
SECOND SUBSTITUTE SENATE BILL 5732

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Carrell, Darneille, Keiser, and Pearson)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to improving behavioral health services provided to
2 adults in Washington state; amending RCW 71.24.025; adding a new
3 section to chapter 43.20A RCW; adding a new section to chapter 70.97
4 RCW; adding a new section to chapter 71.05 RCW; creating a new section;
5 providing an effective date; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** (1)(a) The legislature shall convene a task
8 force to examine reform of the adult behavioral health system, with
9 voting members as provided in this subsection.

10 (i) The president of the senate shall appoint one member from each
11 of the two largest caucuses of the senate.

12 (ii) The speaker of the house of representatives shall appoint one
13 member from each of the two largest caucuses in the house of
14 representatives.

15 (iii) The governor shall appoint five members consisting of the
16 secretary of the department of social and health services or the
17 secretary's designee, the director of the health care authority or the
18 director's designee, the director of the office of financial management

1 or the director's designee, the secretary of the department of
2 corrections or the secretary's designee, and a representative of the
3 governor.

4 (iv) The governor shall request participation by a representative
5 of tribal governments.

6 (b) The task force shall choose two cochairs from among its
7 legislative members.

8 (c) The task force shall adopt a bottom-up approach and welcome
9 input and participation from all stakeholders interested in the
10 improvement of the adult behavioral health system. To that end, the
11 task force must invite participation from, at a minimum, the following:
12 Behavioral health service recipients and their families; local
13 government; representatives of regional support networks;
14 representatives of county coordinators; law enforcement; city and
15 county jails; tribal representatives; behavioral health service
16 providers; housing providers; labor representatives; counties with
17 state hospitals; mental health advocates; public defenders with
18 involuntary mental health commitment or mental health court experience;
19 medicaid managed care plan representatives; long-term care service
20 providers; the Washington state hospital association; and individuals
21 with expertise in evidence-based and research-based behavioral health
22 service practices. Leadership of subcommittees formed by the task
23 force may be drawn from this body of invited participants.

24 (2) The task force shall undertake a systemwide review of the adult
25 behavioral health system and make recommendations for reform
26 concerning, but not limited to, the following:

27 (a) The means by which services are delivered for adults with
28 mental illness and chemical dependency disorders;

29 (b) Availability of effective means to promote recovery and prevent
30 harm associated with mental illness;

31 (c) Crisis services, including boarding of mental health patients
32 outside of regularly certified treatment beds;

33 (d) Best practices for cross-system collaboration between
34 behavioral health treatment providers, medical care providers, long-
35 term care service providers, entities providing health home services to
36 high-risk medicaid clients, law enforcement, and criminal justice
37 agencies; and

1 (e) Public safety practices involving persons with mental illness
2 with forensic involvement.

3 (3) Staff support for the task force must be provided by the senate
4 committee services and the house of representatives office of program
5 research.

6 (4) Legislative members of the task force must be reimbursed for
7 travel expenses in accordance with RCW 44.04.120. Nonlegislative
8 members, except those representing an employer or organization, are
9 entitled to be reimbursed for travel expenses in accordance with RCW
10 43.03.050 and 43.03.060.

11 (5) The expenses of the task force must be paid jointly by the
12 senate and house of representatives. Task force expenditures are
13 subject to approval by the senate facilities and operations committee
14 and the house of representatives executive rules committee, or their
15 successor committees.

16 (6) The task force shall report its findings and recommendations to
17 the governor and the appropriate committees of the legislature by
18 January 1, 2014.

19 (7) This section expires June 1, 2014.

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

22 (1) The systems responsible for financing, administration, and
23 delivery of publicly funded mental health and chemical dependency
24 services to adults must be designed and administered to achieve
25 improved outcomes for adult clients who face challenges related to
26 mental illness or chemical dependency through increased use and
27 development of evidence-based, research-based, and promising practices,
28 as defined in RCW 71.24.025. For purposes of this section, client
29 outcomes include: Improved health status; increased participation in
30 employment and education; reduced involvement with the criminal justice
31 system; enhanced safety and access to treatment for forensic patients;
32 reduction in avoidable utilization of and costs associated with
33 hospital, emergency room, and crisis services; increased housing
34 stability; improved quality of life, including measures of recovery and
35 resilience; and decreased population level disparities in access to
36 treatment and treatment outcomes.

1 (2) The department and the health care authority must implement a
2 strategy for the improvement of the adult behavioral health system.
3 The adult behavioral health system improvement strategy must include:

4 (a) An assessment of the capacity of the current publicly funded
5 behavioral health services system to provide evidence-based, research-
6 based, and promising practices;

7 (b) Identification, development, and increased use of evidence-
8 based, research-based, and promising practices;

9 (c) Design and implementation of a transparent quality management
10 system, including analysis of current system capacity to implement
11 outcomes reporting, and development of baseline and performance
12 improvement targets for each outcome measure provided in this section;
13 and

14 (d) Identification and phased implementation of service delivery,
15 financing or other strategies that will promote improvement of the
16 behavioral health system described in this section and incentivize the
17 medical care, behavioral health, and long-term care service delivery
18 systems to achieve the improvements described in this section and
19 collaborate across systems. The strategies must include phased
20 implementation of public reporting of outcome and performance measures
21 in a form that allows for comparison of performance and levels of
22 improvement between geographic regions of Washington. Design of
23 strategies should include consideration of any legal or practical
24 barriers and federal funding requirements that would need to be
25 addressed to fully implement the system.

26 (3) By May 15, 2014, the Washington state institute for public
27 policy, in consultation with the department, shall prepare an inventory
28 of evidence-based, research-based, and promising practices for
29 prevention and intervention services pursuant to subsection (1) of this
30 section. The department shall use the inventory in preparing the
31 behavioral health improvement strategy. The department shall provide
32 the institute with data necessary to complete the inventory.

33 (4) The department must seek private foundation and federal grant
34 funding to support the adult behavioral health system improvement
35 strategy.

36 (5) By August 1, 2014, the department must report to the governor
37 and the relevant fiscal and policy committees of the legislature on the
38 status of implementation of the behavioral health improvement strategy,

1 including strategies developed or implemented to date, timelines, and
2 costs to accomplish phased implementation of the adult behavioral
3 health system improvement strategy.

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

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

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

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

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

21 (e) 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 (7) The department shall enter into agreements with the tribes and
25 urban Indian health programs and modify regional support network
26 contracts as necessary to develop a tribal-centric behavioral health
27 system that better serves the needs of the tribes.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.97 RCW
29 to read as follows:

30 (1) 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 (2) This section expires August 1, 2015.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.05 RCW
36 to read as follows:

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

11 **Sec. 5.** RCW 71.24.025 and 2012 c 10 s 59 are each amended to read
12 as follows:

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

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

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

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

22 (c) Presenting a likelihood of serious harm as defined in RCW
23 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

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

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

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

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

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

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

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

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

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

36 (9) "Consensus-based" means a program or practice that has general
37 support among treatment providers and experts, based on experience or

1 professional literature, and may have anecdotal or case study support,
2 or that is agreed but not possible to perform studies with random
3 assignment and controlled groups.

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

9 (11) "Department" means the department of social and health
10 services.

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

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

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

33 (15) "Licensed service provider" means an entity licensed according
34 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
35 minimum standards as a result of accreditation by a recognized
36 behavioral health accrediting body recognized and having a current
37 agreement with the department, that meets state minimum standards or

1 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
2 applies to registered nurses and advanced registered nurse
3 practitioners.

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

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

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

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

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

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

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

37 (23) "Residential services" means a complete range of residences
38 and supports authorized by resource management services and which may

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

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

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

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

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

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

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

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

10 (d) Exhibits suicidal preoccupation or attempts; or

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

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

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

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

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

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

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

33 (ii) Changes in custodial adult;

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

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

1 (v) Drug or alcohol abuse; or

2 (vi) Homelessness.

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

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

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

22 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect July 1,
23 2018.

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