

2SSB 6793 - H AMD 1178

By Representative Cody

WITHDRAWN 03/08/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 REGIONAL SUPPORT NETWORKS

5 NEW SECTION. **Sec. 101.** (1) The legislature finds that ambiguities
6 have been identified regarding the appropriation and allocation of
7 federal and state funds, and the responsibilities of the department of
8 social and health services and the regional support networks with
9 regard to the provision of inpatient mental health services under the
10 community mental health services act, chapter 71.24 RCW, and the
11 involuntary treatment act, chapter 71.05 RCW. The purpose of this 2006
12 act is to make retroactive, remedial, curative, and technical
13 amendments in order to resolve such ambiguities.

14 (2) In enacting the community mental health services act, the
15 legislature intended the relationship between the state and the
16 regional support networks to be governed solely by the terms of the
17 regional support network contracts and did not intend these
18 relationships to create statutory causes of action not expressly
19 provided for in the contracts. Therefore, the legislature's intent is
20 that, except to the extent expressly provided in contracts entered
21 after the effective date of this section, the department of social and
22 health services and regional support networks shall resolve existing
23 and future disagreements regarding the subject matter identified in
24 sections 103 and 301 of this act through nonjudicial means.

25 **Sec. 102.** RCW 71.24.016 and 2001 c 323 s 4 are each amended to
26 read as follows:

27 (1) The legislature intends that eastern and western state
28 hospitals shall operate as clinical centers for handling the most

1 complicated long-term care needs of patients with a primary diagnosis
2 of mental disorder. It is further the intent of the legislature that
3 the community mental health service delivery system focus on
4 maintaining mentally ill individuals in the community. The program
5 shall be evaluated and managed through a limited number of performance
6 measures designed to hold each regional support network accountable for
7 program success.

8 (2) The legislature intends to address the needs of people with
9 mental disorders with a targeted, coordinated, and comprehensive set of
10 evidence-based practices that are effective in serving individuals in
11 their community and will reduce the need for placements in state mental
12 hospitals. The legislature further intends to explicitly hold regional
13 support networks accountable for serving people with mental disorders
14 within their geographic boundaries and for not exceeding their
15 allocation of state hospital beds. Within funds appropriated by the
16 legislature for this purpose, regional support networks shall develop
17 the means to serve the needs of people with mental disorders within
18 their geographic boundaries. Elements of the program may include:

19 (a) Crisis triage;

20 (b) Evaluation and treatment and community hospital beds;

21 (c) Residential beds;

22 (d) Programs for community treatment teams; and

23 (e) Outpatient services.

24 (3) The regional support network shall have the flexibility, within
25 the funds appropriated by the legislature for this purpose, to design
26 the mix of services that will be most effective within their service
27 area of meeting the needs of people with mental disorders and avoiding
28 placement of such individuals at the state mental hospital. Regional
29 support networks are encouraged to maximize the use of evidence-based
30 practices and alternative resources with the goal of substantially
31 reducing and potentially eliminating the use of institutions for mental
32 diseases.

33 NEW SECTION. Sec. 103. A new section is added to chapter 71.24
34 RCW to read as follows:

35 (1) Except for monetary damage claims which have been reduced to
36 final judgment by a superior court, this section applies to all claims

1 against the state, state agencies, state officials, or state employees
2 that exist on or arise after the effective date of this section.

3 (2) Except as expressly provided in contracts entered into between
4 the department and the regional support networks after the effective
5 date of this section, the entities identified in subsection (3) of this
6 section shall have no claim for declaratory relief, injunctive relief,
7 judicial review under chapter 34.05 RCW, or civil liability against the
8 state or state agencies for actions or inactions performed pursuant to
9 the administration of this chapter with regard to the following: (a)
10 The allocation or payment of federal or state funds; (b) the use or
11 allocation of state hospital beds; or (c) financial responsibility for
12 the provision of inpatient mental health care.

13 (3) This section applies to counties, regional support networks,
14 and entities which contract to provide regional support network
15 services and their subcontractors, agents, or employees.

16 **Sec. 104.** RCW 71.24.025 and 2005 c 504 s 105 and 2005 c 503 s 2
17 are each reenacted and amended to read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

20 (1) "Acutely mentally ill" means a condition which is limited to a
21 short-term severe crisis episode of:

22 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
23 of a child, as defined in RCW 71.34.020;

24 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
25 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
26 or

27 (c) Presenting a likelihood of serious harm as defined in RCW
28 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

29 (2) "Available resources" means funds appropriated for the purpose
30 of providing community mental health programs, federal funds, except
31 those provided according to Title XIX of the Social Security Act, and
32 state funds appropriated under this chapter or chapter 71.05 RCW by the
33 legislature during any biennium for the purpose of providing
34 residential services, resource management services, community support
35 services, and other mental health services. This does not include
36 funds appropriated for the purpose of operating and administering the

1 state psychiatric hospitals(~~(, except as negotiated according to RCW~~
2 ~~71.24.300(1)(d))~~)).

3 (3) "Child" means a person under the age of eighteen years.

4 (4) "Chronically mentally ill adult" means an adult who has a
5 mental disorder and meets at least one of the following criteria:

6 (a) Has undergone two or more episodes of hospital care for a
7 mental disorder within the preceding two years; or

8 (b) Has experienced a continuous psychiatric hospitalization or
9 residential treatment exceeding six months' duration within the
10 preceding year; or

11 (c) Has been unable to engage in any substantial gainful activity
12 by reason of any mental disorder which has lasted for a continuous
13 period of not less than twelve months. "Substantial gainful activity"
14 shall be defined by the department by rule consistent with Public Law
15 92-603, as amended.

16 (5) "Community mental health program" means all mental health
17 services, activities, or programs using available resources.

18 (6) "Community mental health service delivery system" means public
19 or private agencies that provide services specifically to persons with
20 mental disorders as defined under RCW 71.05.020 and receive funding
21 from public sources.

22 (7) "Community support services" means services authorized,
23 planned, and coordinated through resource management services
24 including, at a minimum, assessment, diagnosis, emergency crisis
25 intervention available twenty-four hours, seven days a week,
26 prescreening determinations for mentally ill persons being considered
27 for placement in nursing homes as required by federal law, screening
28 for patients being considered for admission to residential services,
29 diagnosis and treatment for acutely mentally ill and severely
30 emotionally disturbed children discovered under screening through the
31 federal Title XIX early and periodic screening, diagnosis, and
32 treatment program, investigation, legal, and other nonresidential
33 services under chapter 71.05 RCW, case management services, psychiatric
34 treatment including medication supervision, counseling, psychotherapy,
35 assuring transfer of relevant patient information between service
36 providers, recovery services, and other services determined by regional
37 support networks.

1 (8) "Consensus-based" means a program or practice that has general
2 support among treatment providers and experts, based on experience or
3 professional literature, and may have anecdotal or case study support,
4 or that is agreed but not possible to perform studies with random
5 assignment and controlled groups.

6 (9) "County authority" means the board of county commissioners,
7 county council, or county executive having authority to establish a
8 community mental health program, or two or more of the county
9 authorities specified in this subsection which have entered into an
10 agreement to provide a community mental health program.

11 (10) "Department" means the department of social and health
12 services.

13 (11) "Designated mental health professional" means a mental health
14 professional designated by the county or other authority authorized in
15 rule to perform the duties specified in this chapter.

16 (12) "Emerging best practice" or "promising practice" means a
17 practice that presents, based on preliminary information, potential for
18 becoming a research-based or consensus-based practice.

19 (13) "Evidence-based" means a program or practice that has had
20 multiple site random controlled trials across heterogeneous populations
21 demonstrating that the program or practice is effective for the
22 population.

23 (14) "Licensed service provider" means an entity licensed according
24 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
25 minimum standards as a result of accreditation by a recognized
26 behavioral health accrediting body recognized and having a current
27 agreement with the department, that meets state minimum standards or
28 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
29 applies to registered nurses and advanced registered nurse
30 practitioners.

31 (15) "Long-term inpatient care" means inpatient services for
32 persons committed for, or voluntarily receiving intensive treatment
33 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-
34 term inpatient care" as used in this chapter does not include: (a)
35 Services for individuals committed under chapter 71.05 RCW who are
36 receiving services pursuant to a conditional release or a court-ordered
37 less restrictive alternative to detention; or (b) services for

1 individuals voluntarily receiving less restrictive alternative
2 treatment on the grounds of the state hospital.

3 (16) "Mental health services" means all services provided by
4 regional support networks and other services provided by the state for
5 the mentally ill.

6 ~~((+16+))~~ (17) "Mentally ill persons" and "the mentally ill" mean
7 persons and conditions defined in subsections (1), (4), ~~((+25+))~~ (26),
8 and ~~((+26+))~~ (27) of this section.

9 ~~((+17+))~~ (18) "Recovery" means the process in which people are able
10 to live, work, learn, and participate fully in their communities.

11 ~~((+18+))~~ (19) "Regional support network" means a county authority
12 or group of county authorities or other nonprofit entity recognized by
13 the secretary in contract in a defined region.

14 ~~((+19+))~~ (20) "Registration records" include all the records of the
15 department, regional support networks, treatment facilities, and other
16 persons providing services to the department, county departments, or
17 facilities which identify persons who are receiving or who at any time
18 have received services for mental illness.

19 ~~((+20+))~~ (21) "Residential services" means a complete range of
20 residences and supports authorized by resource management services and
21 which may involve a facility, a distinct part thereof, or services
22 which support community living, for acutely mentally ill persons,
23 chronically mentally ill adults, severely emotionally disturbed
24 children, or seriously disturbed adults determined by the regional
25 support network to be at risk of becoming acutely or chronically
26 mentally ill. The services shall include at least evaluation and
27 treatment services as defined in chapter 71.05 RCW, acute crisis
28 respite care, long-term adaptive and rehabilitative care, and
29 supervised and supported living services, and shall also include any
30 residential services developed to service mentally ill persons in
31 nursing homes, boarding homes, and adult family homes, and may include
32 outpatient services provided as an element in a package of services in
33 a supported housing model. Residential services for children in out-
34 of-home placements related to their mental disorder shall not include
35 the costs of food and shelter, except for children's long-term
36 residential facilities existing prior to January 1, 1991.

37 ~~((+21+))~~ (22) "Research-based" means a program or practice that has

1 some research demonstrating effectiveness, but that does not yet meet
2 the standard of evidence-based practices.

3 ~~((+22+))~~ (23) "Resilience" means the personal and community
4 qualities that enable individuals to rebound from adversity, trauma,
5 tragedy, threats, or other stresses, and to live productive lives.

6 ~~((+23+))~~ (24) "Resource management services" mean the planning,
7 coordination, and authorization of residential services and community
8 support services administered pursuant to an individual service plan
9 for: (a) Acutely mentally ill adults and children; (b) chronically
10 mentally ill adults; (c) severely emotionally disturbed children; or
11 (d) seriously disturbed adults determined solely by a regional support
12 network to be at risk of becoming acutely or chronically mentally ill.
13 Such planning, coordination, and authorization shall include mental
14 health screening for children eligible under the federal Title XIX
15 early and periodic screening, diagnosis, and treatment program.
16 Resource management services include seven day a week, twenty-four hour
17 a day availability of information regarding mentally ill adults' and
18 children's enrollment in services and their individual service plan to
19 designated mental health professionals, evaluation and treatment
20 facilities, and others as determined by the regional support network.

21 ~~((+24+))~~ (25) "Secretary" means the secretary of social and health
22 services.

23 ~~((+25+))~~ (26) "Seriously disturbed person" means a person who:

24 (a) Is gravely disabled or presents a likelihood of serious harm to
25 himself or herself or others, or to the property of others, as a result
26 of a mental disorder as defined in chapter 71.05 RCW;

27 (b) Has been on conditional release status, or under a less
28 restrictive alternative order, at some time during the preceding two
29 years from an evaluation and treatment facility or a state mental
30 health hospital;

31 (c) Has a mental disorder which causes major impairment in several
32 areas of daily living;

33 (d) Exhibits suicidal preoccupation or attempts; or

34 (e) Is a child diagnosed by a mental health professional, as
35 defined in chapter 71.34 RCW, as experiencing a mental disorder which
36 is clearly interfering with the child's functioning in family or school
37 or with peers or is clearly interfering with the child's personality
38 development and learning.

1 (~~(+26+)~~) (27) "Severely emotionally disturbed child" means a child
2 who has been determined by the regional support network to be
3 experiencing a mental disorder as defined in chapter 71.34 RCW,
4 including those mental disorders that result in a behavioral or conduct
5 disorder, that is clearly interfering with the child's functioning in
6 family or school or with peers and who meets at least one of the
7 following criteria:

8 (a) Has undergone inpatient treatment or placement outside of the
9 home related to a mental disorder within the last two years;

10 (b) Has undergone involuntary treatment under chapter 71.34 RCW
11 within the last two years;

12 (c) Is currently served by at least one of the following child-
13 serving systems: Juvenile justice, child-protection/welfare, special
14 education, or developmental disabilities;

15 (d) Is at risk of escalating maladjustment due to:

16 (i) Chronic family dysfunction involving a mentally ill or
17 inadequate caretaker;

18 (ii) Changes in custodial adult;

19 (iii) Going to, residing in, or returning from any placement
20 outside of the home, for example, psychiatric hospital, short-term
21 inpatient, residential treatment, group or foster home, or a
22 correctional facility;

23 (iv) Subject to repeated physical abuse or neglect;

24 (v) Drug or alcohol abuse; or

25 (vi) Homelessness.

26 (~~(+27+)~~) (28) "State minimum standards" means minimum requirements
27 established by rules adopted by the secretary and necessary to
28 implement this chapter for: (a) Delivery of mental health services;
29 (b) licensed service providers for the provision of mental health
30 services; (c) residential services; and (d) community support services
31 and resource management services.

32 (~~(+28+)~~) (29) "Treatment records" include registration and all
33 other records concerning persons who are receiving or who at any time
34 have received services for mental illness, which are maintained by the
35 department, by regional support networks and their staffs, and by
36 treatment facilities. Treatment records do not include notes or
37 records maintained for personal use by a person providing treatment

1 services for the department, regional support networks, or a treatment
2 facility if the notes or records are not available to others.

3 ~~((+29+))~~ (30) "Tribal authority," for the purposes of this section
4 and RCW 71.24.300 only, means: The federally recognized Indian tribes
5 and the major Indian organizations recognized by the secretary insofar
6 as these organizations do not have a financial relationship with any
7 regional support network that would present a conflict of interest.

8 **Sec. 105.** RCW 71.24.045 and 2005 c 503 s 8 are each amended to
9 read as follows:

10 The regional support network shall:

11 (1) Contract as needed with licensed service providers. The
12 regional support network may, in the absence of a licensed service
13 provider entity, become a licensed service provider entity pursuant to
14 minimum standards required for licensing by the department for the
15 purpose of providing services not available from licensed service
16 providers;

17 (2) Operate as a licensed service provider if it deems that doing
18 so is more efficient and cost effective than contracting for services.
19 When doing so, the regional support network shall comply with rules
20 promulgated by the secretary that shall provide measurements to
21 determine when a regional support network provided service is more
22 efficient and cost effective;

23 (3) Monitor and perform biennial fiscal audits of licensed service
24 providers who have contracted with the regional support network to
25 provide services required by this chapter. The monitoring and audits
26 shall be performed by means of a formal process which insures that the
27 licensed service providers and professionals designated in this
28 subsection meet the terms of their contracts;

29 (4) Assure that the special needs of minorities, the elderly,
30 disabled, children, and low-income persons are met within the
31 priorities established in this chapter;

32 (5) Maintain patient tracking information in a central location as
33 required for resource management services and the department's
34 information system;

35 ~~((Use not more than two percent of state appropriated community
36 mental health funds, which shall not include federal funds, to
37 administer community mental health programs under RCW 71.24.155;~~

1 ~~PROVIDED, That county authorities serving a county or combination of~~
2 ~~counties whose population is one hundred twenty five thousand or more~~
3 ~~may be entitled to sufficient state appropriated community mental~~
4 ~~health funds to employ up to one full time employee or the equivalent~~
5 ~~thereof in addition to the two percent limit established in this~~
6 ~~subsection when such employee is providing staff services to a county~~
7 ~~mental health advisory board;~~

8 ~~(7))~~ Collaborate to ensure that policies do not result in an
9 adverse shift of mentally ill persons into state and local correctional
10 facilities;

11 ~~((8))~~ (7) Work with the department to expedite the enrollment or
12 re-enrollment of eligible persons leaving state or local correctional
13 facilities and institutions for mental diseases;

14 ~~((9))~~ (8) If a regional support network is not operated by the
15 county, work closely with the county designated mental health
16 professional or county designated crisis responder to maximize
17 appropriate placement of persons into community services; and

18 ~~((10))~~ (9) Coordinate services for individuals who have received
19 services through the community mental health system and who become
20 patients at a state mental hospital to ensure they are transitioned
21 into the community in accordance with mutually agreed upon discharge
22 plans and upon determination by the medical director of the state
23 mental hospital that they no longer need intensive inpatient care.

24 **Sec. 106.** RCW 71.24.300 and 2005 c 503 s 11 are each amended to
25 read as follows:

26 (1) Upon the request of a tribal authority or authorities within a
27 regional support network the joint operating agreement or the county
28 authority shall allow for the inclusion of the tribal authority to be
29 represented as a party to the regional support network.

30 (2) The roles and responsibilities of the county and tribal
31 authorities shall be determined by the terms of that agreement
32 including a determination of membership on the governing board and
33 advisory committees, the number of tribal representatives to be party
34 to the agreement, and the provisions of law and shall assure the
35 provision of culturally competent services to the tribes served.

36 (3) The state mental health authority may not determine the roles
37 and responsibilities of county authorities as to each other under

1 regional support networks by rule, except to assure that all duties
2 required of regional support networks are assigned and that counties
3 and the regional support network do not duplicate functions and that a
4 single authority has final responsibility for all available resources
5 and performance under the regional support network's contract with the
6 secretary.

7 (4) If a regional support network is a private nonprofit entity,
8 the department shall allow for the inclusion of the tribal authority to
9 be represented as a party to the regional support network.

10 (5) The roles and responsibilities of the private nonprofit entity
11 and the tribal authorities shall be determined by the department,
12 through negotiation with the tribal authority.

13 ((+1)) (6) Regional support networks shall submit an overall six-
14 year operating and capital plan, timeline, and budget and submit
15 progress reports and an updated two-year plan biennially thereafter, to
16 assume within available resources all of the following duties:

17 (a) Administer and provide for the availability of all resource
18 management services, residential services, and community support
19 services.

20 (b) Administer and provide for the availability of all
21 investigation, transportation, court-related, and other services
22 provided by the state or counties pursuant to chapter 71.05 RCW.

23 (c) Provide within the boundaries of each regional support network
24 evaluation and treatment services for at least ((~~eighty-five~~)) ninety
25 percent of persons detained or committed for periods up to seventeen
26 days according to chapter 71.05 RCW. Regional support networks ((~~with~~
27 ~~populations of less than one hundred fifty thousand~~)) may contract to
28 purchase evaluation and treatment services from other networks if they
29 are unable to provide for appropriate resources within their
30 boundaries. Insofar as the original intent of serving persons in the
31 community is maintained, the secretary is authorized to approve
32 exceptions on a case-by-case basis to the requirement to provide
33 evaluation and treatment services within the boundaries of each
34 regional support network. Such exceptions are limited to:

- 35 (i) Contracts with neighboring or contiguous regions; or
36 (ii) Individuals detained or committed for periods up to seventeen
37 days at the state hospitals at the discretion of the secretary.

1 ~~((Administer a portion of funds appropriated by the legislature~~
2 ~~to house mentally ill persons in state institutions from counties~~
3 ~~within the boundaries of any regional support network, with the~~
4 ~~exception of persons currently confined at, or under the supervision~~
5 ~~of, a state mental hospital pursuant to chapter 10.77 RCW, and provide~~
6 ~~for the care of all persons needing evaluation and treatment services~~
7 ~~for periods up to seventeen days according to chapter 71.05 RCW in~~
8 ~~appropriate residential services, which may include state institutions.~~
9 ~~The regional support networks shall reimburse the state for use of~~
10 ~~state institutions at a rate equal to that assumed by the legislature~~
11 ~~when appropriating funds for such care at state institutions during the~~
12 ~~biennium when reimbursement occurs. The secretary shall submit a~~
13 ~~report to the appropriate committees of the senate and house of~~
14 ~~representatives on the efforts to implement this section by October 1,~~
15 ~~2002. The duty of a state hospital to accept persons for evaluation~~
16 ~~and treatment under chapter 71.05 RCW is limited by the~~
17 ~~responsibilities assigned to regional support networks under this~~
18 ~~section.~~

19 ~~((e))~~) Administer and provide for the availability of all other
20 mental health services, which shall include patient counseling, day
21 treatment, consultation, education services, employment services as
22 defined in RCW 71.24.035, and mental health services to children.

23 ~~((f))~~) (e) Establish standards and procedures for reviewing
24 individual service plans and determining when that person may be
25 discharged from resource management services.

26 ~~((2))~~) (7) A regional support network may request that any state-
27 owned land, building, facility, or other capital asset which was ever
28 purchased, deeded, given, or placed in trust for the care of the
29 mentally ill and which is within the boundaries of a regional support
30 network be made available to support the operations of the regional
31 support network. State agencies managing such capital assets shall
32 give first priority to requests for their use pursuant to this chapter.

33 ~~((3))~~) (8) Each regional support network shall appoint a mental
34 health advisory board which shall review and provide comments on plans
35 and policies developed under this chapter, provide local oversight
36 regarding the activities of the regional support network, and work with
37 the regional support network to resolve significant concerns regarding
38 service delivery and outcomes. The department shall establish

1 statewide procedures for the operation of regional advisory committees
2 including mechanisms for advisory board feedback to the department
3 regarding regional support network performance. The composition of the
4 board shall be broadly representative of the demographic character of
5 the region and shall include, but not be limited to, representatives of
6 consumers and families, law enforcement, and where the county is not
7 the regional support network, county elected officials. Composition
8 and length of terms of board members may differ between regional
9 support networks but shall be included in each regional support
10 network's contract and approved by the secretary.

11 ~~((4))~~ (9) Regional support networks shall assume all duties
12 specified in their plans and joint operating agreements through
13 biennial contractual agreements with the secretary.

14 ~~((5))~~ (10) Regional support networks may receive technical
15 assistance from the housing trust fund and may identify and submit
16 projects for housing and housing support services to the housing trust
17 fund established under chapter 43.185 RCW. Projects identified or
18 submitted under this subsection must be fully integrated with the
19 regional support network six-year operating and capital plan, timeline,
20 and budget required by subsection ~~((1))~~ (6) of this section.

21 **Sec. 107.** RCW 71.24.310 and 1989 c 205 s 6 are each amended to
22 read as follows:

23 The legislature finds that administration of chapter 71.05 RCW and
24 this chapter can be most efficiently and effectively implemented as
25 part of the regional support network defined in RCW 71.24.025. For
26 this reason, the legislature intends that ~~((any enhanced program
27 funding for implementation of))~~ the department and the regional support
28 networks shall work together to implement chapter 71.05 RCW ~~((or this
29 chapter, except for funds allocated for implementation of mandatory
30 statewide programs as required by federal statute, be made available
31 primarily to those counties participating in regional support
32 networks))~~ as follows:

33 (1) By June 1, 2006, regional support networks shall recommend to
34 the department the number of state hospital beds that should be
35 allocated for use by each regional support network. The statewide
36 total allocation shall not exceed the number of state hospital beds

1 offering long-term inpatient care, as defined in this chapter, for
2 which funding is provided in the biennial appropriations act.

3 (2) If there is consensus among the regional support networks
4 regarding the number of state hospital beds that should be allocated
5 for use by each regional support network, the department shall contract
6 with each regional support network accordingly.

7 (3) If there is not consensus among the regional support networks
8 regarding the number of beds that should be allocated for use by each
9 regional support network, the department shall establish by emergency
10 rule the number of state hospital beds that are available for use by
11 each regional support network. The emergency rule shall be effective
12 September 1, 2006. The primary factor used in the allocation shall be
13 the estimated number of acutely and chronically mentally ill adults in
14 each regional support network area, based upon population-adjusted
15 incidence and utilization.

16 (4) The allocation formula shall be updated at least every three
17 years to reflect demographic changes, and new evidence regarding the
18 incidence of acute and chronic mental illness and the need for long-
19 term inpatient care. In the updates, the statewide total allocation
20 shall include (a) all state hospital beds offering long-term inpatient
21 care for which funding is provided in the biennial appropriations act;
22 plus (b) the estimated equivalent number of beds or comparable
23 diversion services contracted in accordance with subsection (5) of this
24 section.

25 (5) The department is encouraged to enter performance-based
26 contracts with regional support networks to provide some or all of the
27 regional support network's allocated long-term inpatient treatment
28 capacity in the community, rather than in the state hospital. The
29 performance contracts shall specify the number of patient days of care
30 available for use by the regional support network in the state
31 hospital.

32 (6) If a regional support network uses more state hospital patient
33 days of care than it has been allocated under subsection (3) or (4) of
34 this section, or than it has contracted to use under subsection (5) of
35 this section, whichever is less, it shall reimburse the department for
36 that care. The reimbursement rate per day shall be the hospital's
37 total annual budget for long-term inpatient care, divided by the total
38 patient days of care assumed in development of that budget.

1 (B) Emergency care services for twenty-four hours per day;

2 (C) Day treatment for mentally ill persons which includes training
3 in basic living and social skills, supported work, vocational
4 rehabilitation, and day activities. Such services may include
5 therapeutic treatment. In the case of a child, day treatment includes
6 age-appropriate basic living and social skills, educational and
7 prevocational services, day activities, and therapeutic treatment;

8 (D) Screening for patients being considered for admission to state
9 mental health facilities to determine the appropriateness of admission;

10 (E) Employment services, which may include supported employment,
11 transitional work, placement in competitive employment, and other work-
12 related services, that result in mentally ill persons becoming engaged
13 in meaningful and gainful full or part-time work. Other sources of
14 funding such as the division of vocational rehabilitation may be
15 utilized by the secretary to maximize federal funding and provide for
16 integration of services;

17 (F) Consultation and education services; and

18 (G) Community support services;

19 (c) Develop and adopt rules establishing state minimum standards
20 for the delivery of mental health services pursuant to RCW 71.24.037
21 including, but not limited to:

22 (i) Licensed service providers. These rules shall permit a county-
23 operated mental health program to be licensed as a service provider
24 subject to compliance with applicable statutes and rules. The
25 secretary shall provide for deeming of compliance with state minimum
26 standards for those entities accredited by recognized behavioral health
27 accrediting bodies recognized and having a current agreement with the
28 department;

29 (ii) Regional support networks; and

30 (iii) Inpatient services, evaluation and treatment services and
31 facilities under chapter 71.05 RCW, resource management services, and
32 community support services;

33 (d) Assure that the special needs of minorities, the elderly,
34 disabled, children, and low-income persons are met within the
35 priorities established in this section;

36 (e) Establish a standard contract or contracts, consistent with
37 state minimum standards and RCW 71.24.320 (~~and~~), 71.24.330, and
38 71.24.3201, which shall be used in contracting with regional support

1 networks. The standard contract shall include a maximum fund balance,
2 which shall be consistent with that required by federal regulations or
3 waiver stipulations;

4 (f) Establish, to the extent possible, a standardized auditing
5 procedure which minimizes paperwork requirements of regional support
6 networks and licensed service providers. The audit procedure shall
7 focus on the outcomes of service and not the processes for
8 accomplishing them;

9 (g) Develop and maintain an information system to be used by the
10 state and regional support networks that includes a tracking method
11 which allows the department and regional support networks to identify
12 mental health clients' participation in any mental health service or
13 public program on an immediate basis. The information system shall not
14 include individual patient's case history files. Confidentiality of
15 client information and records shall be maintained as provided in this
16 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

17 (h) License service providers who meet state minimum standards;

18 (i) Certify regional support networks that meet state minimum
19 standards;

20 (j) Periodically monitor the compliance of certified regional
21 support networks and their network of licensed service providers for
22 compliance with the contract between the department, the regional
23 support network, and federal and state rules at reasonable times and in
24 a reasonable manner;

25 (k) Fix fees to be paid by evaluation and treatment centers to the
26 secretary for the required inspections;

27 (l) Monitor and audit regional support networks and licensed
28 service providers as needed to assure compliance with contractual
29 agreements authorized by this chapter;

30 (m) Adopt such rules as are necessary to implement the department's
31 responsibilities under this chapter; and

32 (n) Assure the availability of an appropriate amount, as determined
33 by the legislature in the operating budget by amounts appropriated for
34 this specific purpose, of community-based, geographically distributed
35 residential services.

36 (6) The secretary shall use available resources only for regional
37 support networks, except to the extent authorized, and in accordance

1 with any priorities or conditions specified, in the biennial
2 appropriations act.

3 (7) Each certified regional support network and licensed service
4 provider shall file with the secretary, on request, such data,
5 statistics, schedules, and information as the secretary reasonably
6 requires. A certified regional support network or licensed service
7 provider which, without good cause, fails to furnish any data,
8 statistics, schedules, or information as requested, or files fraudulent
9 reports thereof, may have its certification or license revoked or
10 suspended.

11 (8) The secretary may suspend, revoke, limit, or restrict a
12 certification or license, or refuse to grant a certification or license
13 for failure to conform to: (a) The law; (b) applicable rules and
14 regulations; (c) applicable standards; or (d) state minimum standards.

15 (9) The superior court may restrain any regional support network or
16 service provider from operating without certification or a license or
17 any other violation of this section. The court may also review,
18 pursuant to procedures contained in chapter 34.05 RCW, any denial,
19 suspension, limitation, restriction, or revocation of certification or
20 license, and grant other relief required to enforce the provisions of
21 this chapter.

22 (10) Upon petition by the secretary, and after hearing held upon
23 reasonable notice to the facility, the superior court may issue a
24 warrant to an officer or employee of the secretary authorizing him or
25 her to enter at reasonable times, and examine the records, books, and
26 accounts of any regional support network or service provider refusing
27 to consent to inspection or examination by the authority.

28 (11) Notwithstanding the existence or pursuit of any other remedy,
29 the secretary may file an action for an injunction or other process
30 against any person or governmental unit to restrain or prevent the
31 establishment, conduct, or operation of a regional support network or
32 service provider without certification or a license under this chapter.

33 (12) The standards for certification of evaluation and treatment
34 facilities shall include standards relating to maintenance of good
35 physical and mental health and other services to be afforded persons
36 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
37 otherwise assure the effectuation of the purposes of these chapters.

1 ~~(13)((a) The department, in consultation with affected parties,~~
2 ~~shall establish a distribution formula that reflects regional needs~~
3 ~~assessments based on the number of persons who are acutely mentally~~
4 ~~ill, chronically mentally ill, severely emotionally disturbed children,~~
5 ~~and seriously disturbed. The formula shall take into consideration the~~
6 ~~impact on regions of demographic factors which result in concentrations~~
7 ~~of priority populations as set forth in subsection (5)(b) of this~~
8 ~~section. These factors shall include the population concentrations~~
9 ~~resulting from commitments under chapters 71.05 and 71.34 RCW to state~~
10 ~~psychiatric hospitals, as well as concentration in urban areas, at~~
11 ~~border crossings at state boundaries, and other significant demographic~~
12 ~~and workload factors.~~

13 ~~(b) The formula shall also include a projection of the funding~~
14 ~~allocations that will result for each region, which specifies~~
15 ~~allocations according to priority populations, including the allocation~~
16 ~~for services to children and other underserved populations.~~

17 ~~(c) After July 1, 2003, the department may allocate up to two~~
18 ~~percent of total funds to be distributed to the regional support~~
19 ~~networks for incentive payments to reward the achievement of superior~~
20 ~~outcomes, or significantly improved outcomes, as measured by a~~
21 ~~statewide performance measurement system consistent with the framework~~
22 ~~recommended in the joint legislative audit and review committee's~~
23 ~~performance audit of the mental health system. The department shall~~
24 ~~annually report to the legislature on its criteria and allocation of~~
25 ~~the incentives provided under this subsection.)) The department shall~~
26 ~~distribute appropriated state and federal funds in accordance with any~~
27 ~~priorities, terms, or conditions specified in the appropriations act.~~

28 (14) The secretary shall assume all duties assigned to the
29 nonparticipating regional support networks under chapters 71.05, 71.34,
30 and 71.24 RCW. Such responsibilities shall include those which would
31 have been assigned to the nonparticipating counties in regions where
32 there are not participating regional support networks.

33 The regional support networks, or the secretary's assumption of all
34 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
35 included in all state and federal plans affecting the state mental
36 health program including at least those required by this chapter, the
37 medicaid program, and P.L. 99-660. Nothing in these plans shall be
38 inconsistent with the intent and requirements of this chapter.

1 (15) The secretary shall:

2 (a) Disburse funds for the regional support networks within sixty
3 days of approval of the biennial contract. The department must either
4 approve or reject the biennial contract within sixty days of receipt.

5 (b) Enter into biennial contracts with regional support networks.
6 The contracts shall be consistent with available resources. No
7 contract shall be approved that does not include progress toward
8 meeting the goals of this chapter by taking responsibility for: (i)
9 Short-term commitments; (ii) residential care; and (iii) emergency
10 response systems.

11 (c) Notify regional support networks of their allocation of
12 available resources at least sixty days prior to the start of a new
13 biennial contract period.

14 (d) Deny all or part of the funding allocations to regional support
15 networks based solely upon formal findings of noncompliance with the
16 terms of the regional support network's contract with the department.
17 (~~Written notice and at least thirty days for corrective action must~~
18 ~~precede any such action. In such cases, regional support networks~~
19 ~~shall have full rights to appeal under chapter 34.05 RCW.)) Regional
20 support networks disputing the decision of the secretary to withhold
21 funding allocations are limited to the remedies provided in the
22 department's contracts with the regional support networks.~~

23 (16) The department, in cooperation with the state congressional
24 delegation, shall actively seek waivers of federal requirements and
25 such modifications of federal regulations as are necessary to allow
26 federal medicaid reimbursement for services provided by free-standing
27 evaluation and treatment facilities certified under chapter 71.05 RCW.
28 The department shall periodically report its efforts to the appropriate
29 committees of the senate and the house of representatives.

30 **Sec. 202.** RCW 71.24.320 and 2005 c 503 s 4 are each amended to
31 read as follows:

32 (1) The secretary shall initiate a procurement process for regional
33 support networks in 2005. In the first step of the procurement
34 process, existing regional support networks may respond to a request
35 for qualifications developed by the department. The secretary shall
36 issue the request for qualifications not later than October 1, 2005.
37 The request for qualifications shall be based on cost-effectiveness,

1 adequate residential and service capabilities, effective collaboration
2 with criminal justice agencies and the chemical dependency treatment
3 system, and the ability to provide the full array of services as stated
4 in the mental health state plan, and shall meet all applicable federal
5 and state regulations and standards. An existing regional support
6 network shall be awarded the contract with the department if it
7 substantially meets the requirements of the request for qualifications
8 developed by the department.

9 (2)(a) If an existing regional support network chooses not to
10 respond to the request for qualifications, or is unable to
11 substantially meet the requirements of the request for qualifications,
12 the department shall utilize a procurement process in which other
13 entities recognized by the secretary may bid to serve as the regional
14 support network in that region. The procurement process shall begin
15 with a request for proposals issued March 1, 2006.

16 (i) The request for proposal shall include a scoring factor for
17 proposals that include additional financial resources beyond that
18 provided by state appropriation or allocation.

19 (ii) Regional support networks that substantially met the
20 requirements of the request for qualifications may bid to serve as the
21 regional support network for other regions of the state that are
22 subject to the request for proposal process. The proposal shall be
23 evaluated on whether the bid meets the threshold requirement for the
24 new region and shall not subject the regional support networks'
25 original region to the request for proposal.

26 (b) Prior to final evaluation and scoring of the proposals all
27 respondents will be provided with an opportunity for a detailed
28 briefing by the department regarding the deficiencies in the proposal
29 and shall be provided an opportunity to clarify information previously
30 submitted.

31 **Sec. 203.** RCW 71.24.330 and 2005 c 503 s 6 are each amended to
32 read as follows:

33 (1) Contracts between a regional support network and the department
34 shall include mechanisms for monitoring performance under the contract
35 and remedies for failure to substantially comply with the requirements
36 of the contract including, but not limited to, financial penalties,
37 termination of the contract, and reprocurement of the contract.

1 (2) The procurement process shall encourage the preservation of
2 infrastructure previously purchased by the community mental health
3 service delivery system, the maintenance of linkages between other
4 services and delivery systems, and maximization of the use of available
5 funds for services versus profits. The procurement process shall
6 provide that public funds appropriated by the legislature shall not be
7 used to promote or deter, encourage, or discourage employees from
8 exercising their rights under Title 29, chapter 7, subchapter II,
9 United States Code or chapter 41.56 RCW.

10 (3) In addition to the requirements of RCW 71.24.035, contracts
11 shall:

12 (a) Define administrative costs and ensure that the regional
13 support network does not exceed an administrative cost of ten percent
14 of available funds;

15 (b) Require effective collaboration with law enforcement, criminal
16 justice agencies, and the chemical dependency treatment system;

17 (c) Require substantial implementation of department adopted
18 integrated screening and assessment process and matrix of best
19 practices; (~~and~~)

20 (d) Maintain the decision-making independence of designated mental
21 health professionals;

22 (e) Except at the discretion of the secretary or as specified in
23 the biennial budget, require regional support networks to pay the state
24 for the costs associated with individuals who are being served on the
25 grounds of the state hospitals and who are not receiving long-term
26 inpatient care as defined in RCW 71.24.025; and

27 (f) Include a negotiated alternative dispute resolution clause.

28 **Sec. 204.** RCW 72.23.025 and 1998 c 245 s 141 are each amended to
29 read as follows:

30 (1) It is the intent of the legislature to improve the quality of
31 service at state hospitals, eliminate overcrowding, and more
32 specifically define the role of the state hospitals. The legislature
33 intends that eastern and western state hospitals shall become clinical
34 centers for handling the most complicated long-term care needs of
35 patients with a primary diagnosis of mental disorder. (~~Over the next~~
36 ~~six years, their involvement in providing short term, acute care, and~~
37 ~~less complicated long term care shall be diminished in accordance with~~

1 ~~the revised responsibilities for mental health care under chapter 71.24~~
2 ~~RCW.~~) To this end, the legislature intends that funds appropriated
3 for mental health programs, including funds for regional support
4 networks and the state hospitals be used for persons with primary
5 diagnosis of mental disorder. The legislature finds that establishment
6 of the eastern state hospital board, the western state hospital board,
7 and institutes for the study and treatment of mental disorders at both
8 eastern state hospital and western state hospital will be instrumental
9 in implementing the legislative intent.

10 (2)(a) The eastern state hospital board and the western state
11 hospital board are each established. Members of the boards shall be
12 appointed by the governor with the consent of the senate. Each board
13 shall include:

14 (i) The director of the institute for the study and treatment of
15 mental disorders established at the hospital;

16 (ii) One family member of a current or recent hospital resident;

17 (iii) One consumer of services;

18 (iv) One community mental health service provider;

19 (v) Two citizens with no financial or professional interest in
20 mental health services;

21 (vi) One representative of the regional support network in which
22 the hospital is located;

23 (vii) One representative from the staff who is a physician;

24 (viii) One representative from the nursing staff;

25 (ix) One representative from the other professional staff;

26 (x) One representative from the nonprofessional staff; and

27 (xi) One representative of a minority community.

28 (b) At least one representative listed in (a)(viii), (ix), or (x)
29 of this subsection shall be a union member.

30 (c) Members shall serve four-year terms. Members of the board
31 shall be reimbursed for travel expenses as provided in RCW 43.03.050
32 and 43.03.060 and shall receive compensation as provided in RCW
33 43.03.240.

34 (3) The boards established under this section shall:

35 (a) Monitor the operation and activities of the hospital;

36 (b) Review and advise on the hospital budget;

37 (c) Make recommendations to the governor and the legislature for
38 improving the quality of service provided by the hospital;

1 (d) Monitor and review the activities of the hospital in
2 implementing the intent of the legislature set forth in this section;
3 and

4 (e) Consult with the secretary regarding persons the secretary may
5 select as the superintendent of the hospital whenever a vacancy occurs.

6 (4)(a) There is established at eastern state hospital and western
7 state hospital, institutes for the study and treatment of mental
8 disorders. The institutes shall be operated by joint operating
9 agreements between state colleges and universities and the department
10 of social and health services. The institutes are intended to conduct
11 training, research, and clinical program development activities that
12 will directly benefit mentally ill persons receiving treatment in
13 Washington state by performing the following activities:

14 (i) Promote recruitment and retention of highly qualified
15 professionals at the state hospitals and community mental health
16 programs;

17 (ii) Improve clinical care by exploring new, innovative, and
18 scientifically based treatment models for persons presenting
19 particularly difficult and complicated clinical syndromes;

20 (iii) Provide expanded training opportunities for existing staff at
21 the state hospitals and community mental health programs;

22 (iv) Promote bilateral understanding of treatment orientation,
23 possibilities, and challenges between state hospital professionals and
24 community mental health professionals.

25 (b) To accomplish these purposes the institutes may, within funds
26 appropriated for this purpose:

27 (i) Enter joint operating agreements with state universities or
28 other institutions of higher education to accomplish the placement and
29 training of students and faculty in psychiatry, psychology, social
30 work, occupational therapy, nursing, and other relevant professions at
31 the state hospitals and community mental health programs;

32 (ii) Design and implement clinical research projects to improve the
33 quality and effectiveness of state hospital services and operations;

34 (iii) Enter into agreements with community mental health service
35 providers to accomplish the exchange of professional staff between the
36 state hospitals and community mental health service providers;

37 (iv) Establish a student loan forgiveness and conditional

1 scholarship program to retain qualified professionals at the state
2 hospitals and community mental health providers when the secretary has
3 determined a shortage of such professionals exists.

4 (c) Notwithstanding any other provisions of law to the contrary,
5 the institutes may enter into agreements with the department or the
6 state hospitals which may involve changes in staffing necessary to
7 implement improved patient care programs contemplated by this section.

8 (d) The institutes are authorized to seek and accept public or
9 private gifts, grants, contracts, or donations to accomplish their
10 purposes under this section.

11 **PART III**
12 **INVOLUNTARY TREATMENT**

13 NEW SECTION. **Sec. 301.** A new section is added to chapter 71.05
14 RCW to read as follows:

15 (1) Except for monetary damage claims which have been reduced to
16 final judgment by a superior court, this section applies to all claims
17 against the state, state agencies, state officials, or state employees
18 that exist on or arise after the effective date of this section.

19 (2) Except as expressly provided in contracts entered into between
20 the department and the regional support networks after the effective
21 date of this section, the entities identified in subsection (3) of this
22 section shall have no claim for declaratory relief, injunctive relief,
23 judicial review under chapter 34.05 RCW, or civil liability against the
24 state or state agencies for actions or inactions performed pursuant to
25 the administration of this chapter with regard to the following: (a)
26 The allocation or payment of federal or state funds; (b) the use or
27 allocation of state hospital beds; or (c) financial responsibility for
28 the provision of inpatient mental health care.

29 (3) This section applies to counties, regional support networks,
30 and entities which contract to provide regional support network
31 services and their subcontractors, agents, or employees.

32 **Sec. 302.** RCW 71.05.230 and 1998 c 297 s 13 are each amended to
33 read as follows:

34 A person detained for seventy-two hour evaluation and treatment may
35 be detained for not more than fourteen additional days of involuntary

1 intensive treatment or ninety additional days of a less restrictive
2 alternative to involuntary intensive treatment. There shall be no fee
3 for filing petitions for fourteen days of involuntary intensive
4 treatment. A petition may only be filed if the following conditions
5 are met:

6 (1) The professional staff of the agency or facility providing
7 evaluation services has analyzed the person's condition and finds that
8 the condition is caused by mental disorder and either results in a
9 likelihood of serious harm, or results in the detained person being
10 gravely disabled and are prepared to testify those conditions are met;
11 and

12 (2) The person has been advised of the need for voluntary treatment
13 and the professional staff of the facility has evidence that he or she
14 has not in good faith volunteered; and

15 (3) The facility providing intensive treatment is certified to
16 provide such treatment by the department; and

17 (4) The professional staff of the agency or facility or the
18 ((~~county~~)) designated mental health professional has filed a petition
19 for fourteen day involuntary detention or a ninety day less restrictive
20 alternative with the court. The petition must be signed either by two
21 physicians or by one physician and a mental health professional who
22 have examined the person. If involuntary detention is sought the
23 petition shall state facts that support the finding that such person,
24 as a result of mental disorder, presents a likelihood of serious harm,
25 or is gravely disabled and that there are no less restrictive
26 alternatives to detention in the best interest of such person or
27 others. The petition shall state specifically that less restrictive
28 alternative treatment was considered and specify why treatment less
29 restrictive than detention is not appropriate. If an involuntary less
30 restrictive alternative is sought, the petition shall state facts that
31 support the finding that such person, as a result of mental disorder,
32 presents a likelihood of serious harm, or is gravely disabled and shall
33 set forth the less restrictive alternative proposed by the facility;
34 and

35 (5) A copy of the petition has been served on the detained person,
36 his or her attorney and his or her guardian or conservator, if any,
37 prior to the probable cause hearing; and

1 (6) The court at the time the petition was filed and before the
2 probable cause hearing has appointed counsel to represent such person
3 if no other counsel has appeared; and

4 (7) The court has ordered a fourteen day involuntary intensive
5 treatment or a ninety day less restrictive alternative treatment after
6 a probable cause hearing has been held pursuant to RCW 71.05.240; and

7 (8) At the conclusion of the initial commitment period, the
8 professional staff of the agency or facility or the ((~~county~~))
9 designated mental health professional may petition for an additional
10 period of either ninety days of less restrictive alternative treatment
11 or ninety days of involuntary intensive treatment as provided in RCW
12 71.05.290; and

13 (9) If the hospital or facility designated to provide outpatient
14 treatment is other than the facility providing involuntary treatment,
15 the outpatient facility so designated has agreed to assume such
16 responsibility.

17 **Sec. 303.** RCW 71.05.300 and 1998 c 297 s 17 are each amended to
18 read as follows:

19 (1) The petition for ninety day treatment shall be filed with the
20 clerk of the superior court at least three days before expiration of
21 the fourteen-day period of intensive treatment. At the time of filing
22 such petition, the clerk shall set a time for the person to come before
23 the court on the next judicial day after the day of filing unless such
24 appearance is waived by the person's attorney, and the clerk shall
25 notify the ((~~county~~)) designated mental health professional. The
26 ((~~county~~)) designated mental health professional shall immediately
27 notify the person detained, his or her attorney, if any, and his or her
28 guardian or conservator, if any, ((~~and~~)) the prosecuting attorney, and
29 the regional support network administrator, and provide a copy of the
30 petition to such persons as soon as possible. The regional support
31 network administrator or designee may review the petition and may
32 appear and testify at the full hearing on the petition.

33 (2) At the time set for appearance the detained person shall be
34 brought before the court, unless such appearance has been waived and
35 the court shall advise him or her of his or her right to be represented
36 by an attorney and of his or her right to a jury trial. If the
37 detained person is not represented by an attorney, or is indigent or is

1 unwilling to retain an attorney, the court shall immediately appoint an
2 attorney to represent him or her. The court shall, if requested,
3 appoint a reasonably available licensed physician, psychologist, or
4 psychiatrist, designated by the detained person to examine and testify
5 on behalf of the detained person.

6 (3) The court may, if requested, also appoint a professional person
7 as defined in RCW 71.05.020 to seek less restrictive alternative
8 courses of treatment and to testify on behalf of the detained person.
9 In the case of a developmentally disabled person who has been
10 determined to be incompetent pursuant to RCW 10.77.090(4), then the
11 appointed professional person under this section shall be a
12 developmental disabilities professional.

13 (4) The court shall also set a date for a full hearing on the
14 petition as provided in RCW 71.05.310.

15 **Sec. 304.** RCW 71.05.320 and 1999 c 13 s 7 are each amended to read
16 as follows:

17 (1) If the court or jury finds that grounds set forth in RCW
18 71.05.280 have been proven and that the best interests of the person or
19 others will not be served by a less restrictive treatment which is an
20 alternative to detention, the court shall remand him or her to the
21 custody of the department or to a facility certified for ninety day
22 treatment by the department for a further period of intensive treatment
23 not to exceed ninety days from the date of judgment: PROVIDED, That

24 (a) If the grounds set forth in RCW 71.05.280(3) are the basis of
25 commitment, then the period of treatment may be up to but not exceed
26 one hundred eighty days from the date of judgment in a facility
27 certified for one hundred eighty day treatment by the department.

28 (b) If the committed person is developmentally disabled and has
29 been determined incompetent pursuant to RCW 10.77.090(4), and the best
30 interests of the person or others will not be served by a less-
31 restrictive treatment which is an alternative to detention, the court
32 shall remand him or her to the custody of the department or to a
33 facility certified for one hundred eighty-day treatment by the
34 department. When appropriate and subject to available funds, treatment
35 and training of such persons must be provided in a program specifically
36 reserved for the treatment and training of developmentally disabled
37 persons. A person so committed shall receive habilitation services

1 pursuant to an individualized service plan specifically developed to
2 treat the behavior which was the subject of the criminal proceedings.
3 The treatment program shall be administered by developmental
4 disabilities professionals and others trained specifically in the needs
5 of developmentally disabled persons. The department may limit
6 admissions to this specialized program in order to ensure that
7 expenditures for services do not exceed amounts appropriated by the
8 legislature and allocated by the department for such services. The
9 department may establish admission priorities in the event that the
10 number of eligible persons exceeds the limits set by the department.
11 An order for treatment less restrictive than involuntary detention may
12 include conditions, and if such conditions are not adhered to, the
13 designated mental health professional or developmental disabilities
14 professional may order the person apprehended under the terms and
15 conditions of RCW 71.05.340.

16 (2) If the court or jury finds that grounds set forth in RCW
17 71.05.280 have been proven, but finds that treatment less restrictive
18 than detention will be in the best interest of the person or others,
19 then the court shall remand him or her to the custody of the department
20 or to a facility certified for ninety day treatment by the department
21 or to a less restrictive alternative for a further period of less
22 restrictive treatment not to exceed ninety days from the date of
23 judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3)
24 are the basis of commitment, then the period of treatment may be up to
25 but not exceed one hundred eighty days from the date of judgment.

26 ~~((+2))~~ (3) The person shall be released from involuntary treatment
27 at the expiration of the period of commitment imposed under subsection
28 (1) or (2) of this section unless the superintendent or professional
29 person in charge of the facility in which he or she is confined, or in
30 the event of a less restrictive alternative, the designated mental
31 health professional or developmental disabilities professional, files
32 a new petition for involuntary treatment on the grounds that the
33 committed person;

34 (a) During the current period of court ordered treatment: (i) Has
35 threatened, attempted, or inflicted physical harm upon the person of
36 another, or substantial damage upon the property of another, and (ii)
37 as a result of mental disorder or developmental disability presents a
38 likelihood of serious harm; or

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

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

10 (d) Continues to be gravely disabled.

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

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

30 ~~((3))~~ (4) No person committed as provided in this section may be
31 detained unless a valid order of commitment is in effect. No order of
32 commitment can exceed one hundred eighty days in length.

33 **PART IV**

34 **MISCELLANEOUS PROVISIONS**

35 NEW SECTION. **Sec. 401.** RCW 71.05.550 (Recognition of county

1 financial necessities) and 2005 c 504 s 218 & 1973 1st ex.s. c 142 s 60
2 are each repealed.

3 NEW SECTION. **Sec. 402.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 403.** Part headings used in this act are not
8 part of the law.

9 NEW SECTION. **Sec. 404.** This act takes effect July 1, 2006, except
10 that sections 101 through 103, 107, and 301 of this act are necessary
11 for the immediate preservation of the public peace, health, or safety,
12 or support of the state government and its existing public
13 institutions, and take effect immediately."

14 Correct the title.

--- END ---