

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6487

56th Legislature
2000 Regular Session

Passed by the Senate March 7, 2000
YEAS 39 NAYS 4

President of the Senate

Passed by the House March 1, 2000
YEAS 98 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6487** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6487

AS AMENDED BY THE HOUSE

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Sheahan and Winsley; by request of Department of Social and Health Services and Department of Corrections)

Read first time 02/03/2000.

1 AN ACT Relating to information concerning mental health services
2 provided to offenders; amending RCW 71.05.630, 71.05.390, and
3 71.34.200; reenacting and amending RCW 9.94A.110; adding a new section
4 to chapter 71.34 RCW; adding a new section to chapter 71.05 RCW; adding
5 a new section to chapter 72.09 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 enhance and facilitate the ability of the department of corrections to
9 carry out its responsibility of planning and ensuring community
10 protection with respect to persons subject to sentencing under chapter
11 9.94A RCW by authorizing access to, and release or disclosure of,
12 necessary information related to mental health services. This includes
13 accessing and releasing or disclosing information of persons who
14 received mental health services as a minor. The legislature does not
15 intend this act to readdress access to information and records
16 regarding continuity of care.

17 The legislature recognizes that persons with mental illness have a
18 right to the confidentiality of information related to mental health
19 services, including the fact of their receiving such services, unless

1 there is a state interest that supersedes this right. It is the intent
2 of the legislature to balance that right of the individual with the
3 state interest to enhance public safety.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.34 RCW
5 to read as follows:

6 (1) The definitions in this subsection apply throughout this
7 section unless the context clearly requires otherwise.

8 (a) "Information related to mental health services" means all
9 information and records compiled, obtained, or maintained in the course
10 of providing services to either voluntary or involuntary recipients of
11 services by a mental health service provider. This may include
12 documents of legal proceedings under this chapter or chapter 71.05 or
13 10.77 RCW, or somatic health care information.

14 (b) "Mental health service provider" means a public or private
15 agency that provides services to persons with mental disorders as
16 defined under RCW 71.34.020 and receives funding from public sources.
17 This includes evaluation and treatment facilities as defined in RCW
18 71.34.020, community mental health service delivery systems, or
19 community mental health programs, as defined in RCW 71.24.025, and
20 facilities conducting competency evaluations and restoration under
21 chapter 10.77 RCW.

22 (2) Information related to mental health services delivered to a
23 person subject to chapter 9.94A RCW shall be released, upon request, by
24 a mental health service provider to department of corrections personnel
25 for whom the information is necessary to carry out the responsibilities
26 of their office. The information must be provided only for the purpose
27 of completing presentence investigations, supervision of an
28 incarcerated person, planning for and provision of supervision of a
29 person, or assessment of a person's risk to the community. The request
30 shall be in writing and shall not require the consent of the subject of
31 the records.

32 (3) The information to be released to the department of corrections
33 shall include all relevant records and reports, as defined by rule,
34 necessary for the department of corrections to carry out its duties,
35 including those records and reports identified in subsection (2) of
36 this section.

37 (4) The department and the department of corrections, in
38 consultation with regional support networks, mental health service

1 providers as defined in subsection (1) of this section, mental health
2 consumers, and advocates for persons with mental illness, shall adopt
3 rules to implement the provisions of this section related to the type
4 and scope of information to be released. These rules shall:

5 (a) Enhance and facilitate the ability of the department of
6 corrections to carry out its responsibility of planning and ensuring
7 community protection with respect to persons subject to sentencing
8 under chapter 9.94A RCW, including accessing and releasing or
9 disclosing information of persons who received mental health services
10 as a minor; and

11 (b) Establish requirements for the notification of persons under
12 the supervision of the department of corrections regarding the
13 provisions of this section.

14 (5) The information received by the department of corrections under
15 this section shall remain confidential and subject to the limitations
16 on disclosure outlined in RCW 71.34.200, except as provided in section
17 4 of this act.

18 (6) No mental health service provider or individual employed by a
19 mental health service provider shall be held responsible for
20 information released to or used by the department of corrections under
21 the provisions of this section or rules adopted under this section.

22 (7) Whenever federal law or federal regulations restrict the
23 release of information contained in the treatment records of any
24 patient who receives treatment for alcoholism or drug dependency, the
25 release of the information may be restricted as necessary to comply
26 with federal law and regulations.

27 (8) This section does not modify the terms and conditions of
28 disclosure of information related to sexually transmitted diseases
29 under chapter 70.24 RCW.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05 RCW
31 to read as follows:

32 (1) The definitions in this subsection apply throughout this
33 section unless the context clearly requires otherwise.

34 (a) "Information related to mental health services" means all
35 information and records compiled, obtained, or maintained in the course
36 of providing services to either voluntary or involuntary recipients of
37 services by a mental health service provider. This may include

1 documents of legal proceedings under this chapter or chapter 71.34 or
2 10.77 RCW, or somatic health care information.

3 (b) "Mental health service provider" means a public or private
4 agency that provides services to persons with mental disorders as
5 defined under RCW 71.05.020 and receives funding from public sources.
6 This includes evaluation and treatment facilities as defined in RCW
7 71.05.020, community mental health service delivery systems, or
8 community mental health programs as defined in RCW 71.24.025, and
9 facilities conducting competency evaluations and restoration under
10 chapter 10.77 RCW.

11 (2) Information related to mental health services delivered to a
12 person subject to chapter 9.94A RCW shall be released, upon request, by
13 a mental health service provider to department of corrections personnel
14 for whom the information is necessary to carry out the responsibilities
15 of their office. The information must be provided only for the purpose
16 of completing presentence investigations, supervision of an
17 incarcerated person, planning for and provision of supervision of a
18 person, or assessment of a person's risk to the community. The request
19 shall be in writing and shall not require the consent of the subject of
20 the records.

21 (3) The information to be released to the department of corrections
22 shall include all relevant records and reports, as defined by rule,
23 necessary for the department of corrections to carry out its duties,
24 including those records and reports identified in subsection (2) of
25 this section.

26 (4) The department and the department of corrections, in
27 consultation with regional support networks, mental health service
28 providers as defined in subsection (1) of this section, mental health
29 consumers, and advocates for persons with mental illness, shall adopt
30 rules to implement the provisions of this section related to the type
31 and scope of information to be released. These rules shall:

32 (a) Enhance and facilitate the ability of the department of
33 corrections to carry out its responsibility of planning and ensuring
34 community protection with respect to persons subject to sentencing
35 under chapter 9.94A RCW, including accessing and releasing or
36 disclosing information of persons who received mental health services
37 as a minor; and

1 (b) Establish requirements for the notification of persons under
2 the supervision of the department of corrections regarding the
3 provisions of this section.

4 (5) The information received by the department of corrections under
5 this section shall remain confidential and subject to the limitations
6 on disclosure outlined in chapter 71.05 RCW, except as provided in
7 section 4 of this act.

8 (6) No mental health service provider or individual employed by a
9 mental health service provider shall be held responsible for
10 information released to or used by the department of corrections under
11 the provisions of this section or rules adopted under this section
12 except under RCW 71.05.670 and 71.05.440.

13 (7) Whenever federal law or federal regulations restrict the
14 release of information contained in the treatment records of any
15 patient who receives treatment for alcoholism or drug dependency, the
16 release of the information may be restricted as necessary to comply
17 with federal law and regulations.

18 (8) This section does not modify the terms and conditions of
19 disclosure of information related to sexually transmitted diseases
20 under chapter 70.24 RCW.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW
22 to read as follows:

23 (1) The information received by the department under section 2 or
24 3 of this act may be released to the indeterminate sentence review
25 board as relevant to carry out its responsibility of planning and
26 ensuring community protection with respect to persons under its
27 jurisdiction. Further disclosure by the indeterminate sentence review
28 board is subject to the limitations set forth in subsections (3) and
29 (4) of this section and must be consistent with the written policy of
30 the indeterminate sentence review board. The decision to disclose or
31 not shall not result in civil liability for the indeterminate sentence
32 review board or its employees provided that the decision was reached in
33 good faith and without gross negligence.

34 (2) The information received by the department under section 2 or
35 3 of this act may be used to meet the statutory duties of the
36 department to provide evidence or report to the court. Disclosure to
37 the public of information provided to the court by the department

1 related to mental health services shall be limited in accordance with
2 RCW 9.94A.110 or this section.

3 (3) The information received by the department under section 2 or
4 3 of this act may be disclosed by the department to other state and
5 local agencies as relevant to plan for and provide offenders
6 transition, treatment, and supervision services, or as relevant and
7 necessary to protect the public and counteract the danger created by a
8 particular offender, and in a manner consistent with the written policy
9 established by the secretary. The decision to disclose or not shall
10 not result in civil liability for the department or its employees so
11 long as the decision was reached in good faith and without gross
12 negligence. The information received by a state or local agency from
13 the department shall remain confidential and subject to the limitations
14 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,
15 subject to these limitations, may be released only as relevant and
16 necessary to counteract the danger created by a particular offender.

17 (4) The information received by the department under section 2 or
18 3 of this act may be disclosed by the department to individuals only
19 with respect to offenders who have been determined by the department to
20 have a high risk of reoffending by a risk assessment, as defined in RCW
21 9.94A.030, only as relevant and necessary for those individuals to take
22 reasonable steps for the purpose of self-protection, or as provided in
23 RCW 72.09.370(2). The information may not be disclosed for the purpose
24 of engaging the public in a system of supervision, monitoring, and
25 reporting offender behavior to the department. The department must
26 limit the disclosure of information related to mental health services
27 to the public to descriptions of an offender's behavior, risk he or she
28 may present to the community, and need for mental health treatment,
29 including medications, and shall not disclose or release to the public
30 copies of treatment documents or records, except as otherwise provided
31 by law. All disclosure of information to the public must be done in a
32 manner consistent with the written policy established by the secretary.
33 The decision to disclose or not shall not result in civil liability for
34 the department or its employees so long as the decision was reached in
35 good faith and without gross negligence. Nothing in this subsection
36 prevents any person from reporting to law enforcement or the department
37 behavior that he or she believes creates a public safety risk.

1 **Sec. 5.** RCW 71.05.630 and 1989 c 205 s 13 are each amended to read
2 as follows:

3 (1) Except as otherwise provided by law, all treatment records
4 shall remain confidential. Treatment records may be released only to
5 the persons designated in this section, or to other persons designated
6 in an informed written consent of the patient.

7 (2) Treatment records of an individual may be released without
8 informed written consent in the following circumstances:

9 (a) To an individual, organization, or agency as necessary for
10 management or financial audits, or program monitoring and evaluation.
11 Information obtained under this subsection shall remain confidential
12 and may not be used in a manner that discloses the name or other
13 identifying information about the individual whose records are being
14 released.

15 (b) To the department, the director of regional support networks,
16 or a qualified staff member designated by the director only when
17 necessary to be used for billing or collection purposes. The
18 information shall remain confidential.

19 (c) For purposes of research as permitted in chapter 42.48 RCW.

20 (d) Pursuant to lawful order of a court.

21 (e) To qualified staff members of the department, to the director
22 of regional support networks, to resource management services
23 responsible for serving a patient, or to service providers designated
24 by resource management services as necessary to determine the progress
25 and adequacy of treatment and to determine whether the person should be
26 transferred to a less restrictive or more appropriate treatment
27 modality or facility. The information shall remain confidential.

28 (f) Within the treatment facility where the patient is receiving
29 treatment, confidential information may be disclosed to individuals
30 employed, serving in bona fide training programs, or participating in
31 supervised volunteer programs, at the facility when it is necessary to
32 perform their duties.

33 (g) Within the department as necessary to coordinate treatment for
34 mental illness, developmental disabilities, alcoholism, or drug abuse
35 of individuals who are under the supervision of the department.

36 (h) To a licensed physician who has determined that the life or
37 health of the individual is in danger and that treatment without the
38 information contained in the treatment records could be injurious to

1 the patient's health. Disclosure shall be limited to the portions of
2 the records necessary to meet the medical emergency.

3 (i) To a facility that is to receive an individual who is
4 involuntarily committed under chapter 71.05 RCW, or upon transfer of
5 the individual from one treatment facility to another. The release of
6 records under this subsection shall be limited to the treatment records
7 required by law, a record or summary of all somatic treatments, and a
8 discharge summary. The discharge summary may include a statement of
9 the patient's problem, the treatment goals, the type of treatment which
10 has been provided, and recommendation for future treatment, but may not
11 include the patient's complete treatment record.

12 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a
13 correctional facility or a corrections officer who is responsible for
14 the supervision of an individual who is receiving inpatient or
15 outpatient evaluation or treatment. (~~Every person who is under the~~
16 ~~supervision of the department of corrections who receives evaluation or~~
17 ~~treatment under chapter 9.94A RCW shall be notified of the provisions~~
18 ~~of this section by the individual's corrections officer.)) Except as
19 provided in sections 2 and 3 of this act, release of records under this
20 section is limited to:~~

21 (i) An evaluation report provided pursuant to a written supervision
22 plan.

23 (ii) The discharge summary, including a record or summary of all
24 somatic treatments, at the termination of any treatment provided as
25 part of the supervision plan.

26 (iii) When an individual is returned from a treatment facility to
27 a correctional facility, the information provided under (j)(iv) of this
28 subsection.

29 (iv) Any information necessary to establish or implement changes in
30 the individual's treatment plan or the level or kind of supervision as
31 determined by resource management services. In cases involving a
32 person transferred back to a correctional facility, disclosure shall be
33 made to clinical staff only. (~~In cases involving a person under~~
34 ~~supervision of the department of corrections, disclosure shall be made~~
35 ~~to the supervising corrections officer only.))~~

36 (k) To the individual's counsel or guardian ad litem, without
37 modification, at any time in order to prepare for involuntary
38 commitment or recommitment proceedings, reexaminations, appeals, or

1 other actions relating to detention, admission, commitment, or
2 patient's rights under chapter 71.05 RCW.

3 ~~(1) ((To a corrections officer of the department who has custody of
4 or is responsible for the supervision of an individual who is
5 transferred or discharged from a treatment facility.~~

6 (m)) To staff members of the protection and advocacy agency or to
7 staff members of a private, nonprofit corporation for the purpose of
8 protecting and advocating the rights of persons with mental illness or
9 developmental disabilities. Resource management services may limit the
10 release of information to the name, birthdate, and county of residence
11 of the patient, information regarding whether the patient was
12 voluntarily admitted, or involuntarily committed, the date and place of
13 admission, placement, or commitment, the name and address of a guardian
14 of the patient, and the date and place of the guardian's appointment.
15 Any staff member who wishes to obtain additional information shall
16 notify the patient's resource management services in writing of the
17 request and of the resource management services' right to object. The
18 staff member shall send the notice by mail to the guardian's address.
19 If the guardian does not object in writing within fifteen days after
20 the notice is mailed, the staff member may obtain the additional
21 information. If the guardian objects in writing within fifteen days
22 after the notice is mailed, the staff member may not obtain the
23 additional information.

24 (3) Whenever federal law or federal regulations restrict the
25 release of information contained in the treatment records of any
26 patient who receives treatment for alcoholism or drug dependency, the
27 department may restrict the release of the information as necessary to
28 comply with federal law and regulations.

29 **Sec. 6.** RCW 71.05.390 and 1999 c 12 s 1 are each amended to read
30 as follows:

31 Except as provided in this section, the fact of admission and all
32 information and records compiled, obtained, or maintained in the course
33 of providing services to either voluntary or involuntary recipients of
34 services at public or private agencies shall be confidential.

35 Information and records may be disclosed only:

36 (1) In communications between qualified professional persons to
37 meet the requirements of this chapter, in the provision of services or
38 appropriate referrals, or in the course of guardianship proceedings.

1 The consent of the patient, or his or her guardian, shall be obtained
2 before information or records may be disclosed by a professional person
3 employed by a facility unless provided to a professional person: (a)
4 Employed by the facility; (b) who has medical responsibility for the
5 patient's care; (c) who is a county designated mental health
6 professional; (d) who is providing services under chapter 71.24 RCW;
7 (e) who is employed by a state or local correctional facility where the
8 person is confined; or (f) who is providing evaluation, treatment, or
9 follow-up services under chapter 10.77 RCW.

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

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

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

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

26 "As a condition of conducting evaluation or research concerning
27 persons who have received services from (fill in the facility, agency,
28 or person) I,, agree not to divulge, publish, or
29 otherwise make known to unauthorized persons or the public any
30 information obtained in the course of such evaluation or research
31 regarding persons who have received services such that the person who
32 received such services is identifiable.

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

35 /s/ "

36 (6) To the courts as necessary to the administration of this
37 chapter.

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

12 (a) Only the fact, place, and date of involuntary admission, the
13 fact and date of discharge, and the last known address shall be
14 disclosed upon request; and

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

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

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

29 (9) To the prosecuting attorney as necessary to carry out the
30 responsibilities of the office under RCW 71.05.330(2) and
31 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
32 to records regarding the committed person's treatment and prognosis,
33 medication, behavior problems, and other records relevant to the issue
34 of whether treatment less restrictive than inpatient treatment is in
35 the best interest of the committed person or others. Information shall
36 be disclosed only after giving notice to the committed person and the
37 person's counsel.

38 (10) To appropriate law enforcement agencies and to a person, when
39 the identity of the person is known to the public or private agency,

1 whose health and safety has been threatened, or who is known to have
2 been repeatedly harassed, by the patient. The person may designate a
3 representative to receive the disclosure. The disclosure shall be made
4 by the professional person in charge of the public or private agency or
5 his or her designee and shall include the dates of admission,
6 discharge, authorized or unauthorized absence from the agency's
7 facility, and only such other information that is pertinent to the
8 threat or harassment. The decision to disclose or not shall not result
9 in civil liability for the agency or its employees so long as the
10 decision was reached in good faith and without gross negligence.

11 (11) To appropriate law enforcement agencies, upon request, all
12 necessary and relevant information in the event of a crisis or emergent
13 situation that poses a significant and imminent risk to the public.
14 The decision to disclose or not shall not result in civil liability for
15 the mental health service provider or its employees so long as the
16 decision was reached in good faith and without gross negligence.

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

19 ~~((12))~~ (13) Civil liability and immunity for the release of
20 information about a particular person who is committed to the
21 department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal
22 of a sex offense as defined in RCW 9.94A.030, is governed by RCW
23 4.24.550.

24 ~~((13))~~ (14) To a patient's next of kin, guardian, or conservator,
25 if any, in the event of death, as provided in RCW 71.05.400.

26 ~~((14))~~ (15) To the department of health ((ef)) for the purposes
27 of determining compliance with state or federal licensure,
28 certification, or registration rules or laws. However, the information
29 and records obtained under this subsection are exempt from public
30 inspection and 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. 7.** RCW 71.34.200 and 1985 c 354 s 18 are each amended to read
9 as follows:

10 The fact of admission and all information obtained through
11 treatment under this chapter is confidential. Confidential information
12 may be disclosed only:

13 (1) In communications between mental health professionals to meet
14 the requirements of this chapter, in the provision of services to the
15 minor, or in making appropriate referrals;

16 (2) In the course of guardianship or dependency proceedings;

17 (3) To persons with medical responsibility for the minor's care;

18 (4) To the minor, the minor's parent, and the minor's attorney,
19 subject to RCW 13.50.100;

20 (5) When the minor or the minor's parent (~~designate[s]~~)
21 designates in writing the persons to whom information or records may be
22 released;

23 (6) To the extent necessary to make a claim for financial aid,
24 insurance, or medical assistance to which the minor may be entitled or
25 for the collection of fees or costs due to providers for services
26 rendered under this chapter;

27 (7) To the courts as necessary to the administration of this
28 chapter;

29 (8) To law enforcement officers or public health officers as
30 necessary to carry out the responsibilities of their office. However,
31 only the fact and date of admission, and the date of discharge, the
32 name and address of the treatment provider, if any, and the last known
33 address shall be disclosed upon request;

34 (9) To law enforcement officers, public health officers, relatives,
35 and other governmental law enforcement agencies, if a minor has escaped
36 from custody, disappeared from an evaluation and treatment facility,
37 violated conditions of a less restrictive treatment order, or failed to
38 return from an authorized leave, and then only such information as may

1 be necessary to provide for public safety or to assist in the
2 apprehension of the minor. The officers are obligated to keep the
3 information confidential in accordance with this chapter;

4 (10) To the secretary for assistance in data collection and program
5 evaluation or research, provided that the secretary adopts rules for
6 the conduct of such evaluation and research. The rules shall include,
7 but need not be limited to, the requirement that all evaluators and
8 researchers sign an oath of confidentiality substantially as follows:

9 "As a condition of conducting evaluation or research concerning
10 persons who have received services from (fill in the facility, agency,
11 or person) I,, agree not to divulge, publish, or otherwise
12 make known to unauthorized persons or the public any information
13 obtained in the course of such evaluation or research regarding minors
14 who have received services in a manner such that the minor is
15 identifiable.

16 I recognize that unauthorized release of confidential information
17 may subject me to civil liability under state law.

18 /s/ "

19 (11) To appropriate law enforcement agencies, upon request, all
20 necessary and relevant information in the event of a crisis or emergent
21 situation that poses a significant and imminent risk to the public.
22 The decision to disclose or not shall not result in civil liability for
23 the mental health service provider or its employees so long as the
24 decision was reached in good faith and without gross negligence;

25 (12) To appropriate law enforcement agencies and to a person, when
26 the identity of the person is known to the public or private agency,
27 whose health and safety has been threatened, or who is known to have
28 been repeatedly harassed, by the patient. The person may designate a
29 representative to receive the disclosure. The disclosure shall be made
30 by the professional person in charge of the public or private agency or
31 his or her designee and shall include the dates of admission,
32 discharge, authorized or unauthorized absence from the agency's
33 facility, and only such other information that is pertinent to the
34 threat or harassment. The decision to disclose or not shall not result
35 in civil liability for the agency or its employees so long as the
36 decision was reached in good faith and without gross negligence;

37 ((+12+)) (13) To a minor's next of kin, attorney, guardian, or
38 conservator, if any, the information that the minor is presently in the

1 facility or that the minor is seriously physically ill and a statement
2 evaluating the mental and physical condition of the minor as well as a
3 statement of the probable duration of the minor's confinement;

4 ~~((13))~~ (14) Upon the death of a minor, to the minor's next of
5 kin;

6 ~~((14))~~ (15) To a facility in which the minor resides or will
7 reside.

8 This section shall not be construed to prohibit the compilation and
9 publication of statistical data for use by government or researchers
10 under standards, including standards to assure maintenance of
11 confidentiality, set forth by the secretary. The fact of admission and
12 all information obtained pursuant to this chapter are not admissible as
13 evidence in any legal proceeding outside this chapter, except
14 guardianship or dependency, without the written consent of the minor or
15 the minor's parent.

16 **Sec. 8.** RCW 9.94A.110 and 1999 c 197 s 3 and 1999 c 196 s 4 are
17 each reenacted and amended to read as follows:

18 (1) Before imposing a sentence upon a defendant, the court shall
19 conduct a sentencing hearing. The sentencing hearing shall be held
20 within forty court days following conviction. Upon the motion of
21 either party for good cause shown, or on its own motion, the court may
22 extend the time period for conducting the sentencing hearing.

23 Except in cases where the defendant shall be sentenced to a term of
24 total confinement for life without the possibility of release or, when
25 authorized by RCW 10.95.030 for the crime of aggravated murder in the
26 first degree, sentenced to death, the court may order the department to
27 complete a risk assessment report. If available before sentencing, the
28 report shall be provided to the court.

29 Unless specifically waived by the court, the court shall order the
30 department to complete a chemical dependency screening report before
31 imposing a sentence upon a defendant who has been convicted of a
32 violation of the uniform controlled substances act under chapter 69.50
33 RCW or a criminal solicitation to commit such a violation under chapter
34 9A.28 RCW where the court finds that the offender has a chemical
35 dependency that has contributed to his or her offense. In addition,
36 the court shall, at the time of plea or conviction, order the
37 department to complete a presentence report before imposing a sentence
38 upon a defendant who has been convicted of a felony sexual offense.

1 The department of corrections shall give priority to presentence
2 investigations for sexual offenders. If the court determines that the
3 defendant may be a mentally ill person as defined in RCW 71.24.025,
4 although the defendant has not established that at the time of the
5 crime he or she lacked the capacity to commit the crime, was
6 incompetent to commit the crime, or was insane at the time of the
7 crime, the court shall order the department to complete a presentence
8 report before imposing a sentence.

9 The court shall consider the risk assessment report and presentence
10 reports, if any, including any victim impact statement and criminal
11 history, and allow arguments from the prosecutor, the defense counsel,
12 the offender, the victim, the survivor of the victim, or a
13 representative of the victim or survivor, and an investigative law
14 enforcement officer as to the sentence to be imposed.

15 If the court is satisfied by a preponderance of the evidence that
16 the defendant has a criminal history, the court shall specify the
17 convictions it has found to exist. All of this information shall be
18 part of the record. Copies of all risk assessment reports and
19 presentence reports presented to the sentencing court and all written
20 findings of facts and conclusions of law as to sentencing entered by
21 the court shall be sent to the department by the clerk of the court at
22 the conclusion of the sentencing and shall accompany the offender if
23 the offender is committed to the custody of the department. Court
24 clerks shall provide, without charge, certified copies of documents
25 relating to criminal convictions requested by prosecuting attorneys.

26 (2) To prevent wrongful disclosure of information related to mental
27 health services, as defined in sections 2 and 3 of this act, a court
28 may take only those steps necessary during a sentencing hearing or any
29 hearing in which the department presents information related to mental
30 health services to the court. The steps may be taken on motion of the
31 defendant, the prosecuting attorney, or on the court's own motion. The
32 court may seal the portion of the record relating to information
33 relating to mental health services, exclude the public from the hearing
34 during presentation or discussion of information relating to mental
35 health services, or grant other relief to achieve the result intended
36 by this subsection, but nothing in this subsection shall be construed
37 to prevent the subsequent release of information related to mental
38 health services as authorized by sections 2 through 4 of this act. Any
39 person who otherwise is permitted to attend any hearing pursuant to

1 chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely
2 because the department intends to disclose or discloses information
3 related to mental health services.

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