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**SECOND SUBSTITUTE SENATE BILL 6793**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Brown, Brandland, McAuliffe, Thibaudeau, Rockefeller and Rasmussen)

READ FIRST TIME 03/03/06.

1 AN ACT Relating to specifying roles and responsibilities with  
2 respect to the treatment of persons with mental disorders; amending RCW  
3 71.24.016, 71.24.045, 71.24.300, 71.24.310, 71.24.320, 71.24.3201,  
4 71.24.330, 71.24.360, 72.23.025, 71.05.230, 71.05.300, and 71.05.320;  
5 reenacting and amending RCW 71.24.025 and 71.24.035; adding a new  
6 section to chapter 71.24 RCW; adding a new section to chapter 71.05  
7 RCW; creating new sections; providing an effective date; providing an  
8 expiration date; and declaring an emergency.

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

10 **PART I**

11 **REGIONAL SUPPORT NETWORKS**

12 NEW SECTION. **Sec. 101.** (1) The legislature finds that ambiguities  
13 have been identified regarding the responsibilities of the department  
14 of social and health services and the regional support networks with  
15 regard to the provision of inpatient mental health services under the  
16 community mental health services act, chapter 71.24 RCW, and the  
17 involuntary treatment act, chapter 71.05 RCW. The purpose of this 2006

1 act is to make retroactive, remedial, curative, and technical  
2 amendments in order to resolve such ambiguities.

3 (2) In enacting the community mental health services act, the  
4 legislature intended the relationship between the state and the  
5 regional support networks to be governed solely by the terms of the  
6 regional support network contracts and did not intend these  
7 relationships to create statutory causes of action not expressly  
8 provided for in the contracts. Therefore, the legislature's intent is  
9 that, except to the extent expressly provided in contracts entered  
10 after the effective date of this section, the department of social and  
11 health services and regional support networks shall address  
12 disagreements regarding the subject matter identified in sections 103  
13 and 401 of this act through nonjudicial means.

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

16 (1) The legislature intends that eastern and western state  
17 hospitals shall operate as clinical centers for handling the most  
18 complicated long-term care needs of patients with a primary diagnosis  
19 of mental disorder. It is further the intent of the legislature that  
20 the community mental health service delivery system focus on  
21 maintaining mentally ill individuals in the community. The program  
22 shall be evaluated and managed through a limited number of performance  
23 measures designed to hold each regional support network accountable for  
24 program success.

25 (2) The legislature intends to address the needs of people with  
26 mental disorders with a targeted, coordinated, and comprehensive set of  
27 evidence-based practices that are effective in serving individuals in  
28 their community and will reduce the need for placements in state mental  
29 hospitals. The legislature further intends to explicitly hold regional  
30 support networks accountable for serving people with mental disorders  
31 within their geographic boundaries and for not exceeding their  
32 allocation of state hospital beds. Within funds appropriated by the  
33 legislature for this purpose, regional support networks shall develop  
34 the means to serve the needs of people with mental disorders within  
35 their geographic boundaries. Elements of the program may include:

- 36 (a) Crisis triage;
- 37 (b) Evaluation and treatment and community hospital beds;

1       (c) Residential beds;

2       (d) Programs for community treatment teams; and

3       (e) Outpatient services.

4       (3) The regional support network shall have the flexibility, within  
5 the funds appropriated by the legislature for this purpose, to design  
6 the mix of services that will be most effective within their service  
7 area of meeting the needs of people with mental disorders and avoiding  
8 placement of such individuals at the state mental hospital. Regional  
9 support networks are encouraged to maximize the use of evidence-based  
10 practices and alternative resources with the goal of substantially  
11 reducing and potentially eliminating the use of institutions for mental  
12 diseases.

13       NEW SECTION. Sec. 103. A new section is added to chapter 71.24  
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 after the  
20 effective date of this section, the entities identified in subsection  
21 (3) of this section shall have no claim for declaratory relief,  
22 injunctive relief, judicial review under chapter 34.05 RCW, or civil  
23 liability against the state or state agencies for actions or inactions  
24 performed pursuant to the administration of this chapter with regard to  
25 the following: (a) The allocation or payment of federal or state  
26 funds; (b) the allocation of state hospital beds; or (c) financial  
27 responsibility for the provision of inpatient mental health care.

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

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

33       Unless the context clearly requires otherwise, the definitions in  
34 this section apply throughout this chapter.

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

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

3 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
4 case of a child, a gravely disabled minor as defined in RCW 71.34.020;  
5 or

6 (c) Presenting a likelihood of serious harm as defined in RCW  
7 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

8 (2) "Available resources" means funds appropriated for the purpose  
9 of providing community mental health programs, federal funds, except  
10 those provided according to Title XIX of the Social Security Act, and  
11 state funds appropriated under this chapter or chapter 71.05 RCW by the  
12 legislature during any biennium for the purpose of providing  
13 residential services, resource management services, community support  
14 services, and other mental health services. This does not include  
15 funds appropriated for the purpose of operating and administering the  
16 state psychiatric hospitals(~~(, except as negotiated according to RCW~~  
17 ~~71.24.300(1)(d))~~).

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

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

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

23 (b) Has experienced a continuous psychiatric hospitalization or  
24 residential treatment exceeding six months' duration within the  
25 preceding year; or

26 (c) Has been unable to engage in any substantial gainful activity  
27 by reason of any mental disorder which has lasted for a continuous  
28 period of not less than twelve months. "Substantial gainful activity"  
29 shall be defined by the department by rule consistent with Public Law  
30 92-603, as amended.

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

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

37 (7) "Community support services" means services authorized,  
38 planned, and coordinated through resource management services

1 including, at a minimum, assessment, diagnosis, emergency crisis  
2 intervention available twenty-four hours, seven days a week,  
3 prescreening determinations for mentally ill persons being considered  
4 for placement in nursing homes as required by federal law, screening  
5 for patients being considered for admission to residential services,  
6 diagnosis and treatment for acutely mentally ill and severely  
7 emotionally disturbed children discovered under screening through the  
8 federal Title XIX early and periodic screening, diagnosis, and  
9 treatment program, investigation, legal, and other nonresidential  
10 services under chapter 71.05 RCW, case management services, psychiatric  
11 treatment including medication supervision, counseling, psychotherapy,  
12 assuring transfer of relevant patient information between service  
13 providers, recovery services, and other services determined by regional  
14 support networks.

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

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

25 (10) "Department" means the department of social and health  
26 services.

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

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

33 (13) "Evidence-based" means a program or practice that has had  
34 multiple site random controlled trials across heterogeneous populations  
35 demonstrating that the program or practice is effective for the  
36 population.

37 (14) "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 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
5 applies to registered nurses and advanced registered nurse  
6 practitioners.

7 (15) "Long-term inpatient care" means inpatient services for  
8 persons committed for, or voluntarily receiving intensive treatment  
9 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-  
10 term inpatient care" as used in this chapter does not include: (a)  
11 Services for individuals committed under chapter 71.05 RCW who are  
12 receiving services pursuant to a conditional release or a court-ordered  
13 less restrictive alternative to detention; or (b) services for  
14 individuals voluntarily receiving less restrictive alternative  
15 treatment on the grounds of the state hospital.

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

19 ((+16+)) (17) "Mentally ill persons" and "the mentally ill" mean  
20 persons and conditions defined in subsections (1), (4), ((+25+)) (26),  
21 and ((+26+)) (27) of this section.

22 ((+17+)) (18) "Recovery" means the process in which people are able  
23 to live, work, learn, and participate fully in their communities.

24 ((+18+)) (19) "Regional support network" means a county authority  
25 or group of county authorities or other nonprofit entity recognized by  
26 the secretary in contract in a defined region.

27 ((+19+)) (20) "Registration records" include all the records of the  
28 department, regional support networks, treatment facilities, and other  
29 persons providing services to the department, county departments, or  
30 facilities which identify persons who are receiving or who at any time  
31 have received services for mental illness.

32 ((+20+)) (21) "Residential services" means a complete range of  
33 residences and supports authorized by resource management services and  
34 which may involve a facility, a distinct part thereof, or services  
35 which support community living, for acutely mentally ill persons,  
36 chronically mentally ill adults, severely emotionally disturbed  
37 children, or seriously disturbed adults determined by the regional  
38 support network to be at risk of becoming acutely or chronically

1 mentally ill. The services shall include at least evaluation and  
2 treatment services as defined in chapter 71.05 RCW, acute crisis  
3 respite care, long-term adaptive and rehabilitative care, and  
4 supervised and supported living services, and shall also include any  
5 residential services developed to service mentally ill persons in  
6 nursing homes, boarding homes, and adult family homes, and may include  
7 outpatient services provided as an element in a package of services in  
8 a supported housing model. Residential services for children in out-  
9 of-home placements related to their mental disorder shall not include  
10 the costs of food and shelter, except for children's long-term  
11 residential facilities existing prior to January 1, 1991.

12 ~~((+21+))~~ (22) "Research-based" means a program or practice that has  
13 some research demonstrating effectiveness, but that does not yet meet  
14 the standard of evidence-based practices.

15 ~~((+22+))~~ (23) "Resilience" means the personal and community  
16 qualities that enable individuals to rebound from adversity, trauma,  
17 tragedy, threats, or other stresses, and to live productive lives.

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

33 ~~((+24+))~~ (25) "Secretary" means the secretary of social and health  
34 services.

35 ~~((+25+))~~ (26) "Seriously disturbed person" means a person who:

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

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

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

7 (d) Exhibits suicidal preoccupation or attempts; or

8 (e) Is a child diagnosed by a mental health professional, as  
9 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
10 is clearly interfering with the child's functioning in family or school  
11 or with peers or is clearly interfering with the child's personality  
12 development and learning.

13 ((+26+)) (27) "Severely emotionally disturbed child" means a child  
14 who has been determined by the regional support network to be  
15 experiencing a mental disorder as defined in chapter 71.34 RCW,  
16 including those mental disorders that result in a behavioral or conduct  
17 disorder, that is clearly interfering with the child's functioning in  
18 family or school or with peers and who meets at least one of the  
19 following criteria:

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

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

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

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

28 (i) Chronic family dysfunction involving a mentally ill or  
29 inadequate caretaker;

30 (ii) Changes in custodial adult;

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

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

36 (v) Drug or alcohol abuse; or

37 (vi) Homelessness.



1        ~~((27))~~ (28) "State minimum standards" means minimum requirements  
2 established by rules adopted by the secretary and necessary to  
3 implement this chapter for: (a) Delivery of mental health services;  
4 (b) licensed service providers for the provision of mental health  
5 services; (c) residential services; and (d) community support services  
6 and resource management services.

7        ~~((28))~~ (29) "Treatment records" include registration and all  
8 other records concerning persons who are receiving or who at any time  
9 have received services for mental illness, which are maintained by the  
10 department, by regional support networks and their staffs, and by  
11 treatment facilities. Treatment records do not include notes or  
12 records maintained for personal use by a person providing treatment  
13 services for the department, regional support networks, or a treatment  
14 facility if the notes or records are not available to others.

15        ~~((29))~~ (30) "Tribal authority," for the purposes of this section  
16 and RCW 71.24.300 only, means: The federally recognized Indian tribes  
17 and the major Indian organizations recognized by the secretary insofar  
18 as these organizations do not have a financial relationship with any  
19 regional support network that would present a conflict of interest.

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

22        The regional support network shall:

23        (1) Contract as needed with licensed service providers. The  
24 regional support network may, in the absence of a licensed service  
25 provider entity, become a licensed service provider entity pursuant to  
26 minimum standards required for licensing by the department for the  
27 purpose of providing services not available from licensed service  
28 providers;

29        (2) Operate as a licensed service provider if it deems that doing  
30 so is more efficient and cost effective than contracting for services.  
31 When doing so, the regional support network shall comply with rules  
32 promulgated by the secretary that shall provide measurements to  
33 determine when a regional support network provided service is more  
34 efficient and cost effective;

35        (3) Monitor and perform biennial fiscal audits of licensed service  
36 providers who have contracted with the regional support network to  
37 provide services required by this chapter. The monitoring and audits

1 shall be performed by means of a formal process which insures that the  
2 licensed service providers and professionals designated in this  
3 subsection meet the terms of their contracts;

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

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

10 ~~(6) ((Use not more than two percent of state appropriated community~~  
11 ~~mental health funds, which shall not include federal funds, to~~  
12 ~~administer community mental health programs under RCW 71.24.155:~~  
13 ~~PROVIDED, That county authorities serving a county or combination of~~  
14 ~~counties whose population is one hundred twenty five thousand or more~~  
15 ~~may be entitled to sufficient state appropriated community mental~~  
16 ~~health funds to employ up to one full time employee or the equivalent~~  
17 ~~thereof in addition to the two percent limit established in this~~  
18 ~~subsection when such employee is providing staff services to a county~~  
19 ~~mental health advisory board;~~

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

23 ~~((8))~~ (7) Work with the department to expedite the enrollment or  
24 re-enrollment of eligible persons leaving state or local correctional  
25 facilities and institutions for mental diseases;

26 ~~((9))~~ (8) If a regional support network is not operated by the  
27 county, work closely with the county designated mental health  
28 professional or county designated crisis responder to maximize  
29 appropriate placement of persons into community services; and

30 ~~((10))~~ (9) Coordinate services for individuals who have received  
31 services through the community mental health system and who become  
32 patients at a state mental hospital to ensure they are transitioned  
33 into the community in accordance with mutually agreed upon discharge  
34 plans and upon determination by the medical director of the state  
35 mental hospital that they no longer need intensive inpatient care.

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

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

5       (2) The roles and responsibilities of the county and tribal  
6 authorities shall be determined by the terms of that agreement  
7 including a determination of membership on the governing board and  
8 advisory committees, the number of tribal representatives to be party  
9 to the agreement, and the provisions of law and shall assure the  
10 provision of culturally competent services to the tribes served.

11       (3) The state mental health authority may not determine the roles  
12 and responsibilities of county authorities as to each other under  
13 regional support networks by rule, except to assure that all duties  
14 required of regional support networks are assigned and that counties  
15 and the regional support network do not duplicate functions and that a  
16 single authority has final responsibility for all available resources  
17 and performance under the regional support network's contract with the  
18 secretary.

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

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

25       (~~(1)~~) (6) Regional support networks shall submit an overall six-  
26 year operating and capital plan, timeline, and budget and submit  
27 progress reports and an updated two-year plan biennially thereafter, to  
28 assume within available resources all of the following duties:

29       (a) Administer and provide for the availability of all resource  
30 management services, residential services, and community support  
31 services.

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

35       (c) Provide within the boundaries of each regional support network  
36 evaluation and treatment services for at least (~~eighty-five~~) ninety  
37 percent of persons detained or committed for periods up to seventeen  
38 days according to chapter 71.05 RCW. Regional support networks (~~with~~

1 ~~populations of less than one hundred fifty thousand))~~ may contract to  
2 purchase evaluation and treatment services from other networks if they  
3 are unable to provide for appropriate resources within their  
4 boundaries. Insofar as the original intent of serving persons in the  
5 community is maintained, the secretary is authorized to approve  
6 exceptions on a case-by-case basis to the requirement to provide  
7 evaluation and treatment services within the boundaries of each  
8 regional support network. Such exceptions are limited to:

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

12 ~~(d) ((Administer a portion of funds appropriated by the legislature~~  
13 ~~to house mentally ill persons in state institutions from counties~~  
14 ~~within the boundaries of any regional support network, with the~~  
15 ~~exception of persons currently confined at, or under the supervision~~  
16 ~~of, a state mental hospital pursuant to chapter 10.77 RCW, and provide~~  
17 ~~for the care of all persons needing evaluation and treatment services~~  
18 ~~for periods up to seventeen days according to chapter 71.05 RCW in~~  
19 ~~appropriate residential services, which may include state institutions.~~  
20 ~~The regional support networks shall reimburse the state for use of~~  
21 ~~state institutions at a rate equal to that assumed by the legislature~~  
22 ~~when appropriating funds for such care at state institutions during the~~  
23 ~~biennium when reimbursement occurs. The secretary shall submit a~~  
24 ~~report to the appropriate committees of the senate and house of~~  
25 ~~representatives on the efforts to implement this section by October 1,~~  
26 ~~2002. The duty of a state hospital to accept persons for evaluation~~  
27 ~~and treatment under chapter 71.05 RCW is limited by the~~  
28 ~~responsibilities assigned to regional support networks under this~~  
29 ~~section.~~

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

34 ~~((+f))~~ (e) Establish standards and procedures for reviewing  
35 individual service plans and determining when that person may be  
36 discharged from resource management services.

37 ~~((+2))~~ (7) A regional support network may request that any state-  
38 owned land, building, facility, or other capital asset which was ever

1 purchased, deeded, given, or placed in trust for the care of the  
2 mentally ill and which is within the boundaries of a regional support  
3 network be made available to support the operations of the regional  
4 support network. State agencies managing such capital assets shall  
5 give first priority to requests for their use pursuant to this chapter.

6 ~~((+3))~~ (8) Each regional support network shall appoint a mental  
7 health advisory board which shall review and provide comments on plans  
8 and policies developed under this chapter, provide local oversight  
9 regarding the activities of the regional support network, and work with  
10 the regional support network to resolve significant concerns regarding  
11 service delivery and outcomes. The department shall establish  
12 statewide procedures for the operation of regional advisory committees  
13 including mechanisms for advisory board feedback to the department  
14 regarding regional support network performance. The composition of the  
15 board shall be broadly representative of the demographic character of  
16 the region and shall include, but not be limited to, representatives of  
17 consumers and families, law enforcement, and where the county is not  
18 the regional support network, county elected officials. Composition  
19 and length of terms of board members may differ between regional  
20 support networks but shall be included in each regional support  
21 network's contract and approved by the secretary.

22 ~~((+4))~~ (9) Regional support networks shall assume all duties  
23 specified in their plans and joint operating agreements through  
24 biennial contractual agreements with the secretary.

25 ~~((+5))~~ (10) Regional support networks may receive technical  
26 assistance from the housing trust fund and may identify and submit  
27 projects for housing and housing support services to the housing trust  
28 fund established under chapter 43.185 RCW. Projects identified or  
29 submitted under this subsection must be fully integrated with the  
30 regional support network six-year operating and capital plan, timeline,  
31 and budget required by subsection ~~((+1))~~ (6) of this section.

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

34 The legislature finds that administration of chapter 71.05 RCW and  
35 this chapter can be most efficiently and effectively implemented as  
36 part of the regional support network defined in RCW 71.24.025. For  
37 this reason, the legislature intends that ~~((any enhanced program~~

1 ~~funding for implementation of~~) the department and the regional support  
2 networks shall work together to implement chapter 71.05 RCW (~~or this~~  
3 ~~chapter, except for funds allocated for implementation of mandatory~~  
4 ~~statewide programs as required by federal statute, be made available~~  
5 ~~primarily to those counties participating in regional support~~  
6 ~~networks~~) as follows:

7 (1) By September 1, 2006, regional support networks shall recommend  
8 to the department the number of state hospital beds that should be  
9 allocated for use by each regional support network. The statewide  
10 total allocation shall not exceed the number of state hospital beds  
11 offering long-term inpatient care, as defined in this chapter, for  
12 which funding is provided in the biennial appropriations act.

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

17 (3) If there is not consensus among the regional support networks  
18 regarding the number of beds that should be allocated for use by each  
19 regional support network, the department shall establish by rule the  
20 number of state hospital beds that are available for use by each  
21 regional support network. The primary factor used in the allocation  
22 shall be the estimated number of acutely and chronically mentally ill  
23 adults in each regional support network area, based upon population-  
24 adjusted incidence and utilization.

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

34 (5) The department is encouraged to enter performance-based  
35 contracts with regional support networks to provide some or all of the  
36 regional support network's allocated long-term inpatient treatment  
37 capacity in the community, rather than in the state hospital. The

1 performance contracts shall specify the number of patient days of care  
2 available for use by the regional support network in the state  
3 hospital.

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

11 (7) One-half of any reimbursements received pursuant to subsection  
12 (6) of this section shall be used to support the cost of operating the  
13 state hospital. The department shall distribute the remaining half of  
14 such reimbursements among regional support networks that have used less  
15 than their allocated or contracted patient days of care at that  
16 hospital, proportional to the number of patient days of care not used.

17 **PART II**

18 **CONTRACTS AND PROCUREMENT PROCESS**

19 **Sec. 201.** RCW 71.24.320 and 2005 c 503 s 4 are each amended to  
20 read as follows:

21 (1) The secretary shall initiate a procurement process for regional  
22 support networks in 2005. In the first step of the procurement  
23 process, existing regional support networks may respond to a request  
24 for qualifications developed by the department. The secretary shall  
25 issue the request for qualifications not later than October 1, 2005.  
26 In evaluating responses to the request for ((qualifications shall be  
27 based on)) proposals, the secretary shall give great weight to: (a)  
28 Cost-effectiveness, (b) adequate residential and service capabilities,  
29 (c) effective collaboration with criminal justice agencies and the  
30 chemical dependency treatment system, ((and)) (d) the ability to  
31 provide the full array of services as stated in the mental health state  
32 plan, ((and shall)) (e) demonstrated commitment to supplement the  
33 financial resources provided by the state, and (f) the ability of the  
34 entity to meet all applicable federal and state regulations and  
35 standards.

1 An existing regional support network shall be awarded the contract  
2 with the department if it substantially meets the requirements of the  
3 request for qualifications developed by the department.

4 (2) If an existing regional support network (~~((chooses not to~~  
5 ~~respond to the request for qualifications, or))~~) is unable to  
6 substantially meet the requirements of the request for qualifications,  
7 the department shall proceed as follows:

8 (a) The department shall first provide any regional support network  
9 that has substantially met the requirements of the request for  
10 qualifications the opportunity to submit a mutually agreed upon plan  
11 for consolidating with regional support networks that did not  
12 substantially meet the requirements of the request for qualifications.  
13 The department shall approve plans that substantially meet the  
14 requirements of the original request for qualifications.

15 (b) For those regional support networks which did not substantially  
16 meet the requirements of the request for qualifications, or for which  
17 consolidation plans are not approved pursuant to (a) of this  
18 subsection, the department shall utilize a procurement process in which  
19 ((other)) county authorities, regional support networks, and nonprofit  
20 entities recognized by the secretary may bid to serve as the regional  
21 support network in that region. The procurement process shall begin  
22 with a request for proposals issued ((March)) April 1, 2006.

23 (3) The department shall host a preresponse conference on or about  
24 April 24, 2006.

25 (a) Although attendance is not mandatory, all prospective regional  
26 support networks are encouraged to attend.

27 (b) If changes to the request for proposals are required as a  
28 result of the conference, all amendments must be issued no later than  
29 May 31, 2006.

30 (c) Specific questions concerning the request for procurement must  
31 be submitted to the designated request for procurement coordinator in  
32 writing.

33 (d) In order to provide accurate and consistent information to all  
34 potential regional support networks, written responses to all questions  
35 must be published.

36 (4) Interested entities shall submit proposals to the designated  
37 request for procurement coordinator. Proposals must be delivered or  
38 received no later than June 30, 2006.



1       (5) The department shall evaluate the proposals and notify the  
2 respondents of the outcome during the month of July 2006. Prospective  
3 regional support networks that are unsuccessful shall be provided with  
4 a detailed briefing regarding the deficiencies in the proposal and  
5 provided with an opportunity to clarify information previously  
6 submitted.

7       (6) All documents pertaining to subsections (4) and (5) of this  
8 section shall be retained pursuant to a schedule approved under RCW  
9 40.14.050. Upon request, evaluations and documentation regarding a  
10 prospective regional support network's proposal, and the evaluation  
11 thereof, shall be made available to that prospective regional support  
12 network.

13       NEW SECTION. Sec. 202. (1) The joint legislative audit and review  
14 committee shall conduct a performance audit of the request for  
15 qualifications process. The audit should include assessments of: (a)  
16 The extent to which the request for qualifications requirements comport  
17 with, exceed, or fail to address federal or state law; (b) the  
18 consistency of scoring across regional support networks; (c) the extent  
19 to which the evaluation criteria were uniformly applied; (d) the extent  
20 to which the request for qualifications requirements add new  
21 administrative costs not required by federal rules and state law; (e)  
22 the extent to which the request for qualifications process impacted the  
23 availability of resources for direct resources; (f) the extent to which  
24 the implementation of the requirements has impacted the availability of  
25 resources for direct resources; and (g) the extent to which the  
26 department of social and health services has successfully implemented  
27 RCW 71.24.035(5)(f).

28       (2) A preliminary report of the performance audit must be submitted  
29 to the legislature by September 30, 2006. A final report must be  
30 submitted to the legislature by December 1, 2006.

31       **Sec. 203.** RCW 71.24.3201 and 2005 c 503 s 15 are each amended to  
32 read as follows:

33       (1) The department of social and health services shall enter into  
34 a contract with regional support networks for the period ending August  
35 31, 2006. The department shall issue a request for proposal to the

1 extent required by RCW 71.24.320 (~~and the contract shall be effective~~  
2 ~~September 1, 2006~~)).

3 (2) This section expires June 30, (~~(2007)~~) 2008.

4 **Sec. 204.** RCW 71.24.330 and 2005 c 503 s 6 are each amended to  
5 read as follows:

6 (1) Contracts between a regional support network and the department  
7 shall include mechanisms for monitoring performance under the contract  
8 and remedies for failure to substantially comply with the requirements  
9 of the contract including, but not limited to, financial penalties,  
10 termination of the contract, and reprocurement of the contract.

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

20 (3) In addition to the requirements of RCW 71.24.035, contracts  
21 shall:

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

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

27 (c) Require substantial implementation of department adopted  
28 integrated screening and assessment process and matrix of best  
29 practices; (~~and~~)

30 (d) Maintain the decision-making independence of designated mental  
31 health professionals;

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

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



1 following order of priority: (i) The acutely mentally ill; (ii)  
2 chronically mentally ill adults and severely emotionally disturbed  
3 children; and (iii) the seriously disturbed. Such programs shall  
4 provide:

5 (A) Outpatient services;

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

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

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

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

22 (F) Consultation and education services; and

23 (G) Community support services;

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

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

34 (ii) Regional support networks; and

35 (iii) Inpatient services, evaluation and treatment services and  
36 facilities under chapter 71.05 RCW, resource management services, and  
37 community support services;

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

4 (e) Establish a standard contract or contracts, consistent with  
5 state minimum standards and RCW 71.24.320 (~~and~~), 71.24.330, and  
6 71.24.3201, which shall be used in contracting with regional support  
7 networks. The standard contract shall include a maximum fund balance,  
8 which shall be consistent with that required by federal regulations or  
9 waiver stipulations;

10 (f) Establish, to the extent possible, a standardized auditing  
11 procedure which minimizes paperwork requirements of regional support  
12 networks and licensed service providers. The audit procedure shall  
13 focus on the outcomes of service and not the processes for  
14 accomplishing them;

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

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

24 (i) Certify regional support networks that meet state minimum  
25 standards;

26 (j) Periodically monitor the compliance of certified regional  
27 support networks and their network of licensed service providers for  
28 compliance with the contract between the department, the regional  
29 support network, and federal and state rules at reasonable times and in  
30 a reasonable manner;

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

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

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

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

5 (6) The secretary shall use available resources only for regional  
6 support networks, except to the extent authorized, and in accordance  
7 with any priorities or conditions specified, in the biennial  
8 appropriations act.

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

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

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

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

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

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

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

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

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

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

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

7 (15) The secretary shall:

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

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

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

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

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

36 **Sec. 302.** RCW 72.23.025 and 1998 c 245 s 141 are each amended to  
37 read as follows:



1 (1) It is the intent of the legislature to improve the quality of  
2 service at state hospitals, eliminate overcrowding, and more  
3 specifically define the role of the state hospitals. The legislature  
4 intends that eastern and western state hospitals shall become clinical  
5 centers for handling the most complicated long-term care needs of  
6 patients with a primary diagnosis of mental disorder. (~~Over the next  
7 six years, their involvement in providing short term, acute care, and  
8 less complicated long term care shall be diminished in accordance with  
9 the revised responsibilities for mental health care under chapter 71.24  
10 RCW.~~) To this end, the legislature intends that funds appropriated  
11 for mental health programs, including funds for regional support  
12 networks and the state hospitals be used for persons with primary  
13 diagnosis of mental disorder. The legislature finds that establishment  
14 of the eastern state hospital board, the western state hospital board,  
15 and institutes for the study and treatment of mental disorders at both  
16 eastern state hospital and western state hospital will be instrumental  
17 in implementing the legislative intent.

18 (2)(a) The eastern state hospital board and the western state  
19 hospital board are each established. Members of the boards shall be  
20 appointed by the governor with the consent of the senate. Each board  
21 shall include:

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

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

25 (iii) One consumer of services;

26 (iv) One community mental health service provider;

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

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

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

32 (viii) One representative from the nursing staff;

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

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

35 (xi) One representative of a minority community.

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

1 (c) Members shall serve four-year terms. Members of the board  
2 shall be reimbursed for travel expenses as provided in RCW 43.03.050  
3 and 43.03.060 and shall receive compensation as provided in RCW  
4 43.03.240.

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

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

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

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

10 (d) Monitor and review the activities of the hospital in  
11 implementing the intent of the legislature set forth in this section;

12 and

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

15 (4)(a) There is established at eastern state hospital and western  
16 state hospital, institutes for the study and treatment of mental  
17 disorders. The institutes shall be operated by joint operating  
18 agreements between state colleges and universities and the department  
19 of social and health services. The institutes are intended to conduct  
20 training, research, and clinical program development activities that  
21 will directly benefit mentally ill persons receiving treatment in  
22 Washington state by performing the following activities:

23 (i) Promote recruitment and retention of highly qualified  
24 professionals at the state hospitals and community mental health  
25 programs;

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

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

31 (iv) Promote bilateral understanding of treatment orientation,  
32 possibilities, and challenges between state hospital professionals and  
33 community mental health professionals.

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

36 (i) Enter joint operating agreements with state universities or  
37 other institutions of higher education to accomplish the placement and

1 training of students and faculty in psychiatry, psychology, social  
2 work, occupational therapy, nursing, and other relevant professions at  
3 the state hospitals and community mental health programs;

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

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

9 (iv) Establish a student loan forgiveness and conditional  
10 scholarship program to retain qualified professionals at the state  
11 hospitals and community mental health providers when the secretary has  
12 determined a shortage of such professionals exists.

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

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

20 **PART IV**

21 **INVOLUNTARY TREATMENT**

22 NEW SECTION. **Sec. 401.** A new section is added to chapter 71.05  
23 RCW to read as follows:

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

28 (2) Except as expressly provided in contracts entered after the  
29 effective date of this section, the entities identified in subsection  
30 (3) of this section shall have no claim for declaratory relief,  
31 injunctive relief, judicial review under chapter 34.05 RCW, or civil  
32 liability against the state or state agencies for actions or inactions  
33 performed pursuant to the administration of this chapter with regard to  
34 the following: (a) The allocation or payment of federal or state  
35 funds; (b) the allocation of state hospital beds; or (c) financial  
36 responsibility for the provision of inpatient mental health care.

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

4 **Sec. 402.** RCW 71.05.230 and 1998 c 297 s 13 are each amended to  
5 read as follows:

6 A person detained for seventy-two hour evaluation and treatment may  
7 be detained for not more than fourteen additional days of involuntary  
8 intensive treatment or ninety additional days of a less restrictive  
9 alternative to involuntary intensive treatment. There shall be no fee  
10 for filing petitions for fourteen days of involuntary intensive  
11 treatment. A petition may only be filed if the following conditions  
12 are met:

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

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

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

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

1 support the finding that such person, as a result of mental disorder,  
2 presents a likelihood of serious harm, or is gravely disabled and shall  
3 set forth the less restrictive alternative proposed by the facility;  
4 and

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

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

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

14 (8) At the conclusion of the initial commitment period, the  
15 professional staff of the agency or facility or the ((~~county~~))  
16 designated mental health professional may petition for an additional  
17 period of either ninety days of less restrictive alternative treatment  
18 or ninety days of involuntary intensive treatment as provided in RCW  
19 71.05.290; and

20 (9) If the hospital or facility designated to provide outpatient  
21 treatment is other than the facility providing involuntary treatment,  
22 the outpatient facility so designated has agreed to assume such  
23 responsibility.

24 **Sec. 403.** RCW 71.05.300 and 1998 c 297 s 17 are each amended to  
25 read as follows:

26 (1) The petition for ninety day treatment shall be filed with the  
27 clerk of the superior court at least three days before expiration of  
28 the fourteen-day period of intensive treatment. At the time of filing  
29 such petition, the clerk shall set a time for the person to come before  
30 the court on the next judicial day after the day of filing unless such  
31 appearance is waived by the person's attorney, and the clerk shall  
32 notify the ((~~county~~)) designated mental health professional. The  
33 ((~~county~~)) designated mental health professional shall immediately  
34 notify the person detained, his or her attorney, if any, and his or her  
35 guardian or conservator, if any, ((~~and~~)) the prosecuting attorney, and  
36 the regional support network administrator, and provide a copy of the

1 petition to such persons as soon as possible. The regional support  
2 network administrator or designee may review the petition and may  
3 appear and testify at the full hearing on the petition.

4 (2) At the time set for appearance the detained person shall be  
5 brought before the court, unless such appearance has been waived and  
6 the court shall advise him or her of his or her right to be represented  
7 by an attorney and of his or her right to a jury trial. If the  
8 detained person is not represented by an attorney, or is indigent or is  
9 unwilling to retain an attorney, the court shall immediately appoint an  
10 attorney to represent him or her. The court shall, if requested,  
11 appoint a reasonably available licensed physician, psychologist, or  
12 psychiatrist, designated by the detained person to examine and testify  
13 on behalf of the detained person.

14 (3) The court may, if requested, also appoint a professional person  
15 as defined in RCW 71.05.020 to seek less restrictive alternative  
16 courses of treatment and to testify on behalf of the detained person.  
17 In the case of a developmentally disabled person who has been  
18 determined to be incompetent pursuant to RCW 10.77.090(4), then the  
19 appointed professional person under this section shall be a  
20 developmental disabilities professional.

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

23 **Sec. 404.** RCW 71.05.320 and 1999 c 13 s 7 are each amended to read  
24 as follows:

25 (1) If the court or jury finds that grounds set forth in RCW  
26 71.05.280 have been proven and that the best interests of the person or  
27 others will not be served by a less restrictive treatment which is an  
28 alternative to detention, the court shall remand him or her to the  
29 custody of the department or to a facility certified for ninety day  
30 treatment by the department for a further period of intensive treatment  
31 not to exceed ninety days from the date of judgment: PROVIDED, That

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

36 (b) If the committed person is developmentally disabled and has  
37 been determined incompetent pursuant to RCW 10.77.090(4), and the best

1 interests of the person or others will not be served by a less-  
2 restrictive treatment which is an alternative to detention, the court  
3 shall remand him or her to the custody of the department or to a  
4 facility certified for one hundred eighty-day treatment by the  
5 department. When appropriate and subject to available funds, treatment  
6 and training of such persons must be provided in a program specifically  
7 reserved for the treatment and training of developmentally disabled  
8 persons. A person so committed shall receive habilitation services  
9 pursuant to an individualized service plan specifically developed to  
10 treat the behavior which was the subject of the criminal proceedings.  
11 The treatment program shall be administered by developmental  
12 disabilities professionals and others trained specifically in the needs  
13 of developmentally disabled persons. The department may limit  
14 admissions to this specialized program in order to ensure that  
15 expenditures for services do not exceed amounts appropriated by the  
16 legislature and allocated by the department for such services. The  
17 department may establish admission priorities in the event that the  
18 number of eligible persons exceeds the limits set by the department.  
19 An order for treatment less restrictive than involuntary detention may  
20 include conditions, and if such conditions are not adhered to, the  
21 designated mental health professional or developmental disabilities  
22 professional may order the person apprehended under the terms and  
23 conditions of RCW 71.05.340.

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

34 ~~((+2))~~ (3) The person shall be released from involuntary treatment  
35 at the expiration of the period of commitment imposed under subsection  
36 (1) or (2) of this section unless the superintendent or professional  
37 person in charge of the facility in which he or she is confined, or in  
38 the event of a less restrictive alternative, the designated mental

1 health professional or developmental disabilities professional, files  
2 a new petition for involuntary treatment on the grounds that the  
3 committed person;

4 (a) During the current period of court ordered treatment: (i) Has  
5 threatened, attempted, or inflicted physical harm upon the person of  
6 another, or substantial damage upon the property of another, and (ii)  
7 as a result of mental disorder or developmental disability presents a  
8 likelihood of serious harm; or

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

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

18 (d) Continues to be gravely disabled.

19 If the conduct required to be proven in (b) and (c) of this  
20 subsection was found by a judge or jury in a prior trial under this  
21 chapter, it shall not be necessary to reprove that element. Such new  
22 petition for involuntary treatment shall be filed and heard in the  
23 superior court of the county of the facility which is filing the new  
24 petition for involuntary treatment unless good cause is shown for a  
25 change of venue. The cost of the proceedings shall be borne by the  
26 state.

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



