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SENATE BILL 5234

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State of Washington

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2013 Regular Session

By Senators Carrell, Darneille, Hargrove, Keiser, Schlicher, and Conway; by request of Department of Social and Health Services

Read first time 01/24/13. Referred to Committee on Human Services & Corrections.

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; adding a new section to chapter  
11 43.20A RCW; adding a new section to chapter 70.97 RCW; adding a new  
12 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; housing providers; medicaid managed care plan  
19 representatives; long-term care service providers; the Washington state  
20 hospital association; individuals with expertise in evidence-based and  
21 research-based behavioral health service practices; and the health care  
22 authority.

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

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

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

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

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

37 (c) The department must seek private foundation and federal grant

1 funding to support the adult behavioral health system improvement  
2 strategy.

3 (d) By August 1, 2014, the department must report to the governor  
4 and the relevant fiscal and policy committees of the legislature on the  
5 status of implementation of the behavioral health improvement strategy,  
6 including strategies developed, timelines, and costs to implement the  
7 adult behavioral health system improvement strategy.

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

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

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

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

27 When a person has been involuntarily committed for treatment to a  
28 hospital for a period of ninety or one hundred eighty days, and the  
29 superintendent or professional person in charge of the hospital  
30 determines that the person no longer requires active psychiatric  
31 treatment at an inpatient level of care, the regional support network  
32 responsible for resource management services for the person must work  
33 with the hospital to develop an individualized discharge plan and  
34 arrange for a transition to the community in accordance with the  
35 person's individualized discharge plan within twenty-one days of the  
36 determination.

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

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

9       (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
10 case of a child, a gravely disabled minor as defined in RCW 71.34.020;  
11 or

12       (c) Presenting a likelihood of serious harm as defined in RCW  
13 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

14       (2) "Available resources" means funds appropriated for the purpose  
15 of providing community mental health programs, federal funds, except  
16 those provided according to Title XIX of the Social Security Act, and  
17 state funds appropriated under this chapter or chapter 71.05 RCW by the  
18 legislature during any biennium for the purpose of providing  
19 residential services, resource management services, community support  
20 services, and other mental health services. This does not include  
21 funds appropriated for the purpose of operating and administering the  
22 state psychiatric hospitals.

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

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

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

29       (b) Has experienced a continuous psychiatric hospitalization or  
30 residential treatment exceeding six months' duration within the  
31 preceding year; or

32       (c) Has been unable to engage in any substantial gainful activity  
33 by reason of any mental disorder which has lasted for a continuous  
34 period of not less than twelve months. "Substantial gainful activity"  
35 shall be defined by the department by rule consistent with Public Law  
36 92-603, as amended.

37       (5) "Clubhouse" means a community-based program that provides

1 rehabilitation services and is certified by the department of social  
2 and health services.

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

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

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

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

30 (10) "County authority" means the board of county commissioners,  
31 county council, or county executive having authority to establish a  
32 community mental health program, or two or more of the county  
33 authorities specified in this subsection which have entered into an  
34 agreement to provide a community mental health program.

35 (11) "Department" means the department of social and health  
36 services.

37 (12) "Designated mental health professional" means a mental health

1 professional designated by the county or other authority authorized in  
2 rule to perform the duties specified in this chapter.

3 (13) "Emerging best practice" or "promising practice" means a  
4 (~~practice that presents, based on preliminary information, potential~~  
5 ~~for becoming a research-based or consensus-based practice~~) program or  
6 practice that, based on statistical analyses or a well established  
7 theory of change, shows potential for meeting the evidence-based or  
8 research-based criteria, which may include the use of a program that is  
9 evidence-based for outcomes other than those listed in subsection (14)  
10 of this section.

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

22 (15) "Licensed service provider" means an entity licensed according  
23 to this chapter or chapter 71.05 RCW or an entity deemed to meet state  
24 minimum standards as a result of accreditation by a recognized  
25 behavioral health accrediting body recognized and having a current  
26 agreement with the department, that meets state minimum standards or  
27 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it  
28 applies to registered nurses and advanced registered nurse  
29 practitioners.

30 (16) "Long-term inpatient care" means inpatient services for  
31 persons committed for, or voluntarily receiving intensive treatment  
32 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-  
33 term inpatient care" as used in this chapter does not include: (a)  
34 Services for individuals committed under chapter 71.05 RCW who are  
35 receiving services pursuant to a conditional release or a court-ordered  
36 less restrictive alternative to detention; or (b) services for  
37 individuals voluntarily receiving less restrictive alternative  
38 treatment on the grounds of the state hospital.

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

4 (18) "Mentally ill persons," "persons who are mentally ill," and  
5 "the mentally ill" mean persons and conditions defined in subsections  
6 (1), (4), (27), and (28) of this section.

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

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

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

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

25 (23) "Residential services" means a complete range of residences  
26 and supports authorized by resource management services and which may  
27 involve a facility, a distinct part thereof, or services which support  
28 community living, for persons who are acutely mentally ill, adults who  
29 are chronically mentally ill, children who are severely emotionally  
30 disturbed, or adults who are seriously disturbed and determined by the  
31 regional support network to be at risk of becoming acutely or  
32 chronically mentally ill. The services shall include at least  
33 evaluation and treatment services as defined in chapter 71.05 RCW,  
34 acute crisis respite care, long-term adaptive and rehabilitative care,  
35 and supervised and supported living services, and shall also include  
36 any residential services developed to service persons who are mentally  
37 ill in nursing homes, assisted living facilities, and adult family  
38 homes, and may include outpatient services provided as an element in a

1 package of services in a supported housing model. Residential services  
2 for children in out-of-home placements related to their mental disorder  
3 shall not include the costs of food and shelter, except for children's  
4 long-term residential facilities existing prior to January 1, 1991.

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

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

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

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

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

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

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

35 (d) Exhibits suicidal preoccupation or attempts; or

36 (e) Is a child diagnosed by a mental health professional, as  
37 defined in chapter 71.34 RCW, as experiencing a mental disorder which



1 is clearly interfering with the child's functioning in family or school  
2 or with peers or is clearly interfering with the child's personality  
3 development and learning.

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

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

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

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

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

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

21 (ii) Changes in custodial adult;

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

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

27 (v) Drug or alcohol abuse; or

28 (vi) Homelessness.

29 (29) "State minimum standards" means minimum requirements  
30 established by rules adopted by the secretary and necessary to  
31 implement this chapter for: (a) Delivery of mental health services;  
32 (b) licensed service providers for the provision of mental health  
33 services; (c) residential services; and (d) community support services  
34 and resource management services.

35 (30) "Treatment records" include registration and all other records  
36 concerning persons who are receiving or who at any time have received  
37 services for mental illness, which are maintained by the department, by  
38 regional support networks and their staffs, and by treatment

1 facilities. Treatment records do not include notes or records  
2 maintained for personal use by a person providing treatment services  
3 for the department, regional support networks, or a treatment facility  
4 if the notes or records are not available to others.

5 (31) "Tribal authority," for the purposes of this section and RCW  
6 71.24.300 only, means: The federally recognized Indian tribes and the  
7 major Indian organizations recognized by the secretary insofar as these  
8 organizations do not have a financial relationship with any regional  
9 support network that would present a conflict of interest.

10 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect July 1,  
11 2018.

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