

ESHB 1679 - S COMM AMD  
By Committee on Health Care

ADOPTED AS AMENDED 04/17/2013

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) "Department" means the department of social and health  
19 services.

20 (6) "Designated mental health professional" has the same meaning as  
21 in RCW 71.05.020 or 71.34.020, as applicable.

22 (7) "Detention" or "detain" has the same meaning as in RCW  
23 71.05.020.

24 (8) "Directory information" means information disclosing the  
25 presence, and for the purpose of identification, the name, location  
26 within a health care facility, and the general health condition of a  
27 particular patient who is a patient in a health care facility or who is  
28 currently receiving emergency health care in a health care facility.

29 ((+3)) (9) "Discharge" has the same meaning as in RCW 71.05.020.

1        (10) "Evaluation and treatment facility" has the same meaning as in  
2 RCW 71.05.020 or 71.34.020, as applicable.

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

10        ~~((+4))~~ (12) "General health condition" means the patient's health  
11 status described in terms of "critical," "poor," "fair," "good,"  
12 "excellent," or terms denoting similar conditions.

13        ~~((+5))~~ (13) "Health care" means any care, service, or procedure  
14 provided by a health care provider:

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

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

18        ~~((+6))~~ (14) "Health care facility" means a hospital, clinic,  
19 nursing home, laboratory, office, or similar place where a health care  
20 provider provides health care to patients.

21        ~~((+7))~~ (15) "Health care information" means any information,  
22 whether oral or recorded in any form or medium, that identifies or can  
23 readily be associated with the identity of a patient and directly  
24 relates to the patient's health care, including a patient's  
25 deoxyribonucleic acid and identified sequence of chemical base pairs.  
26 The term includes any required accounting of disclosures of health care  
27 information.

28        ~~((+8))~~ (16) "Health care operations" means any of the following  
29 activities of a health care provider, health care facility, or third-  
30 party payor to the extent that the activities are related to functions  
31 that make an entity a health care provider, a health care facility, or  
32 a third-party payor:

33        (a) Conducting: Quality assessment and improvement activities,  
34 including outcomes evaluation and development of clinical guidelines,  
35 if the obtaining of generalizable knowledge is not the primary purpose  
36 of any studies resulting from such activities; population-based  
37 activities relating to improving health or reducing health care costs,

1 protocol development, case management and care coordination, contacting  
2 of health care providers and patients with information about treatment  
3 alternatives; and related functions that do not include treatment;

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

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

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

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

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

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

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

34 (iii) Resolution of internal grievances;

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

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

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

8 ((+9)) (17) "Health care provider" means a person who is licensed,  
9 certified, registered, or otherwise authorized by the law of this state  
10 to provide health care in the ordinary course of business or practice  
11 of a profession.

12 ((+10)) (18) "Human immunodeficiency virus" or "HIV" has the same  
13 meaning as in RCW 70.24.017.

14 (19) "Imminent" has the same meaning as in RCW 71.05.020.

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

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

36 (22) "Institutional review board" means any board, committee, or  
37 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))~~ (23) "Legal counsel" has the same meaning as in RCW  
5 71.05.020.

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

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

10 ~~((+12))~~ (26) "Mental health professional" has the same meaning as  
11 in RCW 71.05.020.

12 (27) "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 (28) "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 (29) "Minor" has the same meaning as in RCW 71.34.020.

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

35 (31) "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))~~ (32) "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+)) (33) "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))~~ (34) "Professional person" has the same meaning as in RCW  
2 71.05.020.

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

5        (36) "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))~~ (37) "Release" has the same meaning as in RCW 71.05.020.

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

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

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

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

26        (42) "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))~~ (43) "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 must be confidential;

37       ~~((e) To immediate family members of the patient, including a~~  
38 ~~patient's state registered domestic partner, or any other individual~~

1 with whom the patient is known to have a close personal relationship,  
2 if made in accordance with good medical or other professional practice,  
3 unless the patient has instructed the health care provider or health  
4 care facility in writing not to make the disclosure;

5 (f) To a health care provider or health care facility who is the  
6 successor in interest to the health care provider or health care  
7 facility maintaining the health care information;

8 (g) For use in a research project that an institutional review  
9 board has determined:

10 (i) Is of sufficient importance to outweigh the intrusion into the  
11 privacy of the patient that would result from the disclosure;

12 (ii) Is impracticable without the use or disclosure of the health  
13 care information in individually identifiable form;

14 (iii) Contains reasonable safeguards to protect the information  
15 from redisclosure;

16 (iv) Contains reasonable safeguards to protect against identifying,  
17 directly or indirectly, any patient in any report of the research  
18 project; and

19 (v) Contains procedures to remove or destroy at the earliest  
20 opportunity, consistent with the purposes of the project, information  
21 that would enable the patient to be identified, unless an institutional  
22 review board authorizes retention of identifying information for  
23 purposes of another research project;

24 (h) To a person who obtains information for purposes of an audit,  
25 if that person agrees in writing to:

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

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

33 (i)) (d) To an official of a penal or other custodial institution  
34 in which the patient is detained;

35 ((j) To provide directory information, unless the patient has  
36 instructed the health care provider or health care facility not to make  
37 the disclosure;

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

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

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

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

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

30       (a) To federal, state, or local public health authorities, to the  
31 extent the health care provider is required by law to report health  
32 care information; when needed to determine compliance with state or  
33 federal licensure, certification or registration rules or laws, or to  
34 investigate unprofessional conduct or ability to practice with  
35 reasonable skill and safety under chapter 18.130 RCW. Any health care  
36 information obtained under this subsection is exempt from public  
37 inspection and copying pursuant to chapter 42.56 RCW; or

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

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

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

14       ~~(i) The name of the patient;~~

15       ~~(ii) The patient's residence;~~

16       ~~(iii) The patient's sex;~~

17       ~~(iv) The patient's age;~~

18       ~~(v) The patient's condition;~~

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

21       ~~(vii) Whether the patient was conscious when admitted;~~

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

24       ~~(ix) Whether the patient has been transferred to another facility;~~  
25 ~~and~~

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

27       ~~(d) To county coroners and medical examiners for the investigations~~  
28 ~~of deaths;~~

29       ~~(e) Pursuant to compulsory process in accordance with RCW~~  
30 ~~70.02.060.~~

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

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

37       DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--PERMITTED AND MANDATORY

1 DISCLOSURES. (1) In addition to the disclosures authorized by RCW  
2 70.02.050 and section 5 of this act, a health care provider or health  
3 care facility may disclose health care information, except for  
4 information and records related to sexually transmitted diseases and  
5 information related to mental health services which are addressed by  
6 sections 6 through 10 of this act, about a patient without the  
7 patient's authorization, to:

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

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

19 (c) A health care provider or health care facility who is the  
20 successor in interest to the health care provider or health care  
21 facility maintaining the health care information;

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

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

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

31 (e) Provide directory information, unless the patient has  
32 instructed the health care provider or health care facility not to make  
33 the disclosure;

34 (f) Fire, police, sheriff, or other public authority, that brought,  
35 or caused to be brought, the patient to the health care facility or  
36 health care provider if the disclosure is limited to the patient's  
37 name, residence, sex, age, occupation, condition, diagnosis, estimated

1 or actual discharge date, or extent and location of injuries as  
2 determined by a physician, and whether the patient was conscious when  
3 admitted;

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

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

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

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

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

37 (i) The name of the patient;

38 (ii) The patient's residence;

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

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.02 RCW

15 to read as follows:

16 DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--RESEARCH. (1) A health

17 care provider or health care facility may disclose health care

18 information about a patient without the patient's authorization to the

19 extent a recipient needs to know the information, if the disclosure is

20 for use in a research project that an institutional review board has

21 determined:

22 (a) Is of sufficient importance to outweigh the intrusion into the

23 privacy of the patient that would result from the disclosure;

24 (b) Is impracticable without the use or disclosure of the health

25 care information in individually identifiable form;

26 (c) Contains reasonable safeguards to protect the information from

27 redisclosure;

28 (d) Contains reasonable safeguards to protect against identifying,

29 directly or indirectly, any patient in any report of the research

30 project; and

31 (e) Contains procedures to remove or destroy at the earliest

32 opportunity, consistent with the purposes of the project, information

33 that would enable the patient to be identified, unless an institutional

34 review board authorizes retention of identifying information for

35 purposes of another research project.

36 (2) In addition to the disclosures required by RCW 70.02.050 and

1 section 4 of this act, a health care provider or health care facility  
2 shall disclose health care information about a patient without the  
3 patient's authorization if:

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

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

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

11 SEXUALLY TRANSMITTED DISEASES--PERMITTED AND MANDATORY DISCLOSURES.

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

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

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

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

31 (c) A health facility or health care provider that procures,  
32 processes, distributes, or uses: (i) A human body part, tissue, or  
33 blood from a deceased person with respect to medical information  
34 regarding that person; (ii) semen, including that was provided prior to  
35 March 23, 1988, for the purpose of artificial insemination; or (iii)  
36 blood specimens;



1 (d) Any state or local public health officer conducting an  
2 investigation pursuant to RCW 70.24.024, so long as the record was  
3 obtained by means of court-ordered HIV testing pursuant to RCW  
4 70.24.340 or 70.24.024;

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

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

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

33 (h) Claims management personnel employed by or associated with an  
34 insurer, health care service contractor, health maintenance  
35 organization, self-funded health plan, state administered health care  
36 claims payer, or any other payer of health care claims where such  
37 disclosure is to be used solely for the prompt and accurate evaluation  
38 and payment of medical or related claims. Information released under

1 this subsection must be confidential and may not be released or  
2 available to persons who are not involved in handling or determining  
3 medical claims payment; and

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

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

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

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

36 (b) The sexually transmitted disease status of a person detained in  
37 a jail who has had a mandatory test conducted pursuant to RCW  
38 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the

1 local public health officer to a jail health care administrator or  
2 infection control coordinator. The information made available to a  
3 health care administrator under this subsection (4)(b) may be used only  
4 for disease prevention or control and for protection of the safety and  
5 security of the staff, offenders, detainees, and the public. The  
6 information may be submitted to transporting officers and receiving  
7 facilities according to the provisions of (d) and (e) of this  
8 subsection.

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

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

34 (e) The staff member must also be informed whether the offender or  
35 detained person had any other communicable disease, as defined in RCW  
36 72.09.251(3), when the staff person was substantially exposed to the  
37 offender's or detainee's bodily fluids.

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

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

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

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

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

33 MENTAL HEALTH SERVICES, CONFIDENTIALITY OF RECORDS--PERMITTED  
34 DISCLOSURES. (1) Except as provided in this section, RCW 70.02.050,  
35 71.05.445, 70.96A.150, 74.09.295, sections 5, 8, 9, and 10 of this act,  
36 or pursuant to a valid authorization under RCW 70.02.030, the fact of  
37 admission to a provider for mental health services and all information

1 and records compiled, obtained, or maintained in the course of  
2 providing mental health services to either voluntary or involuntary  
3 recipients of services at public or private agencies must be  
4 confidential.

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

8 (a) In communications between qualified professional persons to  
9 meet the requirements of chapter 71.05 RCW, in the provision of  
10 services or appropriate referrals, or in the course of guardianship  
11 proceedings if provided to a professional person:

- 12 (i) Employed by the facility;
- 13 (ii) Who has medical responsibility for the patient's care;
- 14 (iii) Who is a designated mental health professional;
- 15 (iv) Who is providing services under chapter 71.24 RCW;
- 16 (v) Who is employed by a state or local correctional facility where  
17 the person is confined or supervised; or
- 18 (vi) Who is providing evaluation, treatment, or follow-up services  
19 under chapter 10.77 RCW;

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

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

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

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

33 (B) A statement evaluating the mental and physical condition of the  
34 patient, and a statement of the probable duration of the patient's  
35 confinement, if such information is requested by the next of kin,  
36 attorney, personal representative, guardian, or conservator; and

37 (iii) Other information requested by the next of kin or attorney as

1 may be necessary to decide whether or not proceedings should be  
2 instituted to appoint a guardian or conservator;

3 (d)(i) To the courts as necessary to the administration of chapter  
4 71.05 RCW or to a court ordering an evaluation or treatment under  
5 chapter 10.77 RCW solely for the purpose of preventing the entry of any  
6 evaluation or treatment order that is inconsistent with any order  
7 entered under chapter 71.05 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (l) To mark headstones or otherwise memorialize patients interred  
32 at state hospital cemeteries. The department of social and health  
33 services shall make available the name, date of birth, and date of  
34 death of patients buried in state hospital cemeteries fifty years after  
35 the death of a patient;

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

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

6 (ii) The law enforcement and prosecuting attorneys may only release  
7 the information obtained to the person's attorney as required by court  
8 rule and to a jury or judge, if a jury is waived, that presides over  
9 any trial at which the person is charged with violating RCW  
10 9.41.040(2)(a)(ii);

11 (iii) Disclosure under this subsection is mandatory for the  
12 purposes of the federal health insurance portability and accountability  
13 act;

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

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

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

32 (q) Within the treatment facility where the patient is receiving  
33 treatment, confidential information may be disclosed to persons  
34 employed, serving in bona fide training programs, or participating in  
35 supervised volunteer programs, at the facility when it is necessary to  
36 perform their duties;

37 (r) Within the department as necessary to coordinate treatment for



1 mental illness, developmental disabilities, alcoholism, or drug abuse  
2 of persons who are under the supervision of the department;

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

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

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

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

30 (w) To the person's counsel or guardian ad litem, without  
31 modification, at any time in order to prepare for involuntary  
32 commitment or recommitment proceedings, reexaminations, appeals, or  
33 other actions relating to detention, admission, commitment, or  
34 patient's rights under chapter 71.05 RCW;

35 (x) To staff members of the protection and advocacy agency or to  
36 staff members of a private, nonprofit corporation for the purpose of  
37 protecting and advocating the rights of persons with mental disorders  
38 or developmental disabilities. Resource management services may limit

1 the release of information to the name, birthdate, and county of  
2 residence of the patient, information regarding whether the patient was  
3 voluntarily admitted, or involuntarily committed, the date and place of  
4 admission, placement, or commitment, the name and address of a guardian  
5 of the patient, and the date and place of the guardian's appointment.  
6 Any staff member who wishes to obtain additional information must  
7 notify the patient's resource management services in writing of the  
8 request and of the resource management services' right to object. The  
9 staff member shall send the notice by mail to the guardian's address.  
10 If the guardian does not object in writing within fifteen days after  
11 the notice is mailed, the staff member may obtain the additional  
12 information. If the guardian objects in writing within fifteen days  
13 after the notice is mailed, the staff member may not obtain the  
14 additional information;

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

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

32 "As a condition of conducting evaluation or research concerning  
33 persons who have received services from (fill in the facility, agency,  
34 or person) I, . . . . , agree not to divulge, publish, or otherwise  
35 make known to unauthorized persons or the public any information  
36 obtained in the course of such evaluation or research regarding persons  
37 who have received services such that the person who received such  
38 services is identifiable.

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

3 /s/ . . . . ."

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

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

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

18 (5) The fact of admission to a provider of mental health services,  
19 as well as all records, files, evidence, findings, or orders made,  
20 prepared, collected, or maintained pursuant to chapter 71.05 RCW are  
21 not admissible as evidence in any legal proceeding outside that chapter  
22 without the written authorization of the person who was the subject of  
23 the proceeding except as provided in section 10 of this act, in a  
24 subsequent criminal prosecution of a person committed pursuant to RCW  
25 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant  
26 to chapter 10.77 RCW due to incompetency to stand trial, in a civil  
27 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of  
28 a minor, a guardianship or dependency proceeding. The records and  
29 files maintained in any court proceeding pursuant to chapter 71.05 RCW  
30 must be confidential and available subsequent to such proceedings only  
31 to the person who was the subject of the proceeding or his or her  
32 attorney. In addition, the court may order the subsequent release or  
33 use of such records or files only upon good cause shown if the court  
34 finds that appropriate safeguards for strict confidentiality are and  
35 will be maintained.

36 (6)(a) Except as provided in RCW 4.24.550, any person may bring an  
37 action against an individual who has willfully released confidential

1 information or records concerning him or her in violation of the  
2 provisions of this section, for the greater of the following amounts:

3 (i) One thousand dollars; or

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

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

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

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

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

17 MENTAL HEALTH SERVICES--MINORS--PERMITTED DISCLOSURES. The fact of  
18 admission and all information and records related to mental health  
19 services obtained through treatment under chapter 71.34 RCW is  
20 confidential, except as authorized in RCW 70.02.050 and sections 5, 7,  
21 9, and 10 of this act. Such confidential information may be disclosed  
22 only:

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

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

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

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

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

35 (6) To law enforcement officers, public health officers, relatives,  
36 and other governmental law enforcement agencies, if a minor has escaped  
37 from custody, disappeared from an evaluation and treatment facility,

1 violated conditions of a less restrictive treatment order, or failed to  
2 return from an authorized leave, and then only such information as may  
3 be necessary to provide for public safety or to assist in the  
4 apprehension of the minor. The officers are obligated to keep the  
5 information confidential in accordance with this chapter;

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

12 "As a condition of conducting evaluation or research concerning  
13 persons who have received services from (fill in the facility, agency,  
14 or person) I, . . . . ., agree not to divulge, publish, or otherwise  
15 make known to unauthorized persons or the public any information  
16 obtained in the course of such evaluation or research regarding minors  
17 who have received services in a manner such that the minor is  
18 identifiable.

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

21 /s/ . . . . . ";

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

28 (9) To appropriate law enforcement agencies and to a person, when  
29 the identity of the person is known to the public or private agency,  
30 whose health and safety has been threatened, or who is known to have  
31 been repeatedly harassed, by the patient. The person may designate a  
32 representative to receive the disclosure. The disclosure must be made  
33 by the professional person in charge of the public or private agency or  
34 his or her designee and must include the dates of admission, discharge,  
35 authorized or unauthorized absence from the agency's facility, and only  
36 any other information that is pertinent to the threat or harassment.  
37 The agency or its employees are not civilly liable for the decision to

1 disclose or not, so long as the decision was reached in good faith and  
2 without gross negligence;

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

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

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

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

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

18 (b) The law enforcement and prosecuting attorneys may only release  
19 the information obtained to the person's attorney as required by court  
20 rule and to a jury or judge, if a jury is waived, that presides over  
21 any trial at which the person is charged with violating RCW  
22 9.41.040(2)(a)(ii);

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

25 (14) This section may not be construed to prohibit the compilation  
26 and publication of statistical data for use by government or  
27 researchers under standards, including standards to assure maintenance  
28 of confidentiality, set forth by the secretary of the department of  
29 social and health services. The fact of admission and all information  
30 obtained pursuant to chapter 71.34 RCW are not admissible as evidence  
31 in any legal proceeding outside chapter 71.34 RCW, except guardianship  
32 or dependency, without the written consent of the minor or the minor's  
33 parent;

34 (15) For the purpose of a correctional facility participating in  
35 the postinstitutional medical assistance system supporting the  
36 expedited medical determinations and medical suspensions as provided in  
37 RCW 74.09.555 and 74.09.295;

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

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

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

14        (2) The information to be released to the department of corrections  
15 must include all relevant records and reports, as defined by rule,  
16 necessary for the department of corrections to carry out its duties,  
17 including those records and reports identified in subsection (1) of  
18 this section.

19        (3) The department shall, subject to available resources,  
20 electronically, or by the most cost-effective means available, provide  
21 the department of corrections with the names, last dates of services,  
22 and addresses of specific regional support networks and mental health  
23 service agencies that delivered mental health services to a person  
24 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between  
25 the departments.

26        (4) The department and the department of corrections, in  
27 consultation with regional support networks, mental health service  
28 agencies as defined in RCW 70.02.010, mental health consumers, and  
29 advocates for persons with mental illness, shall adopt rules to  
30 implement the provisions of this section related to the type and scope  
31 of information to be released.    These rules must:

32        (a) Enhance and facilitate the ability of the department of  
33 corrections to carry out its responsibility of planning and ensuring  
34 community protection with respect to persons subject to sentencing  
35 under chapter 9.94A or 9.95 RCW, including accessing and releasing or  
36 disclosing information of persons who received mental health services  
37 as a minor; and

1 (b) Establish requirements for the notification of persons under  
2 the supervision of the department of corrections regarding the  
3 provisions of this section.

4 (5) The information received by the department of corrections under  
5 this section must remain confidential and subject to the limitations on  
6 disclosure outlined in chapter 71.34 RCW, except as provided in RCW  
7 72.09.585.

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

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

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

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

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

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

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

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

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

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

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



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

6 (2) The information subject to release under subsection (1) of this  
7 section must be released to law enforcement officers, personnel of a  
8 county or city jail, designated mental health professionals, public  
9 health officers, therapeutic court personnel as defined in RCW  
10 71.05.020, or personnel of the department of corrections, including the  
11 indeterminate sentence review board and personnel assigned to perform  
12 board-related duties, when such information is requested during the  
13 course of business and for the purpose of carrying out the  
14 responsibilities of the requesting person's office. No mental health  
15 service agency or person employed by a mental health service agency, or  
16 its legal counsel, may be liable for information released to or used  
17 under the provisions of this section or rules adopted under this  
18 section except under RCW 71.05.680.

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

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

25 (i) Completing presentence investigations or risk assessment  
26 reports;

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

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

30 (iv) Planning for and provision of supervision of an offender,  
31 including decisions related to sanctions for violations of conditions  
32 of community supervision; and

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

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

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

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

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

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

16 (ii) The information may be shared with a prosecuting attorney  
17 acting in an advisory capacity for a person who receives information  
18 under this section. A prosecuting attorney under this subsection is  
19 subject to the same restrictions and confidentiality limitations as the  
20 person who requested the information; and

21 (iii) As provided in RCW 72.09.585.

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

29 (5) In the event of an emergency situation that poses a significant  
30 risk to the public or the offender, a mental health service agency, or  
31 its legal counsel, shall release information related to mental health  
32 services delivered to the offender and, if known, information regarding  
33 where the offender is likely to be found to the department of  
34 corrections or law enforcement upon request. The initial request may  
35 be written or oral. All oral requests must be subsequently confirmed  
36 in writing. Information released in response to an oral request is  
37 limited to a statement as to whether the offender is or is not being

1 treated by the mental health service agency and the address or  
2 information about the location or whereabouts of the offender.

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

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

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

14 (9) In collaboration with interested organizations, the department  
15 shall develop a standard form for requests for information related to  
16 mental health services made under this section and a standard format  
17 for information provided in response to the requests. Consistent with  
18 the goals of the health information privacy provisions of the federal  
19 health insurance portability and accountability act, in developing the  
20 standard form for responsive information, the department shall design  
21 the form in such a way that the information disclosed is limited to the  
22 minimum necessary to serve the purpose for which the information is  
23 requested.

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

26 HEALTH CARE INFORMATION--USE OR DISCLOSURE PROHIBITED. (1) No  
27 person who receives health care information for health care education,  
28 or to provide planning, quality assurance, peer review, or  
29 administrative, legal, financial, or actuarial services, or other  
30 health care operations for or on behalf of a health care provider or  
31 health care facility, may use or disclose any health care information  
32 received from the health care provider or health care facility in any  
33 manner that is inconsistent with the duties of the health care provider  
34 or health care facility under this chapter.

35 (2) A health care provider or health care facility that has a  
36 contractual relationship with a person to provide services described  
37 under subsection (1) of this section must terminate the contractual

1 relationship with the person if the health care provider or health care  
2 facility learns that the person has engaged in a pattern of activity  
3 that violates the person's duties under subsection (1) of this section,  
4 unless the person took reasonable steps to correct the breach of  
5 confidentiality or has discontinued the violating activity.

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

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

- 11 (1) Use or disclose health care information for marketing or fund-  
12 raising purposes, unless permitted by federal law;
- 13 (2) Sell health care information to a third party, except in a form  
14 that is deidentified and aggregated; or
- 15 (3) Sell health care information to a third party, except for the  
16 following purposes:
- 17 (a) Treatment or payment;
  - 18 (b) Sale, transfer, merger, or consolidation of a business;
  - 19 (c) Remuneration to a third party for services;
  - 20 (d) Disclosures required by law;
  - 21 (e) Providing access to or accounting of disclosures to an  
22 individual;
  - 23 (f) Public health purposes;
  - 24 (g) Research;
  - 25 (h) With an individual's authorization;
  - 26 (i) Where a reasonable cost-based fee is paid to prepare and  
27 transmit health information, where authority to disclose the  
28 information is provided in this chapter.

29 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.02 RCW  
30 to read as follows:

31 AGENCY RULE-MAKING REQUIREMENTS. All state or local agencies  
32 obtaining patient health care information pursuant to RCW 70.02.050 and  
33 sections 4 through 8 of this act that are not health care facilities or  
34 providers shall adopt rules establishing their record acquisition,  
35 retention, and security policies that are consistent with this chapter.

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

3        SEXUALLY TRANSMITTED DISEASES--REQUIRED STATEMENT UPON DISCLOSURE.  
4 Whenever disclosure is made of information and records related to  
5 sexually transmitted diseases pursuant to this chapter, except for RCW  
6 70.02.050(1)(a) and section 6 (2) (a) and (b) and (7) of this act, it  
7 must be accompanied by a statement in writing which includes the  
8 following or substantially similar language:    "This information has  
9 been disclosed to you from records whose confidentiality is protected  
10 by state law.    State law prohibits you from making any further  
11 disclosure of it without the specific written authorization of the  
12 person to whom it pertains, or as otherwise permitted by state law.    A  
13 general authorization for the release of medical or other information  
14 is NOT sufficient for this purpose."    An oral disclosure must be  
15 accompanied or followed by such a notice within ten days.

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

18        MENTAL HEALTH SERVICES--RECORDS.    (1) Resource management services  
19 shall establish procedures to provide reasonable and timely access to  
20 individual mental health treatment records.    However, access may not be  
21 denied at any time to records of all medications and somatic treatments  
22 received by the person.

23        (2) Following discharge, a person who has received mental health  
24 services has a right to a complete record of all medications and  
25 somatic treatments prescribed during evaluation, admission, or  
26 commitment and to a copy of the discharge summary prepared at the time  
27 of his or her discharge.    A reasonable and uniform charge for  
28 reproduction may be assessed.

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

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

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

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

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

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

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

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

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

23       DEPARTMENT OF SOCIAL AND HEALTH SERVICES--RELEASE OF INFORMATION TO  
24   PROTECT THE PUBLIC.    In addition to any other information required to  
25   be released under this chapter, the department of social and health  
26   services is authorized, pursuant to RCW 4.24.550, to release relevant  
27   information that is necessary to protect the public, concerning a  
28   specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c)  
29   following dismissal of a sex offense as defined in RCW 9.94A.030.

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

32       CONFLICTING LAWS.    (1) This chapter does not restrict a health care  
33   provider, a third- party payor, or an insurer regulated under Title 48

1 RCW from complying with obligations imposed by federal or state health  
2 care payment programs or federal or state law.

3 (2) This chapter does not modify the terms and conditions of  
4 disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.96A,  
5 (~~71.05, 71.34,~~) and 74.09 RCW and rules adopted under these  
6 provisions.

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

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

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

16 TREATMENT RECORDS--ACCESS UNDER FALSE PRETENSES, PENALTY. Any  
17 person who requests or obtains confidential information pursuant to RCW  
18 71.05.620 (~~through 71.05.690~~) under false pretenses shall be guilty  
19 of a gross misdemeanor.

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

22 COURT FILES AND RECORDS. (1) The files and records of court  
23 proceedings under this chapter and chapters 70.96A, 71.34, and 70.96B  
24 RCW shall be closed but shall be accessible to any person who is the  
25 subject of a petition and to the person's attorney, guardian ad litem,  
26 resource management services, or service providers authorized to  
27 receive such information by resource management services.

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

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

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

33 (2) The secretary shall provide for public, client, and licensed

1 service provider participation in developing the state mental health  
2 program, developing contracts with regional support networks, and any  
3 waiver request to the federal government under medicaid.

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

8 (4) The secretary shall be designated as the regional support  
9 network if the regional support network fails to meet state minimum  
10 standards or refuses to exercise responsibilities under RCW 71.24.045,  
11 until such time as a new regional support network is designated under  
12 RCW 71.24.320.

13 (5) The secretary shall:

14 (a) Develop a biennial state mental health program that  
15 incorporates regional biennial needs assessments and regional mental  
16 health service plans and state services for adults and children with  
17 mental illness. The secretary shall also develop a six-year state  
18 mental health plan;

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

26 (A) Outpatient services;

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

28 (C) Day treatment for persons with mental illness which includes  
29 training in basic living and social skills, supported work, vocational  
30 rehabilitation, and day activities. Such services may include  
31 therapeutic treatment. In the case of a child, day treatment includes  
32 age-appropriate basic living and social skills, educational and  
33 prevocational services, day activities, and therapeutic treatment;

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

36 (E) Employment services, which may include supported employment,  
37 transitional work, placement in competitive employment, and other work-  
38 related services, that result in persons with mental illness becoming



1 engaged in meaningful and gainful full or part-time work. Other  
2 sources of funding such as the division of vocational rehabilitation  
3 may be utilized by the secretary to maximize federal funding and  
4 provide for integration of services;

5 (F) Consultation and education services; and

6 (G) Community support services;

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

10 (i) Licensed service providers. These rules shall permit a county-  
11 operated mental health program to be licensed as a service provider  
12 subject to compliance with applicable statutes and rules. The  
13 secretary shall provide for deeming of compliance with state minimum  
14 standards for those entities accredited by recognized behavioral health  
15 accrediting bodies recognized and having a current agreement with the  
16 department;

17 (ii) Regional support networks; and

18 (iii) Inpatient services, evaluation and treatment services and  
19 facilities under chapter 71.05 RCW, resource management services, and  
20 community support services;

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

25 (e) Establish a standard contract or contracts, consistent with  
26 state minimum standards, RCW 71.24.320 and 71.24.330, which shall be  
27 used in contracting with regional support networks. The standard  
28 contract shall include a maximum fund balance, which shall be  
29 consistent with that required by federal regulations or waiver  
30 stipulations;

31 (f) Establish, to the extent possible, a standardized auditing  
32 procedure which minimizes paperwork requirements of regional support  
33 networks and licensed service providers. The audit procedure shall  
34 focus on the outcomes of service and not the processes for  
35 accomplishing them;

36 (g) Develop and maintain an information system to be used by the  
37 state and regional support networks that includes a tracking method  
38 which allows the department and regional support networks to identify

1 mental health clients' participation in any mental health service or  
2 public program on an immediate basis. The information system shall not  
3 include individual patient's case history files. Confidentiality of  
4 client information and records shall be maintained as provided in this  
5 chapter and ((in RCW 71.05.390, 71.05.420, and 71.05.440)) chapter  
6 70.02 RCW;

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

8 (i) Certify regional support networks that meet state minimum  
9 standards;

10 (j) Periodically monitor the compliance of certified regional  
11 support networks and their network of licensed service providers for  
12 compliance with the contract between the department, the regional  
13 support network, and federal and state rules at reasonable times and in  
14 a reasonable manner;

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

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

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

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

26 (o) Certify crisis stabilization units that meet state minimum  
27 standards;

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

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

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

34 (7) Each certified regional support network and licensed service  
35 provider shall file with the secretary, on request, such data,  
36 statistics, schedules, and information as the secretary reasonably  
37 requires. A certified regional support network or licensed service  
38 provider which, without good cause, fails to furnish any data,

1 statistics, schedules, or information as requested, or files fraudulent  
2 reports thereof, may have its certification or license revoked or  
3 suspended.

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

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

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

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

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

31 (13) The standards for certification of crisis stabilization units  
32 shall include standards that:

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

35 (b) Require administration of the unit by mental health  
36 professionals who direct the stabilization and rehabilitation efforts;  
37 and

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

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

5 (a) The facilities may be peer-operated and must be  
6 recovery-focused;

7 (b) Members and employees must work together;

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

12 (d) Members and staff and ultimately the clubhouse director must be  
13 responsible for the operation of the clubhouse, central to this  
14 responsibility is the engagement of members and staff in all aspects of  
15 clubhouse operations;

16 (e) Clubhouse programs must be comprised of structured activities  
17 including but not limited to social skills training, vocational  
18 rehabilitation, employment training and job placement, and community  
19 resource development;

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

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

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

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

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

37 The regional support networks, or the secretary's assumption of all  
38 responsibilities under chapters 71.05((~~7~~)) and 71.34((~~7~~)) RCW and

1 ((71.24 RCW)) this chapter, shall be included in all state and federal  
2 plans affecting the state mental health program including at least  
3 those required by this chapter, the medicaid program, and P.L. 99-660.  
4 Nothing in these plans shall be inconsistent with the intent and  
5 requirements of this chapter.

6 (17) The secretary shall:

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

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

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

19 (d) Deny all or part of the funding allocations to regional support  
20 networks based solely upon formal findings of noncompliance with the  
21 terms of the regional support network's contract with the department.  
22 Regional support networks disputing the decision of the secretary to  
23 withhold funding allocations are limited to the remedies provided in  
24 the department's contracts with the regional support networks.

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

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

34 WASHINGTON HOMELESS CENSUS OR COUNT. The department shall annually  
35 conduct a Washington homeless census or count consistent with the  
36 requirements of RCW ((43.63A.655)) 43.185C.180. The census shall make  
37 every effort to count all homeless individuals living outdoors, in

1 shelters, and in transitional housing, coordinated, when reasonably  
2 feasible, with already existing homeless census projects including  
3 those funded in part by the United States department of housing and  
4 urban development under the McKinney-Vento homeless assistance program.  
5 The department shall determine, in consultation with local governments,  
6 the data to be collected.

7 All personal information collected in the census is confidential,  
8 and the department and each local government shall take all necessary  
9 steps to protect the identity and confidentiality of each person  
10 counted.

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

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

33 Based on the annual census and provider information from the local  
34 government plans, the department shall, by the end of year four,  
35 implement an online information and referral system to enable local  
36 governments and providers to identify available housing for a homeless  
37 person. The department shall work with local governments and their

1 providers to develop a capacity for continuous case management to  
2 assist homeless persons.

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

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

7 LOCAL HEALTH OFFICER. The local health officer, acting under the  
8 direction of the local board of health or under direction of the  
9 administrative officer appointed under RCW 70.05.040 or 70.05.035, if  
10 any, shall:

11 (1) Enforce the public health statutes of the state, rules of the  
12 state board of health and the secretary of health, and all local health  
13 rules, regulations and ordinances within his or her jurisdiction  
14 including imposition of penalties authorized under RCW 70.119A.030 and  
15 70.118.130, the confidentiality provisions in (~~RCW 70.24.105~~) section  
16 6 of this act and rules adopted to implement those provisions, and  
17 filing of actions authorized by RCW 43.70.190;

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

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

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

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

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

30 (7) Collect such fees as are established by the state board of  
31 health or the local board of health for the issuance or renewal of  
32 licenses or permits or such other fees as may be authorized by law or  
33 by the rules of the state board of health;

34 (8) Inspect, as necessary, expansion or modification of existing  
35 public water systems, and the construction of new public water systems,  
36 to assure that the expansion, modification, or construction conforms to  
37 system design and plans;

1 (9) Take such measures as he or she deems necessary in order to  
2 promote the public health, to participate in the establishment of  
3 health educational or training activities, and to authorize the  
4 attendance of employees of the local health department or individuals  
5 engaged in community health programs related to or part of the programs  
6 of the local health department.

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

9 CONFIDENTIALITY OF REPORTED INFORMATION--UNAUTHORIZED DISCLOSURE.

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

13 (a) Report annually to the board any incidents of unauthorized  
14 disclosure by the department, local health departments, or their  
15 employees of information protected under ((RCW 70.24.105)) section 6 of  
16 this act. The report shall include recommendations for preventing  
17 future unauthorized disclosures and improving the system of  
18 confidentiality for reported information; and

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

23 (2) This section is exempt from RCW 70.24.084, 70.05.070, and  
24 70.05.120.

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

27 CHILDREN PLACED IN OUT-OF-HOME CARE--CLIENT INFORMATION. (1)  
28 Except as provided in ((RCW 70.24.105)) section 6 of this act, whenever  
29 a child is placed in out-of-home care by the department or a  
30 supervising agency, the department or agency shall share information  
31 known to the department or agency about the child and the child's  
32 family with the care provider and shall consult with the care provider  
33 regarding the child's case plan. If the child is dependent pursuant to  
34 a proceeding under chapter 13.34 RCW, the department or supervising  
35 agency shall keep the care provider informed regarding the dates and



1 location of dependency review and permanency planning hearings  
2 pertaining to the child.

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

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

10 (a) Has received a medical diagnosis of fetal alcohol syndrome or  
11 fetal alcohol effect;

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

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

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

18 (4) Any person who receives information about a child or a child's  
19 family pursuant to this section shall keep the information confidential  
20 and shall not further disclose or disseminate the information except as  
21 authorized by law. Care providers shall agree in writing to keep the  
22 information that they receive confidential and shall affirm that the  
23 information will not be further disclosed or disseminated, except as  
24 authorized by law.

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

28 (6) As used in this section:

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

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

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

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

37 (iii) Fire-setting or a developmentally inappropriate fascination  
38 with fire;

- 1 (iv) Animal torture;  
2 (v) Property destruction; or  
3 (vi) Substance or alcohol abuse.  
4 (c) "Physically assaultive or physically aggressive" means a child  
5 who exhibits one or more of the following behaviors that are  
6 developmentally inappropriate and harmful to the child or to others:  
7 (i) Observed assaultive behavior;  
8 (ii) Reported and documented history of the child willfully  
9 assaulting or inflicting bodily harm; or  
10 (iii) Attempting to assault or inflict bodily harm on other  
11 children or adults under circumstances where the child has the apparent  
12 ability or capability to carry out the attempted assaults including  
13 threats to use a weapon.

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

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

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

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

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

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

32 PERSONS COMMITTED FOLLOWING DISMISSAL OF SEX, VIOLENT, OR FELONY  
33 HARASSMENT OFFENSE--NOTIFICATION OF CONDITIONAL RELEASE, FINAL RELEASE,  
34 LEAVE, TRANSFER, OR ESCAPE. (1)(a) Except as provided in subsection  
35 (2) of this section, at the earliest possible date, and in no event  
36 later than thirty days before conditional release, final release,

1 authorized leave under RCW 71.05.325(2), or transfer to a facility  
2 other than a state mental hospital, the superintendent shall send  
3 written notice of conditional release, release, authorized leave, or  
4 transfer of a person committed under RCW 71.05.280(3) or  
5 71.05.320(3)(c) following dismissal of a sex, violent, or felony  
6 harassment offense pursuant to RCW 10.77.086(4) to the following:

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

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

10 (b) The same notice as required by (a) of this subsection shall be  
11 sent to the following, if such notice has been requested in writing  
12 about a specific person committed under RCW 71.05.280(3) or  
13 71.05.320(3)(c) following dismissal of a sex, violent, or felony  
14 harassment offense pursuant to RCW 10.77.086(4):

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

19 (ii) Any witnesses who testified against the person in any court  
20 proceedings;

21 (iii) Any person specified in writing by the prosecuting attorney.  
22 Information regarding victims, next of kin, or witnesses requesting the  
23 notice, information regarding any other person specified in writing by  
24 the prosecuting attorney to receive the notice, and the notice are  
25 confidential and shall not be available to the person committed under  
26 this chapter; and

27 (iv) The chief of police of the city, if any, and the sheriff of  
28 the county, if any, which had jurisdiction of the person on the date of  
29 the applicable offense.

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

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

35 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c)  
36 following dismissal of a sex, violent, or felony harassment offense  
37 pursuant to RCW 10.77.086(4) escapes, the superintendent shall  
38 immediately notify, by the most reasonable and expedient means

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

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

17 (4) The superintendent shall send the notices required by this  
18 chapter to the last address provided to the department by the  
19 requesting party. The requesting party shall furnish the department  
20 with a current address.

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

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

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

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

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

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

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

36 (b) When a person receiving court-ordered treatment or treatment  
37 ordered by the department of corrections discloses to his or her mental

1 health service provider that he or she is subject to supervision by the  
2 department of corrections, the mental health service provider shall  
3 notify the department of corrections that he or she is treating the  
4 offender and shall notify the offender that his or her community  
5 corrections officer will be notified of the treatment, provided that if  
6 the offender has received relief from disclosure pursuant to RCW  
7 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the  
8 mental health service provider with a copy of the order granting relief  
9 from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132,  
10 the mental health service provider is not required to notify the  
11 department of corrections that the mental health service provider is  
12 treating the offender. The notification may be written or oral and  
13 shall not require the consent of the offender. If an oral notification  
14 is made, it must be confirmed by a written notification. For purposes  
15 of this section, a written notification includes notification by e-mail  
16 or facsimile, so long as the notifying mental health service provider  
17 is clearly identified.

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

21 (3) The department and the department of corrections, in  
22 consultation with regional support networks, mental health service  
23 providers as defined in RCW 71.05.020, mental health consumers, and  
24 advocates for persons with mental illness, shall adopt rules to  
25 implement the provisions of this section related to the type and scope  
26 of information to be released. These rules shall:

27 (a) Enhance and facilitate the ability of the department of  
28 corrections to carry out its responsibility of planning and ensuring  
29 community protection with respect to persons subject to sentencing  
30 under chapter 9.94A or 9.95 RCW, including accessing and releasing or  
31 disclosing information of persons who received mental health services  
32 as a minor; and

33 (b) Establish requirements for the notification of persons under  
34 the supervision of the department of corrections regarding the  
35 provisions of this section.

36 (4) The information received by the department of corrections under  
37 this section shall remain confidential and subject to the limitations

1 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW  
2 72.09.585.

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

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

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

16 (8) The department shall, subject to available resources,  
17 electronically, or by the most cost-effective means available, provide  
18 the department of corrections with the names, last dates of services,  
19 and addresses of specific regional support networks and mental health  
20 service providers that delivered mental health services to a person  
21 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between  
22 the departments.

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

25 MENTAL HEALTH SERVICES, INFORMATION--DEPARTMENT OF CORRECTIONS--  
26 REQUIRED INQUIRIES AND DISCLOSURES. (1) When the department is  
27 determining an offender's risk management level, the department shall  
28 inquire of the offender and shall be told whether the offender is  
29 subject to court-ordered treatment for mental health services or  
30 chemical dependency services. The department shall request and the  
31 offender shall provide an authorization to release information form  
32 that meets applicable state and federal requirements and shall provide  
33 the offender with written notice that the department will request the  
34 offender's mental health and substance abuse treatment information. An  
35 offender's failure to inform the department of court-ordered treatment  
36 is a violation of the conditions of supervision if the offender is in

1 the community and an infraction if the offender is in confinement, and  
2 the violation or infraction is subject to sanctions.

3 (2) When an offender discloses that he or she is subject to court-  
4 ordered mental health services or chemical dependency treatment, the  
5 department shall provide the mental health services provider or  
6 chemical dependency treatment provider with a written request for  
7 information and any necessary authorization to release information  
8 forms. The written request shall comply with rules adopted by the  
9 department of social and health services or protocols developed jointly  
10 by the department and the department of social and health services. A  
11 single request shall be valid for the duration of the offender's  
12 supervision in the community. Disclosures of information related to  
13 mental health services made pursuant to a department request shall not  
14 require consent of the offender.

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

27 (4) The information received by the department under RCW 71.05.445  
28 or (~~71.34.345~~) section 9 of this act may be used to meet the  
29 statutory duties of the department to provide evidence or report to the  
30 court. Disclosure to the public of information provided to the court  
31 by the department related to mental health services shall be limited in  
32 accordance with RCW 9.94A.500 or this section.

33 (5) The information received by the department under RCW 71.05.445  
34 or (~~71.34.345~~) section 9 of this act may be disclosed by the  
35 department to other state and local agencies as relevant to plan for  
36 and provide offenders transition, treatment, and supervision services,  
37 or as relevant and necessary to protect the public and counteract the  
38 danger created by a particular offender, and in a manner consistent

1 with the written policy established by the secretary. The decision to  
2 disclose or not shall not result in civil liability for the department  
3 or its employees so long as the decision was reached in good faith and  
4 without gross negligence. The information received by a state or local  
5 agency from the department shall remain confidential and subject to the  
6 limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34  
7 RCW and, subject to these limitations, may be released only as relevant  
8 and necessary to counteract the danger created by a particular  
9 offender.

10 (6) The information received by the department under RCW 71.05.445  
11 or (~~71.34.345~~) section 9 of this act may be disclosed by the  
12 department to individuals only with respect to offenders who have been  
13 determined by the department to have a high risk of reoffending by a  
14 risk assessment, as defined in RCW 9.94A.030, only as relevant and  
15 necessary for those individuals to take reasonable steps for the  
16 purpose of self-protection, or as provided in RCW 72.09.370(2). The  
17 information may not be disclosed for the purpose of engaging the public  
18 in a system of supervision, monitoring, and reporting offender behavior  
19 to the department. The department must limit the disclosure of  
20 information related to mental health services to the public to  
21 descriptions of an offender's behavior, risk he or she may present to  
22 the community, and need for mental health treatment, including  
23 medications, and shall not disclose or release to the public copies of  
24 treatment documents or records, except as otherwise provided by law.  
25 All disclosure of information to the public must be done in a manner  
26 consistent with the written policy established by the secretary. The  
27 decision to disclose or not shall not result in civil liability for the  
28 department or its employees so long as the decision was reached in good  
29 faith and without gross negligence. Nothing in this subsection  
30 prevents any person from reporting to law enforcement or the department  
31 behavior that he or she believes creates a public safety risk.

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

34 SENTENCING HEARINGS--PREVENTION OF WRONGFUL DISCLOSURE OF MENTAL  
35 HEALTH SERVICES RECORDS AND INFORMATION. (1) Before imposing a  
36 sentence upon a defendant, the court shall conduct a sentencing  
37 hearing. The sentencing hearing shall be held within forty court days



1 following conviction. Upon the motion of either party for good cause  
2 shown, or on its own motion, the court may extend the time period for  
3 conducting the sentencing hearing.

4 Except in cases where the defendant shall be sentenced to a term of  
5 total confinement for life without the possibility of release or, when  
6 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
7 first degree, sentenced to death, the court may order the department to  
8 complete a risk assessment report. If available before sentencing, the  
9 report shall be provided to the court.

10 Unless specifically waived by the court, the court shall order the  
11 department to complete a chemical dependency screening report before  
12 imposing a sentence upon a defendant who has been convicted of a  
13 violation of the uniform controlled substances act under chapter 69.50  
14 RCW, a criminal solicitation to commit such a violation under chapter  
15 9A.28 RCW, or any felony where the court finds that the offender has a  
16 chemical dependency that has contributed to his or her offense. In  
17 addition, the court shall, at the time of plea or conviction, order the  
18 department to complete a presentence report before imposing a sentence  
19 upon a defendant who has been convicted of a felony sexual offense.  
20 The department of corrections shall give priority to presentence  
21 investigations for sexual offenders. If the court determines that the  
22 defendant may be a mentally ill person as defined in RCW 71.24.025,  
23 although the defendant has not established that at the time of the  
24 crime he or she lacked the capacity to commit the crime, was  
25 incompetent to commit the crime, or was insane at the time of the  
26 crime, the court shall order the department to complete a presentence  
27 report before imposing a sentence.

28 The court shall consider the risk assessment report and presentence  
29 reports, if any, including any victim impact statement and criminal  
30 history, and allow arguments from the prosecutor, the defense counsel,  
31 the offender, the victim, the survivor of the victim, or a  
32 representative of the victim or survivor, and an investigative law  
33 enforcement officer as to the sentence to be imposed.

34 A criminal history summary relating to the defendant from the  
35 prosecuting authority or from a state, federal, or foreign governmental  
36 agency shall be prima facie evidence of the existence and validity of  
37 the convictions listed therein. If the court is satisfied by a  
38 preponderance of the evidence that the defendant has a criminal

1 history, the court shall specify the convictions it has found to exist.  
2 All of this information shall be part of the record. Copies of all  
3 risk assessment reports and presentence reports presented to the  
4 sentencing court and all written findings of facts and conclusions of  
5 law as to sentencing entered by the court shall be sent to the  
6 department by the clerk of the court at the conclusion of the  
7 sentencing and shall accompany the offender if the offender is  
8 committed to the custody of the department. Court clerks shall  
9 provide, without charge, certified copies of documents relating to  
10 criminal convictions requested by prosecuting attorneys.

11 (2) To prevent wrongful disclosure of information and records  
12 related to mental health services, as ~~((defined))~~ described in RCW  
13 71.05.445 and ~~((71.34.345))~~ section 9 of this act, a court may take  
14 only those steps necessary during a sentencing hearing or any hearing  
15 in which the department presents information related to mental health  
16 services to the court. The steps may be taken on motion of the  
17 defendant, the prosecuting attorney, or on the court's own motion. The  
18 court may seal the portion of the record relating to information  
19 relating to mental health services, exclude the public from the hearing  
20 during presentation or discussion of information and records relating  
21 to mental health services, or grant other relief to achieve the result  
22 intended by this subsection, but nothing in this subsection shall be  
23 construed to prevent the subsequent release of information and records  
24 related to mental health services as authorized by RCW 71.05.445,  
25 ~~((71.34.345))~~ section 9 of this act, or 72.09.585. Any person who  
26 otherwise is permitted to attend any hearing pursuant to chapter 7.69  
27 or 7.69A RCW shall not be excluded from the hearing solely because the  
28 department intends to disclose or discloses information related to  
29 mental health services.

30 NEW SECTION. Sec. 34. REPEALERS. The following acts or parts of  
31 acts are each repealed:

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

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

- 1 (3) RCW 71.05.640 (Treatment records--Access procedures) and 2005  
2 c 504 s 712, 2005 c 504 s 113, 2000 c 94 s 11, & 1999 c 13 s 9;
- 3 (4) RCW 71.05.385 (Information subject to disclosure to authorized  
4 persons--Restrictions) and 2011 1st sp.s. c 40 s 23 & 2009 c 320 s 2;
- 5 (5) RCW 71.05.420 (Records of disclosure) and 2009 c 217 s 7, 2005  
6 c 504 s 110, 1990 c 3 s 113, & 1973 1st ex.s. c 142 s 47;
- 7 (6) RCW 71.05.440 (Action for unauthorized release of confidential  
8 information--Liquidated damages--Treble damages--Injunction) and 1990  
9 c 3 s 114, 1974 ex.s. c 145 s 28, & 1973 1st ex.s. c 142 s 49;
- 10 (7) RCW 71.05.427 (Persons committed following dismissal of sex  
11 offense--Release of information authorized) and 1990 c 3 s 110;
- 12 (8) RCW 71.05.630 (Treatment records--Confidential--Release) and  
13 2009 c 398 s 1, 2009 c 320 s 5, 2009 c 217 s 8, 2007 c 191 s 1, 2005 c  
14 504 s 112, 2000 c 75 s 5, & 1989 c 205 s 13;
- 15 (9) RCW 71.05.690 (Treatment records--Rules) and 2005 c 504 s 714  
16 & 1999 c 13 s 12;
- 17 (10) RCW 71.34.340 (Information concerning treatment of minors  
18 confidential--Disclosure--Admissible as evidence with written consent)  
19 and 2011 c 305 s 9, 2005 c 453 s 6, 2000 c 75 s 7, & 1985 c 354 s 18;
- 20 (11) RCW 71.34.345 (Mental health services information--Release to  
21 department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, &  
22 2000 c 75 s 2; and
- 23 (12) RCW 71.34.350 (Disclosure of information or records--Required  
24 entries in minor's clinical record) and 1985 c 354 s 22.

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

27 NEW SECTION. **Sec. 36.** EMERGENCY CLAUSE--EFFECTIVE DATE. Section  
28 5 of this act is necessary for the immediate preservation of the public  
29 peace, health, or safety, or support of the state government and its  
30 existing public institutions, and takes effect immediately."

**ADOPTED AS AMENDED 04/17/2013**

1        On page 1, line 1 of the title, after "information;" strike the  
2 remainder of the title and insert "amending RCW 70.02.010, 70.02.020,  
3 70.02.050, 70.02.900, 71.05.660, 71.05.680, 71.05.620, 71.24.035,  
4 43.185C.030, 70.05.070, 70.24.450, 74.13.280, 74.13.289, 71.05.425,  
5 71.05.445, 72.09.585, and 9.94A.500; adding new sections to chapter  
6 70.02 RCW; repealing RCW 70.24.105, 71.05.390, 71.05.640, 71.05.385,  
7 71.05.420, 71.05.440, 71.05.427, 71.05.630, 71.05.690, 71.34.340,  
8 71.34.345, and 71.34.350; prescribing penalties; providing an effective  
9 date; and declaring an emergency."

--- END ---