
SUBSTITUTE SENATE BILL 5223

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Keiser, Parlette, Hargrove, Deccio
and Kline)

READ FIRST TIME 02/19/03.

1 AN ACT Relating to mental health advance directives; amending RCW
2 11.94.010 and 7.70.065; reenacting and amending RCW 9.94A.515 and
3 9.94A.515; adding a new section to chapter 11.94 RCW; adding a new
4 section to chapter 7.70 RCW; adding a new section to chapter 9A.60 RCW;
5 adding a new chapter to Title 71 RCW; prescribing penalties; providing
6 an effective date; and providing an expiration date.

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

8 **PART I**

9 **General Provisions**

10 NEW SECTION. **Sec. 1.** (1) The legislature declares that an
11 individual with capacity has the ability to control decisions relating
12 to his or her own mental health care. The legislature finds that:

13 (a) Some mental illnesses cause individuals to fluctuate between
14 capacity and incapacity;

15 (b) During periods when an individual's capacity is unclear, the
16 individual may be unable to access needed treatment because the
17 individual may be unable to give informed consent;

1 (c) Early treatment may prevent an individual from becoming so ill
2 that involuntary treatment is necessary; and

3 (d) Mentally ill individuals need some method of expressing their
4 instructions and preferences for treatment and providing advance
5 consent to or refusal of treatment.

6 The legislature recognizes that a mental health advance directive
7 can be an essential tool for an individual to express his or her
8 choices at a time when the effects of mental illness have not deprived
9 him or her of the power to express his or her instructions or
10 preferences.

11 (2) The legislature further finds that:

12 (a) A mental health advance directive must provide the individual
13 with a full range of choices;

14 (b) Mentally ill individuals have varying perspectives on whether
15 they want to be able to revoke a directive during periods of
16 incapacity;

17 (c) For a mental health advance directive to be an effective tool,
18 individuals must be able to choose how they want their directives
19 treated during periods of incapacity; and

20 (d) There must be clear standards so that treatment providers can
21 readily discern an individual's treatment choices.

22 Consequently, the legislature affirms that, pursuant to other
23 provisions of law, a validly executed mental health advance directive
24 is to be respected by agents, guardians, and other surrogate decision
25 makers, health care providers, professional persons, and health care
26 facilities.

27 NEW SECTION. **Sec. 2.** The definitions in this section apply
28 throughout this chapter unless the context clearly requires otherwise.

29 (1) "Adult" means any individual who has attained the age of
30 majority or is an emancipated minor.

31 (2) "Agent" has the same meaning as an attorney-in-fact or agent as
32 provided in chapter 11.94 RCW.

33 (3) "Capacity" means that an adult has not been found to be
34 incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

35 (4) "Court" means a superior court under chapter 2.08 RCW.

36 (5) "Health care facility" means a hospital, as defined in RCW
37 70.41.020; an institution, as defined in RCW 71.12.455; a state

1 hospital, as defined in RCW 72.23.010; a nursing home, as defined in
2 RCW 18.51.010; or a clinic that is part of a community mental health
3 service delivery system, as defined in RCW 71.24.025.

4 (6) "Health care provider" means an osteopathic physician or
5 osteopathic physician's assistant licensed under chapter 18.57 or
6 18.57A RCW, a physician or physician's assistant licensed under chapter
7 18.71 or 18.71A RCW, or an advanced registered nurse practitioner
8 licensed under RCW 18.79.050.

9 (7) "Incapacitated" means an adult who: (a) Is unable to
10 understand the nature, character, and anticipated results of proposed
11 treatment or alternatives; understand the recognized serious possible
12 risks, complications, and anticipated benefits in treatments and
13 alternatives, including nontreatment; or communicate his or her
14 understanding or treatment decisions; or (b) has been found to be
15 incompetent pursuant to RCW 11.88.010(1)(e).

16 (8) "Informed consent" means consent that is given after the
17 person: (a) Is provided with a description of the nature, character,
18 and anticipated results of proposed treatments and alternatives, and
19 the recognized serious possible risks, complications, and anticipated
20 benefits in the treatments and alternatives, including nontreatment, in
21 language that the person can reasonably be expected to understand; or
22 (b) elects not to be given the information included in (a) of this
23 subsection.

24 (9) "Long-term care facility" has the same meaning as defined in
25 RCW 43.190.020.

26 (10) "Mental disorder" means any organic, mental, or emotional
27 impairment which has substantial adverse effects on an individual's
28 cognitive or volitional functions.

29 (11) "Mental health advance directive" or "directive" means a
30 written document in which the principal makes a declaration of
31 instructions or preferences or appoints an agent to make decisions on
32 behalf of the principal regarding the principal's mental health
33 treatment, or both, and that is consistent with the provisions of this
34 chapter.

35 (12) "Mental health professional" means a psychiatrist,
36 psychologist, psychiatric nurse, or social worker, and such other
37 mental health professionals as may be defined by rules adopted by the
38 secretary pursuant to the provisions of chapter 71.05 RCW.

1 (13) "Principal" means an adult who has executed a mental health
2 advance directive.

3 (14) "Professional person" means a mental health professional and
4 shall also mean a physician, registered nurse, and such others as may
5 be defined by rules adopted by the secretary pursuant to the provisions
6 of chapter 71.05 RCW.

7 NEW SECTION. **Sec. 3.** (1) The definition of informed consent is to
8 be construed to be consistent with that term as it is used in chapter
9 7.70 RCW.

10 (2) The definitions of mental disorder, mental health professional,
11 and professional person are to be construed to be consistent with those
12 terms as they are defined in RCW 71.05.020.

13 NEW SECTION. **Sec. 4.** For the purposes of this chapter, an adult
14 is presumed to have capacity.

15 **PART II**
16 **The Document:**
17 **Creation, Contents, Revocation**

18 NEW SECTION. **Sec. 5.** (1) An adult with capacity may execute a
19 mental health advance directive.

20 (2) A directive executed in accordance with this chapter is
21 presumed to be valid. The inability to honor one or more provisions of
22 a directive does not affect the validity of the remaining provisions.

23 (3) A directive may include any provision relating to mental health
24 treatment or the care of the principal or the principal's personal
25 affairs. Without limitation, a directive may include:

26 (a) The principal's preferences and instructions for mental health
27 treatment;

28 (b) Consent to specific types of mental health treatment;

29 (c) Refusal to consent to specific types of mental health
30 treatment;

31 (d) Consent to admission to and retention in a facility for mental
32 health treatment for up to fourteen days;

33 (e) Descriptions of situations that may cause the principal to
34 experience a mental health crisis;

1 (f) Suggested alternative responses that may supplement or be in
2 lieu of direct mental health treatment, such as treatment approaches
3 from other providers;

4 (g) Appointment of an agent pursuant to chapter 11.94 RCW to make
5 mental health treatment decisions on the principal's behalf, including
6 authorizing the agent to provide consent on the principal's behalf to
7 voluntary admission to inpatient mental health treatment; and

8 (h) The principal's nomination of a guardian or limited guardian as
9 provided in RCW 11.94.010 for consideration by the court if
10 guardianship proceedings are commenced.

11 (4) A directive may be combined with or be independent of a
12 nomination of a guardian or other durable power of attorney under
13 chapter 11.94 RCW, so long as the processes for each are executed in
14 accordance with its own statutes.

15 NEW SECTION. **Sec. 6.** (1) A directive shall:

16 (a) Be in writing;

17 (b) Contain language that clearly indicates that the principal
18 intends to create a directive;

19 (c) Be dated and signed by the principal or at the principal's
20 direction in the principal's presence if the principal is unable to
21 sign;

22 (d) Designate whether the principal wishes to be able to revoke the
23 directive during any period of incapacity or wishes to be unable to
24 revoke the directive during any period of incapacity; and

25 (e) Be witnessed in writing by at least two adults, each of whom
26 shall declare that he or she personally knows the principal, was
27 present when the principal dated and signed the directive, and that the
28 principal did not appear to be incapacitated or acting under fraud,
29 undue influence, or duress.

30 (2) A directive that includes the appointment of an agent under
31 chapter 11.94 RCW shall contain the words "This power of attorney shall
32 not be affected by the incapacity of the principal," or "This power of
33 attorney shall become effective upon the incapacity of the principal,"
34 or similar words showing the principal's intent that the authority
35 conferred shall be exercisable notwithstanding the principal's
36 incapacity.

1 (3) A directive is valid upon execution, but all or part of the
2 directive may take effect at a later time as designated by the
3 principal in the directive.

4 (4) A directive may:

5 (a) Be revoked, in whole or in part, pursuant to the provisions of
6 section 8 of this act; or

7 (b) Expire under its own terms.

8 NEW SECTION. **Sec. 7.** A directive may not:

9 (1) Create an entitlement to mental health or medical treatment or
10 supersede a determination of medical necessity;

11 (2) Obligate any health care provider, professional person, or
12 health care facility to pay the costs associated with the treatment
13 requested;

14 (3) Obligate any health care provider, professional person, or
15 health care facility to be responsible for the nontreatment personal
16 care of the principal or the principal's personal affairs outside the
17 scope of services the facility normally provides;

18 (4) Replace or supersede the provisions of any will or testamentary
19 document or supersede the provisions of intestate succession;

20 (5) Be revoked by an incapacitated principal unless that principal
21 selected the option to permit revocation while incapacitated at the
22 time his or her directive was executed; or

23 (6) Be used as the authority for inpatient admission for more than
24 fourteen days in any twenty-one day period.

25 NEW SECTION. **Sec. 8.** (1)(a) A principal with capacity may, by
26 written statement by the principal or at the principal's direction in
27 the principal's presence, revoke a directive in whole or in part.

28 (b) An incapacitated principal may revoke a directive only if he or
29 she elected at the time of executing the directive to be able to revoke
30 when incapacitated.

31 (2) The revocation need not follow any specific form so long as it
32 is written and the intent of the principal can be discerned.

33 (3) The principal shall provide a copy of his or her written
34 statement of revocation to his or her agent, if any, and to each health
35 care provider, professional person, or health care facility that
36 received a copy of the directive from the principal.

1 (4) The written statement of revocation is effective:

2 (a) As to a health care provider, professional person, or health
3 care facility, upon receipt. The professional person, health care
4 provider, or health care facility, or persons acting under their
5 direction shall make the statement of revocation part of the
6 principal's medical record; and

7 (b) As to the principal's agent, upon receipt. The principal's
8 agent shall notify the principal's health care provider, professional
9 person, or health care facility of the revocation and provide them with
10 a copy of the written statement of revocation.

11 (5) A directive also may:

12 (a) Be revoked, in whole or in part, expressly or to the extent of
13 any inconsistency, by a subsequent directive; or

14 (b) Be superseded or revoked by a court order, including any order
15 entered in a criminal matter. To the extent a directive is not in
16 conflict with a court order, the directive remains effective. A
17 directive shall not be interpreted in a manner that interferes with:
18 (i) Incarceration or detention by the department of corrections, in a
19 city or county jail, or by the department of social and health
20 services; or (ii) treatment of a principal who is subject to
21 involuntary treatment pursuant to chapter 10.77, 70.96A, 71.05, 71.09,
22 or 71.34 RCW.

23 (6) A directive that would have otherwise expired but is effective
24 because the principal is incapacitated remains effective until the
25 principal is no longer incapacitated unless the principal has elected
26 to be able to revoke while incapacitated and has revoked the directive.

27 (7) When a principal with capacity consents to treatment that
28 differs from, or refuses treatment consented to in, the provisions of
29 his or her directive, the consent or refusal constitutes a waiver of
30 that provision and does not constitute a revocation of the provision or
31 directive unless the principal also revokes the directive or provision.

32 NEW SECTION. **Sec. 9.** A witness may not be any of the following:

33 (1) A person designated to make health care decisions on the
34 principal's behalf;

35 (2) A health care provider or professional person directly involved
36 with the provision of care to the principal at the time the directive
37 is executed;

1 (3) An owner, operator, employee, or relative of an owner or
2 operator of a health care facility or long-term care facility in which
3 the principal is a patient or resident;

4 (4) A person who is related by blood, marriage, or adoption to the
5 person or with whom the principal has a dating relationship, as defined
6 in RCW 26.50.010;

7 (5) A person who is declared to be an incapacitated person; or

8 (6) A person who would benefit financially if the principal making
9 the directive undergoes mental health treatment.

10 NEW SECTION. **Sec. 10.** (1) If a directive authorizes the
11 appointment of an agent, the provisions of chapter 11.94 RCW and RCW
12 7.70.065 shall apply unless otherwise stated in this chapter.

13 (2) The principal who appoints an agent must notify the agent in
14 writing of the appointment.

15 (3) An agent must act in good faith.

16 (4) An agent may make decisions on behalf of the principal. Unless
17 the principal has revoked the directive, the decisions must be
18 consistent with the instructions and preferences the principal has
19 expressed in the directive, or if not expressed, as otherwise known to
20 the agent. If the principal's instructions or preferences are not
21 known, the agent shall make a decision he or she determines is in the
22 best interest of the principal.

23 (5) Except to the extent the right is limited by the appointment or
24 any federal or state law, the agent has the same right as the principal
25 to receive, review, and authorize the use and disclosure of the
26 principal's health care information when the agent is acting on behalf
27 of the principal and to the extent required for the agent to carry out
28 his or her duties. This subsection shall be construed to be consistent
29 with chapters 70.02, 70.24, 70.96A, 71.05, and 71.34 RCW, and with
30 federal law regarding health care information.

31 (6) Unless otherwise provided in the appointment and agreed to in
32 writing by the agent, the agent is not, as a result of acting in the
33 capacity of agent, personally liable for the cost of treatment provided
34 to the principal.

35 (7) An agent may resign or withdraw at any time by giving written
36 notice to the principal. The agent must also give written notice to
37 any health care provider, professional person, or health care facility

1 providing treatment to the principal. The resignation or withdrawal is
2 effective upon receipt unless otherwise specified in the resignation or
3 withdrawal.

4 (8) If the directive gives the agent authority to act while the
5 principal has capacity, the decisions of the principal supersede those
6 of the agent at any time the principal has capacity.

7 (9) Unless otherwise provided in the durable power of attorney, the
8 principal may revoke the agent's appointment as provided under other
9 state law.

10 **PART III**

11 **Capacity and Process for Incapacitated Persons**

12 NEW SECTION. **Sec. 11.** (1) For the purposes of this chapter, a
13 principal, agent, professional person, or health care provider may seek
14 a determination whether the principal is incapacitated or has regained
15 capacity.

16 (2)(a) For the purposes of this chapter, no adult may be declared
17 an incapacitated person except by:

18 (i) A court, if the request is made by the principal or the
19 principal's agent;

20 (ii) One mental health professional and one health care provider;
21 or

22 (iii) Two health care providers.

23 (b) One of the persons making the determination under (a)(ii) or
24 (iii) of this subsection must be a psychiatrist, psychologist, or a
25 psychiatric advanced registered nurse practitioner.

26 (3) When a professional person or health care provider requests a
27 capacity determination, he or she shall promptly inform the principal
28 that:

29 (a) A request for capacity determination has been made; and

30 (b) The principal may request that the determination be made by a
31 court.

32 (4) At least one mental health professional or health care provider
33 must personally examine the principal prior to making a capacity
34 determination.

35 (5)(a) When a court makes a determination whether a principal has
36 capacity, the court shall, at a minimum, be informed by the testimony

1 of one mental health professional familiar with the principal and
2 shall, except for good cause, give the principal an opportunity to
3 appear in court prior to the court making its determination.

4 (b) To the extent that local court rules permit, any party or
5 witness may testify telephonically.

6 (6) When a court has made a determination regarding a principal's
7 capacity and there is a subsequent change in the principal's condition,
8 subsequent determinations whether the principal is incapacitated may be
9 made in accordance with any of the provisions of subsection (2) of this
10 section.

11 NEW SECTION. **Sec. 12.** A principal may bring an action to contest
12 the validity of his or her directive. If an action under this section
13 is commenced while an action to determine the principal's capacity is
14 pending, the court shall consolidate the actions and decide the issues
15 simultaneously.

16 NEW SECTION. **Sec. 13.** (1) An initial determination of capacity
17 must be completed within forty-eight hours of a request made by a
18 person authorized in section 11 of this act. During the period between
19 the request for an initial determination of the principal's capacity
20 and completion of that determination, the principal may not be treated
21 unless he or she consents at the time or treatment is otherwise
22 authorized by state or federal law.

23 (2)(a)(i) When an incapacitated principal is admitted to inpatient
24 treatment pursuant to the provisions of his or her directive, his or
25 her capacity must be reevaluated within seventy-two hours or when there
26 has been a change in the principal's condition that indicates that he
27 or she appears to have regained capacity, whichever occurs first.

28 (ii) When an incapacitated principal has been admitted to and
29 remains in inpatient treatment for more than seventy-two hours pursuant
30 to the provisions of his or her directive, the principal's capacity
31 must be reevaluated when there has been a change in his or her
32 condition that indicates that he or she appears to have regained
33 capacity.

34 (iii) When a principal who is being treated on an inpatient basis
35 and has been determined to be incapacitated requests, or his or her

1 agent requests, a redetermination of the principal's capacity the
2 redetermination must be made within seventy-two hours.

3 (b) When a principal who has been determined to be incapacitated is
4 being treated on an outpatient basis and there is a request for a
5 redetermination of his or her capacity, the redetermination must be
6 made within five days of the first request following a determination.

7 (3)(a) When a principal who has appointed an agent for mental
8 health treatment decisions requests a determination or redetermination
9 of capacity, the agent must make reasonable efforts to obtain the
10 determination or redetermination.

11 (b) When a principal who does not have an agent for mental health
12 treatment decisions is being treated in an inpatient facility and
13 requests a determination or redetermination of capacity, the mental
14 health professional or health care provider must complete the
15 determination or, if the principal is seeking a determination from a
16 court, must make reasonable efforts to notify the person authorized to
17 make decisions for the principal under RCW 7.70.065 of the principal's
18 request.

19 (c) When a principal who does not have an agent for mental health
20 treatment decisions is being treated on an outpatient basis, the person
21 requesting a capacity determination must arrange for the determination.

22 (4) If no determination has been made within the time frames
23 established in subsection (1) or (2) of this section, the principal
24 shall be considered to have capacity.

25 (5) When an incapacitated principal is being treated pursuant to
26 his or her directive, a request for a redetermination of capacity does
27 not prevent treatment.

28 NEW SECTION. **Sec. 14.** (1) A principal who:

29 (a) Chose not to be able to revoke his or her directive during any
30 period of incapacity;

31 (b) Consented to voluntary admission to inpatient mental health
32 treatment, or authorized an agent to consent on the principal's behalf;
33 and

34 (c) At the time of admission to inpatient treatment, refuses to be
35 admitted,

36 may only be admitted into inpatient mental health treatment under
37 subsection (2) of this section.

1 (2) A principal may only be admitted to inpatient mental health
2 treatment under his or her directive if, prior to admission, a
3 physician member of the treating facility's professional staff:

4 (a) Evaluates the principal's mental condition, including a review
5 of reasonably available psychiatric and psychological history,
6 diagnosis, and treatment needs, and determines, in conjunction with
7 another health care provider or mental health professional, that the
8 principal is incapacitated;

9 (b) Obtains the informed consent of the agent, if any, designated
10 in the directive;

11 (c) Makes a written determination that the principal needs an
12 inpatient evaluation or is in need of inpatient treatment and that the
13 evaluation or treatment cannot be accomplished in a less restrictive
14 setting; and

15 (d) Documents in the principal's medical record a summary of the
16 physician's findings and recommendations for treatment or evaluation.

17 (3) In the event the admitting physician is not a psychiatrist, the
18 principal shall receive a complete psychological assessment by a mental
19 health professional within twenty-four hours of admission to determine
20 the continued need for inpatient evaluation or treatment.

21 (4)(a) If it is determined that the principal has capacity, then
22 the principal may only be admitted to, or remain in, inpatient
23 treatment if he or she consents at the time or is detained under the
24 involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34
25 RCW.

26 (b) If a principal who is determined by two health care providers
27 or one mental health professional and one health care provider to be
28 incapacitated continues to refuse inpatient treatment, the principal
29 may immediately seek injunctive relief for release from the facility.

30 (5) If, at the end of the period of time that the principal or the
31 principal's agent, if any, has consented to voluntary inpatient
32 treatment, but no more than fourteen days after admission, the
33 principal has not regained capacity or has regained capacity but
34 refuses to consent to remain for additional treatment, the principal
35 must be released during reasonable daylight hours, unless detained
36 under chapter 70.96A, 71.05, or 71.34 RCW.

37 (6)(a) Except as provided in (b) of this subsection, any principal
38 who is voluntarily admitted to inpatient mental health treatment under

1 this chapter shall have all the rights provided to individuals who are
2 voluntarily admitted to inpatient treatment under chapter 71.05, 71.34,
3 or 72.23 RCW.

4 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
5 treatment for a specified length of time, the choices an incapacitated
6 principal expressed in his or her directive shall control, provided,
7 however, that a principal who takes action demonstrating a desire to be
8 discharged, in addition to making statements requesting to be
9 discharged, shall be discharged, and no principal shall be restrained
10 in any way in order to prevent his or her discharge.

11 (7) Consent to inpatient admission in a directive is effective only
12 while the professional person, health care provider, and health care
13 facility are in substantial compliance with the material provisions of
14 the directive related to inpatient treatment.

15 PART IV

16 Provider Responsibilities and Immunities

17 NEW SECTION. **Sec. 15.** (1) Upon receiving a directive, a health
18 care provider, professional person, or health care facility providing
19 treatment to the principal, or persons acting under the direction of
20 the health care provider, professional person, or health care facility,
21 shall make the directive a part of the principal's medical record and
22 shall be deemed to have actual knowledge of the directive's contents.

23 (2) When acting under authority of a directive, a health care
24 provider, professional person, or health care facility shall act in
25 accordance with the provisions of the directive to the fullest extent
26 possible, unless in the determination of the health care provider,
27 professional person, or health care facility:

28 (a) Compliance with the provision would violate the accepted
29 standard of care established in RCW 7.70.040;

30 (b) The requested treatment is not available;

31 (c) Compliance with the provision would violate applicable law; or

32 (d) It is an emergency situation and compliance would endanger any
33 person's life or health.

34 (3)(a) In the case of a principal committed or detained under the
35 involuntary treatment provisions of chapter 10.77, 70.96A, 71.05,
36 71.09, or 71.34 RCW, those provisions of a principal's directive that,

1 in the determination of the health care provider, professional person,
2 or health care facility, are inconsistent with the purpose of the
3 commitment or with any order of the court relating to the commitment
4 are invalid during the commitment.

5 (b) Remaining provisions of a principal's directive are advisory
6 while the principal is committed or detained but, except as provided in
7 (a) of this subsection or subsection (2) of this section, the treatment
8 provider should follow the directive whenever possible.

9 (4) In the case of a principal who is incarcerated or committed in
10 a state or local correctional facility, provisions of the principal's
11 directive that are inconsistent with reasonable penological objectives
12 or administrative hearings regarding involuntary medication are invalid
13 during the period of incarceration or commitment. In addition,
14 treatment may be given despite refusal of the principal or the
15 provisions of the directive: (a) For any reason under subsection (2)
16 of this section; or (b) if, without the benefit of the specific
17 treatment measure, there is a significant possibility that the person
18 will harm self or others before an improvement of the person's
19 condition occurs.

20 (5)(a) If the health care provider, professional person, or health
21 care facility is, at the time of receiving the directive, unable or
22 unwilling to comply with any part or parts of the directive for any
23 reason, the health care provider, professional person, or health care
24 facility shall promptly notify the principal and, if applicable, his or
25 her agent and shall document the reason in the principal's medical
26 record.

27 (b) If the health care provider, professional person, or health
28 care facility is acting under authority of a directive and is unable to
29 comply with any part or parts of the directive for the reasons listed
30 in subsection (2) or (3) of this section, the health care provider,
31 professional person, or health care facility shall promptly notify the
32 principal and if applicable, his or her agent, and shall document the
33 reason in the principal's medical record.

34 (6) In the event that one part of the directive is unable to be
35 followed because of one or more of the reasons set forth in subsections
36 (2) through (4) of this section, all other parts of the directive shall
37 be followed.

1 (7) If no provider-patient relationship has previously been
2 established, nothing in this chapter requires the establishment of a
3 provider-patient relationship.

4 NEW SECTION. **Sec. 16.** Where a principal consents in a directive
5 to electroconvulsive therapy, the health care provider, professional
6 person, or health care facility, or persons acting under the direction
7 of the health care provider, professional person, or health care
8 facility, shall document the therapy and the reason it was used in the
9 principal's medical record.

10 NEW SECTION. **Sec. 17.** (1) For the purposes of this section,
11 "provider" means a private or public agency, government entity, health
12 care provider, professional person, health care facility, or person
13 acting under the direction of a health care provider or professional
14 person, health care facility, or long-term care facility.

15 (2) A provider is not subject to civil liability or sanctions for
16 unprofessional conduct under the uniform disciplinary act, chapter
17 18.130 RCW, when in good faith and without negligence:

18 (a) The provider provides treatment to a principal in the absence
19 of actual knowledge of the existence of a directive, or provides
20 treatment pursuant to a directive in the absence of actual knowledge of
21 the revocation of the directive;

22 (b) A health care provider or mental health professional determines
23 that the principal is or is not incapacitated for the purpose of
24 deciding whether to proceed according to a directive, and acts upon
25 that determination;

26 (c) The provider administers or does not administer mental health
27 treatment according to the principal's directive in good faith reliance
28 upon the validity of the directive and the directive is subsequently
29 found to be invalid;

30 (d) The provider does not provide treatment according to the
31 directive for one of the reasons authorized under section 14 of this
32 act; or

33 (e) The provider provides treatment according to the principal's
34 directive.

1 **PART V**

2 **Interpretive Provisions**

3 NEW SECTION. **Sec. 18.** (1) Where an incapacitated principal has
4 executed more than one valid directive and has not revoked any of the
5 directives:

6 (a) The directive most recently created shall be treated as the
7 principal's mental health treatment preferences and instructions as to
8 any inconsistent or conflicting provisions, unless provided otherwise
9 in either document.

10 (b) Where a directive executed under this chapter is inconsistent
11 with a directive executed under any other chapter, the most recently
12 created directive controls as to the inconsistent provisions.

13 (2) Where an incapacitated principal has appointed more than one
14 agent under chapter 11.94 RCW with authority to make mental health
15 treatment decisions, RCW 11.94.010 controls.

16 NEW SECTION. **Sec. 19.** (1) Directives validly executed before the
17 effective date of this section shall be given full force and effect
18 until revoked, superseded, or expired.

19 (2) A directive validly executed in another political jurisdiction
20 is valid to the extent permitted by Washington state law.

21 NEW SECTION. **Sec. 20.** Any person with reasonable cause to believe
22 that a directive has been created or revoked under circumstances
23 amounting to fraud, duress, or undue influence may petition the court
24 for appointment of a guardian for the person or to review the actions
25 of the agent or person alleged to be involved in improper conduct under
26 RCW 11.94.090 or 74.34.110.

27 NEW SECTION. **Sec. 21.** The fact that a person has executed a
28 directive does not constitute an indication of mental disorder or that
29 the person is not capable of providing informed consent.

30 NEW SECTION. **Sec. 22.** A person shall not be required to execute
31 or to refrain from executing a directive, nor shall the existence of a
32 directive be used as a criterion for insurance, as a condition for
33 receiving mental or physical health services, or as a condition of

1 admission to or discharge from a health care facility or long-term care
2 facility.

3 NEW SECTION. **Sec. 23.** No person or health care facility may use
4 or threaten abuse, neglect, financial exploitation, or abandonment of
5 the principal, as those terms are defined in RCW 74.34.020, to carry
6 out the directive.

7 NEW SECTION. **Sec. 24.** A directive does not limit any authority
8 otherwise provided in Title 10, 70, or 71 RCW, or any other applicable
9 state or federal laws to detain a person, take a person into custody,
10 or to admit, retain, or treat a person in a health care facility.

11 NEW SECTION. **Sec. 25.** (1) If a principal who is a resident of a
12 long-term care facility is admitted to inpatient mental health
13 treatment pursuant to his or her directive, the principal shall be
14 allowed to be readmitted to the same long-term care facility as if his
15 or her inpatient admission had been for a physical condition on the
16 same basis that the principal would be readmitted under state or
17 federal statute or rule when:

18 (a) The treating facility's professional staff determine that
19 inpatient mental health treatment is no longer medically necessary for
20 the resident. The determination shall be made in writing by a
21 psychiatrist or by a mental health professional and a physician; or

22 (b) The person's consent to admission in his or her directive has
23 expired.

24 (2)(a) If the long-term care facility does not have a bed available
25 at the time of discharge, the treating facility may discharge the
26 resident, in consultation with the resident and agent if any, and in
27 accordance with a medically appropriate discharge plan, to another
28 long-term care facility.

29 (b) This section shall apply to inpatient mental health treatment
30 admission of long-term care facility residents, regardless of whether
31 the admission is directly from a facility, hospital emergency room, or
32 other location.

33 (c) This section does not restrict the right of the resident to an
34 earlier release from the inpatient treatment facility. This section
35 does not restrict the right of a long-term care facility to initiate

1 transfer or discharge of a resident who is readmitted pursuant to this
2 section, provided that the facility has complied with the laws
3 governing the transfer or discharge of a resident.

4 (3) The joint legislative audit and review committee shall conduct
5 an evaluation of the operation and impact of this section. The
6 committee shall report its findings to the appropriate committees of
7 the legislature by December 1, 2004.

8 NEW SECTION. **Sec. 26.** Nothing in this chapter creates a legal
9 right or cause of action. Nothing in this act denies or alters any
10 existing legal right or cause of action nor may it be relied upon to
11 compel the establishment of any program or special entitlement.

12 **PART VI**
13 **The Form**

14 NEW SECTION. **Sec. 27.** The directive shall be in substantially the
15 following form:

16 Mental Health Advance Directive

17 **NOTICE TO PERSONS**

18 **CREATING A MENTAL HEALTH ADVANCE DIRECTIVE**

19 This is an important legal document. It creates an advance directive for mental health treatment. Before signing this
20 document you should know these important facts:

21 (1) This document is called an advance directive and allows you to make decisions in advance about your mental health
22 treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

23 **YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.**

24 **IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.**

25 If you choose to complete and sign this document, you may still decide to leave some items blank.

26 (2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your
27 agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with
28 your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in
29 your best interest. Your agent has the right to withdraw from the appointment at any time.

1 (3) The instructions you include with this advance directive and the authority you give your agent to act will only
2 become effective under the conditions you select in this document. You may choose to limit this directive and your
3 agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior
4 that you specify. You may also make this directive effective immediately. No matter when you choose to make
5 this directive effective, your treatment providers must still seek your informed consent at all times that you have
6 capacity to give informed consent.

7 (4) You have the right to revoke this document in writing at any time you have capacity.

8 **YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE**
9 **INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU**
10 **WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.**

11 (5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an
12 expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to
13 make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke
14 the directive.

15 (6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance
16 directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a
17 different process.

18 (7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

19 (8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

20 (9) You should discuss any treatment decisions in your directive with your provider.

21 (10) You may ask the court to rule on the validity of your directive.

22 **PART I.**

23 **STATEMENT OF INTENT TO CREATE A**
24 **MENTAL HEALTH ADVANCE DIRECTIVE**

25 I, being a person with capacity, willfully and voluntarily execute this mental health advance directive
26 so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express
27 my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental
28 health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

29 The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all
30 completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she
31 determines is in my best interest. I intend this directive to take precedence over any other directives I have previously
32 executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either
33 document.

34 I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I
35 cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care
36 provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this
37 directive while incapacitated.

1 I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in
2 this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider,
3 professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect,
4 financial exploitation, or abandonment to carry out my directive.

5 I understand that there are some circumstances where my provider may not have to follow my directive.

6 **PART II.**

7 **WHEN THIS DIRECTIVE IS EFFECTIVE**

8 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

9 I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

10 Immediately upon my signing of this directive.

11 If I become incapacitated.

12 When the following circumstances, symptoms, or behaviors occur:

13

14

15 **PART III.**

16 **DURATION OF THIS DIRECTIVE**

17 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

18 I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

19 Remain valid and in effect for an indefinite period of time.

20 Automatically expire years from the date it was created.

21 **PART IV.**

22 **WHEN I MAY REVOKE THIS DIRECTIVE**

23 *YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.*

24 I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

25 Only when I have capacity.

26 I understand that choosing this option means I may only revoke this directive if I have capacity. I further
27 understand that if I choose this option and become incapacitated while this directive is in effect, I may receive
28 treatment that I specify in this directive, even if I object at the time.

29 Even if I am incapacitated.

30 I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further
31 understand that if I choose this option and revoke this directive while I am incapacitated I may not receive
32 treatment that I specify in this directive, even if I want the treatment.

33 **PART V.**

34 **PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS**

35 **A. Preferences and Instructions About Physician(s) to be Involved in My Treatment**

1 I would like the physician(s) named below to be involved in my treatment decisions:
2 Dr. Contact information:
3 Dr. Contact information:
4 I do not wish to be treated by Dr.

5 **B. Preferences and Instructions About Other Providers**

6 I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would
7 like the following treatment provider(s) to be contacted when this directive is effective:

8 Name Profession Contact information
9 Name Profession Contact information

10 **C. Preferences and Instructions About Medications for Psychiatric Treatment** (*initial and complete all that*
11 *apply*)

12 I consent, and authorize my agent (if appointed) to consent, to the following
13 medications:

14 I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the
15 following medications:

16 I am willing to take the medications excluded above if my only reason for excluding them is the side effects
17 which include

18 and these side effects can be eliminated by dosage adjustment or other means

19 I am willing to try any other medication the hospital doctor recommends

20 I am willing to try any other medications my outpatient doctor recommends

21 I do not want to try any other medications.

22 **Medication Allergies**

23 I have allergies to, or severe side effects from, the following:
24

25 **Other Medication Preferences or Instructions**

26 I have the following other preferences or instructions about medications
27

28 **D. Preferences and Instructions About Hospitalization and Alternatives**

29 (*initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on*)

30 In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical
31 conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities
32 designed as alternatives to psychiatric hospitalizations.

33 I would also like the interventions below to be tried before hospitalization is considered:

34 Calling someone or having someone call me when needed.

35 Name: Telephone:

36 Staying overnight with someone

37 Name: Telephone:

- 1 Having a mental health service provider come to see me
- 2 Going to a crisis triage center or emergency room
- 3 Staying overnight at a crisis respite (temporary) bed
- 4 Seeing a service provider for help with psychiatric medications
- 5 Other, specify:

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for days (*not to exceed 14 days*)

(Sign one):

. If deemed appropriate by my agent (if appointed) and treating physician

.....

(Signature)

or

. Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization)

.....

(Signature)

. I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

.....

(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:

I do not consent to be admitted to the following hospitals:

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(*initial all that apply*):

- 27 "Talk me down" one-on-one
- 28 More medication
- 29 Time out/privacy
- 30 Show of authority/force
- 31 Shift my attention to something else
- 32 Set firm limits on my behavior
- 33 Help me to discuss/vent feelings
- 34 Decrease stimulation
- 35 Offer to have neutral person settle dispute
- 36 Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

1 If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of
2 medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice,*
3 *and so on*):

- 4 Seclusion
- 5 Seclusion and physical restraint (combined)
- 6 Medication by injection
- 7 Medication in pill or liquid form

8 In the event that my attending physician decides to use medication in response to an emergency situation after due
9 consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of
10 medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and
11 instructions I express in this section regarding medication in emergency situations do not constitute consent to use of
12 the medication for nonemergency treatment.

13 **G. Preferences and Instructions About Electroconvulsive Therapy**
14 **(ECT or Shock Therapy)**

15 My wishes regarding electroconvulsive therapy are (*sign one*):

16 I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive
17 therapy

18

19 (Signature)

20 I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

21

22 (Signature)

23 I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy,
24 but only under the following conditions:

25

26

27 (Signature)

28 **H. Preferences and Instructions About Who is Permitted to Visit**

29 If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

30 Name:

31 Name:

32 Name:

33 I understand that persons not listed above may be permitted to visit me.

34 **I. Additional Instructions About My Mental Health Care**

35 Other instructions about my mental health care:

36

37 In case of emergency, please contact:

1 Name: Address:
2 Work telephone: Home telephone:
3 Physician: Address:
4 Telephone:

5 The following may help me to avoid a hospitalization:
6

7 I generally react to being hospitalized as follows:
8

9 Staff of the hospital or crisis unit can help me by doing the following:
10
11

12 **J. Refusal of Treatment**

13 I do not consent to any mental health treatment.

14

15 (Signature)

16 **PART VI.**

17 **DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)**

18 *(Fill out this part only if you wish to appoint an agent or nominate a guardian.)*

19 I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent
20 includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or
21 procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those
22 decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not
23 expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make
24 the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity.
25 Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

26 **A. Designation of an Agent**

27 I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this
28 document and request that this person be notified immediately when this directive becomes effective:

29 Name: Address:
30 Work telephone: Home telephone:
31 Relationship:

32 **B. Designation of Alternate Agent**

33 If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to
34 serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified
35 immediately when this directive becomes effective or when my original agent is no longer my agent:

36 Name: Address:
37 Work telephone: Home telephone:

1 Relationship:

2 **C. When My Spouse is My Agent** *(initial if desired)*

3 If my spouse is my agent, that person shall remain my agent even if we become legally separated or our
4 marriage is dissolved, unless there is a court order to the contrary or I have remarried.

5 **D. Limitations on My Agent's Authority**

6 I do not grant my agent the authority to consent on my behalf to the following:

7
8

9 **E. Limitations on My Ability to Revoke this Durable Power of Attorney**

10 I choose to limit my ability to revoke this durable power of attorney as follows:

11
12

13 **F. Preference as to Court-Appointed Guardian**

14 In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate**
15 the following person **as my guardian**:

16 Name: Address:

17 Work telephone: Home telephone:

18 Relationship:

19 The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or
20 decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as
21 authorized by law.

22

23 (Signature required if nomination is made)

24 **PART VII.**

25 **OTHER DOCUMENTS**

26 *(Initial all that apply)*

27 I have executed the following documents that include the power to make decisions regarding health care services for
28 myself:

29 Health care power of attorney (chapter 11.94 RCW)

30 "Living will" (Health care directive; chapter 70.122 RCW)

31 I have appointed more than one agent. I understand that the most recently appointed agent controls except as
32 stated below:

33

34 **PART VIII.**

35 **NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS**

36 *(Fill out this part only if you wish to provide nontreatment instructions.)*

1 I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that
2 no treatment provider is required to act on them.

3 **A. Who Should Be Notified**

4 I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

5 Name: Address:

6 Day telephone: Evening telephone:

7 Name: Address:

8 Day telephone: Evening telephone:

9 **B. Preferences or Instructions About Personal Affairs**

10 I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I
11 am admitted to a mental health treatment facility:

12
13

14 **C. Additional Preferences and Instructions:**

15
16
17
18

19 **PART IX.**
20 **SIGNATURE**

21 By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my
22 informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in
23 this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed
24 consent under chapter 7.70 RCW.

25 Signature: Date:

26 Printed Name:

27 This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her
28 request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the
29 Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does
30 not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

31 (A) A person designated to make medical decisions on the principal's behalf;

32 (B) A health care provider or professional person directly involved with the provision of care to the principal at the
33 time the directive is executed;

34 (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care
35 facility in which the principal is a patient or resident;

36 (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating
37 relationship as defined in RCW 26.50.010;

- 1 (E) An incapacitated person;
- 2 (F) A person who would benefit financially if the principal undergoes mental health treatment; or
- 3 (G) A minor.

4 Witness 1: Signature: Date:
5 Printed Name:
6 Telephone: Address:
7 Witness 2: Signature: Date:
8 Printed Name:
9 Telephone: Address:

10 **PART X.**

11 **RECORD OF DIRECTIVE**

12 I have given a copy of this directive to the following persons:
13

14 DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE

15 THIS DIRECTIVE IN PART OR IN WHOLE

16 **PART XI.**

17 **REVOCATION OF THIS DIRECTIVE**

18 *(Initial any that apply):*

19 I am revoking the following part(s) of this directive (specify):
20

21 I am revoking all of this directive.

22 By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by
23 any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked
24 provision(s).

25 Signature: Date:
26 Printed Name:

27 **DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS**
28 **DIRECTIVE IN PART OR IN WHOLE**

29 **PART VII**

30 **Amendatory Sections**

31 **Sec. 28.** RCW 11.94.010 and 1995 c 297 s 9 are each amended to read
32 as follows:

33 (1) Whenever a principal designates another as his or her attorney
34 in fact or agent, by a power of attorney in writing, and the writing
35 contains the words "This power of attorney shall not be affected by
36 disability of the principal," or "This power of attorney shall become

1 effective upon the disability of the principal," or similar words
2 showing the intent of the principal that the authority conferred shall
3 be exercisable notwithstanding the principal's disability, the
4 authority of the attorney in fact or agent is exercisable on behalf of
5 the principal as provided notwithstanding later disability or
6 incapacity of the principal at law or later uncertainty as to whether
7 the principal is dead or alive. All acts done by the attorney in fact
8 or agent pursuant to the power during any period of disability or
9 incompetence or uncertainty as to whether the principal is dead or
10 alive have the same effect and inure to the benefit of and bind the
11 principal or the principal's guardian or heirs, devisees, and personal
12 representative as if the principal were alive, competent, and not
13 disabled. A principal may nominate, by a durable power of attorney,
14 the guardian or limited guardian of his or her estate or person for
15 consideration by the court if protective proceedings for the
16 principal's person or estate are thereafter commenced. The court shall
17 make its appointment in accordance with the principal's most recent
18 nomination in a durable power of attorney except for good cause or
19 disqualification. If a guardian thereafter is appointed for the
20 principal, the attorney in fact or agent, during the continuance of the
21 appointment, shall account to the guardian rather than the principal.
22 The guardian has the same power the principal would have had if the
23 principal were not disabled or incompetent, to revoke, suspend or
24 terminate all or any part of the power of attorney or agency.

25 (2) Persons shall place reasonable reliance on any determination of
26 disability or incompetence as provided in the instrument that specifies
27 the time and the circumstances under which the power of attorney
28 document becomes effective.

29 (3)(a) A principal may authorize his or her attorney-in-fact to
30 provide informed consent for health care decisions on the principal's
31 behalf. If a principal has appointed more than one agent with
32 authority to make mental health treatment decisions in accordance with
33 a directive under chapter 71.-- RCW (sections 1 through 27 of this
34 act), to the extent of any conflict, the most recently appointed agent
35 shall be treated as the principal's agent for mental health treatment
36 decisions unless provided otherwise in either appointment.

37 (b) Unless he or she is the spouse, or adult child or brother or
38 sister of the principal, none of the following persons may act as the

1 attorney-in-fact for the principal: Any of the principal's physicians,
2 the physicians' employees, or the owners, administrators, or employees
3 of the health care facility or long-term care facility as defined in
4 RCW 43.190.020 where the principal resides or receives care. Except
5 when the principal has consented in a mental health advance directive
6 executed under chapter 71.-- RCW (sections 1 through 27 of this act) to
7 inpatient admission or electroconvulsive therapy, this authorization is
8 subject to the same limitations as those that apply to a guardian under
9 RCW 11.92.043(5) (a) through (c).

10 NEW SECTION. Sec. 29. A new section is added to chapter 11.94 RCW
11 to read as follows:

12 No person appointed by a principal as an agent to make mental
13 health treatment decisions pursuant to a mental health advance
14 directive under chapter 71.-- RCW (sections 1 through 27 of this act)
15 shall be compensated for the performance of his or her duties as an
16 agent to make mental health treatment decisions. This section does not
17 prohibit an agent from receiving reimbursement for reasonable expenses
18 incurred in the performance of his or her duties under chapter 71.--
19 RCW (sections 1 through 27 of this act).

20 **Sec. 30.** RCW 7.70.065 and 1987 c 162 s 1 are each amended to read
21 as follows:

22 (1) Informed consent for health care for a patient who is not
23 competent, as defined in RCW 11.88.010(1)((~~b~~)) (e), to consent may be
24 obtained from a person authorized to consent on behalf of such patient.
25 Persons authorized to provide informed consent to health care on behalf
26 of a patient who is not competent to consent shall be a member of one
27 of the following classes of persons in the following order of priority:

- 28 (a) The appointed guardian of the patient, if any;
29 (b) The individual, if any, to whom the patient has given a durable
30 power of attorney that encompasses the authority to make health care
31 decisions;
32 (c) The patient's spouse;
33 (d) Children of the patient who are at least eighteen years of age;
34 (e) Parents of the patient; and
35 (f) Adult brothers and sisters of the patient.

1 (2) If the physician seeking informed consent for proposed health
2 care of the patient who is not competent to consent makes reasonable
3 efforts to locate and secure authorization from a competent person in
4 the first or succeeding class and finds no such person available,
5 authorization may be given by any person in the next class in the order
6 of descending priority. However, no person under this section may
7 provide informed consent to health care:

8 (a) If a person of higher priority under this section has refused
9 to give such authorization; or

10 (b) If there are two or more individuals in the same class and the
11 decision is not unanimous among all available members of that class.

12 (3) Before any person authorized to provide informed consent on
13 behalf of a patient not competent to consent exercises that authority,
14 the person must first determine in good faith that that patient, if
15 competent, would consent to the proposed health care. If such a
16 determination cannot be made, the decision to consent to the proposed
17 health care may be made only after determining that the proposed health
18 care is in the patient's best interests.

19 NEW SECTION. **Sec. 31.** A new section is added to chapter 7.70 RCW
20 to read as follows:

21 Consent to treatment or admission contained in a validly executed
22 mental health advance directive constitutes informed consent for
23 purposes of this chapter.

24 NEW SECTION. **Sec. 32.** A new section is added to chapter 9A.60 RCW
25 to read as follows:

26 (1) For purposes of this section "mental health advance directive"
27 means a written document that is a "mental health advance directive" as
28 defined in section 2 of this act.

29 (2) A person is guilty of fraudulent creation or revocation of a
30 mental health advance directive if he or she knowingly:

31 (a) Makes, completes, alters, or revokes the mental health advance
32 directive of another without the principal's consent;

33 (b) Utters, offers, or puts off as true a mental health advance
34 directive that he or she knows to be forged; or

35 (c) Obtains or prevents the signature of a principal or witness to
36 a mental health advance directive by deception or duress.

1 (3) Fraudulent creation or revocation of a mental health advance
2 directive is a class C felony.

3 **Sec. 33.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
4 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
5 s 4 are each reenacted and amended to read as follows:

6 TABLE 2
7 CRIMES INCLUDED WITHIN
8 EACH SERIOUSNESS LEVEL

9	XVI	Aggravated Murder 1 (RCW
10		10.95.020)
11	XV	Homicide by abuse (RCW 9A.32.055)
12		Malicious explosion 1 (RCW
13		70.74.280(1))
14		Murder 1 (RCW 9A.32.030)
15	XIV	Murder 2 (RCW 9A.32.050)
16	XIII	Malicious explosion 2 (RCW
17		70.74.280(2))
18		Malicious placement of an explosive 1
19		(RCW 70.74.270(1))
20	XII	Assault 1 (RCW 9A.36.011)
21		Assault of a Child 1 (RCW 9A.36.120)
22		Malicious placement of an imitation
23		device 1 (RCW 70.74.272(1)(a))
24		Rape 1 (RCW 9A.44.040)
25		Rape of a Child 1 (RCW 9A.44.073)
26	XI	Manslaughter 1 (RCW 9A.32.060)
27		Rape 2 (RCW 9A.44.050)
28		Rape of a Child 2 (RCW 9A.44.076)
29	X	Child Molestation 1 (RCW 9A.44.083)
30		Indecent Liberties (with forcible
31		compulsion) (RCW
32		9A.44.100(1)(a))
33		Kidnapping 1 (RCW 9A.40.020)
34		Leading Organized Crime (RCW
35		9A.82.060(1)(a))

1 Malicious explosion 3 (RCW
2 70.74.280(3))
3 Manufacture of methamphetamine
4 (RCW 69.50.401(a)(1)(ii))
5 Over 18 and deliver heroin,
6 methamphetamine, a narcotic
7 from Schedule I or II, or
8 flunitrazepam from Schedule IV
9 to someone under 18 (RCW
10 69.50.406)
11 Sexually Violent Predator Escape
12 (RCW 9A.76.115)
13 IX Assault of a Child 2 (RCW 9A.36.130)
14 Controlled Substance Homicide (RCW
15 69.50.415)
16 Explosive devices prohibited (RCW
17 70.74.180)
18 Hit and Run--Death (RCW
19 46.52.020(4)(a))
20 Homicide by Watercraft, by being
21 under the influence of intoxicating
22 liquor or any drug (RCW
23 79A.60.050)
24 Inciting Criminal Profiteering (RCW
25 9A.82.060(1)(b))
26 Malicious placement of an explosive 2
27 (RCW 70.74.270(2))
28 Over 18 and deliver narcotic from
29 Schedule III, IV, or V or a
30 nonnarcotic, except flunitrazepam
31 or methamphetamine, from
32 Schedule I-V to someone under 18
33 and 3 years junior (RCW
34 69.50.406)
35 Robbery 1 (RCW 9A.56.200)
36 Sexual Exploitation (RCW 9.68A.040)

1 Vehicular Homicide, by being under
2 the influence of intoxicating
3 liquor or any drug (RCW
4 46.61.520)

5 VIII Arson 1 (RCW 9A.48.020)

6 Deliver or possess with intent to
7 deliver methamphetamine (RCW
8 69.50.401(a)(1)(ii))

9 Homicide by Watercraft, by the
10 operation of any vessel in a
11 reckless manner (RCW
12 79A.60.050)

13 Manslaughter 2 (RCW 9A.32.070)

14 Manufacture, deliver, or possess with
15 intent to deliver amphetamine
16 (RCW 69.50.401(a)(1)(ii))

17 Manufacture, deliver, or possess with
18 intent to deliver heroin or cocaine
19 (when the offender has a criminal
20 history in this state or any other
21 state that includes a sex offense or
22 serious violent offense or the
23 Washington equivalent) (RCW
24 69.50.401(a)(1)(i))

25 Possession of Ephedrine or any of its
26 Salts or Isomers or Salts of
27 Isomers, Pseudoephedrine or any
28 of its Salts or Isomers or Salts of
29 Isomers, Pressurized Ammonia
30 Gas, or Pressurized Ammonia Gas
31 Solution with intent to
32 manufacture methamphetamine
33 (RCW 69.50.440)

34 Promoting Prostitution 1 (RCW
35 9A.88.070)

1 Selling for profit (controlled or
2 counterfeit) any controlled
3 substance (RCW 69.50.410)
4 Theft of Ammonia (RCW 69.55.010)
5 Vehicular Homicide, by the operation
6 of any vehicle in a reckless
7 manner (RCW 46.61.520)
8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor
13 engaged in sexually explicit
14 conduct (RCW 9.68A.050)
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Involving a minor in drug dealing
25 (RCW 69.50.401(f))
26 Malicious placement of an explosive 3
27 (RCW 70.74.270(3))
28 Manufacture, deliver, or possess with
29 intent to deliver heroin or cocaine
30 (except when the offender has a
31 criminal history in this state or
32 any other state that includes a sex
33 offense or serious violent offense
34 or the Washington equivalent)
35 (RCW 69.50.401(a)(1)(i))

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct (RCW
4 9.68A.060)
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1)(a))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW
18 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation
22 device 2 (RCW 70.74.272(1)(b))
23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule I or II (except heroin or
26 cocaine) or flunitrazepam from
27 Schedule IV (RCW
28 69.50.401(a)(1)(i))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Unlawful Storage of Ammonia (RCW
32 69.55.020)
33 V Abandonment of dependent person 1
34 (RCW 9A.42.060)
35 Advancing money or property for
36 extortionate extension of credit
37 (RCW 9A.82.030)

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 1 (RCW
5 9A.42.020)
6 Custodial Sexual Misconduct 1 (RCW
7 9A.44.160)
8 Delivery of imitation controlled
9 substance by person eighteen or
10 over to person under eighteen
11 (RCW 69.52.030(2))
12 Domestic Violence Court Order
13 Violation (RCW 10.99.040,
14 10.99.050, 26.09.300, 26.10.220,
15 26.26.138, 26.50.110, 26.52.070,
16 or 74.34.145)
17 Extortion 1 (RCW 9A.56.120)
18 Extortionate Extension of Credit
19 (RCW 9A.82.020)
20 Extortionate Means to Collect
21 Extensions of Credit (RCW
22 9A.82.040)
23 Incest 2 (RCW 9A.64.020(2))
24 Kidnapping 2 (RCW 9A.40.030)
25 Perjury 1 (RCW 9A.72.020)
26 Persistent prison misbehavior (RCW
27 9.94.070)
28 Possession of a Stolen Firearm (RCW
29 9A.56.310)
30 Rape 3 (RCW 9A.44.060)
31 Rendering Criminal Assistance 1
32 (RCW 9A.76.070)
33 Sexual Misconduct with a Minor 1
34 (RCW 9A.44.093)
35 Sexually Violating Human Remains
36 (RCW 9A.44.105)
37 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without
2 Permission 1 (RCW
3 9A.56.070(1))
4 IV Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW
13 9A.68.060)
14 Counterfeiting (RCW 9.16.035(4))
15 Endangerment with a Controlled
16 Substance (RCW 9A.42.100)
17 Escape 1 (RCW 9A.76.110)
18 Hit and Run--Injury (RCW
19 46.52.020(4)(b))
20 Hit and Run with Vessel--Injury
21 Accident (RCW 79A.60.200(3))
22 Identity Theft 1 (RCW 9.35.020(2)(a))
23 Indecent Exposure to Person Under
24 Age Fourteen (subsequent sex
25 offense) (RCW 9A.88.010)
26 Influencing Outcome of Sporting
27 Event (RCW 9A.82.070)
28 Knowingly Trafficking in Stolen
29 Property (RCW 9A.82.050(2))
30 Malicious Harassment (RCW
31 9A.36.080)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except marijuana, amphetamine,
6 methamphetamines, or
7 flunitrazepam) (RCW
8 69.50.401(a)(1) (iii) through (v))
9 Residential Burglary (RCW
10 9A.52.025)
11 Robbery 2 (RCW 9A.56.210)
12 Theft of Livestock 1 (RCW 9A.56.080)
13 Threats to Bomb (RCW 9.61.160)
14 Use of Proceeds of Criminal
15 Profiteering (RCW 9A.82.080 (1)
16 and (2))
17 Vehicular Assault, by being under the
18 influence of intoxicating liquor or
19 any drug, or by the operation or
20 driving of a vehicle in a reckless
21 manner (RCW 46.61.522)
22 Willful Failure to Return from
23 Furlough (RCW 72.66.060)
24 III Abandonment of dependent person 2
25 (RCW 9A.42.070)
26 Assault 3 (RCW 9A.36.031)
27 Assault of a Child 3 (RCW 9A.36.140)
28 Bail Jumping with class B or C Felony
29 (RCW 9A.76.170(3)(c))
30 Burglary 2 (RCW 9A.52.030)
31 Communication with a Minor for
32 Immoral Purposes (RCW
33 9.68A.090)
34 Criminal Gang Intimidation (RCW
35 9A.46.120)
36 Criminal Mistreatment 2 (RCW
37 9A.42.030)

1 Custodial Assault (RCW 9A.36.100)
2 Delivery of a material in lieu of a
3 controlled substance (RCW
4 69.50.401(c))
5 Escape 2 (RCW 9A.76.120)
6 Extortion 2 (RCW 9A.56.130)
7 Harassment (RCW 9A.46.020)
8 Intimidating a Public Servant (RCW
9 9A.76.180)
10 Introducing Contraband 2 (RCW
11 9A.76.150)
12 Maintaining a Dwelling or Place for
13 Controlled Substances (RCW
14 69.50.402(a)(6))
15 Malicious Injury to Railroad Property
16 (RCW 81.60.070)
17 Manufacture, deliver, or possess with
18 intent to deliver marijuana (RCW
19 69.50.401(a)(1)(iii))
20 Manufacture, distribute, or possess
21 with intent to distribute an
22 imitation controlled substance
23 (RCW 69.52.030(1))
24 Patronizing a Juvenile Prostitute
25 (RCW 9.68A.100)
26 Perjury 2 (RCW 9A.72.030)
27 Possession of Incendiary Device (RCW
28 9.40.120)
29 Possession of Machine Gun or Short-
30 Barreled Shotgun or Rifle (RCW
31 9.41.190)
32 Promoting Prostitution 2 (RCW
33 9A.88.080)
34 Recklessly Trafficking in Stolen
35 Property (RCW 9A.82.050(1))
36 Securities Act violation (RCW
37 21.20.400)

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Telephone Harassment (subsequent
4 conviction or threat of death)
5 (RCW 9.61.230)
6 Theft of Livestock 2 (RCW 9A.56.080)
7 Unlawful Imprisonment (RCW
8 9A.40.040)
9 Unlawful possession of firearm in the
10 second degree (RCW
11 9.41.040(1)(b))
12 Unlawful Use of Building for Drug
13 Purposes (RCW 69.53.010)
14 Vehicular Assault, by the operation or
15 driving of a vehicle with disregard
16 for the safety of others (RCW
17 46.61.522)
18 Willful Failure to Return from Work
19 Release (RCW 72.65.070)
20 II Computer Trespass 1 (RCW
21 9A.52.110)
22 Counterfeiting (RCW 9.16.035(3))
23 Create, deliver, or possess a counterfeit
24 controlled substance (RCW
25 69.50.401(b))
26 Escape from Community Custody
27 (RCW 72.09.310)
28 Health Care False Claims (RCW
29 48.80.030)
30 Identity Theft 2 (RCW 9.35.020(2)(b))
31 Improperly Obtaining Financial
32 Information (RCW 9.35.010)
33 Malicious Mischief 1 (RCW
34 9A.48.070)

1 Possession of controlled substance that
2 is either heroin or narcotics from
3 Schedule I or II or flunitrazepam
4 from Schedule IV (RCW
5 69.50.401(d))
6 Possession of phencyclidine (PCP)
7 (RCW 69.50.401(d))
8 Possession of Stolen Property 1 (RCW
9 9A.56.150)
10 Theft 1 (RCW 9A.56.030)
11 Theft of Rental, Leased, or Lease-
12 purchased Property (valued at one
13 thousand five hundred dollars or
14 more) (RCW 9A.56.096(4))
15 Trafficking in Insurance Claims (RCW
16 48.30A.015)
17 Unlawful Practice of Law (RCW
18 2.48.180)
19 Unlicensed Practice of a Profession or
20 Business (RCW 18.130.190(7))
21 I Attempting to Elude a Pursuing Police
22 Vehicle (RCW 46.61.024)
23 False Verification for Welfare (RCW
24 74.08.055)
25 Forged Prescription (RCW 69.41.020)
26 Forged Prescription for a Controlled
27 Substance (RCW 69.50.403)
28 Forgery (RCW 9A.60.020)
29 Fraudulent Creation or Revocation of a
30 Mental Health Advance Directive
31 (section 32 of this act)
32 Malicious Mischief 2 (RCW
33 9A.48.080)

1 Possess Controlled Substance that is a
2 Narcotic from Schedule III, IV, or
3 V or Non-narcotic from Schedule
4 I-V (except phencyclidine or
5 flunitrazepam) (RCW
6 69.50.401(d))
7 Possession of Stolen Property 2 (RCW
8 9A.56.160)
9 Reckless Burning 1 (RCW 9A.48.040)
10 Taking Motor Vehicle Without
11 Permission 2 (RCW
12 9A.56.070(2))
13 Theft 2 (RCW 9A.56.040)
14 Theft of Rental, Leased, or Lease-
15 purchased Property (valued at two
16 hundred fifty dollars or more but
17 less than one thousand five
18 hundred dollars) (RCW
19 9A.56.096(4))
20 Unlawful Issuance of Checks or Drafts
21 (RCW 9A.56.060)
22 Unlawful Use of Food Stamps (RCW
23 9.91.140 (2) and (3))
24 Vehicle Prowl 1 (RCW 9A.52.095)

25 **Sec. 34.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
26 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
27 s 4 are each reenacted and amended to read as follows:

28 TABLE 2
29 CRIMES INCLUDED WITHIN
30 EACH SERIOUSNESS LEVEL
31 XVI Aggravated Murder 1 (RCW
32 10.95.020)
33 XV Homicide by abuse (RCW 9A.32.055)
34 Malicious explosion 1 (RCW
35 70.74.280(1))

1 Murder 1 (RCW 9A.32.030)
2 XIV Murder 2 (RCW 9A.32.050)
3 XIII Malicious explosion 2 (RCW
4 70.74.280(2))
5 Malicious placement of an explosive 1
6 (RCW 70.74.270(1))
7 XII Assault 1 (RCW 9A.36.011)
8 Assault of a Child 1 (RCW 9A.36.120)
9 Malicious placement of an imitation
10 device 1 (RCW 70.74.272(1)(a))
11 Rape 1 (RCW 9A.44.040)
12 Rape of a Child 1 (RCW 9A.44.073)
13 XI Manslaughter 1 (RCW 9A.32.060)
14 Rape 2 (RCW 9A.44.050)
15 Rape of a Child 2 (RCW 9A.44.076)
16 X Child Molestation 1 (RCW 9A.44.083)
17 Indecent Liberties (with forcible
18 compulsion) (RCW
19 9A.44.100(1)(a))
20 Kidnapping 1 (RCW 9A.40.020)
21 Leading Organized Crime (RCW
22 9A.82.060(1)(a))
23 Malicious explosion 3 (RCW
24 70.74.280(3))
25 Sexually Violent Predator Escape
26 (RCW 9A.76.115)
27 IX Assault of a Child 2 (RCW 9A.36.130)
28 Explosive devices prohibited (RCW
29 70.74.180)
30 Hit and Run--Death (RCW
31 46.52.020(4)(a))
32 Homicide by Watercraft, by being
33 under the influence of intoxicating
34 liquor or any drug (RCW
35 79A.60.050)
36 Inciting Criminal Profiteering (RCW
37 9A.82.060(1)(b))

1 Malicious placement of an explosive 2
2 (RCW 70.74.270(2))
3 Robbery 1 (RCW 9A.56.200)
4 Sexual Exploitation (RCW 9.68A.040)
5 Vehicular Homicide, by being under
6 the influence of intoxicating
7 liquor or any drug (RCW
8 46.61.520)
9 VIII Arson 1 (RCW 9A.48.020)
10 Homicide by Watercraft, by the
11 operation of any vessel in a
12 reckless manner (RCW
13 79A.60.050)
14 Manslaughter 2 (RCW 9A.32.070)
15 Promoting Prostitution 1 (RCW
16 9A.88.070)
17 Theft of Ammonia (RCW 69.55.010)
18 Vehicular Homicide, by the operation
19 of any vehicle in a reckless
20 manner (RCW 46.61.520)
21 VII Burglary 1 (RCW 9A.52.020)
22 Child Molestation 2 (RCW 9A.44.086)
23 Civil Disorder Training (RCW
24 9A.48.120)
25 Dealing in depictions of minor
26 engaged in sexually explicit
27 conduct (RCW 9.68A.050)
28 Drive-by Shooting (RCW 9A.36.045)
29 Homicide by Watercraft, by disregard
30 for the safety of others (RCW
31 79A.60.050)
32 Indecent Liberties (without forcible
33 compulsion) (RCW 9A.44.100(1)
34 (b) and (c))
35 Introducing Contraband 1 (RCW
36 9A.76.140)

1 Malicious placement of an explosive 3
2 (RCW 70.74.270(3))
3 Sending, bringing into state depictions
4 of minor engaged in sexually
5 explicit conduct (RCW
6 9.68A.060)
7 Unlawful Possession of a Firearm in
8 the first degree (RCW
9 9.41.040(1)(a))
10 Use of a Machine Gun in Commission
11 of a Felony (RCW 9.41.225)
12 Vehicular Homicide, by disregard for
13 the safety of others (RCW
14 46.61.520)
15 VI Bail Jumping with Murder 1 (RCW
16 9A.76.170(3)(a))
17 Bribery (RCW 9A.68.010)
18 Incest 1 (RCW 9A.64.020(1))
19 Intimidating a Judge (RCW
20 9A.72.160)
21 Intimidating a Juror/Witness (RCW
22 9A.72.110, 9A.72.130)
23 Malicious placement of an imitation
24 device 2 (RCW 70.74.272(1)(b))
25 Rape of a Child 3 (RCW 9A.44.079)
26 Theft of a Firearm (RCW 9A.56.300)
27 Unlawful Storage of Ammonia (RCW
28 69.55.020)
29 V Abandonment of dependent person 1
30 (RCW 9A.42.060)
31 Advancing money or property for
32 extortionate extension of credit
33 (RCW 9A.82.030)
34 Bail Jumping with class A Felony
35 (RCW 9A.76.170(3)(b))
36 Child Molestation 3 (RCW 9A.44.089)

1 Criminal Mistreatment 1 (RCW
2 9A.42.020)
3 Custodial Sexual Misconduct 1 (RCW
4 9A.44.160)
5 Domestic Violence Court Order
6 Violation (RCW 10.99.040,
7 10.99.050, 26.09.300, 26.10.220,
8 26.26.138, 26.50.110, 26.52.070,
9 or 74.34.145)
10 Extortion 1 (RCW 9A.56.120)
11 Extortionate Extension of Credit
12 (RCW 9A.82.020)
13 Extortionate Means to Collect
14 Extensions of Credit (RCW
15 9A.82.040)
16 Incest 2 (RCW 9A.64.020(2))
17 Kidnapping 2 (RCW 9A.40.030)
18 Perjury 1 (RCW 9A.72.020)
19 Persistent prison misbehavior (RCW
20 9.94.070)
21 Possession of a Stolen Firearm (RCW
22 9A.56.310)
23 Rape 3 (RCW 9A.44.060)
24 Rendering Criminal Assistance 1
25 (RCW 9A.76.070)
26 Sexual Misconduct with a Minor 1
27 (RCW 9A.44.093)
28 Sexually Violating Human Remains
29 (RCW 9A.44.105)
30 Stalking (RCW 9A.46.110)
31 Taking Motor Vehicle Without
32 Permission 1 (RCW
33 9A.56.070(1))
34 IV Arson 2 (RCW 9A.48.030)
35 Assault 2 (RCW 9A.36.021)
36 Assault by Watercraft (RCW
37 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW
6 9A.68.060)
7 Counterfeiting (RCW 9.16.035(4))
8 Endangerment with a Controlled
9 Substance (RCW 9A.42.100)
10 Escape 1 (RCW 9A.76.110)
11 Hit and Run--Injury (RCW
12 46.52.020(4)(b))
13 Hit and Run with Vessel--Injury
14 Accident (RCW 79A.60.200(3))
15 Identity Theft 1 (RCW 9.35.020(2)(a))
16 Indecent Exposure to Person Under
17 Age Fourteen (subsequent sex
18 offense) (RCW 9A.88.010)
19 Influencing Outcome of Sporting
20 Event (RCW 9A.82.070)
21 Knowingly Trafficking in Stolen
22 Property (RCW 9A.82.050(2))
23 Malicious Harassment (RCW
24 9A.36.080)
25 Residential Burglary (RCW
26 9A.52.025)
27 Robbery 2 (RCW 9A.56.210)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Threats to Bomb (RCW 9.61.160)
30 Use of Proceeds of Criminal
31 Profiteering (RCW 9A.82.080 (1)
32 and (2))
33 Vehicular Assault, by being under the
34 influence of intoxicating liquor or
35 any drug, or by the operation or
36 driving of a vehicle in a reckless
37 manner (RCW 46.61.522)

1 Willful Failure to Return from
2 Furlough (RCW 72.66.060)
3 III Abandonment of dependent person 2
4 (RCW 9A.42.070)
5 Assault 3 (RCW 9A.36.031)
6 Assault of a Child 3 (RCW 9A.36.140)
7 Bail Jumping with class B or C Felony
8 (RCW 9A.76.170(3)(c))
9 Burglary 2 (RCW 9A.52.030)
10 Communication with a Minor for
11 Immoral Purposes (RCW
12 9.68A.090)
13 Criminal Gang Intimidation (RCW
14 9A.46.120)
15 Criminal Mistreatment 2 (RCW
16 9A.42.030)
17 Custodial Assault (RCW 9A.36.100)
18 Escape 2 (RCW 9A.76.120)
19 Extortion 2 (RCW 9A.56.130)
20 Harassment (RCW 9A.46.020)
21 Intimidating a Public Servant (RCW
22 9A.76.180)
23 Introducing Contraband 2 (RCW
24 9A.76.150)
25 Malicious Injury to Railroad Property
26 (RCW 81.60.070)
27 Patronizing a Juvenile Prostitute
28 (RCW 9.68A.100)
29 Perjury 2 (RCW 9A.72.030)
30 Possession of Incendiary Device (RCW
31 9.40.120)
32 Possession of Machine Gun or Short-
33 Barreled Shotgun or Rifle (RCW
34 9.41.190)
35 Promoting Prostitution 2 (RCW
36 9A.88.080)

1 Recklessly Trafficking in Stolen
2 Property (RCW 9A.82.050(1))
3 Securities Act violation (RCW
4 21.20.400)
5 Tampering with a Witness (RCW
6 9A.72.120)
7 Telephone Harassment (subsequent
8 conviction or threat of death)
9 (RCW 9.61.230)
10 Theft of Livestock 2 (RCW 9A.56.080)
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful possession of firearm in the
14 second degree (RCW
15 9.41.040(1)(b))
16 Vehicular Assault, by the operation or
17 driving of a vehicle with disregard
18 for the safety of others (RCW
19 46.61.522)
20 Willful Failure to Return from Work
21 Release (RCW 72.65.070)
22 II Computer Trespass 1 (RCW
23 9A.52.110)
24 Counterfeiting (RCW 9.16.035(3))
25 Escape from Community Custody
26 (RCW 72.09.310)
27 Health Care False Claims (RCW
28 48.80.030)
29 Identity Theft 2 (RCW 9.35.020(2)(b))
30 Improperly Obtaining Financial
31 Information (RCW 9.35.010)
32 Malicious Mischief 1 (RCW
33 9A.48.070)
34 Possession of Stolen Property 1 (RCW
35 9A.56.150)
36 Theft 1 (RCW 9A.56.030)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at one
3 thousand five hundred dollars or
4 more) (RCW 9A.56.096(4))
5 Trafficking in Insurance Claims (RCW
6 48.30A.015)
7 Unlawful Practice of Law (RCW
8 2.48.180)
9 Unlicensed Practice of a Profession or
10 Business (RCW 18.130.190(7))
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Fraudulent Creation or Revocation of a
17 Mental Health Advance Directive
18 (section 32 of this act)
19 Malicious Mischief 2 (RCW
20 9A.48.080)
21 Possession of Stolen Property 2 (RCW
22 9A.56.160)
23 Reckless Burning 1 (RCW 9A.48.040)
24 Taking Motor Vehicle Without
25 Permission 2 (RCW
26 9A.56.070(2))
27 Theft 2 (RCW 9A.56.040)
28 Theft of Rental, Leased, or Lease-
29 purchased Property (valued at two
30 hundred fifty dollars or more but
31 less than one thousand five
32 hundred dollars) (RCW
33 9A.56.096(4))
34 Unlawful Issuance of Checks or Drafts
35 (RCW 9A.56.060)
36 Unlawful Use of Food Stamps (RCW
37 9.91.140 (2) and (3))

PART VIII

Miscellaneous Provisions

NEW SECTION. **Sec. 35.** Sections 1 through 27 of this act constitute a new chapter in Title 71 RCW.

NEW SECTION. **Sec. 36.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 37.** Section 33 of this act expires July 1, 2004.

NEW SECTION. **Sec. 38.** Section 34 of this act takes effect July 1, 2004.

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