

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763**

59th Legislature  
2005 Regular Session

Passed by the Senate April 22, 2005  
YEAS 32 NAYS 16

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**President of the Senate**

Passed by the House April 21, 2005  
YEAS 67 NAYS 31

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, Regala, Brandland, Thibaudeau, Carrell, Brown, Keiser, Fairley, McAuliffe, Rasmussen, Kline, Kohl-Welles and Franklin)

READ FIRST TIME 03/08/05.

1            AN ACT Relating to the omnibus treatment of mental and substance  
2 abuse disorders act of 2005; amending RCW 71.05.020, 71.24.025,  
3 10.77.010, 71.05.360, 71.05.420, 71.05.620, 71.05.630, 71.05.640,  
4 71.05.660, 71.05.550, 2.28.170, 71.05.157, 5.60.060, 18.83.110,  
5 18.225.105, 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640,  
6 71.05.680, and 71.05.690; reenacting and amending RCW 71.05.390 and  
7 71.24.035; adding new sections to chapter 71.05 RCW; adding new  
8 sections to chapter 70.96A RCW; adding a new section to chapter 13.34  
9 RCW; adding new sections to chapter 2.28 RCW; adding a new section to  
10 chapter 26.12 RCW; adding new sections to chapter 71.24 RCW; adding a  
11 new section to chapter 71.02 RCW; adding a new section to chapter  
12 71A.12 RCW; adding a new section to chapter 43.20A RCW; adding a new  
13 section to chapter 82.14 RCW; adding new chapters to Title 70 RCW;  
14 creating new sections; recodifying RCW 71.05.370 and 71.05.035;  
15 repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250,  
16 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155,  
17 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and  
18 71.05.670; repealing 2005 c ... (E2SHB 1290) s 5; prescribing  
19 penalties; providing effective dates; providing expiration dates; and  
20 declaring an emergency.

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

2 **PART I**

3 **GENERAL PROVISIONS**

4 NEW SECTION. **Sec. 101.** The legislature finds that persons with  
5 mental disorders, chemical dependency disorders, or co-occurring mental  
6 and substance abuse disorders are disproportionately more likely to be  
7 confined in a correctional institution, become homeless, become  
8 involved with child protective services or involved in a dependency  
9 proceeding, or lose those state and federal benefits to which they may  
10 be entitled as a result of their disorders. The legislature finds that  
11 prior state policy of addressing mental health and chemical dependency  
12 in isolation from each other has not been cost-effective and has often  
13 resulted in longer-term, more costly treatment that may be less  
14 effective over time. The legislature finds that a substantial number  
15 of persons have co-occurring mental and substance abuse disorders and  
16 that identification and integrated treatment of co-occurring disorders  
17 is critical to successful outcomes and recovery. Consequently, the  
18 legislature intends, to the extent of available funding, to:

19 (1) Establish a process for determining which persons with mental  
20 disorders and substance abuse disorders have co-occurring disorders;

21 (2) Reduce the gap between available chemical dependency treatment  
22 and the documented need for treatment;

23 (3) Improve treatment outcomes by shifting treatment, where  
24 possible, to evidence-based, research-based, and consensus-based  
25 treatment practices and by removing barriers to the use of those  
26 practices;

27 (4) Expand the authority for and use of therapeutic courts  
28 including drug courts, mental health courts, and therapeutic courts for  
29 dependency proceedings;

30 (5) Improve access to treatment for persons who are not enrolled in  
31 medicaid by improving and creating consistency in the application  
32 processes, and by minimizing the numbers of eligible confined persons  
33 who leave confinement without medical assistance;

34 (6) Improve access to inpatient treatment by creating expanded  
35 services facilities for persons needing intensive treatment in a secure

1 setting who do not need inpatient care, but are unable to access  
2 treatment under current licensing restrictions in other settings;

3 (7) Establish secure detoxification centers for persons  
4 involuntarily detained as gravely disabled or presenting a likelihood  
5 of serious harm due to chemical dependency and authorize combined  
6 crisis responders for both mental disorders and chemical dependency  
7 disorders on a pilot basis and study the outcomes;

8 (8) Slow or stop the loss of inpatient and intensive residential  
9 beds and children's long-term inpatient placements and refine the  
10 balance of state hospital and community inpatient and residential beds;

11 (9) Improve cross-system collaboration including collaboration with  
12 first responders and hospital emergency rooms, schools, primary care,  
13 developmental disabilities, law enforcement and corrections, and  
14 federally funded and licensed programs;

15 (10) Following the receipt of outcomes from the pilot programs in  
16 Part II of this act, if directed by future legislative enactment,  
17 implement a single, comprehensive, involuntary treatment act with a  
18 unified set of standards, rights, obligations, and procedures for  
19 adults and children with mental disorders, chemical dependency  
20 disorders, and co-occurring disorders; and

21 (11) Amend existing state law to address organizational and  
22 structural barriers to effective use of state funds for treating  
23 persons with mental and substance abuse disorders, minimize internal  
24 inconsistencies, clarify policy and requirements, and maximize the  
25 opportunity for effective and cost-effective outcomes.

26 NEW SECTION. **Sec. 102.** (1) The department of social and health  
27 services shall explore and report to the appropriate committees of the  
28 legislature by December 1, 2005, on the feasibility, costs, benefits,  
29 and time frame to access federal medicaid funds for mental health and  
30 substance abuse treatment under the following provisions:

31 (a) The optional clinic provisions;

32 (b) Children's mental health treatment or co-occurring disorders  
33 treatment under the early periodic screening, diagnosis, and treatment  
34 provisions.

35 (2) The department shall provide the appropriate committees of the  
36 legislature with a clear and concise explanation of the reasons for

1 reducing state hospital capacity and the differences in costs and  
2 benefits of treatment in state and community hospital treatment.

3 (3) The department may not reduce the capacity of either state  
4 hospital until at least an equal number of skilled nursing,  
5 residential, expanded services facility, or supported housing  
6 placements are available in the community to the persons displaced by  
7 the capacity reduction.

8 **Mental Health Treatment**

9 NEW SECTION. **Sec. 103.** A new section is added to chapter 71.05  
10 RCW to read as follows:

11 (1) Not later than January 1, 2007, all persons providing treatment  
12 under this chapter shall also implement the integrated comprehensive  
13 screening and assessment process for chemical dependency and mental  
14 disorders adopted pursuant to section 601 of this act and shall  
15 document the numbers of clients with co-occurring mental and substance  
16 abuse disorders based on a quadrant system of low and high needs.

17 (2) Treatment providers and regional support networks who fail to  
18 implement the integrated comprehensive screening and assessment process  
19 for chemical dependency and mental disorders by July 1, 2007, shall be  
20 subject to contractual penalties established under section 601 of this  
21 act.

22 **Sec. 104.** RCW 71.05.020 and 2000 c 94 s 1 are each amended to read  
23 as follows:

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) "Admission" or "admit" means a decision by a physician that a  
27 person should be examined or treated as a patient in a hospital;

28 (2) "Antipsychotic medications" means that class of drugs primarily  
29 used to treat serious manifestations of mental illness associated with  
30 thought disorders, which includes, but is not limited to atypical  
31 antipsychotic medications;

32 (3) "Attending staff" means any person on the staff of a public or  
33 private agency having responsibility for the care and treatment of a  
34 patient;

1 (4) "Commitment" means the determination by a court that a person  
2 should be detained for a period of either evaluation or treatment, or  
3 both, in an inpatient or a less restrictive setting;

4 (5) "Conditional release" means a revocable modification of a  
5 commitment, which may be revoked upon violation of any of its terms;

6 ~~(6) ("County designated mental health professional" means a mental  
7 health professional appointed by the county to perform the duties  
8 specified in this chapter;~~

9 ~~(7))~~ (7) "Custody" means involuntary detention under the provisions of  
10 this chapter or chapter 10.77 RCW, uninterrupted by any period of  
11 unconditional release from commitment from a facility providing  
12 involuntary care and treatment;

13 ~~((8))~~ (8) "Department" means the department of social and health  
14 services;

15 ~~((9))~~ (9) "Designated chemical dependency specialist" means a  
16 person designated by the county alcoholism and other drug addiction  
17 program coordinator designated under RCW 70.96A.310 to perform the  
18 commitment duties described in chapter 70.96A RCW and sections 202  
19 through 216 of this act;

20 (10) "Designated crisis responder" means a mental health  
21 professional appointed by the county or the regional support network to  
22 perform the duties specified in this chapter;

23 (11) "Designated mental health professional" means a mental health  
24 professional designated by the county or other authority authorized in  
25 rule to perform the duties specified in this chapter;

26 (12) "Detention" or "detain" means the lawful confinement of a  
27 person, under the provisions of this chapter;

28 ~~((10))~~ (10) "Developmental disabilities professional" means a  
29 person who has specialized training and three years of experience in  
30 directly treating or working with persons with developmental  
31 disabilities and is a psychiatrist, psychologist, or social worker, and  
32 such other developmental disabilities professionals as may be defined  
33 by rules adopted by the secretary;

34 ~~((11))~~ (11) "Developmental disability" means that condition  
35 defined in RCW 71A.10.020(3);

36 ~~((12))~~ (12) "Discharge" means the termination of hospital medical  
37 authority. The commitment may remain in place, be terminated, or be  
38 amended by court order;

1       (~~(13)~~) (15) "Evaluation and treatment facility" means any  
2 facility which can provide directly, or by direct arrangement with  
3 other public or private agencies, emergency evaluation and treatment,  
4 outpatient care, and timely and appropriate inpatient care to persons  
5 suffering from a mental disorder, and which is certified as such by the  
6 department. A physically separate and separately operated portion of  
7 a state hospital may be designated as an evaluation and treatment  
8 facility. A facility which is part of, or operated by, the department  
9 or any federal agency will not require certification. No correctional  
10 institution or facility, or jail, shall be an evaluation and treatment  
11 facility within the meaning of this chapter;

12       (~~(14)~~) (16) "Gravely disabled" means a condition in which a  
13 person, as a result of a mental disorder: (a) Is in danger of serious  
14 physical harm resulting from a failure to provide for his or her  
15 essential human needs of health or safety; or (b) manifests severe  
16 deterioration in routine functioning evidenced by repeated and  
17 escalating loss of cognitive or volitional control over his or her  
18 actions and is not receiving such care as is essential for his or her  
19 health or safety;

20       (~~(15)~~) (17) "Habilitative services" means those services provided  
21 by program personnel to assist persons in acquiring and maintaining  
22 life skills and in raising their levels of physical, mental, social,  
23 and vocational functioning. Habilitative services include education,  
24 training for employment, and therapy. The habilitative process shall  
25 be undertaken with recognition of the risk to the public safety  
26 presented by the (~~(individual)~~) person being assisted as manifested by  
27 prior charged criminal conduct;

28       (~~(16)~~) (18) "History of one or more violent acts" refers to the  
29 period of time ten years prior to the filing of a petition under this  
30 chapter, excluding any time spent, but not any violent acts committed,  
31 in a mental health facility or in confinement as a result of a criminal  
32 conviction;

33       (~~(17)~~) (19) "Individualized service plan" means a plan prepared  
34 by a developmental disabilities professional with other professionals  
35 as a team, for (~~(an individual)~~) a person with developmental  
36 disabilities, which shall state:

37       (a) The nature of the person's specific problems, prior charged  
38 criminal behavior, and habilitation needs;

1 (b) The conditions and strategies necessary to achieve the purposes  
2 of habilitation;

3 (c) The intermediate and long-range goals of the habilitation  
4 program, with a projected timetable for the attainment;

5 (d) The rationale for using this plan of habilitation to achieve  
6 those intermediate and long-range goals;

7 (e) The staff responsible for carrying out the plan;

8 (f) Where relevant in light of past criminal behavior and due  
9 consideration for public safety, the criteria for proposed movement to  
10 less-restrictive settings, criteria for proposed eventual discharge or  
11 release, and a projected possible date for discharge or release; and

12 (g) The type of residence immediately anticipated for the person  
13 and possible future types of residences;

14 ((+18+)) (20) "Judicial commitment" means a commitment by a court  
15 pursuant to the provisions of this chapter;

16 ((+19+)) (21) "Likelihood of serious harm" means:

17 (a) A substantial risk that: (i) Physical harm will be inflicted  
18 by ((an individual)) a person upon his or her own person, as evidenced  
19 by threats or attempts to commit suicide or inflict physical harm on  
20 oneself; (ii) physical harm will be inflicted by ((an individual)) a  
21 person upon another, as evidenced by behavior which has caused such  
22 harm or which places another person or persons in reasonable fear of  
23 sustaining such harm; or (iii) physical harm will be inflicted by ((an  
24 individual)) a person upon the property of others, as evidenced by  
25 behavior which has caused substantial loss or damage to the property of  
26 others; or

27 (b) The ((individual)) person has threatened the physical safety of  
28 another and has a history of one or more violent acts;

29 ((+20+)) (22) "Mental disorder" means any organic, mental, or  
30 emotional impairment which has substantial adverse effects on ((an  
31 individual's)) a person's cognitive or volitional functions;

32 ((+21+)) (23) "Mental health professional" means a psychiatrist,  
33 psychologist, psychiatric nurse, or social worker, and such other  
34 mental health professionals as may be defined by rules adopted by the  
35 secretary pursuant to the provisions of this chapter;

36 ((+22+)) (24) "Peace officer" means a law enforcement official of  
37 a public agency or governmental unit, and includes persons specifically



1 given peace officer powers by any state law, local ordinance, or  
2 judicial order of appointment;

3 ((+23+)) (25) "Private agency" means any person, partnership,  
4 corporation, or association that is not a public agency, whether or not  
5 financed in whole or in part by public funds, which constitutes an  
6 evaluation and treatment facility or private institution, or  
7 hospital(~~(, or sanitarium)~~), which is conducted for, or includes a  
8 department or ward conducted for, the care and treatment of persons who  
9 are mentally ill;

10 ((+24+)) (26) "Professional person" means a mental health  
11 professional and shall also mean a physician, registered nurse, and  
12 such others as may be defined by rules adopted by the secretary  
13 pursuant to the provisions of this chapter;

14 ((+25+)) (27) "Psychiatrist" means a person having a license as a  
15 physician and surgeon in this state who has in addition completed three  
16 years of graduate training in psychiatry in a program approved by the  
17 American medical association or the American osteopathic association  
18 and is certified or eligible to be certified by the American board of  
19 psychiatry and neurology;

20 ((+26+)) (28) "Psychologist" means a person who has been licensed  
21 as a psychologist pursuant to chapter 18.83 RCW;

22 ((+27+)) (29) "Public agency" means any evaluation and treatment  
23 facility or institution, or hospital(~~(, or sanitarium)~~) which is  
24 conducted for, or includes a department or ward conducted for, the care  
25 and treatment of persons who are mentally ill(~~(+[,+])~~), if the agency is  
26 operated directly by, federal, state, county, or municipal government,  
27 or a combination of such governments;

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

33 (31) "Release" means legal termination of the commitment under the  
34 provisions of this chapter;

35 ((+29+)) (32) "Resource management services" has the meaning given  
36 in chapter 71.24 RCW;

37 ((+30+)) (33) "Secretary" means the secretary of the department of  
38 social and health services, or his or her designee;

1        ~~((31))~~ (34) "Social worker" means a person with a master's or  
2 further advanced degree from an accredited school of social work or a  
3 degree deemed equivalent under rules adopted by the secretary;

4        ~~((32))~~ (35) "Treatment records" include registration and all  
5 other records concerning persons who are receiving or who at any time  
6 have received services for mental illness, which are maintained by the  
7 department, by regional support networks and their staffs, and by  
8 treatment facilities. Treatment records do not include notes or  
9 records maintained for personal use by a person providing treatment  
10 services for the department, regional support networks, or a treatment  
11 facility if the notes or records are not available to others;

12        (36) "Violent act" means behavior that resulted in homicide,  
13 attempted suicide, nonfatal injuries, or substantial damage to  
14 property.

15        **Sec. 105.** RCW 71.24.025 and 2001 c 323 s 8 are each amended to  
16 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (8) "County authority" means the board of county commissioners,  
37 county council, or county executive having authority to establish a

1 community mental health program, or two or more of the county  
2 authorities specified in this subsection which have entered into an  
3 agreement to provide a community mental health program.

4 (9) "Department" means the department of social and health  
5 services.

6 (10) "Emerging best practice" or "promising practice" means a  
7 practice that presents, based on preliminary information, potential for  
8 becoming a research-based or consensus-based practice.

9 (11) "Evidence-based" means a program or practice that has had  
10 multiple site random controlled trials across heterogeneous populations  
11 demonstrating that the program or practice is effective for the  
12 population.

13 (12) "Licensed service provider" means an entity licensed according  
14 to this chapter or chapter 71.05 RCW or an entity deemed to meet state  
15 minimum standards as a result of accreditation by a recognized  
16 behavioral health accrediting body recognized and having a current  
17 agreement with the department, that meets state minimum standards or  
18 (~~(individuals)~~) persons licensed under chapter 18.57, 18.71, 18.83, or  
19 18.79 RCW, as it applies to registered nurses and advanced registered  
20 nurse practitioners.

21 (~~(11)~~) (13) "Mental health services" means all services provided  
22 by regional support networks and other services provided by the state  
23 for the mentally ill.

24 (~~(12)~~) (14) "Mentally ill persons" and "the mentally ill" mean  
25 persons and conditions defined in subsections (1), (4), (~~(17)~~) (23),  
26 and (~~(18)~~) (24) of this section.

27 (~~(13)~~) (15) "Recovery" means the process in which people are able  
28 to live, work, learn, and participate fully in their communities.

29 (16) "Regional support network" means a county authority or group  
30 of county authorities or other entity recognized by the secretary  
31 (~~(that enter into joint operating agreements to contract with the~~  
32 ~~secretary pursuant to this chapter)) in contract in a defined area.~~

33 (~~(14)~~) (17) "Registration records" include all the records of the  
34 department, regional support networks, treatment facilities, and other  
35 persons providing services to the department, county departments, or  
36 facilities which identify persons who are receiving or who at any time  
37 have received services for mental illness.

1        (18) "Residential services" means a complete range of residences  
2 and supports authorized by resource management services and which may  
3 involve a facility, a distinct part thereof, or services which support  
4 community living, for acutely mentally ill persons, chronically  
5 mentally ill adults, severely emotionally disturbed children, or  
6 seriously disturbed adults determined by the regional support network  
7 to be at risk of becoming acutely or chronically mentally ill. The  
8 services shall include at least evaluation and treatment services as  
9 defined in chapter 71.05 RCW, acute crisis respite care, long-term  
10 adaptive and rehabilitative care, and supervised and supported living  
11 services, and shall also include any residential services developed to  
12 service mentally ill persons in nursing homes, boarding homes, and  
13 adult family homes, and may include outpatient services provided as an  
14 element in a package of services in a supported housing model.  
15 Residential services for children in out-of-home placements related to  
16 their mental disorder shall not include the costs of food and shelter,  
17 except for children's long-term residential facilities existing prior  
18 to January 1, 1991.

19        ~~((+15))~~ (19) "Research-based" means a program or practice that has  
20 some research demonstrating effectiveness, but that does not yet meet  
21 the standard of evidence-based practices.

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

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

1 (~~county~~) designated mental health professionals, evaluation and  
2 treatment facilities, and others as determined by the regional support  
3 network.

4 (~~(16)~~) (22) "Secretary" means the secretary of social and health  
5 services.

6 (~~(17)~~) (23) "Seriously disturbed person" means a person who:

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

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

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

16 (d) Exhibits suicidal preoccupation or attempts; or

17 (e) Is a child diagnosed by a mental health professional, as  
18 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
19 is clearly interfering with the child's functioning in family or school  
20 or with peers or is clearly interfering with the child's personality  
21 development and learning.

22 (~~(18)~~) (24) "Severely emotionally disturbed child" means a child  
23 who has been determined by the regional support network to be  
24 experiencing a mental disorder as defined in chapter 71.34 RCW,  
25 including those mental disorders that result in a behavioral or conduct  
26 disorder, that is clearly interfering with the child's functioning in  
27 family or school or with peers and who meets at least one of the  
28 following criteria:

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

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

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

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

37 (i) Chronic family dysfunction involving a mentally ill or  
38 inadequate caretaker;

1 (ii) Changes in custodial adult;

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

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

7 (v) Drug or alcohol abuse; or

8 (vi) Homelessness.

9 ~~((+19))~~ (25) "State minimum standards" means minimum requirements  
10 established by rules adopted by the secretary and necessary to  
11 implement this chapter for: (a) Delivery of mental health services;  
12 (b) licensed service providers for the provision of mental health  
13 services; (c) residential services; and (d) community support services  
14 and resource management services.

15 ~~((+20))~~ (26) "Treatment records" include registration and all  
16 other records concerning persons who are receiving or who at any time  
17 have received services for mental illness, which are maintained by the  
18 department, by regional support networks and their staffs, and by  
19 treatment facilities. Treatment records do not include notes or  
20 records maintained for personal use by a person providing treatment  
21 services for the department, regional support networks, or a treatment  
22 facility if the notes or records are not available to others.

23 (27) "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. 106.** RCW 10.77.010 and 2004 c 157 s 2 are each amended to  
29 read as follows:

30 As used in this chapter:

31 (1) "Admission" means acceptance based on medical necessity, of a  
32 person as a patient.

33 (2) "Commitment" means the determination by a court that a person  
34 should be detained for a period of either evaluation or treatment, or  
35 both, in an inpatient or a less-restrictive setting.

36 (3) "Conditional release" means modification of a court-ordered  
37 commitment, which may be revoked upon violation of any of its terms.

1           (4) (~~"County designated mental health professional" has the same~~  
2 ~~meaning as provided in RCW 71.05.020.~~

3           ~~(5))~~ A "criminally insane" person means any person who has been  
4 acquitted of a crime charged by reason of insanity, and thereupon found  
5 to be a substantial danger to other persons or to present a substantial  
6 likelihood of committing criminal acts jeopardizing public safety or  
7 security unless kept under further control by the court or other  
8 persons or institutions.

9           ~~((6))~~ (5) "Department" means the state department of social and  
10 health services.

11           (6) "Designated mental health professional" has the same meaning as  
12 provided in RCW 71.05.020.

13           (7) "Detention" or "detain" means the lawful confinement of a  
14 person, under the provisions of this chapter, pending evaluation.

15           (8) "Developmental disabilities professional" means a person who  
16 has specialized training and three years of experience in directly  
17 treating or working with persons with developmental disabilities and is  
18 a psychiatrist or psychologist, or a social worker, and such other  
19 developmental disabilities professionals as may be defined by rules  
20 adopted by the secretary.

21           (9) "Developmental disability" means the condition as defined in  
22 RCW 71A.10.020(3).

23           (10) "Discharge" means the termination of hospital medical  
24 authority. The commitment may remain in place, be terminated, or be  
25 amended by court order.

26           (11) "Furlough" means an authorized leave of absence for a resident  
27 of a state institution operated by the department designated for the  
28 custody, care, and treatment of the criminally insane, consistent with  
29 an order of conditional release from the court under this chapter,  
30 without any requirement that the resident be accompanied by, or be in  
31 the custody of, any law enforcement or institutional staff, while on  
32 such unescorted leave.

33           (12) "Habilitative services" means those services provided by  
34 program personnel to assist persons in acquiring and maintaining life  
35 skills and in raising their levels of physical, mental, social, and  
36 vocational functioning. Habilitative services include education,  
37 training for employment, and therapy. The habilitative process shall



1 be undertaken with recognition of the risk to the public safety  
2 presented by the (~~individual~~) person being assisted as manifested by  
3 prior charged criminal conduct.

4 (13) "History of one or more violent acts" means violent acts  
5 committed during: (a) The ten-year period of time prior to the filing  
6 of criminal charges; plus (b) the amount of time equal to time spent  
7 during the ten-year period in a mental health facility or in  
8 confinement as a result of a criminal conviction.

9 (14) "Incompetency" means a person lacks the capacity to understand  
10 the nature of the proceedings against him or her or to assist in his or  
11 her own defense as a result of mental disease or defect.

12 (15) "Indigent" means any person who is financially unable to  
13 obtain counsel or other necessary expert or professional services  
14 without causing substantial hardship to the person or his or her  
15 family.

16 (16) "Individualized service plan" means a plan prepared by a  
17 developmental disabilities professional with other professionals as a  
18 team, for an individual with developmental disabilities, which shall  
19 state:

20 (a) The nature of the person's specific problems, prior charged  
21 criminal behavior, and habilitation needs;

22 (b) The conditions and strategies necessary to achieve the purposes  
23 of habilitation;

24 (c) The intermediate and long-range goals of the habilitation  
25 program, with a projected timetable for the attainment;

26 (d) The rationale for using this plan of habilitation to achieve  
27 those intermediate and long-range goals;

28 (e) The staff responsible for carrying out the plan;

29 (f) Where relevant in light of past criminal behavior and due  
30 consideration for public safety, the criteria for proposed movement to  
31 less-restrictive settings, criteria for proposed eventual release, and  
32 a projected possible date for release; and

33 (g) The type of residence immediately anticipated for the person  
34 and possible future types of residences.

35 (17) "Professional person" means:

36 (a) A psychiatrist licensed as a physician and surgeon in this  
37 state who has, in addition, completed three years of graduate training  
38 in psychiatry in a program approved by the American medical association

1 or the American osteopathic association and is certified or eligible to  
2 be certified by the American board of psychiatry and neurology or the  
3 American osteopathic board of neurology and psychiatry;

4 (b) A psychologist licensed as a psychologist pursuant to chapter  
5 18.83 RCW; or

6 (c) A social worker with a master's or further advanced degree from  
7 an accredited school of social work or a degree deemed equivalent under  
8 rules adopted by the secretary.

9 (18) "Registration records" include all the records of the  
10 department, regional support networks, treatment facilities, and other  
11 persons providing services to the department, county departments, or  
12 facilities which identify persons who are receiving or who at any time  
13 have received services for mental illness.

14 (19) "Release" means legal termination of the court-ordered  
15 commitment under the provisions of this chapter.

16 ((+19+)) (20) "Secretary" means the secretary of the department of  
17 social and health services or his or her designee.

18 ((+20+)) (21) "Treatment" means any currently standardized medical  
19 or mental health procedure including medication.

20 ((+21+)) (22) "Treatment records" include registration and all  
21 other records concerning persons who are receiving or who at any time  
22 have received services for mental illness, which are maintained by the  
23 department, by regional support networks and their staffs, and by  
24 treatment facilities. Treatment records do not include notes or  
25 records maintained for personal use by a person providing treatment  
26 services for the department, regional support networks, or a treatment  
27 facility if the notes or records are not available to others.

28 (23) "Violent act" means behavior that: (a)(i) Resulted in; (ii)  
29 if completed as intended would have resulted in; or (iii) was  
30 threatened to be carried out by a person who had the intent and  
31 opportunity to carry out the threat and would have resulted in,  
32 homicide, nonfatal injuries, or substantial damage to property; or (b)  
33 recklessly creates an immediate risk of serious physical injury to  
34 another person. As used in this subsection, "nonfatal injuries" means  
35 physical pain or injury, illness, or an impairment of physical  
36 condition. "Nonfatal injuries" shall be construed to be consistent  
37 with the definition of "bodily injury," as defined in RCW 9A.04.110.

1       **Sec. 107.** RCW 71.05.360 and 1997 c 112 s 30 are each amended to  
2 read as follows:

3       (1)(a) Every person involuntarily detained or committed under the  
4 provisions of this chapter shall be entitled to all the rights set  
5 forth in this chapter, which shall be prominently posted in the  
6 facility, and shall retain all rights not denied him or her under this  
7 chapter except as chapter 9.41 RCW may limit the right of a person to  
8 purchase or possess a firearm or to qualify for a concealed pistol  
9 license.

10       (b) No person shall be presumed incompetent as a consequence of  
11 receiving an evaluation or voluntary or involuntary treatment for a  
12 mental disorder, under this chapter or any prior laws of this state  
13 dealing with mental illness. Competency shall not be determined or  
14 withdrawn except under the provisions of chapter 10.97 or 11.88 RCW.

15       (c) Any person who leaves a public or private agency following  
16 evaluation or treatment for mental disorder shall be given a written  
17 statement setting forth the substance of this section.

18       (2) Each person involuntarily detained or committed pursuant to  
19 this chapter shall have the right to adequate care and individualized  
20 treatment.

21       (3) The provisions of this chapter shall not be construed to deny  
22 to any person treatment by spiritual means through prayer in accordance  
23 with the tenets and practices of a church or religious denomination.

24       (4) Persons receiving evaluation or treatment under this chapter  
25 shall be given a reasonable choice of an available physician or other  
26 professional person qualified to provide such services.

27       (5) Whenever any person is detained for evaluation and treatment  
28 pursuant to this chapter, both the person and, if possible, a  
29 responsible member of his or her immediate family, personal  
30 representative, guardian, or conservator, if any, shall be advised as  
31 soon as possible in writing or orally, by the officer or person taking  
32 him or her into custody or by personnel of the evaluation and treatment  
33 facility where the person is detained that unless the person is  
34 released or voluntarily admits himself or herself for treatment within  
35 seventy-two hours of the initial detention:

36       (a) A judicial hearing in a superior court, either by a judge or  
37 court commissioner thereof, shall be held not more than seventy-two  
38 hours after the initial detention to determine whether there is

1 probable cause to detain the person after the seventy-two hours have  
2 expired for up to an additional fourteen days without further automatic  
3 hearing for the reason that the person is a person whose mental  
4 disorder presents a likelihood of serious harm or that the person is  
5 gravely disabled;

6 (b) The person has a right to communicate immediately with an  
7 attorney; has a right to have an attorney appointed to represent him or  
8 her before and at the probable cause hearing if he or she is indigent;  
9 and has the right to be told the name and address of the attorney that  
10 the mental health professional has designated pursuant to this chapter;

11 (c) The person has the right to remain silent and that any  
12 statement he or she makes may be used against him or her;

13 (d) The person has the right to present evidence and to cross-  
14 examine witnesses who testify against him or her at the probable cause  
15 hearing; and

16 (e) The person has the right to refuse psychiatric medications,  
17 including antipsychotic medication beginning twenty-four hours prior to  
18 the probable cause hearing.

19 (6) When proceedings are initiated under RCW 71.05.150 (2), (3), or  
20 (4)(b), no later than twelve hours after such person is admitted to the  
21 evaluation and treatment facility the personnel of the evaluation and  
22 treatment facility or the designated mental health professional shall  
23 serve on such person a copy of the petition for initial detention and  
24 the name, business address, and phone number of the designated attorney  
25 and shall forthwith commence service of a copy of the petition for  
26 initial detention on the designated attorney.

27 (7) The judicial hearing described in subsection (5) of this  
28 section is hereby authorized, and shall be held according to the  
29 provisions of subsection (5) of this section and rules promulgated by  
30 the supreme court.

31 (8) At the probable cause hearing the detained person shall have  
32 the following rights in addition to the rights previously specified:

33 (a) To present evidence on his or her behalf;

34 (b) To cross-examine witnesses who testify against him or her;

35 (c) To be proceeded against by the rules of evidence;

36 (d) To remain silent;

37 (e) To view and copy all petitions and reports in the court file.

1       (9) The physician-patient privilege or the psychologist-client  
2 privilege shall be deemed waived in proceedings under this chapter  
3 relating to the administration of antipsychotic medications. As to  
4 other proceedings under this chapter, the privileges shall be waived  
5 when a court of competent jurisdiction in its discretion determines  
6 that such waiver is necessary to protect either the detained person or  
7 the public.

8       The waiver of a privilege under this section is limited to records  
9 or testimony relevant to evaluation of the detained person for purposes  
10 of a proceeding under this chapter. Upon motion by the detained person  
11 or on its own motion, the court shall examine a record or testimony  
12 sought by a petitioner to determine whether it is within the scope of  
13 the waiver.

14       The record maker shall not be required to testify in order to  
15 introduce medical or psychological records of the detained person so  
16 long as the requirements of RCW 5.45.020 are met except that portions  
17 of the record which contain opinions as to the detained person's mental  
18 state must be deleted from such records unless the person making such  
19 conclusions is available for cross-examination.

20       (10) Insofar as danger to the person or others is not created, each  
21 person involuntarily detained, treated in a less restrictive  
22 alternative course of treatment, or committed for treatment and  
23 evaluation pursuant to this chapter shall have, in addition to other  
24 rights not specifically withheld by law, the following rights:

25       (a) To wear his or her own clothes and to keep and use his or her  
26 own personal possessions, except when deprivation of same is essential  
27 to protect the safety of the resident or other persons;

28       (b) To keep and be allowed to spend a reasonable sum of his or her  
29 own money for canteen expenses and small purchases;

30       (c) To have access to individual storage space for his or her  
31 private use;

32       (d) To have visitors at reasonable times;

33       (e) To have reasonable access to a telephone, both to make and  
34 receive confidential calls, consistent with an effective treatment  
35 program;

36       (f) To have ready access to letter writing materials, including  
37 stamps, and to send and receive uncensored correspondence through the  
38 mails;

1 (g) To discuss treatment plans and decisions with professional  
2 persons;

3 (h) Not to consent to the administration of antipsychotic  
4 medications and not to thereafter be administered antipsychotic  
5 medications unless ordered by a court under RCW 71.05.370 (as  
6 recodified by this act) or pursuant to an administrative hearing under  
7 RCW 71.05.215;

8 (i) Not to consent to the performance of electroconvulsant therapy  
9 or surgery, except emergency life-saving surgery, unless ordered by a  
10 court under RCW 71.05.370 (as recodified by this act);

11 (j) Not to have psychosurgery performed on him or her under any  
12 circumstances;

13 (k) To dispose of property and sign contracts unless such person  
14 has been adjudicated an incompetent in a court proceeding directed to  
15 that particular issue.

16 (11) Every person involuntarily detained shall immediately be  
17 informed of his or her right to a hearing to review the legality of his  
18 or her detention and of his or her right to counsel, by the  
19 professional person in charge of the facility providing evaluation and  
20 treatment, or his or her designee, and, when appropriate, by the court.  
21 If the person so elects, the court shall immediately appoint an  
22 attorney to assist him or her.

23 (12) A person challenging his or her detention or his or her  
24 attorney, shall have the right to designate and have the court appoint  
25 a reasonably available independent physician or licensed mental health  
26 professional to examine the person detained, the results of which  
27 examination may be used in the proceeding. The person shall, if he or  
28 she is financially able, bear the cost of such expert information,  
29 otherwise such expert examination shall be at public expense.

30 (13) Nothing contained in this chapter shall prohibit the patient  
31 from petitioning by writ of habeas corpus for release.

32 (14) Nothing in this chapter shall prohibit a person committed on  
33 or prior to January 1, 1974, from exercising a right available to him  
34 or her at or prior to January 1, 1974, for obtaining release from  
35 confinement.

36 (15) Nothing in this section permits any person to knowingly  
37 violate a no-contact order or a condition of an active judgment and

1 sentence or an active condition of supervision by the department of  
2 corrections.

3 NEW SECTION. **Sec. 108.** RCW 71.05.370 is recodified as a new  
4 section in chapter 71.05 RCW to be codified in proximity to RCW  
5 71.05.215.

6 **Sec. 109.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and  
7 2004 c 33 s 2 are each reenacted and amended to read as follows:

8 Except as provided in this section, RCW 71.05.445, 71.05.630,  
9 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the  
10 fact of admission and all information and records compiled, obtained,  
11 or maintained in the course of providing services to either voluntary  
12 or involuntary recipients of services at public or private agencies  
13 shall be confidential.

14 Information and records may be disclosed only:

15 (1) In communications between qualified professional persons to  
16 meet the requirements of this chapter, in the provision of services or  
17 appropriate referrals, or in the course of guardianship proceedings.  
18 The consent of the ((patient)) person, or his or her personal  
19 representative or guardian, shall be obtained before information or  
20 records may be disclosed by a professional person employed by a  
21 facility unless provided to a professional person:

- 22 (a) Employed by the facility;
- 23 (b) Who has medical responsibility for the patient's care;
- 24 (c) Who is a ((county)) designated mental health professional;
- 25 (d) Who is providing services under chapter 71.24 RCW;
- 26 (e) Who is employed by a state or local correctional facility where  
27 the person is confined or supervised; or
- 28 (f) Who is providing evaluation, treatment, or follow-up services  
29 under chapter 10.77 RCW.

30 (2) When the communications regard the special needs of a patient  
31 and the necessary circumstances giving rise to such needs and the  
32 disclosure is made by a facility providing ((outpatient)) services to  
33 the operator of a ((care)) facility in which the patient resides or  
34 will reside.

35 (3)(a) When the person receiving services, or his or her guardian,

1 designates persons to whom information or records may be released, or  
2 if the person is a minor, when his or her parents make such  
3 designation.

4 (b) A public or private agency shall release to a person's next of  
5 kin, attorney, personal representative, guardian, or conservator, if  
6 any:

7 (i) The information that the person is presently a patient in the  
8 facility or that the person is seriously physically ill;

9 (ii) A statement evaluating the mental and physical condition of  
10 the patient, and a statement of the probable duration of the patient's  
11 confinement, if such information is requested by the next of kin,  
12 attorney, personal representative, guardian, or conservator; and

13 (iii) Such other information requested by the next of kin or  
14 attorney as may be necessary to decide whether or not proceedings  
15 should be instituted to appoint a guardian or conservator.

16 (4) To the extent necessary for a recipient to make a claim, or for  
17 a claim to be made on behalf of a recipient for aid, insurance, or  
18 medical assistance to which he or she may be entitled.

19 (5)(a) For either program evaluation or research, or both:  
20 PROVIDED, That the secretary adopts rules for the conduct of the  
21 evaluation or research, or both. Such rules shall include, but need  
22 not be limited to, the requirement that all evaluators and researchers  
23 must sign an oath of confidentiality substantially as follows:

24 "As a condition of conducting evaluation or research concerning  
25 persons who have received services from (fill in the facility, agency,  
26 or person) I, . . . . ., agree not to divulge, publish, or  
27 otherwise make known to unauthorized persons or the public any  
28 information obtained in the course of such evaluation or research  
29 regarding persons who have received services such that the person who  
30 received such services is identifiable.

31 I recognize that unauthorized release of confidential information  
32 may subject me to civil liability under the provisions of state law.

33 /s/ .....

34 (b) Nothing in this chapter shall be construed to prohibit the



1 compilation and publication of statistical data for use by government  
2 or researchers under standards, including standards to assure  
3 maintenance of confidentiality, set forth by the secretary.

4 (6)(a) To the courts as necessary to the administration of this  
5 chapter or to a court ordering an evaluation or treatment under chapter  
6 10.77 RCW solely for the purpose of preventing the entry of any  
7 evaluation or treatment order that is inconsistent with any order  
8 entered under this chapter.

9 (b) To a court or its designee in which a motion under chapter  
10 10.77 RCW has been made for involuntary medication of a defendant for  
11 the purpose of competency restoration.

12 (c) Disclosure under this subsection is mandatory for the purpose  
13 of the health insurance portability and accountability act.

14 (7)(a) When a mental health professional is requested by a  
15 representative of a law enforcement or corrections agency, including a  
16 police officer, sheriff, community corrections officer, a municipal  
17 attorney, or prosecuting attorney to undertake an investigation under  
18 RCW 71.05.150, the mental health professional shall, if requested to do  
19 so, advise the representative in writing of the results of the  
20 investigation including a statement of reasons for the decision to  
21 detain or release the person investigated. Such written report shall  
22 be submitted within seventy-two hours of the completion of the  
23 investigation or the request from the law enforcement or corrections  
24 representative, whichever occurs later.

25 (b) To law enforcement officers, public health officers, or  
26 personnel of the department of corrections or the indeterminate  
27 sentence review board for persons who are the subject of the records  
28 and who are committed to the custody or supervision of the department  
29 of corrections or indeterminate sentence review board which information  
30 or records are necessary to carry out the responsibilities of their  
31 office. Except for dissemination of information released pursuant to  
32 RCW 71.05.425 and 4.24.550, regarding persons committed under this  
33 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of  
34 a sex offense as defined in RCW 9.94A.030, the extent of information  
35 that may be released is limited as follows:

36 ((+a)) (i) Only the fact, place, and date of involuntary  
37 commitment, the fact and date of discharge or release, and the last  
38 known address shall be disclosed upon request;

1       (~~(b)~~) (ii) The law enforcement and public health officers or  
2 personnel of the department of corrections or indeterminate sentence  
3 review board shall be obligated to keep such information confidential  
4 in accordance with this chapter;

5       (~~(c)~~) (iii) Additional information shall be disclosed only after  
6 giving notice to said person and his or her counsel and upon a showing  
7 of clear, cogent, and convincing evidence that such information is  
8 necessary and that appropriate safeguards for strict confidentiality  
9 are and will be maintained. However, in the event the said person has  
10 escaped from custody, said notice prior to disclosure is not necessary  
11 and that the facility from which the person escaped shall include an  
12 evaluation as to whether the person is of danger to persons or property  
13 and has a propensity toward violence;

14       (~~(d)~~) (iv) Information and records shall be disclosed to the  
15 department of corrections pursuant to and in compliance with the  
16 provisions of RCW 71.05.445 for the purposes of completing presentence  
17 investigations or risk assessment reports, supervision of an  
18 incarcerated offender or offender under supervision in the community,  
19 planning for and provision of supervision of an offender, or assessment  
20 of an offender's risk to the community; and

21       (~~(e)~~) (v) Disclosure under this subsection is mandatory for the  
22 purposes of the health insurance portability and accountability act.

23       (8) To the attorney of the detained person.

24       (9) To the prosecuting attorney as necessary to carry out the  
25 responsibilities of the office under RCW 71.05.330(2) and  
26 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access  
27 to records regarding the committed person's treatment and prognosis,  
28 medication, behavior problems, and other records relevant to the issue  
29 of whether treatment less restrictive than inpatient treatment is in  
30 the best interest of the committed person or others. Information shall  
31 be disclosed only after giving notice to the committed person and the  
32 person's counsel.

33       (10) To appropriate law enforcement agencies and to a person, when  
34 the identity of the person is known to the public or private agency,  
35 whose health and safety has been threatened, or who is known to have  
36 been repeatedly harassed, by the patient. The person may designate a  
37 representative to receive the disclosure. The disclosure shall be made  
38 by the professional person in charge of the public or private agency or

1 his or her designee and shall include the dates of commitment,  
2 admission, discharge, or release, authorized or unauthorized absence  
3 from the agency's facility, and only such other information that is  
4 pertinent to the threat or harassment. The decision to disclose or not  
5 shall not result in civil liability for the agency or its employees so  
6 long as the decision was reached in good faith and without gross  
7 negligence.

8 (11) To appropriate corrections and law enforcement agencies all  
9 necessary and relevant information in the event of a crisis or emergent  
10 situation that poses a significant and imminent risk to the public.  
11 The decision to disclose or not shall not result in civil liability for  
12 the mental health service provider or its employees so long as the  
13 decision was reached in good faith and without gross negligence.

14 (12) To the persons designated in RCW 71.05.425 for the purposes  
15 described in that section.

16 (13) Civil liability and immunity for the release of information  
17 about a particular person who is committed to the department under RCW  
18 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
19 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

20 (14) (~~To a patient's next of kin, guardian, or conservator, if~~  
21 ~~any, in the event of death, as provided in RCW 71.05.400.~~) Upon the  
22 death of a person, his or her next of kin, personal representative,  
23 guardian, or conservator, if any, shall be notified.

24 Next of kin who are of legal age and competent shall be notified  
25 under this section in the following order: Spouse, parents, children,  
26 brothers and sisters, and other relatives according to the degree of  
27 relation. Access to all records and information compiled, obtained, or  
28 maintained in the course of providing services to a deceased patient  
29 shall be governed by RCW 70.02.140.

30 (15) To the department of health for the purposes of determining  
31 compliance with state or federal licensure, certification, or  
32 registration rules or laws. However, the information and records  
33 obtained under this subsection are exempt from public inspection and  
34 copying pursuant to chapter 42.17 RCW.

35 (16) To mark headstones or otherwise memorialize patients interred  
36 at state hospital cemeteries. The department of social and health  
37 services shall make available the name, date of birth, and date of

1 death of patients buried in state hospital cemeteries fifty years after  
2 the death of a patient.

3 (17) When a patient would otherwise be subject to the provisions of  
4 RCW 71.05.390 and disclosure is necessary for the protection of the  
5 patient or others due to his or her unauthorized disappearance from the  
6 facility, and his or her whereabouts is unknown, notice of such  
7 disappearance, along with relevant information, may be made to  
8 relatives, the department of corrections when the person is under the  
9 supervision of the department, and governmental law enforcement  
10 agencies designated by the physician in charge of the patient or the  
11 professional person in charge of the facility, or his or her  
12 professional designee.

13 Except as otherwise provided in this chapter, the uniform health  
14 care information act, chapter 70.02 RCW, applies to all records and  
15 information compiled, obtained, or maintained in the course of  
16 providing services.

17 (18) The fact of admission, as well as all records, files,  
18 evidence, findings, or orders made, prepared, collected, or maintained  
19 pursuant to this chapter shall not be admissible as evidence in any  
20 legal proceeding outside this chapter without the written consent of  
21 the person who was the subject of the proceeding except in a subsequent  
22 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)  
23 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter  
24 10.77 RCW due to incompetency to stand trial ((~~or~~)), in a civil  
25 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of  
26 a minor, a guardianship or dependency proceeding. The records and  
27 files maintained in any court proceeding pursuant to this chapter shall  
28 be confidential and available subsequent to such proceedings only to  
29 the person who was the subject of the proceeding or his or her  
30 attorney. In addition, the court may order the subsequent release or  
31 use of such records or files only upon good cause shown if the court  
32 finds that appropriate safeguards for strict confidentiality are and  
33 will be maintained.

34 **Sec. 110.** RCW 71.05.420 and 1990 c 3 s 113 are each amended to  
35 read as follows:

36 Except as provided in RCW 71.05.425, when any disclosure of  
37 information or records is made as authorized by RCW 71.05.390 ((~~through~~

1 71.05.410)), the physician in charge of the patient or the professional  
2 person in charge of the facility shall promptly cause to be entered  
3 into the patient's medical record the date and circumstances under  
4 which said disclosure was made, the names and relationships to the  
5 patient, if any, of the persons or agencies to whom such disclosure was  
6 made, and the information disclosed.

7 **Sec. 111.** RCW 71.05.620 and 1989 c 205 s 12 are each amended to  
8 read as follows:

9 ~~((1) Informed consent for disclosure of information from court or  
10 treatment records to an individual, agency, or organization must be in  
11 writing and must contain the following information:~~

12 ~~(a) The name of the individual, agency, or organization to which  
13 the disclosure is to be made;~~

14 ~~(b) The name of the individual whose treatment record is being  
15 disclosed;~~

16 ~~(c) The purpose or need for the disclosure;~~

17 ~~(d) The specific type of information to be disclosed;~~

18 ~~(e) The time period during which the consent is effective;~~

19 ~~(f) The date on which the consent is signed; and~~

20 ~~(g) The signature of the individual or person legally authorized to  
21 give consent for the individual.~~

22 ~~(2))~~ The files and records of court proceedings under this chapter  
23 and chapters ~~((71.05))~~ 70.96A, 71.34, and 70.-- (sections 202 through  
24 216 of this act) RCW shall be closed but shall be accessible to any  
25 ~~((individual))~~ person who is the subject of a petition and to the  
26 ~~((individual's))~~ person's attorney, guardian ad litem, resource  
27 management services, or service providers authorized to receive such  
28 information by resource management services.

29 **Sec. 112.** RCW 71.05.630 and 2000 c 75 s 5 are each amended to read  
30 as follows:

31 (1) Except as otherwise provided by law, all treatment records  
32 shall remain confidential~~((Treatment records))~~ and may be released  
33 only to the persons designated in this section, or to other persons  
34 designated in an informed written consent of the patient.

35 (2) Treatment records of ~~((an individual))~~ a person may be released  
36 without informed written consent in the following circumstances:

1 (a) To (~~(an individual)~~) a person, organization, or agency as  
2 necessary for management or financial audits, or program monitoring and  
3 evaluation. Information obtained under this subsection shall remain  
4 confidential and may not be used in a manner that discloses the name or  
5 other identifying information about the (~~(individual)~~) person whose  
6 records are being released.

7 (b) To the department, the director of regional support networks,  
8 or a qualified staff member designated by the director only when  
9 necessary to be used for billing or collection purposes. The  
10 information shall remain confidential.

11 (c) For purposes of research as permitted in chapter 42.48 RCW.

12 (d) Pursuant to lawful order of a court.

13 (e) To qualified staff members of the department, to the director  
14 of regional support networks, to resource management services  
15 responsible for serving a patient, or to service providers designated  
16 by resource management services as necessary to determine the progress  
17 and adequacy of treatment and to determine whether the person should be  
18 transferred to a less restrictive or more appropriate treatment  
19 modality or facility. The information shall remain confidential.

20 (f) Within the treatment facility where the patient is receiving  
21 treatment, confidential information may be disclosed to (~~(individuals)~~)  
22 persons employed, serving in bona fide training programs, or  
23 participating in supervised volunteer programs, at the facility when it  
24 is necessary to perform their duties.

25 (g) Within the department as necessary to coordinate treatment for  
26 mental illness, developmental disabilities, alcoholism, or drug abuse  
27 of (~~(individuals)~~) persons who are under the supervision of the  
28 department.

29 (h) To a licensed physician who has determined that the life or  
30 health of the (~~(individual)~~) person is in danger and that treatment  
31 without the information contained in the treatment records could be  
32 injurious to the patient's health. Disclosure shall be limited to the  
33 portions of the records necessary to meet the medical emergency.

34 (i) To a facility that is to receive (~~(an individual)~~) a person who  
35 is involuntarily committed under chapter 71.05 RCW, or upon transfer of  
36 the (~~(individual)~~) person from one treatment facility to another. The  
37 release of records under this subsection shall be limited to the  
38 treatment records required by law, a record or summary of all somatic

1 treatments, and a discharge summary. The discharge summary may include  
2 a statement of the patient's problem, the treatment goals, the type of  
3 treatment which has been provided, and recommendation for future  
4 treatment, but may not include the patient's complete treatment record.

5 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a  
6 correctional facility or a corrections officer who is responsible for  
7 the supervision of (~~(an individual)~~) a person who is receiving  
8 inpatient or outpatient evaluation or treatment. Except as provided in  
9 RCW 71.05.445 and 71.34.225, release of records under this section is  
10 limited to:

11 (i) An evaluation report provided pursuant to a written supervision  
12 plan.

13 (ii) The discharge summary, including a record or summary of all  
14 somatic treatments, at the termination of any treatment provided as  
15 part of the supervision plan.

16 (iii) When (~~(an individual)~~) a person is returned from a treatment  
17 facility to a correctional facility, the information provided under  
18 (j)(iv) of this subsection.

19 (iv) Any information necessary to establish or implement changes in  
20 the (~~(individual's)~~) person's treatment plan or the level or kind of  
21 supervision as determined by resource management services. In cases  
22 involving a person transferred back to a correctional facility,  
23 disclosure shall be made to clinical staff only.

24 (k) To the (~~(individual's)~~) person's counsel or guardian ad litem,  
25 without modification, at any time in order to prepare for involuntary  
26 commitment or recommitment proceedings, reexaminations, appeals, or  
27 other actions relating to detention, admission, commitment, or  
28 patient's rights under chapter 71.05 RCW.

29 (l) To staff members of the protection and advocacy agency or to  
30 staff members of a private, nonprofit corporation for the purpose of  
31 protecting and advocating the rights of persons with mental (~~(illness)~~)  
32 disorders or developmental disabilities. Resource management services  
33 may limit the release of information to the name, birthdate, and county  
34 of residence of the patient, information regarding whether the patient  
35 was voluntarily admitted, or involuntarily committed, the date and  
36 place of admission, placement, or commitment, the name and address of  
37 a guardian of the patient, and the date and place of the guardian's  
38 appointment. Any staff member who wishes to obtain additional

1 information shall notify the patient's resource management services in  
2 writing of the request and of the resource management services' right  
3 to object. The staff member shall send the notice by mail to the  
4 guardian's address. If the guardian does not object in writing within  
5 fifteen days after the notice is mailed, the staff member may obtain  
6 the additional information. If the guardian objects in writing within  
7 fifteen days after the notice is mailed, the staff member may not  
8 obtain the additional information.

9 (3) Whenever federal law or federal regulations restrict the  
10 release of information contained in the treatment records of any  
11 patient who receives treatment for (~~(alcoholism or drug)~~) chemical  
12 dependency, the department may restrict the release of the information  
13 as necessary to comply with federal law and regulations.

14 **Sec. 113.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to  
15 read as follows:

16 (1) Procedures shall be established by resource management services  
17 to provide reasonable and timely access to individual treatment  
18 records. However, access may not be denied at any time to records of  
19 all medications and somatic treatments received by the (~~(individual)~~)  
20 person.

21 (2) Following discharge, the (~~(individual)~~) person shall have a  
22 right to a complete record of all medications and somatic treatments  
23 prescribed during evaluation, admission, or commitment and to a copy of  
24 the discharge summary prepared at the time of his or her discharge. A  
25 reasonable and uniform charge for reproduction may be assessed.

26 (3) Treatment records may be modified prior to inspection to  
27 protect the confidentiality of other patients or the names of any other  
28 persons referred to in the record who gave information on the condition  
29 that his or her identity remain confidential. Entire documents may not  
30 be withheld to protect such confidentiality.

31 (4) At the time of discharge all (~~(individuals)~~) persons shall be  
32 informed by resource management services of their rights as provided in  
33 RCW (~~(71.05.610)~~) 71.05.390 and 71.05.620 through 71.05.690.

34 **Sec. 114.** RCW 71.05.660 and 1989 c 205 s 16 are each amended to  
35 read as follows:

36 Nothing in this chapter (~~(205, Laws of 1989)~~) or chapter 70.96A,



1 71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall  
2 be construed to interfere with communications between physicians or  
3 psychologists and patients and attorneys and clients.

4 NEW SECTION. Sec. 115. A new section is added to chapter 71.05  
5 RCW to read as follows:

6 A petition for commitment under this chapter may be joined with a  
7 petition for commitment under chapter 70.96A RCW.

8 **PART II**  
9 **PILOT PROGRAMS**

10 NEW SECTION. Sec. 201. Sections 202 through 216 of this act  
11 constitute a new chapter in Title 70 RCW.

12 NEW SECTION. Sec. 202. The definitions in this section apply  
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Admission" or "admit" means a decision by a physician that a  
15 person should be examined or treated as a patient in a hospital, an  
16 evaluation and treatment facility, or other inpatient facility, or a  
17 decision by a professional person in charge or his or her designee that  
18 a person should be detained as a patient for evaluation and treatment  
19 in a secure detoxification facility or other certified chemical  
20 dependency provider.

21 (2) "Antipsychotic medications" means that class of drugs primarily  
22 used to treat serious manifestations of mental illness associated with  
23 thought disorders, which includes but is not limited to atypical  
24 antipsychotic medications.

25 (3) "Approved treatment program" means a discrete program of  
26 chemical dependency treatment provided by a treatment program certified  
27 by the department as meeting standards adopted under chapter 70.96A  
28 RCW.

29 (4) "Attending staff" means any person on the staff of a public or  
30 private agency having responsibility for the care and treatment of a  
31 patient.

32 (5) "Chemical dependency" means:

- 33 (a) Alcoholism;
- 34 (b) Drug addiction; or

- 1 (c) Dependence on alcohol and one or more other psychoactive  
2 chemicals, as the context requires.
- 3 (6) "Chemical dependency professional" means a person certified as  
4 a chemical dependency professional by the department of health under  
5 chapter 18.205 RCW.
- 6 (7) "Commitment" means the determination by a court that a person  
7 should be detained for a period of either evaluation or treatment, or  
8 both, in an inpatient or a less restrictive setting.
- 9 (8) "Conditional release" means a revocable modification of a  
10 commitment that may be revoked upon violation of any of its terms.
- 11 (9) "Custody" means involuntary detention under either chapter  
12 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of  
13 unconditional release from commitment from a facility providing  
14 involuntary care and treatment.
- 15 (10) "Department" means the department of social and health  
16 services.
- 17 (11) "Designated chemical dependency specialist" or "specialist"  
18 means a person designated by the county alcoholism and other drug  
19 addiction program coordinator designated under RCW 70.96A.310 to  
20 perform the commitment duties described in RCW 70.96A.140 and this  
21 chapter, and qualified to do so by meeting standards adopted by the  
22 department.
- 23 (12) "Designated crisis responder" means a person designated by the  
24 county or regional support network to perform the duties specified in  
25 this chapter.
- 26 (13) "Designated mental health professional" means a mental health  
27 professional designated by the county or other authority authorized in  
28 rule to perform the duties specified in this chapter.
- 29 (14) "Detention" or "detain" means the lawful confinement of a  
30 person under this chapter, or chapter 70.96A or 71.05 RCW.
- 31 (15) "Developmental disabilities professional" means a person who  
32 has specialized training and three years of experience in directly  
33 treating or working with individuals with developmental disabilities  
34 and is a psychiatrist, psychologist, or social worker, and such other  
35 developmental disabilities professionals as may be defined by rules  
36 adopted by the secretary.
- 37 (16) "Developmental disability" means that condition defined in RCW  
38 71A.10.020.

1 (17) "Discharge" means the termination of facility authority. The  
2 commitment may remain in place, be terminated, or be amended by court  
3 order.

4 (18) "Evaluation and treatment facility" means any facility that  
5 can provide directly, or by direct arrangement with other public or  
6 private agencies, emergency evaluation and treatment, outpatient care,  
7 and timely and appropriate inpatient care to persons suffering from a  
8 mental disorder, and that is certified as such by the department. A  
9 physically separate and separately operated portion of a state hospital  
10 may be designated as an evaluation and treatment facility. A facility  
11 that is part of, or operated by, the department or any federal agency  
12 does not require certification. No correctional institution or  
13 facility, or jail, may be an evaluation and treatment facility within  
14 the meaning of this chapter.

15 (19) "Facility" means either an evaluation and treatment facility  
16 or a secure detoxification facility.

17 (20) "Gravely disabled" means a condition in which a person, as a  
18 result of a mental disorder, or as a result of the use of alcohol or  
19 other psychoactive chemicals:

20 (a) Is in danger of serious physical harm resulting from a failure  
21 to provide for his or her essential human needs of health or safety; or

22 (b) Manifests severe deterioration in routine functioning evidenced  
23 by repeated and escalating loss of cognitive or volitional control over  
24 his or her actions and is not receiving such care as is essential for  
25 his or her health or safety.

26 (21) "History of one or more violent acts" refers to the period of  
27 time ten years before the filing of a petition under this chapter, or  
28 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any  
29 violent acts committed, in a mental health facility or a long-term  
30 alcoholism or drug treatment facility, or in confinement as a result of  
31 a criminal conviction.

32 (22) "Intoxicated person" means a person whose mental or physical  
33 functioning is substantially impaired as a result of the use of alcohol  
34 or other psychoactive chemicals.

35 (23) "Judicial commitment" means a commitment by a court under this  
36 chapter.

37 (24) "Licensed physician" means a person licensed to practice

1 medicine or osteopathic medicine and surgery in the state of  
2 Washington.

3 (25) "Likelihood of serious harm" means:

4 (a) A substantial risk that:

5 (i) Physical harm will be inflicted by a person upon his or her own  
6 person, as evidenced by threats or attempts to commit suicide or  
7 inflict physical harm on oneself;

8 (ii) Physical harm will be inflicted by a person upon another, as  
9 evidenced by behavior that has caused such harm or that places another  
10 person or persons in reasonable fear of sustaining such harm; or

11 (iii) Physical harm will be inflicted by a person upon the property  
12 of others, as evidenced by behavior that has caused substantial loss or  
13 damage to the property of others; or

14 (b) The person has threatened the physical safety of another and  
15 has a history of one or more violent acts.

16 (26) "Mental disorder" means any organic, mental, or emotional  
17 impairment that has substantial adverse effects on a person's cognitive  
18 or volitional functions.

19 (27) "Mental health professional" means a psychiatrist,  
20 psychologist, psychiatric nurse, or social worker, and such other  
21 mental health professionals as may be defined by rules adopted by the  
22 secretary under the authority of chapter 71.05 RCW.

23 (28) "Peace officer" means a law enforcement official of a public  
24 agency or governmental unit, and includes persons specifically given  
25 peace officer powers by any state law, local ordinance, or judicial  
26 order of appointment.

27 (29) "Person in charge" means a physician or chemical dependency  
28 counselor as defined in rule by the department, who is empowered by a  
29 certified treatment program with authority to make assessment,  
30 admission, continuing care, and discharge decisions on behalf of the  
31 certified program.

32 (30) "Private agency" means any person, partnership, corporation,  
33 or association that is not a public agency, whether or not financed in  
34 whole or in part by public funds, that constitutes an evaluation and  
35 treatment facility or private institution, or hospital, or approved  
36 treatment program, that is conducted for, or includes a department or  
37 ward conducted for, the care and treatment of persons who are mentally  
38 ill and/or chemically dependent.

1 (31) "Professional person" means a mental health professional or  
2 chemical dependency professional and shall also mean a physician,  
3 registered nurse, and such others as may be defined by rules adopted by  
4 the secretary pursuant to the provisions of this chapter.

5 (32) "Psychiatrist" means a person having a license as a physician  
6 and surgeon in this state who has in addition completed three years of  
7 graduate training in psychiatry in a program approved by the American  
8 medical association or the American osteopathic association and is  
9 certified or eligible to be certified by the American board of  
10 psychiatry and neurology.

11 (33) "Psychologist" means a person who has been licensed as a  
12 psychologist under chapter 18.83 RCW.

13 (34) "Public agency" means any evaluation and treatment facility or  
14 institution, or hospital, or approved treatment program that is  
15 conducted for, or includes a department or ward conducted for, the care  
16 and treatment of persons who are mentally ill and/or chemically  
17 dependent, if the agency is operated directly by federal, state,  
18 county, or municipal government, or a combination of such governments.

19 (35) "Registration records" means all the records of the  
20 department, regional support networks, treatment facilities, and other  
21 persons providing services to the department, county departments, or  
22 facilities which identify persons who are receiving or who at any time  
23 have received services for mental illness.

24 (36) "Release" means legal termination of the commitment under  
25 chapter 70.96A or 71.05 RCW or this chapter.

26 (37) "Secretary" means the secretary of the department or the  
27 secretary's designee.

28 (38) "Secure detoxification facility" means a facility operated by  
29 either a public or private agency or by the program of an agency that  
30 serves the purpose of providing evaluation and assessment, and acute  
31 and/or subacute detoxification services for intoxicated persons and  
32 includes security measures sufficient to protect the patients, staff,  
33 and community.

34 (39) "Social worker" means a person with a master's or further  
35 advanced degree from an accredited school of social work or a degree  
36 deemed equivalent under rules adopted by the secretary.

37 (40) "Treatment records" means registration records and all other  
38 records concerning persons who are receiving or who at any time have

1 received services for mental illness, which are maintained by the  
2 department, by regional support networks and their staffs, and by  
3 treatment facilities. Treatment records do not include notes or  
4 records maintained for personal use by a person providing treatment  
5 services for the department, regional support networks, or a treatment  
6 facility if the notes or records are not available to others.

7 (41) "Violent act" means behavior that resulted in homicide,  
8 attempted suicide, nonfatal injuries, or substantial damage to  
9 property.

10 NEW SECTION. **Sec. 203.** (1) The secretary, after consulting with  
11 the Washington state association of counties, shall select and contract  
12 with regional support networks or counties to provide two integrated  
13 crisis response and involuntary treatment pilot programs for adults and  
14 shall allocate resources for both integrated services and secure  
15 detoxification services in the pilot areas. In selecting the two  
16 regional support networks or counties, the secretary shall endeavor to  
17 site one in an urban and one in a rural regional support network or  
18 county; and to site them in counties other than those selected pursuant  
19 to section 220 of this act, to the extent necessary to facilitate  
20 evaluation of pilot project results.

21 (2) The regional support networks or counties shall implement the  
22 pilot programs by providing integrated crisis response and involuntary  
23 treatment to persons with a chemical dependency, a mental disorder, or  
24 both, consistent with this chapter. The pilot programs shall:

25 (a) Combine the crisis responder functions of a designated mental  
26 health professional under chapter 71.05 RCW and a designated chemical  
27 dependency specialist under chapter 70.96A RCW by establishing a new  
28 designated crisis responder who is authorized to conduct investigations  
29 and detain persons up to seventy-two hours to the proper facility;

30 (b) Provide training to the crisis responders as required by the  
31 department;

32 (c) Provide sufficient staff and resources to ensure availability  
33 of an adequate number of crisis responders twenty-four hours a day,  
34 seven days a week;

35 (d) Provide the administrative and court-related staff, resources,  
36 and processes necessary to facilitate the legal requirements of the

1 initial detention and the commitment hearings for persons with a  
2 chemical dependency;

3 (e) Participate in the evaluation and report to assess the outcomes  
4 of the pilot programs including providing data and information as  
5 requested;

6 (f) Provide the other services necessary to the implementation of  
7 the pilot programs, consistent with this chapter as determined by the  
8 secretary in contract; and

9 (g) Collaborate with the department of corrections where persons  
10 detained or committed are also subject to supervision by the department  
11 of corrections.

12 (3) The pilot programs established by this section shall begin  
13 providing services by March 1, 2006.

14 NEW SECTION. **Sec. 204.** To qualify as a designated crisis  
15 responder, a person must have received chemical dependency training as  
16 determined by the department and be a:

17 (1) Psychiatrist, psychologist, psychiatric nurse, or social  
18 worker;

19 (2) Person with a master's degree or further advanced degree in  
20 counseling or one of the social sciences from an accredited college or  
21 university and who have, in addition, at least two years of experience  
22 in direct treatment of persons with mental illness or emotional  
23 disturbance, such experience gained under the direction of a mental  
24 health professional;

25 (3) Person who meets the waiver criteria of RCW 71.24.260, which  
26 waiver was granted before 1986;

27 (4) Person who had an approved waiver to perform the duties of a  
28 mental health professional that was requested by the regional support  
29 network and granted by the department before July 1, 2001; or

30 (5) Person who has been granted a time-limited exception of the  
31 minimum requirements of a mental health professional by the department  
32 consistent with rules adopted by the secretary.

33 NEW SECTION. **Sec. 205.** In addition to the provisions of this  
34 chapter, a designated crisis responder has all the powers and duties of  
35 a designated mental health professional as well as the powers and

1 duties of a designated chemical dependency specialist under RCW  
2 70.96A.120.

3 NEW SECTION. **Sec. 206.** (1)(a) When a designated crisis responder  
4 receives information alleging that a person, as a result of a mental  
5 disorder, chemical dependency disorder, or both, presents a likelihood  
6 of serious harm or is gravely disabled, the designated crisis responder  
7 may, after investigation and evaluation of the specific facts alleged  
8 and of the reliability and credibility of any person providing  
9 information to initiate detention, if satisfied that the allegations  
10 are true and that the person will not voluntarily seek appropriate  
11 treatment, file a petition for initial detention. Before filing the  
12 petition, the designated crisis responder must personally interview the  
13 person, unless the person refuses an interview, and determine whether  
14 the person will voluntarily receive appropriate evaluation and  
15 treatment at either an evaluation and treatment facility, a  
16 detoxification facility, or other certified chemical dependency  
17 provider.

18 (b)(i)(A) Whenever it appears, by petition for initial detention,  
19 to the satisfaction of a judge of the superior court that a person  
20 presents as a result of a mental disorder, a likelihood of serious  
21 harm, or is gravely disabled, and that the person has refused or failed  
22 to accept appropriate evaluation and treatment voluntarily, the judge  
23 may issue an order requiring the person to appear within twenty-four  
24 hours after service of the order at a designated evaluation and  
25 treatment facility for not more than a seventy-two hour evaluation and  
26 treatment period; or

27 (B) Whenever it appears, by petition for initial detention, to the  
28 satisfaction of a judge of the superior court, district court, or other  
29 court permitted by court rule, that a person presents as a result of a  
30 chemical dependency, a likelihood of serious harm, or is gravely  
31 disabled, and that the person has refused or failed to accept  
32 appropriate evaluation and treatment voluntarily, the judge may issue  
33 an order requiring the person to appear within twenty-four hours after  
34 service of the order at a secure detoxification facility or other  
35 certified chemical dependency provider for not more than a seventy-two  
36 hour evaluation and treatment period.



1 (ii) The order issued under this subsection (1)(b) shall state the  
2 address of the evaluation and treatment facility, secure detoxification  
3 facility, or other certified chemical dependency provider to which the  
4 person is to report; whether the required seventy-two hour evaluation  
5 and treatment services may be delivered on an outpatient or inpatient  
6 basis; and that if the person named in the order fails to appear at the  
7 evaluation and treatment facility, secure detoxification facility, or  
8 other certified chemical dependency provider at or before the date and  
9 time stated in the order, the person may be involuntarily taken into  
10 custody for evaluation and treatment. The order shall also designate  
11 retained counsel or, if counsel is appointed from a list provided by  
12 the court, the name, business address, and telephone number of the  
13 attorney appointed to represent the person.

14 (c) The designated crisis responder shall then serve or cause to be  
15 served on such person, his or her guardian, and conservator, if any, a  
16 copy of the order to appear, together with a notice of rights and a  
17 petition for initial detention. After service on the person, the  
18 designated crisis responder shall file the return of service in court  
19 and provide copies of all papers in the court file to the evaluation  
20 and treatment facility or secure detoxification facility and the  
21 designated attorney. The designated crisis responder shall notify the  
22 court and the prosecuting attorney that a probable cause hearing will  
23 be held within seventy-two hours of the date and time of outpatient  
24 evaluation or admission to the evaluation and treatment facility,  
25 secure detoxification facility, or other certified chemical dependency  
26 provider. The person shall be permitted to remain in his or her home  
27 or other place of his or her choosing before the time of evaluation and  
28 shall be permitted to be accompanied by one or more of his or her  
29 relatives, friends, an attorney, a personal physician, or other  
30 professional or religious advisor to the place of evaluation. An  
31 attorney accompanying the person to the place of evaluation shall be  
32 permitted to be present during the admission evaluation. Any other  
33 person accompanying the person may be present during the admission  
34 evaluation. The facility may exclude the person if his or her presence  
35 would present a safety risk, delay the proceedings, or otherwise  
36 interfere with the evaluation.

37 (d) If the person ordered to appear does appear on or before the  
38 date and time specified, the evaluation and treatment facility, secure

1 detoxification facility, or other certified chemical dependency  
2 provider may admit the person as required by subsection (3) of this  
3 section or may provide treatment on an outpatient basis. If the person  
4 ordered to appear fails to appear on or before the date and time  
5 specified, the evaluation and treatment facility, secure detoxification  
6 facility, or other certified chemical dependency provider shall  
7 immediately notify the designated crisis responder who may notify a  
8 peace officer to take the person or cause the person to be taken into  
9 custody and placed in an evaluation and treatment facility, a secure  
10 detoxification facility, or other certified chemical dependency  
11 provider. Should the designated crisis responder notify a peace  
12 officer authorizing the officer to take a person into custody under  
13 this subsection, the designated crisis responder shall file with the  
14 court a copy of the authorization and a notice of detention. At the  
15 time the person is taken into custody there shall commence to be served  
16 on the person, his or her guardian, and conservator, if any, a copy of  
17 the original order together with a notice of detention, a notice of  
18 rights, and a petition for initial detention.

19 (2) If a designated crisis responder receives information alleging  
20 that a person, as the result of:

21 (a) A mental disorder, presents an imminent likelihood of serious  
22 harm, or is in imminent danger because of being gravely disabled, after  
23 investigation and evaluation of the specific facts alleged and of the  
24 reliability and credibility of the person or persons providing the  
25 information if any, the designated crisis responder may take the  
26 person, or cause by oral or written order the person to be taken into  
27 emergency custody in an evaluation and treatment facility for not more  
28 than seventy-two hours as described in this chapter; or

29 (b) Chemical dependency, presents an imminent likelihood of serious  
30 harm, or is in imminent danger because of being gravely disabled, after  
31 investigation and evaluation of the specific facts alleged and of the  
32 reliability and credibility of the person or persons providing the  
33 information if any, the designated crisis responder may take the  
34 person, or cause by oral or written order the person to be taken into  
35 emergency custody in a secure detoxification facility for not more than  
36 seventy-two hours as described in this chapter.

37 (3) If the designated crisis responder petitions for detention of  
38 a person whose actions constitute a likelihood of serious harm, or who

1 is gravely disabled, the evaluation and treatment facility, the secure  
2 detoxification facility, or other certified chemical dependency  
3 provider providing seventy-two hour evaluation and treatment must  
4 immediately accept on a provisional basis the petition and the person.  
5 The evaluation and treatment facility, the secure detoxification  
6 facility, or other certified chemical dependency provider shall then  
7 evaluate the person's condition and admit, detain, transfer, or  
8 discharge such person in accordance with this chapter. The facility  
9 shall notify in writing the court and the designated crisis responder  
10 of the date and time of the initial detention of each person  
11 involuntarily detained so that a probable cause hearing will be held no  
12 later than seventy-two hours after detention.

13 (4) A peace officer may, without prior notice of the proceedings  
14 provided for in subsection (1) of this section, take or cause the  
15 person to be taken into custody and immediately delivered to an  
16 evaluation and treatment facility, secure detoxification facility,  
17 other certified chemical dependency treatment provider only pursuant to  
18 subsections (1)(d) and (2) of this section.

19 (5) Nothing in this chapter limits the power of a peace officer to  
20 take a person into custody and immediately deliver the person to the  
21 emergency department of a local hospital or to a detoxification  
22 facility.

23 NEW SECTION. **Sec. 207.** (1) A person or public or private entity  
24 employing a person is not civilly or criminally liable for performing  
25 duties under this chapter if the duties were performed in good faith  
26 and without gross negligence.

27 (2) This section does not relieve a person from giving the required  
28 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn  
29 or to take reasonable precautions to provide protection from violent  
30 behavior where the patient has communicated an actual threat of  
31 physical violence against a reasonably identifiable victim or victims.  
32 The duty to warn or to take reasonable precautions to provide  
33 protection from violent behavior is discharged if reasonable efforts  
34 are made to communicate the threat to the victim or victims and to law  
35 enforcement personnel.

1        NEW SECTION.    **Sec. 208.**    If the evaluation and treatment facility,  
2    secure detoxification facility, or other certified chemical dependency  
3    provider admits the person, it may detain the person for evaluation and  
4    treatment for a period not to exceed seventy-two hours from the time of  
5    acceptance.    The computation of the seventy-two hour period excludes  
6    Saturdays, Sundays, and holidays.

7        NEW SECTION.    **Sec. 209.**    Whenever any person is detained for  
8    evaluation and treatment for a mental disorder under section 206 of  
9    this act, chapter 71.05 RCW applies.

10       NEW SECTION.    **Sec. 210.**    (1) A person detained for seventy-two hour  
11    evaluation and treatment under section 206 of this act or RCW  
12    70.96A.120 may be detained for not more than fourteen additional days  
13    of involuntary chemical dependency treatment if there are beds  
14    available at the secure detoxification facility and the following  
15    conditions are met:

16        (a) The professional person in charge of the agency or facility or  
17    the person's designee providing evaluation and treatment services in a  
18    secure detoxification facility has assessed the person's condition and  
19    finds that the condition is caused by chemical dependency and either  
20    results in a likelihood of serious harm or in the detained person being  
21    gravely disabled, and the professional person or his or her designee is  
22    prepared to testify those conditions are met;

23        (b) The person has been advised of the need for voluntary treatment  
24    and the professional person in charge of the agency or facility or his  
25    or her designee has evidence that he or she has not in good faith  
26    volunteered for treatment; and

27        (c) The professional person in charge of the agency or facility or  
28    the person's designee has filed a petition for fourteen-day involuntary  
29    detention with the superior court, district court, or other court  
30    permitted by court rule.    The petition must be signed by the chemical  
31    dependency professional who has examined the person.

32        (2) The petition under subsection (1)(c) of this section shall be  
33    accompanied by a certificate of a licensed physician who has examined  
34    the person, unless the person whose commitment is sought has refused to  
35    submit to a medical examination, in which case the fact of refusal  
36    shall be alleged in the petition.    The certificate shall set forth the

1 licensed physician's findings in support of the allegations of the  
2 petition. A physician employed by the petitioning program or the  
3 department is eligible to be the certifying physician.

4 (3) The petition shall state facts that support the finding that  
5 the person, as a result of chemical dependency, presents a likelihood  
6 of serious harm or is gravely disabled, and that there are no less  
7 restrictive alternatives to detention in the best interest of the  
8 person or others. The petition shall state specifically that less  
9 restrictive alternative treatment was considered and specify why  
10 treatment less restrictive than detention is not appropriate.

11 (4) A copy of the petition shall be served on the detained person,  
12 his or her attorney, and his or her guardian or conservator, if any,  
13 before the probable cause hearing.

14 (5)(a) The court shall inform the person whose commitment is sought  
15 of his or her right to contest the petition, be represented by counsel  
16 at every stage of any proceedings relating to his or her commitment,  
17 and have counsel appointed by the court or provided by the court, if he  
18 or she wants the assistance of counsel and is unable to obtain counsel.  
19 If the court believes that the person needs the assistance of counsel,  
20 the court shall require, by appointment if necessary, counsel for him  
21 or her regardless of his or her wishes. The person shall, if he or she  
22 is financially able, bear the costs of such legal service; otherwise  
23 such legal service shall be at public expense. The person whose  
24 commitment is sought shall be informed of his or her right to be  
25 examined by a licensed physician of his or her choice. If the person  
26 is unable to obtain a licensed physician and requests examination by a  
27 physician, the court shall appoint a reasonably available licensed  
28 physician designated by the person.

29 (b) At the conclusion of the probable cause hearing, if the court  
30 finds by a preponderance of the evidence that the person, as the result  
31 of chemical dependency, presents a likelihood of serious harm or is  
32 gravely disabled and, after considering less restrictive alternatives  
33 to involuntary detention and treatment, finds that no such alternatives  
34 are in the best interest of such person or others, the court shall  
35 order that the person be detained for involuntary chemical dependency  
36 treatment not to exceed fourteen days in a secure detoxification  
37 facility.



1 safety, or the designated crisis responder detains a person under this  
2 chapter, the designated crisis responder shall notify the person's  
3 treatment provider and the department of corrections.

4 (4) When an offender who is confined in a state correctional  
5 facility or is under supervision of the department of corrections in  
6 the community is subject to a petition for involuntary treatment under  
7 this chapter, the petitioner shall notify the department of corrections  
8 and the department of corrections shall provide documentation of its  
9 risk assessment or other concerns to the petitioner and the court if  
10 the department of corrections classified the offender as a high risk or  
11 high needs offender.

12 (5) Nothing in this section creates a duty on any treatment  
13 provider or designated crisis responder to provide offender  
14 supervision.

15 NEW SECTION. **Sec. 215.** The secretary may adopt rules to implement  
16 this chapter.

17 NEW SECTION. **Sec. 216.** The provisions of RCW 71.05.550 apply to  
18 this chapter.

19 NEW SECTION. **Sec. 217.** (1) The Washington state institute for  
20 public policy shall evaluate the pilot programs and make a preliminary  
21 report to appropriate committees of the legislature by December 1,  
22 2007, and a final report by September 30, 2008.

23 (2) The evaluation of the pilot programs shall include:

24 (a) Whether the designated crisis responder pilot program:

25 (i) Has increased efficiency of evaluation and treatment of persons  
26 involuntarily detained for seventy-two hours;

27 (ii) Is cost-effective;

28 (iii) Results in better outcomes for persons involuntarily  
29 detained;

30 (iv) Increased the effectiveness of the crisis response system in  
31 the pilot catchment areas;

32 (b) The effectiveness of providing a single chapter in the Revised  
33 Code of Washington to address initial detention of persons with mental  
34 disorders or chemical dependency, in crisis response situations and the

1 likelihood of effectiveness of providing a single, comprehensive  
2 involuntary treatment act.

3 (3) The reports shall consider the impact of the pilot programs on  
4 the existing mental health system and on the persons served by the  
5 system.

6 **Sec. 218.** RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each  
7 amended to read as follows:

8 The department of social and health services, in planning and  
9 providing funding to counties pursuant to chapter 71.24 RCW, shall  
10 recognize the financial necessities imposed upon counties by  
11 implementation of this chapter and chapter 70.-- RCW (sections 202  
12 through 216 of this act), and shall consider needs, if any, for  
13 additional community mental health services and facilities and  
14 reduction in commitments to state hospitals for the mentally ill  
15 accomplished by individual counties, in planning and providing such  
16 funding. The state shall provide financial assistance to the counties  
17 to enable the counties to meet all increased costs, if any, to the  
18 counties resulting from their administration of the provisions of  
19 chapter 142, Laws of 1973 1st ex. sess.

20 NEW SECTION. **Sec. 219.** Sections 202 through 216 of this act  
21 expire July 1, 2008.

22 NEW SECTION. **Sec. 220.** A new section is added to chapter 70.96A  
23 RCW to read as follows:

24 (1) The secretary shall select and contract with counties to  
25 provide intensive case management for chemically dependent persons with  
26 histories of high utilization of crisis services at two sites. In  
27 selecting the two sites, the secretary shall endeavor to site one in an  
28 urban county, and one in a rural county; and to site them in counties  
29 other than those selected pursuant to section 203 of this act, to the  
30 extent necessary to facilitate evaluation of pilot project results.

31 (2) The contracted sites shall implement the pilot programs by  
32 providing intensive case management to persons with a primary chemical  
33 dependency diagnosis or dual primary chemical dependency and mental  
34 health diagnoses, through the employment of chemical dependency case  
35 managers. The chemical dependency case managers shall:



1 (a) Be trained in and use the integrated, comprehensive screening  
2 and assessment process adopted under section 601 of this act;

3 (b) Reduce the use of crisis medical, chemical dependency and  
4 mental health services, including but not limited to, emergency room  
5 admissions, hospitalizations, detoxification programs, inpatient  
6 psychiatric admissions, involuntary treatment petitions, emergency  
7 medical services, and ambulance services;

8 (c) Reduce the use of emergency first responder services including  
9 police, fire, emergency medical, and ambulance services;

10 (d) Reduce the number of criminal justice interventions including  
11 arrests, violations of conditions of supervision, bookings, jail days,  
12 prison sanction day for violations, court appearances, and prosecutor  
13 and defense costs;

14 (e) Where appropriate and available, work with therapeutic courts  
15 including drug courts and mental health courts to maximize the outcomes  
16 for the individual and reduce the likelihood of reoffense;

17 (f) Coordinate with local offices of the economic services  
18 administration to assist the person in accessing and remaining enrolled  
19 in those programs to which the person may be entitled;

20 (g) Where appropriate and available, coordinate with primary care  
21 and other programs operated through the federal government including  
22 federally qualified health centers, Indian health programs, and  
23 veterans' health programs for which the person is eligible to reduce  
24 duplication of services and conflicts in case approach;

25 (h) Where appropriate, advocate for the client's needs to assist  
26 the person in achieving and maintaining stability and progress toward  
27 recovery;

28 (i) Document the numbers of persons with co-occurring mental and  
29 substance abuse disorders and the point of determination of the co-  
30 occurring disorder by quadrant of intensity of need; and

31 (j) Where a program participant is under supervision by the  
32 department of corrections, collaborate with the department of  
33 corrections to maximize treatment outcomes and reduce the likelihood of  
34 reoffense.

35 (3) The pilot programs established by this section shall begin  
36 providing services by March 1, 2006.

37 (4) This section expires June 30, 2008.





1        NEW SECTION.    **Sec. 402.** The legislature finds that there are  
2 persons with mental disorders, including organic or traumatic brain  
3 disorders, and combinations of mental disorders with other medical  
4 conditions or behavior histories that result in behavioral and security  
5 issues that make these persons ineligible for, or unsuccessful in,  
6 existing types of licensed facilities, including adult residential  
7 rehabilitation centers, boarding homes, adult family homes, group  
8 homes, and skilled nursing facilities. The legislature also finds that  
9 many of these persons have been treated on repeated occasions in  
10 inappropriate acute care facilities and released without an appropriate  
11 placement or have been treated or detained for extended periods in  
12 inappropriate settings including state hospitals and correctional  
13 facilities. The legislature further finds that some of these persons  
14 present complex safety and treatment issues that require security  
15 measures that cannot be instituted under most facility licenses or  
16 supported housing programs. These include the ability to detain  
17 persons under involuntary treatment orders or administer court ordered  
18 medications.

19        Consequently, the legislature intends, to the extent of available  
20 funds, to establish a new type of facility licensed by the department  
21 of social and health services as an enhanced services facility with  
22 standards that will provide a safe, secure treatment environment for a  
23 limited population of persons who are not appropriately served in other  
24 facilities or programs. The legislature also finds that enhanced  
25 services facilities may need to specialize in order to effectively care  
26 for a particular segment of the identified population.

27        An enhanced services facility may only serve individuals that meet  
28 the criteria specified in section 405 of this act.

29        NEW SECTION.    **Sec. 403.** The definitions in this section apply  
30 throughout this chapter unless the context clearly requires otherwise.

31        (1) "Antipsychotic medications" means that class of drugs primarily  
32 used to treat serious manifestations of mental illness associated with  
33 thought disorders, which includes but is not limited to atypical  
34 antipsychotic medications.

35        (2) "Attending staff" means any person on the staff of a public or  
36 private agency having responsibility for the care and treatment of a  
37 patient.

1 (3) "Chemical dependency" means alcoholism, drug addiction, or  
2 dependence on alcohol and one or more other psychoactive chemicals, as  
3 the context requires and as those terms are defined in chapter 70.96A  
4 RCW.

5 (4) "Chemical dependency professional" means a person certified as  
6 a chemical dependency professional by the department of health under  
7 chapter 18.205 RCW.

8 (5) "Commitment" means the determination by a court that an  
9 individual should be detained for a period of either evaluation or  
10 treatment, or both, in an inpatient or a less restrictive setting.

11 (6) "Conditional release" means a modification of a commitment that  
12 may be revoked upon violation of any of its terms.

13 (7) "Custody" means involuntary detention under chapter 71.05 or  
14 70.96A RCW, uninterrupted by any period of unconditional release from  
15 commitment from a facility providing involuntary care and treatment.

16 (8) "Department" means the department of social and health  
17 services.

18 (9) "Designated responder" means a designated mental health  
19 professional, a designated chemical dependency specialist, or a  
20 designated crisis responder as those terms are defined in chapter  
21 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

22 (10) "Detention" or "detain" means the lawful confinement of an  
23 individual under chapter 70.96A or 71.05 RCW.

24 (11) "Discharge" means the termination of facility authority. The  
25 commitment may remain in place, be terminated, or be amended by court  
26 order.

27 (12) "Enhanced services facility" means a facility that provides  
28 treatment and services to persons for whom acute inpatient treatment is  
29 not medically necessary and who have been determined by the department  
30 to be inappropriate for placement in other licensed facilities due to  
31 the complex needs that result in behavioral and security issues.

32 (13) "Expanded community services program" means a nonsecure  
33 program of enhanced behavioral and residential support provided to  
34 long-term and residential care providers serving specifically eligible  
35 clients who would otherwise be at risk for hospitalization at state  
36 hospital geriatric units.

37 (14) "Facility" means an enhanced services facility.

1 (15) "Gravely disabled" means a condition in which an individual,  
2 as a result of a mental disorder, as a result of the use of alcohol or  
3 other psychoactive chemicals, or both:

4 (a) Is in danger of serious physical harm resulting from a failure  
5 to provide for his or her essential human needs of health or safety; or

6 (b) Manifests severe deterioration in routine functioning evidenced  
7 by repeated and escalating loss of cognitive or volitional control over  
8 his or her actions and is not receiving such care as is essential for  
9 his or her health or safety.

10 (16) "History of one or more violent acts" refers to the period of  
11 time ten years before the filing of a petition under this chapter, or  
12 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any  
13 violent acts committed, in a mental health facility or a long-term  
14 alcoholism or drug treatment facility, or in confinement as a result of  
15 a criminal conviction.

16 (17) "Licensed physician" means a person licensed to practice  
17 medicine or osteopathic medicine and surgery in the state of  
18 Washington.

19 (18) "Likelihood of serious harm" means:

20 (a) A substantial risk that:

21 (i) Physical harm will be inflicted by an individual upon his or  
22 her own person, as evidenced by threats or attempts to commit suicide  
23 or inflict physical harm on oneself;

24 (ii) Physical harm will be inflicted by an individual upon another,  
25 as evidenced by behavior that has caused such harm or that places  
26 another person or persons in reasonable fear of sustaining such harm;  
27 or

28 (iii) Physical harm will be inflicted by an individual upon the  
29 property of others, as evidenced by behavior that has caused  
30 substantial loss or damage to the property of others; or

31 (b) The individual has threatened the physical safety of another  
32 and has a history of one or more violent acts.

33 (19) "Mental disorder" means any organic, mental, or emotional  
34 impairment that has substantial adverse effects on an individual's  
35 cognitive or volitional functions.

36 (20) "Mental health professional" means a psychiatrist,  
37 psychologist, psychiatric nurse, or social worker, and such other

1 mental health professionals as may be defined by rules adopted by the  
2 secretary under the authority of chapter 71.05 RCW.

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

7 (22) "Psychiatrist" means a person having a license as a physician  
8 and surgeon in this state who has in addition completed three years of  
9 graduate training in psychiatry in a program approved by the American  
10 medical association or the American osteopathic association and is  
11 certified or eligible to be certified by the American board of  
12 psychiatry and neurology.

13 (23) "Psychologist" means a person who has been licensed as a  
14 psychologist under chapter 18.83 RCW.

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

20 (25) "Release" means legal termination of the commitment under  
21 chapter 70.96A or 71.05 RCW.

22 (26) "Resident" means a person admitted to an enhanced services  
23 facility.

24 (27) "Secretary" means the secretary of the department or the  
25 secretary's designee.

26 (28) "Significant change" means:

27 (a) A deterioration in a resident's physical, mental, or  
28 psychosocial condition that has caused or is likely to cause clinical  
29 complications or life-threatening conditions; or

30 (b) An improvement in the resident's physical, mental, or  
31 psychosocial condition that may make the resident eligible for release  
32 or for treatment in a less intensive or less secure setting.

33 (29) "Social worker" means a person with a master's or further  
34 advanced degree from an accredited school of social work or a degree  
35 deemed equivalent under rules adopted by the secretary.

36 (30) "Treatment" means the broad range of emergency,  
37 detoxification, residential, inpatient, and outpatient services and  
38 care, including diagnostic evaluation, mental health or chemical

1 dependency education and counseling, medical, psychiatric,  
2 psychological, and social service care, vocational rehabilitation, and  
3 career counseling, which may be extended to persons with mental  
4 disorders, chemical dependency disorders, or both, and their families.

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

13 (32) "Violent act" means behavior that resulted in homicide,  
14 attempted suicide, nonfatal injuries, or substantial damage to  
15 property.

16 NEW SECTION. **Sec. 404.** A facility shall honor an advance  
17 directive that was validly executed pursuant to chapter 70.122 RCW and  
18 a mental health advance directive that was validly executed pursuant to  
19 chapter 71.32 RCW.

20 NEW SECTION. **Sec. 405.** A person, eighteen years old or older, may  
21 be admitted to an enhanced services facility if he or she meets the  
22 criteria in subsections (1) through (3) of this section:

23 (1) The person requires: (a) Daily care by or under the  
24 supervision of a mental health professional, chemical dependency  
25 professional, or nurse; or (b) assistance with three or more activities  
26 of daily living; and

27 (2) The person has: (a) A mental disorder, chemical dependency  
28 disorder, or both; (b) an organic or traumatic brain injury; or (c) a  
29 cognitive impairment that results in symptoms or behaviors requiring  
30 supervision and facility services;

31 (3) The person has two or more of the following:

32 (a) Self-endangering behaviors that are frequent or difficult to  
33 manage;

34 (b) Aggressive, threatening, or assaultive behaviors that create a  
35 risk to the health or safety of other residents or staff, or a



1 significant risk to property and these behaviors are frequent or  
2 difficult to manage;

3 (c) Intrusive behaviors that put residents or staff at risk;

4 (d) Complex medication needs and those needs include psychotropic  
5 medications;

6 (e) A history of or likelihood of unsuccessful placements in either  
7 a licensed facility or other state facility or a history of rejected  
8 applications for admission to other licensed facilities based on the  
9 person's behaviors, history, or security needs;

10 (f) A history of frequent or protracted mental health  
11 hospitalizations;

12 (g) A history of offenses against a person or felony offenses that  
13 created substantial damage to property.

14 NEW SECTION. **Sec. 406.** (1)(a) Every person who is a resident of  
15 an enhanced services facility shall be entitled to all the rights set  
16 forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall  
17 retain all rights not denied him or her under these chapters.

18 (b) No person shall be presumed incompetent as a consequence of  
19 receiving an evaluation or voluntary or involuntary treatment for a  
20 mental disorder, chemical dependency disorder, or both, under this  
21 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this  
22 state dealing with mental illness. Competency shall not be determined  
23 or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

24 (c) At the time of his or her treatment planning meeting, every  
25 resident of an enhanced services facility shall be given a written  
26 statement setting forth the substance of this section. The department  
27 shall by rule develop a statement and process for informing residents  
28 of their rights in a manner that is likely to be understood by the  
29 resident.

30 (2) Every resident of an enhanced services facility shall have the  
31 right to adequate care and individualized treatment.

32 (3) The provisions of this chapter shall not be construed to deny  
33 to any person treatment by spiritual means through prayer in accordance  
34 with the tenets and practices of a church or religious denomination.

35 (4) Persons receiving evaluation or treatment under this chapter  
36 shall be given a reasonable choice of an available physician or other  
37 professional person qualified to provide such services.

1 (5) The physician-patient privilege or the psychologist-client  
2 privilege shall be deemed waived in proceedings under this chapter  
3 relating to the administration of antipsychotic medications. As to  
4 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the  
5 privileges shall be waived when a court of competent jurisdiction in  
6 its discretion determines that such waiver is necessary to protect  
7 either the detained person or the public.

8 (6) Insofar as danger to the person or others is not created, each  
9 resident of an enhanced services facility shall have, in addition to  
10 other rights not specifically withheld by law, the following rights, a  
11 list of which shall be prominently posted in all facilities,  
12 institutions, and hospitals providing such services:

13 (a) To wear his or her own clothes and to keep and use his or her  
14 own personal possessions, except when deprivation of same is essential  
15 to protect the safety of the resident or other persons;

16 (b) To keep and be allowed to spend a reasonable sum of his or her  
17 own money for canteen expenses and small purchases;

18 (c) To have access to individual storage space for his or her  
19 private use;

20 (d) To have visitors at reasonable times;

21 (e) To have reasonable access to a telephone, both to make and  
22 receive confidential calls, consistent with an effective treatment  
23 program;

24 (f) To have ready access to letter writing materials, including  
25 stamps, and to send and receive uncensored correspondence through the  
26 mails;

27 (g) Not to consent to the administration of antipsychotic  
28 medications beyond the hearing conducted pursuant to RCW 71.05.215 or  
29 71.05.370 (as recodified by this act), or the performance of  
30 electroconvulsant therapy, or surgery, except emergency life-saving  
31 surgery, unless ordered by a court under RCW 71.05.370 (as recodified  
32 by this act);

33 (h) To discuss and actively participate in treatment plans and  
34 decisions with professional persons;

35 (i) Not to have psychosurgery performed on him or her under any  
36 circumstances;

37 (j) To dispose of property and sign contracts unless such person

1 has been adjudicated an incompetent in a court proceeding directed to  
2 that particular issue; and

3 (k) To complain about rights violations or conditions and request  
4 the assistance of a mental health ombudsman or representative of  
5 Washington protection and advocacy. The facility may not prohibit or  
6 interfere with a resident's decision to consult with an advocate of his  
7 or her choice.

8 (7) Nothing contained in this chapter shall prohibit a resident  
9 from petitioning by writ of habeas corpus for release.

10 (8) Nothing in this section permits any person to knowingly violate  
11 a no-contact order or a condition of an active judgment and sentence or  
12 active supervision by the department of corrections.

13 (9) A person has a right to refuse placement, except where subject  
14 to commitment, in an enhanced services facility. No person shall be  
15 denied other department services solely on the grounds that he or she  
16 has made such a refusal.

17 (10) A person has a right to appeal the decision of the department  
18 that he or she is eligible for placement at an enhanced services  
19 facility, and shall be given notice of the right to appeal in a format  
20 that is accessible to the person with instructions regarding what to do  
21 if the person wants to appeal.

22 NEW SECTION. **Sec. 407.** A person who is gravely disabled or  
23 presents a likelihood of serious harm as a result of a mental or  
24 chemical dependency disorder or co-occurring mental and chemical  
25 dependency disorders has a right to refuse antipsychotic medication.  
26 Antipsychotic medication may be administered over the person's  
27 objections only pursuant to RCW 71.05.215 or 71.05.370 (as recodified  
28 by this act).

29 NEW SECTION. **Sec. 408.** (1)(a) The department shall not license an  
30 enhanced services facility that serves any residents under sixty-five  
31 years of age for a capacity to exceed sixteen residents.

32 (b) The department may contract for services for the operation of  
33 enhanced services facilities only to the extent that funds are  
34 specifically provided for that purpose.

35 (2) The facility shall provide an appropriate level of security for  
36 the characteristics, behaviors, and legal status of the residents.

1 (3) An enhanced services facility may hold only one license but, to  
2 the extent permitted under state and federal law and medicaid  
3 requirements, a facility may be located in the same building as another  
4 licensed facility, provided that:

5 (a) The enhanced services facility is in a location that is totally  
6 separate and discrete from the other licensed facility; and

7 (b) The two facilities maintain separate staffing, unless an  
8 exception to this is permitted by the department in rule.

9 (4) Nursing homes under chapter 18.51 RCW, boarding homes under  
10 chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that  
11 become licensed as facilities under this chapter shall be deemed to  
12 meet the applicable state and local rules, regulations, permits, and  
13 code requirements. All other facilities are required to meet all  
14 applicable state and local rules, regulations, permits, and code  
15 requirements.

16 NEW SECTION. Sec. 409. (1) The enhanced services facility shall  
17 complete a comprehensive assessment for each resident within fourteen  
18 days of admission, and the assessments shall be repeated upon a  
19 significant change in the resident's condition or, at a minimum, every  
20 one hundred eighty days if there is no significant change in condition.

21 (2) The enhanced services facility shall develop an individualized  
22 treatment plan for each resident based on the comprehensive assessment  
23 and any other information in the person's record. The plan shall be  
24 updated as necessary, and shall include a plan for appropriate transfer  
25 or discharge and reintegration into the community. Where the person is  
26 under the supervision of the department of corrections, the facility  
27 shall collaborate with the department of corrections to maximize  
28 treatment outcomes and reduce the likelihood of reoffense.

29 (3) The plan shall maximize the opportunities for independence,  
30 recovery, employment, the resident's participation in treatment  
31 decisions, and collaboration with peer-supported services, and provide  
32 for care and treatment in the least restrictive manner appropriate to  
33 the individual resident, and, where relevant, to any court orders with  
34 which the resident must comply.

35 NEW SECTION. Sec. 410. (1) An enhanced services facility must

1 have sufficient numbers of staff with the appropriate credentials and  
2 training to provide residents with the appropriate care and treatment:

- 3 (a) Mental health treatment;
- 4 (b) Medication services;
- 5 (c) Assistance with the activities of daily living;
- 6 (d) Medical or habilitative treatment;
- 7 (e) Dietary services;
- 8 (f) Security; and
- 9 (g) Chemical dependency treatment.

10 (2) Where an enhanced services facility specializes in medically  
11 fragile persons with mental disorders, the on-site staff must include  
12 at least one licensed nurse twenty-four hours per day. The nurse must  
13 be a registered nurse for at least sixteen hours per day. If the nurse  
14 is not a registered nurse, a registered nurse or a doctor must be on-  
15 call during the remaining eight hours.

16 (3) Any employee or other individual who will have unsupervised  
17 access to vulnerable adults must successfully pass a background inquiry  
18 check.

19 NEW SECTION. **Sec. 411.** This chapter does not apply to the  
20 following residential facilities:

- 21 (1) Nursing homes licensed under chapter 18.51 RCW;
- 22 (2) Boarding homes licensed under chapter 18.20 RCW;
- 23 (3) Adult family homes licensed under chapter 70.128 RCW;
- 24 (4) Facilities approved and certified under chapter 71A.22 RCW;
- 25 (5) Residential treatment facilities licensed under chapter 71.12  
26 RCW; and
- 27 (6) Hospitals licensed under chapter 70.41 RCW.

28 NEW SECTION. **Sec. 412.** (1) The department shall establish  
29 licensing rules for enhanced services facilities to serve the  
30 populations defined in this chapter.

31 (2) No person or public or private agency may operate or maintain  
32 an enhanced services facility without a license, which must be renewed  
33 annually.

34 (3) A licensee shall have the following readily accessible and  
35 available for review by the department, residents, families of  
36 residents, and the public:

1 (a) Its license to operate and a copy of the department's most  
2 recent inspection report and any recent complaint investigation reports  
3 issued by the department;

4 (b) Its written policies and procedures for all treatment, care,  
5 and services provided directly or indirectly by the facility; and

6 (c) The department's toll-free complaint number, which shall also  
7 be posted in a clearly visible place and manner.

8 (4) Enhanced services facilities shall maintain a grievance  
9 procedure that meets the requirements of rules established by the  
10 department.

11 (5) No facility shall discriminate or retaliate in any manner  
12 against a resident or employee because the resident, employee, or any  
13 other person made a complaint or provided information to the  
14 department, the long-term care ombudsman, Washington protection and  
15 advocacy system, or a mental health ombudsperson.

16 (6) Each enhanced services facility will post in a prominent place  
17 in a common area a notice by the Washington protection and advocacy  
18 system providing contact information.

19 NEW SECTION. **Sec. 413.** (1) In any case in which the department  
20 finds that a licensee of a facility, or any partner, officer, director,  
21 owner of five percent or more of the assets of the facility, or  
22 managing employee failed or refused to comply with the requirements of  
23 this chapter or the rules established under them, the department may  
24 take any or all of the following actions:

25 (a) Suspend, revoke, or refuse to issue or renew a license;

26 (b) Order stop placement; or

27 (c) Assess civil monetary penalties.

28 (2) The department may suspend, revoke, or refuse to renew a  
29 license, assess civil monetary penalties, or both, in any case in which  
30 it finds that the licensee of a facility, or any partner, officer,  
31 director, owner of five percent or more of the assets of the facility,  
32 or managing employee:

33 (a) Operated a facility without a license or under a revoked or  
34 suspended license;

35 (b) Knowingly or with reason to know made a false statement of a  
36 material fact in the license application or any data attached thereto,  
37 or in any matter under investigation by the department;

1 (c) Refused to allow representatives or agents of the department to  
2 inspect all books, records, and files required to be maintained or any  
3 portion of the premises of the facility;

4 (d) Willfully prevented, interfered with, or attempted to impede in  
5 any way the work of any duly authorized representative of the  
6 department and the lawful enforcement of any provision of this chapter;

7 (e) Willfully prevented or interfered with any representative of  
8 the department in the preservation of evidence of any violation of any  
9 of the provisions of this chapter or of the rules adopted under it; or

10 (f) Failed to pay any civil monetary penalty assessed by the  
11 department under this chapter within ten days after the assessment  
12 becomes final.

13 (3)(a) Civil penalties collected under this chapter shall be  
14 deposited into a special fund administered by the department.

15 (b) Civil monetary penalties, if imposed, may be assessed and  
16 collected, with interest, for each day the facility is or was out of  
17 compliance. Civil monetary penalties shall not exceed three thousand  
18 dollars per day. Each day upon which the same or a substantially  
19 similar action occurs is a separate violation subject to the assessment  
20 of a separate penalty.

21 (4) The department may use the civil penalty monetary fund for the  
22 protection of the health or property of residents of facilities found  
23 to be deficient including:

24 (a) Payment for the cost of relocation of residents to other  
25 facilities;

26 (b) Payment to maintain operation of a facility pending correction  
27 of deficiencies or closure; and

28 (c) Reimbursement of a resident for personal funds or property  
29 loss.

30 (5)(a) The department may issue a stop placement order on a  
31 facility, effective upon oral or written notice, when the department  
32 determines:

33 (i) The facility no longer substantially meets the requirements of  
34 this chapter; and

35 (ii) The deficiency or deficiencies in the facility:

36 (A) Jeopardizes the health and safety of the residents; or

37 (B) Seriously limits the facility's capacity to provide adequate  
38 care.

1 (b) When the department has ordered a stop placement, the  
2 department may approve a readmission to the facility from a hospital,  
3 residential treatment facility, or crisis intervention facility when  
4 the department determines the readmission would be in the best interest  
5 of the individual seeking readmission.

6 (6) If the department determines that an emergency exists and  
7 resident health and safety is immediately jeopardized as a result of a  
8 facility's failure or refusal to comply with this chapter, the  
9 department may summarily suspend the facility's license and order the  
10 immediate closure of the facility, or the immediate transfer of  
11 residents, or both.

12 (7) If the department determines that the health or safety of the  
13 residents is immediately jeopardized as a result of a facility's  
14 failure or refusal to comply with requirements of this chapter, the  
15 department may appoint temporary management to:

- 16 (a) Oversee the operation of the facility; and  
17 (b) Ensure the health and safety of the facility's residents while:  
18 (i) Orderly closure of the facility occurs; or  
19 (ii) The deficiencies necessitating temporary management are  
20 corrected.

21 NEW SECTION. **Sec. 414.** (1) All orders of the department denying,  
22 suspending, or revoking the license or assessing a monetary penalty  
23 shall become final twenty days after the same has been served upon the  
24 applicant or licensee unless a hearing is requested.

25 (2) All orders of the department imposing stop placement, temporary  
26 management, emergency closure, emergency transfer, or summary license  
27 suspension shall be effective immediately upon notice, pending any  
28 hearing.

29 (3) Subject to the requirements of subsection (2) of this section,  
30 all hearings under this chapter and judicial review of such  
31 determinations shall be in accordance with the administrative procedure  
32 act, chapter 34.05 RCW.

33 NEW SECTION. **Sec. 415.** Operation of a facility without a license  
34 in violation of this chapter and discrimination against medicaid  
35 recipients is a matter vitally affecting the public interest for the  
36 purpose of applying the consumer protection act, chapter 19.86 RCW.



1 Operation of an enhanced services facility without a license in  
2 violation of this chapter is not reasonable in relation to the  
3 development and preservation of business. Such a violation is an  
4 unfair or deceptive act in trade or commerce and an unfair method of  
5 competition for the purpose of applying the consumer protection act,  
6 chapter 19.86 RCW.

7 NEW SECTION. **Sec. 416.** A person operating or maintaining a  
8 facility without a license under this chapter is guilty of a  
9 misdemeanor and each day of a continuing violation after conviction  
10 shall be considered a separate offense.

11 NEW SECTION. **Sec. 417.** Notwithstanding the existence or use of  
12 any other remedy, the department may, in the manner provided by law,  
13 maintain an action in the name of the state for an injunction, civil  
14 penalty, or other process against a person to restrain or prevent the  
15 operation or maintenance of a facility without a license issued under  
16 this chapter.

17 NEW SECTION. **Sec. 418.** (1) The department shall make or cause to  
18 be made at least one inspection of each facility prior to licensure and  
19 an unannounced full inspection of facilities at least once every  
20 eighteen months. The statewide average interval between full facility  
21 inspections must be fifteen months.

22 (2) Any duly authorized officer, employee, or agent of the  
23 department may enter and inspect any facility at any time to determine  
24 that the facility is in compliance with this chapter and applicable  
25 rules, and to enforce any provision of this chapter. Complaint  
26 inspections shall be unannounced and conducted in such a manner as to  
27 ensure maximum effectiveness. No advance notice shall be given of any  
28 inspection unless authorized or required by federal law.

29 (3) During inspections, the facility must give the department  
30 access to areas, materials, and equipment used to provide care or  
31 support to residents, including resident and staff records, accounts,  
32 and the physical premises, including the buildings, grounds, and  
33 equipment. The department has the authority to privately interview the  
34 provider, staff, residents, and other individuals familiar with  
35 resident care and treatment.

1 (4) Any public employee giving advance notice of an inspection in  
2 violation of this section shall be suspended from all duties without  
3 pay for a period of not less than five nor more than fifteen days.

4 (5) The department shall prepare a written report describing the  
5 violations found during an inspection, and shall provide a copy of the  
6 inspection report to the facility.

7 (6) The facility shall develop a written plan of correction for any  
8 violations identified by the department and provide a plan of  
9 correction to the department within ten working days from the receipt  
10 of the inspection report.

11 NEW SECTION. **Sec. 419.** The facility shall only admit individuals:

12 (1) Who are over the age of eighteen;

13 (2) Who meet the resident eligibility requirements described in  
14 section 405 of this act; and

15 (3) Whose needs the facility can safely and appropriately meet  
16 through qualified and trained staff, services, equipment, security, and  
17 building design.

18 NEW SECTION. **Sec. 420.** If the facility does not employ a  
19 qualified professional able to furnish needed services, the facility  
20 must have a written contract with a qualified professional or agency  
21 outside the facility to furnish the needed services.

22 NEW SECTION. **Sec. 421.** At least sixty days before the effective  
23 date of any change of ownership, or change of management of a facility,  
24 the current operating entity must provide written notification about  
25 the proposed change separately and in writing, to the department, each  
26 resident of the facility, or the resident's guardian or representative.

27 NEW SECTION. **Sec. 422.** The facility shall:

28 (1) Maintain adequate resident records to enable the provision of  
29 necessary treatment, care, and services and to respond appropriately in  
30 emergency situations;

31 (2) Comply with all state and federal requirements related to  
32 documentation, confidentiality, and information sharing, including  
33 chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and

1 (3) Where possible, obtain signed releases of information  
2 designating the department, the facility, and the department of  
3 corrections where the person is under its supervision, as recipients of  
4 health care information.

5 NEW SECTION. **Sec. 423.** (1) Standards for fire protection and the  
6 enforcement thereof, with respect to all facilities licensed under this  
7 chapter, are the responsibility of the chief of the Washington state  
8 patrol, through the director of fire protection, who must adopt  
9 recognized standards as applicable to facilities for the protection of  
10 life against the cause and spread of fire and fire hazards. If the  
11 facility to be licensed meets with the approval of the chief of the  
12 Washington state patrol, through the director of fire protection, the  
13 director of fire protection must submit to the department a written  
14 report approving the facility with respect to fire protection before a  
15 full license can be issued. The chief of the Washington state patrol,  
16 through the director of fire protection, shall conduct an unannounced  
17 full inspection of facilities at least once every eighteen months. The  
18 statewide average interval between full facility inspections must be  
19 fifteen months.

20 (2) Inspections of facilities by local authorities must be  
21 consistent with the requirements adopted by the chief of the Washington  
22 state patrol, through the director of fire protection. Findings of a  
23 serious nature must be coordinated with the department and the chief of  
24 the Washington state patrol, through the director of fire protection,  
25 for determination of appropriate actions to ensure a safe environment  
26 for residents. The chief of the Washington state patrol, through the  
27 director of fire protection, has exclusive authority to determine  
28 appropriate corrective action under this section.

29 NEW SECTION. **Sec. 424.** No facility providing care and treatment  
30 for individuals placed in a facility, or agency licensing or placing  
31 residents in a facility, acting in the course of its duties, shall be  
32 civilly or criminally liable for performing its duties under this  
33 chapter, provided that such duties were performed in good faith and  
34 without gross negligence.



1 requirements that are more stringent than the minimum. The minimum  
2 requirements are:

- 3 (i) The offender would benefit from psychiatric treatment;
- 4 (ii) The offender has not previously been convicted of a serious  
5 violent offense or sex offense as defined in RCW 9.94A.030; and
- 6 (iii) Without regard to whether proof of any of these elements is  
7 required to convict, the offender is not currently charged with or  
8 convicted of an offense:
  - 9 (A) That is a sex offense;
  - 10 (B) That is a serious violent offense;
  - 11 (C) During which the defendant used a firearm; or
  - 12 (D) During which the defendant caused substantial or great bodily  
13 harm or death to another person.

14 NEW SECTION. **Sec. 502.** A new section is added to chapter 2.28 RCW  
15 to read as follows:

16 Any county that has established a drug court and a mental health  
17 court under this chapter may combine the functions of both courts into  
18 a single therapeutic court.

19 NEW SECTION. **Sec. 503.** A new section is added to chapter 26.12  
20 RCW to read as follows:

21 (1) Every county that authorizes the tax provided in section 804 of  
22 this act shall, and every county may, establish and operate a  
23 therapeutic court component for dependency proceedings designed to be  
24 effective for the court's size, location, and resources. A county with  
25 a drug court for criminal cases or with a mental health court may  
26 include a therapeutic court for dependency proceedings as a component  
27 of its existing program.

28 (2) For the purposes of this section, "therapeutic court" means a  
29 court that has special calendars or dockets designed for the intense  
30 judicial supervision, coordination, and oversight of treatment provided  
31 to parents and families who have substance abuse or mental health  
32 problems and who are involved in the dependency and is designed to  
33 achieve a reduction in:

- 34 (a) Child abuse and neglect;
- 35 (b) Out-of-home placement of children;
- 36 (c) Termination of parental rights; and

1 (d) Substance abuse or mental health symptoms among parents or  
2 guardians and their children.

3 (3) To the extent possible, the therapeutic court shall provide  
4 services for parents and families co-located with the court or as near  
5 to the court as practicable.

6 (4) The department of social and health services shall furnish  
7 services to the therapeutic court unless a court contracts with  
8 providers outside of the department.

9 (5) Any jurisdiction that receives a state appropriation to fund a  
10 therapeutic court must first exhaust all federal funding available for  
11 the development and operation of the therapeutic court and associated  
12 services.

13 (6) Moneys allocated by the state for a therapeutic court must be  
14 used to supplement, not supplant, other federal, state, local, and  
15 private funding for court operations and associated services under this  
16 section.

17 (7) Any county that establishes a therapeutic court or receives  
18 funds for an existing court under this section shall:

19 (a) Establish minimum requirements for the participation in the  
20 program; and

21 (b) Develop an evaluation component of the court, including  
22 tracking the success rates in graduating from treatment, reunifying  
23 parents with their children, and the costs and benefits of the court.

24 **Sec. 504.** RCW 2.28.170 and 2002 c 290 s 13 are each amended to  
25 read as follows:

26 (1) Counties may establish and operate drug courts.

27 (2) For the purposes of this section, "drug court" means a court  
28 that has special calendars or dockets designed to achieve a reduction  
29 in recidivism and substance abuse among nonviolent, substance abusing  
30 felony and nonfelony offenders by increasing their likelihood for  
31 successful rehabilitation through early, continuous, and intense  
32 judicially supervised treatment; mandatory periodic drug testing; and  
33 the use of appropriate sanctions and other rehabilitation services.

34 (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
35 drug court program must first:

36 (i) Exhaust all federal funding (~~received from the office of~~

1 ~~national drug control policy~~) that is available to support the  
2 operations of its drug court and associated services; and

3 (ii) Match, on a dollar-for-dollar basis, state moneys allocated  
4 for drug court programs with local cash or in-kind resources. Moneys  
5 allocated by the state must be used to supplement, not supplant, other  
6 federal, state, and local funds for drug court operations and  
7 associated services.

8 (b) Any county that establishes a drug court pursuant to this  
9 section shall establish minimum requirements for the participation of  
10 offenders in the program. The drug court may adopt local requirements  
11 that are more stringent than the minimum. The minimum requirements  
12 are:

- 13 (i) The offender would benefit from substance abuse treatment;
- 14 (ii) The offender has not previously been convicted of a serious  
15 violent offense or sex offense as defined in RCW 9.94A.030; and
- 16 (iii) Without regard to whether proof of any of these elements is  
17 required to convict, the offender is not currently charged with or  
18 convicted of an offense:
  - 19 (A) That is a sex offense;
  - 20 (B) That is a serious violent offense;
  - 21 (C) During which the defendant used a firearm; or
  - 22 (D) During which the defendant caused substantial or great bodily  
23 harm or death to another person.

24 **Regional Jails**

25 NEW SECTION. **Sec. 505.** (1) The joint legislative audit and review  
26 committee shall investigate and assess whether there are existing  
27 facilities in the state that could be converted to use as a regional  
28 jail for offenders who have mental or chemical dependency disorders, or  
29 both, that need specialized housing and treatment arrangements.

30 (2) The joint legislative audit and review committee shall consider  
31 the feasibility of using at least the following facilities or types of  
32 facilities:

- 33 (a) State-owned or operated facilities; and
- 34 (b) Closed or abandoned nursing homes.
- 35 (3) The analysis shall include an assessment of when such

1 facilities could be available for use as a regional jail and the  
2 potential costs, costs avoided, and benefits of at least the following  
3 considerations:

4 (a) Any impact on existing offenders or residents;

5 (b) The conversion of the facilities;

6 (c) Infrastructure tied to the facilities;

7 (d) Whether the facility is, or can be, sized proportionately to  
8 the available pool of offenders;

9 (e) Changes in criminal justice costs, including transport, access  
10 to legal assistance, and access to courts;

11 (f) Reductions in jail populations; and

12 (g) Changes in treatment costs for these offenders.

13 (4) The joint legislative audit and review committee shall report  
14 its findings and recommendations to the appropriate committees of the  
15 legislature not later than December 15, 2005.

#### 16 **Competency and Criminal Insanity**

17 NEW SECTION. **Sec. 506.** By January 1, 2006, the department of  
18 social and health services shall:

19 (1) Reduce the waiting times for competency evaluation and  
20 restoration to the maximum extent possible using funds appropriated for  
21 this purpose; and

22 (2) Report to the legislature with an analysis of several  
23 alternative strategies for addressing increases in forensic population  
24 and minimizing waiting periods for competency evaluation and  
25 restoration. The report shall discuss, at a minimum, the costs and  
26 advantages of, and barriers to co-locating professional persons in  
27 jails, performing restoration treatment in less restrictive  
28 alternatives than the state hospitals, and the use of regional jail  
29 facilities to accomplish competency evaluation and restoration.

#### 30 **ESSB 6358 Implementation Issues**

31 **Sec. 507.** RCW 71.05.157 and 2004 c 166 s 16 are each amended to  
32 read as follows:

33 (1) When a ((county)) designated mental health professional is  
34 notified by a jail that a defendant or offender who was subject to a



1 discharge review under RCW 71.05.232 is to be released to the  
2 community, the ((~~county~~)) designated mental health professional shall  
3 evaluate the person within seventy-two hours of release.

4 (2) When an offender is under court-ordered treatment in the  
5 community and the supervision of the department of corrections, and the  
6 treatment provider becomes aware that the person is in violation of the  
7 terms of the court order, the treatment provider shall notify the  
8 ((~~county~~)) designated mental health professional and the department of  
9 corrections of the violation and request an evaluation for purposes of  
10 revocation of the less restrictive alternative.

11 (3) When a ((~~county~~)) designated mental health professional becomes  
12 aware that an offender who is under court-ordered treatment in the  
13 community and the supervision of the department of corrections is in  
14 violation of a treatment order or a condition of supervision that  
15 relates to public safety, or the ((~~county~~)) designated mental health  
16 professional detains a person under this chapter, the ((~~county~~))  
17 designated mental health professional shall notify the person's  
18 treatment provider and the department of corrections.

19 (4) When an offender who is confined in a state correctional  
20 facility or is under supervision of the department of corrections in  
21 the community is subject to a petition for involuntary treatment under  
22 this chapter, the petitioner shall notify the department of corrections  
23 and the department of corrections shall provide documentation of its  
24 risk assessment or other concerns to the petitioner and the court if  
25 the department of corrections classified the offender as a high risk or  
26 high needs offender.

27 (5) Nothing in this section creates a duty on any treatment  
28 provider or ((~~county~~)) designated mental health professional to provide  
29 offender supervision.

30 NEW SECTION. Sec. 508. A new section is added to chapter 70.96A  
31 RCW to read as follows:

32 (1) Treatment providers shall inquire of each person seeking  
33 treatment, at intake, whether the person is subject to court ordered  
34 mental health or chemical dependency treatment, whether civil or  
35 criminal, and document the person's response in his or her record. If  
36 the person is in treatment on the effective date of this section, and  
37 the treatment provider has not inquired whether the person is subject

1 to court ordered mental health or chemical dependency treatment, the  
2 treatment provider shall inquire on the person's next treatment session  
3 and document the person's response in his or her record.

4 (2) Treatment providers shall inquire of each person seeking  
5 treatment, at intake, whether the person is subject to supervision of  
6 any kind by the department of corrections and document the person's  
7 response in his or her record. If the person is in treatment on the  
8 effective date of this section, and the treatment provider has not  
9 inquired whether the person is subject to supervision of any kind by  
10 the department of corrections, the treatment provider shall inquire on  
11 the person's next treatment session and document the person's response  
12 in his or her record.

13 (3) For all persons who are subject to both court ordered mental  
14 health or chemical dependency treatment and supervision by the  
15 department of corrections, the treatment provider shall request an  
16 authorization to release records and notify the person that, unless  
17 expressly excluded by the court order the law requires treatment  
18 providers to share information with the department of corrections and  
19 the person's mental health treatment provider.

20 (4) If the treatment provider has reason to believe that a person  
21 is subject to supervision by the department of corrections but the  
22 person's record does not indicate that he or she is, the treatment  
23 provider may call any department of corrections office and provide the  
24 person's name and birth date. If the person is subject to supervision,  
25 the treatment provider shall request, and the department of corrections  
26 shall provide, the name and contact information for the person's  
27 community corrections officer.

28 **PART VI**

29 **BEST PRACTICES AND COLLABORATION**

30 NEW SECTION. **Sec. 601.** (1) The department of social and health  
31 services, in consultation with the members of the team charged with  
32 developing the state plan for co-occurring mental and substance abuse  
33 disorders, shall adopt, not later than January 1, 2006, an integrated  
34 and comprehensive screening and assessment process for chemical  
35 dependency and mental disorders and co-occurring chemical dependency  
36 and mental disorders.

1 (a) The process adopted shall include, at a minimum:

2 (i) An initial screening tool that can be used by intake personnel  
3 system-wide and which will identify the most common types of co-  
4 occurring disorders;

5 (ii) An assessment process for those cases in which assessment is  
6 indicated that provides an appropriate degree of assessment for most  
7 situations, which can be expanded for complex situations;

8 (iii) Identification of triggers in the screening that indicate the  
9 need to begin an assessment;

10 (iv) Identification of triggers after or outside the screening that  
11 indicate a need to begin or resume an assessment;

12 (v) The components of an assessment process and a protocol for  
13 determining whether part or all of the assessment is necessary, and at  
14 what point; and

15 (vi) Emphasis that the process adopted under this section is to  
16 replace and not to duplicate existing intake, screening, and assessment  
17 tools and processes.

18 (b) The department shall consider existing models, including those  
19 already adopted by other states, and to the extent possible, adopt an  
20 established, proven model.

21 (c) The integrated, comprehensive screening and assessment process  
22 shall be implemented statewide by all chemical dependency and mental  
23 health treatment providers as well as all designated mental health  
24 professionals, designated chemical dependency specialists, and  
25 designated crisis responders not later than January 1, 2007.

26 (2) The department shall provide adequate training to effect  
27 statewide implementation by the dates designated in this section and  
28 shall report the rates of co-occurring disorders and the stage of  
29 screening or assessment at which the co-occurring disorder was  
30 identified to the appropriate committees of the legislature.

31 (3) The department shall establish contractual penalties to  
32 contracted treatment providers, the regional support networks, and  
33 their contracted providers for failure to implement the integrated  
34 screening and assessment process by July 1, 2007.

35 NEW SECTION. **Sec. 602.** The department of corrections shall, to  
36 the extent that resources are available for this purpose, utilize the

1 integrated, comprehensive screening and assessment process for chemical  
2 dependency and mental disorders developed under section 601 of this  
3 act.

4 NEW SECTION. **Sec. 603.** A new section is added to chapter 71.24  
5 RCW to read as follows:

6 (1) By June 30, 2006, the department shall develop and implement a  
7 matrix or set of matrices for providing services based on the following  
8 principles:

9 (a) Maximizing evidence-based practices where these practices  
10 exist; where no evidence-based practice exists, the use of research-  
11 based practices, including but not limited to, the adaptation of  
12 evidence-based practices to new situations; where no evidence-based or  
13 research-based practices exist the use of consensus-based practices;  
14 and, to the extent that funds are available, the use of promising  
15 practices;

16 (b) Maximizing the person's independence, recovery, and employment  
17 by consideration of the person's strengths and supports in the  
18 community;

19 (c) Maximizing the person's participation in treatment decisions  
20 including, where possible, the person's awareness of, and technical  
21 assistance in preparing, mental health advance directives; and

22 (d) Collaboration with consumer-based support programs.

23 (2) The matrix or set of matrices shall include both adults and  
24 children and persons with co-occurring mental and substance abuse  
25 disorders and shall build on the service intensity quadrant models that  
26 have been developed in this state.

27 (3)(a) The matrix or set of matrices shall be developed in  
28 collaboration with experts in evidence-based practices for mental  
29 disorders, chemical dependency disorders, and co-occurring mental and  
30 chemical dependency disorders at the University of Washington, and in  
31 consultation with representatives of the regional support networks,  
32 community mental health providers, county chemical dependency  
33 coordinators, chemical dependency providers, consumers, family  
34 advocates, and community inpatient providers.

35 (b) The matrix or set of matrices shall, to the extent possible,  
36 adopt or utilize materials already prepared by the department or by  
37 other states.

1 (4)(a) The department shall require, by contract with the regional  
2 support networks, that providers maximize the use of evidence-based,  
3 research-based, and consensus-based practices and document the  
4 percentage of clients enrolled in evidence-based, research-based, and  
5 consensus-based programs by program type.

6 (b) The department shall establish a schedule by which regional  
7 support networks and providers must adopt the matrix or set of matrices  
8 and a schedule of penalties for failure to adopt and implement the  
9 matrices. The department may act against the regional support networks  
10 or providers or both to enforce the provisions of this section and  
11 shall provide the appropriate committees of the legislature with the  
12 schedules adopted under this subsection by June 30, 2006.

13 (5) The following definitions apply to this section:

14 (a) "Evidence-based" means a program or practice that has had  
15 multiple site random controlled trials across heterogeneous populations  
16 demonstrating that the program or practice is effective for the  
17 population.

18 (b) "Research-based" means a program or practice that has some  
19 research demonstrating effectiveness, but that does not yet meet the  
20 standard of evidence-based practices.

21 (c) "Consensus-based" means a program or practice that has general  
22 support among treatment providers and experts, based on experience or  
23 professional literature, and may have anecdotal or case study support,  
24 or that is agreed but not possible to perform studies with random  
25 assignment and controlled groups.

26 (d) "Promising practice" means a practice that presents, based on  
27 preliminary information, potential for becoming a research-based or  
28 consensus-based practice.

29 NEW SECTION. **Sec. 604.** A new section is added to chapter 71.02  
30 RCW to read as follows:

31 (1) The department of social and health services shall collaborate  
32 with community providers of mental health services, early learning and  
33 child care providers, child serving agencies, and child-placing  
34 agencies to identify and utilize federal, state, and local services and  
35 providers for children in out-of-home care and other populations of  
36 vulnerable children who are in need of an evaluation and treatment for

1 mental health services and do not qualify for medicaid or treatment  
2 services through the regional support networks.

3 (2) If no appropriate mental health services are available through  
4 federal, state, or local services and providers for a child described  
5 in subsection (1) of this section, the regional support network must  
6 provide a child, at a minimum, with a mental health evaluation  
7 consistent with chapter 71.24 RCW.

8 (3) The department, in collaboration with the office of the  
9 superintendent of public instruction, local providers, local school  
10 districts, and the regional support networks, shall identify and review  
11 existing programs and services as well as the unmet need for programs  
12 and services serving birth to five and school-aged children who exhibit  
13 early signs of behavioral or mental health disorders and who are not  
14 otherwise eligible for services through the regional support networks.  
15 The review of programs and services shall include, but not be limited  
16 to, the utilization and effectiveness of early intervention or  
17 prevention services and the primary intervention programs.

18 The department of social and health services shall provide a  
19 briefing on the collaboration's findings and recommendations to the  
20 appropriate committee of the legislature by December 31, 2005.

21 NEW SECTION. **Sec. 605.** The Washington state institute for public  
22 policy shall study the net short-run and long-run fiscal savings to  
23 state and local governments of implementing evidence-based treatment of  
24 chemical dependency disorders, mental disorders, and co-occurring  
25 mental and substance abuse disorders. The institute shall use the  
26 results from its 2004 report entitled "Benefits and Costs of Prevention  
27 and Early Intervention Programs for Youth" and its work on effective  
28 adult corrections programs to project total fiscal impacts under  
29 alternative implementation scenarios. In addition to fiscal outcomes,  
30 the institute shall estimate the long-run effects that an evidence-  
31 based strategy could have on statewide education, crime, child abuse  
32 and neglect, substance abuse, and economic outcomes. The institute  
33 shall provide an interim report to the appropriate committees of the  
34 legislature by January 1, 2006, and a final report by June 30, 2006.

35 **PART VII**

1 **REPEALERS AND CROSS-REFERENCE CORRECTIONS**

2 NEW SECTION. **Sec. 701.** The following acts or parts of acts are  
3 each repealed on the effective date of section 107 of this act:

4 (1) RCW 71.05.060 (Rights of persons complained against) and 1973  
5 1st ex.s. c 142 s 11;

6 (2) RCW 71.05.070 (Prayer treatment) and 1973 1st ex.s. c 142 s 12;

7 (3) RCW 71.05.090 (Choice of physicians) and 1973 2nd ex.s. c 24 s  
8 3 & 1973 1st ex.s. c 142 s 14;

9 (4) RCW 71.05.200 (Notice and statement of rights--Probable cause  
10 hearing) and 1998 c 297 s 11, 1997 c 112 s 14, 1989 c 120 s 5, 1974  
11 ex.s. c 145 s 13, & 1973 1st ex.s. c 142 s 25;

12 (5) RCW 71.05.250 (Probable cause hearing--Detained person's  
13 rights--Waiver of privilege--Limitation--Records as evidence) and 1989  
14 c 120 s 7, 1987 c 439 s 6, 1974 ex.s. c 145 s 17, & 1973 1st ex.s. c  
15 142 s 30;

16 (6) RCW 71.05.450 (Competency--Effect--Statement of Washington law)  
17 and 1994 sp.s. c 7 s 440 & 1973 1st ex.s. c 142 s 50;

18 (7) RCW 71.05.460 (Right to counsel) and 1997 c 112 s 33 & 1973 1st  
19 ex.s. c 142 s 51;

20 (8) RCW 71.05.470 (Right to examination) and 1997 c 112 s 34 & 1973  
21 1st ex.s. c 142 s 52;

22 (9) RCW 71.05.480 (Petitioning for release--Writ of habeas corpus)  
23 and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and

24 (10) RCW 71.05.490 (Rights of persons committed before January 1,  
25 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

26 NEW SECTION. **Sec. 702.** The following acts or parts of acts are  
27 each repealed on the effective date of section 109 of this act:

28 (1) RCW 71.05.155 (Request to mental health professional by law  
29 enforcement agency for investigation under RCW 71.05.150--Advisory  
30 report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;

31 (2) RCW 71.05.395 (Application of uniform health care information  
32 act, chapter 70.02 RCW) and 1993 c 448 s 8;

33 (3) RCW 71.05.400 (Release of information to patient's next of kin,  
34 attorney, guardian, conservator--Notification of patient's death) and  
35 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973  
36 1st ex.s. c 142 s 45;

1 (4) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c  
2 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and  
3 (5) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

4 NEW SECTION. **Sec. 703.** RCW 71.05.610 (Treatment records--  
5 Definitions) and 1989 c 205 s 11 are each repealed on the effective  
6 date of sections 104 through 106 of this act.

7 NEW SECTION. **Sec. 704.** The following acts or parts of acts are  
8 each repealed:

9 (1) RCW 71.05.650 (Treatment records--Notation of and access to  
10 released data) and 1989 c 205 s 15; and

11 (2) RCW 71.05.670 (Treatment records--Violations--Civil action) and  
12 1999 c 13 s 10.

13 **Sec. 705.** RCW 5.60.060 and 2001 c 286 s 2 are each amended to read  
14 as follows:

15 (1) A husband shall not be examined for or against his wife,  
16 without the consent of the wife, nor a wife for or against her husband  
17 without the consent of the husband; nor can either during marriage or  
18 afterward, be without the consent of the other, examined as to any  
19 communication made by one to the other during marriage. But this  
20 exception shall not apply to a civil action or proceeding by one  
21 against the other, nor to a criminal action or proceeding for a crime  
22 committed by one against the other, nor to a criminal action or  
23 proceeding against a spouse if the marriage occurred subsequent to the  
24 filing of formal charges against the defendant, nor to a criminal  
25 action or proceeding for a crime committed by said husband or wife  
26 against any child of whom said husband or wife is the parent or  
27 guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202  
28 through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the  
29 spouse of a person sought to be detained under chapter 70.96A, 70.--  
30 (sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be  
31 compelled to testify and shall be so informed by the court prior to  
32 being called as a witness.

33 (2)(a) An attorney or counselor shall not, without the consent of  
34 his or her client, be examined as to any communication made by the



1 client to him or her, or his or her advice given thereon in the course  
2 of professional employment.

3 (b) A parent or guardian of a minor child arrested on a criminal  
4 charge may not be examined as to a communication between the child and  
5 his or her attorney if the communication was made in the presence of  
6 the parent or guardian. This privilege does not extend to  
7 communications made prior to the arrest.

8 (3) A member of the clergy or a priest shall not, without the  
9 consent of a person making the confession, be examined as to any  
10 confession made to him or her in his or her professional character, in  
11 the course of discipline enjoined by the church to which he or she  
12 belongs.

13 (4) Subject to the limitations under RCW 70.96A.140 or  
14 (~~(71.05.250)~~) 71.05.360 (8) and (9), a physician or surgeon or  
15 osteopathic physician or surgeon or podiatric physician or surgeon  
16 shall not, without the consent of his or her patient, be examined in a  
17 civil action as to any information acquired in attending such patient,  
18 which was necessary to enable him or her to prescribe or act for the  
19 patient, except as follows:

20 (a) In any judicial proceedings regarding a child's injury,  
21 neglect, or sexual abuse or the cause thereof; and

22 (b) Ninety days after filing an action for personal injuries or  
23 wrongful death, the claimant shall be deemed to waive the physician-  
24 patient privilege. Waiver of the physician-patient privilege for any  
25 one physician or condition constitutes a waiver of the privilege as to  
26 all physicians or conditions, subject to such limitations as a court  
27 may impose pursuant to court rules.

28 (5) A public officer shall not be examined as a witness as to  
29 communications made to him or her in official confidence, when the  
30 public interest would suffer by the disclosure.

31 (6)(a) A peer support group counselor shall not, without consent of  
32 the law enforcement officer making the communication, be compelled to  
33 testify about any communication made to the counselor by the officer  
34 while receiving counseling. The counselor must be designated as such  
35 by the sheriff, police chief, or chief of the Washington state patrol,  
36 prior to the incident that results in counseling. The privilege only  
37 applies when the communication was made to the counselor while acting  
38 in his or her capacity as a peer support group counselor. The

1 privilege does not apply if the counselor was an initial responding  
2 officer, a witness, or a party to the incident which prompted the  
3 delivery of peer support group counseling services to the law  
4 enforcement officer.

5 (b) For purposes of this section, "peer support group counselor"  
6 means a:

7 (i) Law enforcement officer, or civilian employee of a law  
8 enforcement agency, who has received training to provide emotional and  
9 moral support and counseling to an officer who needs those services as  
10 a result of an incident in which the officer was involved while acting  
11 in his or her official capacity; or

12 (ii) Nonemployee counselor who has been designated by the sheriff,  
13 police chief, or chief of the Washington state patrol to provide  
14 emotional and moral support and counseling to an officer who needs  
15 those services as a result of an incident in which the officer was  
16 involved while acting in his or her official capacity.

17 (7) A sexual assault advocate may not, without the consent of the  
18 victim, be examined as to any communication made by the victim to the  
19 sexual assault advocate.

20 (a) For purposes of this section, "sexual assault advocate" means  
21 the employee or volunteer from a rape crisis center, victim assistance  
22 unit, program, or association, that provides information, medical or  
23 legal advocacy, counseling, or support to victims of sexual assault,  
24 who is designated by the victim to accompany the victim to the hospital  
25 or other health care facility and to proceedings concerning the alleged  
26 assault, including police and prosecution interviews and court  
27 proceedings.

28 (b) A sexual assault advocate may disclose a confidential  
29 communication without the consent of the victim if failure to disclose  
30 is likely to result in a clear, imminent risk of serious physical  
31 injury or death of the victim or another person. Any sexual assault  
32 advocate participating in good faith in the disclosing of records and  
33 communications under this section shall have immunity from any  
34 liability, civil, criminal, or otherwise, that might result from the  
35 action. In any proceeding, civil or criminal, arising out of a  
36 disclosure under this section, the good faith of the sexual assault  
37 advocate who disclosed the confidential communication shall be  
38 presumed.

1       **Sec. 706.** RCW 18.83.110 and 1989 c 271 s 303 are each amended to  
2 read as follows:

3       Confidential communications between a client and a psychologist  
4 shall be privileged against compulsory disclosure to the same extent  
5 and subject to the same conditions as confidential communications  
6 between attorney and client, but this exception is subject to the  
7 limitations under RCW 70.96A.140 and (~~71.05.250~~) 71.05.360 (8) and  
8 (9).

9       **Sec. 707.** RCW 18.225.105 and 2003 c 204 s 1 are each amended to  
10 read as follows:

11       A person licensed under this chapter shall not disclose the written  
12 acknowledgment of the disclosure statement pursuant to RCW 18.225.100,  
13 nor any information acquired from persons consulting the individual in  
14 a professional capacity when the information was necessary to enable  
15 the individual to render professional services to those persons except:

16       (1) With the written authorization of that person or, in the case  
17 of death or disability, the person's personal representative;

18       (2) If the person waives the privilege by bringing charges against  
19 the person licensed under this chapter;

20       (3) In response to a subpoena from the secretary. The secretary  
21 may subpoena only records related to a complaint or report under RCW  
22 18.130.050;

23       (4) As required under chapter 26.44 or 74.34 RCW or RCW  
24 (~~71.05.250~~) 71.05.360 (8) and (9); or

25       (5) To any individual if the person licensed under this chapter  
26 reasonably believes that disclosure will avoid or minimize an imminent  
27 danger to the health or safety of the individual or any other  
28 individual; however, there is no obligation on the part of the provider  
29 to so disclose.

30       **Sec. 708.** RCW 71.05.235 and 2000 c 74 s 6 are each amended to read  
31 as follows:

32       (1) If an individual is referred to a (~~county~~) designated mental  
33 health professional under RCW 10.77.090(1)(d)(iii)(A), the (~~county~~)  
34 designated mental health professional shall examine the individual  
35 within forty-eight hours. If the (~~county~~) designated mental health  
36 professional determines it is not appropriate to detain the individual

1 or petition for a ninety-day less restrictive alternative under RCW  
2 71.05.230(4), that decision shall be immediately presented to the  
3 superior court for hearing. The court shall hold a hearing to consider  
4 the decision of the ((~~county~~)) designated mental health professional  
5 not later than the next judicial day. At the hearing the superior  
6 court shall review the determination of the ((~~county~~)) designated  
7 mental health professional and determine whether an order should be  
8 entered requiring the person to be evaluated at an evaluation and  
9 treatment facility. No person referred to an evaluation and treatment  
10 facility may be held at the facility longer than seventy-two hours.

11 (2) If an individual is placed in an evaluation and treatment  
12 facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall  
13 evaluate the individual for purposes of determining whether to file a  
14 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.  
15 Before expiration of the seventy-two hour evaluation period authorized  
16 under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file  
17 a petition or, if the recommendation of the professional person is to  
18 release the individual, present his or her recommendation to the  
19 superior court of the county in which the criminal charge was  
20 dismissed. The superior court shall review the recommendation not  
21 later than forty-eight hours, excluding Saturdays, Sundays, and  
22 holidays, after the recommendation is presented. If the court rejects  
23 the recommendation to unconditionally release the individual, the court  
24 may order the individual detained at a designated evaluation and  
25 treatment facility for not more than a seventy-two hour evaluation and  
26 treatment period and direct the individual to appear at a surety  
27 hearing before that court within seventy-two hours, or the court may  
28 release the individual but direct the individual to appear at a surety  
29 hearing set before that court within eleven days, at which time the  
30 prosecutor may file a petition under this chapter for ninety-day  
31 inpatient or outpatient treatment. If a petition is filed by the  
32 prosecutor, the court may order that the person named in the petition  
33 be detained at the evaluation and treatment facility that performed the  
34 evaluation under this subsection or order the respondent to be in  
35 outpatient treatment. If a petition is filed but the individual fails  
36 to appear in court for the surety hearing, the court shall order that  
37 a mental health professional or peace officer shall take such person or  
38 cause such person to be taken into custody and placed in an evaluation

1 and treatment facility to be brought before the court the next judicial  
2 day after detention. Upon the individual's first appearance in court  
3 after a petition has been filed, proceedings under RCW 71.05.310 and  
4 71.05.320 shall commence. For an individual subject to this  
5 subsection, the prosecutor or professional person may directly file a  
6 petition for ninety-day inpatient or outpatient treatment and no  
7 petition for initial detention or fourteen-day detention is required  
8 before such a petition may be filed.

9 The court shall conduct the hearing on the petition filed under  
10 this subsection within five judicial days of the date the petition is  
11 filed. The court may continue the hearing upon the written request of  
12 the person named in the petition or the person's attorney, for good  
13 cause shown, which continuance shall not exceed five additional  
14 judicial days. If the person named in the petition requests a jury  
15 trial, the trial shall commence within ten judicial days of the date of  
16 the filing of the petition. The burden of proof shall be by clear,  
17 cogent, and convincing evidence and shall be upon the petitioner. The  
18 person shall be present at such proceeding, which shall in all respects  
19 accord with the constitutional guarantees of due process of law and the  
20 rules of evidence pursuant to RCW (~~(71.05.250)~~) 71.05.360 (8) and (9).

21 During the proceeding the person named in the petition shall  
22 continue to be detained and treated until released by order of the  
23 court. If no order has been made within thirty days after the filing  
24 of the petition, not including any extensions of time requested by the  
25 detained person or his or her attorney, the detained person shall be  
26 released.

27 (3) If a (~~county~~) designated mental health professional or the  
28 professional person and prosecuting attorney for the county in which  
29 the criminal charge was dismissed or attorney general, as appropriate,  
30 stipulate that the individual does not present a likelihood of serious  
31 harm or is not gravely disabled, the hearing under this section is not  
32 required and the individual, if in custody, shall be released.

33 (4) The individual shall have the rights specified in RCW  
34 (~~(71.05.250)~~) 71.05.360 (8) and (9).

35 **Sec. 709.** RCW 71.05.310 and 1987 c 439 s 9 are each amended to  
36 read as follows:

37 The court shall conduct a hearing on the petition for ninety day

1 treatment within five judicial days of the first court appearance after  
2 the probable cause hearing. The court may continue the hearing upon  
3 the written request of the person named in the petition or the person's  
4 attorney, for good cause shown, which continuance shall not exceed five  
5 additional judicial days. If the person named in the petition requests  
6 a jury trial, the trial shall commence within ten judicial days of the  
7 first court appearance after the probable cause hearing. The burden of  
8 proof shall be by clear, cogent, and convincing evidence and shall be  
9 upon the petitioner. The person shall be present at such proceeding,  
10 which shall in all respects accord with the constitutional guarantees  
11 of due process of law and the rules of evidence pursuant to RCW  
12 (~~(71.05.250)~~) 71.05.360 (8) and (9).

13 During the proceeding, the person named in the petition shall  
14 continue to be treated until released by order of the superior court.  
15 If no order has been made within thirty days after the filing of the  
16 petition, not including extensions of time requested by the detained  
17 person or his or her attorney, the detained person shall be released.

18 **Sec. 710.** RCW 71.05.425 and 2000 c 94 s 10 are each amended to  
19 read as follows:

20 (1)(a) Except as provided in subsection (2) of this section, at the  
21 earliest possible date, and in no event later than thirty days before  
22 conditional release, final release, authorized leave under RCW  
23 71.05.325(2), or transfer to a facility other than a state mental  
24 hospital, the superintendent shall send written notice of conditional  
25 release, release, authorized leave, or transfer of a person committed  
26 under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex,  
27 violent, or felony harassment offense pursuant to RCW 10.77.090(4) to  
28 the following:

29 (i) The chief of police of the city, if any, in which the person  
30 will reside; and

31 (ii) The sheriff of the county in which the person will reside.

32 (b) The same notice as required by (a) of this subsection shall be  
33 sent to the following, if such notice has been requested in writing  
34 about a specific person committed under RCW 71.05.280(3) or  
35 71.05.320(2)(c) following dismissal of a sex, violent, or felony  
36 harassment offense pursuant to RCW 10.77.090(4):

1 (i) The victim of the sex, violent, or felony harassment offense  
2 that was dismissed pursuant to RCW 10.77.090(4) preceding commitment  
3 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin  
4 if the crime was a homicide;

5 (ii) Any witnesses who testified against the person in any court  
6 proceedings; and

7 (iii) Any person specified in writing by the prosecuting attorney.  
8 Information regarding victims, next of kin, or witnesses requesting the  
9 notice, information regarding any other person specified in writing by  
10 the prosecuting attorney to receive the notice, and the notice are  
11 confidential and shall not be available to the person committed under  
12 this chapter.

13 (c) The thirty-day notice requirements contained in this subsection  
14 shall not apply to emergency medical transfers.

15 (d) The existence of the notice requirements in this subsection  
16 will not require any extension of the release date in the event the  
17 release plan changes after notification.

18 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)  
19 following dismissal of a sex, violent, or felony harassment offense  
20 pursuant to RCW 10.77.090(4) escapes, the superintendent shall  
21 immediately notify, by the most reasonable and expedient means  
22 available, the chief of police of the city and the sheriff of the  
23 county in which the person resided immediately before the person's  
24 arrest. If previously requested, the superintendent shall also notify  
25 the witnesses and the victim of the sex, violent, or felony harassment  
26 offense that was dismissed pursuant to RCW 10.77.090(4) preceding  
27 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next  
28 of kin if the crime was a homicide. In addition, the secretary shall  
29 also notify appropriate parties pursuant to RCW ~~((71.05.410))~~  
30 71.05.390(18). If the person is recaptured, the superintendent shall  
31 send notice to the persons designated in this subsection as soon as  
32 possible but in no event later than two working days after the  
33 department learns of such recapture.

34 (3) If the victim, the victim's next of kin, or any witness is  
35 under the age of sixteen, the notice required by this section shall be  
36 sent to the parent or legal guardian of the child.

37 (4) The superintendent shall send the notices required by this

1 chapter to the last address provided to the department by the  
2 requesting party. The requesting party shall furnish the department  
3 with a current address.

4 (5) For purposes of this section the following terms have the  
5 following meanings:

6 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

7 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

8 (c) "Next of kin" means a person's spouse, parents, siblings, and  
9 children;

10 (d) "Felony harassment offense" means a crime of harassment as  
11 defined in RCW 9A.46.060 that is a felony.

12 **Sec. 711.** RCW 71.05.445 and 2004 c 166 s 4 are each amended to  
13 read as follows:

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

16 (a) "Information related to mental health services" means all  
17 information and records compiled, obtained, or maintained in the course  
18 of providing services to either voluntary or involuntary recipients of  
19 services by a mental health service provider. This may include  
20 documents of legal proceedings under this chapter or chapter 71.34 or  
21 10.77 RCW, or somatic health care information.

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

30 (2)(a) Information related to mental health services delivered to  
31 a person subject to chapter 9.94A or 9.95 RCW shall be released, upon  
32 request, by a mental health service provider to department of  
33 corrections personnel for whom the information is necessary to carry  
34 out the responsibilities of their office. The information must be  
35 provided only for the purposes of completing presentence investigations  
36 or risk assessment reports, supervision of an incarcerated offender or  
37 offender under supervision in the community, planning for and provision



1 of supervision of an offender, or assessment of an offender's risk to  
2 the community. The request shall be in writing and shall not require  
3 the consent of the subject of the records.

4 (b) If an offender subject to chapter 9.94A or 9.95 RCW has failed  
5 to report for department of corrections supervision or in the event of  
6 an emergent situation that poses a significant risk to the public or  
7 the offender, information related to mental health services delivered  
8 to the offender and, if known, information regarding where the offender  
9 is likely to be found shall be released by the mental health services  
10 provider to the department of corrections upon request. The initial  
11 request may be written or oral. All oral requests must be subsequently  
12 confirmed in writing. Information released in response to an oral  
13 request is limited to a statement as to whether the offender is or is  
14 not being treated by the mental health services provider and the  
15 address or information about the location or whereabouts of the  
16 offender. Information released in response to a written request may  
17 include information identified by rule as provided in subsections (4)  
18 and (5) of this section. For purposes of this subsection a written  
19 request includes requests made by e-mail or facsimile so long as the  
20 requesting person at the department of corrections is clearly  
21 identified. The request must specify the information being requested.  
22 Disclosure of the information requested does not require the consent of  
23 the subject of the records unless the offender has received relief from  
24 disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.

25 (3)(a) When a mental health service provider conducts its initial  
26 assessment for a person receiving court-ordered treatment, the service  
27 provider shall inquire and shall be told by the offender whether he or  
28 she is subject to supervision by the department of corrections.

29 (b) When a person receiving court-ordered treatment or treatment  
30 ordered by the department of corrections discloses to his or her mental  
31 health service provider that he or she is subject to supervision by the  
32 department of corrections, the mental health services provider shall  
33 notify the department of corrections that he or she is treating the  
34 offender and shall notify the offender that his or her community  
35 corrections officer will be notified of the treatment, provided that if  
36 the offender has received relief from disclosure pursuant to RCW  
37 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the  
38 mental health services provider with a copy of the order granting

1 relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or  
2 71.05.132, the mental health services provider is not required to  
3 notify the department of corrections that the mental health services  
4 provider is treating the offender. The notification may be written or  
5 oral and shall not require the consent of the offender. If an oral  
6 notification is made, it must be confirmed by a written notification.  
7 For purposes of this section, a written notification includes  
8 notification by e-mail or facsimile, so long as the notifying mental  
9 health service provider is clearly identified.

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

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

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

27 (b) Establish requirements for the notification of persons under  
28 the supervision of the department of corrections regarding the  
29 provisions of this section.

30 (6) The information received by the department of corrections under  
31 this section shall remain confidential and subject to the limitations  
32 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW  
33 72.09.585.

34 (7) No mental health service provider or individual employed by a  
35 mental health service provider shall be held responsible for  
36 information released to or used by the department of corrections under  
37 the provisions of this section or rules adopted under this section  
38 except under RCW (~~71.05.670~~ and) 71.05.440.

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

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

9 (10) The department shall, subject to available resources,  
10 electronically, or by the most cost-effective means available, provide  
11 the department of corrections with the names, last dates of services,  
12 and addresses of specific regional support networks and mental health  
13 service providers that delivered mental health services to a person  
14 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between  
15 the departments.

16 **Sec. 712.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to  
17 read as follows:

18 (1) Procedures shall be established by resource management services  
19 to provide reasonable and timely access to individual treatment  
20 records. However, access may not be denied at any time to records of  
21 all medications and somatic treatments received by the individual.

22 (2) Following discharge, the individual shall have a right to a  
23 complete record of all medications and somatic treatments prescribed  
24 during evaluation, admission, or commitment and to a copy of the  
25 discharge summary prepared at the time of his or her discharge. A  
26 reasonable and uniform charge for reproduction may be assessed.

27 (3) Treatment records may be modified prior to inspection to  
28 protect the confidentiality of other patients or the names of any other  
29 persons referred to in the record who gave information on the condition  
30 that his or her identity remain confidential. Entire documents may not  
31 be withheld to protect such confidentiality.

32 (4) At the time of discharge all individuals shall be informed by  
33 resource management services of their rights as provided in RCW  
34 (~~71.05.610~~) 71.05.620 through 71.05.690.

35 **Sec. 713.** RCW 71.05.680 and 1999 c 13 s 11 are each amended to  
36 read as follows:

1 Any person who requests or obtains confidential information  
2 pursuant to RCW ((71.05.610)) 71.05.620 through 71.05.690 under false  
3 pretenses shall be guilty of a gross misdemeanor.

4 **Sec. 714.** RCW 71.05.690 and 1999 c 13 s 12 are each amended to  
5 read as follows:

6 The department shall adopt rules to implement RCW ((71.05.610))  
7 71.05.620 through 71.05.680.

8 **Sec. 715.** RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are  
9 each reenacted and amended to read as follows:

10 (1) The department is designated as the state mental health  
11 authority.

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

16 (3) The secretary shall provide for participation in developing the  
17 state mental health program for children and other underserved  
18 populations, by including representatives on any committee established  
19 to provide oversight to the state mental health program.

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

23 (5) The secretary shall:

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

28 (b) Assure that any regional or county community mental health  
29 program provides access to treatment for the county's residents in the  
30 following order of priority: (i) The acutely mentally ill; (ii)  
31 chronically mentally ill adults and severely emotionally disturbed  
32 children; and (iii) the seriously disturbed. Such programs shall  
33 provide:

34 (A) Outpatient services;

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

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

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

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

16 (F) Consultation and education services; and

17 (G) Community support services;

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

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

25 (ii) Regional support networks; and

26 (iii) Inpatient services, evaluation and treatment services and  
27 facilities under chapter 71.05 RCW, resource management services, and  
28 community support services;

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

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

36 (f) Establish, to the extent possible, a standardized auditing  
37 procedure which minimizes paperwork requirements of county authorities

1 and licensed service providers. The audit procedure shall focus on the  
2 outcomes of service and not the processes for accomplishing them;

3 (g) Develop and maintain an information system to be used by the  
4 state, counties, and regional support networks that includes a tracking  
5 method which allows the department and regional support networks to  
6 identify mental health clients' participation in any mental health  
7 service or public program on an immediate basis. The information  
8 system shall not include individual patient's case history files.  
9 Confidentiality of client information and records shall be maintained  
10 as provided in this chapter and in RCW 71.05.390, (~~71.05.400,~~  
11 ~~71.05.410,~~) 71.05.420, (~~71.05.430,~~) and 71.05.440. The design of  
12 the system and the data elements to be collected shall be reviewed by  
13 the work group appointed by the secretary under section 5(1) of this  
14 act and representing the department, regional support networks, service  
15 providers, consumers, and advocates. The data elements shall be  
16 designed to provide information that is needed to measure performance  
17 and achieve the service outcomes (~~identified in section 5 of this~~  
18 ~~act~~);

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

20 (i) Certify regional support networks that meet state minimum  
21 standards;

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

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

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

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

34 (6) The secretary shall use available resources only for regional  
35 support networks.

36 (7) Each certified regional support network and licensed service  
37 provider shall file with the secretary, on request, such data,  
38 statistics, schedules, and information as the secretary reasonably

1 requires. A certified regional support network or licensed service  
2 provider which, without good cause, fails to furnish any data,  
3 statistics, schedules, or information as requested, or files fraudulent  
4 reports thereof, may have its certification or license revoked or  
5 suspended.

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

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

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

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

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

33 (13)(a) The department, in consultation with affected parties,  
34 shall establish a distribution formula that reflects county needs  
35 assessments based on the number of persons who are acutely mentally  
36 ill, chronically mentally ill, severely emotionally disturbed children,  
37 and seriously disturbed. The formula shall take into consideration the  
38 impact on counties of demographic factors in counties which result in

1 concentrations of priority populations as set forth in subsection  
2 (5)(b) of this section. These factors shall include the population  
3 concentrations resulting from commitments under chapters 71.05 and  
4 71.34 RCW to state psychiatric hospitals, as well as concentration in  
5 urban areas, at border crossings at state boundaries, and other  
6 significant demographic and workload factors.

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

11 (c) After July 1, 2003, the department may allocate up to two  
12 percent of total funds to be distributed to the regional support  
13 networks for incentive payments to reward the achievement of superior  
14 outcomes, or significantly improved outcomes, as measured by a  
15 statewide performance measurement system consistent with the framework  
16 recommended in the joint legislative audit and review committee's  
17 performance audit of the mental health system. The department shall  
18 annually report to the legislature on its criteria and allocation of  
19 the incentives provided under this subsection.

20 (14) The secretary shall assume all duties assigned to the  
21 nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW.  
22 Such responsibilities shall include those which would have been  
23 assigned to the nonparticipating counties under regional support  
24 networks.

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

31 (15) The secretary shall:

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

35 (b) Enter into biennial contracts with regional support networks.  
36 The contracts shall be consistent with available resources. No  
37 contract shall be approved that does not include progress toward



1 meeting the goals of this chapter by taking responsibility for: (i)  
2 Short-term commitments; (ii) residential care; and (iii) emergency  
3 response systems.

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

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

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

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

24 **PART VIII**

25 **MISCELLANEOUS PROVISIONS**

26 NEW SECTION. **Sec. 801.** RCW 71.05.035 is recodified as a new  
27 section in chapter 71A.12 RCW.

28 NEW SECTION. **Sec. 802.** A new section is added to chapter 43.20A  
29 RCW to read as follows:

30 Beginning July 1, 2007, the secretary shall require, in the  
31 contracts the department negotiates pursuant to chapters 71.24 and  
32 70.96A RCW, that any vendor rate increases provided for mental health  
33 and chemical dependency treatment providers or programs who are parties  
34 to the contract or subcontractors of any party to the contract shall be  
35 prioritized to those providers and programs that maximize the use of

1 evidence-based and research-based practices, as those terms are defined  
2 in section 603 of this act, unless otherwise designated by the  
3 legislature.

4 NEW SECTION. **Sec. 803.** A new section is added to chapter 71.24  
5 RCW to read as follows:

6 The department shall require each regional support network to  
7 provide for a separately funded mental health ombudsman office in each  
8 regional support network that is independent of the regional support  
9 network. The ombudsman office shall maximize the use of consumer  
10 advocates.

11 NEW SECTION. **Sec. 804.** A new section is added to chapter 82.14  
12 RCW to read as follows:

13 (1) A county legislative authority may authorize, fix, and impose  
14 a sales and use tax in accordance with the terms of this chapter.

15 (2) The tax authorized in this section shall be in addition to any  
16 other taxes authorized by law and shall be collected from those persons  
17 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
18 the occurrence of any taxable event within the county. The rate of tax  
19 shall equal one-tenth of one percent of the selling price in the case  
20 of a sales tax, or value of the article used, in the case of a use tax.

21 (3) Moneys collected under this section shall be used solely for  
22 the purpose of providing new or expanded chemical dependency or mental  
23 health treatment services and for the operation of new or expanded  
24 therapeutic court programs. Moneys collected under this section shall  
25 not be used to supplant existing funding for these purposes.

26 NEW SECTION. **Sec. 805.** A new section is added to chapter 71.24  
27 RCW to read as follows:

28 The department may establish new regional support network  
29 boundaries in any part of the state where more than one network chooses  
30 not to respond to, or is unable to substantially meet the requirements  
31 of, the request for qualifications under 2005 c . . . (Engrossed Second  
32 Substitute House Bill No. 1290, as amended by the Senate) s 4 or where  
33 a regional support network is subject to reprourement under 2005 c  
34 . . . (Engrossed Second Substitute House Bill No. 1290, as amended by  
35 the Senate) s 6. The department may establish no fewer than eight and

1 no more than fourteen regional support networks under this chapter. No  
2 entity shall be responsible for more than three regional support  
3 networks.

4 NEW SECTION. **Sec. 806.** 2005 c ... (Engrossed Second Substitute  
5 House Bill No. 1290, as amended by the Senate) s 5 is hereby repealed.

6 NEW SECTION. **Sec. 807.** If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 808.** This act shall be so applied and construed  
11 as to effectuate its general purpose to make uniform the law with  
12 respect to the subject of this act among those states which enact it.

13 NEW SECTION. **Sec. 809.** Captions, part headings, and subheadings  
14 used in this act are not part of the law.

15 NEW SECTION. **Sec. 810.** If specific funding for the purposes of  
16 sections 203, 217, 220, 301, 303, 305, 505, 601, and 605 of this act,  
17 referencing the section by section number and by bill or chapter  
18 number, is not provided by June 30, 2005, each section not referenced  
19 is null and void.

20 NEW SECTION. **Sec. 811.** (1) The code reviser shall alphabetize and  
21 renumber the definitions, and correct any internal references affected  
22 by this act.

23 (2) The code reviser shall replace all references to "county  
24 designated mental health professional" with "designated mental health  
25 professional" in the Revised Code of Washington.

26 NEW SECTION. **Sec. 812.** (1) The secretary of the department of  
27 social and health services may adopt rules as necessary to implement  
28 the provisions of this act.

29 (2) The secretary of corrections may adopt rules as necessary to  
30 implement the provisions of this act.

1        NEW SECTION.    **Sec. 813.**    (1) Except for section 503 of this act,  
2 this act is necessary for the immediate preservation of the public  
3 peace, health, or safety, or support of the state government and its  
4 existing public institutions, and takes effect July 1, 2005.  
5        (2) Section 503 of this act takes effect July 1, 2006.

--- END ---