provisions  
25 of this chapter;

26 (20) "Psychiatrist" means a person having a license as a physician  
27 and surgeon in this state who has in addition completed three years of  
28 graduate training in psychiatry in a program approved by the American  
29 medical association or the American osteopathic association and is  
30 certified or eligible to be certified by the American board of  
31 psychiatry and neurology;

32 (21) "Psychologist" means a person who has been licensed as a  
33 psychologist pursuant to chapter 18.83 RCW;

34 (22) "Public agency" means any evaluation and treatment facility or  
35 institution, hospital, or sanitarium which is conducted for, or  
36 includes a department or ward conducted for, the care and treatment of  
37 persons who are mentally ill (~~or deranged~~); if the agency is operated  
38 directly by, federal, state, county, or municipal government, or a  
39 combination of such governments;

1 (23) "Resource management services" has the meaning given in  
2 chapter 71.24 RCW;

3 (24) "Secretary" means the secretary of the department of social  
4 and health services, or his or her designee;

5 (25) "Social worker" means a person with a master's or further  
6 advanced degree from an accredited school of social work or a degree  
7 deemed equivalent under rules adopted by the secretary;

8 (26) "Violent act" means behavior that resulted in homicide,  
9 attempted suicide, nonfatal injuries, or substantial damage to  
10 property.

11 **Sec. 6.** RCW 71.05.245 and 1998 c 297 s 14 are each amended to read  
12 as follows:

13 In making a determination of whether there is a likelihood of  
14 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,  
15 the court shall give great weight to any evidence before the court  
16 regarding whether the person has: (1) A recent history of one or more  
17 violent acts; or (2) a recent history of one or more commitments under  
18 this chapter or its equivalent provisions under the laws of another  
19 state which were based on a likelihood of serious harm. The existence  
20 of prior violent acts or commitments under this chapter or its  
21 equivalent shall not be the sole basis for determining whether a person  
22 presents a likelihood of serious harm.

23 For the purposes of this section "recent" refers to the period of  
24 time not exceeding three years prior to the current hearing.

25 **Sec. 7.** RCW 71.05.320 and 1997 c 112 s 26 are each amended to read  
26 as follows:

27 (1) If the court or jury finds that grounds set forth in RCW  
28 71.05.280 have been proven and that the best interests of the person or  
29 others will not be served by a less restrictive treatment which is an  
30 alternative to detention, the court shall remand him or her to the  
31 custody of the department or to a facility certified for ninety day  
32 treatment by the department for a further period of intensive treatment  
33 not to exceed ninety days from the date of judgment: PROVIDED, That if  
34 the grounds set forth in RCW 71.05.280(3) are the basis of commitment,  
35 then the period of treatment may be up to but not exceed one hundred  
36 eighty days from the date of judgment in a facility certified for one  
37 hundred eighty day treatment by the department. If the committed



1 person is developmentally disabled and has been determined incompetent  
2 pursuant to RCW 10.77.090(~~(3)~~) (4), and the best interests of the  
3 person or others will not be served by a less-restrictive treatment  
4 which is an alternative to detention, the court shall remand him or her  
5 to the custody of the department or to a facility certified for one  
6 hundred eighty-day treatment by the department. When appropriate and  
7 subject to available funds, treatment and training of such persons must  
8 be provided in a program specifically reserved for the treatment and  
9 training of developmentally disabled persons. A person so committed  
10 shall receive habilitation services pursuant to an individualized  
11 service plan specifically developed to treat the behavior which was the  
12 subject of the criminal proceedings. The treatment program shall be  
13 administered by developmental disabilities professionals and others  
14 trained specifically in the needs of developmentally disabled persons.  
15 The department may limit admissions to this specialized program in  
16 order to ensure that expenditures for services do not exceed amounts  
17 appropriated by the legislature and allocated by the department for  
18 such services. The department may establish admission priorities in  
19 the event that the number of eligible persons exceeds the limits set by  
20 the department. An order for treatment less restrictive than  
21 involuntary detention may include conditions, and if such conditions  
22 are not adhered to, the designated mental health professional or  
23 developmental disabilities professional may order the person  
24 apprehended under the terms and conditions of RCW 71.05.340.

25 If the court or jury finds that grounds set forth in RCW 71.05.280  
26 have been proven, but finds that treatment less restrictive than  
27 detention will be in the best interest of the person or others, then  
28 the court shall remand him or her to the custody of the department or  
29 to a facility certified for ninety day treatment by the department or  
30 to a less restrictive alternative for a further period of less  
31 restrictive treatment not to exceed ninety days from the date of  
32 judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3)  
33 are the basis of commitment, then the period of treatment may be up to  
34 but not exceed one hundred eighty days from the date of judgment.

35 (2) The person shall be released from involuntary treatment at the  
36 expiration of the period of commitment imposed under subsection (1) of  
37 this section unless the superintendent or professional person in charge  
38 of the facility in which he or she is confined, or in the event of a  
39 less restrictive alternative, the designated mental health professional

1 or developmental disabilities professional, files a new petition for  
2 involuntary treatment on the grounds that the committed person;

3 (a) During the current period of court ordered treatment: (i) Has  
4 threatened, attempted, or inflicted physical harm upon the person of  
5 another, or substantial damage upon the property of another, and (ii)  
6 as a result of mental disorder or developmental disability presents a  
7 likelihood of serious harm; or

8 (b) Was taken into custody as a result of conduct in which he or  
9 she attempted or inflicted serious physical harm upon the person of  
10 another, and continues to present, as a result of mental disorder or  
11 developmental disability a likelihood of serious harm; or

12 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of  
13 mental disorder or developmental disability presents a substantial  
14 likelihood of repeating similar acts considering the charged criminal  
15 behavior, life history, progress in treatment, and the public safety;  
16 or

17 (d) Continues to be gravely disabled.

18 If the conduct required to be proven in (b) and (c) of this  
19 subsection was found by a judge or jury in a prior trial under this  
20 chapter, it shall not be necessary to reprove that element. Such new  
21 petition for involuntary treatment shall be filed and heard in the  
22 superior court of the county of the facility which is filing the new  
23 petition for involuntary treatment unless good cause is shown for a  
24 change of venue. The cost of the proceedings shall be borne by the  
25 state.

26 The hearing shall be held as provided in RCW 71.05.310, and if the  
27 court or jury finds that the grounds for additional confinement as set  
28 forth in this subsection are present, the court may order the committed  
29 person returned for an additional period of treatment not to exceed one  
30 hundred eighty days from the date of judgment. At the end of the one  
31 hundred eighty day period of commitment, the committed person shall be  
32 released unless a petition for another one hundred eighty day period of  
33 continued treatment is filed and heard in the same manner as provided  
34 in this subsection. Successive one hundred eighty day commitments are  
35 permissible on the same grounds and pursuant to the same procedures as  
36 the original one hundred eighty day commitment.

37 (3) No person committed as provided in this section may be detained  
38 unless a valid order of commitment is in effect. No order of  
39 commitment can exceed one hundred eighty days in length.

1       **Sec. 8.** RCW 71.05.425 and 1994 c 129 s 9 are each amended to read  
2 as follows:

3       (1)(a) Except as provided in subsection (2) of this section, at the  
4 earliest possible date, and in no event later than thirty days before  
5 conditional release, final discharge, authorized leave under RCW  
6 71.05.325(2), or transfer to a less-restrictive facility than a state  
7 mental hospital, the superintendent shall send written notice of  
8 conditional release, final discharge, authorized leave, or transfer of  
9 a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following  
10 dismissal of a sex, violent, or felony harassment offense pursuant to  
11 RCW 10.77.090(~~((3))~~) (4) to the following:

12       (i) The chief of police of the city, if any, in which the person  
13 will reside; and

14       (ii) The sheriff of the county in which the person will reside.

15       (b) The same notice as required by (a) of this subsection shall be  
16 sent to the following, if such notice has been requested in writing  
17 about a specific person committed under RCW 71.05.280(3) or  
18 71.05.320(2)(c) following dismissal of a sex, violent, or felony  
19 harassment offense pursuant to RCW 10.77.090(~~((3))~~) (4):

20       (i) The victim of the sex, violent, or felony harassment offense  
21 that was dismissed pursuant to RCW 10.77.090(~~((3))~~) (4) preceding  
22 commitment under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's  
23 next of kin if the crime was a homicide;

24       (ii) Any witnesses who testified against the person in any court  
25 proceedings; and

26       (iii) Any person specified in writing by the prosecuting attorney.  
27 Information regarding victims, next of kin, or witnesses requesting the  
28 notice, information regarding any other person specified in writing by  
29 the prosecuting attorney to receive the notice, and the notice are  
30 confidential and shall not be available to the person committed under  
31 this chapter.

32       (c) The thirty-day notice requirements contained in this subsection  
33 shall not apply to emergency medical furloughs.

34       (d) The existence of the notice requirements in this subsection  
35 will not require any extension of the release date in the event the  
36 release plan changes after notification.

37       (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)  
38 following dismissal of a sex, violent, or felony harassment offense  
39 pursuant to RCW 10.77.090(~~((3))~~) (4) escapes, the superintendent shall

1 immediately notify, by the most reasonable and expedient means  
2 available, the chief of police of the city and the sheriff of the  
3 county in which the person resided immediately before the person's  
4 arrest. If previously requested, the superintendent shall also notify  
5 the witnesses and the victim of the sex, violent, or felony harassment  
6 offense that was dismissed pursuant to RCW 10.77.090(~~(+3+)~~) (4)  
7 preceding commitment under RCW 71.05.280(3) or 71.05.320(2) or the  
8 victim's next of kin if the crime was a homicide. In addition, the  
9 secretary shall also notify appropriate parties pursuant to RCW  
10 71.05.410. If the person is recaptured, the superintendent shall send  
11 notice to the persons designated in this subsection as soon as possible  
12 but in no event later than two working days after the department learns  
13 of such recapture.

14 (3) If the victim, the victim's next of kin, or any witness is  
15 under the age of sixteen, the notice required by this section shall be  
16 sent to the parent or legal guardian of the child.

17 (4) The superintendent shall send the notices required by this  
18 chapter to the last address provided to the department by the  
19 requesting party. The requesting party shall furnish the department  
20 with a current address.

21 (5) For purposes of this section the following terms have the  
22 following meanings:

23 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

24 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

25 (c) "Next of kin" means a person's spouse, parents, siblings, and  
26 children;

27 (d) "Felony harassment offense" means a crime of harassment as  
28 defined in RCW 9A.46.060 that is a felony.

29 **Sec. 9.** RCW 71.05.640 and 1989 c 205 s 14 are each reenacted to  
30 read as follows:

31 (1) Procedures shall be established by resource management services  
32 to provide reasonable and timely access to individual treatment  
33 records. However, access may not be denied at any time to records of  
34 all medications and somatic treatments received by the individual.

35 (2) Following discharge, the individual shall have a right to a  
36 complete record of all medications and somatic treatments prescribed  
37 during admission or commitment and to a copy of the discharge summary

1 prepared at the time of his or her discharge. A reasonable and uniform  
2 charge for reproduction may be assessed.

3 (3) Treatment records may be modified prior to inspection to  
4 protect the confidentiality of other patients or the names of any other  
5 persons referred to in the record who gave information on the condition  
6 that his or her identity remain confidential. Entire documents may not  
7 be withheld to protect such confidentiality.

8 (4) At the time of discharge all individuals shall be informed by  
9 resource management services of their rights as provided in RCW  
10 71.05.610 through 71.05.690.

11 **Sec. 10.** RCW 71.05.670 and 1990 c 3 s 115 are each reenacted to  
12 read as follows:

13 Except as provided in RCW 4.24.550, any person, including the state  
14 or any political subdivision of the state, violating RCW 71.05.610  
15 through 71.05.690 shall be subject to the provisions of RCW 71.05.440.

16 **Sec. 11.** RCW 71.05.680 and 1989 c 205 s 18 are each reenacted to  
17 read as follows:

18 Any person who requests or obtains confidential information  
19 pursuant to RCW 71.05.610 through 71.05.690 under false pretenses shall  
20 be guilty of a gross misdemeanor.

21 **Sec. 12.** RCW 71.05.690 and 1989 c 205 s 19 are each reenacted to  
22 read as follows:

23 The department shall adopt rules to implement RCW 71.05.610 through  
24 71.05.680.

25 **Sec. 13.** RCW 71.05.940 and 1989 c 420 s 18 are each amended to  
26 read as follows:

27 The provisions of (~~this act~~) chapter 420, Laws of 1989 shall  
28 apply equally to persons (~~presently~~) in the custody of the department  
29 on May 13, 1989, who were found by a court to be not guilty by reason  
30 of insanity or incompetent to stand trial, or who have been found to  
31 have committed acts constituting a felony pursuant to RCW 71.05.280(3)  
32 and present a substantial likelihood of repeating similar acts, and the  
33 secretary shall cause such persons to be evaluated to ascertain if such  
34 persons are developmentally disabled for placement in a program

1 specifically reserved for the treatment and training of persons with  
2 developmental disabilities.

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