

ESHB 1679 - S COMM AMD
By Committee on Health Care

ADOPTED AND ENGROSSED 4/17/13

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

3 "Sec. 1. RCW 70.02.010 and 2006 c 235 s 2 are each amended to read
4 as follows:

5 DEFINITIONS. The definitions in this section apply throughout this
6 chapter unless the context clearly requires otherwise.

7 (1) "Admission" has the same meaning as in RCW 71.05.020.

8 (2) "Audit" means an assessment, evaluation, determination, or
9 investigation of a health care provider by a person not employed by or
10 affiliated with the provider to determine compliance with:

11 (a) Statutory, regulatory, fiscal, medical, or scientific
12 standards;

13 (b) A private or public program of payments to a health care
14 provider; or

15 (c) Requirements for licensing, accreditation, or certification.

16 ((+2)) (3) "Commitment" has the same meaning as in RCW 71.05.020.

17 (4) "Custody" has the same meaning as in RCW 71.05.020.

18 (5) "Deidentified" means health information that does not identify
19 an individual and with respect to which there is no reasonable basis to
20 believe that the information can be used to identify an individual.

21 (6) "Department" means the department of social and health
22 services.

23 (7) "Designated mental health professional" has the same meaning as
24 in RCW 71.05.020 or 71.34.020, as applicable.

25 (8) "Detention" or "detain" has the same meaning as in RCW
26 71.05.020.

27 (9) "Directory information" means information disclosing the
28 presence, and for the purpose of identification, the name, location
29 within a health care facility, and the general health condition of a

1 particular patient who is a patient in a health care facility or who is
2 currently receiving emergency health care in a health care facility.

3 ~~((+3))~~ (10) "Discharge" has the same meaning as in RCW 71.05.020.

4 (11) "Evaluation and treatment facility" has the same meaning as in
5 RCW 71.05.020 or 71.34.020, as applicable.

6 (12) "Federal, state, or local law enforcement authorities" means
7 an officer of any agency or authority in the United States, a state, a
8 tribe, a territory, or a political subdivision of a state, a tribe, or
9 a territory who is empowered by law to: (a) Investigate or conduct an
10 official inquiry into a potential criminal violation of law; or (b)
11 prosecute or otherwise conduct a criminal proceeding arising from an
12 alleged violation of law.

13 ~~((+4))~~ (13) "General health condition" means the patient's health
14 status described in terms of "critical," "poor," "fair," "good,"
15 "excellent," or terms denoting similar conditions.

16 ~~((+5))~~ (14) "Health care" means any care, service, or procedure
17 provided by a health care provider:

18 (a) To diagnose, treat, or maintain a patient's physical or mental
19 condition; or

20 (b) That affects the structure or any function of the human body.

21 ~~((+6))~~ (15) "Health care facility" means a hospital, clinic,
22 nursing home, laboratory, office, or similar place where a health care
23 provider provides health care to patients.

24 ~~((+7))~~ (16) "Health care information" means any information,
25 whether oral or recorded in any form or medium, that identifies or can
26 readily be associated with the identity of a patient and directly
27 relates to the patient's health care, including a patient's
28 deoxyribonucleic acid and identified sequence of chemical base pairs.
29 The term includes any required accounting of disclosures of health care
30 information.

31 ~~((+8))~~ (17) "Health care operations" means any of the following
32 activities of a health care provider, health care facility, or third-
33 party payor to the extent that the activities are related to functions
34 that make an entity a health care provider, a health care facility, or
35 a third-party payor:

36 (a) Conducting: Quality assessment and improvement activities,
37 including outcomes evaluation and development of clinical guidelines,
38 if the obtaining of generalizable knowledge is not the primary purpose

1 of any studies resulting from such activities; population-based
2 activities relating to improving health or reducing health care costs,
3 protocol development, case management and care coordination, contacting
4 of health care providers and patients with information about treatment
5 alternatives; and related functions that do not include treatment;

6 (b) Reviewing the competence or qualifications of health care
7 professionals, evaluating practitioner and provider performance and
8 third-party payor performance, conducting training programs in which
9 students, trainees, or practitioners in areas of health care learn
10 under supervision to practice or improve their skills as health care
11 providers, training of nonhealth care professionals, accreditation,
12 certification, licensing, or credentialing activities;

13 (c) Underwriting, premium rating, and other activities relating to
14 the creation, renewal, or replacement of a contract of health insurance
15 or health benefits, and ceding, securing, or placing a contract for
16 reinsurance of risk relating to claims for health care, including stop-
17 loss insurance and excess of loss insurance, if any applicable legal
18 requirements are met;

19 (d) Conducting or arranging for medical review, legal services, and
20 auditing functions, including fraud and abuse detection and compliance
21 programs;

22 (e) Business planning and development, such as conducting cost-
23 management and planning-related analyses related to managing and
24 operating the health care facility or third-party payor, including
25 formulary development and administration, development, or improvement
26 of methods of payment or coverage policies; and

27 (f) Business management and general administrative activities of
28 the health care facility, health care provider, or third-party payor
29 including, but not limited to:

30 (i) Management activities relating to implementation of and
31 compliance with the requirements of this chapter;

32 (ii) Customer service, including the provision of data analyses for
33 policy holders, plan sponsors, or other customers, provided that health
34 care information is not disclosed to such policy holder, plan sponsor,
35 or customer;

36 (iii) Resolution of internal grievances;

37 (iv) The sale, transfer, merger, or consolidation of all or part of
38 a health care provider, health care facility, or third-party payor with

1 another health care provider, health care facility, or third-party
2 payor or an entity that following such activity will become a health
3 care provider, health care facility, or third-party payor, and due
4 diligence related to such activity; and

5 (v) Consistent with applicable legal requirements, creating
6 deidentified health care information or a limited dataset (~~(and fund-~~
7 ~~raising)~~) for the benefit of the health care provider, health care
8 facility, or third-party payor.

9 ~~((+9))~~ (18) "Health care provider" means a person who is licensed,
10 certified, registered, or otherwise authorized by the law of this state
11 to provide health care in the ordinary course of business or practice
12 of a profession.

13 ~~((+10))~~ (19) "Human immunodeficiency virus" or "HIV" has the same
14 meaning as in RCW 70.24.017.

15 (20) "Imminent" has the same meaning as in RCW 71.05.020.

16 (21) "Information and records related to mental health services"
17 means a type of health care information that relates to all information
18 and records, including mental health treatment records, compiled,
19 obtained, or maintained in the course of providing services by a mental
20 health service agency, as defined in this section. This may include
21 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
22 RCW, or somatic health care information. For health care information
23 maintained by a hospital as defined in RCW 70.41.020 or a health care
24 facility or health care provider that participates with a hospital in
25 an organized health care arrangement defined under federal law,
26 "information and records related to mental health services" is limited
27 to information and records of services provided by a mental health
28 professional or information and records of services created by a
29 hospital-operated community mental health program as defined in RCW
30 71.24.025(6).

31 (22) "Information and records related to sexually transmitted
32 diseases" means a type of health care information that relates to the
33 identity of any person upon whom an HIV antibody test or other sexually
34 transmitted infection test is performed, the results of such tests, and
35 any information relating to diagnosis of or treatment for any confirmed
36 sexually transmitted infections.

37 (23) "Institutional review board" means any board, committee, or
38 other group formally designated by an institution, or authorized under

1 federal or state law, to review, approve the initiation of, or conduct
2 periodic review of research programs to assure the protection of the
3 rights and welfare of human research subjects.

4 ~~((+11))~~ (24) "Legal counsel" has the same meaning as in RCW
5 71.05.020.

6 (25) "Local public health officer" has the same meaning as in RCW
7 70.24.017.

8 (26) "Maintain," as related to health care information, means to
9 hold, possess, preserve, retain, store, or control that information.

10 ~~((+12))~~ (27) "Mental health professional" has the same meaning as
11 in RCW 71.05.020.

12 (28) "Mental health service agency" means a public or private
13 agency that provides services to persons with mental disorders as
14 defined under RCW 71.05.020 or 71.34.020 and receives funding from
15 public sources. This includes evaluation and treatment facilities as
16 defined in RCW 71.34.020, community mental health service delivery
17 systems, or community mental health programs, as defined in RCW
18 71.24.025, and facilities conducting competency evaluations and
19 restoration under chapter 10.77 RCW.

20 (29) "Mental health treatment records" include registration
21 records, as defined in RCW 71.05.020, and all other records concerning
22 persons who are receiving or who at any time have received services for
23 mental illness, which are maintained by the department, by regional
24 support networks and their staff, and by treatment facilities. "Mental
25 health treatment records" include mental health information contained
26 in a medical bill including, but not limited to, mental health drugs,
27 a mental health diagnosis, provider name, and dates of service stemming
28 from a medical service. "Mental health treatment records" do not
29 include notes or records maintained for personal use by a person
30 providing treatment services for the department, regional support
31 networks, or a treatment facility if the notes or records are not
32 available to others.

33 (30) "Minor" has the same meaning as in RCW 71.34.020.

34 (31) "Parent" has the same meaning as in RCW 71.34.020.

35 (32) "Patient" means an individual who receives or has received
36 health care. The term includes a deceased individual who has received
37 health care.

38 ~~((+13))~~ (33) "Payment" means:

1 (a) The activities undertaken by:
2 (i) A third-party payor to obtain premiums or to determine or
3 fulfill its responsibility for coverage and provision of benefits by
4 the third-party payor; or
5 (ii) A health care provider, health care facility, or third-party
6 payor, to obtain or provide reimbursement for the provision of health
7 care; and
8 (b) The activities in (a) of this subsection that relate to the
9 patient to whom health care is provided and that include, but are not
10 limited to:
11 (i) Determinations of eligibility or coverage, including
12 coordination of benefits or the determination of cost-sharing amounts,
13 and adjudication or subrogation of health benefit claims;
14 (ii) Risk adjusting amounts due based on enrollee health status and
15 demographic characteristics;
16 (iii) Billing, claims management, collection activities, obtaining
17 payment under a contract for reinsurance, including stop-loss insurance
18 and excess of loss insurance, and related health care data processing;
19 (iv) Review of health care services with respect to medical
20 necessity, coverage under a health plan, appropriateness of care, or
21 justification of charges;
22 (v) Utilization review activities, including precertification and
23 preauthorization of services, and concurrent and retrospective review
24 of services; and
25 (vi) Disclosure to consumer reporting agencies of any of the
26 following health care information relating to collection of premiums or
27 reimbursement:
28 (A) Name and address;
29 (B) Date of birth;
30 (C) Social security number;
31 (D) Payment history;
32 (E) Account number; and
33 (F) Name and address of the health care provider, health care
34 facility, and/or third-party payor.
35 ((+14)) (34) "Person" means an individual, corporation, business
36 trust, estate, trust, partnership, association, joint venture,
37 government, governmental subdivision or agency, or any other legal or
38 commercial entity.

1 ~~((+15))~~ (35) "Professional person" has the same meaning as in RCW
2 71.05.020.

3 (36) "Psychiatric advanced registered nurse practitioner" has the
4 same meaning as in RCW 71.05.020.

5 (37) "Reasonable fee" means the charges for duplicating or
6 searching the record, but shall not exceed sixty-five cents per page
7 for the first thirty pages and fifty cents per page for all other
8 pages. In addition, a clerical fee for searching and handling may be
9 charged not to exceed fifteen dollars. These amounts shall be adjusted
10 biennially in accordance with changes in the consumer price index, all
11 consumers, for Seattle-Tacoma metropolitan statistical area as
12 determined by the secretary of health. However, where editing of
13 records by a health care provider is required by statute and is done by
14 the provider personally, the fee may be the usual and customary charge
15 for a basic office visit.

16 ~~((+16))~~ (38) "Release" has the same meaning as in RCW 71.05.020.

17 (39) "Resource management services" has the same meaning as in RCW
18 71.05.020.

19 (40) "Serious violent offense" has the same meaning as in RCW
20 71.05.020.

21 (41) "Sexually transmitted infection" or "sexually transmitted
22 disease" has the same meaning as "sexually transmitted disease" in RCW
23 70.24.017.

24 (42) "Test for a sexually transmitted disease" has the same meaning
25 as in RCW 70.24.017.

26 (43) "Third-party payor" means an insurer regulated under Title 48
27 RCW authorized to transact business in this state or other
28 jurisdiction, including a health care service contractor, and health
29 maintenance organization; or an employee welfare benefit plan,
30 excluding fitness or wellness plans; or a state or federal health
31 benefit program.

32 ~~((+17))~~ (44) "Treatment" means the provision, coordination, or
33 management of health care and related services by one or more health
34 care providers or health care facilities, including the coordination or
35 management of health care by a health care provider or health care
36 facility with a third party; consultation between health care providers
37 or health care facilities relating to a patient; or the referral of a

1 patient for health care from one health care provider or health care
2 facility to another.

3 **Sec. 2.** RCW 70.02.020 and 2005 c 468 s 2 are each amended to read
4 as follows:

5 DISCLOSURE BY HEALTH CARE PROVIDER--PATIENT WRITTEN AUTHORIZATION
6 REQUIRED. (1) Except as authorized (~~in RCW 70.02.050~~) elsewhere in
7 this chapter, a health care provider, an individual who assists a
8 health care provider in the delivery of health care, or an agent and
9 employee of a health care provider may not disclose health care
10 information about a patient to any other person without the patient's
11 written authorization. A disclosure made under a patient's written
12 authorization must conform to the authorization.

13 (2) A patient has a right to receive an accounting of all
14 disclosures of mental health treatment records except disclosures made
15 under RCW 71.05.425.

16 (3) A patient has a right to receive an accounting of disclosures
17 of health care information, except for mental health treatment records
18 which are addressed in subsection (2) of this section, made by a health
19 care provider or a health care facility in the six years before the
20 date on which the accounting is requested, except for disclosures:

- 21 (a) To carry out treatment, payment, and health care operations;
- 22 (b) To the patient of health care information about him or her;
- 23 (c) Incident to a use or disclosure that is otherwise permitted or
24 required;
- 25 (d) Pursuant to an authorization where the patient authorized the
26 disclosure of health care information about himself or herself;
- 27 (e) Of directory information;
- 28 (f) To persons involved in the patient's care;
- 29 (g) For national security or intelligence purposes if an accounting
30 of disclosures is not permitted by law;
- 31 (h) To correctional institutions or law enforcement officials if an
32 accounting of disclosures is not permitted by law; and
- 33 (i) Of a limited data set that excludes direct identifiers of the
34 patient or of relatives, employers, or household members of the
35 patient.

1 **Sec. 3.** RCW 70.02.050 and 2007 c 156 s 12 are each amended to read
2 as follows:

3 DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--NEED-TO-KNOW BASIS.

4 (1) A health care provider or health care facility may disclose health
5 care information, except for information and records related to
6 sexually transmitted diseases which are addressed in section 6 of this
7 act, about a patient without the patient's authorization to the extent
8 a recipient needs to know the information, if the disclosure is:

9 (a) To a person who the provider or facility reasonably believes is
10 providing health care to the patient;

11 (b) To any other person who requires health care information for
12 health care education, or to provide planning, quality assurance, peer
13 review, or administrative, legal, financial, actuarial services to, or
14 other health care operations for or on behalf of the health care
15 provider or health care facility; or for assisting the health care
16 provider or health care facility in the delivery of health care and the
17 health care provider or health care facility reasonably believes that
18 the person:

19 (i) Will not use or disclose the health care information for any
20 other purpose; and

21 (ii) Will take appropriate steps to protect the health care
22 information;

23 (c) ~~((To any other health care provider or health care facility~~
24 ~~reasonably believed to have previously provided health care to the~~
25 ~~patient, to the extent necessary to provide health care to the patient,~~
26 ~~unless the patient has instructed the health care provider or health~~
27 ~~care facility in writing not to make the disclosure;~~

28 (d)) To any person if the health care provider or health care
29 facility reasonably believes that disclosure will avoid or minimize an
30 imminent danger to the health or safety of the patient or any other
31 individual, however there is no obligation under this chapter on the
32 part of the provider or facility to so disclose. The fact of admission
33 to a provider for mental health services and all information and
34 records compiled, obtained, or maintained in the course of providing
35 mental health services to either voluntary or involuntary recipients of
36 services at public or private agencies is not subject to disclosure
37 unless disclosure is permitted in section 7 of this act;

1 ~~((e) To immediate family members of the patient, including a~~
2 ~~patient's state registered domestic partner, or any other individual~~
3 ~~with whom the patient is known to have a close personal relationship,~~
4 ~~if made in accordance with good medical or other professional practice,~~
5 ~~unless the patient has instructed the health care provider or health~~
6 ~~care facility in writing not to make the disclosure;~~
7 ~~(f) To a health care provider or health care facility who is the~~
8 ~~successor in interest to the health care provider or health care~~
9 ~~facility maintaining the health care information;~~
10 ~~(g) For use in a research project that an institutional review~~
11 ~~board has determined;~~
12 ~~(i) Is of sufficient importance to outweigh the intrusion into the~~
13 ~~privacy of the patient that would result from the disclosure;~~
14 ~~(ii) Is impracticable without the use or disclosure of the health~~
15 ~~care information in individually identifiable form;~~
16 ~~(iii) Contains reasonable safeguards to protect the information~~
17 ~~from redisclosure;~~
18 ~~(iv) Contains reasonable safeguards to protect against identifying,~~
19 ~~directly or indirectly, any patient in any report of the research~~
20 ~~project; and~~
21 ~~(v) Contains procedures to remove or destroy at the earliest~~
22 ~~opportunity, consistent with the purposes of the project, information~~
23 ~~that would enable the patient to be identified, unless an institutional~~
24 ~~review board authorizes retention of identifying information for~~
25 ~~purposes of another research project;~~
26 ~~(h) To a person who obtains information for purposes of an audit,~~
27 ~~if that person agrees in writing to:~~
28 ~~(i) Remove or destroy, at the earliest opportunity consistent with~~
29 ~~the purpose of the audit, information that would enable the patient to~~
30 ~~be identified; and~~
31 ~~(ii) Not to disclose the information further, except to accomplish~~
32 ~~the audit or report unlawful or improper conduct involving fraud in~~
33 ~~payment for health care by a health care provider or patient, or other~~
34 ~~unlawful conduct by the health care provider;~~
35 ~~(i)) (d) To an official of a penal or other custodial institution~~
36 ~~in which the patient is detained;~~
37 ~~((j) To provide directory information, unless the patient has~~

1 ~~instructed the health care provider or health care facility not to make~~
2 ~~the disclosure;~~

3 ~~(k) To fire, police, sheriff, or another public authority, that~~
4 ~~brought, or caused to be brought, the patient to the health care~~
5 ~~facility or health care provider if the disclosure is limited to the~~
6 ~~patient's name, residence, sex, age, occupation, condition, diagnosis,~~
7 ~~estimated or actual discharge date, or extent and location of injuries~~
8 ~~as determined by a physician, and whether the patient was conscious~~
9 ~~when admitted;~~

10 ~~(l) To federal, state, or local law enforcement authorities and the~~
11 ~~health care provider, health care facility, or third party payor~~
12 ~~believes in good faith that the health care information disclosed~~
13 ~~constitutes evidence of criminal conduct that occurred on the premises~~
14 ~~of the health care provider, health care facility, or third party~~
15 ~~payor;~~

16 ~~(m) To another health care provider, health care facility, or~~
17 ~~third party payor for the health care operations of the health care~~
18 ~~provider, health care facility, or third party payor that receives the~~
19 ~~information, if each entity has or had a relationship with the patient~~
20 ~~who is the subject of the health care information being requested, the~~
21 ~~health care information pertains to such relationship, and the~~
22 ~~disclosure is for the purposes described in RCW 70.02.010(8) (a) and~~
23 ~~(b);)) or~~

24 ~~((n))~~ (e) For payment, including information necessary for a
25 recipient to make a claim, or for a claim to be made on behalf of a
26 recipient for aid, insurance, or medical assistance to which he or she
27 may be entitled.

28 (2) A health care provider shall disclose health care information,
29 except for information and records related to sexually transmitted
30 diseases, unless otherwise authorized in section 6 of this act, about
31 a patient without the patient's authorization if the disclosure is:

32 (a) To federal, state, or local public health authorities, to the
33 extent the health care provider is required by law to report health
34 care information; when needed to determine compliance with state or
35 federal licensure, certification or registration rules or laws, or to
36 investigate unprofessional conduct or ability to practice with
37 reasonable skill and safety under chapter 18.130 RCW. Any health care

1 information obtained under this subsection is exempt from public
2 inspection and copying pursuant to chapter 42.56 RCW; or

3 (b) When needed to protect the public health(;

4 (b) To federal, state, or local law enforcement authorities to the
5 extent the health care provider is required by law;

6 (c) To federal, state, or local law enforcement authorities, upon
7 receipt of a written or oral request made to a nursing supervisor,
8 administrator, or designated privacy official, in a case in which the
9 patient is being treated or has been treated for a bullet wound,
10 gunshot wound, powder burn, or other injury arising from or caused by
11 the discharge of a firearm, or an injury caused by a knife, an ice
12 pick, or any other sharp or pointed instrument which federal, state, or
13 local law enforcement authorities reasonably believe to have been
14 intentionally inflicted upon a person, or a blunt force injury that
15 federal, state, or local law enforcement authorities reasonably believe
16 resulted from a criminal act, the following information, if known:

17 (i) The name of the patient;

18 (ii) The patient's residence;

19 (iii) The patient's sex;

20 (iv) The patient's age;

21 (v) The patient's condition;

22 (vi) The patient's diagnosis, or extent and location of injuries as
23 determined by a health care provider;

24 (vii) Whether the patient was conscious when admitted;

25 (viii) The name of the health care provider making the
26 determination in (c)(v), (vi), and (vii) of this subsection;

27 (ix) Whether the patient has been transferred to another facility;

28 and

29 (x) The patient's discharge time and date;

30 (d) To county coroners and medical examiners for the investigations
31 of deaths;

32 (e) Pursuant to compulsory process in accordance with RCW
33 70.02.060.

34 (3) All state or local agencies obtaining patient health care
35 information pursuant to this section shall adopt rules establishing
36 their record acquisition, retention, and security policies that are
37 consistent with this chapter)).

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.02 RCW
2 to read as follows:

3 DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--PERMITTED AND MANDATORY
4 DISCLOSURES. (1) In addition to the disclosures authorized by RCW
5 70.02.050 and section 5 of this act, a health care provider or health
6 care facility may disclose health care information, except for
7 information and records related to sexually transmitted diseases and
8 information related to mental health services which are addressed by
9 sections 6 through 10 of this act, about a patient without the
10 patient's authorization, to:

11 (a) Any other health care provider or health care facility
12 reasonably believed to have previously provided health care to the
13 patient, to the extent necessary to provide health care to the patient,
14 unless the patient has instructed the health care provider or health
15 care facility in writing not to make the disclosure;

16 (b) Immediate family members of the patient, including a patient's
17 state registered domestic partner, or any other individual with whom
18 the patient is known to have a close personal relationship, if made in
19 accordance with good medical or other professional practice, unless the
20 patient has instructed the health care provider or health care facility
21 in writing not to make the disclosure;

22 (c) A health care provider or health care facility who is the
23 successor in interest to the health care provider or health care
24 facility maintaining the health care information;

25 (d) A person who obtains information for purposes of an audit, if
26 that person agrees in writing to:

27 (i) Remove or destroy, at the earliest opportunity consistent with
28 the purpose of the audit, information that would enable the patient to
29 be identified; and

30 (ii) Not to disclose the information further, except to accomplish
31 the audit or report unlawful or improper conduct involving fraud in
32 payment for health care by a health care provider or patient, or other
33 unlawful conduct by the health care provider;

34 (e) Provide directory information, unless the patient has
35 instructed the health care provider or health care facility not to make
36 the disclosure;

37 (f) Fire, police, sheriff, or other public authority, that brought,
38 or caused to be brought, the patient to the health care facility or

1 health care provider if the disclosure is limited to the patient's
2 name, residence, sex, age, occupation, condition, diagnosis, estimated
3 or actual discharge date, or extent and location of injuries as
4 determined by a physician, and whether the patient was conscious when
5 admitted;

6 (g) Federal, state, or local law enforcement authorities and the
7 health care provider, health care facility, or third-party payor
8 believes in good faith that the health care information disclosed
9 constitutes evidence of criminal conduct that occurred on the premises
10 of the health care provider, health care facility, or third-party
11 payor; and

12 (h) Another health care provider, health care facility, or third-
13 party payor for the health care operations of the health care provider,
14 health care facility, or third-party payor that receives the
15 information, if each entity has or had a relationship with the patient
16 who is the subject of the health care information being requested, the
17 health care information pertains to such relationship, and the
18 disclosure is for the purposes described in RCW 70.02.010(17) (a) and
19 (b).

20 (2) In addition to the disclosures required by RCW 70.02.050 and
21 section 5 of this act, a health care provider shall disclose health
22 care information, except for information related to sexually
23 transmitted diseases and information related to mental health services
24 which are addressed by sections 6 through 10 of this act, about a
25 patient without the patient's authorization if the disclosure is:

26 (a) To federal, state, or local law enforcement authorities to the
27 extent the health care provider is required by law;

28 (b) To federal, state, or local law enforcement authorities, upon
29 receipt of a written or oral request made to a nursing supervisor,
30 administrator, or designated privacy official, in a case in which the
31 patient is being treated or has been treated for a bullet wound,
32 gunshot wound, powder burn, or other injury arising from or caused by
33 the discharge of a firearm, or an injury caused by a knife, an ice
34 pick, or any other sharp or pointed instrument which federal, state, or
35 local law enforcement authorities reasonably believe to have been
36 intentionally inflicted upon a person, or a blunt force injury that
37 federal, state, or local law enforcement authorities reasonably believe
38 resulted from a criminal act, the following information, if known:

- 1 (i) The name of the patient;
2 (ii) The patient's residence;
3 (iii) The patient's sex;
4 (iv) The patient's age;
5 (v) The patient's condition;
6 (vi) The patient's diagnosis, or extent and location of injuries as
7 determined by a health care provider;
8 (vii) Whether the patient was conscious when admitted;
9 (viii) The name of the health care provider making the
10 determination in (b)(v), (vi), and (vii) of this subsection;
11 (ix) Whether the patient has been transferred to another facility;
12 and
13 (x) The patient's discharge time and date;
14 (c) Pursuant to compulsory process in accordance with RCW
15 70.02.060.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.02 RCW
17 to read as follows:

18 DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--RESEARCH. (1) A health
19 care provider or health care facility may disclose health care
20 information about a patient without the patient's authorization to the
21 extent a recipient needs to know the information, if the disclosure is
22 for use in a research project that an institutional review board has
23 determined:

24 (a) Is of sufficient importance to outweigh the intrusion into the
25 privacy of the patient that would result from the disclosure;

26 (b) Is impracticable without the use or disclosure of the health
27 care information in individually identifiable form;

28 (c) Contains reasonable safeguards to protect the information from
29 redisclosure;

30 (d) Contains reasonable safeguards to protect against identifying,
31 directly or indirectly, any patient in any report of the research
32 project; and

33 (e) Contains procedures to remove or destroy at the earliest
34 opportunity, consistent with the purposes of the project, information
35 that would enable the patient to be identified, unless an institutional
36 review board authorizes retention of identifying information for
37 purposes of another research project.

1 (2) In addition to the disclosures required by RCW 70.02.050 and
2 section 4 of this act, a health care provider or health care facility
3 shall disclose health care information about a patient without the
4 patient's authorization if:

5 (a) The disclosure is to county coroners and medical examiners for
6 the investigations of deaths;

7 (b) The disclosure is to a procurement organization or person to
8 whom a body part passes for the purpose of examination necessary to
9 assure the medical suitability of the body part; or

10 (c) The disclosure is to a person subject to the jurisdiction of
11 the federal food and drug administration in regards to a food and drug
12 administration-regulated product or activity for which that person has
13 responsibility for quality, safety, or effectiveness of activities.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.02 RCW
15 to read as follows:

16 SEXUALLY TRANSMITTED DISEASES--PERMITTED AND MANDATORY DISCLOSURES.

17 (1) No person may disclose or be compelled to disclose the identity of
18 any person who has investigated, considered, or requested a test or
19 treatment for a sexually transmitted disease, except as authorized by
20 this section, section 5 of this act, or chapter 70.24 RCW.

21 (2) No person may disclose or be compelled to disclose information
22 and records related to sexually transmitted diseases, except as
23 authorized by this section, section 5 of this act, or chapter 70.24
24 RCW. A person may disclose information related to sexually transmitted
25 diseases about a patient without the patient's authorization, to the
26 extent a recipient needs to know the information, if the disclosure is
27 to:

28 (a) The subject of the test or the subject's legal representative
29 for health care decisions in accordance with RCW 7.70.065, with the
30 exception of such a representative of a minor fourteen years of age or
31 over and otherwise competent;

32 (b) The state public health officer as defined in RCW 70.24.017, a
33 local public health officer, or the centers for disease control of the
34 United States public health service in accordance with reporting
35 requirements for a diagnosed case of a sexually transmitted disease;

36 (c) A health facility or health care provider that procures,
37 processes, distributes, or uses: (i) A human body part, tissue, or

1 blood from a deceased person with respect to medical information
2 regarding that person; (ii) semen, including that was provided prior to
3 March 23, 1988, for the purpose of artificial insemination; or (iii)
4 blood specimens;

5 (d) Any state or local public health officer conducting an
6 investigation pursuant to RCW 70.24.024, so long as the record was
7 obtained by means of court-ordered HIV testing pursuant to RCW
8 70.24.340 or 70.24.024;

9 (e) A person allowed access to the record by a court order granted
10 after application showing good cause therefor. In assessing good
11 cause, the court shall weigh the public interest and the need for
12 disclosure against the injury to the patient, to the physician-patient
13 relationship, and to the treatment services. Upon the granting of the
14 order, the court, in determining the extent to which any disclosure of
15 all or any part of the record of any such test is necessary, shall
16 impose appropriate safeguards against unauthorized disclosure. An
17 order authorizing disclosure must: (i) Limit disclosure to those parts
18 of the patient's record deemed essential to fulfill the objective for
19 which the order was granted; (ii) limit disclosure to those persons
20 whose need for information is the basis for the order; and (iii)
21 include any other appropriate measures to keep disclosure to a minimum
22 for the protection of the patient, the physician-patient relationship,
23 and the treatment services;

24 (f) Persons who, because of their behavioral interaction with the
25 infected individual, have been placed at risk for acquisition of a
26 sexually transmitted disease, as provided in RCW 70.24.022, if the
27 health officer or authorized representative believes that the exposed
28 person was unaware that a risk of disease exposure existed and that the
29 disclosure of the identity of the infected person is necessary;

30 (g) A law enforcement officer, firefighter, health care provider,
31 health care facility staff person, department of correction's staff
32 person, jail staff person, or other persons as defined by the board of
33 health in rule pursuant to RCW 70.24.340(4), who has requested a test
34 of a person whose bodily fluids he or she has been substantially
35 exposed to, pursuant to RCW 70.24.340(4), if a state or local public
36 health officer performs the test;

37 (h) Claims management personnel employed by or associated with an
38 insurer, health care service contractor, health maintenance

1 organization, self-funded health plan, state administered health care
2 claims payer, or any other payer of health care claims where such
3 disclosure is to be used solely for the prompt and accurate evaluation
4 and payment of medical or related claims. Information released under
5 this subsection must be confidential and may not be released or
6 available to persons who are not involved in handling or determining
7 medical claims payment; and

8 (i) A department of social and health services worker, a child
9 placing agency worker, or a guardian ad litem who is responsible for
10 making or reviewing placement or case-planning decisions or
11 recommendations to the court regarding a child, who is less than
12 fourteen years of age, has a sexually transmitted disease, and is in
13 the custody of the department of social and health services or a
14 licensed child placing agency. This information may also be received
15 by a person responsible for providing residential care for such a child
16 when the department of social and health services or a licensed child
17 placing agency determines that it is necessary for the provision of
18 child care services.

19 (3) No person to whom the results of a test for a sexually
20 transmitted disease have been disclosed pursuant to subsection (2) of
21 this section may disclose the test results to another person except as
22 authorized by that subsection.

23 (4) The release of sexually transmitted disease information
24 regarding an offender or detained person, except as provided in
25 subsection (2)(d) of this section, is governed as follows:

26 (a) The sexually transmitted disease status of a department of
27 corrections offender who has had a mandatory test conducted pursuant to
28 RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by
29 department of corrections health care providers and local public health
30 officers to the department of corrections health care administrator or
31 infection control coordinator of the facility in which the offender is
32 housed. The information made available to the health care
33 administrator or the infection control coordinator under this
34 subsection (4)(a) may be used only for disease prevention or control
35 and for protection of the safety and security of the staff, offenders,
36 and the public. The information may be submitted to transporting
37 officers and receiving facilities, including facilities that are not

1 under the department of corrections' jurisdiction according to the
2 provisions of (d) and (e) of this subsection.

3 (b) The sexually transmitted disease status of a person detained in
4 a jail who has had a mandatory test conducted pursuant to RCW
5 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the
6 local public health officer to a jail health care administrator or
7 infection control coordinator. The information made available to a
8 health care administrator under this subsection (4)(b) may be used only
9 for disease prevention or control and for protection of the safety and
10 security of the staff, offenders, detainees, and the public. The
11 information may be submitted to transporting officers and receiving
12 facilities according to the provisions of (d) and (e) of this
13 subsection.

14 (c) Information regarding the sexually transmitted disease status
15 of an offender or detained person is confidential and may be disclosed
16 by a correctional health care administrator or infection control
17 coordinator or local jail health care administrator or infection
18 control coordinator only as necessary for disease prevention or control
19 and for protection of the safety and security of the staff, offenders,
20 and the public. Unauthorized disclosure of this information to any
21 person may result in disciplinary action, in addition to the penalties
22 prescribed in RCW 70.24.080 or any other penalties as may be prescribed
23 by law.

24 (d) Notwithstanding the limitations on disclosure contained in (a),
25 (b), and (c) of this subsection, whenever any member of a jail staff or
26 department of corrections staff has been substantially exposed to the
27 bodily fluids of an offender or detained person, then the results of
28 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or
29 70.24.370, must be immediately disclosed to the staff person in
30 accordance with the Washington Administrative Code rules governing
31 employees' occupational exposure to bloodborne pathogens. Disclosure
32 must be accompanied by appropriate counseling for the staff member,
33 including information regarding follow-up testing and treatment.
34 Disclosure must also include notice that subsequent disclosure of the
35 information in violation of this chapter or use of the information to
36 harass or discriminate against the offender or detainee may result in
37 disciplinary action, in addition to the penalties prescribed in RCW
38 70.24.080, and imposition of other penalties prescribed by law.

1 (e) The staff member must also be informed whether the offender or
2 detained person had any other communicable disease, as defined in RCW
3 72.09.251(3), when the staff person was substantially exposed to the
4 offender's or detainee's bodily fluids.

5 (f) The test results of voluntary and anonymous HIV testing or HIV-
6 related condition, as defined in RCW 70.24.017, may not be disclosed to
7 a staff person except as provided in this section and RCW
8 70.02.050(1)(e) and 70.24.340(4). A health care administrator or
9 infection control coordinator may provide the staff member with
10 information about how to obtain the offender's or detainee's test
11 results under this section and RCW 70.02.050(1)(e) and 70.24.340(4).

12 (5) The requirements of this section do not apply to the customary
13 methods utilized for the exchange of medical information among health
14 care providers in order to provide health care services to the patient,
15 nor do they apply within health care facilities where there is a need
16 for access to confidential medical information to fulfill professional
17 duties.

18 (6) Upon request of the victim, disclosure of test results under
19 this section to victims of sexual offenses under chapter 9A.44 RCW must
20 be made if the result is negative or positive. The county prosecuting
21 attorney shall notify the victim of the right to such disclosure. The
22 disclosure must be accompanied by appropriate counseling, including
23 information regarding follow-up testing.

24 (7) A person, including a health care facility or health care
25 provider, shall disclose the identity of any person who has
26 investigated, considered, or requested a test or treatment for a
27 sexually transmitted disease and information and records related to
28 sexually transmitted diseases to federal, state, or local public health
29 authorities, to the extent the health care provider is required by law
30 to report health care information; when needed to determine compliance
31 with state or federal certification or registration rules or laws; or
32 when needed to protect the public health. Any health care information
33 obtained under this subsection is exempt from public inspection and
34 copying pursuant to chapter 42.56 RCW.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.02 RCW
36 to read as follows:

37 MENTAL HEALTH SERVICES, CONFIDENTIALITY OF RECORDS--PERMITTED

1 DISCLOSURES. (1) Except as provided in this section, RCW 70.02.050,
2 71.05.445, 70.96A.150, 74.09.295, sections 5, 8, 9, and 10 of this act,
3 or pursuant to a valid authorization under RCW 70.02.030, the fact of
4 admission to a provider for mental health services and all information
5 and records compiled, obtained, or maintained in the course of
6 providing mental health services to either voluntary or involuntary
7 recipients of services at public or private agencies must be
8 confidential.

9 (2) Information and records related to mental health services,
10 other than those obtained through treatment under chapter 71.34 RCW,
11 may be disclosed only:

12 (a) In communications between qualified professional persons to
13 meet the requirements of chapter 71.05 RCW, in the provision of
14 services or appropriate referrals, or in the course of guardianship
15 proceedings if provided to a professional person:

16 (i) Employed by the facility;

17 (ii) Who has medical responsibility for the patient's care;

18 (iii) Who is a designated mental health professional;

19 (iv) Who is providing services under chapter 71.24 RCW;

20 (v) Who is employed by a state or local correctional facility where
21 the person is confined or supervised; or

22 (vi) Who is providing evaluation, treatment, or follow-up services
23 under chapter 10.77 RCW;

24 (b) When the communications regard the special needs of a patient
25 and the necessary circumstances giving rise to such needs and the
26 disclosure is made by a facility providing services to the operator of
27 a facility in which the patient resides or will reside;

28 (c)(i) When the person receiving services, or his or her guardian,
29 designates persons to whom information or records may be released, or
30 if the person is a minor, when his or her parents make such a
31 designation;

32 (ii) A public or private agency shall release to a person's next of
33 kin, attorney, personal representative, guardian, or conservator, if
34 any:

35 (A) The information that the person is presently a patient in the
36 facility or that the person is seriously physically ill;

37 (B) A statement evaluating the mental and physical condition of the

1 patient, and a statement of the probable duration of the patient's
2 confinement, if such information is requested by the next of kin,
3 attorney, personal representative, guardian, or conservator; and

4 (iii) Other information requested by the next of kin or attorney as
5 may be necessary to decide whether or not proceedings should be
6 instituted to appoint a guardian or conservator;

7 (d)(i) To the courts as necessary to the administration of chapter
8 71.05 RCW or to a court ordering an evaluation or treatment under
9 chapter 10.77 RCW solely for the purpose of preventing the entry of any
10 evaluation or treatment order that is inconsistent with any order
11 entered under chapter 71.05 RCW.

12 (ii) To a court or its designee in which a motion under chapter
13 10.77 RCW has been made for involuntary medication of a defendant for
14 the purpose of competency restoration.

15 (iii) Disclosure under this subsection is mandatory for the purpose
16 of the federal health insurance portability and accountability act;

17 (e)(i) When a mental health professional is requested by a
18 representative of a law enforcement or corrections agency, including a
19 police officer, sheriff, community corrections officer, a municipal
20 attorney, or prosecuting attorney to undertake an investigation or
21 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
22 mental health professional shall, if requested to do so, advise the
23 representative in writing of the results of the investigation including
24 a statement of reasons for the decision to detain or release the person
25 investigated. The written report must be submitted within seventy-two
26 hours of the completion of the investigation or the request from the
27 law enforcement or corrections representative, whichever occurs later.

28 (ii) Disclosure under this subsection is mandatory for the purposes
29 of the federal health insurance portability and accountability act;

30 (f) To the attorney of the detained person;

31 (g) To the prosecuting attorney as necessary to carry out the
32 responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b),
33 and 71.05.335. The prosecutor must be provided access to records
34 regarding the committed person's treatment and prognosis, medication,
35 behavior problems, and other records relevant to the issue of whether
36 treatment less restrictive than inpatient treatment is in the best
37 interest of the committed person or others. Information must be

1 disclosed only after giving notice to the committed person and the
2 person's counsel;

3 (h)(i) To appropriate law enforcement agencies and to a person,
4 when the identity of the person is known to the public or private
5 agency, whose health and safety has been threatened, or who is known to
6 have been repeatedly harassed, by the patient. The person may
7 designate a representative to receive the disclosure. The disclosure
8 must be made by the professional person in charge of the public or
9 private agency or his or her designee and must include the dates of
10 commitment, admission, discharge, or release, authorized or
11 unauthorized absence from the agency's facility, and only any other
12 information that is pertinent to the threat or harassment. The agency
13 or its employees are not civilly liable for the decision to disclose or
14 not, so long as the decision was reached in good faith and without
15 gross negligence.

16 (ii) Disclosure under this subsection is mandatory for the purposes
17 of the federal health insurance portability and accountability act;

18 (i)(i) To appropriate corrections and law enforcement agencies all
19 necessary and relevant information in the event of a crisis or emergent
20 situation that poses a significant and imminent risk to the public.
21 The mental health service agency or its employees are not civilly
22 liable for the decision to disclose or not so long as the decision was
23 reached in good faith and without gross negligence.

24 (ii) Disclosure under this subsection is mandatory for the purposes
25 of the health insurance portability and accountability act;

26 (j) To the persons designated in RCW 71.05.425 for the purposes
27 described in those sections;

28 (k) Upon the death of a person. The person's next of kin, personal
29 representative, guardian, or conservator, if any, must be notified.
30 Next of kin who are of legal age and competent must be notified under
31 this section in the following order: Spouse, parents, children,
32 brothers and sisters, and other relatives according to the degree of
33 relation. Access to all records and information compiled, obtained, or
34 maintained in the course of providing services to a deceased patient
35 are governed by RCW 70.02.140;

36 (l) To mark headstones or otherwise memorialize patients interred
37 at state hospital cemeteries. The department of social and health

1 services shall make available the name, date of birth, and date of
2 death of patients buried in state hospital cemeteries fifty years after
3 the death of a patient;

4 (m) To law enforcement officers and to prosecuting attorneys as are
5 necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information
6 that may be released is limited as follows:

7 (i) Only the fact, place, and date of involuntary commitment, an
8 official copy of any order or orders of commitment, and an official
9 copy of any written or oral notice of ineligibility to possess a
10 firearm that was provided to the person pursuant to RCW 9.41.047(1),
11 must be disclosed upon request;

12 (ii) The law enforcement and prosecuting attorneys may only release
13 the information obtained to the person's attorney as required by court
14 rule and to a jury or judge, if a jury is waived, that presides over
15 any trial at which the person is charged with violating RCW
16 9.41.040(2)(a)(ii);

17 (iii) Disclosure under this subsection is mandatory for the
18 purposes of the federal health insurance portability and accountability
19 act;

20 (n) When a patient would otherwise be subject to the provisions of
21 this section and disclosure is necessary for the protection of the
22 patient or others due to his or her unauthorized disappearance from the
23 facility, and his or her whereabouts is unknown, notice of the
24 disappearance, along with relevant information, may be made to
25 relatives, the department of corrections when the person is under the
26 supervision of the department, and governmental law enforcement
27 agencies designated by the physician or psychiatric advanced registered
28 nurse practitioner in charge of the patient or the professional person
29 in charge of the facility, or his or her professional designee;

30 (o) Pursuant to lawful order of a court;

31 (p) To qualified staff members of the department, to the director
32 of regional support networks, to resource management services
33 responsible for serving a patient, or to service providers designated
34 by resource management services as necessary to determine the progress
35 and adequacy of treatment and to determine whether the person should be
36 transferred to a less restrictive or more appropriate treatment
37 modality or facility;

1 (q) Within the treatment facility where the patient is receiving
2 treatment, confidential information may be disclosed to persons
3 employed, serving in bona fide training programs, or participating in
4 supervised volunteer programs, at the facility when it is necessary to
5 perform their duties;

6 (r) Within the department as necessary to coordinate treatment for
7 mental illness, developmental disabilities, alcoholism, or drug abuse
8 of persons who are under the supervision of the department;

9 (s) To a licensed physician or psychiatric advanced registered
10 nurse practitioner who has determined that the life or health of the
11 person is in danger and that treatment without the information
12 contained in the mental health treatment records could be injurious to
13 the patient's health. Disclosure must be limited to the portions of
14 the records necessary to meet the medical emergency;

15 (t) Consistent with the requirements of the federal health
16 information portability and accountability act, to a licensed mental
17 health professional or a health care professional licensed under
18 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
19 providing care to a person, or to whom a person has been referred for
20 evaluation or treatment, to assure coordinated care and treatment of
21 that person. Psychotherapy notes, as defined in 45 C.F.R. Sec.
22 164.501, may not be released without authorization of the person who is
23 the subject of the request for release of information;

24 (u) To administrative and office support staff designated to obtain
25 medical records for those licensed professionals listed in (t) of this
26 subsection;

27 (v) To a facility that is to receive a person who is involuntarily
28 committed under chapter 71.05 RCW, or upon transfer of the person from
29 one treatment facility to another. The release of records under this
30 subsection is limited to the mental health treatment records required
31 by law, a record or summary of all somatic treatments, and a discharge
32 summary. The discharge summary may include a statement of the
33 patient's problem, the treatment goals, the type of treatment which has
34 been provided, and recommendation for future treatment, but may not
35 include the patient's complete treatment record;

36 (w) To the person's counsel or guardian ad litem, without
37 modification, at any time in order to prepare for involuntary

1 commitment or recommitment proceedings, reexaminations, appeals, or
2 other actions relating to detention, admission, commitment, or
3 patient's rights under chapter 71.05 RCW;

4 (x) To staff members of the protection and advocacy agency or to
5 staff members of a private, nonprofit corporation for the purpose of
6 protecting and advocating the rights of persons with mental disorders
7 or developmental disabilities. Resource management services may limit
8 the release of information to the name, birthdate, and county of
9 residence of the patient, information regarding whether the patient was
10 voluntarily admitted, or involuntarily committed, the date and place of
11 admission, placement, or commitment, the name and address of a guardian
12 of the patient, and the date and place of the guardian's appointment.
13 Any staff member who wishes to obtain additional information must
14 notify the patient's resource management services in writing of the
15 request and of the resource management services' right to object. The
16 staff member shall send the notice by mail to the guardian's address.
17 If the guardian does not object in writing within fifteen days after
18 the notice is mailed, the staff member may obtain the additional
19 information. If the guardian objects in writing within fifteen days
20 after the notice is mailed, the staff member may not obtain the
21 additional information;

22 (y) To all current treating providers of the patient with
23 prescriptive authority who have written a prescription for the patient
24 within the last twelve months. For purposes of coordinating health
25 care, the department may release without written authorization of the
26 patient, information acquired for billing and collection purposes as
27 described in RCW 70.02.050(1)(e). The department shall notify the
28 patient that billing and collection information has been released to
29 named providers, and provide the substance of the information released
30 and the dates of such release. The department may not release
31 counseling, inpatient psychiatric hospitalization, or drug and alcohol
32 treatment information without a signed written release from the client;

33 (z)(i) To the secretary of social and health services for either
34 program evaluation or research, or both so long as the secretary adopts
35 rules for the conduct of the evaluation or research, or both. Such
36 rules must include, but need not be limited to, the requirement that
37 all evaluators and researchers sign an oath of confidentiality
38 substantially as follows:

1 "As a condition of conducting evaluation or research concerning
2 persons who have received services from (fill in the facility, agency,
3 or person) I,, agree not to divulge, publish, or otherwise
4 make known to unauthorized persons or the public any information
5 obtained in the course of such evaluation or research regarding persons
6 who have received services such that the person who received such
7 services is identifiable.

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

10 /s/"

11 (ii) Nothing in this chapter may be construed to prohibit the
12 compilation and publication of statistical data for use by government
13 or researchers under standards, including standards to assure
14 maintenance of confidentiality, set forth by the secretary.

15 (3) Whenever federal law or federal regulations restrict the
16 release of information contained in the treatment records of any
17 patient who receives treatment for chemical dependency, the department
18 may restrict the release of the information as necessary to comply with
19 federal law and regulations.

20 (4) Civil liability and immunity for the release of information
21 about a particular person who is committed to the department of social
22 and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after
23 dismissal of a sex offense as defined in RCW 9.94A.030, is governed by
24 RCW 4.24.550.

25 (5) The fact of admission to a provider of mental health services,
26 as well as all records, files, evidence, findings, or orders made,
27 prepared, collected, or maintained pursuant to chapter 71.05 RCW are
28 not admissible as evidence in any legal proceeding outside that chapter
29 without the written authorization of the person who was the subject of
30 the proceeding except as provided in section 10 of this act, in a
31 subsequent criminal prosecution of a person committed pursuant to RCW
32 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant
33 to chapter 10.77 RCW due to incompetency to stand trial, in a civil
34 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of
35 a minor, a guardianship or dependency proceeding. The records and
36 files maintained in any court proceeding pursuant to chapter 71.05 RCW
37 must be confidential and available subsequent to such proceedings only
38 to the person who was the subject of the proceeding or his or her

1 attorney. In addition, the court may order the subsequent release or
2 use of such records or files only upon good cause shown if the court
3 finds that appropriate safeguards for strict confidentiality are and
4 will be maintained.

5 (6)(a) Except as provided in RCW 4.24.550, any person may bring an
6 action against an individual who has willfully released confidential
7 information or records concerning him or her in violation of the
8 provisions of this section, for the greater of the following amounts:

9 (i) One thousand dollars; or

10 (ii) Three times the amount of actual damages sustained, if any.

11 (b) It is not a prerequisite to recovery under this subsection that
12 the plaintiff suffered or was threatened with special, as contrasted
13 with general, damages.

14 (c) Any person may bring an action to enjoin the release of
15 confidential information or records concerning him or her or his or her
16 ward, in violation of the provisions of this section, and may in the
17 same action seek damages as provided in this subsection.

18 (d) The court may award to the plaintiff, should he or she prevail
19 in any action authorized by this subsection, reasonable attorney fees
20 in addition to those otherwise provided by law.

21 (e) If an action is brought under this subsection, no action may
22 be brought under RCW 70.02.170.

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.02 RCW
24 to read as follows:

25 MENTAL HEALTH SERVICES--MINORS--PERMITTED DISCLOSURES. The fact of
26 admission and all information and records related to mental health
27 services obtained through treatment under chapter 71.34 RCW is
28 confidential, except as authorized in RCW 70.02.050 and sections 5, 7,
29 9, and 10 of this act. Such confidential information may be disclosed
30 only:

31 (1) In communications between mental health professionals to meet
32 the requirements of chapter 71.34 RCW, in the provision of services to
33 the minor, or in making appropriate referrals;

34 (2) In the course of guardianship or dependency proceedings;

35 (3) To the minor, the minor's parent, and the minor's attorney,
36 subject to RCW 13.50.100;

37 (4) To the courts as necessary to administer chapter 71.34 RCW;

1 (5) To law enforcement officers or public health officers as
2 necessary to carry out the responsibilities of their office. However,
3 only the fact and date of admission, and the date of discharge, the
4 name and address of the treatment provider, if any, and the last known
5 address must be disclosed upon request;

6 (6) To law enforcement officers, public health officers, relatives,
7 and other governmental law enforcement agencies, if a minor has escaped
8 from custody, disappeared from an evaluation and treatment facility,
9 violated conditions of a less restrictive treatment order, or failed to
10 return from an authorized leave, and then only such information as may
11 be necessary to provide for public safety or to assist in the
12 apprehension of the minor. The officers are obligated to keep the
13 information confidential in accordance with this chapter;

14 (7) To the secretary of social and health services for assistance
15 in data collection and program evaluation or research so long as the
16 secretary adopts rules for the conduct of such evaluation and research.
17 The rules must include, but need not be limited to, the requirement
18 that all evaluators and researchers sign an oath of confidentiality
19 substantially as follows:

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

27 I recognize that unauthorized release of confidential information
28 may subject me to civil liability under state law.

29 /s/";

30 (8) To appropriate law enforcement agencies, upon request, all
31 necessary and relevant information in the event of a crisis or emergent
32 situation that poses a significant and imminent risk to the public.
33 The mental health service agency or its employees are not civilly
34 liable for the decision to disclose or not, so long as the decision was
35 reached in good faith and without gross negligence;

36 (9) To appropriate law enforcement agencies and to a person, when
37 the identity of the person is known to the public or private agency,
38 whose health and safety has been threatened, or who is known to have

1 been repeatedly harassed, by the patient. The person may designate a
2 representative to receive the disclosure. The disclosure must be made
3 by the professional person in charge of the public or private agency or
4 his or her designee and must include the dates of admission, discharge,
5 authorized or unauthorized absence from the agency's facility, and only
6 any other information that is pertinent to the threat or harassment.
7 The agency or its employees are not civilly liable for the decision to
8 disclose or not, so long as the decision was reached in good faith and
9 without gross negligence;

10 (10) To a minor's next of kin, attorney, guardian, or conservator,
11 if any, the information that the minor is presently in the facility or
12 that the minor is seriously physically ill and a statement evaluating
13 the mental and physical condition of the minor as well as a statement
14 of the probable duration of the minor's confinement;

15 (11) Upon the death of a minor, to the minor's next of kin;

16 (12) To a facility in which the minor resides or will reside;

17 (13) To law enforcement officers and to prosecuting attorneys as
18 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of
19 information that may be released is limited as follows:

20 (a) Only the fact, place, and date of involuntary commitment, an
21 official copy of any order or orders of commitment, and an official
22 copy of any written or oral notice of ineligibility to possess a
23 firearm that was provided to the person pursuant to RCW 9.41.047(1),
24 must be disclosed upon request;

25 (b) The law enforcement and prosecuting attorneys may only release
26 the information obtained to the person's attorney as required by court
27 rule and to a jury or judge, if a jury is waived, that presides over
28 any trial at which the person is charged with violating RCW
29 9.41.040(2)(a)(ii);

30 (c) Disclosure under this subsection is mandatory for the purposes
31 of the federal health insurance portability and accountability act;

32 (14) This section may not be construed to prohibit the compilation
33 and publication of statistical data for use by government or
34 researchers under standards, including standards to assure maintenance
35 of confidentiality, set forth by the secretary of the department of
36 social and health services. The fact of admission and all information
37 obtained pursuant to chapter 71.34 RCW are not admissible as evidence

1 in any legal proceeding outside chapter 71.34 RCW, except guardianship
2 or dependency, without the written consent of the minor or the minor's
3 parent;

4 (15) For the purpose of a correctional facility participating in
5 the postinstitutional medical assistance system supporting the
6 expedited medical determinations and medical suspensions as provided in
7 RCW 74.09.555 and 74.09.295;

8 (16) Pursuant to a lawful order of a court.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.02 RCW
10 to read as follows:

11 MENTAL HEALTH SERVICES--DEPARTMENT OF CORRECTIONS. (1) Information
12 and records related to mental health services delivered to a person
13 subject to chapter 9.94A or 9.95 RCW must be released, upon request, by
14 a mental health service agency to department of corrections personnel
15 for whom the information is necessary to carry out the responsibilities
16 of their office. The information must be provided only for the purpose
17 of completing presentence investigations, supervision of an
18 incarcerated person, planning for and provision of supervision of a
19 person, or assessment of a person's risk to the community. The request
20 must be in writing and may not require the consent of the subject of
21 the records.

22 (2) The information to be released to the department of corrections
23 must include all relevant records and reports, as defined by rule,
24 necessary for the department of corrections to carry out its duties,
25 including those records and reports identified in subsection (1) of
26 this section.

27 (3) The department shall, subject to available resources,
28 electronically, or by the most cost-effective means available, provide
29 the department of corrections with the names, last dates of services,
30 and addresses of specific regional support networks and mental health
31 service agencies that delivered mental health services to a person
32 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
33 the departments.

34 (4) The department and the department of corrections, in
35 consultation with regional support networks, mental health service
36 agencies as defined in RCW 70.02.010, mental health consumers, and

1 advocates for persons with mental illness, shall adopt rules to
2 implement the provisions of this section related to the type and scope
3 of information to be released. These rules must:

4 (a) Enhance and facilitate the ability of the department of
5 corrections to carry out its responsibility of planning and ensuring
6 community protection with respect to persons subject to sentencing
7 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
8 disclosing information of persons who received mental health services
9 as a minor; and

10 (b) Establish requirements for the notification of persons under
11 the supervision of the department of corrections regarding the
12 provisions of this section.

13 (5) The information received by the department of corrections under
14 this section must remain confidential and subject to the limitations on
15 disclosure outlined in chapter 71.34 RCW, except as provided in RCW
16 72.09.585.

17 (6) No mental health service agency or individual employed by a
18 mental health service agency may be held responsible for information
19 released to or used by the department of corrections under the
20 provisions of this section or rules adopted under this section.

21 (7) Whenever federal law or federal regulations restrict the
22 release of information contained in the treatment records of any
23 patient who receives treatment for alcoholism or drug dependency, the
24 release of the information may be restricted as necessary to comply
25 with federal law and regulations.

26 (8) This section does not modify the terms and conditions of
27 disclosure of information related to sexually transmitted diseases
28 under this chapter.

29 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.02 RCW
30 to read as follows:

31 MENTAL HEALTH SERVICES--REQUESTS FOR INFORMATION AND RECORDS.

32 (1)(a) A mental health service agency shall release to the persons
33 authorized under subsection (2) of this section, upon request:

34 (i) The fact, place, and date of an involuntary commitment, the
35 fact and date of discharge or release, and the last known address of a
36 person who has been committed under chapter 71.05 RCW.

1 (ii) Information and records related to mental health services, in
2 the format determined under subsection (9) of this section, concerning
3 a person who:

4 (A) Is currently committed to the custody or supervision of the
5 department of corrections or the indeterminate sentence review board
6 under chapter 9.94A or 9.95 RCW;

7 (B) Has been convicted or found not guilty by reason of insanity of
8 a serious violent offense; or

9 (C) Was charged with a serious violent offense and the charges were
10 dismissed under RCW 10.77.086.

11 (b) Legal counsel may release such information to the persons
12 authorized under subsection (2) of this section on behalf of the mental
13 health service agency, so long as nothing in this subsection requires
14 the disclosure of attorney work product or attorney-client privileged
15 information.

16 (2) The information subject to release under subsection (1) of this
17 section must be released to law enforcement officers, personnel of a
18 county or city jail, designated mental health professionals, public
19 health officers, therapeutic court personnel as defined in RCW
20 71.05.020, or personnel of the department of corrections, including the
21 indeterminate sentence review board and personnel assigned to perform
22 board-related duties, when such information is requested during the
23 course of business and for the purpose of carrying out the
24 responsibilities of the requesting person's office. No mental health
25 service agency or person employed by a mental health service agency, or
26 its legal counsel, may be liable for information released to or used
27 under the provisions of this section or rules adopted under this
28 section except under RCW 71.05.680.

29 (3) A person who requests information under subsection (1)(a)(ii)
30 of this section must comply with the following restrictions:

31 (a) Information must be requested only for the purposes permitted
32 by this subsection and for the purpose of carrying out the
33 responsibilities of the requesting person's office. Appropriate
34 purposes for requesting information under this section include:

35 (i) Completing presentence investigations or risk assessment
36 reports;

37 (ii) Assessing a person's risk to the community;

1 (iii) Assessing a person's risk of harm to self or others when
2 confined in a city or county jail;

3 (iv) Planning for and provision of supervision of an offender,
4 including decisions related to sanctions for violations of conditions
5 of community supervision; and

6 (v) Responding to an offender's failure to report for department of
7 corrections supervision;

8 (b) Information may not be requested under this section unless the
9 requesting person has reasonable suspicion that the individual who is
10 the subject of the information:

11 (i) Has engaged in activity indicating that a crime or a violation
12 of community custody or parole has been committed or, based upon his or
13 her current or recent past behavior, is likely to be committed in the
14 near future; or

15 (ii) Is exhibiting signs of a deterioration in mental functioning
16 which may make the individual appropriate for civil commitment under
17 chapter 71.05 RCW; and

18 (c) Any information received under this section must be held
19 confidential and subject to the limitations on disclosure outlined in
20 this chapter, except:

21 (i) The information may be shared with other persons who have the
22 right to request similar information under subsection (2) of this
23 section, solely for the purpose of coordinating activities related to
24 the individual who is the subject of the information in a manner
25 consistent with the official responsibilities of the persons involved;

26 (ii) The information may be shared with a prosecuting attorney
27 acting in an advisory capacity for a person who receives information
28 under this section. A prosecuting attorney under this subsection is
29 subject to the same restrictions and confidentiality limitations as the
30 person who requested the information; and

31 (iii) As provided in RCW 72.09.585.

32 (4) A request for information and records related to mental health
33 services under this section does not require the consent of the subject
34 of the records. The request must be provided in writing, except to the
35 extent authorized in subsection (5) of this section. A written request
36 may include requests made by e-mail or facsimile so long as the
37 requesting person is clearly identified. The request must specify the
38 information being requested.

1 (5) In the event of an emergency situation that poses a significant
2 risk to the public or the offender, a mental health service agency, or
3 its legal counsel, shall release information related to mental health
4 services delivered to the offender and, if known, information regarding
5 where the offender is likely to be found to the department of
6 corrections or law enforcement upon request. The initial request may
7 be written or oral. All oral requests must be subsequently confirmed
8 in writing. Information released in response to an oral request is
9 limited to a statement as to whether the offender is or is not being
10 treated by the mental health service agency and the address or
11 information about the location or whereabouts of the offender.

12 (6) Disclosure under this section to state or local law enforcement
13 authorities is mandatory for the purposes of the federal health
14 insurance portability and accountability act.

15 (7) Whenever federal law or federal regulations restrict the
16 release of information contained in the treatment records of any
17 patient who receives treatment for alcoholism or drug dependency, the
18 release of the information may be restricted as necessary to comply
19 with federal law and regulations.

20 (8) This section does not modify the terms and conditions of
21 disclosure of information related to sexually transmitted diseases
22 under this chapter.

23 (9) In collaboration with interested organizations, the department
24 shall develop a standard form for requests for information related to
25 mental health services made under this section and a standard format
26 for information provided in response to the requests. Consistent with
27 the goals of the health information privacy provisions of the federal
28 health insurance portability and accountability act, in developing the
29 standard form for responsive information, the department shall design
30 the form in such a way that the information disclosed is limited to the
31 minimum necessary to serve the purpose for which the information is
32 requested.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.02 RCW
34 to read as follows:

35 HEALTH CARE INFORMATION--USE OR DISCLOSURE PROHIBITED. (1) No
36 person who receives health care information for health care education,
37 or to provide planning, quality assurance, peer review, or

1 administrative, legal, financial, or actuarial services, or other
2 health care operations for or on behalf of a health care provider or
3 health care facility, may use or disclose any health care information
4 received from the health care provider or health care facility in any
5 manner that is inconsistent with the duties of the health care provider
6 or health care facility under this chapter.

7 (2) A health care provider or health care facility that has a
8 contractual relationship with a person to provide services described
9 under subsection (1) of this section must terminate the contractual
10 relationship with the person if the health care provider or health care
11 facility learns that the person has engaged in a pattern of activity
12 that violates the person's duties under subsection (1) of this section,
13 unless the person took reasonable steps to correct the breach of
14 confidentiality or has discontinued the violating activity.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.02 RCW
16 to read as follows:

17 HEALTH CARE PROVIDERS AND FACILITIES--PROHIBITED ACTIONS. A health
18 care provider, health care facility, and their assistants, employees,
19 agents, and contractors may not:

20 (1) Use or disclose health care information for marketing or fund-
21 raising purposes, unless permitted by federal law;

22 (2) Sell health care information to a third party, except in a form
23 that is deidentified and aggregated; or

24 (3) Sell health care information to a third party, except for the
25 following purposes:

26 (a) Treatment or payment;

27 (b) Sale, transfer, merger, or consolidation of a business;

28 (c) Remuneration to a third party for services;

29 (d) Disclosures required by law;

30 (e) Providing access to or accounting of disclosures to an
31 individual;

32 (f) Public health purposes;

33 (g) Research;

34 (h) With an individual's authorization;

35 (i) Where a reasonable cost-based fee is paid to prepare and
36 transmit health information, where authority to disclose the
37 information is provided in this chapter.

1 (3) Mental health treatment records may be modified prior to
2 inspection to protect the confidentiality of other patients or the
3 names of any other persons referred to in the record who gave
4 information on the condition that his or her identity remain
5 confidential. Entire documents may not be withheld to protect such
6 confidentiality.

7 (4) At the time of discharge resource management services shall
8 inform all persons who have received mental health services of their
9 rights as provided in this chapter and RCW 71.05.620.

10 NEW SECTION. **Sec. 16.** A new section is added to chapter 70.02 RCW
11 to read as follows:

12 MENTAL HEALTH SERVICES--MINORS--NOTE IN RECORD UPON DISCLOSURE.
13 When disclosure of information and records related to mental services
14 pertaining to a minor, as defined in RCW 71.34.020, is made, the date
15 and circumstances under which the disclosure was made, the name or
16 names of the persons or agencies to whom such disclosure was made and
17 their relationship if any, to the minor, and the information disclosed
18 must be entered promptly in the minor's clinical record.

19 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.02 RCW
20 to read as follows:

21 OBTAINING CONFIDENTIAL RECORDS UNDER FALSE PRETENSES--PENALTY. Any
22 person who requests or obtains confidential information and records
23 related to mental health services pursuant to this chapter under false
24 pretenses is guilty of a gross misdemeanor.

25 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.02 RCW
26 to read as follows:

27 MENTAL HEALTH TREATMENT RECORDS--AGENCY RULE-MAKING AUTHORITY. The
28 department of social and health services shall adopt rules related to
29 the disclosure of mental health treatment records in this chapter.

30 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.02 RCW
31 to read as follows:

32 DEPARTMENT OF SOCIAL AND HEALTH SERVICES--RELEASE OF INFORMATION TO
33 PROTECT THE PUBLIC. In addition to any other information required to
34 be released under this chapter, the department of social and health

1 services is authorized, pursuant to RCW 4.24.550, to release relevant
2 information that is necessary to protect the public, concerning a
3 specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c)
4 following dismissal of a sex offense as defined in RCW 9.94A.030.

5 **Sec. 20.** RCW 70.02.900 and 2011 c 305 s 10 are each amended to
6 read as follows:

7 CONFLICTING LAWS. (1) This chapter does not restrict a health care
8 provider, a third- party payor, or an insurer regulated under Title 48
9 RCW from complying with obligations imposed by federal or state health
10 care payment programs or federal or state law.

11 (2) This chapter does not modify the terms and conditions of
12 disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.96A,
13 (~~71.05, 71.34,~~) and 74.09 RCW and rules adopted under these
14 provisions.

15 **Sec. 21.** RCW 71.05.660 and 2009 c 217 s 9 are each amended to read
16 as follows:

17 TREATMENT RECORDS--PRIVILEGED COMMUNICATIONS UNAFFECTED. Nothing
18 in this chapter or chapter 70.02, 70.96A, (~~71.05,~~) 71.34, or 70.96B
19 RCW shall be construed to interfere with communications between
20 physicians, psychiatric advanced registered nurse practitioners, or
21 psychologists and patients and attorneys and clients.

22 **Sec. 22.** RCW 71.05.680 and 2005 c 504 s 713 are each amended to
23 read as follows:

24 TREATMENT RECORDS--ACCESS UNDER FALSE PRETENSES, PENALTY. Any
25 person who requests or obtains confidential information pursuant to RCW
26 71.05.620 (~~through 71.05.690~~) under false pretenses shall be guilty
27 of a gross misdemeanor.

28 **Sec. 23.** RCW 71.05.620 and 2005 c 504 s 111 are each amended to
29 read as follows:

30 COURT FILES AND RECORDS. (1) The files and records of court
31 proceedings under this chapter and chapters 70.96A, 71.34, and 70.96B
32 RCW shall be closed but shall be accessible to any person who is the
33 subject of a petition and to the person's attorney, guardian ad litem,

1 resource management services, or service providers authorized to
2 receive such information by resource management services.

3 (2) The department shall adopt rules to implement this section.

4 **Sec. 24.** RCW 71.24.035 and 2011 c 148 s 4 are each amended to read
5 as follows:

6 STATE MENTAL HEALTH AUTHORITY, PROGRAM. (1) The department is
7 designated as the state mental health authority.

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

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

16 (4) The secretary shall be designated as the regional support
17 network if the regional support network fails to meet state minimum
18 standards or refuses to exercise responsibilities under RCW 71.24.045,
19 until such time as a new regional support network is designated under
20 RCW 71.24.320.

21 (5) The secretary shall:

22 (a) Develop a biennial state mental health program that
23 incorporates regional biennial needs assessments and regional mental
24 health service plans and state services for adults and children with
25 mental illness. The secretary shall also develop a six-year state
26 mental health plan;

27 (b) Assure that any regional or county community mental health
28 program provides access to treatment for the region's residents,
29 including parents who are respondents in dependency cases, in the
30 following order of priority: (i) Persons with acute mental illness;
31 (ii) adults with chronic mental illness and children who are severely
32 emotionally disturbed; and (iii) persons who are seriously disturbed.
33 Such programs shall provide:

34 (A) Outpatient services;

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

36 (C) Day treatment for persons with mental illness which includes
37 training in basic living and social skills, supported work, vocational

1 rehabilitation, and day activities. Such services may include
2 therapeutic treatment. In the case of a child, day treatment includes
3 age-appropriate basic living and social skills, educational and
4 prevocational services, day activities, and therapeutic treatment;

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

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

14 (F) Consultation and education services; and

15 (G) Community support services;

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

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

26 (ii) Regional support networks; and

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

30 (d) Assure that the special needs of persons who are minorities,
31 elderly, disabled, children, low-income, and parents who are
32 respondents in dependency cases are met within the priorities
33 established in this section;

34 (e) Establish a standard contract or contracts, consistent with
35 state minimum standards, RCW 71.24.320 and 71.24.330, which shall be
36 used in contracting with regional support networks. The standard
37 contract shall include a maximum fund balance, which shall be

1 consistent with that required by federal regulations or waiver
2 stipulations;

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

8 (g) Develop and maintain an information system to be used by the
9 state and regional support networks that includes a tracking method
10 which allows the department and regional support networks to identify
11 mental health clients' participation in any mental health service or
12 public program on an immediate basis. The information system shall not
13 include individual patient's case history files. Confidentiality of
14 client information and records shall be maintained as provided in this
15 chapter and (~~in RCW 71.05.390, 71.05.420, and 71.05.440~~) chapter
16 70.02 RCW;

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

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

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

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

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

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

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

36 (o) Certify crisis stabilization units that meet state minimum
37 standards;

38 (p) Certify clubhouses that meet state minimum standards; and

1 (q) Certify triage facilities that meet state minimum standards.

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

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

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

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

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

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

36 (12) The standards for certification of evaluation and treatment
37 facilities shall include standards relating to maintenance of good

1 physical and mental health and other services to be afforded persons
2 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
3 otherwise assure the effectuation of the purposes of these chapters.

4 (13) The standards for certification of crisis stabilization units
5 shall include standards that:

6 (a) Permit location of the units at a jail facility if the unit is
7 physically separate from the general population of the jail;

8 (b) Require administration of the unit by mental health
9 professionals who direct the stabilization and rehabilitation efforts;
10 and

11 (c) Provide an environment affording security appropriate with the
12 alleged criminal behavior and necessary to protect the public safety.

13 (14) The standards for certification of a clubhouse shall at a
14 minimum include:

15 (a) The facilities may be peer-operated and must be
16 recovery-focused;

17 (b) Members and employees must work together;

18 (c) Members must have the opportunity to participate in all the
19 work of the clubhouse, including administration, research, intake and
20 orientation, outreach, hiring, training and evaluation of staff, public
21 relations, advocacy, and evaluation of clubhouse effectiveness;

22 (d) Members and staff and ultimately the clubhouse director must be
23 responsible for the operation of the clubhouse, central to this
24 responsibility is the engagement of members and staff in all aspects of
25 clubhouse operations;

26 (e) Clubhouse programs must be comprised of structured activities
27 including but not limited to social skills training, vocational
28 rehabilitation, employment training and job placement, and community
29 resource development;

30 (f) Clubhouse programs must provide in-house educational programs
31 that significantly utilize the teaching and tutoring skills of members
32 and assist members by helping them to take advantage of adult education
33 opportunities in the community;

34 (g) Clubhouse programs must focus on strengths, talents, and
35 abilities of its members;

36 (h) The work-ordered day may not include medication clinics, day
37 treatment, or other therapy programs within the clubhouse.

1 (15) The department shall distribute appropriated state and federal
2 funds in accordance with any priorities, terms, or conditions specified
3 in the appropriations act.

4 (16) The secretary shall assume all duties assigned to the
5 nonparticipating regional support networks under chapters 71.05((~~7~~))
6 and 71.34((~~7~~)) RCW and ((~~71.24~~—RCW)) this chapter. Such
7 responsibilities shall include those which would have been assigned to
8 the nonparticipating counties in regions where there are not
9 participating regional support networks.

10 The regional support networks, or the secretary's assumption of all
11 responsibilities under chapters 71.05((~~7~~)) and 71.34((~~7~~)) RCW and
12 ((~~71.24~~—RCW)) this chapter, shall be included in all state and federal
13 plans affecting the state mental health program including at least
14 those required by this chapter, the medicaid program, and P.L. 99-660.
15 Nothing in these plans shall be inconsistent with the intent and
16 requirements of this chapter.

17 (17) The secretary shall:

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

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

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

30 (d) Deny all or part of the funding allocations to regional support
31 networks based solely upon formal findings of noncompliance with the
32 terms of the regional support network's contract with the department.
33 Regional support networks disputing the decision of the secretary to
34 withhold funding allocations are limited to the remedies provided in
35 the department's contracts with the regional support networks.

36 (18) The department, in cooperation with the state congressional
37 delegation, shall actively seek waivers of federal requirements and
38 such modifications of federal regulations as are necessary to allow

1 federal medicaid reimbursement for services provided by freestanding
2 evaluation and treatment facilities certified under chapter 71.05 RCW.
3 The department shall periodically report its efforts to the appropriate
4 committees of the senate and the house of representatives.

5 **Sec. 25.** RCW 43.185C.030 and 2005 c 484 s 6 are each amended to
6 read as follows:

7 WASHINGTON HOMELESS CENSUS OR COUNT. The department shall annually
8 conduct a Washington homeless census or count consistent with the
9 requirements of RCW (~~(43.63A.655)~~) 43.185C.180. The census shall make
10 every effort to count all homeless individuals living outdoors, in
11 shelters, and in transitional housing, coordinated, when reasonably
12 feasible, with already existing homeless census projects including
13 those funded in part by the United States department of housing and
14 urban development under the McKinney-Vento homeless assistance program.
15 The department shall determine, in consultation with local governments,
16 the data to be collected.

17 All personal information collected in the census is confidential,
18 and the department and each local government shall take all necessary
19 steps to protect the identity and confidentiality of each person
20 counted.

21 The department and each local government are prohibited from
22 disclosing any personally identifying information about any homeless
23 individual when there is reason to believe or evidence indicating that
24 the homeless individual is an adult or minor victim of domestic
25 violence, dating violence, sexual assault, or stalking or is the parent
26 or guardian of a child victim of domestic violence, dating violence,
27 sexual assault, or stalking; or revealing other confidential
28 information regarding HIV/AIDS status, as found in (~~(RCW 70.24.105)~~)
29 section 6 of this act. The department and each local government shall
30 not ask any homeless housing provider to disclose personally
31 identifying information about any homeless individuals when the
32 providers implementing those programs have reason to believe or
33 evidence indicating that those clients are adult or minor victims of
34 domestic violence, dating violence, sexual assault, or stalking or are
35 the parents or guardians of child victims of domestic violence, dating
36 violence, sexual assault, or stalking. Summary data for the provider's
37 facility or program may be substituted.

1 The Washington homeless census shall be conducted annually on a
2 schedule created by the department. The department shall make summary
3 data by county available to the public each year. This data, and its
4 analysis, shall be included in the department's annual updated homeless
5 housing program strategic plan.

6 Based on the annual census and provider information from the local
7 government plans, the department shall, by the end of year four,
8 implement an online information and referral system to enable local
9 governments and providers to identify available housing for a homeless
10 person. The department shall work with local governments and their
11 providers to develop a capacity for continuous case management to
12 assist homeless persons.

13 By the end of year four, the department shall implement an
14 organizational quality management system.

15 **Sec. 26.** RCW 70.05.070 and 2007 c 343 s 10 are each amended to
16 read as follows:

17 LOCAL HEALTH OFFICER. The local health officer, acting under the
18 direction of the local board of health or under direction of the
19 administrative officer appointed under RCW 70.05.040 or 70.05.035, if
20 any, shall:

21 (1) Enforce the public health statutes of the state, rules of the
22 state board of health and the secretary of health, and all local health
23 rules, regulations and ordinances within his or her jurisdiction
24 including imposition of penalties authorized under RCW 70.119A.030 and
25 70.118.130, the confidentiality provisions in (~~RCW 70.24.105~~) section
26 6 of this act and rules adopted to implement those provisions, and
27 filing of actions authorized by RCW 43.70.190;

28 (2) Take such action as is necessary to maintain health and
29 sanitation supervision over the territory within his or her
30 jurisdiction;

31 (3) Control and prevent the spread of any dangerous, contagious or
32 infectious diseases that may occur within his or her jurisdiction;

33 (4) Inform the public as to the causes, nature, and prevention of
34 disease and disability and the preservation, promotion and improvement
35 of health within his or her jurisdiction;

36 (5) Prevent, control or abate nuisances which are detrimental to
37 the public health;

1 (6) Attend all conferences called by the secretary of health or his
2 or her authorized representative;

3 (7) Collect such fees as are established by the state board of
4 health or the local board of health for the issuance or renewal of
5 licenses or permits or such other fees as may be authorized by law or
6 by the rules of the state board of health;

7 (8) Inspect, as necessary, expansion or modification of existing
8 public water systems, and the construction of new public water systems,
9 to assure that the expansion, modification, or construction conforms to
10 system design and plans;

11 (9) Take such measures as he or she deems necessary in order to
12 promote the public health, to participate in the establishment of
13 health educational or training activities, and to authorize the
14 attendance of employees of the local health department or individuals
15 engaged in community health programs related to or part of the programs
16 of the local health department.

17 **Sec. 27.** RCW 70.24.450 and 1999 c 391 s 3 are each amended to read
18 as follows:

19 CONFIDENTIALITY OF REPORTED INFORMATION--UNAUTHORIZED DISCLOSURE.

20 (1) In order to assure compliance with the protections under this
21 chapter and the rules of the board, and to assure public confidence in
22 the confidentiality of reported information, the department shall:

23 (a) Report annually to the board any incidents of unauthorized
24 disclosure by the department, local health departments, or their
25 employees of information protected under (~~RCW 70.24.105~~) section 6 of
26 this act. The report shall include recommendations for preventing
27 future unauthorized disclosures and improving the system of
28 confidentiality for reported information; and

29 (b) Assist health care providers, facilities that conduct tests,
30 local health departments, and other persons involved in disease
31 reporting to understand, implement, and comply with this chapter and
32 the rules of the board related to disease reporting.

33 (2) This section is exempt from RCW 70.24.084, 70.05.070, and
34 70.05.120.

35 **Sec. 28.** RCW 74.13.280 and 2009 c 520 s 72 are each amended to
36 read as follows:

1 CHILDREN PLACED IN OUT-OF-HOME CARE--CLIENT INFORMATION. (1)
2 Except as provided in ((~~RCW 70.24.105~~)) section 6 of this act, whenever
3 a child is placed in out-of-home care by the department or a
4 supervising agency, the department or agency shall share information
5 known to the department or agency about the child and the child's
6 family with the care provider and shall consult with the care provider
7 regarding the child's case plan. If the child is dependent pursuant to
8 a proceeding under chapter 13.34 RCW, the department or supervising
9 agency shall keep the care provider informed regarding the dates and
10 location of dependency review and permanency planning hearings
11 pertaining to the child.

12 (2) Information about the child and the child's family shall
13 include information known to the department or agency as to whether the
14 child is a sexually reactive child, has exhibited high-risk behaviors,
15 or is physically assaultive or physically aggressive, as defined in
16 this section.

17 (3) Information about the child shall also include information
18 known to the department or agency that the child:

19 (a) Has received a medical diagnosis of fetal alcohol syndrome or
20 fetal alcohol effect;

21 (b) Has been diagnosed by a qualified mental health professional as
22 having a mental health disorder;

23 (c) Has witnessed a death or substantial physical violence in the
24 past or recent past; or

25 (d) Was a victim of sexual or severe physical abuse in the recent
26 past.

27 (4) Any person who receives information about a child or a child's
28 family pursuant to this section shall keep the information confidential
29 and shall not further disclose or disseminate the information except as
30 authorized by law. Care providers shall agree in writing to keep the
31 information that they receive confidential and shall affirm that the
32 information will not be further disclosed or disseminated, except as
33 authorized by law.

34 (5) Nothing in this section shall be construed to limit the
35 authority of the department or supervising agencies to disclose client
36 information or to maintain client confidentiality as provided by law.

37 (6) As used in this section:

1 (a) "Sexually reactive child" means a child who exhibits sexual
2 behavior problems including, but not limited to, sexual behaviors that
3 are developmentally inappropriate for their age or are harmful to the
4 child or others.

5 (b) "High-risk behavior" means an observed or reported and
6 documented history of one or more of the following:

7 (i) Suicide attempts or suicidal behavior or ideation;

8 (ii) Self-mutilation or similar self-destructive behavior;

9 (iii) Fire-setting or a developmentally inappropriate fascination
10 with fire;

11 (iv) Animal torture;

12 (v) Property destruction; or

13 (vi) Substance or alcohol abuse.

14 (c) "Physically assaultive or physically aggressive" means a child
15 who exhibits one or more of the following behaviors that are
16 developmentally inappropriate and harmful to the child or to others:

17 (i) Observed assaultive behavior;

18 (ii) Reported and documented history of the child willfully
19 assaulting or inflicting bodily harm; or

20 (iii) Attempting to assault or inflict bodily harm on other
21 children or adults under circumstances where the child has the apparent
22 ability or capability to carry out the attempted assaults including
23 threats to use a weapon.

24 **Sec. 29.** RCW 74.13.289 and 2009 c 520 s 76 are each amended to
25 read as follows:

26 CHILDREN PLACED IN OUT-OF-HOME CARE--BLOOD-BORNE PATHOGENS,
27 TRAINING. (1) Upon any placement, the department or supervising agency
28 shall inform each out-of-home care provider if the child to be placed
29 in that provider's care is infected with a blood-borne pathogen, and
30 shall identify the specific blood-borne pathogen for which the child
31 was tested if known by the department or supervising agency.

32 (2) All out-of-home care providers licensed by the department shall
33 receive training related to blood-borne pathogens, including
34 prevention, transmission, infection control, treatment, testing, and
35 confidentiality.

36 (3) Any disclosure of information related to HIV must be in
37 accordance with (~~RCW 70.24.105~~) section 6 of this act.

1 (4) The department of health shall identify by rule the term
2 "blood-borne pathogen" as used in this section.

3 **Sec. 30.** RCW 71.05.425 and 2011 c 305 s 5 are each amended to read
4 as follows:

5 PERSONS COMMITTED FOLLOWING DISMISSAL OF SEX, VIOLENT, OR FELONY
6 HARASSMENT OFFENSE--NOTIFICATION OF CONDITIONAL RELEASE, FINAL RELEASE,
7 LEAVE, TRANSFER, OR ESCAPE. (1)(a) Except as provided in subsection
8 (2) of this section, at the earliest possible date, and in no event
9 later than thirty days before conditional release, final release,
10 authorized leave under RCW 71.05.325(2), or transfer to a facility
11 other than a state mental hospital, the superintendent shall send
12 written notice of conditional release, release, authorized leave, or
13 transfer of a person committed under RCW 71.05.280(3) or
14 71.05.320(3)(c) following dismissal of a sex, violent, or felony
15 harassment offense pursuant to RCW 10.77.086(4) to the following:

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

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

19 (b) The same notice as required by (a) of this subsection shall be
20 sent to the following, if such notice has been requested in writing
21 about a specific person committed under RCW 71.05.280(3) or
22 71.05.320(3)(c) following dismissal of a sex, violent, or felony
23 harassment offense pursuant to RCW 10.77.086(4):

24 (i) The victim of the sex, violent, or felony harassment offense
25 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment
26 under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin
27 if the crime was a homicide;

28 (ii) Any witnesses who testified against the person in any court
29 proceedings;

30 (iii) Any person specified in writing by the prosecuting attorney.
31 Information regarding victims, next of kin, or witnesses requesting the
32 notice, information regarding any other person specified in writing by
33 the prosecuting attorney to receive the notice, and the notice are
34 confidential and shall not be available to the person committed under
35 this chapter; and

36 (iv) The chief of police of the city, if any, and the sheriff of

1 the county, if any, which had jurisdiction of the person on the date of
2 the applicable offense.

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

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

8 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c)
9 following dismissal of a sex, violent, or felony harassment offense
10 pursuant to RCW 10.77.086(4) escapes, the superintendent shall
11 immediately notify, by the most reasonable and expedient means
12 available, the chief of police of the city and the sheriff of the
13 county in which the person escaped and in which the person resided
14 immediately before the person's arrest. If previously requested, the
15 superintendent shall also notify the witnesses and the victim of the
16 sex, violent, or felony harassment offense that was dismissed pursuant
17 to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or
18 71.05.320(3) or the victim's next of kin if the crime was a homicide.
19 In addition, the secretary shall also notify appropriate parties
20 pursuant to (~~RCW 71.05.390(18)~~) section 7(2)(n) of this act. If the
21 person is recaptured, the superintendent shall send notice to the
22 persons designated in this subsection as soon as possible but in no
23 event later than two working days after the department learns of such
24 recapture.

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

28 (4) The superintendent shall send the notices required by this
29 chapter to the last address provided to the department by the
30 requesting party. The requesting party shall furnish the department
31 with a current address.

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

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

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

36 (c) "Next of kin" means a person's spouse, state registered
37 domestic partner, parents, siblings, and children;

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

3 **Sec. 31.** RCW 71.05.445 and 2009 c 320 s 4 are each amended to read
4 as follows:

5 COURT-ORDERED MENTAL HEALTH TREATMENT--NOTIFICATIONS. (1)(a) When
6 a mental health service provider conducts its initial assessment for a
7 person receiving court-ordered treatment, the service provider shall
8 inquire and shall be told by the offender whether he or she is subject
9 to supervision by the department of corrections.

10 (b) When a person receiving court-ordered treatment or treatment
11 ordered by the department of corrections discloses to his or her mental
12 health service provider that he or she is subject to supervision by the
13 department of corrections, the mental health service provider shall
14 notify the department of corrections that he or she is treating the
15 offender and shall notify the offender that his or her community
16 corrections officer will be notified of the treatment, provided that if
17 the offender has received relief from disclosure pursuant to RCW
18 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
19 mental health service provider with a copy of the order granting relief
20 from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132,
21 the mental health service provider is not required to notify the
22 department of corrections that the mental health service provider is
23 treating the offender. The notification may be written or oral and
24 shall not require the consent of the offender. If an oral notification
25 is made, it must be confirmed by a written notification. For purposes
26 of this section, a written notification includes notification by e-mail
27 or facsimile, so long as the notifying mental health service provider
28 is clearly identified.

29 (2) The information to be released to the department of corrections
30 shall include all relevant records and reports, as defined by rule,
31 necessary for the department of corrections to carry out its duties.

32 (3) The department and the department of corrections, in
33 consultation with regional support networks, mental health service
34 providers as defined in RCW 71.05.020, mental health consumers, and
35 advocates for persons with mental illness, shall adopt rules to
36 implement the provisions of this section related to the type and scope
37 of information to be released. These rules shall:

1 (a) Enhance and facilitate the ability of the department of
2 corrections to carry out its responsibility of planning and ensuring
3 community protection with respect to persons subject to sentencing
4 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
5 disclosing information of persons who received mental health services
6 as a minor; and

7 (b) Establish requirements for the notification of persons under
8 the supervision of the department of corrections regarding the
9 provisions of this section.

10 (4) The information received by the department of corrections under
11 this section shall remain confidential and subject to the limitations
12 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
13 72.09.585.

14 (5) No mental health service provider or individual employed by a
15 mental health service provider shall be held responsible for
16 information released to or used by the department of corrections under
17 the provisions of this section or rules adopted under this section
18 (~~((except under RCW 71.05.440))~~).

19 (6) Whenever federal law or federal regulations restrict the
20 release of information contained in the treatment records of any
21 patient who receives treatment for alcoholism or drug dependency, the
22 release of the information may be restricted as necessary to comply
23 with federal law and regulations.

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

27 (8) The department shall, subject to available resources,
28 electronically, or by the most cost-effective means available, provide
29 the department of corrections with the names, last dates of services,
30 and addresses of specific regional support networks and mental health
31 service providers that delivered mental health services to a person
32 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
33 the departments.

34 **Sec. 32.** RCW 72.09.585 and 2011 1st sp.s. c 40 s 24 are each
35 amended to read as follows:

36 MENTAL HEALTH SERVICES, INFORMATION--DEPARTMENT OF CORRECTIONS--
37 REQUIRED INQUIRIES AND DISCLOSURES. (1) When the department is

1 determining an offender's risk management level, the department shall
2 inquire of the offender and shall be told whether the offender is
3 subject to court-ordered treatment for mental health services or
4 chemical dependency services. The department shall request and the
5 offender shall provide an authorization to release information form
6 that meets applicable state and federal requirements and shall provide
7 the offender with written notice that the department will request the
8 offender's mental health and substance abuse treatment information. An
9 offender's failure to inform the department of court-ordered treatment
10 is a violation of the conditions of supervision if the offender is in
11 the community and an infraction if the offender is in confinement, and
12 the violation or infraction is subject to sanctions.

13 (2) When an offender discloses that he or she is subject to court-
14 ordered mental health services or chemical dependency treatment, the
15 department shall provide the mental health services provider or
16 chemical dependency treatment provider with a written request for
17 information and any necessary authorization to release information
18 forms. The written request shall comply with rules adopted by the
19 department of social and health services or protocols developed jointly
20 by the department and the department of social and health services. A
21 single request shall be valid for the duration of the offender's
22 supervision in the community. Disclosures of information related to
23 mental health services made pursuant to a department request shall not
24 require consent of the offender.

25 (3) The information received by the department under RCW 71.05.445
26 or (~~71.34.345~~) section 9 of this act may be released to the
27 indeterminate sentence review board as relevant to carry out its
28 responsibility of planning and ensuring community protection with
29 respect to persons under its jurisdiction. Further disclosure by the
30 indeterminate sentence review board is subject to the limitations set
31 forth in subsections (5) and (6) of this section and must be consistent
32 with the written policy of the indeterminate sentence review board.
33 The decision to disclose or not shall not result in civil liability for
34 the indeterminate sentence review board or staff assigned to perform
35 board-related duties provided that the decision was reached in good
36 faith and without gross negligence.

37 (4) The information received by the department under RCW 71.05.445
38 or (~~71.34.345~~) section 9 of this act may be used to meet the

1 statutory duties of the department to provide evidence or report to the
2 court. Disclosure to the public of information provided to the court
3 by the department related to mental health services shall be limited in
4 accordance with RCW 9.94A.500 or this section.

5 (5) The information received by the department under RCW 71.05.445
6 or (~~71.34.345~~) section 9 of this act may be disclosed by the
7 department to other state and local agencies as relevant to plan for
8 and provide offenders transition, treatment, and supervision services,
9 or as relevant and necessary to protect the public and counteract the
10 danger created by a particular offender, and in a manner consistent
11 with the written policy established by the secretary. The decision to
12 disclose or not shall not result in civil liability for the department
13 or its employees so long as the decision was reached in good faith and
14 without gross negligence. The information received by a state or local
15 agency from the department shall remain confidential and subject to the
16 limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34
17 RCW and, subject to these limitations, may be released only as relevant
18 and necessary to counteract the danger created by a particular
19 offender.

20 (6) The information received by the department under RCW 71.05.445
21 or (~~71.34.345~~) section 9 of this act may be disclosed by the
22 department to individuals only with respect to offenders who have been
23 determined by the department to have a high risk of reoffending by a
24 risk assessment, as defined in RCW 9.94A.030, only as relevant and
25 necessary for those individuals to take reasonable steps for the
26 purpose of self-protection, or as provided in RCW 72.09.370(2). The
27 information may not be disclosed for the purpose of engaging the public
28 in a system of supervision, monitoring, and reporting offender behavior
29 to the department. The department must limit the disclosure of
30 information related to mental health services to the public to
31 descriptions of an offender's behavior, risk he or she may present to
32 the community, and need for mental health treatment, including
33 medications, and shall not disclose or release to the public copies of
34 treatment documents or records, except as otherwise provided by law.
35 All disclosure of information to the public must be done in a manner
36 consistent with the written policy established by the secretary. The
37 decision to disclose or not shall not result in civil liability for the
38 department or its employees so long as the decision was reached in good

1 faith and without gross negligence. Nothing in this subsection
2 prevents any person from reporting to law enforcement or the department
3 behavior that he or she believes creates a public safety risk.

4 **Sec. 33.** RCW 9.94A.500 and 2008 c 231 s 2 are each amended to read
5 as follows:

6 SENTENCING HEARINGS--PREVENTION OF WRONGFUL DISCLOSURE OF MENTAL
7 HEALTH SERVICES RECORDS AND INFORMATION. (1) Before imposing a
8 sentence upon a defendant, the court shall conduct a sentencing
9 hearing. The sentencing hearing shall be held within forty court days
10 following conviction. Upon the motion of either party for good cause
11 shown, or on its own motion, the court may extend the time period for
12 conducting the sentencing hearing.

13 Except in cases where the defendant shall be sentenced to a term of
14 total confinement for life without the possibility of release or, when
15 authorized by RCW 10.95.030 for the crime of aggravated murder in the
16 first degree, sentenced to death, the court may order the department to
17 complete a risk assessment report. If available before sentencing, the
18 report shall be provided to the court.

19 Unless specifically waived by the court, the court shall order the
20 department to complete a chemical dependency screening report before
21 imposing a sentence upon a defendant who has been convicted of a
22 violation of the uniform controlled substances act under chapter 69.50
23 RCW, a criminal solicitation to commit such a violation under chapter
24 9A.28 RCW, or any felony where the court finds that the offender has a
25 chemical dependency that has contributed to his or her offense. In
26 addition, the court shall, at the time of plea or conviction, order the
27 department to complete a presentence report before imposing a sentence
28 upon a defendant who has been convicted of a felony sexual offense.
29 The department of corrections shall give priority to presentence
30 investigations for sexual offenders. If the court determines that the
31 defendant may be a mentally ill person as defined in RCW 71.24.025,
32 although the defendant has not established that at the time of the
33 crime he or she lacked the capacity to commit the crime, was
34 incompetent to commit the crime, or was insane at the time of the
35 crime, the court shall order the department to complete a presentence
36 report before imposing a sentence.

1 The court shall consider the risk assessment report and presentence
2 reports, if any, including any victim impact statement and criminal
3 history, and allow arguments from the prosecutor, the defense counsel,
4 the offender, the victim, the survivor of the victim, or a
5 representative of the victim or survivor, and an investigative law
6 enforcement officer as to the sentence to be imposed.

7 A criminal history summary relating to the defendant from the
8 prosecuting authority or from a state, federal, or foreign governmental
9 agency shall be prima facie evidence of the existence and validity of
10 the convictions listed therein. If the court is satisfied by a
11 preponderance of the evidence that the defendant has a criminal
12 history, the court shall specify the convictions it has found to exist.
13 All of this information shall be part of the record. Copies of all
14 risk assessment reports and presentence reports presented to the
15 sentencing court and all written findings of facts and conclusions of
16 law as to sentencing entered by the court shall be sent to the
17 department by the clerk of the court at the conclusion of the
18 sentencing and shall accompany the offender if the offender is
19 committed to the custody of the department. Court clerks shall
20 provide, without charge, certified copies of documents relating to
21 criminal convictions requested by prosecuting attorneys.

22 (2) To prevent wrongful disclosure of information and records
23 related to mental health services, as ((defined)) described in RCW
24 71.05.445 and ((71.34.345)) section 9 of this act, a court may take
25 only those steps necessary during a sentencing hearing or any hearing
26 in which the department presents information related to mental health
27 services to the court. The steps may be taken on motion of the
28 defendant, the prosecuting attorney, or on the court's own motion. The
29 court may seal the portion of the record relating to information
30 relating to mental health services, exclude the public from the hearing
31 during presentation or discussion of information and records relating
32 to mental health services, or grant other relief to achieve the result
33 intended by this subsection, but nothing in this subsection shall be
34 construed to prevent the subsequent release of information and records
35 related to mental health services as authorized by RCW 71.05.445,
36 ((71.34.345)) section 9 of this act, or 72.09.585. Any person who
37 otherwise is permitted to attend any hearing pursuant to chapter 7.69

1 or 7.69A RCW shall not be excluded from the hearing solely because the
2 department intends to disclose or discloses information related to
3 mental health services.

4 NEW SECTION. **Sec. 34.** REPEALERS. The following acts or parts of
5 acts are each repealed:

6 (1) RCW 70.24.105 (Disclosure of HIV antibody test or testing or
7 treatment of sexually transmitted diseases--Exchange of medical
8 information) and 2011 c 232 s 1;

9 (2) RCW 71.05.390 (Confidential information and records--
10 Disclosure) and 2011 c 305 s 4;

11 (3) RCW 71.05.640 (Treatment records--Access procedures) and 2005
12 c 504 s 712, 2005 c 504 s 113, 2000 c 94 s 11, & 1999 c 13 s 9;

13 (4) RCW 71.05.385 (Information subject to disclosure to authorized
14 persons--Restrictions) and 2011 1st sp.s. c 40 s 23 & 2009 c 320 s 2;

15 (5) RCW 71.05.420 (Records of disclosure) and 2009 c 217 s 7, 2005
16 c 504 s 110, 1990 c 3 s 113, & 1973 1st ex.s. c 142 s 47;

17 (6) RCW 71.05.440 (Action for unauthorized release of confidential
18 information--Liquidated damages--Treble damages--Injunction) and 1990
19 c 3 s 114, 1974 ex.s. c 145 s 28, & 1973 1st ex.s. c 142 s 49;

20 (7) RCW 71.05.427 (Persons committed following dismissal of sex
21 offense--Release of information authorized) and 1990 c 3 s 110;

22 (8) RCW 71.05.630 (Treatment records--Confidential--Release) and
23 2009 c 398 s 1, 2009 c 320 s 5, 2009 c 217 s 8, 2007 c 191 s 1, 2005 c
24 504 s 112, 2000 c 75 s 5, & 1989 c 205 s 13;

25 (9) RCW 71.05.690 (Treatment records--Rules) and 2005 c 504 s 714
26 & 1999 c 13 s 12;

27 (10) RCW 71.34.340 (Information concerning treatment of minors
28 confidential--Disclosure--Admissible as evidence with written consent)
29 and 2011 c 305 s 9, 2005 c 453 s 6, 2000 c 75 s 7, & 1985 c 354 s 18;

30 (11) RCW 71.34.345 (Mental health services information--Release to
31 department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, &
32 2000 c 75 s 2; and

33 (12) RCW 71.34.350 (Disclosure of information or records--Required
34 entries in minor's clinical record) and 1985 c 354 s 22.

35 NEW SECTION. **Sec. 35.** EFFECTIVE DATE. Except for section 5 of
36 this act, this act takes effect July 1, 2014.

1 NEW SECTION. **Sec. 36.** EMERGENCY CLAUSE--EFFECTIVE DATE. Section
2 5 of 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 immediately."

ESHB 1679 - S COMM AMD
By Committee on Health Care

ADOPTED 4/17/13

5 On page 1, line 1 of the title, after "information;" strike the
6 remainder of the title and insert "amending RCW 70.02.010, 70.02.020,
7 70.02.050, 70.02.900, 71.05.660, 71.05.680, 71.05.620, 71.24.035,
8 43.185C.030, 70.05.070, 70.24.450, 74.13.280, 74.13.289, 71.05.425,
9 71.05.445, 72.09.585, and 9.94A.500; adding new sections to chapter
10 70.02 RCW; repealing RCW 70.24.105, 71.05.390, 71.05.640, 71.05.385,
11 71.05.420, 71.05.440, 71.05.427, 71.05.630, 71.05.690, 71.34.340,
12 71.34.345, and 71.34.350; prescribing penalties; providing an effective
13 date; and declaring an emergency."

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