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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1522

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State of Washington

63rd Legislature

2013 Regular Session

By House Appropriations (originally sponsored by Representatives Green, Ryu, and Morrell; by request of Department of Social and Health Services)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to improving behavioral health services provided to  
2 adults in Washington state by defining outcomes for adult behavioral  
3 health services, increasing use of evidence-based, research-based, and  
4 promising practices for the provision of adult behavioral health  
5 services, implementing a strategy for the improvement of the adult  
6 behavioral health system, reviewing the provision of forensic mental  
7 health services, procuring enhanced services facility services, and  
8 requiring timely hospital discharge under the involuntary treatment act  
9 when a person no longer requires active psychiatric treatment in a  
10 hospital; amending RCW 71.24.025 and 18.19.210; adding new sections to  
11 chapter 43.20A RCW; adding a new section to chapter 70.97 RCW; adding  
12 a new section to chapter 71.05 RCW; and providing an effective date.

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

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.20A RCW  
15 to read as follows:

16 (1) The systems responsible for financing, administration, and  
17 delivery of publicly funded mental health and chemical dependency  
18 services to adults must be designed and administered to achieve  
19 improved outcomes for adult clients served by those systems through

1 increased use and development of evidence-based, research-based, and  
2 promising practices, as defined in RCW 71.24.025. For purposes of this  
3 section, client outcomes include: Improved health status; increased  
4 participation in employment and education; reduced involvement with the  
5 criminal justice system; enhanced safety and access to treatment for  
6 forensic patients; reduction in avoidable utilization of and costs  
7 associated with hospital, emergency room, and crisis services;  
8 increased housing stability; improved quality of life, including  
9 measures of recovery and resilience; and decreased population level  
10 disparities in access to treatment and treatment outcomes.

11 (2) To implement a strategy for the improvement of the adult  
12 behavioral health system:

13 (a) The department must establish a steering committee that  
14 includes at least the following members: Behavioral health service  
15 recipients and their families; local government; representatives of  
16 regional support networks; representatives of county coordinators; law  
17 enforcement; city and county jails; tribal representatives; behavioral  
18 health service providers, including at least one chemical dependency  
19 provider; housing providers; medicaid managed care plan  
20 representatives; long-term care service providers; the Washington state  
21 hospital association; the Washington state medical association;  
22 individuals with expertise in evidence-based and research-based  
23 behavioral health service practices; and the health care authority.

24 (b) The adult behavioral health system improvement strategy must  
25 include:

26 (i) An assessment of the capacity of the current publicly funded  
27 behavioral health services system to provide evidence-based, research-  
28 based, and promising practices;

29 (ii) Identification, development, and increased use of evidence-  
30 based, research-based, and promising practices;

31 (iii) Design and implementation of a transparent quality management  
32 system, including analysis of current system capacity to implement  
33 outcomes reporting and development of baseline and improvement targets  
34 for each outcome measure provided in this section; and

35 (iv) Identification of behavioral health services delivery and  
36 financing mechanisms that will best promote improvement of the  
37 behavioral health system described in this section.

1 (c) The department must seek private foundation and federal grant  
2 funding to support the adult behavioral health system improvement  
3 strategy.

4 (d) By May 15, 2014, the Washington state institute for public  
5 policy, in consultation with the department, shall prepare an inventory  
6 of evidence-based, research-based, and promising practices for  
7 prevention and intervention services pursuant to subsection (1) of this  
8 section. The department shall use the inventory in preparing the  
9 behavioral health improvement strategy. The department shall provide  
10 the institute with data necessary to complete the inventory.

11 (e) By August 1, 2014, the department must report to the governor  
12 and the relevant fiscal and policy committees of the legislature on the  
13 status of implementation of the behavioral health improvement strategy,  
14 including strategies developed or implemented to date, timelines, and  
15 costs to accomplish phased implementation of the adult behavioral  
16 health system improvement strategy.

17 (3) The department must contract for the services of an independent  
18 consultant to review the provision of forensic mental health services  
19 in Washington state and provide recommendations as to whether and how  
20 the state's forensic mental health system should be modified to provide  
21 an appropriate treatment environment for individuals with mental  
22 disorders who have been charged with a crime while enhancing the safety  
23 and security of the public and other patients and staff at forensic  
24 treatment facilities. By August 1, 2014, the department must submit a  
25 report regarding the recommendations of the independent consultant to  
26 the governor and the relevant fiscal and policy committees of the  
27 legislature.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.97 RCW  
29 to read as follows:

30 To the extent that funds are specifically appropriated for this  
31 purpose, the department must issue a request for a proposal for  
32 enhanced services facility services by June 1, 2014, and complete the  
33 procurement process by January 1, 2015.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05 RCW  
35 to read as follows:

36 When a person has been involuntarily committed for treatment to a

1 hospital for a period of ninety or one hundred eighty days, and the  
2 superintendent or professional person in charge of the hospital  
3 determines that the person no longer requires active psychiatric  
4 treatment at an inpatient level of care, the regional support network  
5 responsible for resource management services for the person must work  
6 with the hospital to develop an individualized discharge plan and  
7 arrange for a transition to the community in accordance with the  
8 person's individualized discharge plan within twenty-one days of the  
9 determination.

10 **Sec. 4.** RCW 71.24.025 and 2012 c 10 s 59 are each amended to read  
11 as follows:

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

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

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

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

21 (c) Presenting a likelihood of serious harm as defined in RCW  
22 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

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

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

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

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

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

9 (5) "Clubhouse" means a community-based program that provides  
10 rehabilitation services and is certified by the department of social  
11 and health services.

12 (6) "Community mental health program" means all mental health  
13 services, activities, or programs using available resources.

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

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

34 (9) "Consensus-based" means a program or practice that has general  
35 support among treatment providers and experts, based on experience or  
36 professional literature, and may have anecdotal or case study support,  
37 or that is agreed but not possible to perform studies with random  
38 assignment and controlled groups.

1 (10) "County authority" means the board of county commissioners,  
2 county council, or county executive having authority to establish a  
3 community mental health program, or two or more of the county  
4 authorities specified in this subsection which have entered into an  
5 agreement to provide a community mental health program.

6 (11) "Department" means the department of social and health  
7 services.

8 (12) "Designated mental health professional" means a mental health  
9 professional designated by the county or other authority authorized in  
10 rule to perform the duties specified in this chapter.

11 (13) "Emerging best practice" or "promising practice" means a  
12 (~~practice that presents, based on preliminary information, potential~~  
13 ~~for becoming a research-based or consensus-based practice~~) program or  
14 practice that, based on statistical analyses or a well established  
15 theory of change, shows potential for meeting the evidence-based or  
16 research-based criteria, which may include the use of a program that is  
17 evidence-based for outcomes other than those listed in subsection (14)  
18 of this section.

19 (14) "Evidence-based" means a program or practice that has (~~had~~  
20 ~~multiple site random controlled trials across heterogeneous populations~~  
21 ~~demonstrating that the program or practice is effective for the~~  
22 ~~population~~) been tested in heterogeneous or intended populations with  
23 multiple randomized, or statistically controlled evaluations, or both;  
24 or one large multiple site randomized, or statistically controlled  
25 evaluation, or both, where the weight of the evidence from a systemic  
26 review demonstrates sustained improvements in at least one outcome.  
27 "Evidence-based" also means a program or practice that can be  
28 implemented with a set of procedures to allow successful replication in  
29 Washington and, when possible, is determined to be cost-beneficial.

30 (15) "Licensed service provider" means an entity licensed according  
31 to this chapter or chapter 71.05 RCW or an entity deemed to meet state  
32 minimum standards as a result of accreditation by a recognized  
33 behavioral health accrediting body recognized and having a current  
34 agreement with the department, that meets state minimum standards or  
35 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
36 applies to registered nurses and advanced registered nurse  
37 practitioners.

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

10 (17) "Mental health services" means all services provided by  
11 regional support networks and other services provided by the state for  
12 persons who are mentally ill.

13 (18) "Mentally ill persons," "persons who are mentally ill," and  
14 "the mentally ill" mean persons and conditions defined in subsections  
15 (1), (4), (27), and (28) of this section.

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

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

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

26 (22) "Research-based" means a program or practice that has (~~some~~  
27 ~~research demonstrating effectiveness, but that does not yet meet the~~  
28 ~~standard of evidence-based practices~~) been tested with a single  
29 randomized, or statistically controlled evaluation, or both,  
30 demonstrating sustained desirable outcomes; or where the weight of the  
31 evidence from a systemic review supports sustained outcomes as  
32 described in subsection (14) of this section but does not meet the full  
33 criteria for evidence-based.

34 (23) "Residential services" means a complete range of residences  
35 and supports authorized by resource management services and which may  
36 involve a facility, a distinct part thereof, or services which support  
37 community living, for persons who are acutely mentally ill, adults who  
38 are chronically mentally ill, children who are severely emotionally

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

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

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

33 (26) "Secretary" means the secretary of social and health services.

34 (27) "Seriously disturbed person" means a person who:

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



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

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

7 (d) Exhibits suicidal preoccupation or attempts; or

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

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

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

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

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

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

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

30 (ii) Changes in custodial adult;

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

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

36 (v) Drug or alcohol abuse; or

37 (vi) Homelessness.

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

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

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

20 **Sec. 5.** RCW 18.19.210 and 2008 c 135 s 9 are each amended to read  
21 as follows:

22 (1)(a) An applicant for registration as an agency affiliated  
23 counselor who applies to the department within seven days of employment  
24 by an agency may work as an agency affiliated counselor for up to sixty  
25 days while the application is processed. The applicant must stop  
26 working on the sixtieth day of employment if the registration has not  
27 been granted for any reason.

28 (b) The applicant may not provide unsupervised counseling prior to  
29 completion of a criminal background check performed by either the  
30 employer or the secretary. For purposes of the subsection,  
31 "unsupervised" means the supervisor is not physically present at the  
32 location where the counseling occurs.

33 (2) Agency affiliated counselors shall notify the department if  
34 they are either no longer employed by the agency identified on their  
35 application or are now employed with another agency, or both. Agency  
36 affiliated counselors may not engage in the practice of counseling  
37 unless they are currently affiliated with an agency.

1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 43.20A RCW  
2 to read as follows:

3        By November 30, 2013, the department and the health care authority  
4 must report to the governor and the relevant fiscal and policy  
5 committees of the legislature, consistent with RCW 43.01.036, a plan  
6 that establishes a tribal-centric behavioral health system  
7 incorporating both mental health and chemical dependency services. The  
8 plan must assure that child, adult, and older adult American Indians  
9 and Alaskan Natives eligible for medicaid have increased access to  
10 culturally appropriate mental health and chemical dependence services.  
11 The plan must:

12        (1) Include implementation dates, major milestones, and fiscal  
13 estimates as needed;

14        (2) Emphasize the use of culturally appropriate evidence-based and  
15 promising practices;

16        (3) Address equitable access to crisis services, outpatient care,  
17 voluntary and involuntary hospitalization, and behavioral health care  
18 coordination;

19        (4) Identify statutory changes necessary to implement the tribal-  
20 centric behavioral health system; and

21        (5) Be developed with the department's Indian policy advisory  
22 committee and the American Indian health commission, in consultation  
23 with Washington's federally recognized tribes.

24        NEW SECTION.    **Sec. 7.**    Section 3 of this act takes effect July 1,  
25 2018.

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