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By Representatives Roberts, Hinkle, Dickerson, Pettigrew, Kagi, Green, Darneille, Schual-Berke, Moeller, Chase, Kenney and Santos

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1 AN ACT Relating to mental health services for children; amending
2 RCW 71.24.025; and reenacting and amending RCW 71.24.015 and 71.24.035.

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

4 **Sec. 1.** RCW 71.24.015 and 2001 c 334 s 6 and 2001 c 323 s 1 are
5 each reenacted and amended to read as follows:

6 It is the intent of the legislature to establish a community mental
7 health program which shall help people experiencing mental illness to
8 retain a respected and productive position in the community. This will
9 be accomplished through programs which provide for:

10 (1) Access to mental health services for adults of the state who
11 are acutely mentally ill, chronically mentally ill, or seriously
12 disturbed and children of the state who are, or are at risk of
13 becoming, acutely mentally ill, severely emotionally disturbed, or
14 seriously disturbed, which services recognize the special needs of
15 underserved populations, including minorities, children, the elderly,
16 disabled, and low-income persons. Access to mental health services
17 shall not be limited by a person's history of confinement in a state,
18 federal, or local correctional facility. It is also the purpose of
19 this chapter to promote the early identification of mentally ill

1 children and to ensure that they receive the mental health care and
2 treatment which is appropriate to their developmental level. This care
3 should improve home, school, and community functioning, maintain
4 children in a safe and nurturing home environment, and should enable
5 treatment decisions to be made in response to clinical needs in
6 accordance with sound professional judgment while also recognizing
7 parents' rights to participate in treatment decisions for their
8 children;

9 (2) Accountability of efficient and effective services through
10 state of the art outcome and performance measures and statewide
11 standards for monitoring client and system outcomes, performance, and
12 reporting of client and system outcome information. These processes
13 shall be designed so as to maximize the use of available resources for
14 direct care of people with a mental illness;

15 (3) Minimum service delivery standards;

16 (4) Priorities for the use of available resources for the care of
17 the mentally ill consistent with the priorities defined in the statute;

18 (5) Coordination of services within the department, including those
19 divisions within the department that provide services to children,
20 between the department and the office of the superintendent of public
21 instruction, and among state mental hospitals, county authorities,
22 community mental health services, and other support services, which
23 shall to the maximum extent feasible also include the families of the
24 mentally ill, and other service providers; and

25 (6) Coordination of services aimed at reducing duplication in
26 service delivery and promoting complementary services among all
27 entities that provide mental health services to adults and children.

28 It is the policy of the state to encourage the provision of a full
29 range of treatment and rehabilitation services in the state for mental
30 disorders. The legislature intends to encourage the development of
31 county-based and county-managed mental health services with adequate
32 local flexibility to assure eligible people in need of care access to
33 the least-restrictive treatment alternative appropriate to their needs,
34 and the availability of treatment components to assure continuity of
35 care. To this end, counties are encouraged to enter into joint
36 operating agreements with other counties to form regional systems of
37 care which integrate planning, administration, and service delivery

1 duties assigned to counties under chapters 71.05 and 71.24 RCW to
2 consolidate administration, reduce administrative layering, and reduce
3 administrative costs.

4 It is further the intent of the legislature to integrate the
5 provision of services to provide continuity of care through all phases
6 of treatment. To this end the legislature intends to promote active
7 engagement with mentally ill persons and collaboration between families
8 and service providers.

9 **Sec. 2.** RCW 71.24.025 and 2001 c 323 s 8 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

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

17 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
18 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
19 or

20 (c) Presenting a likelihood of serious harm as defined in RCW
21 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

22 (2) "Available resources" means funds appropriated for the purpose
23 of providing community mental health programs under RCW 71.24.045,
24 federal funds, except those provided according to Title XIX of the
25 Social Security Act, and state funds appropriated under this chapter or
26 chapter 71.05 RCW by the legislature during any biennium for the
27 purpose of providing residential services, resource management
28 services, community support services, and other mental health services.
29 This does not include funds appropriated for the purpose of operating
30 and administering the state psychiatric hospitals, except as negotiated
31 according to RCW 71.24.300(1)(e).

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

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

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

1 (b) Has experienced a continuous psychiatric hospitalization or
2 residential treatment exceeding six months' duration within the
3 preceding year; or

4 (c) Has been unable to engage in any substantial gainful activity
5 by reason of any mental disorder which has lasted for a continuous
6 period of not less than twelve months. "Substantial gainful activity"
7 shall be defined by the department by rule consistent with Public Law
8 92-603, as amended.

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

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

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

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

35 (9) "Department" means the department of social and health
36 services.

37 (10) "Licensed service provider" means an entity licensed according
38 to this chapter or chapter 71.05 RCW or an entity deemed to meet state

1 minimum standards as a result of accreditation by a recognized
2 behavioral health accrediting body recognized and having a current
3 agreement with the department, that meets state minimum standards or
4 individuals licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW,
5 as it applies to registered nurses and advanced registered nurse
6 practitioners.

7 (11) "Mental health services" means all services provided by
8 regional support networks and other services provided by the state for
9 the mentally ill.

10 (12) "Mentally ill persons" and "the mentally ill" mean persons and
11 conditions defined in subsections (1), (4), (17), and (18) of this
12 section.

13 (13) "Regional support network" means a county authority or group
14 of county authorities recognized by the secretary that enter into joint
15 operating agreements to contract with the secretary pursuant to this
16 chapter.

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

34 (15) "Resource management services" mean the planning,
35 coordination, and authorization of residential services and community
36 support services administered pursuant to an individual service plan
37 for: (a) Acutely mentally ill adults and children; (b) chronically
38 mentally ill adults; (c) severely emotionally disturbed children;

1 (~~(e)~~) (d) seriously disturbed adults determined solely by a regional
2 support network to be at risk of becoming acutely or chronically
3 mentally ill; or (e) children determined by the regional support
4 network to be at risk of becoming severely emotionally disturbed. Such
5 planning, coordination, and authorization shall include mental health
6 screening for children eligible under the federal Title XIX early and
7 periodic screening, diagnosis, and treatment program. Resource
8 management services include seven day a week, twenty-four hour a day
9 availability of information regarding mentally ill adults' and
10 children's enrollment in services and their individual service plan to
11 county-designated mental health professionals, evaluation and treatment
12 facilities, and others as determined by the regional support network.

13 (16) "Secretary" means the secretary of social and health services.

14 (17) "Seriously disturbed person" means a person who:

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

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

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

24 (d) Exhibits suicidal preoccupation or attempts; or

25 (e) Is a child diagnosed by a mental health professional, as
26 defined in chapter 71.34 RCW, as experiencing a mental disorder which
27 is clearly interfering with the child's functioning in family or school
28 or with peers or is clearly interfering with the child's personality
29 development and learning.

30 (18) "Severely emotionally disturbed child" means a child who has
31 been determined by the regional support network to be experiencing a
32 mental disorder as defined in chapter 71.34 RCW, including those mental
33 disorders that result in a behavioral or conduct disorder, that is
34 clearly interfering with the child's functioning in family or school or
35 with peers and who meets at least one of the following criteria:

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

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

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

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

7 (i) Chronic family dysfunction involving a mentally ill or
8 inadequate caretaker;

9 (ii) Changes in custodial adult;

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

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

15 (v) Drug or alcohol abuse; or

16 (vi) Homelessness.

17 (19) "State minimum standards" means minimum requirements
18 established by rules adopted by the secretary and necessary to
19 implement this chapter for: (a) Delivery of mental health services;
20 (b) licensed service providers for the provision of mental health
21 services; (c) residential services; and (d) community support services
22 and resource management services.

23 (20) "Tribal authority," for the purposes of this section and RCW
24 71.24.300 only, means: The federally recognized Indian tribes and the
25 major Indian organizations recognized by the secretary insofar as these
26 organizations do not have a financial relationship with any regional
27 support network that would present a conflict of interest.

28 **Sec. 3.** RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are
29 each reenacted and amended to read as follows:

30 (1) The department is designated as the state mental health
31 authority.

32 (2) The secretary shall provide for public, client, and licensed
33 service provider participation in developing the state mental health
34 program, developing contracts with regional support networks, and any
35 waiver request to the federal government under medicaid.

36 (3) The secretary shall provide for participation in developing the

1 state mental health program for children and other underserved
2 populations, by including representatives on any committee established
3 to provide oversight to the state mental health program.

4 (4) The secretary shall be designated as the county authority if a
5 county fails to meet state minimum standards or refuses to exercise
6 responsibilities under RCW 71.24.045.

7 (5) The secretary shall:

8 (a) Develop a biennial state mental health program that
9 incorporates county biennial needs assessments and county mental health
10 service plans and state services for mentally ill adults and children.
11 The secretary may also develop a six-year state mental health plan;

12 (b) Assure that any regional or county community mental health
13 program provides access to treatment for the county's residents in the
14 following order of priority: (i) The acutely mentally ill; (ii)
15 chronically mentally ill adults and severely emotionally disturbed
16 children; ~~((and))~~ (iii) the seriously disturbed; and (iv) children
17 determined by the regional support network to be at risk of becoming
18 severely emotionally disturbed. Such programs shall provide:

19 (A) Outpatient services;

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

21 (C) Day treatment for mentally ill persons which includes training
22 in basic living and social skills, supported work, vocational
23 rehabilitation, and day activities. Such services may include
24 therapeutic treatment. In the case of a child, day treatment includes
25 age-appropriate basic living and social skills, educational and
26 prevocational services, day activities, and therapeutic treatment;

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

29 (E) Employment services, which may include supported employment,
30 transitional work, placement in competitive employment, and other work-
31 related services, that result in mentally ill persons becoming engaged
32 in meaningful and gainful full or part-time work. Other sources of
33 funding such as the division of vocational rehabilitation may be
34 utilized by the secretary to maximize federal funding and provide for
35 integration of services;

36 (F) Consultation and education services; and

37 (G) Community support services;

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

4 (i) Licensed service providers. The secretary shall provide for
5 deeming of compliance with state minimum standards for those entities
6 accredited by recognized behavioral health accrediting bodies
7 recognized and having a current agreement with the department;

8 (ii) Regional support networks; and

9 (iii) Inpatient services, evaluation and treatment services and
10 facilities under chapter 71.05 RCW, resource management services, and
11 community support services;

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

15 (e) Establish a standard contract or contracts, consistent with
16 state minimum standards, which shall be used in contracting with
17 regional support networks or counties. The standard contract shall
18 include a maximum fund balance, which shall not exceed ten percent;

19 (f) Establish, to the extent possible, a standardized auditing
20 procedure which minimizes paperwork requirements of county authorities
21 and licensed service providers. The audit procedure shall focus on the
22 outcomes of service and not the processes for accomplishing them;

23 (g) Develop and maintain an information system to be used by the
24 state, counties, and regional support networks that includes a tracking
25 method which allows the department and regional support networks to
26 identify mental health clients' participation in any mental health
27 service or public program on an immediate basis. The information
28 system shall not include individual patient's case history files.
29 Confidentiality of client information and records shall be maintained
30 as provided in this chapter and in RCW 71.05.390, 71.05.400, 71.05.410,
31 71.05.420, 71.05.430, and 71.05.440. The design of the system and the
32 data elements to be collected shall be reviewed by the work group
33 appointed by the secretary under section 5(1) of this act and
34 representing the department, regional support networks, service
35 providers, consumers, and advocates. The data elements shall be
36 designed to provide information that is needed to measure performance
37 and achieve the service outcomes identified in section 5 of this act;

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

1 (i) Certify regional support networks that meet state minimum
2 standards;

3 (j) Periodically monitor the compliance of certified regional
4 support networks and their network of licensed service providers for
5 compliance with the contract between the department, the regional
6 support network, and federal and state rules at reasonable times and in
7 a reasonable manner;

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

10 (l) Monitor and audit counties, regional support networks, and
11 licensed service providers as needed to assure compliance with
12 contractual agreements authorized by this chapter; and

13 (m) Adopt such rules as are necessary to implement the department's
14 responsibilities under this chapter.

15 (6) The secretary shall use available resources only for regional
16 support networks.

17 (7) Each certified regional support network and licensed service
18 provider shall file with the secretary, on request, such data,
19 statistics, schedules, and information as the secretary reasonably
20 requires. A certified regional support network or licensed service
21 provider which, without good cause, fails to furnish any data,
22 statistics, schedules, or information as requested, or files fraudulent
23 reports thereof, may have its certification or license revoked or
24 suspended.

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

29 (9) The superior court may restrain any regional support network or
30 service provider from operating without certification or a license or
31 any other violation of this section. The court may also review,
32 pursuant to procedures contained in chapter 34.05 RCW, any denial,
33 suspension, limitation, restriction, or revocation of certification or
34 license, and grant other relief required to enforce the provisions of
35 this chapter.

36 (10) Upon petition by the secretary, and after hearing held upon
37 reasonable notice to the facility, the superior court may issue a
38 warrant to an officer or employee of the secretary authorizing him or

1 her to enter at reasonable times, and examine the records, books, and
2 accounts of any regional support network or service provider refusing
3 to consent to inspection or examination by the authority.

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

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

14 (13)(a) The department, in consultation with affected parties,
15 shall establish a distribution formula that reflects county needs
16 assessments based on the number of persons who are acutely mentally
17 ill, chronically mentally ill, severely emotionally disturbed children,
18 ~~((and))~~ seriously disturbed, and children determined by the regional
19 support network to be at risk of becoming severely emotionally
20 disturbed. The formula shall take into consideration the impact on
21 counties of demographic factors in counties which result in
22 concentrations of priority populations as set forth in subsection
23 (5)(b) of this section. These factors shall include the population
24 concentrations resulting from commitments under chapters 71.05 and
25 71.34 RCW to state psychiatric hospitals, as well as concentration in
26 urban areas, at border crossings at state boundaries, and other
27 significant demographic and workload factors.

28 (b) The formula shall also include a projection of the funding
29 allocations that will result for each county, which specifies
30 allocations according to priority populations, including the allocation
31 for services to children and other underserved populations.

32 (c) After July 1, 2003, the department may allocate up to two
33 percent of total funds to be distributed to the regional support
34 networks for incentive payments to reward the achievement of superior
35 outcomes, or significantly improved outcomes, as measured by a
36 statewide performance measurement system consistent with the framework
37 recommended in the joint legislative audit and review committee's

1 performance audit of the mental health system. The department shall
2 annually report to the legislature on its criteria and allocation of
3 the incentives provided under this subsection.

4 (14) The secretary shall assume all duties assigned to the
5 nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW.
6 Such responsibilities shall include those which would have been
7 assigned to the nonparticipating counties under regional support
8 networks.

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

15 (15) The secretary shall:

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

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

25 (c) Allocate one hundred percent of available resources to the
26 regional support networks in accordance with subsection (13) of this
27 section. Incentive payments authorized under subsection (13) of this
28 section may be allocated separately from other available resources.

29 (d) Notify regional support networks of their allocation of
30 available resources at least sixty days prior to the start of a new
31 biennial contract period.

32 (e) Deny funding allocations to regional support networks based
33 solely upon formal findings of noncompliance with the terms of the
34 regional support network's contract with the department. Written
35 notice and at least thirty days for corrective action must precede any
36 such action. In such cases, regional support networks shall have full
37 rights to appeal under chapter 34.05 RCW.

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

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