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HOUSE BILL 2476

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Lovick, O'Brien, Ballasiotes, Edwards, Ogden and Kenney; by request of Department of Corrections, Indeterminate Sentence Review Board and Department of Social and Health Services

Read first time 01/18/2002. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to information concerning mental health services  
2 provided to offenders; and amending RCW 71.34.225 and 71.05.445.

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

4 **Sec. 1.** RCW 71.34.225 and 2000 c 75 s 2 are each amended to read  
5 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

1 facilities conducting competency evaluations and restoration under  
2 chapter 10.77 RCW.

3 (2) Information related to mental health services delivered to a  
4 person subject to chapter 9.94A or 9.95 RCW shall be released, upon  
5 request, by a mental health service provider to department of  
6 corrections personnel for whom the information is necessary to carry  
7 out the responsibilities of their office. The information must be  
8 provided only for the purpose of completing presentence investigations,  
9 supervision of an incarcerated person, planning for and provision of  
10 supervision of a person, or assessment of a person's risk to the  
11 community. The request shall be in writing and shall not require the  
12 consent of the subject of the records.

13 (3) The information to be released to the department of corrections  
14 shall include all relevant records and reports, as defined by rule,  
15 necessary for the department of corrections to carry out its duties,  
16 including those records and reports identified in subsection (2) of  
17 this section.

18 (4) The department and the department of corrections, in  
19 consultation with regional support networks, mental health service  
20 providers as defined in subsection (1) of this section, mental health  
21 consumers, and advocates for persons with mental illness, shall adopt  
22 rules to implement the provisions of this section related to the type  
23 and scope of information to be released. These rules shall:

24 (a) Enhance and facilitate the ability of the department of  
25 corrections to carry out its responsibility of planning and ensuring  
26 community protection with respect to persons subject to sentencing  
27 under chapter 9.94A or 9.95 RCW, including accessing and releasing or  
28 disclosing information of persons who received mental health services  
29 as a minor; and

30 (b) Establish requirements for the notification of persons under  
31 the supervision of the department of corrections regarding the  
32 provisions of this section.

33 (5) The information received by the department of corrections under  
34 this section shall remain confidential and subject to the limitations  
35 on disclosure outlined in RCW 71.34.200, except as provided in RCW  
36 72.09.585.

37 (6) No mental health service provider or individual employed by a  
38 mental health service provider shall be held responsible for

1 information released to or used by the department of corrections under  
2 the provisions of this section or rules adopted under this section.

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

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

11 **Sec. 2.** RCW 71.05.445 and 2000 c 75 s 3 are each amended to read  
12 as follows:

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

15 (a) "Information related to mental health services" means all  
16 information and records compiled, obtained, or maintained in the course  
17 of providing services to either voluntary or involuntary recipients of  
18 services by a mental health service provider. This may include  
19 documents of legal proceedings under this chapter or chapter 71.34 or  
20 10.77 RCW, or somatic health care information.

21 (b) "Mental health service provider" means a public or private  
22 agency that provides services to persons with mental disorders as  
23 defined under RCW 71.05.020 and receives funding from public sources.  
24 This includes evaluation and treatment facilities as defined in RCW  
25 71.05.020, community mental health service delivery systems, or  
26 community mental health programs as defined in RCW 71.24.025, and  
27 facilities conducting competency evaluations and restoration under  
28 chapter 10.77 RCW.

29 (2) Information related to mental health services delivered to a  
30 person subject to chapter 9.94A or 9.95 RCW shall be released, upon  
31 request, by a mental health service provider to department of  
32 corrections personnel for whom the information is necessary to carry  
33 out the responsibilities of their office. The information must be  
34 provided only for the purpose of completing presentence investigations,  
35 supervision of an incarcerated person, planning for and provision of  
36 supervision of a person, or assessment of a person's risk to the  
37 community. The request shall be in writing and shall not require the  
38 consent of the subject of the records.

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

6 (4) The department and the department of corrections, in  
7 consultation with regional support networks, mental health service  
8 providers as defined in subsection (1) of this section, mental health  
9 consumers, and advocates for persons with mental illness, shall adopt  
10 rules to implement the provisions of this section related to the type  
11 and scope of information to be released. These rules shall:

12 (a) Enhance and facilitate the ability of the department of  
13 corrections to carry out its responsibility of planning and ensuring  
14 community protection with respect to persons subject to sentencing  
15 under chapter 9.94A or 9.95 RCW, including accessing and releasing or  
16 disclosing information of persons who received mental health services  
17 as a minor; and

18 (b) Establish requirements for the notification of persons under  
19 the supervision of the department of corrections regarding the  
20 provisions of this section.

21 (5) The information received by the department of corrections under  
22 this section shall remain confidential and subject to the limitations  
23 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW  
24 72.09.585.

25 (6) No mental health service provider or individual employed by a  
26 mental health service provider shall be held responsible for  
27 information released to or used by the department of corrections under  
28 the provisions of this section or rules adopted under this section  
29 except under RCW 71.05.670 and 71.05.440.

30 (7) Whenever federal law or federal regulations restrict the  
31 release of information contained in the treatment records of any  
32 patient who receives treatment for alcoholism or drug dependency, the  
33 release of the information may be restricted as necessary to comply  
34 with federal law and regulations.

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

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