
SENATE BILL 6439

State of Washington

56th Legislature

2000 Regular Session

By Senators Long, Hargrove and Sheahan; by request of Department of Social and Health Services

Read first time 01/17/2000. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to consistent use of terms regarding state hospital
2 patient status; amending RCW 71.05.020, 71.05.025, 71.05.050,
3 71.05.120, 71.05.170, 71.05.210, 71.05.325, 71.05.340, 71.05.390,
4 71.05.425, 71.05.480, 71.05.490, 71.05.640, 10.77.025, 10.77.110,
5 10.77.120, 10.77.200, 10.77.205, and 49.19.010; and reenacting and
6 amending RCW 10.77.010.

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

8 **Sec. 1.** RCW 71.05.020 and 1999 c 13 s 5 are each amended to read
9 as follows:

10 For the purposes of this chapter:

11 (1) "Admission" means acceptance based on medical necessity, of a
12 person as a patient;

13 (2) "Antipsychotic medications" means that class of drugs primarily
14 used to treat serious manifestations of mental illness associated with
15 thought disorders, which includes, but is not limited to atypical
16 antipsychotic medications;

17 ((+2)) (3) "Attending staff" means any person on the staff of a
18 public or private agency having responsibility for the care and
19 treatment of a patient;

1 (~~(3)~~) (4) "Commitment" means the determination by a court that a
2 patient should be detained for a period of either evaluation or
3 treatment, or both, in an inpatient or a less restrictive setting;

4 (5) "County designated mental health professional" means a mental
5 health professional appointed by the county to perform the duties
6 specified in this chapter;

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

11 (~~(5)~~) (7) "Department" means the department of social and health
12 services;

13 (~~(6)~~) (8) "Detention" means the legal confinement of a person,
14 under the provisions of this chapter;

15 (9) "Developmental disabilities professional" means a person who
16 has specialized training and three years of experience in directly
17 treating or working with persons with developmental disabilities and is
18 a psychiatrist, psychologist, or social worker, and such other
19 developmental disabilities professionals as may be defined by rules
20 adopted by the secretary;

21 (~~(7)~~) (10) "Developmental disability" means that condition
22 defined in RCW 71A.10.020(3);

23 (~~(8)~~) (11) "Discharge" means the termination of hospital medical
24 authority. The legal commitment remains in place or may be amended
25 under the court order;

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

37 (~~(9)~~) (13) "Gravely disabled" means a condition in which a
38 person, as a result of a mental disorder: (a) Is in danger of serious
39 physical harm resulting from a failure to provide for his or her

1 essential human needs of health or safety; or (b) manifests severe
2 deterioration in routine functioning evidenced by repeated and
3 escalating loss of cognitive or volitional control over his or her
4 actions and is not receiving such care as is essential for his or her
5 health or safety;

6 (~~(10)~~) (14) "Habilitative services" means those services provided
7 by program personnel to assist persons in acquiring and maintaining
8 life skills and in raising their levels of physical, mental, social,
9 and vocational functioning. Habilitative services include education,
10 training for employment, and therapy. The habilitative process shall
11 be undertaken with recognition of the risk to the public safety
12 presented by the individual being assisted as manifested by prior
13 charged criminal conduct;

14 (~~(11)~~) (15) "History of one or more violent acts" refers to the
15 period of time ten years prior to the filing of a petition under this
16 chapter, excluding any time spent, but not any violent acts committed,
17 in a mental health facility or in confinement as a result of a criminal
18 conviction;

19 (~~(12)~~) (16) "Individualized service plan" means a plan prepared
20 by a developmental disabilities professional with other professionals
21 as a team, for an individual with developmental disabilities, which
22 shall state:

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

25 (b) The conditions and strategies necessary to achieve the purposes
26 of habilitation;

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

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

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

32 (f) Where relevant in light of past criminal behavior and due
33 consideration for public safety, the criteria for proposed movement to
34 less-restrictive settings, criteria for proposed eventual discharge or
35 release from involuntary confinement, and a projected possible date for
36 discharge or release from involuntary confinement; and

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

1 (~~(13)~~) (17) "Judicial commitment" means a commitment by a court
2 pursuant to the provisions of this chapter;

3 (~~(14)~~) (18) "Likelihood of serious harm" means:
4 (a) A substantial risk that: (i) Physical harm will be inflicted
5 by an individual upon his or her own person, as evidenced by threats or
6 attempts to commit suicide or inflict physical harm on oneself; (ii)
7 physical harm will be inflicted by an individual upon another, as
8 evidenced by behavior which has caused such harm or which places
9 another person or persons in reasonable fear of sustaining such harm;
10 or (iii) physical harm will be inflicted by an individual upon the
11 property of others, as evidenced by behavior which has caused
12 substantial loss or damage to the property of others; or
13 (b) The individual has threatened the physical safety of another
14 and has a history of one or more violent acts;

15 (~~(15)~~) (19) "Mental disorder" means any organic, mental, or
16 emotional impairment which has substantial adverse effects on an
17 individual's cognitive or volitional functions;

18 (~~(16)~~) (20) "Mental health professional" means a psychiatrist,
19 psychologist, psychiatric nurse, or social worker, and such other
20 mental health professionals as may be defined by rules adopted by the
21 secretary pursuant to the provisions of this chapter;

22 (~~(17)~~) (21) "Peace officer" means a law enforcement official of
23 a public agency or governmental unit, and includes persons specifically
24 given peace officer powers by any state law, local ordinance, or
25 judicial order of appointment;

26 (~~(18)~~) (22) "Private agency" means any person, partnership,
27 corporation, or association that is not a public agency, whether or not
28 financed in whole or in part by public funds, which constitutes an
29 evaluation and treatment facility or private institution, hospital, or
30 sanitarium, which is conducted for, or includes a department or ward
31 conducted for, the care and treatment of persons who are mentally ill;

32 (~~(19)~~) (23) "Professional person" means a mental health
33 professional and shall also mean a physician, registered nurse, and
34 such others as may be defined by rules adopted by the secretary
35 pursuant to the provisions of this chapter;

36 (~~(20)~~) (24) "Psychiatrist" means a person having a license as a
37 physician and surgeon in this state who has in addition completed three
38 years of graduate training in psychiatry in a program approved by the
39 American medical association or the American osteopathic association

1 and is certified or eligible to be certified by the American board of
2 psychiatry and neurology;

3 ~~((21))~~ (25) "Psychologist" means a person who has been licensed
4 as a psychologist pursuant to chapter 18.83 RCW;

5 ~~((22))~~ (26) "Public agency" means any evaluation and treatment
6 facility or institution, hospital, or sanitarium which is conducted
7 for, or includes a department or ward conducted for, the care and
8 treatment of persons who are mentally ill; if the agency is operated
9 directly by, federal, state, county, or municipal government, or a
10 combination of such governments;

11 ~~((23))~~ (27) "Release from commitment" means legal termination of
12 the court ordered commitment under the provisions of this chapter;

13 (28) "Resource management services" has the meaning given in
14 chapter 71.24 RCW;

15 ~~((24))~~ (29) "Secretary" means the secretary of the department of
16 social and health services, or his or her designee;

17 ~~((25))~~ (30) "Social worker" means a person with a master's or
18 further advanced degree from an accredited school of social work or a
19 degree deemed equivalent under rules adopted by the secretary;

20 ~~((26))~~ (31) "Violent act" means behavior that resulted in
21 homicide, attempted suicide, nonfatal injuries, or substantial damage
22 to property.

23 **Sec. 2.** RCW 71.05.025 and 1989 c 205 s 9 are each amended to read
24 as follows:

25 The legislature intends that the procedures and services authorized
26 in this chapter be integrated with those in chapter 71.24 RCW to the
27 maximum extent necessary to assure a continuum of care to persons who
28 are mentally ill or who have mental disorders, as defined in either or
29 both this chapter and chapter 71.24 RCW. To this end, regional support
30 networks established in accordance with chapter 71.24 RCW shall
31 institute procedures which require timely consultation with resource
32 management services by county-designated mental health professionals
33 and evaluation and treatment facilities to assure that determinations
34 to detain, commit, treat, discharge, or release from commitment persons
35 with mental disorders under this chapter are made only after
36 appropriate information regarding such person's treatment history and
37 current treatment plan has been sought from resource management
38 services.

1 **Sec. 3.** RCW 71.05.050 and 1998 c 297 s 6 are each amended to read
2 as follows:

3 Nothing in this chapter shall be construed to limit the right of
4 any person to apply voluntarily to any public or private agency or
5 practitioner for treatment of a mental disorder, either by direct
6 application or by referral. Any person voluntarily admitted for
7 inpatient treatment to any public or private agency shall be released
8 immediately upon his or her request. Any person voluntarily admitted
9 for inpatient treatment to any public or private agency shall orally be
10 advised of the right to immediate release and discharge, and further
11 advised of such rights in writing as are secured to them pursuant to
12 this chapter and their rights of access to attorneys, courts, and other
13 legal redress. Their condition and status shall be reviewed at least
14 once each one hundred eighty days for evaluation as to the need for
15 further treatment and/or possible release and discharge, at which time
16 they shall again be advised of their right to release and discharge
17 upon request: PROVIDED HOWEVER, That if the professional staff of any
18 public or private agency or hospital regards a person voluntarily
19 admitted who requests release and discharge as presenting, as a result
20 of a mental disorder, an imminent likelihood of serious harm, or is
21 gravely disabled, they may detain such person for sufficient time to
22 notify the county designated mental health professional of such
23 person's condition to enable the county designated mental health
24 professional to authorize such person being further held in custody or
25 transported to an evaluation and treatment center pursuant to the
26 provisions of this chapter, which shall in ordinary circumstances be no
27 later than the next judicial day: PROVIDED FURTHER, That if a person
28 is brought to the emergency room of a public or private agency or
29 hospital for observation or treatment, the person refuses voluntary
30 admission, and the professional staff of the public or private agency
31 or hospital regard such person as presenting as a result of a mental
32 disorder an imminent likelihood of serious harm, or as presenting an
33 imminent danger because of grave disability, they may detain such
34 person for sufficient time to notify the county designated mental
35 health professional of such person's condition to enable the county
36 designated mental health professional to authorize such person being
37 further held in custody or transported to an evaluation treatment
38 center pursuant to the conditions in this chapter, but which time shall
39 be no more than six hours from the time the professional staff

1 determine that an evaluation by the county designated mental health
2 professional is necessary.

3 **Sec. 4.** RCW 71.05.120 and 1991 c 105 s 2 are each amended to read
4 as follows:

5 (1) No officer of a public or private agency, nor the
6 superintendent, professional person in charge, his or her professional
7 designee, or attending staff of any such agency, nor any public
8 official performing functions necessary to the administration of this
9 chapter, nor peace officer responsible for detaining a person pursuant
10 to this chapter, nor any county designated mental health professional,
11 nor the state, a unit of local government, or an evaluation and
12 treatment facility shall be civilly or criminally liable for performing
13 duties pursuant to this chapter with regard to the decision of whether
14 to admit, discharge, release, administer antipsychotic medications, or
15 detain a person for evaluation and treatment: PROVIDED, That such
16 duties were performed in good faith and without gross negligence.

17 (2) This section does not relieve a person from giving the required
18 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
19 or to take reasonable precautions to provide protection from violent
20 behavior where the patient has communicated an actual threat of
21 physical violence against a reasonably identifiable victim or victims.
22 The duty to warn or to take reasonable precautions to provide
23 protection from violent behavior is discharged if reasonable efforts
24 are made to communicate the threat to the victim or victims and to law
25 enforcement personnel.

26 **Sec. 5.** RCW 71.05.170 and 1998 c 297 s 10 are each amended to read
27 as follows:

28 Whenever the county designated mental health professional petitions
29 for detention of a person whose actions constitute a likelihood of
30 serious harm, or who is gravely disabled, the facility providing
31 seventy-two hour evaluation and treatment must immediately accept on a
32 provisional basis the petition and the person. The facility shall then
33 evaluate the person's condition and admit, transfer, or release such
34 person in accordance with RCW 71.05.210. The facility shall notify in
35 writing the court and the county designated mental health professional
36 of the date and time of the initial detention of each person

1 involuntarily detained in order that a probable cause hearing shall be
2 held no later than seventy-two hours after detention.

3 The duty of a state hospital to accept persons for evaluation and
4 treatment under this section shall be limited by chapter 71.24 RCW.

5 **Sec. 6.** RCW 71.05.210 and 1998 c 297 s 12 are each amended to read
6 as follows:

7 Each person involuntarily (~~(admitted to)~~) detained and accepted at
8 an evaluation and treatment facility shall, within twenty-four hours of
9 his or her (~~(admission)~~) acceptance at the facility, be examined and
10 evaluated by a licensed physician who may be assisted by a physician
11 assistant according to chapter 18.71A RCW or an advanced registered
12 nurse practitioner according to chapter 18.79 RCW and a mental health
13 professional, and shall receive such treatment and care as his or her
14 condition requires including treatment on an outpatient basis for the
15 period that he or she is detained, except that, beginning twenty-four
16 hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
17 71.05.310, 71.05.320, 71.05.340, or 71.05.370, the individual may
18 refuse psychiatric medications, but may not refuse: (1) Any other
19 medication previously prescribed by a person licensed under Title 18
20 RCW; or (2) emergency lifesaving treatment, and the individual shall be
21 informed at an appropriate time of his or her right of such refusal.
22 The person shall be detained up to seventy-two hours, if, in the
23 opinion of the professional person in charge of the facility, or his or
24 her professional designee, the person presents a likelihood of serious
25 harm, or is gravely disabled. A person who has been detained for
26 seventy-two hours shall no later than the end of such period be
27 released, unless referred for further care on a voluntary basis, or
28 detained pursuant to court order for further treatment as provided in
29 this chapter.

30 If, after examination and evaluation, the licensed physician and
31 mental health professional determine that the initial needs of the
32 person would be better served by placement in a chemical dependency
33 treatment facility, then the person shall be referred to an approved
34 treatment program defined under RCW 70.96A.020.

35 An evaluation and treatment center (~~(admitting)~~) accepting any
36 person pursuant to this chapter whose physical condition reveals the
37 need for hospitalization shall assure that such person is transferred
38 to an appropriate hospital for evaluation or admission for treatment.

1 Notice of such fact shall be given to the court, the designated
2 attorney, and the county designated mental health professional and the
3 court shall order such continuance in proceedings under this chapter as
4 may be necessary, but in no event may this continuance be more than
5 fourteen days.

6 **Sec. 7.** RCW 71.05.325 and 1994 c 129 s 8 are each amended to read
7 as follows:

8 (1) Before a person committed under grounds set forth in RCW
9 71.05.280(3) is released from (~~involuntary treatment~~) commitment
10 because a new petition for involuntary treatment has not been filed
11 under RCW 71.05.320(2), the superintendent, professional person, or
12 designated mental health professional responsible for the decision
13 whether to file a new petition shall in writing notify the prosecuting
14 attorney of the county in which the criminal charges against the
15 committed person were dismissed, of the decision not to file a new
16 petition for involuntary treatment. Notice shall be provided at least
17 forty-five days before the period of commitment expires.

18 (2)(a) Before a person committed under grounds set forth in RCW
19 71.05.280(3) is permitted temporarily to leave a treatment facility
20 pursuant to RCW 71.05.270 for any period of time without constant
21 accompaniment by facility staff, the superintendent, professional
22 person in charge of a treatment facility, or his or her professional
23 designee shall in writing notify the prosecuting attorney of any county
24 to which the person is to be (~~released~~) granted authorized leave and
25 the prosecuting attorney of the county in which the criminal charges
26 against the committed person were dismissed(~~(, of the decision~~
27 ~~conditionally to release the person)~~). The notice shall be provided at
28 least forty-five days before the anticipated (~~release~~) authorized
29 leave and shall describe the conditions under which the (~~release~~)
30 leave or proposed less restrictive alternative is to occur.

31 (b) The provisions of RCW 71.05.330(2) apply to proposed
32 (~~temporary releases~~) authorized leaves, and either or both
33 prosecuting attorneys receiving notice under this subsection may
34 petition the court under RCW 71.05.330(2).

35 (3) Nothing in this section shall be construed to authorize
36 detention of a person unless a valid order of commitment is in effect.

37 (4) The existence of the notice requirements in this section will
38 not require any extension of the (~~release~~) authorized leave date in

1 the event the ((release)) authorized leave plan changes after
2 notification.

3 (5) The notice requirements contained in this section shall not
4 apply to emergency medical ((furloughs)) transfers.

5 (6) The notice provisions of this section are in addition to those
6 provided in RCW 71.05.425.

7 **Sec. 8.** RCW 71.05.340 and 1998 c 297 s 21 are each amended to read
8 as follows:

9 (1)(a) When, in the opinion of the superintendent or the
10 professional person in charge of the hospital or facility providing
11 involuntary treatment, the committed person can be appropriately served
12 by outpatient treatment prior to or at the expiration of the period of
13 commitment, then such outpatient care may be required as a condition
14 for early release from commitment for a period which, when added to the
15 inpatient treatment period, shall not exceed the period of commitment.
16 If the hospital or facility designated to provide outpatient treatment
17 is other than the facility providing involuntary treatment, the
18 outpatient facility so designated must agree in writing to assume such
19 responsibility. A copy of the conditions for early release from
20 commitment shall be given to the patient, the county designated mental
21 health professional in the county in which the patient is to receive
22 outpatient treatment, and to the court of original commitment.

23 (b) Before a person committed under grounds set forth in RCW
24 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of
25 this subsection, the superintendent or professional person in charge of
26 the hospital or facility providing involuntary treatment shall in
27 writing notify the prosecuting attorney of the county in which the
28 criminal charges against the committed person were dismissed, of the
29 decision to conditionally release the person from commitment. Notice
30 and a copy of the conditions for ((early)) release from commitment
31 shall be provided at least thirty days before the person is released
32 from inpatient care. Within twenty days after receiving notice, the
33 prosecuting attorney may petition the court in the county that issued
34 the commitment order to hold a hearing to determine whether the person
35 may be conditionally released from commitment and the terms of the
36 conditional release from commitment. The prosecuting attorney shall
37 provide a copy of the petition to the superintendent or professional
38 person in charge of the hospital or facility providing involuntary

1 treatment, the attorney, if any, and guardian or conservator of the
2 committed person, and the court of original commitment. If the county
3 in which the committed person is to receive outpatient treatment is the
4 same county in which the criminal charges against the committed person
5 were dismissed, then the court shall, upon the motion of the
6 prosecuting attorney, transfer the proceeding to the court in that
7 county. The court shall conduct a hearing on the petition within ten
8 days of the filing of the petition. The committed person shall have
9 the same rights with respect to notice, hearing, and counsel as for an
10 involuntary treatment proceeding, except as set forth in this
11 subsection and except that there shall be no right to jury trial. The
12 issue to be determined at the hearing is whether or not the person may
13 be conditionally released from commitment without substantial danger to
14 other persons, or substantial likelihood of committing criminal acts
15 jeopardizing public safety or security. If the court disapproves of
16 the conditional release from commitment, it may do so only on the basis
17 of substantial evidence. Pursuant to the determination of the court
18 upon the hearing, the conditional release from commitment of the person
19 shall be approved by the court on the same or modified conditions or
20 the person shall be returned for involuntary treatment on an inpatient
21 basis subject to release from commitment at the end of the period for
22 which he or she was committed, or otherwise in accordance with the
23 provisions of this chapter.

24 (2) The hospital or facility designated to provide outpatient care
25 or the secretary may modify the conditions for continued release from
26 commitment when such modification is in the best interest of the
27 person. Notification of such changes shall be sent to all persons
28 receiving a copy of the original conditions.

29 (3)(a) If the hospital or facility designated to provide outpatient
30 care, the county designated mental health professional, or the
31 secretary determines that:

32 (i) A conditionally released person is failing to adhere to the
33 terms and conditions of his or her release from commitment;

34 (ii) Substantial deterioration in a conditionally released person's
35 functioning has occurred;

36 (iii) There is evidence of substantial decompensation with a
37 reasonable probability that the decompensation can be reversed by
38 further inpatient treatment; or

39 (iv) The person poses a likelihood of serious harm.

1 Upon notification by the hospital or facility designated to provide
2 outpatient care, or on his or her own motion, the county designated
3 mental health professional or the secretary may order that the
4 conditionally released person be apprehended and taken into custody and
5 temporarily detained in an evaluation and treatment facility in or near
6 the county in which he or she is receiving outpatient treatment.

7 (b) The hospital or facility designated to provide outpatient
8 treatment shall notify the secretary or county designated mental health
9 professional when a conditionally released person fails to adhere to
10 terms and conditions of his or her release from commitment or
11 experiences substantial deterioration in his or her condition and, as
12 a result, presents an increased likelihood of serious harm. The county
13 designated mental health professional or secretary shall order the
14 person apprehended and temporarily detained in an evaluation and
15 treatment facility in or near the county in which he or she is
16 receiving outpatient treatment.

17 (c) A person detained under this subsection (3) shall be held until
18 such time, not exceeding five days, as a hearing can be scheduled to
19 determine whether or not the person should be returned to the hospital
20 or facility from which he or she had been conditionally released. The
21 county designated mental health professional or the secretary may
22 modify or rescind such order at any time prior to commencement of the
23 court hearing.

24 (d) The court that originally ordered commitment shall be notified
25 within two judicial days of a person's detention under the provisions
26 of this section, and the county designated mental health professional
27 or the secretary shall file his or her petition and order of
28 apprehension and detention with the court and serve them upon the
29 person detained. His or her attorney, if any, and his or her guardian
30 or conservator, if any, shall receive a copy of such papers as soon as
31 possible. Such person shall have the same rights with respect to
32 notice, hearing, and counsel as for an involuntary treatment
33 proceeding, except as specifically set forth in this section and except
34 that there shall be no right to jury trial. The issues to be
35 determined shall be: (i) Whether the conditionally released person did
36 or did not adhere to the terms and conditions of his or her release
37 from commitment; (ii) that substantial deterioration in the person's
38 functioning has occurred; (iii) there is evidence of substantial
39 decompensation with a reasonable probability that the decompensation

1 can be reversed by further inpatient treatment; or (iv) there is a
2 likelihood of serious harm; and, if any of the conditions listed in
3 this subsection (3)(d) have occurred, whether the conditions of release
4 from commitment should be modified or the person should be returned to
5 the facility.

6 (e) Pursuant to the determination of the court upon such hearing,
7 the conditionally released person shall either continue to be
8 conditionally released on the same or modified conditions or shall be
9 returned for involuntary treatment on an inpatient basis subject to
10 release from commitment at the end of the period for which he or she
11 was committed for involuntary treatment, or otherwise in accordance
12 with the provisions of this chapter. Such hearing may be waived by the
13 person and his or her counsel and his or her guardian or conservator,
14 if any, but shall not be waivable unless all such persons agree to
15 waive, and upon such waiver the person may be returned for involuntary
16 treatment or continued on conditional release from commitment on the
17 same or modified conditions.

18 (4) The proceedings set forth in subsection (3) of this section may
19 be initiated by the county designated mental health professional or the
20 secretary on the same basis set forth therein without requiring or
21 ordering the apprehension and detention of the conditionally released
22 person, in which case the court hearing shall take place in not less
23 than five days from the date of service of the petition upon the
24 conditionally released person.

25 Upon expiration of the period of commitment, or when the person is
26 released from outpatient care, notice in writing to the court which
27 committed the person for treatment shall be provided.

28 ~~(5) ((The grounds and procedures for revocation of less restrictive
29 alternative treatment shall be the same as those set forth in this
30 section for conditional releases.~~

31 ~~(6))~~ In the event of a revocation of a conditional release, the
32 subsequent treatment period may be for no longer than the actual period
33 authorized in the original court order.

34 **Sec. 9.** RCW 71.05.390 and 1999 c 12 s 1 are each amended to read
35 as follows:

36 Except as provided in this section, the fact of admission and all
37 information and records compiled, obtained, or maintained in the course

1 of providing services to either voluntary or involuntary recipients of
2 services at public or private agencies shall be confidential.

3 Information and records may be disclosed only:

4 (1) In communications between qualified professional persons to
5 meet the requirements of this chapter, in the provision of services or
6 appropriate referrals, or in the course of guardianship proceedings.
7 The consent of the patient, or his or her guardian, shall be obtained
8 before information or records may be disclosed by a professional person
9 employed by a facility unless provided to a professional person: (a)
10 Employed by the facility; (b) who has medical responsibility for the
11 patient's care; (c) who is a county designated mental health
12 professional; (d) who is providing services under chapter 71.24 RCW;
13 (e) who is employed by a state or local correctional facility where the
14 person is confined; or (f) who is providing evaluation, treatment, or
15 follow-up services under chapter 10.77 RCW.

16 (2) When the communications regard the special needs of a patient
17 and the necessary circumstances giving rise to such needs and the
18 disclosure is made by a facility providing outpatient services to the
19 operator of a care facility in which the patient resides.

20 (3) When the person receiving services, or his or her guardian,
21 designates persons to whom information or records may be released, or
22 if the person is a minor, when his or her parents make such
23 designation.

24 (4) To the extent necessary for a recipient to make a claim, or for
25 a claim to be made on behalf of a recipient for aid, insurance, or
26 medical assistance to which he or she may be entitled.

27 (5) For either program evaluation or research, or both: PROVIDED,
28 That the secretary adopts rules for the conduct of the evaluation or
29 research, or both. Such rules shall include, but need not be limited
30 to, the requirement that all evaluators and researchers must sign an
31 oath of confidentiality substantially as follows:

32 "As a condition of conducting evaluation or research concerning
33 persons who have received services from (fill in the facility, agency,
34 or person) I,, agree not to divulge, publish, or
35 otherwise make known to unauthorized persons or the public any
36 information obtained in the course of such evaluation or research
37 regarding persons who have received services such that the person who
38 received such services is identifiable.

1 I recognize that unauthorized release of confidential information
2 may subject me to civil liability under the provisions of state law.

3 /s/ "

4 (6) To the courts as necessary to the administration of this
5 chapter.

6 (7) To law enforcement officers, public health officers, or
7 personnel of the department of corrections or the indeterminate
8 sentence review board for persons who are the subject of the records
9 and who are committed to the custody of the department of corrections
10 or indeterminate sentence review board which information or records are
11 necessary to carry out the responsibilities of their office. Except
12 for dissemination of information released pursuant to RCW 71.05.425 and
13 4.24.550, regarding persons committed under this chapter under RCW
14 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
15 defined in RCW 9.94A.030, the extent of information that may be
16 released is limited as follows:

17 (a) Only the fact, place, and date of involuntary ((admission))
18 commitment, the fact and date of discharge or release, and the last
19 known address shall be disclosed upon request; and

20 (b) The law enforcement and public health officers or personnel of
21 the department of corrections or indeterminate sentence review board
22 shall be obligated to keep such information confidential in accordance
23 with this chapter; and

24 (c) Additional information shall be disclosed only after giving
25 notice to said person and his or her counsel and upon a showing of
26 clear, cogent and convincing evidence that such information is
27 necessary and that appropriate safeguards for strict confidentiality
28 are and will be maintained. However, in the event the said person has
29 escaped from custody, said notice prior to disclosure is not necessary
30 and that the facility from which the person escaped shall include an
31 evaluation as to whether the person is of danger to persons or property
32 and has a propensity toward violence.

33 (8) To the attorney of the detained person.

34 (9) To the prosecuting attorney as necessary to carry out the
35 responsibilities of the office under RCW 71.05.330(2) and
36 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
37 to records regarding the committed person's treatment and prognosis,
38 medication, behavior problems, and other records relevant to the issue

1 of whether treatment less restrictive than inpatient treatment is in
2 the best interest of the committed person or others. Information shall
3 be disclosed only after giving notice to the committed person and the
4 person's counsel.

5 (10) To appropriate law enforcement agencies and to a person, when
6 the identity of the person is known to the public or private agency,
7 whose health and safety has been threatened, or who is known to have
8 been repeatedly harassed, by the patient. The person may designate a
9 representative to receive the disclosure. The disclosure shall be made
10 by the professional person in charge of the public or private agency or
11 his or her designee and shall include the dates of commitment,
12 admission, discharge, or release, authorized or unauthorized absence
13 from the agency's facility, and only such other information that is
14 pertinent to the threat or harassment. The decision to disclose or not
15 shall not result in civil liability for the agency or its employees so
16 long as the decision was reached in good faith and without gross
17 negligence.

18 (11) To the persons designated in RCW 71.05.425 for the purposes
19 described in that section.

20 (12) Civil liability and immunity for the release of information
21 about a particular person who is committed to the department under RCW
22 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
23 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

24 (13) To a patient's next of kin, guardian, or conservator, if any,
25 in the event of death, as provided in RCW 71.05.400.

26 (14) To the department of health of the purposes of determining
27 compliance with state or federal licensure, certification, or
28 registration rules or laws. However, the information and records
29 obtained under this subsection are exempt from public inspection and
30 copying pursuant to chapter 42.17 RCW.

31 The fact of admission, as well as all records, files, evidence,
32 findings, or orders made, prepared, collected, or maintained pursuant
33 to this chapter shall not be admissible as evidence in any legal
34 proceeding outside this chapter without the written consent of the
35 person who was the subject of the proceeding except in a subsequent
36 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
37 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
38 10.77 RCW due to incompetency to stand trial or in a civil commitment
39 proceeding pursuant to chapter 71.09 RCW. The records and files

1 maintained in any court proceeding pursuant to this chapter shall be
2 confidential and available subsequent to such proceedings only to the
3 person who was the subject of the proceeding or his or her attorney.
4 In addition, the court may order the subsequent release or use of such
5 records or files only upon good cause shown if the court finds that
6 appropriate safeguards for strict confidentiality are and will be
7 maintained.

8 **Sec. 10.** RCW 71.05.425 and 1999 c 13 s 8 are each amended to read
9 as follows:

10 (1)(a) Except as provided in subsection (2) of this section, at the
11 earliest possible date, and in no event later than thirty days before
12 conditional release from commitment, including a court-ordered less
13 restrictive alternative, final ((discharge)) release from commitment,
14 authorized leave under RCW 71.05.325(2), or transfer to a ((~~less-~~
15 ~~restrictive~~)) facility other than a state mental hospital, the
16 superintendent shall send written notice of conditional release,
17 ((~~final-discharge~~)) release from commitment, authorized leave, or
18 transfer of a person committed under RCW 71.05.280(3) or
19 71.05.320(2)(c) following dismissal of a sex, violent, or felony
20 harassment offense pursuant to RCW 10.77.090(4) to the following:

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

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

24 (b) The same notice as required by (a) of this subsection shall be
25 sent to the following, if such notice has been requested in writing
26 about a specific person committed under RCW 71.05.280(3) or
27 71.05.320(2)(c) following dismissal of a sex, violent, or felony
28 harassment offense pursuant to RCW 10.77.090(4):

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

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

35 (iii) Any person specified in writing by the prosecuting attorney.
36 Information regarding victims, next of kin, or witnesses requesting the
37 notice, information regarding any other person specified in writing by
38 the prosecuting attorney to receive the notice, and the notice are

1 confidential and shall not be available to the person committed under
2 this chapter.

3 (c) The thirty-day notice requirements contained in this subsection
4 shall not apply to emergency medical (~~furloughs~~) transfers.

5 (d) The existence of the notice requirements in this subsection
6 will not require any extension of the release from commitment date in
7 the event the release from commitment plan changes after notification.

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

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

27 (4) The superintendent shall send the notices required by this
28 chapter to the last address provided to the department by the
29 requesting party. The requesting party shall furnish the department
30 with a current address.

31 (5) For purposes of this section the following terms have the
32 following meanings:

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

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

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

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

1 **Sec. 11.** RCW 71.05.480 and 1974 ex.s. c 145 s 29 are each amended
2 to read as follows:

3 Nothing contained in this chapter shall prohibit the patient from
4 petitioning by writ of habeas corpus for release from commitment.

5 **Sec. 12.** RCW 71.05.490 and 1997 c 112 s 35 are each amended to
6 read as follows:

7 Nothing in this chapter shall prohibit a person committed on or
8 prior to January 1, 1974, from exercising a right available to him or
9 her at or prior to January 1, 1974, for obtaining release from
10 (~~confinement~~) commitment.

11 **Sec. 13.** RCW 71.05.640 and 1999 c 13 s 9 are each amended to read
12 as follows:

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

17 (2) Following discharge, the individual shall have a right to a
18 complete record of all medications and somatic treatments prescribed
19 during evaluation, admission, or commitment and to a copy of the
20 discharge summary prepared at the time of his or her discharge. A
21 reasonable and uniform charge for reproduction may be assessed.

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

27 (4) At the time of discharge all individuals shall be informed by
28 resource management services of their rights as provided in RCW
29 71.05.610 through 71.05.690.

30 **Sec. 14.** RCW 10.77.010 and 1999 c 143 s 49 and 1999 c 13 s 2 are
31 each reenacted and amended to read as follows:

32 As used in this chapter:

33 (1) "Admission" means acceptance based on medical necessity, of a
34 person as a patient.

35 (2) "County designated mental health professional" has the same
36 meaning as provided in RCW 71.05.020.

1 (~~(2)~~) (3) A "criminally insane" person means any person who has
2 been acquitted of a crime charged by reason of insanity, and thereupon
3 found to be a substantial danger to other persons or to present a
4 substantial likelihood of committing criminal acts jeopardizing public
5 safety or security unless kept under further control by the court or
6 other persons or institutions.

7 (~~(3)~~) (4) "Department" means the state department of social and
8 health services.

9 (~~(4)~~) (5) "Detention" means the legal confinement of a person,
10 under the provisions of this chapter, pending evaluation.

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

17 (~~(5)~~) (7) "Developmental disability" means the condition as
18 defined in RCW 71A.10.020(3).

19 (~~(6)~~) (8) "Discharge" means the termination of hospital medical
20 authority. The legal commitment remains in place or may be amended
21 under the court order.

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

29 (~~(7)~~) (10) "Habilitative services" means those services provided
30 by program personnel to assist persons in acquiring and maintaining
31 life skills and in raising their levels of physical, mental, social,
32 and vocational functioning. Habilitative services include education,
33 training for employment, and therapy. The habilitative process shall
34 be undertaken with recognition of the risk to the public safety
35 presented by the individual being assisted as manifested by prior
36 charged criminal conduct.

37 (~~(8)~~) (11) "History of one or more violent acts" means violent
38 acts committed during: (a) The ten-year period of time prior to the
39 filing of criminal charges; plus (b) the amount of time equal to time

1 spent during the ten-year period in a mental health facility or in
2 confinement as a result of a criminal conviction.

3 ~~((+9+))~~ (12) "Incompetency" means a person lacks the capacity to
4 understand the nature of the proceedings against him or her or to
5 assist in his or her own defense as a result of mental disease or
6 defect.

7 ~~((+10+))~~ (13) "Indigent" means any person who is financially unable
8 to obtain counsel or other necessary expert or professional services
9 without causing substantial hardship to the person or his or her
10 family.

11 ~~((+11+))~~ (14) "Individualized service plan" means a plan prepared
12 by a developmental disabilities professional with other professionals
13 as a team, for an individual with developmental disabilities, which
14 shall state:

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

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

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

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

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

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

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

31 ~~((+12+))~~ (15) "Professional person" means:

32 (a) A psychiatrist licensed as a physician and surgeon in this
33 state who has, in addition, completed three years of graduate training
34 in psychiatry in a program approved by the American medical association
35 or the American osteopathic association and is certified or eligible to
36 be certified by the American board of psychiatry and neurology or the
37 American osteopathic board of neurology and psychiatry;

38 (b) A psychologist licensed as a psychologist pursuant to chapter
39 18.83 RCW; or

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

4 (~~(13)~~) (16) "Release from commitment" means legal termination of
5 the court ordered commitment under the provisions of this chapter.

6 (17) "Secretary" means the secretary of the department of social
7 and health services or his or her designee.

8 (~~(14)~~) (18) "Treatment" means any currently standardized medical
9 or mental health procedure including medication.

10 (~~(15)~~) (19) "Violent act" means behavior that: (a)(i) Resulted
11 in; (ii) if completed as intended would have resulted in; or (iii) was
12 threatened to be carried out by a person who had the intent and
13 opportunity to carry out the threat and would have resulted in,
14 homicide, nonfatal injuries, or substantial damage to property; or (b)
15 recklessly creates an immediate risk of serious physical injury to
16 another person.

17 **Sec. 15.** RCW 10.77.025 and 1998 c 297 s 31 are each amended to
18 read as follows:

19 (1) Whenever any person has been: (a) Committed to a correctional
20 facility or inpatient treatment under any provision of this chapter; or
21 (b) ordered to undergo alternative treatment following his or her
22 acquittal by reason of insanity of a crime charged, such commitment or
23 treatment cannot exceed the maximum possible penal sentence for any
24 offense charged for which the person was committed, or was acquitted by
25 reason of insanity.

26 (2) Whenever any person committed under any provision of this
27 chapter has not been (~~finally discharged~~) released from commitment
28 within seven days of the maximum possible penal sentence under
29 subsection (1) of this section, and the professional person in charge
30 of the facility believes (~~it more likely than not that the person will~~
31 not be finally discharged) that the person should not be released from
32 commitment, the professional person shall, prior to the (~~person's~~
33 release from the facility) expiration of the maximum penal sentence,
34 notify the appropriate county designated mental health professional of
35 the impending (~~release~~) expiration date and provide a copy of all
36 relevant information regarding the person, (~~including the likely~~
37 release date) and shall indicate why (~~final discharge was not~~)
38 release from commitment should not be made.

1 (3) A county designated mental health professional who receives
2 notice and records under subsection (2) of this section shall, prior to
3 the date of (~~probable release~~) the expiration of the maximum
4 sentence, determine whether to initiate proceedings under chapter 71.05
5 RCW.

6 **Sec. 16.** RCW 10.77.110 and 1998 c 297 s 39 are each amended to
7 read as follows:

8 (1) If a defendant is acquitted of a crime by reason of insanity,
9 and it is found that he or she is not a substantial danger to other
10 persons, and does not present a substantial likelihood of committing
11 criminal acts jeopardizing public safety or security, unless kept under
12 further control by the court or other persons or institutions, the
13 court shall direct the defendant's (~~final discharge~~) release from
14 commitment. If it is found that such defendant is a substantial danger
15 to other persons, or presents a substantial likelihood of committing
16 criminal acts jeopardizing public safety or security, unless kept under
17 further control by the court or other persons or institutions, the
18 court shall order his or her hospitalization, or any appropriate
19 alternative treatment less restrictive than detention in a state mental
20 hospital, pursuant to the terms of this chapter.

21 (2) If the defendant has been found not guilty by reason of
22 insanity and a substantial danger, or presents a substantial likelihood
23 of committing criminal acts jeopardizing public safety or security, so
24 as to require treatment then the secretary shall immediately cause the
25 defendant to be evaluated to ascertain if the defendant is
26 developmentally disabled. When appropriate, and subject to available
27 funds, the defendant may be committed to a program specifically
28 reserved for the treatment and training of developmentally disabled
29 persons. A person so committed shall receive habilitation services
30 according to an individualized service plan specifically developed to
31 treat the behavior which was the subject of the criminal proceedings.
32 The treatment program shall be administered by developmental
33 disabilities professionals and others trained specifically in the needs
34 of developmentally disabled persons. The treatment program shall
35 provide physical security to a degree consistent with the finding that
36 the defendant is dangerous and may incorporate varying conditions of
37 security and alternative sites when the dangerousness of any particular
38 defendant makes this necessary. The department may limit admissions to

1 this specialized program in order to ensure that expenditures for
2 services do not exceed amounts appropriated by the legislature and
3 allocated by the department for such services. The department may
4 establish admission priorities in the event that the number of eligible
5 persons exceeds the limits set by the department.

6 (3) If it is found that such defendant is not a substantial danger
7 to other persons, and does not present a substantial likelihood of
8 committing criminal acts jeopardizing public safety or security, but
9 that he or she is in need of control by the court or other persons or
10 institutions, the court shall direct the defendant's conditional
11 release.

12 **Sec. 17.** RCW 10.77.120 and 1989 c 420 s 7 are each amended to read
13 as follows:

14 The secretary shall forthwith provide adequate care and
15 individualized treatment at one or several of the state institutions or
16 facilities under his or her direction and control wherein persons
17 committed as criminally insane may be confined. Such persons shall be
18 under the custody and control of the secretary to the same extent as
19 are other persons who are committed to the secretary's custody, but
20 such provision shall be made for their control, care, and treatment as
21 is proper in view of their condition. In order that the secretary may
22 adequately determine the nature of the mental illness or developmental
23 disability of the person committed to him or her as criminally insane,
24 and in order for the secretary to place such individuals in a proper
25 facility, all persons who are committed to the secretary as criminally
26 insane shall be promptly examined by qualified personnel in such a
27 manner as to provide a proper evaluation and diagnosis of such
28 individual. The examinations of all developmentally disabled persons
29 committed under this chapter shall be performed by developmental
30 disabilities professionals. Any person so committed shall not be
31 (~~discharged~~) released from the control of the secretary save upon the
32 order of a court of competent jurisdiction made after a hearing and
33 judgment of (~~discharge~~) release from commitment.

34 Whenever there is a hearing which the committed person is entitled
35 to attend, the secretary shall send him or her in the custody of one or
36 more department employees to the county where the hearing is to be held
37 at the time the case is called for trial. During the time the person
38 is absent from the facility, he or she shall be confined in a facility

1 designated by and arranged for by the department, and shall at all
2 times be deemed to be in the custody of the department employee and
3 provided necessary treatment. If the decision of the hearing remits
4 the person to custody, the department employee shall forthwith return
5 the person to such institution or facility designated by the secretary.
6 If the state appeals an order of (~~discharge~~) release from commitment,
7 such appeal shall operate as a stay, and the person in custody shall so
8 remain and be forthwith returned to the institution or facility
9 designated by the secretary until a final decision has been rendered in
10 the cause.

11 **Sec. 18.** RCW 10.77.200 and 1998 c 297 s 44 are each amended to
12 read as follows:

13 (1) Upon application by the committed or conditionally released
14 person, the secretary shall determine whether or not reasonable grounds
15 exist for (~~final discharge~~) release from commitment. In making this
16 determination, the secretary may consider the reports filed under RCW
17 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and
18 evaluations provided by professionals familiar with the case. If the
19 secretary approves the (~~final discharge~~) release from commitment he
20 or she then shall authorize the person to petition the court.

21 (2) The petition shall be served upon the court and the prosecuting
22 attorney. The court, upon receipt of the petition for (~~final
23 discharge~~) release from commitment, shall within forty-five days order
24 a hearing. Continuance of the hearing date shall only be allowed for
25 good cause shown. The prosecuting attorney shall represent the state,
26 and shall have the right to have the petitioner examined by an expert
27 or professional person of the prosecuting attorney's choice. If the
28 petitioner is indigent, and the person so requests, the court shall
29 appoint a qualified expert or professional person to examine him or
30 her. If the petitioner is developmentally disabled, the examination
31 shall be performed by a developmental disabilities professional. The
32 hearing shall be before a jury if demanded by either the petitioner or
33 the prosecuting attorney. The burden of proof shall be upon the
34 petitioner to show by a preponderance of the evidence that the
35 petitioner no longer presents, as a result of a mental disease or
36 defect, a substantial danger to other persons, or a substantial
37 likelihood of committing criminal acts jeopardizing public safety or

1 security, unless kept under further control by the court or other
2 persons or institutions.

3 (3) Nothing contained in this chapter shall prohibit the patient
4 from petitioning the court for (~~final discharge~~) release from
5 commitment or conditional release from the institution in which he or
6 she is committed. The issue to be determined on such proceeding is
7 whether the petitioner, as a result of a mental disease or defect, is
8 a substantial danger to other persons, or presents a substantial
9 likelihood of committing criminal acts jeopardizing public safety or
10 security, unless kept under further control by the court or other
11 persons or institutions.

12 Nothing contained in this chapter shall prohibit the committed
13 person from petitioning for release from commitment by writ of habeas
14 corpus.

15 **Sec. 19.** RCW 10.77.205 and 1994 c 129 s 5 are each amended to read
16 as follows:

17 (1)(a) At the earliest possible date, and in no event later than
18 thirty days before conditional release, (~~final discharge~~) release
19 from commitment, authorized furlough pursuant to RCW 10.77.163, or
20 transfer to a less-restrictive facility than a state mental hospital,
21 the superintendent shall send written notice of the conditional
22 release, (~~final discharge~~) release from commitment, authorized
23 furlough, or transfer of a person who has been found not guilty of a
24 sex, violent, or felony harassment offense by reason of insanity and
25 who is now in the custody of the department pursuant to this chapter,
26 to the following:

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

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

30 (b) The same notice as required by (a) of this subsection shall be
31 sent to the following, if such notice has been requested in writing
32 about a specific person committed under this chapter:

33 (i) The victim of the crime for which the person was committed or
34 the victim's next of kin if the crime was a homicide;

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

37 (iii) Any person specified in writing by the prosecuting attorney.

1 Information regarding victims, next of kin, or witnesses requesting the
2 notice, information regarding any other person specified in writing by
3 the prosecuting attorney to receive the notice, and the notice are
4 confidential and shall not be available to the person committed under
5 this chapter.

6 (c) In addition to the notice requirements of (a) and (b) of this
7 subsection, the superintendent shall comply with RCW 10.77.163.

8 (d) The thirty-day notice requirement contained in (a) and (b) of
9 this subsection shall not apply to emergency medical furloughs.

10 (e) The existence of the notice requirements in (a) and (b) of this
11 subsection shall not require any extension of the release date in the
12 event the release plan changes after notification.

13 (2) If a person who has been found not guilty of a sex, violent, or
14 felony harassment offense by reason of insanity and who is committed
15 under this chapter escapes, the superintendent shall immediately
16 notify, by the most reasonable and expedient means available, the chief
17 of police of the city and the sheriff of the county in which the person
18 resided immediately before the person's arrest. If previously
19 requested, the superintendent shall also notify the witnesses and the
20 victim, if any, of the crime for which the person was committed or the
21 victim's next of kin if the crime was a homicide. The superintendent
22 shall also notify appropriate persons pursuant to RCW 10.77.165. If
23 the person is recaptured, the secretary shall send notice to the
24 persons designated in this subsection as soon as possible but in no
25 event later than two working days after the department learns of such
26 recapture.

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

30 (4) The department shall send the notices required by this chapter
31 to the last address provided to the department by the requesting party.
32 The requesting party shall furnish the department with a current
33 address.

34 (5) For purposes of this section the following terms have the
35 following meanings:

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

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

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

1 (d) "Authorized furlough" means a furlough granted after compliance
2 with RCW 10.77.163;

3 (e) "Felony harassment offense" means a crime of harassment as
4 defined in RCW 9A.46.060 that is a felony.

5 **Sec. 20.** RCW 49.19.010 and 1999 c 377 s 2 are each amended to read
6 as follows:

7 For purposes of this chapter:

8 (1) "Health care setting" means:

9 (a) Hospitals as defined in RCW 70.41.020;

10 (b) Home health, hospice, and home care agencies under chapter
11 70.127 RCW, subject to RCW 49.19.070;

12 (c) Evaluation and treatment facilities as defined in RCW
13 71.05.020(~~(+8)~~) (12); and

14 (d) Community mental health programs as defined in RCW
15 71.24.025(~~(+8)~~) (5).

16 (2) "Department" means the department of labor and industries.

17 (3) "Employee" means an employee as defined in RCW 49.17.020.

18 (4) "Violence" or "violent act" means any physical assault or
19 verbal threat of physical assault against an employee of a health care
20 setting.

--- END ---