

ESHB 1388 - H AMD 692

By Representative Cody

ADOPTED 02/07/2018

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

3 "PART 1

4 NEW SECTION. **Sec. 1001.** The legislature finds that:

5 (1) Washington state government must be organized to be
6 efficient, cost-effective, and responsive to its residents.

7 (2) Pursuant to existing legislative direction, Washington state
8 continues to transform how it delivers behavioral health services by
9 integrating the financing and delivery of behavioral and physical
10 health care by 2020. Integration will improve prevention and
11 treatment of behavioral health conditions. Integration, leading to
12 better whole person care, should also enable many individuals to
13 avoid commitment at the state psychiatric hospitals or divert from
14 jails, and support them in leading healthy, productive lives.

15 (3) The responsibility for oversight, purchasing, and management
16 of Washington state's community behavioral health system is currently
17 split between the department of social and health services, which is
18 the state's behavioral health authority, and the health care
19 authority, which is the single state medicaid agency responsible for
20 state health care purchasing.

21 (4) The health care authority is the state's primary health care
22 purchaser. Integrating and consolidating the oversight and purchasing
23 of state behavioral health care into a single state agency at the
24 health care authority will align core operations and provide better,
25 coordinated, and more cost-effective services, with the ultimate goal
26 of achieving whole person care.

27 (5) The legislature therefore intends to consolidate state
28 behavioral health care purchasing and oversight within the health
29 care authority, positioning the state to use its full purchasing
30 power to get the greatest value for its investment. The department of
31 social and health services will continue to operate the state mental

1 health institutions, with the intent of further analyzing the future
2 proper alignment of these services.

3 (6) Similar to the issues with our disparate purchasing programs,
4 the responsibility for licensing and certification of behavioral
5 health providers and facilities is currently spread across multiple
6 agencies, with the department of social and health services
7 regulating some behavioral health providers and the department of
8 health regulating others.

9 (7) The department of health is responsible for the majority of
10 licensing and certification of health care providers and facilities.
11 The state will best be able to ensure patient safety and reduce
12 administrative burdens of licensing and certification of behavioral
13 health providers and facilities by consolidating those functions
14 within a single agency at the department of health. This change will
15 streamline processes leading to improved patient safety outcomes.

16 (8) The legislature therefore intends to integrate and
17 consolidate the behavioral health licensing and certification
18 functions within the department of health.

19 **PART 2**

20 **Sec. 2001.** RCW 43.20A.025 and 2016 sp.s. c 29 s 415 are each
21 amended to read as follows:

22 The (~~department of social and health services~~) authority shall
23 adopt rules defining "appropriately trained professional person" for
24 the purposes of conducting mental health and chemical dependency
25 evaluations under RCW 71.34.600(3) and 71.34.650(1).

26 **Sec. 2002.** RCW 43.20A.065 and 2002 c 290 s 6 are each amended to
27 read as follows:

28 The (~~department of social and health services~~) authority shall
29 annually review and monitor the expenditures made by any county or
30 group of counties which is funded, in whole or in part, with funds
31 provided by chapter 290, Laws of 2002. Counties shall repay any funds
32 that are not spent in accordance with the requirements of chapter
33 290, Laws of 2002.

34 **Sec. 2003.** RCW 43.20A.433 and 2005 c 504 s 802 are each amended
35 to read as follows:

1 (~~Beginning July 1, 2007,~~) The (~~secretary~~) director shall
2 require, in the contracts the (~~department~~) authority negotiates
3 pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate
4 increases provided for mental health and chemical dependency
5 treatment providers or programs who are parties to the contract or
6 subcontractors of any party to the contract shall be prioritized to
7 those providers and programs that maximize the use of evidence-based
8 and research-based practices(~~, as those terms are defined in section~~
9 ~~603 of this act,~~) unless otherwise designated by the legislature.

10 **Sec. 2004.** RCW 43.20A.890 and 2010 c 171 s 1 are each amended to
11 read as follows:

12 (1) A program for (a) the prevention and treatment of problem and
13 pathological gambling; and (b) the training of professionals in the
14 identification and treatment of problem and pathological gambling is
15 established within the (~~department of social and health services~~)
16 authority, to be administered by a qualified person who has training
17 and experience in problem gambling or the organization and
18 administration of treatment services for persons suffering from
19 problem gambling. The department of health may license or certify and
20 the authority may contract with treatment facilities for any services
21 provided under the program. The (~~department~~) authority shall track
22 program participation and client outcomes.

23 (2) To receive treatment under subsection (1) of this section, a
24 person must:

25 (a) Need treatment for problem or pathological gambling, or
26 because of the problem or pathological gambling of a family member,
27 but be unable to afford treatment; and

28 (b) Be targeted by the (~~department of social and health~~
29 ~~services~~) authority as being most amenable to treatment.

30 (3) Treatment under this section is available only to the extent
31 of the funds appropriated or otherwise made available to the
32 (~~department of social and health services~~) authority for this
33 purpose. The (~~department~~) authority may solicit and accept for use
34 any gift of money or property made by will or otherwise, and any
35 grant of money, services, or property from the federal government,
36 any tribal government, the state, or any political subdivision
37 thereof or any private source, and do all things necessary to
38 cooperate with the federal government or any of its agencies or any
39 tribal government in making an application for any grant.

1 (4) (~~The department may adopt rules establishing standards for~~
2 ~~the review and certification of treatment facilities under this~~
3 ~~program.~~

4 ~~(5))~~ The (~~department of social and health services~~) authority
5 shall establish an advisory committee to assist it in designing,
6 managing, and evaluating the effectiveness of the program established
7 in this section. The advisory committee shall give due consideration
8 in the design and management of the program that persons who hold
9 licenses or contracts issued by the gambling commission, horse racing
10 commission, and lottery commission are not excluded from, or
11 discouraged from, applying to participate in the program. The
12 committee shall include, at a minimum, persons knowledgeable in the
13 field of problem and pathological gambling and persons representing
14 tribal gambling, privately owned nontribal gambling, and the state
15 lottery.

16 ~~((+6))~~ (5) For purposes of this section, "pathological gambling"
17 is a mental disorder characterized by loss of control over gambling,
18 progression in preoccupation with gambling and in obtaining money to
19 gamble, and continuation of gambling despite adverse consequences.
20 "Problem gambling" is an earlier stage of pathological gambling which
21 compromises, disrupts, or damages family or personal relationships or
22 vocational pursuits.

23 **Sec. 2005.** RCW 43.20A.892 and 2005 c 369 s 3 are each amended to
24 read as follows:

25 The problem gambling account is created in the state treasury.
26 Money in the account may be spent only after appropriation.
27 Expenditures from the account may be used only for the purposes of
28 the program established under RCW 43.20A.890 (as recodified by this
29 act).

30 **Sec. 2006.** RCW 43.20A.893 and 2014 c 225 s 2 are each amended to
31 read as follows:

32 (1) Upon receipt of guidance for the creation of common regional
33 service areas from the adult behavioral health system task force
34 established in section 1, chapter 338, Laws of 2013, the (~~department~~
35 ~~and the health care~~) authority shall (~~jointly~~) establish regional
36 service areas as provided in this section.

1 (2) Counties, through the Washington state association of
2 counties, must be given the opportunity to propose the composition of
3 regional service areas. Each service area must:

4 (a) Include a sufficient number of medicaid lives to support full
5 financial risk managed care contracting for services included in
6 contracts with the department or the ((health-care)) authority;

7 (b) Include full counties that are contiguous with one another;
8 and

9 (c) Reflect natural medical and behavioral health service
10 referral patterns and shared clinical, health care service,
11 behavioral health service, and behavioral health crisis response
12 resources.

13 (3) The Washington state association of counties must submit
14 their recommendations to the department, the ((health-care))
15 authority, and the task force described in section 1, chapter 225,
16 Laws of 2014 on or before August 1, 2014.

17 **Sec. 2007.** RCW 43.20A.894 and 2014 c 225 s 3 are each amended to
18 read as follows:

19 (1) Any agreement or contract by the ((~~department or the health~~
20 ~~care~~)) authority to provide behavioral health services as defined
21 under RCW 71.24.025 to persons eligible for benefits under medicaid,
22 Title XIX of the social security act, and to persons not eligible for
23 medicaid must include the following:

24 (a) Contractual provisions consistent with the intent expressed
25 in RCW 71.24.015, 71.36.005, ((~~70.96A.010,~~)) and 70.96A.011;

26 (b) Standards regarding the quality of services to be provided,
27 including increased use of evidence-based, research-based, and
28 promising practices, as defined in RCW 71.24.025;

29 (c) Accountability for the client outcomes established in RCW
30 43.20A.895, 70.320.020, and 71.36.025 and performance measures linked
31 to those outcomes;

32 (d) Standards requiring behavioral health organizations to
33 maintain a network of appropriate providers that is supported by
34 written agreements sufficient to provide adequate access to all
35 services covered under the contract with the ((~~department or the~~
36 ~~health-care~~)) authority and to protect essential existing behavioral
37 health system infrastructure and capacity, including a continuum of
38 chemical dependency services;

1 (e) Provisions to require that medically necessary chemical
2 dependency and mental health treatment services be available to
3 clients;

4 (f) Standards requiring the use of behavioral health service
5 provider reimbursement methods that incentivize improved performance
6 with respect to the client outcomes established in RCW 43.20A.895 and
7 71.36.025, integration of behavioral health and primary care services
8 at the clinical level, and improved care coordination for individuals
9 with complex care needs;

10 (g) Standards related to the financial integrity of the
11 responding organization. The ((department)) authority shall adopt
12 rules establishing the solvency requirements and other financial
13 integrity standards for behavioral health organizations. This
14 subsection does not limit the authority of the ((department))
15 authority to take action under a contract upon finding that a
16 behavioral health organization's financial status jeopardizes the
17 organization's ability to meet its contractual obligations;

18 (h) Mechanisms for monitoring performance under the contract and
19 remedies for failure to substantially comply with the requirements of
20 the contract including, but not limited to, financial deductions,
21 termination of the contract, receivership, reprocurement of the
22 contract, and injunctive remedies;

23 (i) Provisions to maintain the decision-making independence of
24 designated mental health professionals or designated chemical
25 dependency specialists; and

26 (j) Provisions stating that public funds appropriated by the
27 legislature may not be used to promote or deter, encourage, or
28 discourage employees from exercising their rights under Title 29,
29 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

30 (2) The following factors must be given significant weight in any
31 purchasing process:

32 (a) Demonstrated commitment and experience in serving low-income
33 populations;

34 (b) Demonstrated commitment and experience serving persons who
35 have mental illness, chemical dependency, or co-occurring disorders;

36 (c) Demonstrated commitment to and experience with partnerships
37 with county and municipal criminal justice systems, housing services,
38 and other critical support services necessary to achieve the outcomes
39 established in RCW 43.20A.895, 70.320.020, and 71.36.025;

1 (d) Recognition that meeting enrollees' physical and behavioral
2 health care needs is a shared responsibility of contracted behavioral
3 health organizations, managed health care systems, service providers,
4 the state, and communities;

5 (e) Consideration of past and current performance and
6 participation in other state or federal behavioral health programs as
7 a contractor; and

8 (f) The ability to meet requirements established by the
9 ((department)) authority.

10 (3) For purposes of purchasing behavioral health services and
11 medical care services for persons eligible for benefits under
12 medicaid, Title XIX of the social security act and for persons not
13 eligible for medicaid, the ((department and the health care))
14 authority must use ((common)) regional service areas. The regional
15 service areas must be established by the ((department and the health
16 care)) authority as provided in RCW 43.20A.893 (as recodified by this
17 act).

18 (4) Consideration must be given to using multiple-biennia
19 contracting periods.

20 (5) Each behavioral health organization operating pursuant to a
21 contract issued under this section shall enroll clients within its
22 regional service area who meet the ((department's)) authority's
23 eligibility criteria for mental health and chemical dependency
24 services.

25 **Sec. 2008.** RCW 43.20A.896 and 2014 c 225 s 4 are each amended to
26 read as follows:

27 The ((secretary)) director shall require that behavioral health
28 organizations offer contracts to managed health care systems under
29 chapter 74.09 RCW or primary care practice settings to promote access
30 to the services of chemical dependency professionals under chapter
31 18.205 RCW and mental health professionals, as defined by the
32 department of health in rule, for the purposes of integrating such
33 services into primary care settings for individuals with behavioral
34 health and medical comorbidities.

35 **Sec. 2009.** RCW 43.20A.897 and 2014 c 225 s 65 are each amended
36 to read as follows:

37 (1) By November 30, 2013, the department and the ((health care))
38 authority must report to the governor and the relevant fiscal and

1 policy committees of the legislature, consistent with RCW 43.01.036,
2 a plan that establishes a tribal-centric behavioral health system
3 incorporating both mental health and chemical dependency services.
4 The plan must assure that child, adult, and older adult American
5 Indians and Alaskan Natives eligible for medicaid have increased
6 access to culturally appropriate mental health and chemical
7 dependency services. The plan must:

8 (a) Include implementation dates, major milestones, and fiscal
9 estimates as needed;

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

12 (c) Address equitable access to crisis services, outpatient care,
13 voluntary and involuntary hospitalization, and behavioral health care
14 coordination;

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

17 (e) Be developed with the department's Indian policy advisory
18 committee and the American Indian health commission, in consultation
19 with Washington's federally recognized tribes.

20 (2) The (~~department~~) authority shall enter into agreements with
21 the tribes and urban Indian health programs and modify behavioral
22 health organization contracts as necessary to develop a tribal-
23 centric behavioral health system that better serves the needs of the
24 tribes.

25 **Sec. 2010.** RCW 74.04.015 and 2011 1st sp.s. c 15 s 62 are each
26 amended to read as follows:

27 (1) The secretary of social and health services shall be the
28 responsible state officer for the administration and disbursement of
29 all funds, goods, commodities, and services, which may be received by
30 the state in connection with programs of public assistance or
31 services related directly or indirectly to assistance programs, and
32 all other matters included in the federal social security act as
33 amended, or any other federal act or as the same may be amended
34 except as otherwise provided by law.

35 (2) The director shall be the responsible state officer for the
36 administration and disbursement of funds that the state receives in
37 connection with the medical services programs established under
38 chapter 74.09 RCW, including the state children's health insurance
39 program, Titles XIX and XXI of the social security act of 1935, as

1 amended, and programs established under chapter 71.05, 71.24, and
2 71.34 RCW that are under the director's authority.

3 (3) The department and the authority, as appropriate, shall make
4 such reports and render such accounting as may be required by federal
5 law.

6 **PART 3**

7 **Sec. 3001.** RCW 71.05.020 and 2017 3rd sp.s. c 14 s 14 are each
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Admission" or "admit" means a decision by a physician,
12 physician assistant, or psychiatric advanced registered nurse
13 practitioner that a person should be examined or treated as a patient
14 in a hospital;

15 (2) "Alcoholism" means a disease, characterized by a dependency
16 on alcoholic beverages, loss of control over the amount and
17 circumstances of use, symptoms of tolerance, physiological or
18 psychological withdrawal, or both, if use is reduced or discontinued,
19 and impairment of health or disruption of social or economic
20 functioning;

21 (3) "Antipsychotic medications" means that class of drugs
22 primarily used to treat serious manifestations of mental illness
23 associated with thought disorders, which includes, but is not limited
24 to atypical antipsychotic medications;

25 (4) "Approved substance use disorder treatment program" means a
26 program for persons with a substance use disorder provided by a
27 treatment program certified by the department as meeting standards
28 adopted under chapter 71.24 RCW;

29 (5) "Attending staff" means any person on the staff of a public
30 or private agency having responsibility for the care and treatment of
31 a patient;

32 (6) "Authority" means the Washington state health care authority;

33 (7) "Chemical dependency" means:

34 (a) Alcoholism;

35 (b) Drug addiction; or

36 (c) Dependence on alcohol and one or more psychoactive chemicals,
37 as the context requires;

1 ~~((7))~~ (8) "Chemical dependency professional" means a person
2 certified as a chemical dependency professional by the department
3 ~~((of health))~~ under chapter 18.205 RCW;

4 ~~((8))~~ (9) "Commitment" means the determination by a court that
5 a person should be detained for a period of either evaluation or
6 treatment, or both, in an inpatient or a less restrictive setting;

7 ~~((9))~~ (10) "Conditional release" means a revocable modification
8 of a commitment, which may be revoked upon violation of any of its
9 terms;

10 ~~((10))~~ (11) "Crisis stabilization unit" means a short-term
11 facility or a portion of a facility licensed or certified by the
12 department ~~((of health and certified by the department of social and
13 health services))~~ under RCW 71.24.035, such as an evaluation and
14 treatment facility or a hospital, which has been designed to assess,
15 diagnose, and treat individuals experiencing an acute crisis without
16 the use of long-term hospitalization;

17 ~~((11))~~ (12) "Custody" means involuntary detention under the
18 provisions of this chapter or chapter 10.77 RCW, uninterrupted by any
19 period of unconditional release from commitment from a facility
20 providing involuntary care and treatment;

21 ~~((12))~~ (13) "Department" means the department of ~~((social and))~~
22 health ~~((services))~~;

23 ~~((13))~~ (14) "Designated crisis responder" means a mental health
24 professional appointed by the behavioral health organization to
25 perform the duties specified in this chapter;

26 ~~((14))~~ (15) "Detention" or "detain" means the lawful
27 confinement of a person, under the provisions of this chapter;

28 ~~((15))~~ (16) "Developmental disabilities professional" means a
29 person who has specialized training and three years of experience in
30 directly treating or working with persons with developmental
31 disabilities and is a psychiatrist, physician assistant working with
32 a supervising psychiatrist, psychologist, psychiatric advanced
33 registered nurse practitioner, or social worker, and such other
34 developmental disabilities professionals as may be defined by rules
35 adopted by the secretary of the department of social and health
36 services;

37 ~~((16))~~ (17) "Developmental disability" means that condition
38 defined in RCW 71A.10.020(5);

39 ~~((17))~~ (18) "Director" means the director of the authority;

1 (19) "Discharge" means the termination of hospital medical
2 authority. The commitment may remain in place, be terminated, or be
3 amended by court order;

4 ~~((18))~~ (20) "Drug addiction" means a disease, characterized by
5 a dependency on psychoactive chemicals, loss of control over the
6 amount and circumstances of use, symptoms of tolerance, physiological
7 or psychological withdrawal, or both, if use is reduced or
8 discontinued, and impairment of health or disruption of social or
9 economic functioning;

10 ~~((19))~~ (21) "Evaluation and treatment facility" means any
11 facility which can provide directly, or by direct arrangement with
12 other public or private agencies, emergency evaluation and treatment,
13 outpatient care, and timely and appropriate inpatient care to persons
14 suffering from a mental disorder, and which is licensed or certified
15 as such by the department. The ~~((department))~~ authority may certify
16 single beds as temporary evaluation and treatment beds under RCW
17 71.05.745. A physically separate and separately operated portion of a
18 state hospital may be designated as an evaluation and treatment
19 facility. A facility which is part of, or operated by, the department
20 of social and health services or any federal agency will not require
21 certification. No correctional institution or facility, or jail,
22 shall be an evaluation and treatment facility within the meaning of
23 this chapter;

24 ~~((20))~~ (22) "Gravely disabled" means a condition in which a
25 person, as a result of a mental disorder, or as a result of the use
26 of alcohol or other psychoactive chemicals: (a) Is in danger of
27 serious physical harm resulting from a failure to provide for his or
28 her essential human needs of health or safety; or (b) manifests
29 severe deterioration in routine functioning evidenced by repeated and
30 escalating loss of cognitive or volitional control over his or her
31 actions and is not receiving such care as is essential for his or her
32 health or safety;

33 ~~((21))~~ (23) "Habilitative services" means those services
34 provided by program personnel to assist persons in acquiring and
35 maintaining life skills and in raising their levels of physical,
36 mental, social, and vocational functioning. Habilitative services
37 include education, training for employment, and therapy. The
38 habilitative process shall be undertaken with recognition of the risk
39 to the public safety presented by the person being assisted as
40 manifested by prior charged criminal conduct;

1 ~~((+22+))~~ (24) "History of one or more violent acts" refers to the
2 period of time ten years prior to the filing of a petition under this
3 chapter, excluding any time spent, but not any violent acts
4 committed, in a mental health facility, a long-term alcoholism or
5 drug treatment facility, or in confinement as a result of a criminal
6 conviction;

7 ~~((+23+))~~ (25) "Imminent" means the state or condition of being
8 likely to occur at any moment or near at hand, rather than distant or
9 remote;

10 ~~((+24+))~~ (26) "Individualized service plan" means a plan prepared
11 by a developmental disabilities professional with other professionals
12 as a team, for a person with developmental disabilities, which shall
13 state:

14 (a) The nature of the person's specific problems, prior charged
15 criminal behavior, and habilitation needs;

16 (b) The conditions and strategies necessary to achieve the
17 purposes of habilitation;

18 (c) The intermediate and long-range goals of the habilitation
19 program, with a projected timetable for the attainment;

20 (d) The rationale for using this plan of habilitation to achieve
21 those intermediate and long-range goals;

22 (e) The staff responsible for carrying out the plan;

23 (f) Where relevant in light of past criminal behavior and due
24 consideration for public safety, the criteria for proposed movement
25 to less-restrictive settings, criteria for proposed eventual
26 discharge or release, and a projected possible date for discharge or
27 release; and

28 (g) The type of residence immediately anticipated for the person
29 and possible future types of residences;

30 ~~((+25+))~~ (27) "Information related to mental health services"
31 means all information and records compiled, obtained, or maintained
32 in the course of providing services to either voluntary or
33 involuntary recipients of services by a mental health service
34 provider. This may include documents of legal proceedings under this
35 chapter or chapter 71.34 or 10.77 RCW, or somatic health care
36 information;

37 ~~((+26+))~~ (28) "Intoxicated person" means a person whose mental or
38 physical functioning is substantially impaired as a result of the use
39 of alcohol or other psychoactive chemicals;

1 ~~((27))~~ (29) "In need of assisted outpatient mental health
2 treatment" means that a person, as a result of a mental disorder: (a)
3 Has been committed by a court to detention for involuntary mental
4 health treatment at least twice during the preceding thirty-six
5 months, or, if the person is currently committed for involuntary
6 mental health treatment, the person has been committed to detention
7 for involuntary mental health treatment at least once during the
8 thirty-six months preceding the date of initial detention of the
9 current commitment cycle; (b) is unlikely to voluntarily participate
10 in outpatient treatment without an order for less restrictive
11 alternative treatment, in view of the person's treatment history or
12 current behavior; (c) is unlikely to survive safely in the community
13 without supervision; (d) is likely to benefit from less restrictive
14 alternative treatment; and (e) requires less restrictive alternative
15 treatment to prevent a relapse, decompensation, or deterioration that
16 is likely to result in the person presenting a likelihood of serious
17 harm or the person becoming gravely disabled within a reasonably
18 short period of time. For purposes of (a) of this subsection, time
19 spent in a mental health facility or in confinement as a result of a
20 criminal conviction is excluded from the thirty-six month
21 calculation;

22 ~~((28))~~ (30) "Judicial commitment" means a commitment by a court
23 pursuant to the provisions of this chapter;

24 ~~((29))~~ (31) "Legal counsel" means attorneys and staff employed
25 by county prosecutor offices or the state attorney general acting in
26 their capacity as legal representatives of public mental health and
27 substance use disorder service providers under RCW 71.05.130;

28 ~~((30))~~ (32) "Less restrictive alternative treatment" means a
29 program of individualized treatment in a less restrictive setting
30 than inpatient treatment that includes the services described in RCW
31 71.05.585;

32 ~~((31))~~ (33) "Licensed physician" means a person licensed to
33 practice medicine or osteopathic medicine and surgery in the state of
34 Washington;

35 ~~((32))~~ (34) "Likelihood of serious harm" means:

36 (a) A substantial risk that: (i) Physical harm will be inflicted
37 by a person upon his or her own person, as evidenced by threats or
38 attempts to commit suicide or inflict physical harm on oneself; (ii)
39 physical harm will be inflicted by a person upon another, as
40 evidenced by behavior which has caused such harm or which places

1 another person or persons in reasonable fear of sustaining such harm;
2 or (iii) physical harm will be inflicted by a person upon the
3 property of others, as evidenced by behavior which has caused
4 substantial loss or damage to the property of others; or

5 (b) The person has threatened the physical safety of another and
6 has a history of one or more violent acts;

7 ~~((33))~~ (35) "Medical clearance" means a physician or other
8 health care provider has determined that a person is medically stable
9 and ready for referral to the designated crisis responder;

10 ~~((34))~~ (36) "Mental disorder" means any organic, mental, or
11 emotional impairment which has substantial adverse effects on a
12 person's cognitive or volitional functions;

13 ~~((35))~~ (37) "Mental health professional" means a psychiatrist,
14 psychologist, physician assistant working with a supervising
15 psychiatrist, psychiatric advanced registered nurse practitioner,
16 psychiatric nurse, or social worker, and such other mental health
17 professionals as may be defined by rules adopted by the secretary
18 pursuant to the provisions of this chapter;

19 ~~((36))~~ (38) "Mental health service provider" means a public or
20 private agency that provides mental health services to persons with
21 mental disorders or substance use disorders as defined under this
22 section and receives funding from public sources. This includes, but
23 is not limited to, hospitals licensed under chapter 70.41 RCW,
24 evaluation and treatment facilities as defined in this section,
25 community mental health service delivery systems or behavioral health
26 programs as defined in RCW 71.24.025, facilities conducting
27 competency evaluations and restoration under chapter 10.77 RCW,
28 approved substance use disorder treatment programs as defined in this
29 section, secure detoxification facilities as defined in this section,
30 and correctional facilities operated by state and local governments;

31 ~~((37))~~ (39) "Peace officer" means a law enforcement official of
32 a public agency or governmental unit, and includes persons
33 specifically given peace officer powers by any state law, local
34 ordinance, or judicial order of appointment;

35 ~~((38))~~ (40) "Physician assistant" means a person licensed as a
36 physician assistant under chapter 18.57A or 18.71A RCW;

37 ~~((39))~~ (41) "Private agency" means any person, partnership,
38 corporation, or association that is not a public agency, whether or
39 not financed in whole or in part by public funds, which constitutes
40 an evaluation and treatment facility or private institution, or

1 hospital, or approved substance use disorder treatment program, which
2 is conducted for, or includes a department or ward conducted for, the
3 care and treatment of persons with mental illness, substance use
4 disorders, or both mental illness and substance use disorders;

5 ~~((40))~~ (42) "Professional person" means a mental health
6 professional, chemical dependency professional, or designated crisis
7 responder and shall also mean a physician, physician assistant,
8 psychiatric advanced registered nurse practitioner, registered nurse,
9 and such others as may be defined by rules adopted by the secretary
10 pursuant to the provisions of this chapter;

11 ~~((41))~~ (43) "Psychiatric advanced registered nurse
12 practitioner" means a person who is licensed as an advanced
13 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
14 is board certified in advanced practice psychiatric and mental health
15 nursing;

16 ~~((42))~~ (44) "Psychiatrist" means a person having a license as a
17 physician and surgeon in this state who has in addition completed
18 three years of graduate training in psychiatry in a program approved
19 by the American medical association or the American osteopathic
20 association and is certified or eligible to be certified by the
21 American board of psychiatry and neurology;

22 ~~((43))~~ (45) "Psychologist" means a person who has been licensed
23 as a psychologist pursuant to chapter 18.83 RCW;

24 ~~((44))~~ (46) "Public agency" means any evaluation and treatment
25 facility or institution, secure detoxification facility, approved
26 substance use disorder treatment program, or hospital which is
27 conducted for, or includes a department or ward conducted for, the
28 care and treatment of persons with mental illness, substance use
29 disorders, or both mental illness and substance use disorders, if the
30 agency is operated directly by federal, state, county, or municipal
31 government, or a combination of such governments;

32 ~~((45))~~ ~~"Registration records" include all the records of the~~
33 ~~department, behavioral health organizations, treatment facilities,~~
34 ~~and other persons providing services to the department, county~~
35 ~~departments, or facilities which identify persons who are receiving~~
36 ~~or who at any time have received services for mental illness or~~
37 ~~substance use disorders;~~

38 ~~(46))~~ (47) "Release" means legal termination of the commitment
39 under the provisions of this chapter;

1 ~~((47))~~ (48) "Resource management services" has the meaning
2 given in chapter 71.24 RCW;

3 ~~((48))~~ (49) "Secretary" means the secretary of the department
4 of ~~((social and))~~ health ~~((services))~~, or his or her designee;

5 ~~((49))~~ (50) "Secure detoxification facility" means a facility
6 operated by either a public or private agency or by the program of an
7 agency that:

8 (a) Provides for intoxicated persons:

9 (i) Evaluation and assessment, provided by certified chemical
10 dependency professionals;

11 (ii) Acute or subacute detoxification services; and

12 (iii) Discharge assistance provided by certified chemical
13 dependency professionals, including facilitating transitions to
14 appropriate voluntary or involuntary inpatient services or to less
15 restrictive alternatives as appropriate for the individual;

16 (b) Includes security measures sufficient to protect the
17 patients, staff, and community; and

18 (c) Is licensed or certified as such by the department of health;

19 ~~((50))~~ (51) "Serious violent offense" has the same meaning as
20 provided in RCW 9.94A.030;

21 ~~((51))~~ (52) "Social worker" means a person with a master's or
22 further advanced degree from a social work educational program
23 accredited and approved as provided in RCW 18.320.010;

24 ~~((52))~~ (53) "Substance use disorder" means a cluster of
25 cognitive, behavioral, and physiological symptoms indicating that an
26 individual continues using the substance despite significant
27 substance-related problems. The diagnosis of a substance use disorder
28 is based on a pathological pattern of behaviors related to the use of
29 the substances;

30 ~~((53))~~ (54) "Therapeutic court personnel" means the staff of a
31 mental health court or other therapeutic court which has jurisdiction
32 over defendants who are dually diagnosed with mental disorders,
33 including court personnel, probation officers, a court monitor,
34 prosecuting attorney, or defense counsel acting within the scope of
35 therapeutic court duties;

36 ~~((54))~~ (55) "Treatment records" include registration and all
37 other records concerning persons who are receiving or who at any time
38 have received services for mental illness, which are maintained by
39 the department of social and health services, ~~((by))~~ the department,
40 the authority, behavioral health organizations and their staffs, and

1 by treatment facilities. Treatment records include mental health
2 information contained in a medical bill including but not limited to
3 mental health drugs, a mental health diagnosis, provider name, and
4 dates of service stemming from a medical service. Treatment records
5 do not include notes or records maintained for personal use by a
6 person providing treatment services for the department of social and
7 health services, the department, the authority, behavioral health
8 organizations, or a treatment facility if the notes or records are
9 not available to others;

10 ((+55+)) (56) "Triage facility" means a short-term facility or a
11 portion of a facility licensed or certified by the department ((of
12 ~~health and certified by the department of social and health~~
13 ~~services)) under RCW 71.24.035, which is designed as a facility to
14 assess and stabilize an individual or determine the need for
15 involuntary commitment of an individual, and must meet department
16 ((of health)) residential treatment facility standards. A triage
17 facility may be structured as a voluntary or involuntary placement
18 facility;~~

19 ((+56+)) (57) "Violent act" means behavior that resulted in
20 homicide, attempted suicide, nonfatal injuries, or substantial damage
21 to property.

22 **Sec. 3002.** RCW 71.05.026 and 2016 sp.s. c 29 s 206 are each
23 amended to read as follows:

24 (1) Except for monetary damage claims which have been reduced to
25 final judgment by a superior court, this section applies to all
26 claims against the state, state agencies, state officials, or state
27 employees that exist on or arise after March 29, 2006.

28 (2) Except as expressly provided in contracts entered into
29 between the ((department)) authority and the behavioral health
30 organizations after March 29, 2006, the entities identified in
31 subsection (3) of this section shall have no claim for declaratory
32 relief, injunctive relief, judicial review under chapter 34.05 RCW,
33 or civil liability against the state or state agencies for actions or
34 inactions performed pursuant to the administration of this chapter
35 with regard to the following: (a) The allocation or payment of
36 federal or state funds; (b) the use or allocation of state hospital
37 beds; or (c) financial responsibility for the provision of inpatient
38 mental health care or inpatient substance use disorder treatment.

1 (3) This section applies to counties, behavioral health
2 organizations, and entities which contract to provide behavioral
3 health organization services and their subcontractors, agents, or
4 employees.

5 **Sec. 3003.** RCW 71.05.027 and 2014 c 225 s 82 are each amended to
6 read as follows:

7 (1) Not later than January 1, 2007, all persons providing
8 treatment under this chapter shall also implement the integrated
9 comprehensive screening and assessment process for chemical
10 dependency and mental disorders adopted pursuant to RCW
11 (~~(70.96C.010)~~) 71.24.630 and shall document the numbers of clients
12 with co-occurring mental and substance abuse disorders based on a
13 quadrant system of low and high needs.

14 (2) Treatment providers and behavioral health organizations who
15 fail to implement the integrated comprehensive screening and
16 assessment process for chemical dependency and mental disorders by
17 July 1, 2007, shall be subject to contractual penalties established
18 under RCW (~~(70.96C.010)~~) 71.24.630.

19 **Sec. 3004.** RCW 71.05.040 and 2004 c 166 s 2 are each amended to
20 read as follows:

21 Persons (~~(who are developmentally disabled)~~) with developmental
22 disabilities, impaired by (~~(chronic alcoholism or drug abuse)~~)
23 substance use disorder, or suffering from dementia shall not be
24 detained for evaluation and treatment or judicially committed solely
25 by reason of that condition unless such condition causes a person to
26 be gravely disabled or as a result of a mental disorder such
27 condition exists that constitutes a likelihood of serious harm(~~(-~~
28 ~~Provided))~~). However, ((That)) persons ((who are developmentally
29 disabled)) with developmental disabilities, impaired by (~~(chronic~~
30 ~~alcoholism or drug abuse)~~) substance use disorder, or suffering from
31 dementia and who otherwise meet the criteria for detention or
32 judicial commitment are not ineligible for detention or commitment
33 based on this condition alone.

34 **Sec. 3005.** RCW 71.05.100 and 1997 c 112 s 6 are each amended to
35 read as follows:

36 In addition to the responsibility provided for by RCW 43.20B.330,
37 any person, or his or her estate, or his or her spouse, or the

1 parents of a minor person who is involuntarily detained pursuant to
2 this chapter for the purpose of treatment and evaluation outside of a
3 facility maintained and operated by the department of social and
4 health services shall be responsible for the cost of such care and
5 treatment. In the event that an individual is unable to pay for such
6 treatment or in the event payment would result in a substantial
7 hardship upon the individual or his or her family, then the county of
8 residence of such person shall be responsible for such costs. If it
9 is not possible to determine the county of residence of the person,
10 the cost shall be borne by the county where the person was originally
11 detained. The department of social and health services, or the
12 authority, as appropriate, shall, pursuant to chapter 34.05 RCW,
13 adopt standards as to (1) inability to pay in whole or in part, (2) a
14 definition of substantial hardship, and (3) appropriate payment
15 schedules. (~~Such standards shall be applicable to all county mental~~
16 ~~health administrative boards.~~) Financial responsibility with respect
17 to (~~department~~) services and facilities of the department of social
18 and health services shall continue to be as provided in RCW
19 43.20B.320 through 43.20B.360 and 43.20B.370.

20 **Sec. 3006.** RCW 71.05.203 and 2017 3rd sp.s. c 14 s 4 are each
21 amended to read as follows:

22 (1) The (~~department~~) authority and each behavioral health
23 organization or agency employing designated crisis responders shall
24 publish information in an easily accessible format describing the
25 process for an immediate family member, guardian, or conservator to
26 petition for court review of a detention decision under RCW
27 71.05.201.

28 (2) A designated crisis responder or designated crisis responder
29 agency that receives a request for investigation for possible
30 detention under this chapter must inquire whether the request comes
31 from an immediate family member, guardian, or conservator who would
32 be eligible to petition under RCW 71.05.201. If the designated crisis
33 responder decides not to detain the person for evaluation and
34 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have
35 elapsed since the request for investigation was received and the
36 designated crisis responder has not taken action to have the person
37 detained, the designated crisis responder or designated crisis
38 responder agency must inform the immediate family member, guardian,
39 or conservator who made the request for investigation about the

1 process to petition for court review under RCW 71.05.201 and, to the
2 extent feasible, provide the immediate family member, guardian, or
3 conservator with written or electronic information about the petition
4 process. If provision of written or electronic information is not
5 feasible, the designated crisis responder or designated crisis
6 responder agency must refer the immediate family member, guardian, or
7 conservator to a web site where published information on the petition
8 process may be accessed. The designated crisis responder or
9 designated crisis responder agency must document the manner and date
10 on which the information required under this subsection was provided
11 to the immediate family member, guardian, or conservator.

12 (3) A designated crisis responder or designated crisis responder
13 agency must, upon request, disclose the date of a designated crisis
14 responder investigation under this chapter to an immediate family
15 member, guardian, or conservator of a person to assist in the
16 preparation of a petition under RCW 71.05.201.

17 **Sec. 3007.** RCW 71.05.214 and 2016 sp.s. c 29 s 227 are each
18 amended to read as follows:

19 The ((~~department~~)) authority shall develop statewide protocols to
20 be utilized by professional persons and designated crisis responders
21 in administration of this chapter and chapter 10.77 RCW. The
22 protocols shall be updated at least every three years. The protocols
23 shall provide uniform development and application of criteria in
24 evaluation and commitment recommendations, of persons who have, or
25 are alleged to have, mental disorders or substance use disorders and
26 are subject to this chapter.

27 The initial protocols shall be developed not later than September
28 1, 1999. The ((~~department~~)) authority shall develop and update the
29 protocols in consultation with representatives of designated crisis
30 responders, the department of social and health services, local
31 government, law enforcement, county and city prosecutors, public
32 defenders, and groups concerned with mental illness and substance use
33 disorders. The protocols shall be submitted to the governor and
34 legislature upon adoption by the ((~~department~~)) authority.

35 **Sec. 3008.** RCW 71.05.215 and 2016 sp.s. c 29 s 228 and 2016 c
36 155 s 3 are each reenacted and amended to read as follows:

37 (1) A person found to be gravely disabled or presents a
38 likelihood of serious harm as a result of a mental disorder or

1 substance use disorder has a right to refuse antipsychotic medication
2 unless it is determined that the failure to medicate may result in a
3 likelihood of serious harm or substantial deterioration or
4 substantially prolong the length of involuntary commitment and there
5 is no less intrusive course of treatment than medication in the best
6 interest of that person.

7 (2) The (~~department~~) authority shall adopt rules to carry out
8 the purposes of this chapter. These rules shall include:

9 (a) An attempt to obtain the informed consent of the person prior
10 to administration of antipsychotic medication.

11 (b) For short-term treatment up to thirty days, the right to
12 refuse antipsychotic medications unless there is an additional
13 concurring medical opinion approving medication by a psychiatrist,
14 physician assistant working with a supervising psychiatrist,
15 psychiatric advanced registered nurse practitioner, or physician or
16 physician assistant in consultation with a mental health professional
17 with prescriptive authority.

18 (c) For continued treatment beyond thirty days through the
19 hearing on any petition filed under RCW 71.05.217, the right to
20 periodic review of the decision to medicate by the medical director
21 or designee.

22 (d) Administration of antipsychotic medication in an emergency
23 and review of this decision within twenty-four hours. An emergency
24 exists if the person presents an imminent likelihood of serious harm,
25 and medically acceptable alternatives to administration of
26 antipsychotic medications are not available or are unlikely to be
27 successful; and in the opinion of the physician, physician assistant,
28 or psychiatric advanced registered nurse practitioner, the person's
29 condition constitutes an emergency requiring the treatment be
30 instituted prior to obtaining a second medical opinion.

31 (e) Documentation in the medical record of the attempt by the
32 physician, physician assistant, or psychiatric advanced registered
33 nurse practitioner to obtain informed consent and the reasons why
34 antipsychotic medication is being administered over the person's
35 objection or lack of consent.

36 **Sec. 3009.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45
37 s 2 are each reenacted and amended to read as follows:

38 (1) If a petition is filed for fourteen day involuntary treatment
39 or ninety days of less restrictive alternative treatment, the court

1 shall hold a probable cause hearing within seventy-two hours of the
2 initial detention or involuntary outpatient evaluation of such person
3 as determined in RCW 71.05.180. If requested by the person or his or
4 her attorney, the hearing may be postponed for a period not to exceed
5 forty-eight hours. The hearing may also be continued subject to the
6 conditions set forth in RCW 71.05.210 or subject to the petitioner's
7 showing of good cause for a period not to exceed twenty-four hours.

8 (2) If the petition is for mental health treatment, the court at
9 the time of the probable cause hearing and before an order of
10 commitment is entered shall inform the person both orally and in
11 writing that the failure to make a good faith effort to seek
12 voluntary treatment as provided in RCW 71.05.230 will result in the
13 loss of his or her firearm rights if the person is subsequently
14 detained for involuntary treatment under this section.

15 (3)(a) Subject to (b) of this subsection, at the conclusion of
16 the probable cause hearing, if the court finds by a preponderance of
17 the evidence that such person, as the result of a mental disorder or
18 substance use disorder, presents a likelihood of serious harm, or is
19 gravely disabled, and, after considering less restrictive
20 alternatives to involuntary detention and treatment, finds that no
21 such alternatives are in the best interests of such person or others,
22 the court shall order that such person be detained for involuntary
23 treatment not to exceed fourteen days in a facility licensed or
24 certified to provide treatment by the department.

25 (b) Commitment for up to fourteen days based on a substance use
26 disorder must be to either a secure detoxification facility or an
27 approved substance use disorder treatment program. A court may only
28 enter a commitment order based on a substance use disorder if there
29 is an available secure detoxification facility or approved substance
30 use disorder treatment program with adequate space for the person.

31 (c) At the conclusion of the probable cause hearing, if the court
32 finds by a preponderance of the evidence that such person, as the
33 result of a mental disorder or substance use disorder, presents a
34 likelihood of serious harm, or is gravely disabled, but that
35 treatment in a less restrictive setting than detention is in the best
36 interest of such person or others, the court shall order an
37 appropriate less restrictive alternative course of treatment for not
38 to exceed ninety days.

39 (d) If the court finds by a preponderance of the evidence that
40 such person, as the result of a mental disorder, is in need of

1 assisted outpatient mental health treatment, and that the person does
2 not present a likelihood of serious harm or grave disability, the
3 court shall order an appropriate less restrictive alternative course
4 of treatment not to exceed ninety days, and may not order inpatient
5 treatment.

6 (e) An order for less restrictive alternative treatment must name
7 the mental health service provider responsible for identifying the
8 services the person will receive in accordance with RCW 71.05.585,
9 and must include a requirement that the person cooperate with the
10 services planned by the mental health service provider.

11 (4) The court shall specifically state to such person and give
12 such person notice in writing that if involuntary treatment beyond
13 the fourteen day period or beyond the ninety days of less restrictive
14 treatment is to be sought, such person will have the right to a full
15 hearing or jury trial as required by RCW 71.05.310. If the commitment
16 is for mental health treatment, the court shall also state to the
17 person and provide written notice that the person is barred from the
18 possession of firearms and that the prohibition remains in effect
19 until a court restores his or her right to possess a firearm under
20 RCW 9.41.047.

21 **Sec. 3010.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each
22 amended to read as follows:

23 (1) If a petition is filed for fourteen day involuntary treatment
24 or ninety days of less restrictive alternative treatment, the court
25 shall hold a probable cause hearing within seventy-two hours of the
26 initial detention or involuntary outpatient evaluation of such person
27 as determined in RCW 71.05.180. If requested by the person or his or
28 her attorney, the hearing may be postponed for a period not to exceed
29 forty-eight hours. The hearing may also be continued subject to the
30 conditions set forth in RCW 71.05.210 or subject to the petitioner's
31 showing of good cause for a period not to exceed twenty-four hours.

32 (2) If the petition is for mental health treatment, the court at
33 the time of the probable cause hearing and before an order of
34 commitment is entered shall inform the person both orally and in
35 writing that the failure to make a good faith effort to seek
36 voluntary treatment as provided in RCW 71.05.230 will result in the
37 loss of his or her firearm rights if the person is subsequently
38 detained for involuntary treatment under this section.

1 (3)(a) Subject to (b) of this subsection, at the conclusion of
2 the probable cause hearing, if the court finds by a preponderance of
3 the evidence that such person, as the result of a mental disorder or
4 substance use disorder, presents a likelihood of serious harm, or is
5 gravely disabled, and, after considering less restrictive
6 alternatives to involuntary detention and treatment, finds that no
7 such alternatives are in the best interests of such person or others,
8 the court shall order that such person be detained for involuntary
9 treatment not to exceed fourteen days in a facility licensed or
10 certified to provide treatment by the department.

11 (b) Commitment for up to fourteen days based on a substance use
12 disorder must be to either a secure detoxification facility or an
13 approved substance use disorder treatment program.

14 (c) At the conclusion of the probable cause hearing, if the court
15 finds by a preponderance of the evidence that such person, as the
16 result of a mental disorder or substance use disorder, presents a
17 likelihood of serious harm, or is gravely disabled, but that
18 treatment in a less restrictive setting than detention is in the best
19 interest of such person or others, the court shall order an
20 appropriate less restrictive alternative course of treatment for not
21 to exceed ninety days.

22 (d) If the court finds by a preponderance of the evidence that
23 such person, as the result of a mental disorder, is in need of
24 assisted outpatient mental health treatment, and that the person does
25 not present a likelihood of serious harm or grave disability, the
26 court shall order an appropriate less restrictive alternative course
27 of treatment not to exceed ninety days, and may not order inpatient
28 treatment.

29 (e) An order for less restrictive alternative treatment must name
30 the mental health service provider responsible for identifying the
31 services the person will receive in accordance with RCW 71.05.585,
32 and must include a requirement that the person cooperate with the
33 services planned by the mental health service provider.

34 (4) The court shall specifically state to such person and give
35 such person notice in writing that if involuntary treatment beyond
36 the fourteen day period or beyond the ninety days of less restrictive
37 treatment is to be sought, such person will have the right to a full
38 hearing or jury trial as required by RCW 71.05.310. If the commitment
39 is for mental health treatment, the court shall also state to the
40 person and provide written notice that the person is barred from the

1 possession of firearms and that the prohibition remains in effect
2 until a court restores his or her right to possess a firearm under
3 RCW 9.41.047.

4 **Sec. 3011.** RCW 71.05.285 and 2001 c 12 s 1 are each amended to
5 read as follows:

6 In determining whether an inpatient or less restrictive
7 alternative commitment under the process provided in RCW 71.05.280
8 and 71.05.320(~~((2))~~) (4) is appropriate, great weight shall be given
9 to evidence of a prior history or pattern of decompensation and
10 discontinuation of treatment resulting in: (1) Repeated
11 hospitalizations; or (2) repeated peace officer interventions
12 resulting in juvenile offenses, criminal charges, diversion programs,
13 or jail admissions. Such evidence may be used to provide a factual
14 basis for concluding that the individual would not receive, if
15 released, such care as is essential for his or her health or safety.

16 **Sec. 3012.** RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45
17 s 4 are each reenacted and amended to read as follows:

18 (1)(a) Subject to (b) of this subsection, if the court or jury
19 finds that grounds set forth in RCW 71.05.280 have been proven and
20 that the best interests of the person or others will not be served by
21 a less restrictive treatment which is an alternative to detention,
22 the court shall remand him or her to the custody of the department of
23 social and health services or to a facility certified for ninety day
24 treatment by the department for a further period of intensive
25 treatment not to exceed ninety days from the date of judgment.

26 (b) If the order for inpatient treatment is based on a substance
27 use disorder, treatment must take place at an approved substance use
28 disorder treatment program. The court may only enter an order for
29 commitment based on a substance use disorder if there is an available
30 approved substance use disorder treatment program with adequate space
31 for the person.

32 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
33 commitment, then the period of treatment may be up to but not exceed
34 one hundred eighty days from the date of judgment (~~((in))~~) to the
35 custody of the department of social and health services or to a
36 facility certified for one hundred eighty day treatment by the
37 department.

1 (2) If the court or jury finds that grounds set forth in RCW
2 71.05.280 have been proven, but finds that treatment less restrictive
3 than detention will be in the best interest of the person or others,
4 then the court shall remand him or her to the custody of the
5 department of social and health services or to a facility certified
6 for ninety day treatment by the department or to a less restrictive
7 alternative for a further period of less restrictive treatment not to
8 exceed ninety days from the date of judgment. If the order for less
9 restrictive treatment is based on a substance use disorder, treatment
10 must be provided by an approved substance use disorder treatment
11 program. If the grounds set forth in RCW 71.05.280(3) are the basis
12 of commitment, then the period of treatment may be up to but not
13 exceed one hundred eighty days from the date of judgment. If the
14 court or jury finds that the grounds set forth in RCW 71.05.280(5)
15 have been proven, and provide the only basis for commitment, the
16 court must enter an order for less restrictive alternative treatment
17 for up to ninety days from the date of judgment and may not order
18 inpatient treatment.

19 (3) An order for less restrictive alternative treatment entered
20 under subsection (2) of this section must name the mental health
21 service provider responsible for identifying the services the person
22 will receive in accordance with RCW 71.05.585, and must include a
23 requirement that the person cooperate with the services planned by
24 the mental health service provider.

25 (4) The person shall be released from involuntary treatment at
26 the expiration of the period of commitment imposed under subsection
27 (1) or (2) of this section unless the superintendent or professional
28 person in charge of the facility in which he or she is confined, or
29 in the event of a less restrictive alternative, the designated crisis
30 responder, files a new petition for involuntary treatment on the
31 grounds that the committed person:

32 (a) During the current period of court ordered treatment: (i) Has
33 threatened, attempted, or inflicted physical harm upon the person of
34 another, or substantial damage upon the property of another, and (ii)
35 as a result of a mental disorder, substance use disorder, or
36 developmental disability presents a likelihood of serious harm; or

37 (b) Was taken into custody as a result of conduct in which he or
38 she attempted or inflicted serious physical harm upon the person of
39 another, and continues to present, as a result of mental disorder,

1 substance use disorder, or developmental disability a likelihood of
2 serious harm; or

3 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result
4 of mental disorder or developmental disability continues to present a
5 substantial likelihood of repeating acts similar to the charged
6 criminal behavior, when considering the person's life history,
7 progress in treatment, and the public safety.

8 (ii) In cases under this subsection where the court has made an
9 affirmative special finding under RCW 71.05.280(3)(b), the commitment
10 shall continue for up to an additional one hundred eighty day period
11 whenever the petition presents prima facie evidence that the person
12 continues to suffer from a mental disorder or developmental
13 disability that results in a substantial likelihood of committing
14 acts similar to the charged criminal behavior, unless the person
15 presents proof through an admissible expert opinion that the person's
16 condition has so changed such that the mental disorder or
17 developmental disability no longer presents a substantial likelihood
18 of the person committing acts similar to the charged criminal
19 behavior. The initial or additional commitment period may include
20 transfer to a specialized program of intensive support and treatment,
21 which may be initiated prior to or after discharge from the state
22 hospital; or

23 (d) Continues to be gravely disabled; or

24 (e) Is in need of assisted outpatient mental health treatment.

25 If the conduct required to be proven in (b) and (c) of this
26 subsection was found by a judge or jury in a prior trial under this
27 chapter, it shall not be necessary to prove such conduct again.

28 If less restrictive alternative treatment is sought, the petition
29 shall set forth any recommendations for less restrictive alternative
30 treatment services.

31 (5) A new petition for involuntary treatment filed under
32 subsection (4) of this section shall be filed and heard in the
33 superior court of the county of the facility which is filing the new
34 petition for involuntary treatment unless good cause is shown for a
35 change of venue. The cost of the proceedings shall be borne by the
36 state.

37 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
38 and if the court or jury finds that the grounds for additional
39 confinement as set forth in this section are present, subject to
40 subsection (1)(b) of this section, the court may order the committed

1 person returned for an additional period of treatment not to exceed
2 one hundred eighty days from the date of judgment, except as provided
3 in subsection (7) of this section. If the court's order is based
4 solely on the grounds identified in subsection (4)(e) of this
5 section, the court may enter an order for less restrictive
6 alternative treatment not to exceed one hundred eighty days from the
7 date of judgment, and may not enter an order for inpatient treatment.
8 An order for less restrictive alternative treatment must name the
9 mental health service provider responsible for identifying the
10 services the person will receive in accordance with RCW 71.05.585,
11 and must include a requirement that the person cooperate with the
12 services planned by the mental health service provider.

13 (b) At the end of the one hundred eighty day period of
14 commitment, or one-year period of commitment if subsection (7) of
15 this section applies, the committed person shall be released unless a
16 petition for an additional one hundred eighty day period of continued
17 treatment is filed and heard in the same manner as provided in this
18 section. Successive one hundred eighty day commitments are
19 permissible on the same grounds and pursuant to the same procedures
20 as the original one hundred eighty day commitment.

21 (7) An order for less restrictive treatment entered under
22 subsection (6) of this section may be for up to one year when the
23 person's previous commitment term was for intensive inpatient
24 treatment in a state hospital.

25 (8) No person committed as provided in this section may be
26 detained unless a valid order of commitment is in effect. No order of
27 commitment can exceed one hundred eighty days in length except as
28 provided in subsection (7) of this section.

29 **Sec. 3013.** RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each
30 amended to read as follows:

31 (1) If the court or jury finds that grounds set forth in RCW
32 71.05.280 have been proven and that the best interests of the person
33 or others will not be served by a less restrictive treatment which is
34 an alternative to detention, the court shall remand him or her to the
35 custody of the department of social and health services or to a
36 facility certified for ninety day treatment by the department for a
37 further period of intensive treatment not to exceed ninety days from
38 the date of judgment.

1 If the order for inpatient treatment is based on a substance use
2 disorder, treatment must take place at an approved substance use
3 disorder treatment program. If the grounds set forth in RCW
4 71.05.280(3) are the basis of commitment, then the period of
5 treatment may be up to but not exceed one hundred eighty days from
6 the date of judgment (~~(in))~~ to the custody of the department of
7 social and health services or to a facility certified for one hundred
8 eighty day treatment by the department.

9 (2) If the court or jury finds that grounds set forth in RCW
10 71.05.280 have been proven, but finds that treatment less restrictive
11 than detention will be in the best interest of the person or others,
12 then the court shall remand him or her to the custody of the
13 department of social and health services or to a facility certified
14 for ninety day treatment by the department or to a less restrictive
15 alternative for a further period of less restrictive treatment not to
16 exceed ninety days from the date of judgment. If the order for less
17 restrictive treatment is based on a substance use disorder, treatment
18 must be provided by an approved substance use disorder treatment
19 program. If the grounds set forth in RCW 71.05.280(3) are the basis
20 of commitment, then the period of treatment may be up to but not
21 exceed one hundred eighty days from the date of judgment. If the
22 court or jury finds that the grounds set forth in RCW 71.05.280(5)
23 have been proven, and provide the only basis for commitment, the
24 court must enter an order for less restrictive alternative treatment
25 for up to ninety days from the date of judgment and may not order
26 inpatient treatment.

27 (3) An order for less restrictive alternative treatment entered
28 under subsection (2) of this section must name the mental health
29 service provider responsible for identifying the services the person
30 will receive in accordance with RCW 71.05.585, and must include a
31 requirement that the person cooperate with the services planned by
32 the mental health service provider.

33 (4) The person shall be released from involuntary treatment at
34 the expiration of the period of commitment imposed under subsection
35 (1) or (2) of this section unless the superintendent or professional
36 person in charge of the facility in which he or she is confined, or
37 in the event of a less restrictive alternative, the designated crisis
38 responder, files a new petition for involuntary treatment on the
39 grounds that the committed person:

1 (a) During the current period of court ordered treatment: (i) Has
2 threatened, attempted, or inflicted physical harm upon the person of
3 another, or substantial damage upon the property of another, and (ii)
4 as a result of a mental disorder, substance use disorder, or
5 developmental disability presents a likelihood of serious harm; or

6 (b) Was taken into custody as a result of conduct in which he or
7 she attempted or inflicted serious physical harm upon the person of
8 another, and continues to present, as a result of mental disorder,
9 substance use disorder, or developmental disability a likelihood of
10 serious harm; or

11 (c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result
12 of mental disorder or developmental disability continues to present a
13 substantial likelihood of repeating acts similar to the charged
14 criminal behavior, when considering the person's life history,
15 progress in treatment, and the public safety.

16 (ii) In cases under this subsection where the court has made an
17 affirmative special finding under RCW 71.05.280(3)(b), the commitment
18 shall continue for up to an additional one hundred eighty day period
19 whenever the petition presents prima facie evidence that the person
20 continues to suffer from a mental disorder or developmental
21 disability that results in a substantial likelihood of committing
22 acts similar to the charged criminal behavior, unless the person
23 presents proof through an admissible expert opinion that the person's
24 condition has so changed such that the mental disorder or
25 developmental disability no longer presents a substantial likelihood
26 of the person committing acts similar to the charged criminal
27 behavior. The initial or additional commitment period may include
28 transfer to a specialized program of intensive support and treatment,
29 which may be initiated prior to or after discharge from the state
30 hospital; or

31 (d) Continues to be gravely disabled; or

32 (e) Is in need of assisted outpatient mental health treatment.

33 If the conduct required to be proven in (b) and (c) of this
34 subsection was found by a judge or jury in a prior trial under this
35 chapter, it shall not be necessary to prove such conduct again.

36 If less restrictive alternative treatment is sought, the petition
37 shall set forth any recommendations for less restrictive alternative
38 treatment services.

39 (5) A new petition for involuntary treatment filed under
40 subsection (4) of this section shall be filed and heard in the

1 superior court of the county of the facility which is filing the new
2 petition for involuntary treatment unless good cause is shown for a
3 change of venue. The cost of the proceedings shall be borne by the
4 state.

5 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
6 and if the court or jury finds that the grounds for additional
7 confinement as set forth in this section are present, the court may
8 order the committed person returned for an additional period of
9 treatment not to exceed one hundred eighty days from the date of
10 judgment, except as provided in subsection (7) of this section. If
11 the court's order is based solely on the grounds identified in
12 subsection (4)(e) of this section, the court may enter an order for
13 less restrictive alternative treatment not to exceed one hundred
14 eighty days from the date of judgment, and may not enter an order for
15 inpatient treatment. An order for less restrictive alternative
16 treatment must name the mental health service provider responsible
17 for identifying the services the person will receive in accordance
18 with RCW 71.05.585, and must include a requirement that the person
19 cooperate with the services planned by the mental health service
20 provider.

21 (b) At the end of the one hundred eighty day period of
22 commitment, or one-year period of commitment if subsection (7) of
23 this section applies, the committed person shall be released unless a
24 petition for an additional one hundred eighty day period of continued
25 treatment is filed and heard in the same manner as provided in this
26 section. Successive one hundred eighty day commitments are
27 permissible on the same grounds and pursuant to the same procedures
28 as the original one hundred eighty day commitment.

29 (7) An order for less restrictive treatment entered under
30 subsection (6) of this section may be for up to one year when the
31 person's previous commitment term was for intensive inpatient
32 treatment in a state hospital.

33 (8) No person committed as provided in this section may be
34 detained unless a valid order of commitment is in effect. No order of
35 commitment can exceed one hundred eighty days in length except as
36 provided in subsection (7) of this section.

37 **Sec. 3014.** RCW 71.05.325 and 2016 sp.s. c 29 s 239 are each
38 amended to read as follows:

1 (1) Before a person committed under grounds set forth in RCW
2 71.05.280(3) is released because a new petition for involuntary
3 treatment has not been filed under RCW 71.05.320(~~(+3)~~) (4), the
4 superintendent, professional person, or designated crisis responder
5 responsible for the decision whether to file a new petition shall in
6 writing notify the prosecuting attorney of the county in which the
7 criminal charges against the committed person were dismissed, of the
8 decision not to file a new petition for involuntary treatment. Notice
9 shall be provided at least forty-five days before the period of
10 commitment expires.

11 (2)(a) Before a person committed under grounds set forth in RCW
12 71.05.280(3) is permitted temporarily to leave a treatment facility
13 pursuant to RCW 71.05.270 for any period of time without constant
14 accompaniment by facility staff, the superintendent, professional
15 person in charge of a treatment facility, or his or her professional
16 designee shall in writing notify the prosecuting attorney of any
17 county of the person's destination and the prosecuting attorney of
18 the county in which the criminal charges against the committed person
19 were dismissed. The notice shall be provided at least forty-five days
20 before the anticipated leave and shall describe the conditions under
21 which the leave is to occur.

22 (b) The provisions of RCW 71.05.330(2) apply to proposed leaves,
23 and either or both prosecuting attorneys receiving notice under this
24 subsection may petition the court under RCW 71.05.330(2).

25 (3) Nothing in this section shall be construed to authorize
26 detention of a person unless a valid order of commitment is in
27 effect.

28 (4) The existence of the notice requirements in this section will
29 not require any extension of the leave date in the event the leave
30 plan changes after notification.

31 (5) The notice requirements contained in this section shall not
32 apply to emergency medical transfers.

33 (6) The notice provisions of this section are in addition to
34 those provided in RCW 71.05.425.

35 **Sec. 3015.** RCW 71.05.330 and 1998 c 297 s 20 are each amended to
36 read as follows:

37 (1) Nothing in this chapter shall prohibit the superintendent or
38 professional person in charge of the hospital or facility in which
39 the person is being involuntarily treated from releasing him or her

1 prior to the expiration of the commitment period when, in the opinion
2 of the superintendent or professional person in charge, the person
3 being involuntarily treated no longer presents a likelihood of
4 serious harm.

5 Whenever the superintendent or professional person in charge of a
6 hospital or facility providing involuntary treatment pursuant to this
7 chapter releases a person prior to the expiration of the period of
8 commitment, the superintendent or professional person in charge shall
9 in writing notify the court which committed the person for treatment.

10 (2) Before a person committed under grounds set forth in RCW
11 71.05.280(3) or 71.05.320(~~(+2)~~) (4)(c) is released under this
12 section, the superintendent or professional person in charge shall in
13 writing notify the prosecuting attorney of the county in which the
14 criminal charges against the committed person were dismissed, of the
15 release date. Notice shall be provided at least thirty days before
16 the release date. Within twenty days after receiving notice, the
17 prosecuting attorney may petition the court in the county in which
18 the person is being involuntarily treated for a hearing to determine
19 whether the person is to be released. The prosecuting attorney shall
20 provide a copy of the petition to the superintendent or professional
21 person in charge of the hospital or facility providing involuntary
22 treatment, the attorney, if any, and the guardian or conservator of
23 the committed person. The court shall conduct a hearing on the
24 petition within ten days of filing the petition. The committed person
25 shall have the same rights with respect to notice, hearing, and
26 counsel as for an involuntary treatment proceeding, except as set
27 forth in this subsection and except that there shall be no right to
28 jury trial. The issue to be determined at the hearing is whether or
29 not the person may be released without substantial danger to other
30 persons, or substantial likelihood of committing criminal acts
31 jeopardizing public safety or security. If the court disapproves of
32 the release, it may do so only on the basis of substantial evidence.
33 Pursuant to the determination of the court upon the hearing, the
34 committed person shall be released or shall be returned for
35 involuntary treatment subject to release at the end of the period for
36 which he or she was committed, or otherwise in accordance with the
37 provisions of this chapter.

38 **Sec. 3016.** RCW 71.05.335 and 1986 c 67 s 7 are each amended to
39 read as follows:

1 In any proceeding under this chapter to modify a commitment order
2 of a person committed to inpatient treatment under grounds set forth
3 in RCW 71.05.280(3) or 71.05.320(~~((+2))~~) (4)(c) in which the requested
4 relief includes treatment less restrictive than detention, the
5 prosecuting attorney shall be entitled to intervene. The party
6 initiating the motion to modify the commitment order shall serve the
7 prosecuting attorney of the county in which the criminal charges
8 against the committed person were dismissed with written notice and
9 copies of the initiating papers.

10 **Sec. 3017.** RCW 71.05.340 and 2016 sp.s. c 29 s 240 are each
11 amended to read as follows:

12 (1)(a) When, in the opinion of the superintendent or the
13 professional person in charge of the hospital or facility providing
14 involuntary treatment, the committed person can be appropriately
15 served by outpatient treatment prior to or at the expiration of the
16 period of commitment, then such outpatient care may be required as a
17 term of conditional release for a period which, when added to the
18 inpatient treatment period, shall not exceed the period of
19 commitment. If the facility or agency designated to provide
20 outpatient treatment is other than the facility providing involuntary
21 treatment, the outpatient facility so designated must agree in
22 writing to assume such responsibility. A copy of the terms of
23 conditional release shall be given to the patient, the designated
24 crisis responder in the county in which the patient is to receive
25 outpatient treatment, and to the court of original commitment.

26 (b) Before a person committed under grounds set forth in RCW
27 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)
28 of this subsection, the superintendent or professional person in
29 charge of the hospital or facility providing involuntary treatment
30 shall in writing notify the prosecuting attorney of the county in
31 which the criminal charges against the committed person were
32 dismissed, of the decision to conditionally release the person.
33 Notice and a copy of the terms of conditional release shall be
34 provided at least thirty days before the person is released from
35 inpatient care. Within twenty days after receiving notice, the
36 prosecuting attorney may petition the court in the county that issued
37 the commitment order to hold a hearing to determine whether the
38 person may be conditionally released and the terms of the conditional
39 release. The prosecuting attorney shall provide a copy of the

1 petition to the superintendent or professional person in charge of
2 the hospital or facility providing involuntary treatment, the
3 attorney, if any, and guardian or conservator of the committed
4 person, and the court of original commitment. If the county in which
5 the committed person is to receive outpatient treatment is the same
6 county in which the criminal charges against the committed person
7 were dismissed, then the court shall, upon the motion of the
8 prosecuting attorney, transfer the proceeding to the court in that
9 county. The court shall conduct a hearing on the petition within ten
10 days of the filing of the petition. The committed person shall have
11 the same rights with respect to notice, hearing, and counsel as for
12 an involuntary treatment proceeding, except as set forth in this
13 subsection and except that there shall be no right to jury trial. The
14 issue to be determined at the hearing is whether or not the person
15 may be conditionally released without substantial danger to other
16 persons, or substantial likelihood of committing criminal acts
17 jeopardizing public safety or security. If the court disapproves of
18 the conditional release, it may do so only on the basis of
19 substantial evidence. Pursuant to the determination of the court upon
20 the hearing, the conditional release of the person shall be approved
21 by the court on the same or modified conditions or the person shall
22 be returned for involuntary treatment on an inpatient basis subject
23 to release at the end of the period for which he or she was
24 committed, or otherwise in accordance with the provisions of this
25 chapter.

26 (2) The facility or agency designated to provide outpatient care
27 or the secretary of the department of social and health services may
28 modify the conditions for continued release when such modification is
29 in the best interest of the person. Notification of such changes
30 shall be sent to all persons receiving a copy of the original
31 conditions. Enforcement or revocation proceedings related to a
32 conditional release order may occur as provided under RCW 71.05.590.

33 **Sec. 3018.** RCW 71.05.350 and 1997 c 112 s 29 are each amended to
34 read as follows:

35 No indigent patient shall be conditionally released or discharged
36 from involuntary treatment without suitable clothing, and the
37 superintendent of a state hospital shall furnish the same, together
38 with such sum of money as he or she deems necessary for the immediate
39 welfare of the patient. Such sum of money shall be the same as the

1 amount required by RCW 72.02.100 to be provided to persons in need
2 being released from correctional institutions. As funds are
3 available, the secretary of the department of social and health
4 services may provide payment to indigent persons conditionally
5 released pursuant to this chapter consistent with the optional
6 provisions of RCW 72.02.100 and 72.02.110, and may adopt rules and
7 regulations to do so.

8 **Sec. 3019.** RCW 71.05.425 and 2013 c 289 s 6 and 2013 c 200 s 30
9 are each reenacted and amended to read as follows:

10 (1)(a) Except as provided in subsection (2) of this section, at
11 the earliest possible date, and in no event later than thirty days
12 before conditional release, final release, authorized leave under RCW
13 71.05.325(2), or transfer to a facility other than a state mental
14 hospital, the superintendent shall send written notice of conditional
15 release, release, authorized leave, or transfer of a person committed
16 under RCW 71.05.280(3) or 71.05.320(~~((3))~~) (4)(c) following dismissal
17 of a sex, violent, or felony harassment offense pursuant to RCW
18 10.77.086(4) to the following:

19 (i) The chief of police of the city, if any, in which the person
20 will reside;

21 (ii) The sheriff of the county in which the person will reside;
22 and

23 (iii) The prosecuting attorney of the county in which the
24 criminal charges against the committed person were dismissed.

25 (b) The same notice as required by (a) of this subsection shall
26 be sent to the following, if such notice has been requested in
27 writing about a specific person committed under RCW 71.05.280(3) or
28 71.05.320(~~((3))~~) (4)(c) following dismissal of a sex, violent, or
29 felony harassment offense pursuant to RCW 10.77.086(4):

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

34 (ii) Any witnesses who testified against the person in any court
35 proceedings;

36 (iii) Any person specified in writing by the prosecuting
37 attorney. Information regarding victims, next of kin, or witnesses
38 requesting the notice, information regarding any other person
39 specified in writing by the prosecuting attorney to receive the

1 notice, and the notice are confidential and shall not be available to
2 the person committed under this chapter; and

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

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

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

11 (2) If a person committed under RCW 71.05.280(3) or
12 71.05.320(~~(+3)~~) (4)(c) following dismissal of a sex, violent, or
13 felony harassment offense pursuant to RCW 10.77.086(4) escapes, the
14 superintendent shall immediately notify, by the most reasonable and
15 expedient means available, the chief of police of the city and the
16 sheriff of the county in which the person escaped and in which the
17 person resided immediately before the person's arrest and the
18 prosecuting attorney of the county in which the criminal charges
19 against the committed person were dismissed. If previously requested,
20 the superintendent shall also notify the witnesses and the victim of
21 the sex, violent, or felony harassment offense that was dismissed
22 pursuant to RCW 10.77.086(4) preceding commitment under RCW
23 71.05.280(3) or 71.05.320(~~(+3)~~) (4) or the victim's next of kin if
24 the crime was a homicide. In addition, the secretary shall also
25 notify appropriate parties pursuant to RCW 70.02.230(2)(n). If the
26 person is recaptured, the superintendent shall send notice to the
27 persons designated in this subsection as soon as possible but in no
28 event later than two working days after the department of social and
29 health services learns of such recapture.

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

33 (4) The superintendent shall send the notices required by this
34 chapter to the last address provided to the department of social and
35 health services by the requesting party. The requesting party shall
36 furnish the department of social and health services with a current
37 address.

38 (5) For purposes of this section the following terms have the
39 following meanings:

1 (a) "Violent offense" means a violent offense under RCW
2 9.94A.030;

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

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

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

8 **Sec. 3020.** RCW 71.05.435 and 2016 sp.s. c 29 s 246 are each
9 amended to read as follows:

10 (1) Whenever a person who is the subject of an involuntary
11 commitment order under this chapter is discharged from an evaluation
12 and treatment facility, state hospital, secure detoxification
13 facility, or approved substance use disorder treatment program
14 providing involuntary treatment services, the entity discharging the
15 person shall provide notice of the person's discharge to the
16 designated crisis responder office responsible for the initial
17 commitment and the designated crisis responder office that serves the
18 county in which the person is expected to reside. The entity
19 discharging the person must also provide these offices with a copy of
20 any less restrictive order or conditional release order entered in
21 conjunction with the discharge of the person, unless the entity
22 discharging the person has entered into a memorandum of understanding
23 obligating another entity to provide these documents.

24 (2) The notice and documents referred to in subsection (1) of
25 this section shall be provided as soon as possible and no later than
26 one business day following the discharge of the person. Notice is not
27 required under this section if the discharge is for the purpose of
28 transferring the person for continued detention and treatment under
29 this chapter at another treatment facility.

30 (3) The ((department)) authority shall maintain and make
31 available an updated list of contact information for designated
32 crisis responder offices around the state.

33 **Sec. 3021.** RCW 71.05.445 and 2014 c 225 s 86 and 2014 c 220 s 14
34 are each reenacted and amended to read as follows:

35 (1)(a) When a mental health service provider conducts its initial
36 assessment for a person receiving court-ordered treatment, the
37 service provider shall inquire and shall be told by the offender

1 whether he or she is subject to supervision by the department of
2 corrections.

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

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

27 (3) The (~~department~~) authority and the department of
28 corrections, in consultation with behavioral health organizations,
29 mental health service providers as defined in RCW 71.05.020, mental
30 health consumers, and advocates for persons with mental illness,
31 shall adopt rules to implement the provisions of this section related
32 to the type and scope of information to be released. These rules
33 shall:

34 (a) Enhance and facilitate the ability of the department of
35 corrections to carry out its responsibility of planning and ensuring
36 community protection with respect to persons subject to sentencing
37 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
38 disclosing information of persons who received mental health services
39 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 (4) The information received by the department of corrections
5 under this section shall remain confidential and subject to the
6 limitations on disclosure outlined in this chapter (~~(71.05—RCW)~~),
7 except as provided in RCW 72.09.585.

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

13 (6) Whenever federal law or federal regulations restrict the
14 release of information and records related to mental health services
15 for any patient who receives treatment for alcoholism or drug
16 dependency, the release of the information may be restricted as
17 necessary to comply with federal law and regulations.

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

21 (8) The (~~department~~) authority shall, subject to available
22 resources, electronically, or by the most cost-effective means
23 available, provide the department of corrections with the names, last
24 dates of services, and addresses of specific behavioral health
25 organizations and mental health service providers that delivered
26 mental health services to a person subject to chapter 9.94A or 9.95
27 RCW pursuant to an agreement between the authority and the
28 department(~~(s)~~) of corrections.

29 **Sec. 3022.** RCW 71.05.510 and 1974 ex.s. c 145 s 30 are each
30 amended to read as follows:

31 Any individual who knowingly, (~~(wilfully)~~) willfully or through
32 gross negligence violates the provisions of this chapter by detaining
33 a person for more than the allowable number of days shall be liable
34 to the person detained in civil damages. It shall not be a
35 prerequisite to an action under this section that the plaintiff shall
36 have suffered or be threatened with special, as contrasted with
37 general damages.

1 **Sec. 3023.** RCW 71.05.520 and 1973 1st ex.s. c 142 s 57 are each
2 amended to read as follows:

3 The (~~department of social and health services~~) authority as the
4 state's behavioral health authority, the department of social and
5 health services in its operation of the state hospitals, and the
6 department of health in exercising its function of licensing and
7 certification of behavioral health providers and facilities shall
8 have the responsibility to determine whether all rights of
9 individuals recognized and guaranteed by the provisions of this
10 chapter and the Constitutions of the state of Washington and the
11 United States are in fact protected and effectively secured. To this
12 end, (~~the department~~) each agency shall assign appropriate staff
13 who shall from time to time as may be necessary have authority to
14 examine records, inspect facilities, attend proceedings, and do
15 whatever is necessary to monitor, evaluate, and assure adherence to
16 such rights. Such persons shall also recommend such additional
17 safeguards or procedures as may be appropriate to secure individual
18 rights set forth in this chapter and as guaranteed by the state and
19 federal Constitutions.

20 **Sec. 3024.** RCW 71.05.525 and 1997 c 112 s 36 are each amended to
21 read as follows:

22 When, in the judgment of the department of social and health
23 services, the welfare of any person committed to or confined in any
24 state juvenile correctional institution or facility necessitates that
25 such a person be transferred or moved for observation, diagnosis or
26 treatment to any state institution or facility for the care of
27 (~~mentally ill~~) juveniles with mental illness the secretary of the
28 department of social and health services, or his or her designee, is
29 authorized to order and effect such move or transfer: PROVIDED,
30 HOWEVER, That the secretary of the department of social and health
31 services shall adopt and implement procedures to assure that persons
32 so transferred shall, while detained or confined in such institution
33 or facility for the care of (~~mentally ill~~) juveniles with mental
34 illness, be provided with substantially similar opportunities for
35 parole or early release evaluation and determination as persons
36 detained or confined in state juvenile correctional institutions or
37 facilities: PROVIDED, FURTHER, That the secretary of the department
38 of social and health services shall notify the original committing
39 court of such transfer.

1 **Sec. 3025.** RCW 71.05.560 and 2016 sp.s. c 29 s 248 are each
2 amended to read as follows:

3 The department, the department of social and health services, and
4 the authority shall adopt such rules as may be necessary to
5 effectuate the intent and purposes of this chapter, which shall
6 include but not be limited to evaluation of the quality of the
7 program and facilities operating pursuant to this chapter, evaluation
8 of the effectiveness and cost effectiveness of such programs and
9 facilities, and procedures and standards for licensing or
10 certification and other action relevant to evaluation and treatment
11 facilities, secure detoxification facilities, and approved substance
12 use disorder treatment programs.

13 **Sec. 3026.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 9 are each
14 amended to read as follows:

15 (1) Either an agency or facility designated to monitor or provide
16 services under a less restrictive alternative order or conditional
17 release order, or a designated crisis responder, may take action to
18 enforce, modify, or revoke a less restrictive alternative or
19 conditional release order. The agency, facility, or designated crisis
20 responder must determine that:

21 (a) The person is failing to adhere to the terms and conditions
22 of the court order;

23 (b) Substantial deterioration in the person's functioning has
24 occurred;

25 (c) There is evidence of substantial decompensation with a
26 reasonable probability that the decompensation can be reversed by
27 further evaluation, intervention, or treatment; or

28 (d) The person poses a likelihood of serious harm.

29 (2) Actions taken under this section must include a flexible
30 range of responses of varying levels of intensity appropriate to the
31 circumstances and consistent with the interests of the individual and
32 the public in personal autonomy, safety, recovery, and compliance.
33 Available actions may include, but are not limited to, any of the
34 following:

35 (a) To counsel or advise the person as to their rights and
36 responsibilities under the court order, and to offer appropriate
37 incentives to motivate compliance;

38 (b) To increase the intensity of outpatient services provided to
39 the person by increasing the frequency of contacts with the provider,

1 referring the person for an assessment for assertive community
2 services, or by other means;

3 (c) To request a court hearing for review and modification of the
4 court order. The request must be made to the court with jurisdiction
5 over the order and specify the circumstances that give rise to the
6 request and what modification is being sought. The county prosecutor
7 shall assist the agency or facility in requesting this hearing and
8 issuing an appropriate summons to the person. This subsection does
9 not limit the inherent authority of a treatment provider to alter
10 conditions of treatment for clinical reasons, and is intended to be
11 used only when court intervention is necessary or advisable to secure
12 the person's compliance and prevent decompensation or deterioration;

13 (d) To cause the person to be transported by a peace officer,
14 designated crisis responder, or other means to the agency or facility
15 monitoring or providing services under the court order, or to a
16 triage facility, crisis stabilization unit, emergency department, or
17 to an evaluation and treatment facility if the person is committed
18 for mental health treatment, or to a secure detoxification facility
19 with available space or an approved substance use disorder treatment
20 program with available space if the person is committed for substance
21 use disorder treatment. The person may be detained at the facility
22 for up to twelve hours for the purpose of an evaluation to determine
23 whether modification, revocation, or commitment proceedings are
24 necessary and appropriate to stabilize the person and prevent
25 decompensation, deterioration, or physical harm. Temporary detention
26 for evaluation under this subsection is intended to occur only
27 following a pattern of noncompliance or the failure of reasonable
28 attempts at outreach and engagement, and may occur only when in the
29 clinical judgment of a designated crisis responder or the
30 professional person in charge of an agency or facility designated to
31 monitor less restrictive alternative services temporary detention is
32 appropriate. This subsection does not limit the ability or obligation
33 to pursue revocation procedures under subsection (4) of this section
34 in appropriate circumstances; and

35 (e) To initiate revocation procedures under subsection (4) of
36 this section.

37 (3) The facility or agency designated to provide outpatient
38 treatment shall notify the secretary of the department of social and
39 health services or designated crisis responder when a person fails to
40 adhere to terms and conditions of court ordered treatment or

1 experiences substantial deterioration in his or her condition and, as
2 a result, presents an increased likelihood of serious harm.

3 (4)(a) A designated crisis responder or the secretary of the
4 department of social and health services may upon their own motion or
5 notification by the facility or agency designated to provide
6 outpatient care order a person subject to a court order under this
7 chapter to be apprehended and taken into custody and temporary
8 detention in an evaluation and treatment facility in or near the
9 county in which he or she is receiving outpatient treatment if the
10 person is committed for mental health treatment, or, if the person is
11 committed for substance use disorder treatment, in a secure
12 detoxification facility or approved substance use disorder treatment
13 program if either is available in or near the county in which he or
14 she is receiving outpatient treatment and has adequate space.
15 Proceedings under this subsection (4) may be initiated without
16 ordering the apprehension and detention of the person.

17 (b) A person detained under this subsection (4) must be held
18 until such time, not exceeding five days, as a hearing can be
19 scheduled to determine whether or not the person should be returned
20 to the hospital or facility from which he or she had been released.
21 If the person is not detained, the hearing must be scheduled within
22 five days of service on the person. The designated crisis responder
23 or the secretary of the department of social and health services may
24 modify or rescind the order at any time prior to commencement of the
25 court hearing.

26 (c) The designated crisis responder or secretary of the
27 department of social and health services shall file a revocation
28 petition and order of apprehension and detention with the court of
29 the county where the person is currently located or being detained.
30 The designated crisis responder shall serve the person and their
31 attorney, guardian, and conservator, if any. The person has the same
32 rights with respect to notice, hearing, and counsel as in any
33 involuntary treatment proceeding, except as specifically set forth in
34 this section. There is no right to jury trial. The venue for
35 proceedings is the county where the petition is filed. Notice of the
36 filing must be provided to the court that originally ordered
37 commitment, if different from the court where the petition for
38 revocation is filed, within two judicial days of the person's
39 detention.

1 (d) The issues for the court to determine are whether: (i) The
2 person adhered to the terms and conditions of the court order; (ii)
3 substantial deterioration in the person's functioning has occurred;
4 (iii) there is evidence of substantial decompensation with a
5 reasonable probability that the decompensation can be reversed by
6 further inpatient treatment; or (iv) there is a likelihood of serious
7 harm; and, if any of the above conditions apply, whether the court
8 should reinstate or modify the person's less restrictive alternative
9 or conditional release order or order the person's detention for
10 inpatient treatment. The person may waive the court hearing and allow
11 the court to enter a stipulated order upon the agreement of all
12 parties. If the court orders detention for inpatient treatment, the
13 treatment period may be for no longer than the period authorized in
14 the original court order. A court may not issue an order to detain a
15 person for inpatient treatment in a secure detoxification facility or
16 approved substance use disorder treatment program under this
17 subsection unless there is a secure detoxification facility or
18 approved substance use disorder treatment program available and with
19 adequate space for the person.

20 (e) Revocation proceedings under this subsection (4) are not
21 allowable if the current commitment is solely based on the person
22 being in need of assisted outpatient mental health treatment. In
23 order to obtain a court order for detention for inpatient treatment
24 under this circumstance, a petition must be filed under RCW 71.05.150
25 or 71.05.153.

26 (5) In determining whether or not to take action under this
27 section the designated crisis responder, agency, or facility must
28 consider the factors specified under RCW 71.05.212 and the court must
29 consider the factors specified under RCW 71.05.245 as they apply to
30 the question of whether to enforce, modify, or revoke a court order
31 for involuntary treatment.

32 **Sec. 3027.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 10 are each
33 amended to read as follows:

34 (1) Either an agency or facility designated to monitor or provide
35 services under a less restrictive alternative order or conditional
36 release order, or a designated crisis responder, may take action to
37 enforce, modify, or revoke a less restrictive alternative or
38 conditional release order. The agency, facility, or designated crisis
39 responder must determine that:

1 (a) The person is failing to adhere to the terms and conditions
2 of the court order;

3 (b) Substantial deterioration in the person's functioning has
4 occurred;

5 (c) There is evidence of substantial decompensation with a
6 reasonable probability that the decompensation can be reversed by
7 further evaluation, intervention, or treatment; or

8 (d) The person poses a likelihood of serious harm.

9 (2) Actions taken under this section must include a flexible
10 range of responses of varying levels of intensity appropriate to the
11 circumstances and consistent with the interests of the individual and
12 the public in personal autonomy, safety, recovery, and compliance.
13 Available actions may include, but are not limited to, any of the
14 following:

15 (a) To counsel or advise the person as to their rights and
16 responsibilities under the court order, and to offer appropriate
17 incentives to motivate compliance;

18 (b) To increase the intensity of outpatient services provided to
19 the person by increasing the frequency of contacts with the provider,
20 referring the person for an assessment for assertive community
21 services, or by other means;

22 (c) To request a court hearing for review and modification of the
23 court order. The request must be made to the court with jurisdiction
24 over the order and specify the circumstances that give rise to the
25 request and what modification is being sought. The county prosecutor
26 shall assist the agency or facility in requesting this hearing and
27 issuing an appropriate summons to the person. This subsection does
28 not limit the inherent authority of a treatment provider to alter
29 conditions of treatment for clinical reasons, and is intended to be
30 used only when court intervention is necessary or advisable to secure
31 the person's compliance and prevent decompensation or deterioration;

32 (d) To cause the person to be transported by a peace officer,
33 designated crisis responder, or other means to the agency or facility
34 monitoring or providing services under the court order, or to a
35 triage facility, crisis stabilization unit, emergency department, or
36 to an evaluation and treatment facility if the person is committed
37 for mental health treatment, or to a secure detoxification facility
38 or an approved substance use disorder treatment program if the person
39 is committed for substance use disorder treatment. The person may be
40 detained at the facility for up to twelve hours for the purpose of an

1 evaluation to determine whether modification, revocation, or
2 commitment proceedings are necessary and appropriate to stabilize the
3 person and prevent decompensation, deterioration, or physical harm.
4 Temporary detention for evaluation under this subsection is intended
5 to occur only following a pattern of noncompliance or the failure of
6 reasonable attempts at outreach and engagement, and may occur only
7 when in the clinical judgment of a designated crisis responder or the
8 professional person in charge of an agency or facility designated to
9 monitor less restrictive alternative services temporary detention is
10 appropriate. This subsection does not limit the ability or obligation
11 to pursue revocation procedures under subsection (4) of this section
12 in appropriate circumstances; and

13 (e) To initiate revocation procedures under subsection (4) of
14 this section.

15 (3) The facility or agency designated to provide outpatient
16 treatment shall notify the secretary of the department of social and
17 health services or designated crisis responder when a person fails to
18 adhere to terms and conditions of court ordered treatment or
19 experiences substantial deterioration in his or her condition and, as
20 a result, presents an increased likelihood of serious harm.

21 (4)(a) A designated crisis responder or the secretary of the
22 department of social and health services may upon their own motion or
23 notification by the facility or agency designated to provide
24 outpatient care order a person subject to a court order under this
25 chapter to be apprehended and taken into custody and temporary
26 detention in an evaluation and treatment facility in or near the
27 county in which he or she is receiving outpatient treatment if the
28 person is committed for mental health treatment, or, if the person is
29 committed for substance use disorder treatment, in a secure
30 detoxification facility or approved substance use disorder treatment
31 program if either is available in or near the county in which he or
32 she is receiving outpatient treatment. Proceedings under this
33 subsection (4) may be initiated without ordering the apprehension and
34 detention of the person.

35 (b) A person detained under this subsection (4) must be held
36 until such time, not exceeding five days, as a hearing can be
37 scheduled to determine whether or not the person should be returned
38 to the hospital or facility from which he or she had been released.
39 If the person is not detained, the hearing must be scheduled within
40 five days of service on the person. The designated crisis responder

1 or the secretary of the department of social and health services may
2 modify or rescind the order at any time prior to commencement of the
3 court hearing.

4 (c) The designated crisis responder or secretary of the
5 department of social and health services shall file a revocation
6 petition and order of apprehension and detention with the court of
7 the county where the person is currently located or being detained.
8 The designated crisis responder shall serve the person and their
9 attorney, guardian, and conservator, if any. The person has the same
10 rights with respect to notice, hearing, and counsel as in any
11 involuntary treatment proceeding, except as specifically set forth in
12 this section. There is no right to jury trial. The venue for
13 proceedings is the county where the petition is filed. Notice of the
14 filing must be provided to the court that originally ordered
15 commitment, if different from the court where the petition for
16 revocation is filed, within two judicial days of the person's
17 detention.

18 (d) The issues for the court to determine are whether: (i) The
19 person adhered to the terms and conditions of the court order; (ii)
20 substantial deterioration in the person's functioning has occurred;
21 (iii) there is evidence of substantial decompensation with a
22 reasonable probability that the decompensation can be reversed by
23 further inpatient treatment; or (iv) there is a likelihood of serious
24 harm; and, if any of the above conditions apply, whether the court
25 should reinstate or modify the person's less restrictive alternative
26 or conditional release order or order the person's detention for
27 inpatient treatment. The person may waive the court hearing and allow
28 the court to enter a stipulated order upon the agreement of all
29 parties. If the court orders detention for inpatient treatment, the
30 treatment period may be for no longer than the period authorized in
31 the original court order.

32 (e) Revocation proceedings under this subsection (4) are not
33 allowable if the current commitment is solely based on the person
34 being in need of assisted outpatient mental health treatment. In
35 order to obtain a court order for detention for inpatient treatment
36 under this circumstance, a petition must be filed under RCW 71.05.150
37 or 71.05.153.

38 (5) In determining whether or not to take action under this
39 section the designated crisis responder, agency, or facility must
40 consider the factors specified under RCW 71.05.212 and the court must

1 consider the factors specified under RCW 71.05.245 as they apply to
2 the question of whether to enforce, modify, or revoke a court order
3 for involuntary treatment.

4 **Sec. 3028.** RCW 71.05.620 and 2016 sp.s. c 29 s 249 are each
5 amended to read as follows:

6 (1) The files and records of court proceedings under this chapter
7 and chapter 71.34 RCW shall be closed but shall be accessible to:

- 8 (a) The department;
- 9 (b) The department of social and health services;
- 10 (c) The authority;
- 11 (d) The state hospitals as defined in RCW 72.23.010;
- 12 ((+e)) (e) Any person who is the subject of a petition;
- 13 ((+d)) (f) The attorney or guardian of the person;
- 14 ((+e)) (g) Resource management services for that person; and
- 15 ((+f)) (h) Service providers authorized to receive such
16 information by resource management services.

17 (2) The ((department)) authority shall adopt rules to implement
18 this section.

19 **Sec. 3029.** RCW 71.05.720 and 2007 c 360 s 6 are each amended to
20 read as follows:

21 Annually, all community mental health employees who work directly
22 with clients shall be provided with training on safety and violence
23 prevention topics described in RCW 49.19.030. The curriculum for the
24 training shall be developed collaboratively among the ((department of
25 social and health services)) authority, the department, contracted
26 mental health providers, and employee organizations that represent
27 community mental health workers.

28 **Sec. 3030.** RCW 71.05.732 and 2011 c 343 s 3 are each amended to
29 read as follows:

30 (1) The joint legislative audit and review committee shall
31 conduct an independent assessment of the direct costs of providing
32 judicial services under this chapter and chapter 71.34 RCW as defined
33 in RCW 71.05.730. The assessment shall include a review and analysis
34 of the reasons for differences in costs among counties. The
35 assessment shall be conducted for any county in which more than
36 twenty civil commitment cases were conducted during the year prior to
37 the study. The assessment must be completed by June 1, 2012.

1 (2) The administrative office of the courts, the authority, and
2 the department of social and health services shall provide the joint
3 legislative audit and review committee with assistance and data
4 required to complete the assessment.

5 (3) The joint legislative audit and review committee shall
6 present recommendations as to methods for updating the costs
7 identified in the assessment to reflect changes over time.

8 **Sec. 3031.** RCW 71.05.740 and 2014 c 225 s 88 are each amended to
9 read as follows:

10 (~~By August 1, 2013,~~) All behavioral health organizations in the
11 state of Washington must forward historical mental health involuntary
12 commitment information retained by the organization including
13 identifying information and dates of commitment to the (~~department~~)
14 authority. As soon as feasible, the behavioral health organizations
15 must arrange to report new commitment data to the (~~department~~)
16 authority within twenty-four hours. Commitment information under this
17 section does not need to be resent if it is already in the possession
18 of the (~~department~~) authority. Behavioral health organizations and
19 the (~~department~~) authority shall be immune from liability related
20 to the sharing of commitment information under this section.

21 **Sec. 3032.** RCW 71.05.745 and 2016 sp.s. c 29 s 252 are each
22 amended to read as follows:

23 (1) The (~~department~~) authority may use a single bed
24 certification process as outlined in rule to provide additional
25 treatment capacity for a person suffering from a mental disorder for
26 whom an evaluation and treatment bed is not available. The facility
27 that is the proposed site of the single bed certification must be a
28 facility that is willing and able to provide the person with timely
29 and appropriate treatment either directly or by arrangement with
30 other public or private agencies.

31 (2) A single bed certification must be specific to the patient
32 receiving treatment.

33 (3) A designated crisis responder who submits an application for
34 a single bed certification for treatment at a facility that is
35 willing and able to provide timely and appropriate mental health
36 treatment in good faith belief that the single bed certification is
37 appropriate may presume that the single bed certification will be

1 approved for the purpose of completing the detention process and
2 responding to other emergency calls.

3 (4) The ((~~department~~)) authority may adopt rules implementing
4 this section and continue to enforce rules it has already adopted
5 except where inconsistent with this section.

6 **Sec. 3033.** RCW 71.05.750 and 2016 sp.s. c 29 s 253 are each
7 amended to read as follows:

8 (1) A designated crisis responder shall make a report to the
9 ((~~department~~)) authority when he or she determines a person meets
10 detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or
11 71.34.710 and there are not any beds available at an evaluation and
12 treatment facility, the person has not been provisionally accepted
13 for admission by a facility, and the person cannot be served on a
14 single bed certification or less restrictive alternative. Starting at
15 the time when the designated crisis responder determines a person
16 meets detention criteria and the investigation has been completed,
17 the designated crisis responder has twenty-four hours to submit a
18 completed report to the ((~~department~~)) authority.

19 (2) The report required under subsection (1) of this section must
20 contain at a minimum:

- 21 (a) The date and time that the investigation was completed;
- 22 (b) The identity of the responsible behavioral health
23 organization;
- 24 (c) The county in which the person met detention criteria;
- 25 (d) A list of facilities which refused to admit the person; and
- 26 (e) Identifying information for the person, including age or date
27 of birth.

28 (3) The ((~~department~~)) authority shall develop a standardized
29 reporting form or modify the current form used for single bed
30 certifications for the report required under subsection (2) of this
31 section and may require additional reporting elements as it
32 determines are necessary or supportive. The ((~~department~~)) authority
33 shall also determine the method for the transmission of the completed
34 report from the designated crisis responder to the ((~~department~~))
35 authority.

36 (4) The ((~~department~~)) authority shall create quarterly reports
37 displayed on its web site that summarize the information reported
38 under subsection (2) of this section. At a minimum, the reports must
39 display data by county and by month. The reports must also include

1 the number of single bed certifications granted by category. The
2 categories must include all of the reasons that the ((department))
3 authority recognizes for issuing a single bed certification, as
4 identified in rule.

5 (5) The reports provided according to this section may not
6 display "protected health information" as that term is used in the
7 federal health insurance portability and accountability act of 1996,
8 nor information contained in "mental health treatment records" as
9 that term is used in chapter 70.02 RCW or elsewhere in state law, and
10 must otherwise be compliant with state and federal privacy laws.

11 (6) For purposes of this section, the term "single bed
12 certification" means a situation in which an adult on a seventy-two
13 hour detention, fourteen-day commitment, ninety-day commitment, or
14 one hundred eighty-day commitment is detained to a facility that is:

15 (a) Not licensed or certified as an inpatient evaluation and
16 treatment facility; or

17 (b) A licensed or certified inpatient evaluation and treatment
18 facility that is already at capacity.

19 **Sec. 3034.** RCW 71.05.755 and 2015 c 269 s 4 are each amended to
20 read as follows:

21 (1) The ((department)) authority shall promptly share reports it
22 receives under RCW 71.05.750 with the responsible regional support
23 network or behavioral health organization. The regional support
24 network or behavioral health organization receiving this notification
25 must attempt to engage the person in appropriate services for which
26 the person is eligible and report back within seven days to the
27 ((department)) authority.

28 (2) The ((department)) authority shall track and analyze reports
29 submitted under RCW 71.05.750. The ((department)) authority must
30 initiate corrective action when appropriate to ensure that each
31 regional support network or behavioral health organization has
32 implemented an adequate plan to provide evaluation and treatment
33 services. Corrective actions may include remedies under RCW 71.24.330
34 and 43.20A.894 (as recodified by this act), including requiring
35 expenditure of reserve funds. An adequate plan may include
36 development of less restrictive alternatives to involuntary
37 commitment such as crisis triage, crisis diversion, voluntary
38 treatment, or prevention programs reasonably calculated to reduce
39 demand for evaluation and treatment under this chapter.

1 **Sec. 3035.** RCW 71.05.760 and 2017 3rd sp.s. c 14 s 21 are each
2 amended to read as follows:

3 (1)(a) By April 1, 2018, the (~~(department)~~) authority, by rule,
4 must combine the functions of a designated mental health professional
5 and designated chemical dependency specialist by establishing a
6 designated crisis responder who is authorized to conduct
7 investigations, detain persons up to seventy-two hours to the proper
8 facility, and carry out the other functions identified in this
9 chapter and chapter 71.34 RCW. The behavioral health organizations
10 shall provide training to the designated crisis responders as
11 required by the (~~(department)~~) authority.

12 (b)(i) To qualify as a designated crisis responder, a person must
13 have received chemical dependency training as determined by the
14 department and be a:

15 (A) Psychiatrist, psychologist, physician assistant working with
16 a supervising psychiatrist, psychiatric advanced registered nurse
17 practitioner, or social worker;

18 (B) Person who is licensed by the department as a mental health
19 counselor or mental health counselor associate, or marriage and
20 family therapist or marriage and family therapist associate;

21 (C) Person with a master's degree or further advanced degree in
22 counseling or one of the social sciences from an accredited college
23 or university and who have, in addition, at least two years of
24 experience in direct treatment of persons with mental illness or
25 emotional disturbance, such experience gained under the direction of
26 a mental health professional;

27 (~~(C)~~) (D) Person who meets the waiver criteria of RCW
28 71.24.260, which waiver was granted before 1986;

29 (~~(D)~~) (E) Person who had an approved waiver to perform the
30 duties of a mental health professional that was requested by the
31 regional support network and granted by the department of social and
32 health services before July 1, 2001; or

33 (~~(E)~~) (F) Person who has been granted an exception of the
34 minimum requirements of a mental health professional by the
35 department consistent with rules adopted by the secretary.

36 (ii) Training must include chemical dependency training specific
37 to the duties of a designated crisis responder, including diagnosis
38 of substance abuse and dependence and assessment of risk associated
39 with substance use.

1 (c) The (~~department~~) authority must develop a transition
2 process for any person who has been designated as a designated mental
3 health professional or a designated chemical dependency specialist
4 before April 1, 2018, to be converted to a designated crisis
5 responder. The behavioral health organizations shall provide
6 training, as required by the (~~department~~) authority, to persons
7 converting to designated crisis responders, which must include both
8 mental health and chemical dependency training applicable to the
9 designated crisis responder role.

10 (2)(a) The (~~department~~) authority must ensure that at least one
11 sixteen-bed secure detoxification facility is operational by April 1,
12 2018, and that at least two sixteen-bed secure detoxification
13 facilities are operational by April 1, 2019.

14 (b) If, at any time during the implementation of secure
15 detoxification facility capacity, federal funding becomes unavailable
16 for federal match for services provided in secure detoxification
17 facilities, then the (~~department~~) authority must cease any
18 expansion of secure detoxification facilities until further direction
19 is provided by the legislature.

20 **Sec. 3036.** RCW 71.05.801 and 2009 c 323 s 3 are each amended to
21 read as follows:

22 When appropriate and subject to available funds, the treatment
23 and training of a person with a developmental disability who is
24 committed to the custody of the department of social and health
25 services or to a facility licensed or certified for ninety day
26 treatment by the department for a further period of intensive
27 treatment under RCW 71.05.320 must be provided in a program
28 specifically reserved for the treatment and training of persons with
29 developmental disabilities. A person so committed shall receive
30 habilitation services pursuant to an individualized service plan
31 specifically developed to treat the behavior which was the subject of
32 the criminal proceedings. The treatment program shall be administered
33 by developmental disabilities professionals and others trained
34 specifically in the needs of persons with developmental disabilities.
35 The department of social and health services may limit admissions to
36 this specialized program in order to ensure that expenditures for
37 services do not exceed amounts appropriated by the legislature and
38 allocated by the department of social and health services for such
39 services. The department of social and health services may establish

1 admission priorities in the event that the number of eligible persons
2 exceeds the limits set by the department of social and health
3 services.

4 **Sec. 3037.** RCW 71.05.940 and 1999 c 13 s 13 are each amended to
5 read as follows:

6 The provisions of chapter 420, Laws of 1989 shall apply equally
7 to persons in the custody of the department of social and health
8 services on May 13, 1989, who were found by a court to be not guilty
9 by reason of insanity or incompetent to stand trial, or who have been
10 found to have committed acts constituting a felony pursuant to RCW
11 71.05.280(3) and present a substantial likelihood of repeating
12 similar acts, and the secretary of the department of social and
13 health services shall cause such persons to be evaluated to ascertain
14 if such persons (~~are developmentally disabled~~) have a developmental
15 disability for placement in a program specifically reserved for the
16 treatment and training of persons with developmental disabilities.

17 **PART 4**

18 **Sec. 4001.** RCW 71.24.015 and 2014 c 225 s 6 are each amended to
19 read as follows:

20 It is the intent of the legislature to establish a community
21 mental health program which shall help people experiencing mental
22 illness to retain a respected and productive position in the
23 community. This will be accomplished through programs that focus on
24 resilience and recovery, and practices that are evidence-based,
25 research-based, consensus-based, or, where these do not exist,
26 promising or emerging best practices, which provide for:

27 (1) Access to mental health services for adults with mental
28 illness and children with mental illness or emotional disturbances
29 who meet access to care standards which services recognize the
30 special needs of underserved populations, including minorities,
31 children, (~~the elderly [older adults]~~) older adults, individuals
32 with disabilities, and low-income persons. Access to mental health
33 services shall not be limited by a person's history of confinement in
34 a state, federal, or local correctional facility. It is also the
35 purpose of this chapter to promote the early identification of
36 children with mental illness and to ensure that they receive the
37 mental health care and treatment which is appropriate to their

1 developmental level. This care should improve home, school, and
2 community functioning, maintain children in a safe and nurturing home
3 environment, and should enable treatment decisions to be made in
4 response to clinical needs in accordance with sound professional
5 judgment while also recognizing parents' rights to participate in
6 treatment decisions for their children;

7 (2) The involvement of persons with mental illness, their family
8 members, and advocates in designing and implementing mental health
9 services that reduce unnecessary hospitalization and incarceration
10 and promote the recovery and employment of persons with mental
11 illness. To improve the quality of services available and promote the
12 rehabilitation, recovery, and reintegration of persons with mental
13 illness, consumer and advocate participation in mental health
14 services is an integral part of the community mental health system
15 and shall be supported;

16 (3) Accountability of efficient and effective services through
17 state-of-the-art outcome and performance measures and statewide
18 standards for monitoring client and system outcomes, performance, and
19 reporting of client and system outcome information. These processes
20 shall be designed so as to maximize the use of available resources
21 for direct care of people with a mental illness and to assure uniform
22 data collection across the state;

23 (4) Minimum service delivery standards;

24 (5) Priorities for the use of available resources for the care of
25 individuals with mental illness consistent with the priorities
26 defined in the statute;

27 (6) Coordination of services within the department of social and
28 health services, including those divisions within the department of
29 social and health services that provide services to children, between
30 the authority, department of social and health services, and the
31 office of the superintendent of public instruction, and among state
32 mental hospitals, county authorities, behavioral health
33 organizations, community mental health services, and other support
34 services, which shall to the maximum extent feasible also include the
35 families of individuals with mental illness, and other service
36 providers; and

37 (7) Coordination of services aimed at reducing duplication in
38 service delivery and promoting complementary services among all
39 entities that provide mental health services to adults and children.

1 It is the policy of the state to encourage the provision of a
2 full range of treatment and rehabilitation services in the state for
3 mental disorders including services operated by consumers and
4 advocates. The legislature intends to encourage the development of
5 regional mental health services with adequate local flexibility to
6 assure eligible people in need of care access to the least-
7 restrictive treatment alternative appropriate to their needs, and the
8 availability of treatment components to assure continuity of care. To
9 this end, counties must enter into joint operating agreements with
10 other counties to form regional systems of care that are consistent
11 with the regional service areas established under RCW 43.20A.893 (as
12 recodified by this act). Regional systems of care, whether operated
13 by a county, group of counties, or another entity shall integrate
14 planning, administration, and service delivery duties under
15 chapter((§)) 71.05 ((~~and 71.24~~)) RCW and this chapter to consolidate
16 administration, reduce administrative layering, and reduce
17 administrative costs. The legislature hereby finds and declares that
18 sound fiscal management requires vigilance to ensure that funds
19 appropriated by the legislature for the provision of needed community
20 mental health programs and services are ultimately expended solely
21 for the purpose for which they were appropriated, and not for any
22 other purpose.

23 It is further the intent of the legislature to integrate the
24 provision of services to provide continuity of care through all
25 phases of treatment. To this end, the legislature intends to promote
26 active engagement with persons with mental illness and collaboration
27 between families and service providers.

28 **Sec. 4002.** RCW 71.24.025 and 2016 sp.s. c 29 s 502 are each
29 reenacted and amended to read as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

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

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

36 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
37 case of a child, a gravely disabled minor as defined in RCW
38 71.34.020; or

1 (c) Presenting a likelihood of serious harm as defined in RCW
2 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

3 (2) "Alcoholism" means a disease, characterized by a dependency
4 on alcoholic beverages, loss of control over the amount and
5 circumstances of use, symptoms of tolerance, physiological or
6 psychological withdrawal, or both, if use is reduced or discontinued,
7 and impairment of health or disruption of social or economic
8 functioning.

9 (3) "Approved substance use disorder treatment program" means a
10 program for persons with a substance use disorder provided by a
11 treatment program licensed or certified by the department (~~(of social~~
12 ~~and health services))~~) as meeting standards adopted under this
13 chapter.

14 (4) "Authority" means the Washington state health care authority.

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

24 ~~((+5))~~ (6) "Behavioral health organization" means any county
25 authority or group of county authorities or other entity recognized
26 by the ~~((secretary))~~ director in contract in a defined region.

27 ~~((+6))~~ (7) "Behavioral health program" means all expenditures,
28 services, activities, or programs, including reasonable
29 administration and overhead, designed and conducted to prevent or
30 treat chemical dependency and mental illness.

31 ~~((+7))~~ (8) "Behavioral health services" means mental health
32 services as described in this chapter and chapter 71.36 RCW and
33 substance use disorder treatment services as described in this
34 chapter.

35 ~~((+8))~~ (9) "Child" means a person under the age of eighteen
36 years.

37 ~~((+9))~~ (10) "Chronically mentally ill adult" or "adult who is
38 chronically mentally ill" means an adult who has a mental disorder
39 and meets at 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))~~ authority by rule consistent
10 with Public Law 92-603, as amended.

11 ~~((+10))~~ (11) "Clubhouse" means a community-based program that
12 provides rehabilitation services and is licensed or certified by the
13 department ~~((of social and health services))~~.

14 ~~((+11))~~ (12) "Community mental health service delivery system"
15 means public, private, or tribal agencies that provide services
16 specifically to persons with mental disorders as defined under RCW
17 71.05.020 and receive funding from public sources.

18 ~~((+12))~~ (13) "Community support services" means services
19 authorized, planned, and coordinated through resource management
20 services including, at a minimum, assessment, diagnosis, emergency
21 crisis 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
26 mentally ill or severely emotionally disturbed discovered under
27 screening through the federal Title XIX early and periodic screening,
28 diagnosis, and treatment program, investigation, legal, and other
29 nonresidential services under chapter 71.05 RCW, case management
30 services, psychiatric treatment including medication supervision,
31 counseling, psychotherapy, assuring transfer of relevant patient
32 information between service providers, recovery services, and other
33 services determined by behavioral health organizations.

34 ~~((+13))~~ (14) "Consensus-based" means a program or practice that
35 has general support among treatment providers and experts, based on
36 experience or professional literature, and may have anecdotal or case
37 study support, or that is agreed but not possible to perform studies
38 with random assignment and controlled groups.

39 ~~((+14))~~ (15) "County authority" means the board of county
40 commissioners, county council, or county executive having authority

1 to establish a community mental health program, or two or more of the
2 county authorities specified in this subsection which have entered
3 into an agreement to provide a community mental health program.

4 ~~((15))~~ (16) "Department" means the department of ~~((social and))~~
5 health ~~((services))~~.

6 ~~((16))~~ (17) "Designated crisis responder" means a mental health
7 professional designated by the county or other authority authorized
8 in rule to perform the duties specified in this chapter.

9 ~~((17))~~ (18) "Director" means the director of the authority.

10 (19) "Drug addiction" means a disease characterized by a
11 dependency on psychoactive chemicals, loss of control over the amount
12 and circumstances of use, symptoms of tolerance, physiological or
13 psychological withdrawal, or both, if use is reduced or discontinued,
14 and impairment of health or disruption of social or economic
15 functioning.

16 ~~((18))~~ (20) "Early adopter" means a regional service area for
17 which all of the county authorities have requested that the
18 ~~((department and the health care))~~ authority ~~((jointly))~~ purchase
19 medical and behavioral health services through a managed care health
20 system as defined under RCW 71.24.380(6).

21 ~~((19))~~ (21) "Emerging best practice" or "promising practice"
22 means a program or practice that, based on statistical analyses or a
23 well established theory of change, shows potential for meeting the
24 evidence-based or research-based criteria, which may include the use
25 of a program that is evidence-based for outcomes other than those
26 listed in subsection ~~((20))~~ (22) of this section.

27 ~~((20))~~ (22) "Evidence-based" means a program or practice that
28 has been tested in heterogeneous or intended populations with
29 multiple randomized, or statistically controlled evaluations, or
30 both; or one large multiple site randomized, or statistically
31 controlled evaluation, or both, where the weight of the evidence from
32 a systemic review demonstrates sustained improvements in at least one
33 outcome. "Evidence-based" also means a program or practice that can
34 be implemented with a set of procedures to allow successful
35 replication in Washington and, when possible, is determined to be
36 cost-beneficial.

37 ~~((21))~~ (23) "Licensed physician" means a person licensed to
38 practice medicine or osteopathic medicine and surgery in the state of
39 Washington.

1 (~~(22)~~) (24) "Licensed or certified service provider" means an
2 entity licensed or certified according to this chapter or chapter
3 71.05 RCW or an entity deemed to meet state minimum standards as a
4 result of accreditation by a recognized behavioral health accrediting
5 body recognized and having a current agreement with the department,
6 or tribal attestation that meets state minimum standards, or persons
7 licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79
8 RCW, as it applies to registered nurses and advanced registered nurse
9 practitioners.

10 (~~(23)~~) (25) "Long-term inpatient care" means inpatient services
11 for persons committed for, or voluntarily receiving intensive
12 treatment for, periods of ninety days or greater under chapter 71.05
13 RCW. "Long-term inpatient care" as used in this chapter does not
14 include: (a) Services for individuals committed under chapter 71.05
15 RCW who are receiving services pursuant to a conditional release or a
16 court-ordered less restrictive alternative to detention; or (b)
17 services for individuals voluntarily receiving less restrictive
18 alternative treatment on the grounds of the state hospital.

19 (~~(24)~~) (26) "Mental health services" means all services
20 provided by behavioral health organizations and other services
21 provided by the state for persons who are mentally ill.

22 (~~(25)~~) (27) Mental health "treatment records" include
23 registration and all other records concerning persons who are
24 receiving or who at any time have received services for mental
25 illness, which are maintained by the department of social and health
26 services or the authority, by behavioral health organizations and
27 their staffs, (~~and~~) or by treatment facilities. "Treatment records"
28 do not include notes or records maintained for personal use by a
29 person providing treatment services for the department of social and
30 health services, behavioral health organizations, or a treatment
31 facility if the notes or records are not available to others.

32 (~~(26)~~) (28) "Mentally ill persons," "persons who are mentally
33 ill," and "the mentally ill" mean persons and conditions defined in
34 subsections (1), (~~(9), (34), and (35)~~) (10), (36), and (37) of this
35 section.

36 (~~(27)~~) (29) "Recovery" means the process in which people are
37 able to live, work, learn, and participate fully in their
38 communities.

39 (~~(28)~~) (30) "Registration records" include all the records of
40 the department of social and health services, the authority,

1 behavioral health organizations, treatment facilities, and other
2 persons providing services ~~((t))~~ for the department of social and
3 health services, the authority, county departments, or facilities
4 which identify persons who are receiving or who at any time have
5 received services for mental illness.

6 ~~((+29))~~ (31) "Research-based" means a program or practice that
7 has been tested with a single randomized, or statistically controlled
8 evaluation, or both, demonstrating sustained desirable outcomes; or
9 where the weight of the evidence from a systemic review supports
10 sustained outcomes as described in subsection ~~((+20))~~ (22) of this
11 section but does not meet the full criteria for evidence-based.

12 ~~((+30))~~ (32) "Residential services" means a complete range of
13 residences and supports authorized by resource management services
14 and which may involve a facility, a distinct part thereof, or
15 services which support community living, for persons who are acutely
16 mentally ill, adults who are chronically mentally ill, children who
17 are severely emotionally disturbed, or adults who are seriously
18 disturbed and determined by the behavioral health organization to be
19 at risk of becoming acutely or chronically mentally ill. The services
20 shall include at least evaluation and treatment services as defined
21 in chapter 71.05 RCW, acute crisis respite care, long-term adaptive
22 and rehabilitative care, and supervised and supported living
23 services, and shall also include any residential services developed
24 to service persons who are mentally ill in nursing homes, residential
25 treatment facilities, assisted living facilities, and adult family
26 homes, and may include outpatient services provided as an element in
27 a package of services in a supported housing model. Residential
28 services for children in out-of-home placements related to their
29 mental disorder shall not include the costs of food and shelter,
30 except for children's long-term residential facilities existing prior
31 to January 1, 1991.

32 ~~((+31))~~ (33) "Resilience" means the personal and community
33 qualities that enable individuals to rebound from adversity, trauma,
34 tragedy, threats, or other stresses, and to live productive lives.

35 ~~((+32))~~ (34) "Resource management services" mean the planning,
36 coordination, and authorization of residential services and community
37 support services administered pursuant to an individual service plan
38 for: (a) Adults and children who are acutely mentally ill; (b) adults
39 who are chronically mentally ill; (c) children who are severely
40 emotionally disturbed; or (d) adults who are seriously disturbed and

1 determined solely by a behavioral health organization to be at risk
2 of becoming acutely or chronically mentally ill. Such planning,
3 coordination, and authorization shall include mental health screening
4 for children eligible under the federal Title XIX early and periodic
5 screening, diagnosis, and treatment program. Resource management
6 services include seven day a week, twenty-four hour a day
7 availability of information regarding enrollment of adults and
8 children who are mentally ill in services and their individual
9 service plan to designated crisis responders, evaluation and
10 treatment facilities, and others as determined by the behavioral
11 health organization.

12 ~~((+33+))~~ (35) "Secretary" means the secretary of ~~((social and~~
13 ~~health services))~~ the department of health.

14 ~~((+34+))~~ (36) "Seriously disturbed person" means a person who:

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

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

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

24 (d) Exhibits suicidal preoccupation or attempts; or

25 (e) Is a child diagnosed by a mental health professional, as
26 defined in chapter 71.34 RCW, as experiencing a mental disorder which
27 is clearly interfering with the child's functioning in family or
28 school or with peers or is clearly interfering with the child's
29 personality development and learning.

30 ~~((+35+))~~ (37) "Severely emotionally disturbed child" or "child
31 who is severely emotionally disturbed" means a child who has been
32 determined by the behavioral health organization to be experiencing a
33 mental disorder as defined in chapter 71.34 RCW, including those
34 mental disorders that result in a behavioral or conduct disorder,
35 that is clearly interfering with the child's functioning in family or
36 school or with peers and who meets at least one of the following
37 criteria:

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

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

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

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

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

9 (ii) Changes in custodial adult;

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

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

15 (v) Drug or alcohol abuse; or

16 (vi) Homelessness.

17 (~~(36)~~) (38) "State minimum standards" means minimum
18 requirements established by rules adopted (~~by the secretary~~) and
19 necessary to implement this chapter (~~for~~) by:

20 (a) The authority for:

21 (i) Delivery of mental health and substance use disorder
22 services; and (~~(b) licensed service providers for the provision of~~
23 ~~mental health services; (c) residential services; and (d)~~)

24 (ii) Community support services and resource management services;

25 (b) The department of health for:

26 (i) Licensed or certified service providers for the provision of
27 mental health and substance use disorder services; and

28 (ii) Residential services.

29 (~~(37)~~) (39) "Substance use disorder" means a cluster of
30 cognitive, behavioral, and physiological symptoms indicating that an
31 individual continues using the substance despite significant
32 substance-related problems. The diagnosis of a substance use disorder
33 is based on a pathological pattern of behaviors related to the use of
34 the substances.

35 (~~(38)~~) (40) "Tribal authority," for the purposes of this
36 section and RCW 71.24.300 only, means: The federally recognized
37 Indian tribes and the major Indian organizations recognized by the
38 (~~secretary~~) director insofar as these organizations do not have a
39 financial relationship with any behavioral health organization that
40 would present a conflict of interest.

1 **Sec. 4003.** RCW 71.24.030 and 2005 c 503 s 3 are each amended to
2 read as follows:

3 The ((~~secretary~~)) director is authorized to make grants and/or
4 purchase services from counties, combinations of counties, or other
5 entities, to establish and operate community mental health programs.

6 **Sec. 4004.** RCW 71.24.035 and 2016 sp.s. c 29 s 503 are each
7 amended to read as follows:

8 (1) The ((~~department~~)) authority is designated as the state
9 behavioral health authority which includes recognition as the single
10 state authority for substance use disorders and state mental health
11 authority.

12 (2) The ((~~secretary~~)) director shall provide for public, client,
13 tribal, and licensed or certified service provider participation in
14 developing the state behavioral health program, developing contracts
15 with behavioral health organizations, and any waiver request to the
16 federal government under medicaid.

17 (3) The ((~~secretary~~)) director shall provide for participation in
18 developing the state behavioral health program for children and other
19 underserved populations, by including representatives on any
20 committee established to provide oversight to the state behavioral
21 health program.

22 (4) The ((~~secretary~~)) director shall be designated as the
23 behavioral health organization if the behavioral health organization
24 fails to meet state minimum standards or refuses to exercise
25 responsibilities under its contract or RCW 71.24.045, until such time
26 as a new behavioral health organization is designated.

27 (5) The ((~~secretary~~)) director shall:

28 (a) Develop a biennial state behavioral health program that
29 incorporates regional biennial needs assessments and regional mental
30 health service plans and state services for adults and children with
31 mental disorders or substance use disorders or both;

32 (b) Assure that any behavioral health organization or county
33 community behavioral health program provides medically necessary
34 services to medicaid recipients consistent with the state's medicaid
35 state plan or federal waiver authorities, and nonmedicaid services
36 consistent with priorities established by the ((~~department~~))
37 authority;

1 (c) Develop and adopt rules establishing state minimum standards
2 for the delivery of behavioral health services pursuant to RCW
3 71.24.037 including, but not limited to:

4 (i) Licensed or certified service providers. These rules shall
5 permit a county-operated behavioral health program to be licensed as
6 a service provider subject to compliance with applicable statutes and
7 rules. (~~The secretary shall provide for deeming of compliance with~~
8 ~~state minimum standards for those entities accredited by recognized~~
9 ~~behavioral health accrediting bodies recognized and having a current~~
10 ~~agreement with the department;~~)

11 (ii) Inpatient services, an adequate network of evaluation and
12 treatment services and facilities under chapter 71.05 RCW to ensure
13 access to treatment, resource management services, and community
14 support services;

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

19 (e) Establish a standard contract or contracts, consistent with
20 state minimum standards which shall be used in contracting with
21 behavioral health organizations. The standard contract shall include
22 a maximum fund balance, which shall be consistent with that required
23 by federal regulations or waiver stipulations;

24 (f) Make contracts necessary or incidental to the performance of
25 its duties and the execution of its powers, including managed care
26 contracts for behavioral health services, contracts entered into
27 under RCW 74.09.522, and contracts with public and private agencies,
28 organizations, and individuals to pay them for behavioral health
29 services;

30 (g) Establish, to the extent possible, a standardized auditing
31 procedure which is designed to assure compliance with contractual
32 agreements authorized by this chapter and minimizes paperwork
33 requirements of behavioral health organizations and licensed or
34 certified service providers. The audit procedure shall focus on the
35 outcomes of service as provided in RCW 43.20A.895, 70.320.020, and
36 71.36.025;

37 (h) Develop and maintain an information system to be used by the
38 state and behavioral health organizations that includes a tracking
39 method which allows the (~~department~~) authority and behavioral
40 health organizations to identify behavioral health clients'

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

6 ~~((License service providers who meet state minimum standards;~~
7 ~~(j)))~~ Periodically monitor the compliance of behavioral health
8 organizations and their network of licensed or certified service
9 providers for compliance with the contract between the ~~((department))~~
10 authority, the behavioral health organization, and federal and state
11 rules at reasonable times and in a reasonable manner;

12 ~~((k) Fix fees to be paid by evaluation and treatment centers to~~
13 ~~the secretary for the required inspections;~~

14 ~~(l)))~~ (j) Monitor and audit behavioral health organizations ~~((and~~
15 ~~licensed service providers))~~ as needed to assure compliance with
16 contractual agreements authorized by this chapter;

17 ~~((m)))~~ (k) Adopt such rules as are necessary to implement the
18 ~~((department's))~~ authority's responsibilities under this chapter;

19 ~~((n) License or certify crisis stabilization units that meet~~
20 ~~state minimum standards;~~

21 ~~(o) License or certify clubhouses that meet state minimum~~
22 ~~standards;~~

23 ~~(p) License or certify triage facilities that meet state minimum~~
24 ~~standards;))~~ and

25 ~~((q)))~~ (l) Administer or supervise the administration of the
26 provisions relating to persons with substance use disorders and
27 intoxicated persons of any state plan submitted for federal funding
28 pursuant to federal health, welfare, or treatment legislation.

29 (6) The ~~((secretary))~~ director shall use available resources only
30 for behavioral health organizations, except:

31 (a) To the extent authorized, and in accordance with any
32 priorities or conditions specified, in the biennial appropriations
33 act; or

34 (b) To incentivize improved performance with respect to the
35 client outcomes established in RCW 43.20A.895, 70.320.020, and
36 71.36.025, integration of behavioral health and medical services at
37 the clinical level, and improved care coordination for individuals
38 with complex care needs.

39 (7) Each behavioral health organization and licensed or certified
40 service provider shall file with the secretary of the department of

1 health or the director, on request, such data, statistics, schedules,
2 and information as the secretary of the department of health or the
3 director reasonably requires. A behavioral health organization or
4 licensed or certified service provider which, without good cause,
5 fails to furnish any data, statistics, schedules, or information as
6 requested, or files fraudulent reports thereof, may be subject to the
7 behavioral health organization contractual remedies in RCW 43.20A.894
8 (as recodified by this act) or may have its service provider
9 certification or license revoked or suspended.

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

15 ~~(9))~~ The superior court may restrain any behavioral health
16 organization or service provider from operating without a contract,
17 certification, or a license or any other violation of this section.
18 The court may also review, pursuant to procedures contained in
19 chapter 34.05 RCW, any denial, suspension, limitation, restriction,
20 or revocation of certification or license, and grant other relief
21 required to enforce the provisions of this chapter.

22 ~~((10))~~ (9) Upon petition by the secretary of the department of
23 health or the director, and after hearing held upon reasonable notice
24 to the facility, the superior court may issue a warrant to an officer
25 or employee of the secretary of the department of health or the
26 director authorizing him or her to enter at reasonable times, and
27 examine the records, books, and accounts of any behavioral health
28 organization or service provider refusing to consent to inspection or
29 examination by the authority.

30 ~~((11))~~ (10) Notwithstanding the existence or pursuit of any
31 other remedy, the secretary of the department of health or the
32 director may file an action for an injunction or other process
33 against any person or governmental unit to restrain or prevent the
34 establishment, conduct, or operation of a behavioral health
35 organization or service provider without a contract, certification,
36 or a license under this chapter.

37 ~~((12))~~ (11) The ~~((department))~~ authority shall distribute
38 appropriated state and federal funds in accordance with any
39 priorities, terms, or conditions specified in the appropriations act.

1 (~~(13)~~) (12) The (~~(secretary)~~) director shall assume all duties
2 assigned to the nonparticipating behavioral health organizations
3 under chapters 71.05 and 71.34 RCW and this chapter. Such
4 responsibilities shall include those which would have been assigned
5 to the nonparticipating counties in regions where there are not
6 participating behavioral health organizations.

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

14 (~~(14)~~) (13) The (~~(secretary)~~) director shall:

15 (a) Disburse funds for the behavioral health organizations within
16 sixty days of approval of the biennial contract. The (~~(department)~~)
17 authority must either approve or reject the biennial contract within
18 sixty days of receipt.

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

25 (c) Notify behavioral health organizations of their allocation of
26 available resources at least sixty days prior to the start of a new
27 biennial contract period.

28 (d) Deny all or part of the funding allocations to behavioral
29 health organizations based solely upon formal findings of
30 noncompliance with the terms of the behavioral health organization's
31 contract with the (~~(department)~~) authority. Behavioral health
32 organizations disputing the decision of the (~~(secretary)~~) director to
33 withhold funding allocations are limited to the remedies provided in
34 the (~~(department's)~~) authority's contracts with the behavioral health
35 organizations.

36 (~~(15)~~) (14) The (~~(department)~~) authority, in cooperation with
37 the state congressional delegation, shall actively seek waivers of
38 federal requirements and such modifications of federal regulations as
39 are necessary to allow federal medicaid reimbursement for services
40 provided by freestanding evaluation and treatment facilities licensed

1 under chapter 71.12 RCW or certified under chapter 71.05 RCW. The
2 ((department)) authority shall periodically report its efforts to the
3 appropriate committees of the senate and the house of
4 representatives.

5 ((+16)) (15) The ((department)) authority may:

6 (a) Plan, establish, and maintain substance use disorder
7 prevention and substance use disorder treatment programs as necessary
8 or desirable;

9 (b) Coordinate its activities and cooperate with behavioral
10 programs in this and other states, and make contracts and other joint
11 or cooperative arrangements with state, local, or private agencies in
12 this and other states for behavioral health services and for the
13 common advancement of substance use disorder programs;

14 (c) Solicit and accept for use any gift of money or property made
15 by will or otherwise, and any grant of money, services, or property
16 from the federal government, the state, or any political subdivision
17 thereof or any private source, and do all things necessary to
18 cooperate with the federal government or any of its agencies in
19 making an application for any grant;

20 (d) Keep records and engage in research and the gathering of
21 relevant statistics; and

22 (e) Acquire, hold, or dispose of real property or any interest
23 therein, and construct, lease, or otherwise provide substance use
24 disorder treatment programs.

25 **Sec. 4005.** RCW 71.24.037 and 2017 c 330 s 2 are each amended to
26 read as follows:

27 (1) The secretary shall by rule establish state minimum standards
28 for licensed or certified behavioral health service providers and
29 services, whether those service providers and services are licensed
30 or certified to provide solely mental health services, substance use
31 disorder treatment services, or services to persons with co-occurring
32 disorders.

33 (2) Minimum standards for licensed or certified behavioral health
34 service providers shall, at a minimum, establish: Qualifications for
35 staff providing services directly to persons with mental disorders,
36 substance use disorders, or both, the intended result of each
37 service, and the rights and responsibilities of persons receiving
38 behavioral health services pursuant to this chapter. The secretary
39 shall provide for deeming of licensed or certified behavioral health

1 service providers as meeting state minimum standards as a result of
2 accreditation by a recognized behavioral health accrediting body
3 recognized and having a current agreement with the department.

4 (3) Minimum standards for community support services and resource
5 management services shall include at least qualifications for
6 resource management services, client tracking systems, and the
7 transfer of patient information between behavioral health service
8 providers.

9 (4) The department may suspend, revoke, limit, restrict, or
10 modify an approval, or refuse to grant approval, for failure to meet
11 the provisions of this chapter, or the standards adopted under this
12 chapter. RCW ((43.20A.205)) 43.70.115 governs notice of a license or
13 certification denial, revocation, suspension, or modification and
14 provides the right to an adjudicative proceeding.

15 (5) No licensed or certified behavioral health service provider
16 may advertise or represent itself as a licensed or certified
17 behavioral health service provider if approval has not been granted,
18 has been denied, suspended, revoked, or canceled.

19 (6) Licensure or certification as a behavioral health service
20 provider is effective for one calendar year from the date of issuance
21 of the license or certification. The license or certification must
22 specify the types of services provided by the behavioral health
23 service provider that meet the standards adopted under this chapter.
24 Renewal of a license or certification must be made in accordance with
25 this section for initial approval and in accordance with the
26 standards set forth in rules adopted by the secretary.

27 (7) Licensure or certification as a licensed or certified
28 behavioral health service provider must specify the types of services
29 provided that meet the standards adopted under this chapter. Renewal
30 of a license or certification must be made in accordance with this
31 section for initial approval and in accordance with the standards set
32 forth in rules adopted by the secretary.

33 (8) Licensed or certified behavioral health service providers may
34 not provide types of services for which the licensed or certified
35 behavioral health service provider has not been certified. Licensed
36 or certified behavioral health service providers may provide services
37 for which approval has been sought and is pending, if approval for
38 the services has not been previously revoked or denied.

1 (9) The department periodically shall inspect licensed or
2 certified behavioral health service providers at reasonable times and
3 in a reasonable manner.

4 (10) Upon petition of the department and after a hearing held
5 upon reasonable notice to the facility, the superior court may issue
6 a warrant to an officer or employee of the department authorizing him
7 or her to enter and inspect at reasonable times, and examine the
8 books and accounts of, any licensed or certified behavioral health
9 service provider refusing to consent to inspection or examination by
10 the department or which the department has reasonable cause to
11 believe is operating in violation of this chapter.

12 (11) The department shall maintain and periodically publish a
13 current list of licensed or certified behavioral health service
14 providers.

15 (12) Each licensed or certified behavioral health service
16 provider shall file with the department or the authority upon
17 request, data, statistics, schedules, and information the department
18 or the authority reasonably requires. A licensed or certified
19 behavioral health service provider that without good cause fails to
20 furnish any data, statistics, schedules, or information as requested,
21 or files fraudulent returns thereof, may have its license or
22 certification revoked or suspended.

23 (13) The (~~department~~) authority shall use the data provided in
24 subsection (12) of this section to evaluate each program that admits
25 children to inpatient substance use disorder treatment upon
26 application of their parents. The evaluation must be done at least
27 once every twelve months. In addition, the (~~department~~) authority
28 shall randomly select and review the information on individual
29 children who are admitted on application of the child's parent for
30 the purpose of determining whether the child was appropriately placed
31 into substance use disorder treatment based on an objective
32 evaluation of the child's condition and the outcome of the child's
33 treatment.

34 (14) Any settlement agreement entered into between the department
35 and licensed or certified behavioral health service providers to
36 resolve administrative complaints, license or certification
37 violations, license or certification suspensions, or license or
38 certification revocations may not reduce the number of violations
39 reported by the department unless the department concludes, based on
40 evidence gathered by inspectors, that the licensed or certified

1 behavioral health service provider did not commit one or more of the
2 violations.

3 (15) In cases in which a behavioral health service provider that
4 is in violation of licensing or certification standards attempts to
5 transfer or sell the behavioral health service provider to a family
6 member, the transfer or sale may only be made for the purpose of
7 remedying license or certification violations and achieving full
8 compliance with the terms of the license or certification. Transfers
9 or sales to family members are prohibited in cases in which the
10 purpose of the transfer or sale is to avoid liability or reset the
11 number of license or certification violations found before the
12 transfer or sale. If the department finds that the owner intends to
13 transfer or sell, or has completed the transfer or sale of, ownership
14 of the behavioral health service provider to a family member solely
15 for the purpose of resetting the number of violations found before
16 the transfer or sale, the department may not renew the behavioral
17 health service provider's license or certification or issue a new
18 license or certification to the behavioral health service provider.

19 **Sec. 4006.** RCW 71.24.045 and 2016 sp.s. c 29 s 421 are each
20 amended to read as follows:

21 The behavioral health organization shall:

22 (1) Contract as needed with licensed or certified service
23 providers. The behavioral health organization may, in the absence of
24 a licensed or certified service provider entity, become a licensed or
25 certified service provider entity pursuant to minimum standards
26 required for licensing or certification by the department for the
27 purpose of providing services not available from licensed or
28 certified service providers;

29 (2) Operate as a licensed or certified service provider if it
30 deems that doing so is more efficient and cost effective than
31 contracting for services. When doing so, the behavioral health
32 organization shall comply with rules (~~(promulgated)~~) adopted by the
33 (~~(secretary)~~) director that shall provide measurements to determine
34 when a behavioral health organization provided service is more
35 efficient and cost effective;

36 (3) Monitor and perform biennial fiscal audits of licensed or
37 certified service providers who have contracted with the behavioral
38 health organization to provide services required by this chapter. The
39 monitoring and audits shall be performed by means of a formal process

1 which insures that the licensed or certified service providers and
2 professionals designated in this subsection meet the terms of their
3 contracts;

4 (4) Establish reasonable limitations on administrative costs for
5 agencies that contract with the behavioral health organization;

6 (5) Assure that the special needs of minorities, older adults,
7 individuals with disabilities, children, and low-income persons are
8 met within the priorities established in this chapter;

9 (6) Maintain patient tracking information in a central location
10 as required for resource management services and the ~~((department's))~~
11 authority's information system;

12 (7) Collaborate to ensure that policies do not result in an
13 adverse shift of persons with mental illness into state and local
14 correctional facilities;

15 (8) Work with the ~~((department))~~ authority to expedite the
16 enrollment or reenrollment of eligible persons leaving state or local
17 correctional facilities and institutions for mental diseases;

18 (9) Work closely with the designated crisis responder to maximize
19 appropriate placement of persons into community services; and

20 (10) Coordinate services for individuals who have received
21 services through the community mental health system and who become
22 patients at a state psychiatric hospital to ensure they are
23 transitioned into the community in accordance with mutually agreed
24 upon discharge plans and upon determination by the medical director
25 of the state psychiatric hospital that they no longer need intensive
26 inpatient care.

27 **Sec. 4007.** RCW 71.24.061 and 2014 c 225 s 35 are each amended to
28 read as follows:

29 (1) The ~~((department))~~ authority shall provide flexibility in
30 provider contracting to behavioral health organizations for
31 children's mental health services. ~~((Beginning with 2007-2009~~
32 ~~biennium contracts,))~~ Behavioral health organization contracts shall
33 authorize behavioral health organizations to allow and encourage
34 licensed or certified community mental health centers to subcontract
35 with individual licensed mental health professionals when necessary
36 to meet the need for an adequate, culturally competent, and qualified
37 children's mental health provider network.

38 (2) To the extent that funds are specifically appropriated for
39 this purpose or that nonstate funds are available, a children's

1 mental health evidence-based practice institute shall be established
2 at the University of Washington division of public behavioral health
3 and justice policy. The institute shall closely collaborate with
4 entities currently engaged in evaluating and promoting the use of
5 evidence-based, research-based, promising, or consensus-based
6 practices in children's mental health treatment, including but not
7 limited to the University of Washington department of psychiatry and
8 behavioral sciences, children's hospital and regional medical center,
9 the University of Washington school of nursing, the University of
10 Washington school of social work, and the Washington state institute
11 for public policy. To ensure that funds appropriated are used to the
12 greatest extent possible for their intended purpose, the University
13 of Washington's indirect costs of administration shall not exceed ten
14 percent of appropriated funding. The institute shall:

15 (a) Improve the implementation of evidence-based and
16 research-based practices by providing sustained and effective
17 training and consultation to licensed children's mental health
18 providers and child-serving agencies who are implementing
19 evidence-based or researched-based practices for treatment of
20 children's emotional or behavioral disorders, or who are interested
21 in adapting these practices to better serve ethnically or culturally
22 diverse children. Efforts under this subsection should include a
23 focus on appropriate oversight of implementation of evidence-based
24 practices to ensure fidelity to these practices and thereby achieve
25 positive outcomes;

26 (b) Continue the successful implementation of the "partnerships
27 for success" model by consulting with communities so they may select,
28 implement, and continually evaluate the success of evidence-based
29 practices that are relevant to the needs of children, youth, and
30 families in their community;

31 (c) Partner with youth, family members, family advocacy, and
32 culturally competent provider organizations to develop a series of
33 information sessions, literature, and online resources for families
34 to become informed and engaged in evidence-based and research-based
35 practices;

36 (d) Participate in the identification of outcome-based
37 performance measures under RCW 71.36.025(2) and partner in a
38 statewide effort to implement statewide outcomes monitoring and
39 quality improvement processes; and

1 (e) Serve as a statewide resource to the ((~~department~~)) authority
2 and other entities on child and adolescent evidence-based, research-
3 based, promising, or consensus-based practices for children's mental
4 health treatment, maintaining a working knowledge through ongoing
5 review of academic and professional literature, and knowledge of
6 other evidence-based practice implementation efforts in Washington
7 and other states.

8 (3) To the extent that funds are specifically appropriated for
9 this purpose, the ((~~department~~)) authority in collaboration with the
10 evidence-based practice institute shall implement a pilot program to
11 support primary care providers in the assessment and provision of
12 appropriate diagnosis and treatment of children with mental and
13 behavioral health disorders and track outcomes of this program. The
14 program shall be designed to promote more accurate diagnoses and
15 treatment through timely case consultation between primary care
16 providers and child psychiatric specialists, and focused educational
17 learning collaboratives with primary care providers.

18 **Sec. 4008.** RCW 71.24.100 and 2014 c 225 s 14 are each amended to
19 read as follows:

20 A county authority or a group of county authorities may enter
21 into a joint operating agreement to respond to a request for a
22 detailed plan and contract with the state to operate a behavioral
23 health organization whose boundaries are consistent with the regional
24 service areas established under RCW 43.20A.893 (as recodified by this
25 act). Any agreement between two or more county authorities shall
26 provide:

27 (1) That each county shall bear a share of the cost of mental
28 health services; and

29 (2) That the treasurer of one participating county shall be the
30 custodian of funds made available for the purposes of such mental
31 health services, and that the treasurer may make payments from such
32 funds upon audit by the appropriate auditing officer of the county
33 for which he or she is treasurer.

34 **Sec. 4009.** RCW 71.24.155 and 2014 c 225 s 36 are each amended to
35 read as follows:

36 Grants shall be made by the ((~~department~~)) authority to
37 behavioral health organizations for community mental health programs
38 totaling not less than ninety-five percent of available resources.

1 The ((~~department~~)) authority may use up to forty percent of the
2 remaining five percent to provide community demonstration projects,
3 including early intervention or primary prevention programs for
4 children, and the remainder shall be for emergency needs and
5 technical assistance under this chapter.

6 **Sec. 4010.** RCW 71.24.160 and 2014 c 225 s 37 are each amended to
7 read as follows:

8 The behavioral health organizations shall make satisfactory
9 showing to the ((~~secretary~~)) director that state funds shall in no
10 case be used to replace local funds from any source being used to
11 finance mental health services prior to January 1, 1990. Maintenance
12 of effort funds devoted to judicial services related to involuntary
13 commitment reimbursed under RCW 71.05.730 must be expended for other
14 purposes that further treatment for mental health and chemical
15 dependency disorders.

16 **Sec. 4011.** RCW 71.24.215 and 1982 c 204 s 11 are each amended to
17 read as follows:

18 Clients receiving mental health services funded by available
19 resources shall be charged a fee under sliding-scale fee schedules,
20 based on ability to pay, approved by the ((~~department~~)) authority or
21 the department of social and health services, as appropriate. Fees
22 shall not exceed the actual cost of care.

23 **Sec. 4012.** RCW 71.24.220 and 1999 c 10 s 8 are each amended to
24 read as follows:

25 The ((~~secretary~~)) director may withhold state grants in whole or
26 in part for any community mental health program in the event of a
27 failure to comply with this chapter or the related rules adopted by
28 the ((~~department~~)) authority.

29 **Sec. 4013.** RCW 71.24.240 and 2014 c 225 s 49 are each amended to
30 read as follows:

31 In order to establish eligibility for funding under this chapter,
32 any behavioral health organization seeking to obtain federal funds
33 for the support of any aspect of a community mental health program as
34 defined in this chapter shall submit program plans to the
35 ((~~secretary~~)) director for prior review and approval before such
36 plans are submitted to any federal agency.

1 **Sec. 4014.** RCW 71.24.300 and 2016 sp.s. c 29 s 522 are each
2 amended to read as follows:

3 (1) Upon the request of a tribal authority or authorities within
4 a behavioral health organization the joint operating agreement or the
5 county authority shall allow for the inclusion of the tribal
6 authority to be represented as a party to the behavioral health
7 organization.

8 (2) The roles and responsibilities of the county and tribal
9 authorities shall be determined by the terms of that agreement
10 including a determination of membership on the governing board and
11 advisory committees, the number of tribal representatives to be party
12 to the agreement, and the provisions of law and shall assure the
13 provision of culturally competent services to the tribes served.

14 (3) The state behavioral health authority may not determine the
15 roles and responsibilities of county authorities as to each other
16 under behavioral health organizations by rule, except to assure that
17 all duties required of behavioral health organizations are assigned
18 and that counties and the behavioral health organization do not
19 duplicate functions and that a single authority has final
20 responsibility for all available resources and performance under the
21 behavioral health organization's contract with the (~~secretary~~)
22 director.

23 (4) If a behavioral health organization is a private entity, the
24 (~~department~~) authority shall allow for the inclusion of the tribal
25 authority to be represented as a party to the behavioral health
26 organization.

27 (5) The roles and responsibilities of the private entity and the
28 tribal authorities shall be determined by the (~~department~~)
29 authority, through negotiation with the tribal authority.

30 (6) Behavioral health organizations shall submit an overall six-
31 year operating and capital plan, timeline, and budget and submit
32 progress reports and an updated two-year plan biennially thereafter,
33 to assume within available resources all of the following duties:

34 (a) Administer and provide for the availability of all resource
35 management services, residential services, and community support
36 services.

37 (b) Administer and provide for the availability of an adequate
38 network of evaluation and treatment services to ensure access to
39 treatment, all investigation, transportation, court-related, and

1 other services provided by the state or counties pursuant to chapter
2 71.05 RCW.

3 (c) Provide within the boundaries of each behavioral health
4 organization evaluation and treatment services for at least ninety
5 percent of persons detained or committed for periods up to seventeen
6 days according to chapter 71.05 RCW. Behavioral health organizations
7 may contract to purchase evaluation and treatment services from other
8 organizations if they are unable to provide for appropriate resources
9 within their boundaries. Insofar as the original intent of serving
10 persons in the community is maintained, the (~~secretary~~) director is
11 authorized to approve exceptions on a case-by-case basis to the
12 requirement to provide evaluation and treatment services within the
13 boundaries of each behavioral health organization. Such exceptions
14 are limited to:

- 15 (i) Contracts with neighboring or contiguous regions; or
16 (ii) Individuals detained or committed for periods up to
17 seventeen days at the state hospitals at the discretion of the
18 (~~secretary~~) director.

19 (d) Administer and provide for the availability of all other
20 mental health services, which shall include patient counseling, day
21 treatment, consultation, education services, employment services as
22 described in RCW 71.24.035, and mental health services to children.

23 (e) Establish standards and procedures for reviewing individual
24 service plans and determining when that person may be discharged from
25 resource management services.

26 (7) A behavioral health organization may request that any state-
27 owned land, building, facility, or other capital asset which was ever
28 purchased, deeded, given, or placed in trust for the care of the
29 persons with mental illness and which is within the boundaries of a
30 behavioral health organization be made available to support the
31 operations of the behavioral health organization. State agencies
32 managing such capital assets shall give first priority to requests
33 for their use pursuant to this chapter.

34 (8) Each behavioral health organization shall appoint a
35 behavioral health advisory board which shall review and provide
36 comments on plans and policies developed under this chapter, provide
37 local oversight regarding the activities of the behavioral health
38 organization, and work with the behavioral health organization to
39 resolve significant concerns regarding service delivery and outcomes.
40 The (~~department~~) authority shall establish statewide procedures for

1 the operation of regional advisory committees including mechanisms
2 for advisory board feedback to the ((department)) authority regarding
3 behavioral health organization performance. The composition of the
4 board shall be broadly representative of the demographic character of
5 the region and shall include, but not be limited to, representatives
6 of consumers of substance use disorder and mental health services and
7 their families, law enforcement, and, where the county is not the
8 behavioral health organization, county elected officials. Composition
9 and length of terms of board members may differ between behavioral
10 health organizations but shall be included in each behavioral health
11 organization's contract and approved by the ((secretary)) director.

12 (9) Behavioral health organizations shall assume all duties
13 specified in their plans and joint operating agreements through
14 biennial contractual agreements with the ((secretary)) director.

15 (10) Behavioral health organizations may receive technical
16 assistance from the housing trust fund and may identify and submit
17 projects for housing and housing support services to the housing
18 trust fund established under chapter 43.185 RCW. Projects identified
19 or submitted under this subsection must be fully integrated with the
20 behavioral health organization six-year operating and capital plan,
21 timeline, and budget required by subsection (6) of this section.

22 **Sec. 4015.** RCW 71.24.310 and 2017 c 222 s 1 are each amended to
23 read as follows:

24 The legislature finds that administration of chapter 71.05 RCW
25 and this chapter can be most efficiently and effectively implemented
26 as part of the behavioral health organization defined in RCW
27 71.24.025. For this reason, the legislature intends that the
28 ((department)) authority and the behavioral health organizations
29 shall work together to implement chapter 71.05 RCW as follows:

30 (1) ((By June 1, 2006,)) Behavioral health organizations shall
31 recommend to the ((department)) authority the number of state
32 hospital beds that should be allocated for use by each behavioral
33 health organization. The statewide total allocation shall not exceed
34 the number of state hospital beds offering long-term inpatient care,
35 as defined in this chapter, for which funding is provided in the
36 biennial appropriations act.

37 (2) If there is consensus among the behavioral health
38 organizations regarding the number of state hospital beds that should
39 be allocated for use by each behavioral health organization, the

1 ((department)) authority shall contract with each behavioral health
2 organization accordingly.

3 (3) If there is not consensus among the behavioral health
4 organizations regarding the number of beds that should be allocated
5 for use by each behavioral health organization, the ((department))
6 authority shall establish by emergency rule the number of state
7 hospital beds that are available for use by each behavioral health
8 organization. ((The emergency rule shall be effective September 1,
9 2006-)) The primary factor used in the allocation shall be the
10 estimated number of adults with acute and chronic mental illness in
11 each behavioral health organization area, based upon population-
12 adjusted incidence and utilization.

13 (4) The allocation formula shall be updated at least every three
14 years to reflect demographic changes, and new evidence regarding the
15 incidence of acute and chronic mental illness and the need for long-
16 term inpatient care. In the updates, the statewide total allocation
17 shall include (a) all state hospital beds offering long-term
18 inpatient care for which funding is provided in the biennial
19 appropriations act; plus (b) the estimated equivalent number of beds
20 or comparable diversion services contracted in accordance with
21 subsection (5) of this section.

22 (5) The ((department)) authority is encouraged to enter
23 performance-based contracts with behavioral health organizations to
24 provide some or all of the behavioral health organization's allocated
25 long-term inpatient treatment capacity in the community, rather than
26 in the state hospital. The performance contracts shall specify the
27 number of patient days of care available for use by the behavioral
28 health organization in the state hospital.

29 (6) If a behavioral health organization uses more state hospital
30 patient days of care than it has been allocated under subsection (3)
31 or (4) of this section, or than it has contracted to use under
32 subsection (5) of this section, whichever is less, it shall reimburse
33 the ((department)) authority for that care. Reimbursements must be
34 calculated using quarterly average census data to determine an
35 average number of days used in excess of the bed allocation for the
36 quarter. The reimbursement rate per day shall be the hospital's total
37 annual budget for long-term inpatient care, divided by the total
38 patient days of care assumed in development of that budget.

39 (7) One-half of any reimbursements received pursuant to
40 subsection (6) of this section shall be used to support the cost of

1 operating the state hospital (~~and, during the 2007-2009 fiscal~~
2 ~~biennium, implementing new services that will enable a behavioral~~
3 ~~health organization to reduce its utilization of the state~~
4 ~~hospital~~). The ((department)) authority shall distribute the
5 remaining half of such reimbursements among behavioral health
6 organizations that have used less than their allocated or contracted
7 patient days of care at that hospital, proportional to the number of
8 patient days of care not used.

9 **Sec. 4016.** RCW 71.24.320 and 2014 c 225 s 50 are each amended to
10 read as follows:

11 (1) If an existing behavioral health organization chooses not to
12 respond to a request for a detailed plan, or is unable to
13 substantially meet the requirements of a request for a detailed plan,
14 or notifies the (~~department of social and health services~~)
15 authority it will no longer serve as a behavioral health
16 organization, the ((department)) authority shall utilize a
17 procurement process in which other entities recognized by the
18 ((secretary)) director may bid to serve as the behavioral health
19 organization.

20 (a) The request for proposal shall include a scoring factor for
21 proposals that include additional financial resources beyond that
22 provided by state appropriation or allocation.

23 (b) The ((department)) authority shall provide detailed briefings
24 to all bidders in accordance with ((department)) authority and state
25 procurement policies.

26 (c) The request for proposal shall also include a scoring factor
27 for proposals submitted by nonprofit entities that include a
28 component to maximize the utilization of state provided resources and
29 the leverage of other funds for the support of mental health services
30 to persons with mental illness.

31 (2) A behavioral health organization that voluntarily terminates,
32 refuses to renew, or refuses to sign a mandatory amendment to its
33 contract to act as a behavioral health organization is prohibited
34 from responding to a procurement under this section or serving as a
35 behavioral health organization for five years from the date that the
36 department of social and health services, or the authority, as
37 applicable, signs a contract with the entity that will serve as the
38 behavioral health organization.

1 **Sec. 4017.** RCW 71.24.330 and 2016 sp.s. c 29 s 422 are each
2 amended to read as follows:

3 (1)(a) Contracts between a behavioral health organization and the
4 (~~department~~) authority shall include mechanisms for monitoring
5 performance under the contract and remedies for failure to
6 substantially comply with the requirements of the contract including,
7 but not limited to, financial penalties, termination of the contract,
8 and reprocurement of the contract.

9 (b) The (~~department~~) authority shall incorporate the criteria
10 to measure the performance of service coordination organizations into
11 contracts with behavioral health organizations as provided in chapter
12 70.320 RCW.

13 (2) The behavioral health organization procurement processes
14 shall encourage the preservation of infrastructure previously
15 purchased by the community mental health service delivery system, the
16 maintenance of linkages between other services and delivery systems,
17 and maximization of the use of available funds for services versus
18 profits. However, a behavioral health organization selected through
19 the procurement process is not required to contract for services with
20 any county-owned or operated facility. The behavioral health
21 organization procurement process shall provide that public funds
22 appropriated by the legislature shall not be used to promote or
23 deter, encourage, or discourage employees from exercising their
24 rights under Title 29, chapter 7, subchapter II, United States Code
25 or chapter 41.56 RCW.

26 (3) In addition to the requirements of RCW 71.24.035, contracts
27 shall:

28 (a) Define administrative costs and ensure that the behavioral
29 health organization does not exceed an administrative cost of ten
30 percent of available funds;

31 (b) Require effective collaboration with law enforcement,
32 criminal justice agencies, and the chemical dependency treatment
33 system;

34 (c) Require substantial implementation of (~~department~~)
35 authority adopted integrated screening and assessment process and
36 matrix of best practices;

37 (d) Maintain the decision-making independence of designated
38 crisis responders;

39 (e) Except at the discretion of the secretary of the department
40 of social and health services in consultation with the director or as

1 specified in the biennial budget, require behavioral health
2 organizations to pay the state for the costs associated with
3 individuals who are being served on the grounds of the state
4 hospitals and who are not receiving long-term inpatient care as
5 defined in RCW 71.24.025;

6 (f) Include a negotiated alternative dispute resolution clause;

7 (g) Include a provision requiring either party to provide one
8 hundred eighty days' notice of any issue that may cause either party
9 to voluntarily terminate, refuse to renew, or refuse to sign a
10 mandatory amendment to the contract to act as a behavioral health
11 organization. If either party decides to voluntarily terminate,
12 refuse to renew, or refuse to sign a mandatory amendment to the
13 contract to serve as a behavioral health organization they shall
14 provide ninety days' advance notice in writing to the other party;

15 (h) Require behavioral health organizations to provide services
16 as identified in RCW 71.05.585 to individuals committed for
17 involuntary commitment under less restrictive alternative court
18 orders when:

19 (i) The individual is enrolled in the medicaid program and meets
20 behavioral health organization access to care standards; or

21 (ii) The individual is not enrolled in medicaid, does not have
22 other insurance which can pay for the services, and the behavioral
23 health organization has adequate available resources to provide the
24 services; and

25 (i) Establish caseload guidelines for care coordinators who
26 supervise less restrictive alternative orders and guidelines for
27 response times during and immediately following periods of
28 hospitalization or incarceration.

29 **Sec. 4018.** RCW 71.24.340 and 2014 c 225 s 16 are each amended to
30 read as follows:

31 The ((~~secretary~~)) director shall require the behavioral health
32 organizations to develop agreements with city and county jails to
33 accept referrals for enrollment on behalf of a confined person, prior
34 to the person's release.

35 **Sec. 4019.** RCW 71.24.350 and 2016 sp.s. c 29 s 523 are each
36 amended to read as follows:

37 The ((~~department~~)) authority shall require each behavioral health
38 organization to provide for a separately funded behavioral health

1 ombuds office in each behavioral health organization that is
2 independent of the behavioral health organization. The ombuds office
3 shall maximize the use of consumer advocates.

4 **Sec. 4020.** RCW 71.24.360 and 2014 c 225 s 52 are each amended to
5 read as follows:

6 (1) The ((~~department~~)) authority may establish new behavioral
7 health organization boundaries in any part of the state:

8 (a) Where more than one organization chooses not to respond to,
9 or is unable to substantially meet the requirements of, the request
10 for a detailed plan under RCW 71.24.320;

11 (b) Where a behavioral health organization is subject to
12 procurement under RCW 71.24.330; or

13 (c) Where two or more behavioral health organizations propose to
14 reconfigure themselves to achieve consolidation, in which case the
15 procurement process described in RCW 71.24.320 and 71.24.330(2) does
16 not apply.

17 (2) The ((~~department~~)) authority may establish no fewer than six
18 and no more than fourteen behavioral health organizations under this
19 chapter. No entity shall be responsible for more than three
20 behavioral health organizations.

21 **Sec. 4021.** RCW 71.24.370 and 2014 c 225 s 42 are each amended to
22 read as follows:

23 (1) Except for monetary damage claims which have been reduced to
24 final judgment by a superior court, this section applies to all
25 claims against the state, state agencies, state officials, or state
26 employees that exist on or arise after March 29, 2006.

27 (2) Except as expressly provided in contracts entered into
28 between the ((~~department~~)) authority and the behavioral health
29 organizations after March 29, 2006, the entities identified in
30 subsection (3) of this section shall have no claim for declaratory
31 relief, injunctive relief, judicial review under chapter 34.05 RCW,
32 or civil liability against the state or state agencies for actions or
33 inactions performed pursuant to the administration of this chapter
34 with regard to the following: (a) The allocation or payment of
35 federal or state funds; (b) the use or allocation of state hospital
36 beds; or (c) financial responsibility for the provision of inpatient
37 mental health care.

1 (3) This section applies to counties, behavioral health
2 organizations, and entities which contract to provide behavioral
3 health organization services and their subcontractors, agents, or
4 employees.

5 **Sec. 4022.** RCW 71.24.380 and 2014 c 225 s 5 are each amended to
6 read as follows:

7 (1) The (~~secretary~~) director shall purchase mental health and
8 chemical dependency treatment services primarily through managed care
9 contracting, but may continue to purchase behavioral health services
10 directly from tribal clinics and other tribal providers.

11 (2)(a) The (~~secretary~~) director shall request a detailed plan
12 from the entities identified in (b) of this subsection that
13 demonstrates compliance with the contractual elements of RCW
14 43.20A.894 (as recodified by this act) and federal regulations
15 related to medicaid managed care contracting(~~(7)~~) including, but not
16 limited to: Having a sufficient network of providers to provide
17 adequate access to mental health and chemical dependency services for
18 residents of the regional service area that meet eligibility criteria
19 for services, ability to maintain and manage adequate reserves, and
20 maintenance of quality assurance processes. Any responding entity
21 that submits a detailed plan that demonstrates that it can meet the
22 requirements of this section must be awarded the contract to serve as
23 the behavioral health organization.

24 (b)(i) For purposes of responding to the request for a detailed
25 plan under (a) of this subsection, the entities from which a plan
26 will be requested are:

27 (A) A county in a single county regional service area that
28 currently serves as the regional support network for that area;

29 (B) In the event that a county has made a decision prior to
30 January 1, 2014, not to contract as a regional support network, any
31 private entity that serves as the regional support network for that
32 area;

33 (C) All counties within a regional service area that includes
34 more than one county, which shall form a responding entity through
35 the adoption of an interlocal agreement. The interlocal agreement
36 must specify the terms by which the responding entity shall serve as
37 the behavioral health organization within the regional service area.

38 (ii) In the event that a regional service area is comprised of
39 multiple counties including one that has made a decision prior to

1 January 1, 2014, not to contract as a regional support network the
2 counties shall adopt an interlocal agreement and may respond to the
3 request for a detailed plan under (a) of this subsection and the
4 private entity may also respond to the request for a detailed plan.
5 If both responding entities meet the requirements of this section,
6 the responding entities shall follow the ~~((department's))~~ authority's
7 procurement process established in subsection (3) of this section.

8 (3) If an entity that has received a request under this section
9 to submit a detailed plan does not respond to the request, a
10 responding entity under subsection (1) of this section is unable to
11 substantially meet the requirements of the request for a detailed
12 plan, or more than one responding entity substantially meets the
13 requirements for the request for a detailed plan, the ~~((department))~~
14 authority shall use a procurement process in which other entities
15 recognized by the ~~((secretary))~~ director may bid to serve as the
16 behavioral health organization in that regional service area.

17 (4) Contracts for behavioral health organizations must begin on
18 April 1, 2016.

19 (5) Upon request of all of the county authorities in a regional
20 service area, the ~~((department and the health care))~~ authority may
21 ~~((jointly))~~ purchase behavioral health services through an integrated
22 medical and behavioral health services contract with a behavioral
23 health organization or a managed health care system as defined in RCW
24 74.09.522, pursuant to standards to be developed ~~((jointly))~~ by the
25 ~~((secretary and the health care))~~ authority. Any contract for such a
26 purchase must comply with all federal medicaid and state law
27 requirements related to managed health care contracting.

28 (6) As an incentive to county authorities to become early
29 adopters of fully integrated purchasing of medical and behavioral
30 health services, the standards adopted by the ~~((secretary and the
31 health care))~~ authority under subsection (5) of this section shall
32 provide for an incentive payment to counties which elect to move to
33 full integration by January 1, 2016. Subject to federal approval, the
34 incentive payment shall be targeted at ten percent of savings
35 realized by the state within the regional service area in which the
36 fully integrated purchasing takes place. Savings shall be calculated
37 in alignment with the outcome and performance measures established in
38 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for
39 early adopter counties shall be made available for up to a six-year
40 period, or until full integration of medical and behavioral health

1 services is accomplished statewide, whichever comes sooner, according
2 to rules to be developed by the ((secretary and health care))
3 authority.

4 **Sec. 4023.** RCW 71.24.385 and 2016 sp.s. c 29 s 510 are each
5 amended to read as follows:

6 (1) Within funds appropriated by the legislature for this
7 purpose, behavioral health organizations shall develop the means to
8 serve the needs of people:

9 (a) With mental disorders residing within the boundaries of their
10 regional service area. Elements of the program may include:

- 11 (i) Crisis diversion services;
- 12 (ii) Evaluation and treatment and community hospital beds;
- 13 (iii) Residential treatment;
- 14 (iv) Programs for intensive community treatment;
- 15 (v) Outpatient services;
- 16 (vi) Peer support services;
- 17 (vii) Community support services;
- 18 (viii) Resource management services; and
- 19 (ix) Supported housing and supported employment services.

20 (b) With substance use disorders and their families, people
21 incapacitated by alcohol or other psychoactive chemicals, and
22 intoxicated people.

23 (i) Elements of the program shall include, but not necessarily be
24 limited to, a continuum of substance use disorder treatment services
25 that includes:

- 26 (A) Withdrawal management;
- 27 (B) Residential treatment; and
- 28 (C) Outpatient treatment.

29 (ii) The program may include peer support, supported housing,
30 supported employment, crisis diversion, or recovery support services.

31 (iii) The ((department)) authority may contract for the use of an
32 approved substance use disorder treatment program or other individual
33 or organization if the ((secretary)) director considers this to be an
34 effective and economical course to follow.

35 (2) The behavioral health organization shall have the
36 flexibility, within the funds appropriated by the legislature for
37 this purpose and the terms of their contract, to design the mix of
38 services that will be most effective within their service area of
39 meeting the needs of people with behavioral health disorders and

1 avoiding placement of such individuals at the state mental hospital.
2 Behavioral health organizations are encouraged to maximize the use of
3 evidence-based practices and alternative resources with the goal of
4 substantially reducing and potentially eliminating the use of
5 institutions for mental diseases.

6 (3)(a) Treatment provided under this chapter must be purchased
7 primarily through managed care contracts.

8 (b) Consistent with RCW 71.24.580, services and funding provided
9 through the criminal justice treatment account are intended to be
10 exempted from managed care contracting.

11 **Sec. 4024.** RCW 71.24.400 and 2001 c 323 s 18 are each amended to
12 read as follows:

13 The legislature finds that the current complex set of federal,
14 state, and local rules and regulations, audited and administered at
15 multiple levels, which affect the community mental health service
16 delivery system, focus primarily on the process of providing mental
17 health services and do not sufficiently address consumer and system
18 outcomes. The legislature finds that the ((department)) authority and
19 the community mental health service delivery system must make ongoing
20 efforts to achieve the purposes set forth in RCW 71.24.015 related to
21 reduced administrative layering, duplication, elimination of process
22 measures not specifically required by the federal government for the
23 receipt of federal funds, and reduced administrative costs.

24 **Sec. 4025.** RCW 71.24.405 and 2014 c 225 s 53 are each amended to
25 read as follows:

26 The ((department)) authority shall establish a comprehensive and
27 collaborative effort within behavioral health organizations and with
28 local mental health service providers aimed at creating innovative
29 and streamlined community mental health service delivery systems, in
30 order to carry out the purposes set forth in RCW 71.24.400 and to
31 capture the diversity of the community mental health service delivery
32 system.

33 The ((department)) authority must accomplish the following:

34 (1) Identification, review, and cataloging of all rules,
35 regulations, duplicative administrative and monitoring functions, and
36 other requirements that currently lead to inefficiencies in the
37 community mental health service delivery system and, if possible,
38 eliminate the requirements;

1 (2) The systematic and incremental development of a single system
2 of accountability for all federal, state, and local funds provided to
3 the community mental health service delivery system. Systematic
4 efforts should be made to include federal and local funds into the
5 single system of accountability;

6 (3) The elimination of process regulations and related contract
7 and reporting requirements. In place of the regulations and
8 requirements, a set of outcomes for mental health adult and children
9 clients according to this chapter (~~(71.24—RCW)~~) must be used to
10 measure the performance of mental health service providers and
11 behavioral health organizations. Such outcomes shall focus on
12 stabilizing out-of-home and hospital care, increasing stable
13 community living, increasing age-appropriate activities, achieving
14 family and consumer satisfaction with services, and system
15 efficiencies;

16 (4) Evaluation of the feasibility of contractual agreements
17 between the (~~department of social and health services~~) authority
18 and behavioral health organizations and mental health service
19 providers that link financial incentives to the success or failure of
20 mental health service providers and behavioral health organizations
21 to meet outcomes established for mental health service clients;

22 (5) The involvement of mental health consumers and their
23 representatives. Mental health consumers and their representatives
24 will be involved in the development of outcome standards for mental
25 health clients under section 5 of this act; and

26 (6) An independent evaluation component to measure the success of
27 the (~~department~~) authority in fully implementing the provisions of
28 RCW 71.24.400 and this section.

29 **Sec. 4026.** RCW 71.24.415 and 1999 c 10 s 12 are each amended to
30 read as follows:

31 To carry out the purposes specified in RCW 71.24.400, the
32 (~~department~~) authority is encouraged to utilize its authority to
33 eliminate any unnecessary rules, regulations, standards, or
34 contracts, to immediately eliminate duplication of audits or any
35 other unnecessarily duplicated functions, and to seek any waivers of
36 federal or state rules or regulations necessary to achieve the
37 purpose of streamlining the community mental health service delivery
38 system and infusing it with incentives that reward efficiency,
39 positive outcomes for clients, and quality services.

1 **Sec. 4027.** RCW 71.24.420 and 2014 c 225 s 17 are each amended to
2 read as follows:

3 The ((~~department~~)) authority shall operate the community mental
4 health service delivery system authorized under this chapter within
5 the following constraints:

6 (1) The full amount of federal funds for mental health services,
7 plus qualifying state expenditures as appropriated in the biennial
8 operating budget, shall be appropriated to the ((~~department~~))
9 authority each year in the biennial appropriations act to carry out
10 the provisions of the community mental health service delivery system
11 authorized in this chapter.

12 (2) The ((~~department~~)) authority may expend funds defined in
13 subsection (1) of this section in any manner that will effectively
14 accomplish the outcome measures established in RCW 43.20A.895 and
15 71.36.025 and performance measures linked to those outcomes.

16 (3) The ((~~department~~)) authority shall implement strategies that
17 accomplish the outcome measures established in RCW 43.20A.895,
18 70.320.020, and 71.36.025 and performance measures linked to those
19 outcomes.

20 (4) The ((~~department~~)) authority shall monitor expenditures
21 against the appropriation levels provided for in subsection (1) of
22 this section.

23 **Sec. 4028.** RCW 71.24.430 and 2014 c 225 s 54 are each amended to
24 read as follows:

25 (1) The ((~~department~~)) authority shall ensure the coordination of
26 allied services for mental health clients. The ((~~department~~))
27 authority shall implement strategies for resolving organizational,
28 regulatory, and funding issues at all levels of the system, including
29 the state, the behavioral health organizations, and local service
30 providers.

31 (2) The ((~~department~~)) authority shall propose, in operating
32 budget requests, transfers of funding among programs to support
33 collaborative service delivery to persons who require services from
34 multiple department of social and health services and authority
35 programs. The ((~~department~~)) authority shall report annually to the
36 appropriate committees of the senate and house of representatives on
37 actions and projects it has taken to promote collaborative service
38 delivery.

1 **Sec. 4029.** RCW 71.24.455 and 2014 c 225 s 43 are each amended to
2 read as follows:

3 (1) The (~~secretary~~) director shall select and contract with a
4 behavioral health organization or private provider to provide
5 specialized access and services to offenders with mental illness upon
6 release from total confinement within the department of corrections
7 who have been identified by the department of corrections and
8 selected by the behavioral health organization or private provider as
9 high-priority clients for services and who meet service program
10 entrance criteria. The program shall enroll no more than twenty-five
11 offenders at any one time, or a number of offenders that can be
12 accommodated within the appropriated funding level, and shall seek to
13 fill any vacancies that occur.

14 (2) Criteria shall include a determination by department of
15 corrections staff that:

16 (a) The offender suffers from a major mental illness and needs
17 continued mental health treatment;

18 (b) The offender's previous crime or crimes have been determined
19 by either the court or department of corrections staff to have been
20 substantially influenced by the offender's mental illness;

21 (c) It is believed the offender will be less likely to commit
22 further criminal acts if provided ongoing mental health care;

23 (d) The offender is unable or unlikely to obtain housing and/or
24 treatment from other sources for any reason; and

25 (e) The offender has at least one year remaining before his or
26 her sentence expires but is within six months of release to community
27 housing and is currently housed within a work release facility or any
28 department of corrections' division of prisons facility.

29 (3) The behavioral health organization or private provider shall
30 provide specialized access and services to the selected offenders.
31 The services shall be aimed at lowering the risk of recidivism. An
32 oversight committee composed of a representative of the
33 (~~department~~) authority, a representative of the selected behavioral
34 health organization or private provider, and a representative of the
35 department of corrections shall develop policies to guide the pilot
36 program, provide dispute resolution including making determinations
37 as to when entrance criteria or required services may be waived in
38 individual cases, advise the department of corrections and the
39 behavioral health organization or private provider on the selection
40 of eligible offenders, and set minimum requirements for service

1 contracts. The selected behavioral health organization or private
2 provider shall implement the policies and service contracts. The
3 following services shall be provided:

4 (a) Intensive case management to include a full range of
5 intensive community support and treatment in client-to-staff ratios
6 of not more than ten offenders per case manager including: (i) A
7 minimum of weekly group and weekly individual counseling; (ii) home
8 visits by the program manager at least two times per month; and (iii)
9 counseling focusing on relapse prevention and past, current, or
10 future behavior of the offender.

11 (b) The case manager shall attempt to locate and procure housing
12 appropriate to the living and clinical needs of the offender and as
13 needed to maintain the psychiatric stability of the offender. The
14 entire range of emergency, transitional, and permanent housing and
15 involuntary hospitalization must be considered as available housing
16 options. A housing subsidy may be provided to offenders to defray
17 housing costs up to a maximum of six thousand six hundred dollars per
18 offender per year and be administered by the case manager. Additional
19 funding sources may be used to offset these costs when available.

20 (c) The case manager shall collaborate with the assigned prison,
21 work release, or community corrections staff during release planning,
22 prior to discharge, and in ongoing supervision of the offender while
23 under the authority of the department of corrections.

24 (d) Medications including the full range of psychotropic
25 medications including atypical antipsychotic medications may be
26 required as a condition of the program. Medication prescription,
27 medication monitoring, and counseling to support offender
28 understanding, acceptance, and compliance with prescribed medication
29 regimens must be included.

30 (e) A systematic effort to engage offenders to continuously
31 involve themselves in current and long-term treatment and appropriate
32 habilitative activities shall be made.

33 (f) Classes appropriate to the clinical and living needs of the
34 offender and appropriate to his or her level of understanding.

35 (g) The case manager shall assist the offender in the application
36 and qualification for entitlement funding, including medicaid, state
37 assistance, and other available government and private assistance at
38 any point that the offender is qualified and resources are available.

1 (h) The offender shall be provided access to daily activities
2 such as drop-in centers, prevocational and vocational training and
3 jobs, and volunteer activities.

4 (4) Once an offender has been selected into the pilot program,
5 the offender shall remain in the program until the end of his or her
6 sentence or unless the offender is released from the pilot program
7 earlier by the department of corrections.

8 (5) Specialized training in the management and supervision of
9 high-crime risk offenders with mental illness shall be provided to
10 all participating mental health providers by the ((~~department~~))
11 authority and the department of corrections prior to their
12 participation in the program and as requested thereafter.

13 (6) The pilot program provided for in this section must be
14 providing services by July 1, 1998.

15 **Sec. 4030.** RCW 71.24.460 and 1999 c 10 s 13 are each amended to
16 read as follows:

17 The ((~~department~~)) authority, in collaboration with the
18 department of corrections and the oversight committee created in RCW
19 71.24.455, shall track outcomes and submit to the legislature annual
20 reports regarding services and outcomes. The reports shall include
21 the following: (1) A statistical analysis regarding the reoffense and
22 reinstitutionalization rate by the enrollees in the program set forth
23 in RCW 71.24.455; (2) a quantitative description of the services
24 provided in the program set forth in RCW 71.24.455; and (3)
25 recommendations for any needed modifications in the services and
26 funding levels to increase the effectiveness of the program set forth
27 in RCW 71.24.455. By December 1, 2003, the department shall certify
28 the reoffense rate for enrollees in the program authorized by RCW
29 71.24.455 to the office of financial management and the appropriate
30 legislative committees. If the reoffense rate exceeds fifteen
31 percent, the authorization for the department to conduct the program
32 under RCW 71.24.455 is terminated on January 1, 2004.

33 **Sec. 4031.** RCW 71.24.470 and 2014 c 225 s 44 are each amended to
34 read as follows:

35 (1) The ((~~secretary~~)) director shall contract, to the extent that
36 funds are appropriated for this purpose, for case management services
37 and such other services as the ((~~secretary~~)) director deems necessary
38 to assist offenders identified under RCW 72.09.370 for participation

1 in the offender reentry community safety program. The contracts may
2 be with behavioral health organizations or any other qualified and
3 appropriate entities.

4 (2) The case manager has the authority to assist these offenders
5 in obtaining the services, as set forth in the plan created under RCW
6 72.09.370(2), for up to five years. The services may include
7 coordination of mental health services, assistance with unfunded
8 medical expenses, obtaining chemical dependency treatment, housing,
9 employment services, educational or vocational training, independent
10 living skills, parenting education, anger management services, and
11 such other services as the case manager deems necessary.

12 (3) The legislature intends that funds appropriated for the
13 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section
14 and distributed to the behavioral health organizations are to
15 supplement and not to supplant general funding. Funds appropriated to
16 implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section
17 are not to be considered available resources as defined in RCW
18 71.24.025 and are not subject to the priorities, terms, or conditions
19 in the appropriations act established pursuant to RCW 71.24.035.

20 (4) The offender reentry community safety program was formerly
21 known as the community integration assistance program.

22 **Sec. 4032.** RCW 71.24.480 and 2014 c 225 s 45 are each amended to
23 read as follows:

24 (1) A licensed or certified service provider or behavioral health
25 organization, acting in the course of the provider's or
26 organization's duties under this chapter, is not liable for civil
27 damages resulting from the injury or death of another caused by a
28 participant in the offender reentry community safety program who is a
29 client of the provider or organization, unless the act or omission of
30 the provider or organization constitutes:

31 (a) Gross negligence;

32 (b) Willful or wanton misconduct; or

33 (c) A breach of the duty to warn of and protect from a client's
34 threatened violent behavior if the client has communicated a serious
35 threat of physical violence against a reasonably ascertainable victim
36 or victims.

37 (2) In addition to any other requirements to report violations,
38 the licensed or certified service provider and behavioral health
39 organization shall report an offender's expressions of intent to harm

1 or other predatory behavior, regardless of whether there is an
2 ascertainable victim, in progress reports and other established
3 processes that enable courts and supervising entities to assess and
4 address the progress and appropriateness of treatment.

5 (3) A licensed or certified service provider's or behavioral
6 health organization's mere act of treating a participant in the
7 offender reentry community safety program is not negligence. Nothing
8 in this subsection alters the licensed or certified service
9 provider's or behavioral health organization's normal duty of care
10 with regard to the client.

11 (4) The limited liability provided by this section applies only
12 to the conduct of licensed or certified service providers and
13 behavioral health organizations and does not apply to conduct of the
14 state.

15 (5) For purposes of this section, "participant in the offender
16 reentry community safety program" means a person who has been
17 identified under RCW 72.09.370 as an offender who: (a) Is reasonably
18 believed to be dangerous to himself or herself or others; and (b) has
19 a mental disorder.

20 **Sec. 4033.** RCW 71.24.490 and 2015 c 269 s 11 are each amended to
21 read as follows:

22 The (~~department~~) authority must collaborate with regional
23 support networks or behavioral health organizations and the
24 Washington state institute for public policy to estimate the capacity
25 needs for evaluation and treatment services within each regional
26 service area. Estimated capacity needs shall include consideration of
27 the average occupancy rates needed to provide an adequate network of
28 evaluation and treatment services to ensure access to treatment. A
29 regional service network or behavioral health organization must
30 develop and maintain an adequate plan to provide for evaluation and
31 treatment needs.

32 **Sec. 4034.** RCW 71.24.500 and 2016 c 154 s 3 are each amended to
33 read as follows:

34 The department of social and health services and the (~~Washington~~
35 ~~state health care~~) authority shall publish written guidance and
36 provide trainings to behavioral health organizations, managed care
37 organizations, and behavioral health providers related to how these
38 organizations may provide outreach, assistance, transition planning,

1 and rehabilitation case management reimbursable under federal law to
2 persons who are incarcerated, involuntarily hospitalized, or in the
3 process of transitioning out of one of these services. The guidance
4 and trainings may also highlight preventive activities not
5 reimbursable under federal law which may be cost-effective in a
6 managed care environment. The purpose of this written guidance and
7 trainings is to champion best clinical practices including, where
8 appropriate, use of care coordination and long-acting injectable
9 psychotropic medication, and to assist the health community to
10 leverage federal funds and standardize payment and reporting
11 procedures. The authority and the department of social and health
12 services shall construe governing laws liberally to effectuate the
13 broad remedial purposes of chapter 154, Laws of 2016, and provide a
14 status update to the legislature by December 31, 2016.

15 **Sec. 4035.** RCW 71.24.515 and 2016 sp.s. c 29 s 514 are each
16 amended to read as follows:

17 (1) The department of social and health services shall contract
18 for chemical dependency specialist services at division of children
19 and family services offices to enhance the timeliness and quality of
20 child protective services assessments and to better connect families
21 to needed treatment services.

22 (2) The chemical dependency specialist's duties may include, but
23 are not limited to: Conducting on-site substance use disorder
24 screening and assessment, facilitating progress reports to department
25 of social and health services employees, in-service training of
26 department of social and health services employees and staff on
27 substance use disorder issues, referring clients from the department
28 of social and health services to treatment providers, and providing
29 consultation on cases to department of social and health services
30 employees.

31 (3) The department of social and health services shall provide
32 training in and ensure that each case-carrying employee is trained in
33 uniform screening for mental health and substance use disorder.

34 **Sec. 4036.** RCW 71.24.520 and 2014 c 225 s 22 are each amended to
35 read as follows:

36 The (~~department~~) authority, in the operation of the chemical
37 dependency program may:

1 (1) Plan, establish, and maintain prevention and treatment
2 programs as necessary or desirable;

3 (2) Make contracts necessary or incidental to the performance of
4 its duties and the execution of its powers, including managed care
5 contracts for behavioral health services, contracts entered into
6 under RCW 74.09.522, and contracts with public and private agencies,
7 organizations, and individuals to pay them for services rendered or
8 furnished to persons with substance use disorders, persons
9 incapacitated by alcohol or other psychoactive chemicals, or
10 intoxicated persons;

11 (3) Enter into agreements for monitoring of verification of
12 qualifications of counselors employed by approved treatment programs;

13 (4) Adopt rules under chapter 34.05 RCW to carry out the
14 provisions and purposes of this chapter and contract, cooperate, and
15 coordinate with other public or private agencies or individuals for
16 those purposes;

17 (5) Solicit and accept for use any gift of money or property made
18 by will or otherwise, and any grant of money, services, or property
19 from the federal government, the state, or any political subdivision
20 thereof or any private source, and do all things necessary to
21 cooperate with the federal government or any of its agencies in
22 making an application for any grant;

23 (6) Administer or supervise the administration of the provisions
24 relating to persons with substance use disorders and intoxicated
25 persons of any state plan submitted for federal funding pursuant to
26 federal health, welfare, or treatment legislation;

27 (7) Coordinate its activities and cooperate with chemical
28 dependency programs in this and other states, and make contracts and
29 other joint or cooperative arrangements with state, local, or private
30 agencies in this and other states for the treatment of persons with
31 substance use disorders and their families, persons incapacitated by
32 alcohol or other psychoactive chemicals, and intoxicated persons and
33 for the common advancement of chemical dependency programs;

34 (8) Keep records and engage in research and the gathering of
35 relevant statistics;

36 (9) Do other acts and things necessary or convenient to execute
37 the authority expressly granted to it;

38 (10) Acquire, hold, or dispose of real property or any interest
39 therein, and construct, lease, or otherwise provide treatment
40 programs.

1 **Sec. 4037.** RCW 71.24.525 and 1989 c 270 s 7 are each amended to
2 read as follows:

3 Pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW,
4 the ((~~department~~)) authority may enter into agreements to accomplish
5 the purposes of this chapter.

6 **Sec. 4038.** RCW 71.24.530 and 2016 sp.s. c 29 s 515 are each
7 amended to read as follows:

8 Except as provided in this chapter, the ((~~secretary~~)) director
9 shall not approve any substance use disorder facility, plan, or
10 program for financial assistance under RCW 71.24.520 unless at least
11 ten percent of the amount spent for the facility, plan, or program is
12 provided from local public or private sources. When deemed necessary
13 to maintain public standards of care in the substance use disorder
14 facility, plan, or program, the ((~~secretary~~)) director may require
15 the substance use disorder facility, plan, or program to provide up
16 to fifty percent of the total spent for the program through fees,
17 gifts, contributions, or volunteer services. The ((~~secretary~~))
18 director shall determine the value of the gifts, contributions, and
19 volunteer services.

20 **Sec. 4039.** RCW 71.24.535 and 2016 sp.s. c 29 s 504 are each
21 amended to read as follows:

22 The ((~~department~~)) authority shall:

23 (1) Develop, encourage, and foster statewide, regional, and local
24 plans and programs for the prevention of alcoholism and other drug
25 addiction, treatment of persons with substance use disorders and
26 their families, persons incapacitated by alcohol or other
27 psychoactive chemicals, and intoxicated persons in cooperation with
28 public and private agencies, organizations, and individuals and
29 provide technical assistance and consultation services for these
30 purposes;

31 (2) Assure that any behavioral health organization managed care
32 contract, or managed care contract under RCW 74.09.522 for behavioral
33 health services or programs for the treatment of persons with
34 substance use disorders and their families, persons incapacitated by
35 alcohol or other psychoactive chemicals, and intoxicated persons
36 provides medically necessary services to medicaid recipients. This
37 must include a continuum of mental health and substance use disorder
38 services consistent with the state's medicaid plan or federal waiver

1 authorities, and nonmedicaid services consistent with priorities
2 established by the ((department)) authority;

3 (3) Coordinate the efforts and enlist the assistance of all
4 public and private agencies, organizations, and individuals
5 interested in prevention of alcoholism and drug addiction, and
6 treatment of persons with substance use disorders and their families,
7 persons incapacitated by alcohol or other psychoactive chemicals, and
8 intoxicated persons;

9 (4) Cooperate with public and private agencies in establishing
10 and conducting programs to provide treatment for persons with
11 substance use disorders and their families, persons incapacitated by
12 alcohol or other psychoactive chemicals, and intoxicated persons who
13 are clients of the correctional system;

14 (5) Cooperate with the superintendent of public instruction,
15 state board of education, schools, police departments, courts, and
16 other public and private agencies, organizations and individuals in
17 establishing programs for the prevention of substance use disorders,
18 treatment of persons with substance use disorders and their families,
19 persons incapacitated by alcohol or other psychoactive chemicals, and
20 intoxicated persons, and preparing curriculum materials thereon for
21 use at all levels of school education;

22 (6) Prepare, publish, evaluate, and disseminate educational
23 material dealing with the nature and effects of alcohol and other
24 psychoactive chemicals and the consequences of their use;

25 (7) Develop and implement, as an integral part of substance use
26 disorder treatment programs, an educational program for use in the
27 treatment of persons with substance use disorders, persons
28 incapacitated by alcohol or other psychoactive chemicals, and
29 intoxicated persons, which program shall include the dissemination of
30 information concerning the nature and effects of alcohol and other
31 psychoactive chemicals, the consequences of their use, the principles
32 of recovery, and HIV and AIDS;

33 (8) Organize and foster training programs for persons engaged in
34 treatment of persons with substance use disorders, persons
35 incapacitated by alcohol or other psychoactive chemicals, and
36 intoxicated persons;

37 (9) Sponsor and encourage research into the causes and nature of
38 substance use disorders, treatment of persons with substance use
39 disorders, persons incapacitated by alcohol or other psychoactive

1 chemicals, and intoxicated persons, and serve as a clearinghouse for
2 information relating to substance use disorders;

3 (10) Specify uniform methods for keeping statistical information
4 by public and private agencies, organizations, and individuals, and
5 collect and make available relevant statistical information,
6 including number of persons treated, frequency of admission and
7 readmission, and frequency and duration of treatment;

8 (11) Advise the governor in the preparation of a comprehensive
9 plan for treatment of persons with substance use disorders, persons
10 incapacitated by alcohol or other psychoactive chemicals, and
11 intoxicated persons for inclusion in the state's comprehensive health
12 plan;

13 (12) Review all state health, welfare, and treatment plans to be
14 submitted for federal funding under federal legislation, and advise
15 the governor on provisions to be included relating to substance use
16 disorders;

17 (13) Assist in the development of, and cooperate with, programs
18 for alcohol and other psychoactive chemical education and treatment
19 for employees of state and local governments and businesses and
20 industries in the state;

21 (14) Use the support and assistance of interested persons in the
22 community to encourage persons with substance use disorders
23 voluntarily to undergo treatment;

24 (15) Cooperate with public and private agencies in establishing
25 and conducting programs designed to deal with the problem of persons
26 operating motor vehicles while intoxicated;

27 (16) Encourage general hospitals and other appropriate health
28 facilities to admit without discrimination persons with substance use
29 disorders, persons incapacitated by alcohol or other psychoactive
30 chemicals, and intoxicated persons and to provide them with adequate
31 and appropriate treatment;

32 (17) Encourage all health and disability insurance programs to
33 include substance use disorders as a covered illness; and

34 (18) Organize and sponsor a statewide program to help court
35 personnel, including judges, better understand substance use
36 disorders and the uses of substance use disorder treatment programs.

37 **Sec. 4040.** RCW 71.24.540 and 2016 sp.s. c 29 s 516 are each
38 amended to read as follows:

1 The (~~department~~) authority shall contract with counties
2 operating drug courts and counties in the process of implementing new
3 drug courts for the provision of substance use disorder treatment
4 services.

5 **Sec. 4041.** RCW 71.24.545 and 2014 c 225 s 25 are each amended to
6 read as follows:

7 (1) (~~In coordination with the health care~~) The authority(~~(, the~~
8 ~~department)~~) shall establish by appropriate means(~~(,)~~) a
9 comprehensive and coordinated program for the treatment of persons
10 with substance use disorders and their families, persons
11 incapacitated by alcohol or other psychoactive chemicals, and
12 intoxicated persons.

13 (2)(a) The program shall include, but not necessarily be limited
14 to, a continuum of chemical dependency treatment services that
15 includes:

- 16 (i) Withdrawal management;
- 17 (ii) Residential treatment; and
- 18 (iii) Outpatient treatment.

19 (b) The program may include peer support, supported housing,
20 supported employment, crisis diversion, or recovery support services.

21 (3) All appropriate public and private resources shall be
22 coordinated with and used in the program when possible.

23 (4) The (~~department~~) authority may contract for the use of an
24 approved treatment program or other individual or organization if the
25 (~~secretary~~) director considers this to be an effective and
26 economical course to follow.

27 (5) By April 1, 2016, treatment provided under this chapter must
28 be purchased primarily through managed care contracts. Consistent
29 with RCW (~~(70.96A.350)~~) 71.24.580, services and funding provided
30 through the criminal justice treatment account are intended to be
31 exempted from managed care contracting.

32 **Sec. 4042.** RCW 71.24.555 and 2016 sp.s. c 29 s 517 are each
33 amended to read as follows:

34 To be eligible to receive its share of liquor taxes and profits,
35 each city and county shall devote no less than two percent of its
36 share of liquor taxes and profits to the support of a substance use
37 disorder program approved by the behavioral health organization and

1 the ((secretary)) director, and licensed or certified by the
2 department of health.

3 **Sec. 4043.** RCW 71.24.565 and 2014 c 225 s 27 are each amended to
4 read as follows:

5 The ((secretary)) director shall adopt and may amend and repeal
6 rules for acceptance of persons into the approved treatment program,
7 considering available treatment resources and facilities, for the
8 purpose of early and effective treatment of persons with substance
9 use disorders, persons incapacitated by alcohol or other psychoactive
10 chemicals, and intoxicated persons. In establishing the rules, the
11 secretary shall be guided by the following standards:

12 (1) If possible a patient shall be treated on a voluntary rather
13 than an involuntary basis.

14 (2) A patient shall be initially assigned or transferred to
15 outpatient treatment, unless he or she is found to require
16 residential treatment.

17 (3) A person shall not be denied treatment solely because he or
18 she has withdrawn from treatment against medical advice on a prior
19 occasion or because he or she has relapsed after earlier treatment.

20 (4) An individualized treatment plan shall be prepared and
21 maintained on a current basis for each patient.

22 (5) Provision shall be made for a continuum of coordinated
23 treatment services, so that a person who leaves a facility or a form
24 of treatment will have available and use other appropriate treatment.

25 **Sec. 4044.** RCW 71.24.580 and 2017 3rd sp.s. c 1 s 981 are each
26 amended to read as follows:

27 (1) The criminal justice treatment account is created in the
28 state treasury. Moneys in the account may be expended solely for: (a)
29 Substance use disorder treatment and treatment support services for
30 offenders with a substance use disorder that, if not treated, would
31 result in addiction, against whom charges are filed by a prosecuting
32 attorney in Washington state; (b) the provision of substance use
33 disorder treatment services and treatment support services for
34 nonviolent offenders within a drug court program; and (c) the
35 administrative and overhead costs associated with the operation of a
36 drug court. (~~During the 2015-2017 fiscal biennium, the legislature~~
37 ~~may transfer from the criminal justice treatment account to the state~~
38 ~~general fund amounts as reflect the state savings associated with the~~

1 ~~implementation of the medicaid expansion of the federal affordable~~
2 ~~care act and the excess fund balance of the account.))~~ During the
3 2017-2019 fiscal biennium, the legislature may direct the state
4 treasurer to make transfers of moneys in the criminal justice
5 treatment account to the state general fund. It is the intent of the
6 legislature to continue, in future biennia, the policy of
7 transferring to the state general fund such amounts as reflect the
8 excess fund balance of the account. Moneys in the account may be
9 spent only after appropriation.

10 (2) For purposes of this section:

11 (a) "Treatment" means services that are critical to a
12 participant's successful completion of his or her substance use
13 disorder treatment program, but does not include the following
14 services: Housing other than that provided as part of an inpatient
15 substance use disorder treatment program, vocational training, and
16 mental health counseling; and

17 (b) "Treatment support" means transportation to or from inpatient
18 or outpatient treatment services when no viable alternative exists,
19 and child care services that are necessary to ensure a participant's
20 ability to attend outpatient treatment sessions.

21 (3) Revenues to the criminal justice treatment account consist
22 of: (a) Funds transferred to the account pursuant to this section;
23 and (b) any other revenues appropriated to or deposited in the
24 account.

25 (4)(a) For the fiscal year beginning July 1, 2006, and each
26 subsequent fiscal year, the amount transferred shall be increased on
27 an annual basis by the implicit price deflator as published by the
28 federal bureau of labor statistics.

29 (b) In each odd-numbered year, the legislature shall appropriate
30 the amount transferred to the criminal justice treatment account in
31 (a) of this subsection to the department for the purposes of
32 subsection (5) of this section.

33 (5) Moneys appropriated to the (~~department~~) authority from the
34 criminal justice treatment account shall be distributed as specified
35 in this subsection. The (~~department~~) authority may retain up to
36 three percent of the amount appropriated under subsection (4)(b) of
37 this section for its administrative costs.

38 (a) Seventy percent of amounts appropriated to the (~~department~~)
39 authority from the account shall be distributed to counties pursuant
40 to the distribution formula adopted under this section. The

1 ((~~division of alcohol and substance abuse~~)) authority, in
2 consultation with the department of corrections, the Washington state
3 association of counties, the Washington state association of drug
4 court professionals, the superior court judges' association, the
5 Washington association of prosecuting attorneys, representatives of
6 the criminal defense bar, representatives of substance use disorder
7 treatment providers, and any other person deemed by the
8 ((~~department~~)) authority to be necessary, shall establish a fair and
9 reasonable methodology for distribution to counties of moneys in the
10 criminal justice treatment account. County or regional plans
11 submitted for the expenditure of formula funds must be approved by
12 the panel established in (b) of this subsection.

13 (b) Thirty percent of the amounts appropriated to the
14 ((~~department~~)) authority from the account shall be distributed as
15 grants for purposes of treating offenders against whom charges are
16 filed by a county prosecuting attorney. The ((~~department~~)) authority
17 shall appoint a panel of representatives from the Washington
18 association of prosecuting attorneys, the Washington association of
19 sheriffs and police chiefs, the superior court judges' association,
20 the Washington state association of counties, the Washington
21 defender's association or the Washington association of criminal
22 defense lawyers, the department of corrections, the Washington state
23 association of drug court professionals, and substance use disorder
24 treatment providers((~~, and the division~~)). The panel shall review
25 county or regional plans for funding under (a) of this subsection and
26 grants approved under this subsection. The panel shall attempt to
27 ensure that treatment as funded by the grants is available to
28 offenders statewide.

29 (6) The county alcohol and drug coordinator, county prosecutor,
30 county sheriff, county superior court, a substance abuse treatment
31 provider appointed by the county legislative authority, a member of
32 the criminal defense bar appointed by the county legislative
33 authority, and, in counties with a drug court, a representative of
34 the drug court shall jointly submit a plan, approved by the county
35 legislative authority or authorities, to the panel established in
36 subsection (5)(b) of this section, for disposition of all the funds
37 provided from the criminal justice treatment account within that
38 county. The funds shall be used solely to provide approved alcohol
39 and substance abuse treatment pursuant to RCW 71.24.560, treatment

1 support services, and for the administrative and overhead costs
2 associated with the operation of a drug court.

3 (a) No more than ten percent of the total moneys received under
4 subsections (4) and (5) of this section by a county or group of
5 counties participating in a regional agreement shall be spent on the
6 administrative and overhead costs associated with the operation of a
7 drug court.

8 (b) No more than ten percent of the total moneys received under
9 subsections (4) and (5) of this section by a county or group of
10 counties participating in a regional agreement shall be spent for
11 treatment support services.

12 (7) Counties are encouraged to consider regional agreements and
13 submit regional plans for the efficient delivery of treatment under
14 this section.

15 (8) Moneys allocated under this section shall be used to
16 supplement, not supplant, other federal, state, and local funds used
17 for substance abuse treatment.

18 (9) Counties must meet the criteria established in RCW
19 2.30.030(3).

20 (10) The authority under this section to use funds from the
21 criminal justice treatment account for the administrative and
22 overhead costs associated with the operation of a drug court expires
23 June 30, 2015.

24 **Sec. 4045.** RCW 71.24.590 and 2017 c 297 s 14 are each amended to
25 read as follows:

26 (1) When making a decision on an application for licensing or
27 certification of a program, the department shall:

28 (a) Consult with the county legislative authorities in the area
29 in which an applicant proposes to locate a program and the city
30 legislative authority in any city in which an applicant proposes to
31 locate a program;

32 (b) License or certify only programs that will be sited in
33 accordance with the appropriate county or city land use ordinances.
34 Counties and cities may require conditional use permits with
35 reasonable conditions for the siting of programs. Pursuant to RCW
36 36.70A.200, no local comprehensive plan or development regulation may
37 preclude the siting of essential public facilities;

38 (c) Not discriminate in its licensing or certification decision
39 on the basis of the corporate structure of the applicant;

1 (d) Consider the size of the population in need of treatment in
2 the area in which the program would be located and license or certify
3 only applicants whose programs meet the necessary treatment needs of
4 that population;

5 (e) Consider the availability of other certified opioid treatment
6 programs near the area in which the applicant proposes to locate the
7 program;

8 (f) Consider the transportation systems that would provide
9 service to the program and whether the systems will provide
10 reasonable opportunities to access the program for persons in need of
11 treatment;

12 (g) Consider whether the applicant has, or has demonstrated in
13 the past, the capability to provide the appropriate services to
14 assist the persons who utilize the program in meeting goals
15 established by the legislature in RCW 71.24.585. The department shall
16 prioritize licensing or certification to applicants who have
17 demonstrated such capability and are able to measure their success in
18 meeting such outcomes;

19 (h) Hold one public hearing in the community in which the
20 facility is proposed to be located. The hearing shall be held at a
21 time and location that are most likely to permit the largest number
22 of interested persons to attend and present testimony. The department
23 shall notify all appropriate media outlets of the time, date, and
24 location of the hearing at least three weeks in advance of the
25 hearing.

26 (2) A county may impose a maximum capacity for a program of not
27 less than three hundred fifty participants if necessary to address
28 specific local conditions cited by the county.

29 (3) A program applying for licensing or certification from the
30 department and a program applying for a contract from a state agency
31 that has been denied the licensing or certification or contract shall
32 be provided with a written notice specifying the rationale and
33 reasons for the denial.

34 (4) For the purpose of this chapter, opioid treatment program
35 means:

36 (a) Dispensing a medication approved by the federal drug
37 administration for the treatment of opioid use disorder and
38 dispensing medication for the reversal of opioid overdose; and

39 (b) Providing a comprehensive range of medical and rehabilitative
40 services.

1 **Sec. 4046.** RCW 71.24.595 and 2017 c 297 s 16 are each amended to
2 read as follows:

3 (1) The department, in consultation with opioid treatment program
4 service providers and counties and cities, shall establish statewide
5 treatment standards for licensed or certified opioid treatment
6 programs. The department shall enforce these treatment standards. The
7 treatment standards shall include, but not be limited to, reasonable
8 provisions for all appropriate and necessary medical procedures,
9 counseling requirements, urinalysis, and other suitable tests as
10 needed to ensure compliance with this chapter.

11 (2) The department, in consultation with opioid treatment
12 programs and counties, shall establish statewide operating standards
13 for certified opioid treatment programs. The department shall enforce
14 these operating standards. The operating standards shall include, but
15 not be limited to, reasonable provisions necessary to enable the
16 department and counties to monitor certified (~~and~~) or licensed
17 opioid treatment programs for compliance with this chapter and the
18 treatment standards authorized by this chapter and to minimize the
19 impact of the opioid treatment programs upon the business and
20 residential neighborhoods in which the program is located.

21 (3) The department shall analyze and evaluate the data submitted
22 by each treatment program and take corrective action where necessary
23 to ensure compliance with the goals and standards enumerated under
24 this chapter. Opioid treatment programs are subject to the oversight
25 required for other substance use disorder treatment programs, as
26 described in this chapter.

27 **Sec. 4047.** RCW 71.24.600 and 1989 c 271 s 308 are each reenacted
28 and amended to read as follows:

29 The (~~department~~) authority shall not refuse admission for
30 diagnosis, evaluation, guidance or treatment to any applicant because
31 it is determined that the applicant is financially unable to
32 contribute fully or in part to the cost of any services or facilities
33 available under the program on alcoholism.

34 The (~~department~~) authority may limit admissions of such
35 applicants or modify its programs in order to ensure that
36 expenditures for services or programs do not exceed amounts
37 appropriated by the legislature and are allocated by the
38 (~~department~~) authority for such services or programs. The
39 (~~department~~) authority may establish admission priorities in the

1 event that the number of eligible applicants exceeds the limits set
2 by the ((department)) authority.

3 **Sec. 4048.** RCW 71.24.605 and 1998 c 245 s 136 are each amended
4 to read as follows:

5 The ((department)) authority shall contract with the University
6 of Washington fetal alcohol syndrome clinic to provide fetal alcohol
7 exposure screening and assessment services. The University indirect
8 charges shall not exceed ten percent of the total contract amount.
9 The contract shall require the University of Washington fetal alcohol
10 syndrome clinic to provide the following services:

11 (1) Training for health care staff in community-based fetal
12 alcohol exposure clinics to ensure the accurate diagnosis of
13 individuals with fetal alcohol exposure and the development and
14 implementation of appropriate service referral plans;

15 (2) Development of written or visual educational materials for
16 the individuals diagnosed with fetal alcohol exposure and their
17 families or caregivers;

18 (3) Systematic information retrieval from each community clinic
19 to (a) maintain diagnostic accuracy and reliability across all
20 community clinics, (b) facilitate the development of effective and
21 efficient screening tools for population-based identification of
22 individuals with fetal alcohol exposure, (c) facilitate
23 identification of the most clinically efficacious and cost-effective
24 educational, social, vocational, and health service interventions for
25 individuals with fetal alcohol exposure;

26 (4) Based on available funds, establishment of a network of
27 community-based fetal alcohol exposure clinics across the state to
28 meet the demand for fetal alcohol exposure diagnostic and referral
29 services; and

30 (5) Preparation of an annual report for submission to the
31 authority, the department of health, the department of social and
32 health services, the department of corrections, and the office of the
33 superintendent of public instruction which includes the information
34 retrieved under subsection (3) of this section.

35 **Sec. 4049.** RCW 71.24.610 and 1995 c 54 s 3 are each amended to
36 read as follows:

37 The authority, the department of social and health services, the
38 department of health, the department of corrections, and the office

1 of the superintendent of public instruction shall execute an
2 interagency agreement to ensure the coordination of identification,
3 prevention, and intervention programs for children who have fetal
4 alcohol exposure, and for women who are at high risk of having
5 children with fetal alcohol exposure.

6 The interagency agreement shall provide a process for community
7 advocacy groups to participate in the review and development of
8 identification, prevention, and intervention programs administered or
9 contracted for by the agencies executing this agreement.

10 **Sec. 4050.** RCW 71.24.615 and 2003 c 207 s 7 are each amended to
11 read as follows:

12 The ((department)) authority shall prioritize expenditures for
13 treatment provided under RCW 13.40.165. The ((department)) authority
14 shall provide funds for inpatient and outpatient treatment providers
15 that are the most successful, using the standards developed by the
16 University of Washington under section 27, chapter 338, Laws of 1997.
17 The ((department)) authority may consider variations between the
18 nature of the programs provided and clients served but must provide
19 funds first for those programs that demonstrate the greatest success
20 in treatment within categories of treatment and the nature of the
21 persons receiving treatment.

22 **Sec. 4051.** RCW 71.24.620 and 2016 sp.s. c 29 s 520 are each
23 amended to read as follows:

24 (1) Subject to funds appropriated for this specific purpose, the
25 ((secretary)) director shall select and contract with behavioral
26 health organizations to provide intensive case management for persons
27 with substance use disorders and histories of high utilization of
28 crisis services at two sites. In selecting the two sites, the
29 ((secretary)) director shall endeavor to site one in an urban county,
30 and one in a rural county; and to site them in counties other than
31 those selected pursuant to RCW 70.96B.020, to the extent necessary to
32 facilitate evaluation of pilot project results. Subject to funds
33 appropriated for this specific purpose, the secretary may contract
34 with additional counties to provide intensive case management.

35 (2) The contracted sites shall implement the pilot programs by
36 providing intensive case management to persons with a primary
37 substance use disorder diagnosis or dual primary substance use
38 disorder and mental health diagnoses, through the employment of

1 substance use disorder case managers. The substance use disorder case
2 managers shall:

3 (a) Be trained in and use the integrated, comprehensive screening
4 and assessment process adopted under RCW 71.24.630;

5 (b) Reduce the use of crisis medical, substance use disorder
6 treatment and mental health services, including but not limited
7 to((~~r~~)) emergency room admissions, hospitalizations, withdrawal
8 management programs, inpatient psychiatric admissions, involuntary
9 treatment petitions, emergency medical services, and ambulance
10 services;

11 (c) Reduce the use of emergency first responder services
12 including police, fire, emergency medical, and ambulance services;

13 (d) Reduce the number of criminal justice interventions including
14 arrests, violations of conditions of supervision, bookings, jail
15 days, prison sanction day for violations, court appearances, and
16 prosecutor and defense costs;

17 (e) Where appropriate and available, work with therapeutic courts
18 including drug courts and mental health courts to maximize the
19 outcomes for the individual and reduce the likelihood of reoffense;

20 (f) Coordinate with local offices of the economic services
21 administration to assist the person in accessing and remaining
22 enrolled in those programs to which the person may be entitled;

23 (g) Where appropriate and available, coordinate with primary care
24 and other programs operated through the federal government including
25 federally qualified health centers, Indian health programs, and
26 veterans' health programs for which the person is eligible to reduce
27 duplication of services and conflicts in case approach;

28 (h) Where appropriate, advocate for the client's needs to assist
29 the person in achieving and maintaining stability and progress toward
30 recovery;

31 (i) Document the numbers of persons with co-occurring mental and
32 substance use disorders and the point of determination of the co-
33 occurring disorder by quadrant of intensity of need; and

34 (j) Where a program participant is under supervision by the
35 department of corrections, collaborate with the department of
36 corrections to maximize treatment outcomes and reduce the likelihood
37 of reoffense.

38 (3) The pilot programs established by this section shall begin
39 providing services by March 1, 2006.

1 **Sec. 4052.** RCW 71.24.625 and 2016 sp.s. c 29 s 521 are each
2 amended to read as follows:

3 The (~~department~~) authority shall ensure that the provisions of
4 this chapter are applied by the behavioral health organizations in a
5 consistent and uniform manner. The (~~department~~) authority shall
6 also ensure that, to the extent possible within available funds, the
7 behavioral health organization-designated chemical dependency
8 specialists are specifically trained in adolescent chemical
9 dependency issues, the chemical dependency commitment laws, and the
10 criteria for commitment, as specified in this chapter and chapter
11 70.96A RCW.

12 **Sec. 4053.** RCW 71.24.630 and 2016 sp.s. c 29 s 513 are each
13 amended to read as follows:

14 (1) The (~~department of social and health services~~) authority
15 shall maintain an integrated and comprehensive screening and
16 assessment process for substance use and mental disorders and co-
17 occurring substance use and mental disorders.

18 (a) The process adopted shall include, at a minimum:

19 (i) An initial screening tool that can be used by intake
20 personnel system-wide and which will identify the most common types
21 of co-occurring disorders;

22 (ii) An assessment process for those cases in which assessment is
23 indicated that provides an appropriate degree of assessment for most
24 situations, which can be expanded for complex situations;

25 (iii) Identification of triggers in the screening that indicate
26 the need to begin an assessment;

27 (iv) Identification of triggers after or outside the screening
28 that indicate a need to begin or resume an assessment;

29 (v) The components of an assessment process and a protocol for
30 determining whether part or all of the assessment is necessary, and
31 at what point; and

32 (vi) Emphasis that the process adopted under this section is to
33 replace and not to duplicate existing intake, screening, and
34 assessment tools and processes.

35 (b) The (~~department~~) authority shall consider existing models,
36 including those already adopted by other states, and to the extent
37 possible, adopt an established, proven model.

38 (c) The integrated, comprehensive screening and assessment
39 process shall be implemented statewide by all substance use disorder

1 and mental health treatment providers as well as all designated
2 mental health professionals, designated chemical dependency
3 specialists, and designated crisis responders.

4 (2) The ((department)) authority shall provide adequate training
5 to effect statewide implementation by the dates designated in this
6 section and shall report the rates of co-occurring disorders and the
7 stage of screening or assessment at which the co-occurring disorder
8 was identified to the appropriate committees of the legislature.

9 (3) The ((department)) authority shall establish contractual
10 penalties to contracted treatment providers, the behavioral health
11 organizations, and their contracted providers for failure to
12 implement the integrated screening and assessment process.

13 **Sec. 4054.** RCW 71.24.640 and 2016 sp.s. c 29 s 507 are each
14 amended to read as follows:

15 The secretary shall license or certify evaluation and treatment
16 facilities that meet state minimum standards. The standards for
17 certification or licensure of evaluation and treatment facilities by
18 the department must include standards relating to maintenance of good
19 physical and mental health and other services to be afforded persons
20 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and must
21 otherwise assure the effectuation of the purposes of these chapters.

22 **Sec. 4055.** RCW 71.24.645 and 2016 sp.s. c 29 s 508 are each
23 amended to read as follows:

24 The secretary shall license or certify crisis stabilization units
25 that meet state minimum standards. The standards for certification or
26 licensure of crisis stabilization units by the department must
27 include standards that:

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

30 (2) Require administration of the unit by mental health
31 professionals who direct the stabilization and rehabilitation
32 efforts; and

33 (3) Provide an environment affording security appropriate with
34 the alleged criminal behavior and necessary to protect the public
35 safety.

36 NEW SECTION. **Sec. 4056.** A new section is added to chapter 71.24
37 RCW to read as follows:

1 The secretary shall license or certify triage facilities that
2 meet state minimum standards. The standards for certification or
3 licensure of triage facilities by the department must include
4 standards related to the ability to assess and stabilize an
5 individual or determine the need for involuntary commitment of an
6 individual.

7 **Sec. 4057.** RCW 71.24.650 and 2016 sp.s. c 29 s 509 are each
8 amended to read as follows:

9 The secretary shall license or certify clubhouses that meet state
10 minimum standards. The standards for certification or licensure of a
11 clubhouse by the department must at a minimum include:

12 (1) The facilities may be peer-operated and must be
13 recovery-focused;

14 (2) Members and employees must work together;

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

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

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

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

32 (7) Clubhouse programs must focus on strengths, talents, and
33 abilities of its members;

34 (8) The work-ordered day may not include medication clinics, day
35 treatment, or other therapy programs within the clubhouse.

36 **Sec. 4058.** RCW 71.24.805 and 2001 c 334 s 1 are each amended to
37 read as follows:

1 The legislature affirms its support for those recommendations of
2 the performance audit of the public mental health system conducted by
3 the joint legislative audit and review committee relating to:
4 Improving the coordination of services for clients with multiple
5 needs; improving the consistency of client, service, and fiscal data
6 collected by the (~~mental health division~~) authority; replacing
7 process-oriented accountability activities with a uniform statewide
8 outcome measurement system; and using outcome information to identify
9 and provide incentives for best practices in the provision of public
10 mental health services.

11 **Sec. 4059.** RCW 71.24.810 and 2001 c 334 s 2 are each amended to
12 read as follows:

13 The legislature supports recommendations 1 through 10 and 12
14 through 14 of the mental health system performance audit conducted by
15 the joint legislative audit and review committee. The legislature
16 expects the (~~department of social and health services~~) authority to
17 work diligently within available funds to implement these
18 recommendations.

19 **Sec. 4060.** RCW 71.24.850 and 2014 c 225 s 8 are each amended to
20 read as follows:

21 (1) By December 1, 2018, the department of social and health
22 services and the (~~health care~~) authority shall report to the
23 governor and the legislature regarding the preparedness of each
24 regional service area to provide mental health services, chemical
25 dependency services, and medical care services to medicaid clients
26 under a fully integrated managed care health system.

27 (2) By January 1, 2020, the community behavioral health program
28 must be fully integrated in a managed care health system that
29 provides mental health services, chemical dependency services, and
30 medical care services to medicaid clients.

31 **Sec. 4061.** RCW 71.24.860 and 2016 sp.s. c 29 s 533 are each
32 amended to read as follows:

33 (1) The department of social and health services and the
34 (~~Washington state health care~~) authority shall convene a task force
35 including participation by a representative cross-section of
36 behavioral health organizations and behavioral health providers to
37 align regulations between behavioral health and primary health care

1 settings and simplify regulations for behavioral health providers.
2 The alignment must support clinical integration from the standpoint
3 of standardizing practices and culture in a manner that to the extent
4 practicable reduces barriers to access, including reducing the
5 paperwork burden for patients and providers. Brief integrated
6 behavioral health services must not, in general, take longer to
7 document than to provide. Regulations should emphasize the desired
8 outcome rather than how they should be achieved. The task force may
9 also make recommendations to the department of social and health
10 services concerning subsections (2) and (3) of this section.

11 (2) The department of social and health services shall
12 collaborate with the department of health, the Washington state
13 health care authority, and other appropriate government partners to
14 reduce unneeded costs and burdens to health plans and providers
15 associated with excessive audits, the licensing process, and
16 contracting. In pursuit of this goal, the department of social and
17 health services shall consider steps such as cooperating across
18 divisions and agencies to combine audit functions when multiple
19 audits of an agency or site are scheduled, sharing audit information
20 across divisions and agencies to reduce redundancy of audits, and
21 treating organizations with multiple sites and programs as single
22 entities instead of as multiple agencies.

23 (3) The department of social and health services shall review its
24 practices under RCW 71.24.035(5)(c)(i) to determine whether its
25 practices comply with the statutory mandate to deem accreditation by
26 recognized behavioral health accrediting bodies as equivalent to
27 meeting licensure requirements, comport with standard practices used
28 by other state divisions or agencies, and properly incentivize
29 voluntary accreditation to the highest industry standards.

30 (4) The task force described in subsection (1) of this section
31 must consider means to provide notice to parents when a minor
32 requests chemical dependency treatment, which are consistent with
33 federal privacy laws and consistent with the best interests of the
34 minor and the minor's family. The department of social and health
35 services must provide a report to the relevant committees of the
36 legislature by December 1, 2016.

37 NEW SECTION. **Sec. 4062.** A new section is added to chapter 71.24
38 RCW to read as follows:

1 (1) The authority shall, upon the request of a county authority
2 or authorities within a regional service area, collaborate with
3 counties to create an interlocal leadership structure that includes
4 participation from counties and the managed health care systems
5 serving that regional service area. The interlocal leadership
6 structure must include representation from physical and behavioral
7 health care providers, tribes, and other entities serving the
8 regional service area as necessary.

9 (2) The interlocal leadership structure regional organization
10 must be chaired by the counties and jointly administered by the
11 authority, managed health care systems, and counties. It must design
12 and implement the fully integrated managed care model for that
13 regional service area to assure clients are at the center of care
14 delivery and support integrated delivery of physical and behavioral
15 health care at the provider level.

16 (3) The interlocal leadership structure may address, but is not
17 limited to addressing, the following topics:

18 (a) Alignment of contracting, administrative functions, and other
19 processes to minimize administrative burden at the provider level to
20 achieve outcomes;

21 (b) Monitoring implementation of fully integrated managed care in
22 the regional service area, including design of an early warning
23 system to monitor ongoing success to achieve better outcomes and to
24 make adjustments to the system as necessary;

25 (c) Developing regional coordination processes for capital
26 infrastructure requests, local capacity building, and other community
27 investments;

28 (d) Identifying, using, and building on measures and data
29 consistent with, but not limited to, RCW 70.320.030 and 41.05.690,
30 for tracking and maintaining regional accountability for delivery
31 system performance; and

32 (e) Discussing whether the managed health care systems awarded
33 the contract by the authority for a regional service area should
34 subcontract with a county-based administrative service organization
35 or other local organization, which may include and determine, in
36 partnership with that organization, which value-add services will
37 best support a bidirectional system of care.

38 (4) To ensure an optimal transition, regional service areas that
39 enter as mid-adopters must be allowed a transition period of up to
40 one year during which the interlocal leadership structure develops

1 and implements a local plan, including measurable milestones, to
2 transition to fully integrated managed care. The transition plan may
3 include provisions for the counties' organization to maintain
4 existing contracts during some or all of the transition period if the
5 managed care design begins during 2017 to 2018, with the mid-adopter
6 transition year occurring in 2019.

7 (5) Nothing in this section may be used to compel contracts
8 between a provider, integrated managed health care system, or
9 administrative service organization.

10 (6) The interlocal leadership group expires December 1, 2021,
11 unless the interlocal leadership group decides locally to extend it.

12 **Sec. 4063.** RCW 71.24.902 and 1986 c 274 s 7 are each amended to
13 read as follows:

14 Nothing in this chapter shall be construed as prohibiting the
15 secretary of the department of social and health services from
16 consolidating (~~within the department~~) children's mental health
17 services with other (~~departmental~~) services related to children.

18 **PART 5**

19 **Sec. 5001.** RCW 71.34.010 and 1998 c 296 s 7 are each amended to
20 read as follows:

21 It is the purpose of this chapter to assure that minors in need
22 of mental health care and treatment receive an appropriate continuum
23 of culturally relevant care and treatment, including prevention and
24 early intervention, self-directed care, parent-directed care, and
25 involuntary treatment. To facilitate the continuum of care and
26 treatment to minors in out-of-home placements, all divisions of the
27 authority and the department that provide mental health services to
28 minors shall jointly plan and deliver those services.

29 It is also the purpose of this chapter to protect the rights of
30 minors against needless hospitalization and deprivations of liberty
31 and to enable treatment decisions to be made in response to clinical
32 needs in accordance with sound professional judgment. The mental
33 health care and treatment providers shall encourage the use of
34 voluntary services and, whenever clinically appropriate, the
35 providers shall offer less restrictive alternatives to inpatient
36 treatment. Additionally, all mental health care and treatment
37 providers shall assure that minors' parents are given an opportunity

1 to participate in the treatment decisions for their minor children.
2 The mental health care and treatment providers shall, to the extent
3 possible, offer services that involve minors' parents or family.

4 It is also the purpose of this chapter to assure the ability of
5 parents to exercise reasonable, compassionate care and control of
6 their minor children when there is a medical necessity for treatment
7 and without the requirement of filing a petition under this chapter.

8 **Sec. 5002.** RCW 71.34.020 and 2016 sp.s. c 29 s 254 and 2016 c
9 155 s 17 are each reenacted and amended to read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

12 (1) "Alcoholism" means a disease, characterized by a dependency
13 on alcoholic beverages, loss of control over the amount and
14 circumstances of use, symptoms of tolerance, physiological or
15 psychological withdrawal, or both, if use is reduced or discontinued,
16 and impairment of health or disruption of social or economic
17 functioning.

18 (2) "Approved substance use disorder treatment program" means a
19 program for minors with substance use disorders provided by a
20 treatment program licensed or certified by the department of health
21 as meeting standards adopted under chapter 71.24 RCW.

22 (3) "Authority" means the Washington state health care authority.

23 (4) "Chemical dependency" means:

24 (a) Alcoholism;

25 (b) Drug addiction; or

26 (c) Dependence on alcohol and one or more other psychoactive
27 chemicals, as the context requires.

28 ~~((4))~~ (5) "Chemical dependency professional" means a person
29 certified as a chemical dependency professional by the department of
30 health under chapter 18.205 RCW.

31 ~~((5))~~ (6) "Child psychiatrist" means a person having a license
32 as a physician and surgeon in this state, who has had graduate
33 training in child psychiatry in a program approved by the American
34 Medical Association or the American Osteopathic Association, and who
35 is board eligible or board certified in child psychiatry.

36 ~~((6))~~ (7) "Children's mental health specialist" means:

37 (a) A mental health professional who has completed a minimum of
38 one hundred actual hours, not quarter or semester hours, of

1 specialized training devoted to the study of child development and
2 the treatment of children; and

3 (b) A mental health professional who has the equivalent of one
4 year of full-time experience in the treatment of children under the
5 supervision of a children's mental health specialist.

6 ~~((7))~~ (8) "Commitment" means a determination by a judge or
7 court commissioner, made after a commitment hearing, that the minor
8 is in need of inpatient diagnosis, evaluation, or treatment or that
9 the minor is in need of less restrictive alternative treatment.

10 ~~((8))~~ (9) "Department" means the department of social and
11 health services.

12 ~~((9))~~ (10) "Designated crisis responder" means a person
13 designated by a behavioral health organization to perform the duties
14 specified in this chapter.

15 ~~((10))~~ (11) "Director" means the director of the authority.

16 (12) "Drug addiction" means a disease, characterized by a
17 dependency on psychoactive chemicals, loss of control over the amount
18 and circumstances of use, symptoms of tolerance, physiological or
19 psychological withdrawal, or both, if use is reduced or discontinued,
20 and impairment of health or disruption of social or economic
21 functioning.

22 ~~((11))~~ (13) "Evaluation and treatment facility" means a public
23 or private facility or unit that is licensed or certified by the
24 department of health to provide emergency, inpatient, residential, or
25 outpatient mental health evaluation and treatment services for
26 minors. A physically separate and separately-operated portion of a
27 state hospital may be designated as an evaluation and treatment
28 facility for minors. A facility which is part of or operated by the
29 ~~(department)~~ state or federal agency does not require licensure or
30 certification. No correctional institution or facility, juvenile
31 court detention facility, or jail may be an evaluation and treatment
32 facility within the meaning of this chapter.

33 ~~((12))~~ (14) "Evaluation and treatment program" means the total
34 system of services and facilities coordinated and approved by a
35 county or combination of counties for the evaluation and treatment of
36 minors under this chapter.

37 ~~((13))~~ (15) "Gravely disabled minor" means a minor who, as a
38 result of a mental disorder, or as a result of the use of alcohol or
39 other psychoactive chemicals, is in danger of serious physical harm
40 resulting from a failure to provide for his or her essential human

1 needs of health or safety, or manifests severe deterioration in
2 routine functioning evidenced by repeated and escalating loss of
3 cognitive or volitional control over his or her actions and is not
4 receiving such care as is essential for his or her health or safety.

5 ~~((14))~~ (16) "Inpatient treatment" means twenty-four-hour-per-
6 day mental health care provided within a general hospital,
7 psychiatric hospital, residential treatment facility licensed or
8 certified by the department of health as an evaluation and treatment
9 facility for minors, secure detoxification facility for minors, or
10 approved substance use disorder treatment program for minors.

11 ~~((15))~~ (17) "Intoxicated minor" means a minor whose mental or
12 physical functioning is substantially impaired as a result of the use
13 of alcohol or other psychoactive chemicals.

14 ~~((16))~~ (18) "Less restrictive alternative" or "less restrictive
15 setting" means outpatient treatment provided to a minor who is not
16 residing in a facility providing inpatient treatment as defined in
17 this chapter.

18 ~~((17))~~ (19) "Likelihood of serious harm" means either: (a) A
19 substantial risk that physical harm will be inflicted by an
20 individual upon his or her own person, as evidenced by threats or
21 attempts to commit suicide or inflict physical harm on oneself; (b) a
22 substantial risk that physical harm will be inflicted by an
23 individual upon another, as evidenced by behavior which has caused
24 such harm or which places another person or persons in reasonable
25 fear of sustaining such harm; or (c) a substantial risk that physical
26 harm will be inflicted by an individual upon the property of others,
27 as evidenced by behavior which has caused substantial loss or damage
28 to the property of others.

29 ~~((18))~~ (20) "Medical necessity" for inpatient care means a
30 requested service which is reasonably calculated to: (a) Diagnose,
31 correct, cure, or alleviate a mental disorder or substance use
32 disorder; or (b) prevent the progression of a substance use disorder
33 that endangers life or causes suffering and pain, or results in
34 illness or infirmity or threatens to cause or aggravate a handicap,
35 or causes physical deformity or malfunction, and there is no adequate
36 less restrictive alternative available.

37 ~~((19))~~ (21) "Mental disorder" means any organic, mental, or
38 emotional impairment that has substantial adverse effects on an
39 individual's cognitive or volitional functions. The presence of
40 alcohol abuse, drug abuse, juvenile criminal history, antisocial

1 behavior, or intellectual disabilities alone is insufficient to
2 justify a finding of "mental disorder" within the meaning of this
3 section.

4 ~~((+20))~~ (22) "Mental health professional" means a psychiatrist,
5 psychiatric advanced registered nurse practitioner, physician
6 assistant working with a supervising psychiatrist, psychologist,
7 psychiatric nurse, or social worker, and such other mental health
8 professionals as may be defined by rules adopted by the secretary of
9 the department of health under this chapter.

10 ~~((+21))~~ (23) "Minor" means any person under the age of eighteen
11 years.

12 ~~((+22))~~ (24) "Outpatient treatment" means any of the
13 nonresidential services mandated under chapter 71.24 RCW and provided
14 by licensed or certified service providers as identified by RCW
15 71.24.025.

16 ~~((+23))~~ (25) "Parent" means:

17 (a) A biological or adoptive parent who has legal custody of the
18 child, including either parent if custody is shared under a joint
19 custody agreement; or

20 (b) A person or agency judicially appointed as legal guardian or
21 custodian of the child.

22 ~~((+24))~~ (26) "Private agency" means any person, partnership,
23 corporation, or association that is not a public agency, whether or
24 not financed in whole or in part by public funds, that constitutes an
25 evaluation and treatment facility or private institution, or
26 hospital, or approved substance use disorder treatment program, that
27 is conducted for, or includes a ~~((department))~~ distinct unit, floor,
28 or ward conducted for, the care and treatment of persons with mental
29 illness, substance use disorders, or both mental illness and
30 substance use disorders.

31 ~~((+25))~~ (27) "Physician assistant" means a person licensed as a
32 physician assistant under chapter 18.57A or 18.71A RCW.

33 ~~((+26))~~ (28) "Professional person in charge" or "professional
34 person" means a physician, other mental health professional, or other
35 person empowered by an evaluation and treatment facility, secure
36 detoxification facility, or approved substance use disorder treatment
37 program with authority to make admission and discharge decisions on
38 behalf of that facility.

39 ~~((+27))~~ (29) "Psychiatric nurse" means a registered nurse who
40 has ~~((a bachelor's degree from an accredited college or university,~~

1 ~~and who has had, in addition, at least two years')~~) experience in the
2 direct treatment of persons who have a mental illness or who are
3 emotionally disturbed, such experience gained under the supervision
4 of a mental health professional. (~~("Psychiatric nurse" shall also~~
5 ~~mean any other registered nurse who has three years of such~~
6 ~~experience.))~~)

7 ~~((+28+))~~ (30) "Psychiatrist" means a person having a license as a
8 physician in this state who has completed residency training in
9 psychiatry in a program approved by the American Medical Association
10 or the American Osteopathic Association, and is board eligible or
11 board certified in psychiatry.

12 ~~((+29+))~~ (31) "Psychologist" means a person licensed as a
13 psychologist under chapter 18.83 RCW.

14 ~~((+30+))~~ (32) "Public agency" means any evaluation and treatment
15 facility or institution, or hospital, or approved substance use
16 disorder treatment program that is conducted for, or includes a
17 ~~(department)~~ distinct unit, floor, or ward conducted for, the care
18 and treatment of persons with mental illness, substance use
19 disorders, or both mental illness and substance use disorders if the
20 agency is operated directly by federal, state, county, or municipal
21 government, or a combination of such governments.

22 ~~((+31+))~~ (33) "Responsible other" means the minor, the minor's
23 parent or estate, or any other person legally responsible for support
24 of the minor.

25 ~~((+32+))~~ (34) "Secretary" means the secretary of the department
26 or secretary's designee.

27 ~~((+33+))~~ (35) "Secure detoxification facility" means a facility
28 operated by either a public or private agency or by the program of an
29 agency that:

30 (a) Provides for intoxicated minors:

31 (i) Evaluation and assessment, provided by certified chemical
32 dependency professionals;

33 (ii) Acute or subacute detoxification services; and

34 (iii) Discharge assistance provided by certified chemical
35 dependency professionals, including facilitating transitions to
36 appropriate voluntary or involuntary inpatient services or to less
37 restrictive alternatives as appropriate for the minor;

38 (b) Includes security measures sufficient to protect the
39 patients, staff, and community; and

40 (c) Is licensed or certified as such by the department of health.

1 ~~((34))~~ (36) "Social worker" means a person with a master's or
2 further advanced degree from a social work educational program
3 accredited and approved as provided in RCW 18.320.010.

4 ~~((35))~~ (37) "Start of initial detention" means the time of
5 arrival of the minor at the first evaluation and treatment facility,
6 secure detoxification facility, or approved substance use disorder
7 treatment program offering inpatient treatment if the minor is being
8 involuntarily detained at the time. With regard to voluntary
9 patients, "start of initial detention" means the time at which the
10 minor gives notice of intent to leave under the provisions of this
11 chapter.

12 ~~((36))~~ (38) "Substance use disorder" means a cluster of
13 cognitive, behavioral, and physiological symptoms indicating that an
14 individual continues using the substance despite significant
15 substance-related problems. The diagnosis of a substance use disorder
16 is based on a pathological pattern of behaviors related to the use of
17 the substances.

18 **Sec. 5003.** RCW 71.34.300 and 2011 c 343 s 7 are each amended to
19 read as follows:

20 (1) The county or combination of counties is responsible for
21 development and coordination of the evaluation and treatment program
22 for minors, for incorporating the program into the ~~((county))~~ mental
23 health plan, and for coordination of evaluation and treatment
24 services and resources with the community mental health program
25 required under chapter 71.24 RCW.

26 (2) The county shall be responsible for maintaining its support
27 of involuntary treatment services for minors at its 1984 level,
28 adjusted for inflation, with the ~~((department))~~ authority responsible
29 for additional costs to the county resulting from this chapter.
30 Maintenance of effort funds devoted to judicial services related to
31 involuntary commitment reimbursed under RCW 71.05.730 must be
32 expended for other purposes that further treatment for mental health
33 and chemical dependency disorders.

34 **Sec. 5004.** RCW 71.34.365 and 1985 c 354 s 17 are each amended to
35 read as follows:

36 (1) If a minor is not accepted for admission or is released by an
37 inpatient evaluation and treatment facility, the facility shall
38 release the minor to the custody of the minor's parent or other

1 responsible person. If not otherwise available, the facility shall
2 furnish transportation for the minor to the minor's residence or
3 other appropriate place.

4 (2) If the minor is released to someone other than the minor's
5 parent, the facility shall make every effort to notify the minor's
6 parent of the release as soon as possible.

7 (3) No indigent minor may be released to less restrictive
8 alternative treatment or setting or discharged from inpatient
9 treatment without suitable clothing, and the ((~~department~~)) authority
10 shall furnish this clothing. As funds are available, the
11 ((~~secretary~~)) director may provide necessary funds for the immediate
12 welfare of indigent minors upon discharge or release to less
13 restrictive alternative treatment.

14 **Sec. 5005.** RCW 71.34.375 and 2016 sp.s. c 29 s 256 are each
15 amended to read as follows:

16 (1) If a parent or guardian, for the purpose of mental health
17 treatment, substance use disorder treatment, or evaluation, brings
18 his or her minor child to an evaluation and treatment facility, a
19 hospital emergency room, an inpatient facility licensed under chapter
20 72.23 RCW, an inpatient facility licensed under chapter 70.41 or
21 71.12 RCW operating inpatient psychiatric beds for minors, a secure
22 detoxification facility, or an approved substance use disorder
23 treatment program, the facility is required to promptly provide
24 written and verbal notice of all statutorily available treatment
25 options contained in this chapter. The notice need not be given more
26 than once if written and verbal notice has already been provided and
27 documented by the facility.

28 (2) The provision of notice must be documented by the facilities
29 required to give notice under subsection (1) of this section and must
30 be accompanied by a signed acknowledgment of receipt by the parent or
31 guardian. The notice must contain the following information:

32 (a) All current statutorily available treatment options including
33 but not limited to those provided in this chapter; and

34 (b) The procedures to be followed to utilize the treatment
35 options described in this chapter.

36 (3) The department of health shall produce, and make available,
37 the written notification that must include, at a minimum, the
38 information contained in subsection (2) of this section. The

1 department of health must revise the written notification as
2 necessary to reflect changes in the law.

3 **Sec. 5006.** RCW 71.34.380 and 1985 c 354 s 25 are each amended to
4 read as follows:

5 (1) The department, department of health, and the authority shall
6 adopt such rules pursuant to chapter 34.05 RCW as may be necessary to
7 effectuate the intent and purposes of this chapter~~((, which shall~~
8 ~~include but not be limited to evaluation of))~~.

9 (2) The authority shall evaluate the quality, effectiveness,
10 efficiency, and use of services ~~((and facilities operating under this~~
11 ~~chapter))~~, procedures and standards for commitment, and ~~((other~~
12 ~~action relevant to))~~ establish criteria and procedures for placement
13 and transfer of committed minors.

14 (3) The department of health shall regulate the evaluation and
15 treatment facilities~~((, and establishment of criteria and procedures~~
16 ~~for placement and transfer of committed minors))~~ and programs.

17 (4) The department shall operate and maintain the child study and
18 treatment center.

19 **Sec. 5007.** RCW 71.34.385 and 2016 sp.s. c 29 s 257 are each
20 amended to read as follows:

21 The ~~((department))~~ authority shall ensure that the provisions of
22 this chapter are applied by the counties in a consistent and uniform
23 manner. The ~~((department))~~ authority shall also ensure that, to the
24 extent possible within available funds, the designated crisis
25 responders are specifically trained in adolescent mental health
26 issues, the mental health and substance use disorder civil commitment
27 laws, and the criteria for civil commitment.

28 **Sec. 5008.** RCW 71.34.390 and 1992 c 205 s 303 are each amended
29 to read as follows:

30 For the purpose of encouraging the expansion of existing
31 evaluation and treatment facilities and the creation of new
32 facilities, the ~~((department))~~ authority shall endeavor to redirect
33 federal Title XIX funds which are expended on out-of-state placements
34 to fund placements within the state.

35 **Sec. 5009.** RCW 71.34.395 and 1998 c 296 s 21 are each amended to
36 read as follows:

1 The ability of a parent to bring his or her minor child to a
2 licensed or certified evaluation and treatment program for evaluation
3 and treatment does not create a right to obtain or benefit from any
4 funds or resources of the state. The state may provide services for
5 indigent minors to the extent that funds are available.

6 **Sec. 5010.** RCW 71.34.400 and 2016 sp.s. c 29 s 258 are each
7 amended to read as follows:

8 For purposes of eligibility for medical assistance under chapter
9 74.09 RCW, minors in inpatient mental health or inpatient substance
10 use disorder treatment shall be considered to be part of their
11 parent's or legal guardian's household, unless the minor has been
12 assessed by the ((department)) authority or its designee as likely to
13 require such treatment for at least ninety consecutive days, or is in
14 out-of-home care in accordance with chapter 13.34 RCW, or the parents
15 are found to not be exercising responsibility for care and control of
16 the minor. Payment for such care by the ((department)) authority
17 shall be made only in accordance with rules, guidelines, and clinical
18 criteria applicable to inpatient treatment of minors established by
19 the ((department)) authority.

20 **Sec. 5011.** RCW 71.34.405 and 1985 c 354 s 13 are each amended to
21 read as follows:

22 (1) A minor receiving treatment under the provisions of this
23 chapter and responsible others shall be liable for the costs of
24 treatment, care, and transportation to the extent of available
25 resources and ability to pay.

26 (2) The secretary or director, as appropriate, shall establish
27 rules to implement this section and to define income, resources, and
28 exemptions to determine the responsible person's or persons' ability
29 to pay.

30 **Sec. 5012.** RCW 71.34.420 and 2016 sp.s. c 29 s 260 are each
31 amended to read as follows:

32 (1) The ((department)) authority may use a single bed
33 certification process as outlined in rule to provide additional
34 treatment capacity for a minor suffering from a mental disorder for
35 whom an evaluation and treatment bed is not available. The facility
36 that is the proposed site of the single bed certification must be a
37 facility that is willing and able to provide the person with timely

1 and appropriate treatment either directly or by arrangement with
2 other public or private agencies.

3 (2) A single bed certification must be specific to the minor
4 receiving treatment.

5 (3) A designated crisis responder who submits an application for
6 a single bed certification for treatment at a facility that is
7 willing and able to provide timely and appropriate mental health
8 treatment in good faith belief that the single bed certification is
9 appropriate may presume that the single bed certification will be
10 approved for the purpose of completing the detention process and
11 responding to other emergency calls.

12 (4) The (~~department~~) authority may adopt rules implementing
13 this section and continue to enforce rules it has already adopted
14 except where inconsistent with this section.

15 **Sec. 5013.** RCW 71.34.600 and 2016 sp.s. c 29 s 263 are each
16 amended to read as follows:

17 (1) A parent may bring, or authorize the bringing of, his or her
18 minor child to:

19 (a) An evaluation and treatment facility or an inpatient facility
20 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that
21 the professional person examine the minor to determine whether the
22 minor has a mental disorder and is in need of inpatient treatment; or

23 (b) A secure detoxification facility or approved substance use
24 disorder treatment program and request that a substance use disorder
25 assessment be conducted by a professional person to determine whether
26 the minor has a substance use disorder and is in need of inpatient
27 treatment.

28 (2) The consent of the minor is not required for admission,
29 evaluation, and treatment if the parent brings the minor to the
30 facility.

31 (3) An appropriately trained professional person may evaluate
32 whether the minor has a mental disorder or has a substance use
33 disorder. The evaluation shall be completed within twenty-four hours
34 of the time the minor was brought to the facility, unless the
35 professional person determines that the condition of the minor
36 necessitates additional time for evaluation. In no event shall a
37 minor be held longer than seventy-two hours for evaluation. If, in
38 the judgment of the professional person, it is determined it is a
39 medical necessity for the minor to receive inpatient treatment, the

1 minor may be held for treatment. The facility shall limit treatment
2 to that which the professional person determines is medically
3 necessary to stabilize the minor's condition until the evaluation has
4 been completed. Within twenty-four hours of completion of the
5 evaluation, the professional person shall notify the ((department))
6 authority if the child is held for treatment and of the date of
7 admission.

8 (4) No provider is obligated to provide treatment to a minor
9 under the provisions of this section except that no provider may
10 refuse to treat a minor under the provisions of this section solely
11 on the basis that the minor has not consented to the treatment. No
12 provider may admit a minor to treatment under this section unless it
13 is medically necessary.

14 (5) No minor receiving inpatient treatment under this section may
15 be discharged from the facility based solely on his or her request.

16 (6) Prior to the review conducted under RCW 71.34.610, the
17 professional person shall notify the minor of his or her right to
18 petition superior court for release from the facility.

19 (7) For the purposes of this section "professional person" means
20 "professional person" as defined in RCW 71.05.020.

21 **Sec. 5014.** RCW 71.34.610 and 1998 c 296 s 9 are each amended to
22 read as follows:

23 (1) The ((department)) authority shall assure that, for any minor
24 admitted to inpatient treatment under RCW 71.34.600, a review is
25 conducted by a physician or other mental health professional who is
26 employed by the ((department)) authority, or an agency under contract
27 with the ((department)) authority, and who neither has a financial
28 interest in continued inpatient treatment of the minor nor is
29 affiliated with the facility providing the treatment. The physician
30 or other mental health professional shall conduct the review not less
31 than seven nor more than fourteen days following the date the minor
32 was brought to the facility under RCW 71.34.600 to determine whether
33 it is a medical necessity to continue the minor's treatment on an
34 inpatient basis.

35 (2) In making a determination under subsection (1) of this
36 section, the ((department)) authority shall consider the opinion of
37 the treatment provider, the safety of the minor, and the likelihood
38 the minor's mental health will deteriorate if released from inpatient

1 treatment. The ((department)) authority shall consult with the parent
2 in advance of making its determination.

3 (3) If, after any review conducted by the ((department))
4 authority under this section, the ((department)) authority determines
5 it is no longer a medical necessity for a minor to receive inpatient
6 treatment, the ((department)) authority shall immediately notify the
7 parents and the facility. The facility shall release the minor to the
8 parents within twenty-four hours of receiving notice. If the
9 professional person in charge and the parent believe that it is a
10 medical necessity for the minor to remain in inpatient treatment, the
11 minor shall be released to the parent on the second judicial day
12 following the ((department's)) authority's determination in order to
13 allow the parent time to file an at-risk youth petition under chapter
14 13.32A RCW. If the ((department)) authority determines it is a
15 medical necessity for the minor to receive outpatient treatment and
16 the minor declines to obtain such treatment, such refusal shall be
17 grounds for the parent to file an at-risk youth petition.

18 (4) If the evaluation conducted under RCW 71.34.600 is done by
19 the ((department)) authority, the reviews required by subsection (1)
20 of this section shall be done by contract with an independent agency.

21 (5) The ((department)) authority may, subject to available funds,
22 contract with other governmental agencies to conduct the reviews
23 under this section. The ((department)) authority may seek
24 reimbursement from the parents, their insurance, or medicaid for the
25 expense of any review conducted by an agency under contract.

26 (6) In addition to the review required under this section, the
27 ((department)) authority may periodically determine and redetermine
28 the medical necessity of treatment for purposes of payment with
29 public funds.

30 **Sec. 5015.** RCW 71.34.630 and 2016 sp.s. c 29 s 264 are each
31 amended to read as follows:

32 If the minor is not released as a result of the petition filed
33 under RCW 71.34.620, he or she shall be released not later than
34 thirty days following the later of: (1) The date of the
35 ((department's)) authority's determination under RCW 71.34.610(2); or
36 (2) the filing of a petition for judicial review under RCW 71.34.620,
37 unless a professional person or the designated crisis responder
38 initiates proceedings under this chapter.

1 **Sec. 5016.** RCW 71.34.640 and 1996 c 133 s 36 are each amended to
2 read as follows:

3 The ((~~department~~)) authority shall randomly select and review the
4 information on children who are admitted to inpatient treatment on
5 application of the child's parent regardless of the source of
6 payment, if any. The review shall determine whether the children
7 reviewed were appropriately admitted into treatment based on an
8 objective evaluation of the child's condition and the outcome of the
9 child's treatment.

10 **Sec. 5017.** RCW 71.34.720 and 2016 sp.s. c 29 s 271 and 2016 c
11 155 s 19 are each reenacted and amended to read as follows:

12 (1) Each minor approved by the facility for inpatient admission
13 shall be examined and evaluated by a children's mental health
14 specialist, for minors admitted as a result of a mental disorder, or
15 by a chemical dependency professional, for minors admitted as a
16 result of a substance use disorder, as to the child's mental
17 condition and by a physician, physician assistant, or psychiatric
18 advanced registered nurse practitioner as to the child's physical
19 condition within twenty-four hours of admission. Reasonable measures
20 shall be taken to ensure medical treatment is provided for any
21 condition requiring immediate medical attention.

22 (2) If, after examination and evaluation, the children's mental
23 health specialist or substance use disorder specialist and the
24 physician, physician assistant, or psychiatric advanced registered
25 nurse practitioner determine that the initial needs of the minor, if
26 detained to an evaluation and treatment facility, would be better
27 served by placement in a substance use disorder treatment
28 ((~~facility~~)) program or, if detained to a secure detoxification
29 facility or approved substance use disorder treatment program, would
30 be better served in an evaluation and treatment facility, then the
31 minor shall be referred to the more appropriate placement; however a
32 minor may only be referred to a secure detoxification facility or
33 approved substance use disorder treatment program if there is a
34 secure detoxification facility or approved substance use disorder
35 treatment program available and that has adequate space for the
36 minor.

37 (3) The admitting facility shall take reasonable steps to notify
38 immediately the minor's parent of the admission.

1 (4) During the initial seventy-two hour treatment period, the
2 minor has a right to associate or receive communications from parents
3 or others unless the professional person in charge determines that
4 such communication would be seriously detrimental to the minor's
5 condition or treatment and so indicates in the minor's clinical
6 record, and notifies the minor's parents of this determination. In no
7 event may the minor be denied the opportunity to consult an attorney.

8 (5) If the evaluation and treatment facility, secure
9 detoxification facility, or approved substance use disorder treatment
10 program admits the minor, it may detain the minor for evaluation and
11 treatment for a period not to exceed seventy-two hours from the time
12 of provisional acceptance. The computation of such seventy-two hour
13 period shall exclude Saturdays, Sundays, and holidays. This initial
14 treatment period shall not exceed seventy-two hours except when an
15 application for voluntary inpatient treatment is received or a
16 petition for fourteen-day commitment is filed.

17 (6) Within twelve hours of the admission, the facility shall
18 advise the minor of his or her rights as set forth in this chapter.

19 **Sec. 5018.** RCW 71.34.720 and 2016 sp.s. c 29 s 272 are each
20 amended to read as follows:

21 (1) Each minor approved by the facility for inpatient admission
22 shall be examined and evaluated by a children's mental health
23 specialist, for minors admitted as a result of a mental disorder, or
24 by a chemical dependency professional, for minors admitted as a
25 result of a substance use disorder, as to the child's mental
26 condition and by a physician, physician assistant, or psychiatric
27 advanced registered nurse practitioner as to the child's physical
28 condition within twenty-four hours of admission. Reasonable measures
29 shall be taken to ensure medical treatment is provided for any
30 condition requiring immediate medical attention.

31 (2) If, after examination and evaluation, the children's mental
32 health specialist or substance use disorder specialist and the
33 physician, physician assistant, or psychiatric advanced registered
34 nurse practitioner determine that the initial needs of the minor, if
35 detained to an evaluation and treatment facility, would be better
36 served by placement in a substance use disorder treatment
37 ((facility)) program or, if detained to a secure detoxification
38 facility or approved substance use disorder treatment program, would

1 be better served in an evaluation and treatment facility, then the
2 minor shall be referred to the more appropriate placement.

3 (3) The admitting facility shall take reasonable steps to notify
4 immediately the minor's parent of the admission.

5 (4) During the initial seventy-two hour treatment period, the
6 minor has a right to associate or receive communications from parents
7 or others unless the professional person in charge determines that
8 such communication would be seriously detrimental to the minor's
9 condition or treatment and so indicates in the minor's clinical
10 record, and notifies the minor's parents of this determination. In no
11 event may the minor be denied the opportunity to consult an attorney.

12 (5) If the evaluation and treatment facility, secure
13 detoxification facility, or approved substance use disorder treatment
14 program admits the minor, it may detain the minor for evaluation and
15 treatment for a period not to exceed seventy-two hours from the time
16 of provisional acceptance. The computation of such seventy-two hour
17 period shall exclude Saturdays, Sundays, and holidays. This initial
18 treatment period shall not exceed seventy-two hours except when an
19 application for voluntary inpatient treatment is received or a
20 petition for fourteen-day commitment is filed.

21 (6) Within twelve hours of the admission, the facility shall
22 advise the minor of his or her rights as set forth in this chapter.

23 **Sec. 5019.** RCW 71.34.760 and 2016 sp.s. c 29 s 278 are each
24 amended to read as follows:

25 (1) If a minor is committed for one hundred eighty-day inpatient
26 treatment and is to be placed in a state-supported program, the
27 (~~secretary~~) director shall accept immediately and place the minor
28 in a state-funded long-term evaluation and treatment facility or
29 state-funded approved substance use disorder treatment program.

30 (2) The (~~secretary's~~) director's placement authority shall be
31 exercised through a designated placement committee appointed by the
32 (~~secretary~~) director and composed of children's mental health
33 specialists and chemical dependency professionals, including at least
34 one child psychiatrist who represents the state-funded, long-term,
35 evaluation and treatment facility for minors and one chemical
36 dependency professional who represents the state-funded approved
37 substance use disorder treatment program. The responsibility of the
38 placement committee will be to:

1 (a) Make the long-term placement of the minor in the most
2 appropriate, available state-funded evaluation and treatment facility
3 or approved substance use disorder treatment program, having
4 carefully considered factors including the treatment needs of the
5 minor, the most appropriate facility able to respond to the minor's
6 identified treatment needs, the geographic proximity of the facility
7 to the minor's family, the immediate availability of bed space, and
8 the probable impact of the placement on other residents of the
9 facility;

10 (b) Approve or deny requests from treatment facilities for
11 transfer of a minor to another facility;

12 (c) Receive and monitor reports required under this section;

13 (d) Receive and monitor reports of all discharges.

14 (3) The (~~secretary~~) director may authorize transfer of minors
15 among treatment facilities if the transfer is in the best interests
16 of the minor or due to treatment priorities.

17 (4) The responsible state-funded evaluation and treatment
18 facility or approved substance use disorder treatment program shall
19 submit a report to the (~~department's~~) authority's designated
20 placement committee within ninety days of admission and no less than
21 every one hundred eighty days thereafter, setting forth such facts as
22 the (~~department~~) authority requires, including the minor's
23 individual treatment plan and progress, recommendations for future
24 treatment, and possible less restrictive treatment.

25 **Sec. 5020.** RCW 71.34.780 and 2016 sp.s. c 29 s 279 are each
26 amended to read as follows:

27 (1) If the professional person in charge of an outpatient
28 treatment program, a designated crisis responder, or the director or
29 secretary, as appropriate, determines that a minor is failing to
30 adhere to the conditions of the court order for less restrictive
31 alternative treatment or the conditions for the conditional release,
32 or that substantial deterioration in the minor's functioning has
33 occurred, the designated crisis responder, or the director or
34 secretary, as appropriate, may order that the minor, if committed for
35 mental health treatment, be taken into custody and transported to an
36 inpatient evaluation and treatment facility or, if committed for
37 substance use disorder treatment, be taken into custody and
38 transported to a secure detoxification facility or approved substance
39 use disorder treatment program if there is an available secure

1 detoxification facility or approved substance use disorder treatment
2 program that has adequate space for the minor.

3 (2) The designated crisis responder or the director or secretary,
4 as appropriate, shall file the order of apprehension and detention
5 and serve it upon the minor and notify the minor's parent and the
6 minor's attorney, if any, of the detention within two days of return.
7 At the time of service the minor shall be informed of the right to a
8 hearing and to representation by an attorney. The designated crisis
9 responder or the director or secretary, as appropriate, may modify or
10 rescind the order of apprehension and detention at any time prior to
11 the hearing.

12 (3) A petition for revocation of less restrictive alternative
13 treatment shall be filed by the designated crisis responder or the
14 director or secretary, as appropriate, with the court in the county
15 ordering the less restrictive alternative treatment. The court shall
16 conduct the hearing in that county. A petition for revocation of
17 conditional release may be filed with the court in the county
18 ordering inpatient treatment or the county where the minor on
19 conditional release is residing. A petition shall describe the
20 behavior of the minor indicating violation of the conditions or
21 deterioration of routine functioning and a dispositional
22 recommendation. Upon motion for good cause, the hearing may be
23 transferred to the county of the minor's residence or to the county
24 in which the alleged violations occurred. The hearing shall be held
25 within seven days of the minor's return. The issues to be determined
26 are whether the minor did or did not adhere to the conditions of the
27 less restrictive alternative treatment or conditional release, or
28 whether the minor's routine functioning has substantially
29 deteriorated, and, if so, whether the conditions of less restrictive
30 alternative treatment or conditional release should be modified or,
31 subject to subsection (4) of this section, whether the minor should
32 be returned to inpatient treatment. Pursuant to the determination of
33 the court, the minor shall be returned to less restrictive
34 alternative treatment or conditional release on the same or modified
35 conditions or shall be returned to inpatient treatment. If the minor
36 is returned to inpatient treatment, RCW 71.34.760 regarding the
37 (~~secretary's~~) director's placement responsibility shall apply. The
38 hearing may be waived by the minor and the minor returned to
39 inpatient treatment or to less restrictive alternative treatment or
40 conditional release on the same or modified conditions.

1 (4) A court may not order the return of a minor to inpatient
2 treatment in a secure detoxification facility or approved substance
3 use disorder treatment program unless there is a secure
4 detoxification facility or approved substance use disorder treatment
5 program available with adequate space for the minor.

6 **Sec. 5021.** RCW 71.34.780 and 2016 sp.s. c 29 s 280 are each
7 amended to read as follows:

8 (1) If the professional person in charge of an outpatient
9 treatment program, a designated crisis responder, or the director or
10 secretary, as appropriate, determines that a minor is failing to
11 adhere to the conditions of the court order for less restrictive
12 alternative treatment or the conditions for the conditional release,
13 or that substantial deterioration in the minor's functioning has
14 occurred, the designated crisis responder, or the director or
15 secretary, as appropriate, may order that the minor, if committed for
16 mental health treatment, be taken into custody and transported to an
17 inpatient evaluation and treatment facility or, if committed for
18 substance use disorder treatment, be taken into custody and
19 transported to a secure detoxification facility or approved substance
20 use disorder treatment program.

21 (2) The designated crisis responder or the director or secretary,
22 as appropriate, shall file the order of apprehension and detention
23 and serve it upon the minor and notify the minor's parent and the
24 minor's attorney, if any, of the detention within two days of return.
25 At the time of service the minor shall be informed of the right to a
26 hearing and to representation by an attorney. The designated crisis
27 responder or the director or secretary, as appropriate, may modify or
28 rescind the order of apprehension and detention at any time prior to
29 the hearing.

30 (3) A petition for revocation of less restrictive alternative
31 treatment shall be filed by the designated crisis responder or the
32 director or secretary, as appropriate, with the court in the county
33 ordering the less restrictive alternative treatment. The court shall
34 conduct the hearing in that county. A petition for revocation of
35 conditional release may be filed with the court in the county
36 ordering inpatient treatment or the county where the minor on
37 conditional release is residing. A petition shall describe the
38 behavior of the minor indicating violation of the conditions or
39 deterioration of routine functioning and a dispositional

1 recommendation. Upon motion for good cause, the hearing may be
2 transferred to the county of the minor's residence or to the county
3 in which the alleged violations occurred. The hearing shall be held
4 within seven days of the minor's return. The issues to be determined
5 are whether the minor did or did not adhere to the conditions of the
6 less restrictive alternative treatment or conditional release, or
7 whether the minor's routine functioning has substantially
8 deteriorated, and, if so, whether the conditions of less restrictive
9 alternative treatment or conditional release should be modified or
10 whether the minor should be returned to inpatient treatment. Pursuant
11 to the determination of the court, the minor shall be returned to
12 less restrictive alternative treatment or conditional release on the
13 same or modified conditions or shall be returned to inpatient
14 treatment. If the minor is returned to inpatient treatment, RCW
15 71.34.760 regarding the ((~~secretary's~~)) director's placement
16 responsibility shall apply. The hearing may be waived by the minor
17 and the minor returned to inpatient treatment or to less restrictive
18 alternative treatment or conditional release on the same or modified
19 conditions.

20 **Sec. 5022.** RCW 71.34.790 and 1985 c 354 s 15 are each amended to
21 read as follows:

22 Necessary transportation for minors committed to the
23 ((~~secretary~~)) director under this chapter for one hundred eighty-day
24 treatment shall be provided by the ((~~department~~)) authority in the
25 most appropriate and cost-effective means.

26 **Sec. 5023.** RCW 71.36.010 and 2014 c 225 s 91 are each reenacted
27 and amended to read as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

30 (1) "Agency" means a state, tribal, or local governmental entity
31 or a private not-for-profit organization.

32 (2) "Behavioral health organization" means a county authority or
33 group of county authorities or other nonprofit entity that has
34 entered into contracts with the ((~~secretary~~)) health care authority
35 pursuant to chapter 71.24 RCW.

36 (3) "Child" means a person under eighteen years of age, except as
37 expressly provided otherwise in state or federal law.

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

6 (5) "County authority" means the board of county commissioners or
7 county executive.

8 (~~(6) ("Department" means the department of social and health
9 services.~~

10 ~~(7))~~ (7) "Early periodic screening, diagnosis, and treatment" means
11 the component of the federal medicaid program established pursuant to
12 42 U.S.C. Sec. 1396d(r), as amended.

13 ~~((8))~~ (7) "Evidence-based" means a program or practice that has
14 had multiple site random controlled trials across heterogeneous
15 populations demonstrating that the program or practice is effective
16 for the population.

17 ~~((9))~~ (8) "Family" means a child's biological parents, adoptive
18 parents, foster parents, guardian, legal custodian authorized
19 pursuant to Title 26 RCW, a relative with whom a child has been
20 placed by the department of social and health services, or a tribe.

21 ~~((10))~~ (9) "Promising practice" or "emerging best practice"
22 means a practice that presents, based upon preliminary information,
23 potential for becoming a research-based or consensus-based practice.

24 ~~((11))~~ (10) "Research-based" means a program or practice that
25 has some research demonstrating effectiveness, but that does not yet
26 meet the standard of evidence-based practices.

27 ~~((12) "Secretary" means the secretary of social and health
28 services.~~

29 ~~(13))~~ (11) "Wraparound process" means a family driven planning
30 process designed to address the needs of children and youth by the
31 formation of a team that empowers families to make key decisions
32 regarding the care of the child or youth in partnership with
33 professionals and the family's natural community supports. The team
34 produces a community-based and culturally competent intervention plan
35 which identifies the strengths and needs of the child or youth and
36 family and defines goals that the team collaborates on achieving with
37 respect for the unique cultural values of the family. The "wraparound
38 process" shall emphasize principles of persistence and outcome-based
39 measurements of success.

1 **Sec. 5024.** RCW 71.36.025 and 2014 c 225 s 92 are each amended to
2 read as follows:

3 (1) It is the goal of the legislature that, by 2012, the
4 children's mental health system in Washington state include the
5 following elements:

6 (a) A continuum of services from early identification,
7 intervention, and prevention through crisis intervention and
8 inpatient treatment, including peer support and parent mentoring
9 services;

10 (b) Equity in access to services for similarly situated children,
11 including children with co-occurring disorders;

12 (c) Developmentally appropriate, high quality, and culturally
13 competent services available statewide;

14 (d) Treatment of each child in the context of his or her family
15 and other persons that are a source of support and stability in his
16 or her life;

17 (e) A sufficient supply of qualified and culturally competent
18 children's mental health providers;

19 (f) Use of developmentally appropriate evidence-based and
20 research-based practices;

21 (g) Integrated and flexible services to meet the needs of
22 children who, due to mental illness or emotional or behavioral
23 disturbance, are at risk of out-of-home placement or involved with
24 multiple child-serving systems.

25 (2) The effectiveness of the children's mental health system
26 shall be determined through the use of outcome-based performance
27 measures. The (~~department~~) health care authority and the evidence-
28 based practice institute established in RCW 71.24.061, in
29 consultation with parents, caregivers, youth, behavioral health
30 organizations, mental health services providers, health plans,
31 primary care providers, tribes, and others, shall develop outcome-
32 based performance measures such as:

33 (a) Decreased emergency room utilization;

34 (b) Decreased psychiatric hospitalization;

35 (c) Lessening of symptoms, as measured by commonly used
36 assessment tools;

37 (d) Decreased out-of-home placement, including residential,
38 group, and foster care, and increased stability of such placements,
39 when necessary;

40 (e) Decreased runaways from home or residential placements;

- 1 (f) Decreased rates of chemical dependency;
2 (g) Decreased involvement with the juvenile justice system;
3 (h) Improved school attendance and performance;
4 (i) Reductions in school or child care suspensions or expulsions;
5 (j) Reductions in use of prescribed medication where cognitive
6 behavioral therapies are indicated;
7 (k) Improved rates of high school graduation and employment; and
8 (l) Decreased use of mental health services upon reaching
9 adulthood for mental disorders other than those that require ongoing
10 treatment to maintain stability.

11 Performance measure reporting for children's mental health
12 services should be integrated into existing performance measurement
13 and reporting systems developed and implemented under chapter 71.24
14 RCW.

15 **Sec. 5025.** RCW 71.36.040 and 2014 c 225 s 93 are each amended to
16 read as follows:

17 (1) The legislature supports recommendations made in the August
18 2002 study of the public mental health system for children conducted
19 by the joint legislative audit and review committee.

20 (2) The (~~department~~) health care authority shall, within
21 available funds:

22 (a) Identify internal business operation issues that limit the
23 agency's ability to meet legislative intent to coordinate existing
24 categorical children's mental health programs and funding;

25 (b) Collect reliable mental health cost, service, and outcome
26 data specific to children. This information must be used to identify
27 best practices and methods of improving fiscal management;

28 (c) Revise the early periodic screening diagnosis and treatment
29 plan to reflect the mental health system structure in place on July
30 27, 2003, and thereafter revise the plan as necessary to conform to
31 subsequent changes in the structure.

32 (3) The (~~department~~) health care authority and the office of
33 the superintendent of public instruction shall jointly identify
34 school districts where mental health and education systems coordinate
35 services and resources to provide public mental health care for
36 children. The (~~department~~) health care authority and the office of
37 the superintendent of public instruction shall work together to share
38 information about these approaches with other school districts,
39 behavioral health organizations, and state agencies.

1 department of licensing and the national instant criminal background
2 check system is required.

3 (2) Upon receipt of the information provided for by subsection
4 (1) of this section, the department of licensing shall determine if
5 the convicted or committed person has a concealed pistol license. If
6 the person does have a concealed pistol license, the department of
7 licensing shall immediately notify the license-issuing authority
8 which, upon receipt of such notification, shall immediately revoke
9 the license.

10 (3)(a) A person who is prohibited from possessing a firearm, by
11 reason of having been involuntarily committed for mental health
12 treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750,
13 chapter 10.77 RCW, or equivalent statutes of another jurisdiction
14 may, upon discharge, petition the superior court to have his or her
15 right to possess a firearm restored.

16 (b) The petition must be brought in the superior court that
17 ordered the involuntary commitment or the superior court of the
18 county in which the petitioner resides.

19 (c) Except as provided in (d) of this subsection, the court shall
20 restore the petitioner's right to possess a firearm if the petitioner
21 proves by a preponderance of the evidence that:

22 (i) The petitioner is no longer required to participate in court-
23 ordered inpatient or outpatient treatment;

24 (ii) The petitioner has successfully managed the condition
25 related to the commitment;

26 (iii) The petitioner no longer presents a substantial danger to
27 himself or herself, or the public; and

28 (iv) The symptoms related to the commitment are not reasonably
29 likely to recur.

30 (d) If a preponderance of the evidence in the record supports a
31 finding that the person petitioning the court has engaged in violence
32 and that it is more likely than not that the person will engage in
33 violence after his or her right to possess a firearm is restored, the
34 person shall bear the burden of proving by clear, cogent, and
35 convincing evidence that he or she does not present a substantial
36 danger to the safety of others.

37 (e) When a person's right to possess a firearm has been restored
38 under this subsection, the court shall forward, within three judicial
39 days after entry of the restoration order, notification that the
40 person's right to possess a firearm has been restored to the

1 department of licensing, the (~~department of social and health~~
2 ~~services~~) health care authority, and the national instant criminal
3 background check system index, denied persons file.

4 (4) No person who has been found not guilty by reason of insanity
5 may petition a court for restoration of the right to possess a
6 firearm unless the person meets the requirements for the restoration
7 of the right to possess a firearm under RCW 9.41.040(4).

8 **Sec. 6002.** RCW 9.41.070 and 2017 c 282 s 1 and 2017 c 174 s 1
9 are each reenacted and amended to read as follows:

10 (1) The chief of police of a municipality or the sheriff of a
11 county shall within thirty days after the filing of an application of
12 any person, issue a license to such person to carry a pistol
13 concealed on his or her person within this state for five years from
14 date of issue, for the purposes of protection or while engaged in
15 business, sport, or while traveling. However, if the applicant does
16 not have a valid permanent Washington driver's license or Washington
17 state identification card or has not been a resident of the state for
18 the previous consecutive ninety days, the issuing authority shall
19 have up to sixty days after the filing of the application to issue a
20 license. The issuing authority shall not refuse to accept completed
21 applications for concealed pistol licenses during regular business
22 hours.

23 The applicant's constitutional right to bear arms shall not be
24 denied, unless:

25 (a) He or she is ineligible to possess a firearm under the
26 provisions of RCW 9.41.040 or 9.41.045, or is prohibited from
27 possessing a firearm under federal law;

28 (b) The applicant's concealed pistol license is in a revoked
29 status;

30 (c) He or she is under twenty-one years of age;

31 (d) He or she is subject to a court order or injunction regarding
32 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
33 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,
34 26.50.070, or 26.26.590;

35 (e) He or she is free on bond or personal recognizance pending
36 trial, appeal, or sentencing for a felony offense;

37 (f) He or she has an outstanding warrant for his or her arrest
38 from any court of competent jurisdiction for a felony or misdemeanor;
39 or

1 (g) He or she has been ordered to forfeit a firearm under RCW
2 9.41.098(1)(e) within one year before filing an application to carry
3 a pistol concealed on his or her person.

4 No person convicted of a felony may have his or her right to
5 possess firearms restored or his or her privilege to carry a
6 concealed pistol restored, unless the person has been granted relief
7 from disabilities by the attorney general under 18 U.S.C. Sec.
8 925(c), or RCW 9.41.040 (3) or (4) applies.

9 (2)(a) The issuing authority shall conduct a check through the
10 national instant criminal background check system, the Washington
11 state patrol electronic database, the (~~department of social and~~
12 ~~health services~~) health care authority electronic database, and with
13 other agencies or resources as appropriate, to determine whether the
14 applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a
15 firearm, or is prohibited from possessing a firearm under federal
16 law, and therefore ineligible for a concealed pistol license.

17 (b) The issuing authority shall deny a permit to anyone who is
18 found to be prohibited from possessing a firearm under federal or
19 state law.

20 (c) This subsection applies whether the applicant is applying for
21 a new concealed pistol license or to renew a concealed pistol
22 license.

23 (3) Any person whose firearms rights have been restricted and who
24 has been granted relief from disabilities by the attorney general
25 under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec.
26 921(a)(20)(A) shall have his or her right to acquire, receive,
27 transfer, ship, transport, carry, and possess firearms in accordance
28 with Washington state law restored except as otherwise prohibited by
29 this chapter.

30 (4) The license application shall bear the full name, residential
31 address, telephone number at the option of the applicant, email
32 address at the option of the applicant, date and place of birth,
33 race, gender, description, a complete set of fingerprints, and
34 signature of the licensee, and the licensee's driver's license number
35 or state identification card number if used for identification in
36 applying for the license. A signed application for a concealed pistol
37 license shall constitute a waiver of confidentiality and written
38 request that the (~~department of social and health services~~) health
39 care authority, mental health institutions, and other health care
40 facilities release information relevant to the applicant's

1 eligibility for a concealed pistol license to an inquiring court or
2 law enforcement agency.

3 The application for an original license shall include a complete
4 set of fingerprints to be forwarded to the Washington state patrol.

5 The license and application shall contain a warning substantially
6 as follows:

7 CAUTION: Although state and local laws do not differ, federal
8 law and state law on the possession of firearms differ. If
9 you are prohibited by federal law from possessing a firearm,
10 you may be prosecuted in federal court. A state license is
11 not a defense to a federal prosecution.

12 The license shall contain a description of the major differences
13 between state and federal law and an explanation of the fact that
14 local laws and ordinances on firearms are preempted by state law and
15 must be consistent with state law.

16 The application shall contain questions about the applicant's
17 eligibility under RCW 9.41.040 and federal law to possess a pistol,
18 the applicant's place of birth, and whether the applicant is a United
19 States citizen. If the applicant is not a United States citizen, the
20 applicant must provide the applicant's country of citizenship, United
21 States issued alien number or admission number, and the basis on
22 which the applicant claims to be exempt from federal prohibitions on
23 firearm possession by aliens. The applicant shall not be required to
24 produce a birth certificate or other evidence of citizenship. A
25 person who is not a citizen of the United States shall, if
26 applicable, meet the additional requirements of RCW 9.41.173 and
27 produce proof of compliance with RCW 9.41.173 upon application. The
28 license may be in triplicate or in a form to be prescribed by the
29 department of licensing.

30 The original thereof shall be delivered to the licensee, the
31 duplicate shall within seven days be sent to the director of
32 licensing and the triplicate shall be preserved for six years, by the
33 authority issuing the license.

34 The department of licensing shall make available to law
35 enforcement and corrections agencies, in an on-line format, all
36 information received under this subsection.

37 (5) The nonrefundable fee, paid upon application, for the
38 original five-year license shall be thirty-six dollars plus
39 additional charges imposed by the federal bureau of investigation

1 that are passed on to the applicant. No other state or local branch
2 or unit of government may impose any additional charges on the
3 applicant for the issuance of the license.

4 The fee shall be distributed as follows:

5 (a) Fifteen dollars shall be paid to the state general fund;

6 (b) Four dollars shall be paid to the agency taking the
7 fingerprints of the person licensed;

8 (c) Fourteen dollars shall be paid to the issuing authority for
9 the purpose of enforcing this chapter;

10 (d) Two dollars and sixteen cents to the firearms range account
11 in the general fund; and

12 (e) Eighty-four cents to the concealed pistol license renewal
13 notification account created in RCW 43.79.540.

14 (6) The nonrefundable fee for the renewal of such license shall
15 be thirty-two dollars. No other branch or unit of government may
16 impose any additional charges on the applicant for the renewal of the
17 license.

18 The renewal fee shall be distributed as follows:

19 (a) Fifteen dollars shall be paid to the state general fund;

20 (b) Fourteen dollars shall be paid to the issuing authority for
21 the purpose of enforcing this chapter;

22 (c) Two dollars and sixteen cents to the firearms range account
23 in the general fund; and

24 (d) Eighty-four cents to the concealed pistol license renewal
25 notification account created in RCW 43.79.540.

26 (7) The nonrefundable fee for replacement of lost or damaged
27 licenses is ten dollars to be paid to the issuing authority.

28 (8) Payment shall be by cash, check, or money order at the option
29 of the applicant. Additional methods of payment may be allowed at the
30 option of the issuing authority.

31 (9)(a) A licensee may renew a license if the licensee applies for
32 renewal within ninety days before or after the expiration date of the
33 license. A license so renewed shall take effect on the expiration
34 date of the prior license. A licensee renewing after the expiration
35 date of the license must pay a late renewal penalty of ten dollars in
36 addition to the renewal fee specified in subsection (6) of this
37 section. The fee shall be distributed as follows:

38 (i) Three dollars shall be deposited in the state wildlife
39 account and used exclusively first for the printing and distribution
40 of a pamphlet on the legal limits of the use of firearms, firearms

1 safety, and the preemptive nature of state law, and subsequently the
2 support of volunteer instructors in the basic firearms safety
3 training program conducted by the department of fish and wildlife.
4 The pamphlet shall be given to each applicant for a license; and

5 (ii) Seven dollars shall be paid to the issuing authority for the
6 purpose of enforcing this chapter.

7 (b) Beginning with concealed pistol licenses that expire on or
8 after August 1, 2018, the department of licensing shall mail a
9 renewal notice approximately ninety days before the license
10 expiration date to the licensee at the address listed on the
11 concealed pistol license application, or to the licensee's new
12 address if the licensee has notified the department of licensing of a
13 change of address. Alternatively, if the licensee provides an email
14 address at the time of license application, the department of
15 licensing may send the renewal notice to the licensee's email
16 address. The notice must contain the date the concealed pistol
17 license will expire, the amount of renewal fee, the penalty for late
18 renewal, and instructions on how to renew the license.

19 (10) Notwithstanding the requirements of subsections (1) through
20 (9) of this section, the chief of police of the municipality or the
21 sheriff of the county of the applicant's residence may issue a
22 temporary emergency license for good cause pending review under
23 subsection (1) of this section. However, a temporary emergency
24 license issued under this subsection shall not exempt the holder of
25 the license from any records check requirement. Temporary emergency
26 licenses shall be easily distinguishable from regular licenses.

27 (11) A political subdivision of the state shall not modify the
28 requirements of this section or chapter, nor may a political
29 subdivision ask the applicant to voluntarily submit any information
30 not required by this section.

31 (12) A person who knowingly makes a false statement regarding
32 citizenship or identity on an application for a concealed pistol
33 license is guilty of false swearing under RCW 9A.72.040. In addition
34 to any other penalty provided for by law, the concealed pistol
35 license of a person who knowingly makes a false statement shall be
36 revoked, and the person shall be permanently ineligible for a
37 concealed pistol license.

38 (13) A person may apply for a concealed pistol license:

39 (a) To the municipality or to the county in which the applicant
40 resides if the applicant resides in a municipality;

1 (b) To the county in which the applicant resides if the applicant
2 resides in an unincorporated area; or

3 (c) Anywhere in the state if the applicant is a nonresident.

4 (14) Any person who, as a member of the armed forces, including
5 the national guard and armed forces reserves, is unable to renew his
6 or her license under subsections (6) and (9) of this section because
7 of the person's assignment, reassignment, or deployment for out-of-
8 state military service may renew his or her license within ninety
9 days after the person returns to this state from out-of-state
10 military service, if the person provides the following to the issuing
11 authority no later than ninety days after the person's date of
12 discharge or assignment, reassignment, or deployment back to this
13 state: (a) A copy of the person's original order designating the
14 specific period of assignment, reassignment, or deployment for out-
15 of-state military service, and (b) if appropriate, a copy of the
16 person's discharge or amended or subsequent assignment, reassignment,
17 or deployment order back to this state. A license so renewed under
18 this subsection (14) shall take effect on the expiration date of the
19 prior license. A licensee renewing after the expiration date of the
20 license under this subsection (14) shall pay only the renewal fee
21 specified in subsection (6) of this section and shall not be required
22 to pay a late renewal penalty in addition to the renewal fee.

23 **Sec. 6003.** RCW 9.41.090 and 2015 c 1 s 5 are each amended to
24 read as follows:

25 (1) In addition to the other requirements of this chapter, no
26 dealer may deliver a pistol to the purchaser thereof until:

27 (a) The purchaser produces a valid concealed pistol license and
28 the dealer has recorded the purchaser's name, license number, and
29 issuing agency, such record to be made in triplicate and processed as
30 provided in subsection (5) of this section. For purposes of this
31 subsection (1)(a), a "valid concealed pistol license" does not
32 include a temporary emergency license, and does not include any
33 license issued before July 1, 1996, unless the issuing agency
34 conducted a records search for disqualifying crimes under RCW
35 9.41.070 at the time of issuance;

36 (b) The dealer is notified in writing by the chief of police or
37 the sheriff of the jurisdiction in which the purchaser resides that
38 the purchaser is eligible to possess a pistol under RCW 9.41.040 and

1 that the application to purchase is approved by the chief of police
2 or sheriff; or

3 (c) The requirements or time periods in RCW 9.41.092 have been
4 satisfied.

5 (2)(a) Except as provided in (b) of this subsection, in
6 determining whether the purchaser meets the requirements of RCW
7 9.41.040, the chief of police or sheriff, or the designee of either,
8 shall check with the national crime information center, the
9 Washington state patrol electronic database, the (~~department of~~
10 ~~social and health services~~) health care authority electronic
11 database, and with other agencies or resources as appropriate, to
12 determine whether the applicant is ineligible under RCW 9.41.040 to
13 possess a firearm.

14 (b) Once the system is established, a dealer shall use the state
15 system and national instant criminal background check system,
16 provided for by the Brady Handgun Violence Prevention Act (18 U.S.C.
17 Sec. 921 et seq.), to make criminal background checks of applicants
18 to purchase firearms. However, a chief of police or sheriff, or a
19 designee of either, shall continue to check the (~~department of~~
20 ~~social and health services~~) health care authority's electronic
21 database and with other agencies or resources as appropriate, to
22 determine whether applicants are ineligible under RCW 9.41.040 to
23 possess a firearm.

24 (3) In any case under this section where the applicant has an
25 outstanding warrant for his or her arrest from any court of competent
26 jurisdiction for a felony or misdemeanor, the dealer shall hold the
27 delivery of the pistol until the warrant for arrest is served and
28 satisfied by appropriate court appearance. The local jurisdiction for
29 purposes of the sale shall confirm the existence of outstanding
30 warrants within seventy-two hours after notification of the
31 application to purchase a pistol is received. The local jurisdiction
32 shall also immediately confirm the satisfaction of the warrant on
33 request of the dealer so that the hold may be released if the warrant
34 was for an offense other than an offense making a person ineligible
35 under RCW 9.41.040 to possess a pistol.

36 (4) In any case where the chief or sheriff of the local
37 jurisdiction has reasonable grounds based on the following
38 circumstances: (a) Open criminal charges, (b) pending criminal
39 proceedings, (c) pending commitment proceedings, (d) an outstanding
40 warrant for an offense making a person ineligible under RCW 9.41.040

1 to possess a pistol, or (e) an arrest for an offense making a person
2 ineligible under RCW 9.41.040 to possess a pistol, if the records of
3 disposition have not yet been reported or entered sufficiently to
4 determine eligibility to purchase a pistol, the local jurisdiction
5 may hold the sale and delivery of the pistol up to thirty days in
6 order to confirm existing records in this state or elsewhere. After
7 thirty days, the hold will be lifted unless an extension of the
8 thirty days is approved by a local district court or municipal court
9 for good cause shown. A dealer shall be notified of each hold placed
10 on the sale by local law enforcement and of any application to the
11 court for additional hold period to confirm records or confirm the
12 identity of the applicant.

13 (5) At the time of applying for the purchase of a pistol, the
14 purchaser shall sign in triplicate and deliver to the dealer an
15 application containing his or her full name, residential address,
16 date and place of birth, race, and gender; the date and hour of the
17 application; the applicant's driver's license number or state
18 identification card number; a description of the pistol including the
19 make, model, caliber and manufacturer's number if available at the
20 time of applying for the purchase of a pistol. If the manufacturer's
21 number is not available, the application may be processed, but
22 delivery of the pistol to the purchaser may not occur unless the
23 manufacturer's number is recorded on the application by the dealer
24 and transmitted to the chief of police of the municipality or the
25 sheriff of the county in which the purchaser resides; and a statement
26 that the purchaser is eligible to possess a pistol under RCW
27 9.41.040.

28 The application shall contain a warning substantially as follows:

29 CAUTION: Although state and local laws do not differ, federal law and
30 state law on the possession of firearms differ. If you are prohibited
31 by federal law from possessing a firearm, you may be prosecuted in
32 federal court. State permission to purchase a firearm is not a
33 defense to a federal prosecution.

34 The purchaser shall be given a copy of the department of fish and
35 wildlife pamphlet on the legal limits of the use of firearms,
36 firearms safety, and the fact that local laws and ordinances on
37 firearms are preempted by state law and must be consistent with state
38 law.

1 The dealer shall, by the end of the business day, sign and attach
2 his or her address and deliver a copy of the application and such
3 other documentation as required under subsection (1) of this section
4 to the chief of police of the municipality or the sheriff of the
5 county of which the purchaser is a resident. The triplicate shall be
6 retained by the dealer for six years. The dealer shall deliver the
7 pistol to the purchaser following the period of time specified in
8 this chapter unless the dealer is notified of an investigative hold
9 under subsection (4) of this section in writing by the chief of
10 police of the municipality or the sheriff of the county, whichever is
11 applicable, denying the purchaser's application to purchase and the
12 grounds thereof. The application shall not be denied unless the
13 purchaser is not eligible to possess a pistol under RCW 9.41.040 or
14 9.41.045, or federal law.

15 The chief of police of the municipality or the sheriff of the
16 county shall retain or destroy applications to purchase a pistol in
17 accordance with the requirements of 18 U.S.C. Sec. 922.

18 (6) A person who knowingly makes a false statement regarding
19 identity or eligibility requirements on the application to purchase a
20 pistol is guilty of false swearing under RCW 9A.72.040.

21 (7) This section does not apply to sales to licensed dealers for
22 resale or to the sale of antique firearms.

23 **Sec. 6004.** RCW 9.41.094 and 1994 sp.s. c 7 s 411 are each
24 amended to read as follows:

25 A signed application to purchase a pistol shall constitute a
26 waiver of confidentiality and written request that the (~~department~~
27 ~~of social and health services~~) health care authority, mental health
28 institutions, and other health care facilities release, to an
29 inquiring court or law enforcement agency, information relevant to
30 the applicant's eligibility to purchase a pistol to an inquiring
31 court or law enforcement agency.

32 **Sec. 6005.** RCW 9.41.097 and 2009 c 216 s 6 are each amended to
33 read as follows:

34 (1) The (~~department of social and health services~~) health care
35 authority, mental health institutions, and other health care
36 facilities shall, upon request of a court or law enforcement agency,
37 supply such relevant information as is necessary to determine the
38 eligibility of a person to possess a pistol or to be issued a

1 concealed pistol license under RCW 9.41.070 or to purchase a pistol
2 under RCW 9.41.090.

3 (2) Mental health information received by: (a) The department of
4 licensing pursuant to RCW 9.41.047 or 9.41.173; (b) an issuing
5 authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police
6 or sheriff pursuant to RCW 9.41.090 or 9.41.173; (d) a court or law
7 enforcement agency pursuant to subsection (1) of this section, shall
8 not be disclosed except as provided in RCW 42.56.240(4).

9 **Sec. 6006.** RCW 9.41.173 and 2017 c 174 s 2 are each amended to
10 read as follows:

11 (1) In order to obtain an alien firearm license, a nonimmigrant
12 alien residing in Washington must apply to the sheriff of the county
13 in which he or she resides.

14 (2) The sheriff of the county shall within sixty days after the
15 filing of an application of a nonimmigrant alien residing in the
16 state of Washington, issue an alien firearm license to such person to
17 carry or possess a firearm for the purposes of hunting and sport
18 shooting. The license shall be good for two years. The issuing
19 authority shall not refuse to accept completed applications for alien
20 firearm licenses during regular business hours. An application for a
21 license may not be denied, unless the applicant's alien firearm
22 license is in a revoked status, or the applicant:

23 (a) Is ineligible to possess a firearm under the provisions of
24 RCW 9.41.040 or 9.41.045;

25 (b) Is subject to a court order or injunction regarding firearms
26 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
27 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,
28 26.50.070, or 26.26.590;

29 (c) Is free on bond or personal recognizance pending trial,
30 appeal, or sentencing for a felony offense; or

31 (d) Has an outstanding warrant for his or her arrest from any
32 court of competent jurisdiction for a felony or misdemeanor.

33 No license application shall be granted to a nonimmigrant alien
34 convicted of a felony unless the person has been granted relief from
35 disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or
36 unless RCW 9.41.040 (3) or (4) applies.

37 (3) The sheriff shall check with the national crime information
38 center, the Washington state patrol electronic database, the
39 (~~department of social and health services~~) health care authority

1 electronic database, and with other agencies or resources as
2 appropriate, to determine whether the applicant is ineligible under
3 RCW 9.41.040 or 9.41.045 to possess a firearm.

4 (4) The license application shall bear the full name, residential
5 address, telephone number at the option of the applicant, date and
6 place of birth, race, gender, description, a complete set of
7 fingerprints, and signature of the applicant, a copy of the
8 applicant's passport and visa showing the applicant is in the country
9 legally, and a valid Washington hunting license or documentation that
10 the applicant is a member of a sport shooting club.

11 A signed application for an alien firearm license shall
12 constitute a waiver of confidentiality and written request that the
13 (~~department of social and health services~~) health care authority,
14 mental health institutions, and other health care facilities release
15 information relevant to the applicant's eligibility for an alien
16 firearm license to an inquiring court or law enforcement agency.

17 The application for an original license shall include a complete
18 set of fingerprints to be forwarded to the Washington state patrol.

19 The license and application shall contain a warning substantially
20 as follows:

21 CAUTION: Although state and local laws do not differ, federal
22 law and state law on the possession of firearms differ. If
23 you are prohibited by federal law from possessing a firearm,
24 you may be prosecuted in federal court. A state license is
25 not a defense to a federal prosecution.

26 The license shall contain a description of the major differences
27 between state and federal law and an explanation of the fact that
28 local laws and ordinances on firearms are preempted by state law and
29 must be consistent with state law. The application shall contain
30 questions about the applicant's eligibility under RCW 9.41.040 to
31 possess a firearm. The nonimmigrant alien applicant shall be required
32 to produce a passport and visa as evidence of being in the country
33 legally.

34 The license may be in triplicate or in a form to be prescribed by
35 the department of licensing. The original thereof shall be delivered
36 to the licensee, the duplicate shall within seven days be sent to the
37 director of licensing and the triplicate shall be preserved for six
38 years, by the authority issuing the license.

1 The department of licensing shall make available to law
2 enforcement and corrections agencies, in an online format, all
3 information received under this section.

4 (5) The sheriff has the authority to collect a nonrefundable fee,
5 paid upon application, for the two-year license. The fee shall be
6 fifty dollars plus additional charges imposed by the Washington state
7 patrol and the federal bureau of investigation that are passed on to
8 the applicant. No other state or local branch or unit of government
9 may impose any additional charges on the applicant for the issuance
10 of the license. The fee shall be retained by the sheriff.

11 (6) Payment shall be by cash, check, or money order at the option
12 of the applicant. Additional methods of payment may be allowed at the
13 option of the sheriff.

14 (7) A political subdivision of the state shall not modify the
15 requirements of this section, nor may a political subdivision ask the
16 applicant to voluntarily submit any information not required by this
17 section.

18 (8) A person who knowingly makes a false statement regarding
19 citizenship or identity on an application for an alien firearm
20 license is guilty of false swearing under RCW 9A.72.040. In addition
21 to any other penalty provided for by law, the alien firearm license
22 of a person who knowingly makes a false statement shall be revoked,
23 and the person shall be permanently ineligible for an alien firearm
24 license.

25 **Sec. 6007.** RCW 9.41.300 and 2011 c 221 s 2 are each amended to
26 read as follows:

27 (1) It is unlawful for any person to enter the following places
28 when he or she knowingly possesses or knowingly has under his or her
29 control a weapon:

30 (a) The restricted access areas of a jail, or of a law
31 enforcement facility, or any place used for the confinement of a
32 person (i) arrested for, charged with, or convicted of an offense,
33 (ii) held for extradition or as a material witness, or (iii)
34 otherwise confined pursuant to an order of a court, except an order
35 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
36 include common areas of egress or ingress open to the general public;

37 (b) Those areas in any building which are used in connection with
38 court proceedings, including courtrooms, jury rooms, judge's
39 chambers, offices and areas used to conduct court business, waiting

1 areas, and corridors adjacent to areas used in connection with court
2 proceedings. The restricted areas do not include common areas of
3 ingress and egress to the building that is used in connection with
4 court proceedings, when it is possible to protect court areas without
5 restricting ingress and egress to the building. The restricted areas
6 shall be the minimum necessary to fulfill the objective of this
7 subsection (1)(b).

8 For purposes of this subsection (1)(b), "weapon" means any
9 firearm, explosive as defined in RCW 70.74.010, or any weapon of the
10 kind usually known as slung shot, sand club, or metal knuckles, or
11 any knife, dagger, dirk, or other similar weapon that is capable of
12 causing death or bodily injury and is commonly used with the intent
13 to cause death or bodily injury.

14 In addition, the local legislative authority shall provide either
15 a stationary locked box sufficient in size for pistols and key to a
16 weapon owner for weapon storage, or shall designate an official to
17 receive weapons for safekeeping, during the owner's visit to
18 restricted areas of the building. The locked box or designated
19 official shall be located within the same building used in connection
20 with court proceedings. The local legislative authority shall be
21 liable for any negligence causing damage to or loss of a weapon
22 either placed in a locked box or left with an official during the
23 owner's visit to restricted areas of the building.

24 The local judicial authority shall designate and clearly mark
25 those areas where weapons are prohibited, and shall post notices at
26 each entrance to the building of the prohibition against weapons in
27 the restricted areas;

28 (c) The restricted access areas of a public mental health
29 facility certified by the department of (~~social~~~~and~~) health
30 (~~services~~) for inpatient hospital care and state institutions for
31 the care of the mentally ill, excluding those facilities solely for
32 evaluation and treatment. Restricted access areas do not include
33 common areas of egress and ingress open to the general public;

34 (d) That portion of an establishment classified by the state
35 liquor (~~control~~) and cannabis board as off-limits to persons under
36 twenty-one years of age; or

37 (e) The restricted access areas of a commercial service airport
38 designated in the airport security plan approved by the federal
39 transportation security administration, including passenger screening
40 checkpoints at or beyond the point at which a passenger initiates the

1 screening process. These areas do not include airport drives, general
2 parking areas and walkways, and shops and areas of the terminal that
3 are outside the screening checkpoints and that are normally open to
4 unscreened passengers or visitors to the airport. Any restricted
5 access area shall be clearly indicated by prominent signs indicating
6 that firearms and other weapons are prohibited in the area.

7 (2) Cities, towns, counties, and other municipalities may enact
8 laws and ordinances:

9 (a) Restricting the discharge of firearms in any portion of their
10 respective jurisdictions where there is a reasonable likelihood that
11 humans, domestic animals, or property will be jeopardized. Such laws
12 and ordinances shall not abridge the right of the individual
13 guaranteed by Article I, section 24 of the state Constitution to bear
14 arms in defense of self or others; and

15 (b) Restricting the possession of firearms in any stadium or
16 convention center, operated by a city, town, county, or other
17 municipality, except that such restrictions shall not apply to:

18 (i) Any pistol in the possession of a person licensed under RCW
19 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

20 (ii) Any showing, demonstration, or lecture involving the
21 exhibition of firearms.

22 (3)(a) Cities, towns, and counties may enact ordinances
23 restricting the areas in their respective jurisdictions in which
24 firearms may be sold, but, except as provided in (b) of this
25 subsection, a business selling firearms may not be treated more
26 restrictively than other businesses located within the same zone. An
27 ordinance requiring the cessation of business within a zone shall not
28 have a shorter grandfather period for businesses selling firearms
29 than for any other businesses within the zone.

30 (b) Cities, towns, and counties may restrict the location of a
31 business selling firearms to not less than five hundred feet from
32 primary or secondary school grounds, if the business has a
33 storefront, has hours during which it is open for business, and posts
34 advertisements or signs observable to passersby that firearms are
35 available for sale. A business selling firearms that exists as of the
36 date a restriction is enacted under this subsection (3)(b) shall be
37 grandfathered according to existing law.

38 (4) Violations of local ordinances adopted under subsection (2)
39 of this section must have the same penalty as provided for by state
40 law.

1 (5) The perimeter of the premises of any specific location
2 covered by subsection (1) of this section shall be posted at
3 reasonable intervals to alert the public as to the existence of any
4 law restricting the possession of firearms on the premises.

5 (6) Subsection (1) of this section does not apply to:

6 (a) A person engaged in military activities sponsored by the
7 federal or state governments, while engaged in official duties;

8 (b) Law enforcement personnel, except that subsection (1)(b) of
9 this section does apply to a law enforcement officer who is present
10 at a courthouse building as a party to an action under chapter 10.14,
11 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
12 has alleged the existence of domestic violence as defined in RCW
13 26.50.010; or

14 (c) Security personnel while engaged in official duties.

15 (7) Subsection (1)(a), (b), (c), and (e) of this section does not
16 apply to correctional personnel or community corrections officers, as
17 long as they are employed as such, who have completed government-
18 sponsored law enforcement firearms training, except that subsection
19 (1)(b) of this section does apply to a correctional employee or
20 community corrections officer who is present at a courthouse building
21 as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or
22 an action under Title 26 RCW where any party has alleged the
23 existence of domestic violence as defined in RCW 26.50.010.

24 (8) Subsection (1)(a) of this section does not apply to a person
25 licensed pursuant to RCW 9.41.070 who, upon entering the place or
26 facility, directly and promptly proceeds to the administrator of the
27 facility or the administrator's designee and obtains written
28 permission to possess the firearm while on the premises or checks his
29 or her firearm. The person may reclaim the firearms upon leaving but
30 must immediately and directly depart from the place or facility.

31 (9) Subsection (1)(c) of this section does not apply to any
32 administrator or employee of the facility or to any person who, upon
33 entering the place or facility, directly and promptly proceeds to the
34 administrator of the facility or the administrator's designee and
35 obtains written permission to possess the firearm while on the
36 premises.

37 (10) Subsection (1)(d) of this section does not apply to the
38 proprietor of the premises or his or her employees while engaged in
39 their employment.

1 (11) Government-sponsored law enforcement firearms training must
2 be training that correctional personnel and community corrections
3 officers receive as part of their job requirement and reference to
4 such training does not constitute a mandate that it be provided by
5 the correctional facility.

6 (12) Any person violating subsection (1) of this section is
7 guilty of a gross misdemeanor.

8 (13) "Weapon" as used in this section means any firearm,
9 explosive as defined in RCW 70.74.010, or instrument or weapon listed
10 in RCW 9.41.250.

11 **PART 7**

12 **Sec. 7001.** RCW 41.05.015 and 2011 1st sp.s. c 15 s 55 are each
13 amended to read as follows:

14 The director shall designate a medical director who is licensed
15 under chapter 18.57 or 18.71 RCW. The director shall also appoint
16 such professional personnel and other assistants and employees,
17 including professional medical screeners, as may be reasonably
18 necessary to carry out the provisions of this chapter and chapter
19 74.09 RCW and other applicable law. The medical screeners must be
20 supervised by one or more physicians whom the director or the
21 director's designee shall appoint.

22 **Sec. 7002.** RCW 41.05.021 and 2017 3rd sp.s. c 13 s 803 are each
23 amended to read as follows:

24 (1) The Washington state health care authority is created within
25 the executive branch. The authority shall have a director appointed
26 by the governor, with the consent of the senate. The director shall
27 serve at the pleasure of the governor. The director may employ a
28 deputy director, and such assistant directors and special assistants
29 as may be needed to administer the authority, who shall be exempt
30 from chapter 41.06 RCW, and any additional staff members as are
31 necessary to administer this chapter. The director may delegate any
32 power or duty vested in him or her by law, including authority to
33 make final decisions and enter final orders in hearings conducted
34 under chapter 34.05 RCW. The primary duties of the authority shall be
35 to: Administer insurance benefits for state employees, retired or
36 disabled state and school employees, and subject to school employees'
37 benefits board direction, school employees; administer the basic

1 health plan pursuant to chapter 70.47 RCW; administer the children's
2 health program pursuant to chapter 74.09 RCW; study state purchased
3 health care programs in order to maximize cost containment in these
4 programs while ensuring access to quality health care; implement
5 state initiatives, joint purchasing strategies, and techniques for
6 efficient administration that have potential application to all
7 state-purchased health services; and administer grants that further
8 the mission and goals of the authority. The authority's duties
9 include, but are not limited to, the following:

10 (a) To administer health care benefit programs for state
11 employees, retired or disabled state and school employees, and
12 subject to school employees' benefits board direction, school
13 employees as specifically authorized in RCW 41.05.065 and 41.05.740
14 and in accordance with the methods described in RCW 41.05.075,
15 41.05.140, and other provisions of this chapter;

16 (b) To analyze state purchased health care programs and to
17 explore options for cost containment and delivery alternatives for
18 those programs that are consistent with the purposes of those
19 programs, including, but not limited to:

20 (i) Creation of economic incentives for the persons for whom the
21 state purchases health care to appropriately utilize and purchase
22 health care services, including the development of flexible benefit
23 plans to offset increases in individual financial responsibility;

24 (ii) Utilization of provider arrangements that encourage cost
25 containment, including but not limited to prepaid delivery systems,
26 utilization review, and prospective payment methods, and that ensure
27 access to quality care, including assuring reasonable access to local
28 providers, especially for employees residing in rural areas;

29 (iii) Coordination of state agency efforts to purchase drugs
30 effectively as provided in RCW 70.14.050;

31 (iv) Development of recommendations and methods for purchasing
32 medical equipment and supporting services on a volume discount basis;

33 (v) Development of data systems to obtain utilization data from
34 state purchased health care programs in order to identify cost
35 centers, utilization patterns, provider and hospital practice
36 patterns, and procedure costs, utilizing the information obtained
37 pursuant to RCW 41.05.031; and

38 (vi) In collaboration with other state agencies that administer
39 state purchased health care programs, private health care purchasers,
40 health care facilities, providers, and carriers:

1 (A) Use evidence-based medicine principles to develop common
2 performance measures and implement financial incentives in contracts
3 with insuring entities, health care facilities, and providers that:

4 (I) Reward improvements in health outcomes for individuals with
5 chronic diseases, increased utilization of appropriate preventive
6 health services, and reductions in medical errors; and

7 (II) Increase, through appropriate incentives to insuring
8 entities, health care facilities, and providers, the adoption and use
9 of information technology that contributes to improved health
10 outcomes, better coordination of care, and decreased medical errors;

11 (B) Through state health purchasing, reimbursement, or pilot
12 strategies, promote and increase the adoption of health information
13 technology systems, including electronic medical records, by
14 hospitals as defined in RCW 70.41.020, integrated delivery systems,
15 and providers that:

16 (I) Facilitate diagnosis or treatment;

17 (II) Reduce unnecessary duplication of medical tests;

18 (III) Promote efficient electronic physician order entry;

19 (IV) Increase access to health information for consumers and
20 their providers; and

21 (V) Improve health outcomes;

22 (C) Coordinate a strategy for the adoption of health information
23 technology systems using the final health information technology
24 report and recommendations developed under chapter 261, Laws of 2005;

25 (c) To analyze areas of public and private health care
26 interaction;

27 (d) To provide information and technical and administrative
28 assistance to the board and the school employees' benefits board;

29 (e) To review and approve or deny applications from counties,
30 municipalities, and other political subdivisions of the state to
31 provide state-sponsored insurance or self-insurance programs to their
32 employees in accordance with the provisions of RCW 41.04.205 and (g)
33 of this subsection, setting the premium contribution for approved
34 groups as outlined in RCW 41.05.050;

35 (f) To review and approve or deny the application when the
36 governing body of a tribal government applies to transfer their
37 employees to an insurance or self-insurance program administered
38 under this chapter. In the event of an employee transfer pursuant to
39 this subsection (1)(f), members of the governing body are eligible to
40 be included in such a transfer if the members are authorized by the

1 tribal government to participate in the insurance program being
2 transferred from and subject to payment by the members of all costs
3 of insurance for the members. The authority shall: (i) Establish the
4 conditions for participation; (ii) have the sole right to reject the
5 application; and (iii) set the premium contribution for approved
6 groups as outlined in RCW 41.05.050. Approval of the application by
7 the authority transfers the employees and dependents involved to the
8 insurance, self-insurance, or health care program approved by the
9 authority;

10 (g) To ensure the continued status of the employee insurance or
11 self-insurance programs administered under this chapter as a
12 governmental plan under section 3(32) of the employee retirement
13 income security act of 1974, as amended, the authority shall limit
14 the participation of employees of a county, municipal, school
15 district, educational service district, or other political
16 subdivision, the Washington health benefit exchange, or a tribal
17 government, including providing for the participation of those
18 employees whose services are substantially all in the performance of
19 essential governmental functions, but not in the performance of
20 commercial activities;

21 (h) To establish billing procedures and collect funds from school
22 districts in a way that minimizes the administrative burden on
23 districts;

24 (i) Through December 31, 2019, to publish and distribute to
25 nonparticipating school districts and educational service districts
26 by October 1st of each year a description of health care benefit
27 plans available through the authority and the estimated cost if
28 school districts and educational service district employees were
29 enrolled;

30 (j) To apply for, receive, and accept grants, gifts, and other
31 payments, including property and service, from any governmental or
32 other public or private entity or person, and make arrangements as to
33 the use of these receipts to implement initiatives and strategies
34 developed under this section;

35 (k) To issue, distribute, and administer grants that further the
36 mission and goals of the authority;

37 (l) To adopt rules consistent with this chapter as described in
38 RCW 41.05.160 including, but not limited to:

39 (i) Setting forth the criteria established by the board under RCW
40 41.05.065, and by the school employees' benefits board under RCW

1 41.05.740, for determining whether an employee is eligible for
2 benefits;

3 (ii) Establishing an appeal process in accordance with chapter
4 34.05 RCW by which an employee may appeal an eligibility
5 determination;

6 (iii) Establishing a process to assure that the eligibility
7 determinations of an employing agency comply with the criteria under
8 this chapter, including the imposition of penalties as may be
9 authorized by the board or the school employees' benefits board;

10 (m)(i) To administer the medical services programs established
11 under chapter 74.09 RCW as the designated single state agency for
12 purposes of Title XIX of the federal social security act;

13 (ii) To administer the state children's health insurance program
14 under chapter 74.09 RCW for purposes of Title XXI of the federal
15 social security act;

16 (iii) To enter into agreements with the department of social and
17 health services for administration of medical care services programs
18 under Titles XIX and XXI of the social security act and programs
19 under chapters 71.05, 71.24, and 71.34 RCW. The agreements shall
20 establish the division of responsibilities between the authority and
21 the department with respect to mental health, chemical dependency,
22 and long-term care services, including services for persons with
23 developmental disabilities. The agreements shall be revised as
24 necessary, to comply with the final implementation plan adopted under
25 section 116, chapter 15, Laws of 2011 1st sp. sess.;

26 (iv) To adopt rules to carry out the purposes of chapter 74.09
27 RCW;

28 (v) To appoint such advisory committees or councils as may be
29 required by any federal statute or regulation as a condition to the
30 receipt of federal funds by the authority. The director may appoint
31 statewide committees or councils in the following subject areas: (A)
32 Health facilities; (B) children and youth services; (C) blind
33 services; (D) medical and health care; (E) drug abuse and alcoholism;
34 (F) rehabilitative services; and (G) such other subject matters as
35 are or come within the authority's responsibilities. The statewide
36 councils shall have representation from both major political parties
37 and shall have substantial consumer representation. Such committees
38 or councils shall be constituted as required by federal law or as the
39 director in his or her discretion may determine. The members of the
40 committees or councils shall hold office for three years except in

1 the case of a vacancy, in which event appointment shall be only for
2 the remainder of the unexpired term for which the vacancy occurs. No
3 member shall serve more than two consecutive terms. Members of such
4 state advisory committees or councils may be paid their travel
5 expenses in accordance with RCW 43.03.050 and 43.03.060 as now
6 existing or hereafter amended;

7 (n) To review and approve or deny the application from the
8 governing board of the Washington health benefit exchange to provide
9 state-sponsored insurance or self-insurance programs to employees of
10 the exchange. The authority shall (i) establish the conditions for
11 participation; (ii) have the sole right to reject an application; and
12 (iii) set the premium contribution for approved groups as outlined in
13 RCW 41.05.050.

14 (2) (~~On and after January 1, 1996,~~) The public employees'
15 benefits board and the school employees' benefits board (~~(beginning~~
16 ~~October 1, 2017,~~) may implement strategies to promote managed
17 competition among employee health benefit plans. Strategies may
18 include but are not limited to:

19 (a) Standardizing the benefit package;

20 (b) Soliciting competitive bids for the benefit package;

21 (c) Limiting the state's contribution to a percent of the lowest
22 priced qualified plan within a geographical area;

23 (d) Monitoring the impact of the approach under this subsection
24 with regards to: Efficiencies in health service delivery, cost shifts
25 to subscribers, access to and choice of managed care plans statewide,
26 and quality of health services. The health care authority shall also
27 advise on the value of administering a benchmark employer-managed
28 plan to promote competition among managed care plans.

29 **Sec. 7003.** RCW 41.05A.005 and 2011 1st sp.s. c 15 s 88 are each
30 amended to read as follows:

31 The purpose of this chapter is to provide the health care
32 authority with the powers, duties, and authority with respect to the
33 collection of overpayments and the coordination of benefits that are
34 currently provided to the department of social and health services in
35 chapter 43.20B RCW. Providing the health care authority with these
36 powers is necessary for the authority to administer medical services
37 programs established under chapter 74.09 RCW currently administered
38 by the department of social and health services programs but
39 transferred to the authority under chapter 15, Laws of 2011 1st sp.

1 sess., and programs transferred to the authority under chapter . . . ,
2 Laws of 2018 (this act). The authority is authorized to collaborate
3 with other state agencies in carrying out its duties under this
4 chapter and, to the extent appropriate, may enter into agreements
5 with such other agencies. Nothing in this chapter may be construed as
6 diminishing the powers, duties, and authority granted to the
7 department of social and health services in chapter 43.20B RCW with
8 respect to the programs that will remain under its jurisdiction
9 following enactment of chapter 15, Laws of 2011 1st sp. sess. and
10 chapter . . . , Laws of 2018 (this act).

11 **Sec. 7004.** RCW 74.09.050 and 2011 1st sp.s. c 15 s 5 are each
12 amended to read as follows:

13 (1) The director shall appoint such professional personnel and
14 other assistants and employees, including professional medical
15 screeners, as may be reasonably necessary to carry out the provisions
16 of this chapter or other applicable law. The medical screeners shall
17 be supervised by one or more physicians who shall be appointed by the
18 director or his or her designee. The director shall appoint a medical
19 director who is licensed under chapter 18.57 or 18.71 RCW.

20 (2) Whenever the director's authority is not specifically limited
21 by law, he or she has complete charge and supervisory powers over the
22 authority. The director is authorized to create such administrative
23 structures as deemed appropriate, except as otherwise specified by
24 law. The director has the power to employ such assistants and
25 personnel as may be necessary for the general administration of the
26 authority. Except as elsewhere specified, such employment must be in
27 accordance with the rules of the state civil service law, chapter
28 41.06 RCW.

29 **Sec. 7005.** RCW 74.09.055 and 2011 1st sp.s. c 15 s 6 are each
30 amended to read as follows:

31 The authority is authorized to establish copayment, deductible,
32 or coinsurance, or other cost-sharing requirements for recipients of
33 any medical programs defined in RCW 74.09.010 or other applicable
34 law, except that premiums shall not be imposed on children in
35 households at or below two hundred percent of the federal poverty
36 level.

1 **Sec. 7006.** RCW 74.09.080 and 2011 1st sp.s. c 15 s 8 are each
2 amended to read as follows:

3 In carrying out the administrative responsibility of this chapter
4 or other applicable law, the department or authority, as appropriate:

5 (1) May contract with an individual or a group, may utilize
6 existing local state public assistance offices, or establish separate
7 welfare medical care offices on a county or multicounty unit basis as
8 found necessary; and

9 (2) Shall determine both financial and functional eligibility for
10 persons applying for long-term care services under chapter 74.39 or
11 74.39A RCW as a unified process in a single long-term care
12 organizational unit.

13 **Sec. 7007.** RCW 74.09.120 and 2012 c 10 s 60 are each amended to
14 read as follows:

15 (1) The department shall purchase nursing home care by contract
16 and payment for the care shall be in accordance with the provisions
17 of chapter 74.46 RCW and rules adopted by the department. No payment
18 shall be made to a nursing home which does not permit inspection by
19 the authority and the department of every part of its premises and an
20 examination of all records, including financial records, methods of
21 administration, general and special dietary programs, the
22 disbursement of drugs and methods of supply, and any other records
23 the authority or the department deems relevant to the regulation of
24 nursing home operations, enforcement of standards for resident care,
25 and payment for nursing home services.

26 (2) The department may purchase nursing home care by contract in
27 veterans' homes operated by the state department of veterans affairs
28 and payment for the care shall be in accordance with the provisions
29 of chapter 74.46 RCW and rules adopted by the department under the
30 authority of RCW 74.46.800.

31 (3) The department may purchase care in institutions for persons
32 with intellectual disabilities, also known as intermediate care
33 facilities for persons with intellectual disabilities. The department
34 shall establish rules for reasonable accounting and reimbursement
35 systems for such care. Institutions for persons with intellectual
36 disabilities include licensed nursing homes, public institutions,
37 licensed assisted living facilities with fifteen beds or less, and
38 hospital facilities certified as intermediate care facilities for
39 persons with intellectual disabilities under the federal medicaid

1 program to provide health, habilitative, or rehabilitative services
2 and twenty-four hour supervision for persons with intellectual
3 disabilities or related conditions and includes in the program
4 "active treatment" as federally defined.

5 (4) The department may purchase care in institutions for mental
6 diseases by contract. The department shall establish rules for
7 reasonable accounting and reimbursement systems for such care.
8 Institutions for mental diseases are certified under the federal
9 medicaid program and primarily engaged in providing diagnosis,
10 treatment, or care to persons with mental diseases, including medical
11 attention, nursing care, and related services.

12 (5) Both the department and the authority may each purchase all
13 other services provided under this chapter or other applicable law by
14 contract or at rates established by the department or the authority
15 respectively.

16 **Sec. 7008.** RCW 74.09.160 and 2011 1st sp.s. c 15 s 10 are each
17 amended to read as follows:

18 Each vendor or group who has a contract and is rendering service
19 to eligible persons as defined in this chapter or other applicable
20 law shall submit such charges as agreed upon between the department
21 or authority, as appropriate, and the individual or group no later
22 than twelve months from the date of service. If the final charges are
23 not presented within the twelve-month period, they shall not be a
24 charge against the state. Said twelve-month period may also be
25 extended by regulation, but only if required by applicable federal
26 law or regulation, and to no more than the extension of time so
27 required.

28 **Sec. 7009.** RCW 74.09.210 and 2013 c 23 s 202 are each amended to
29 read as follows:

30 (1) No person, firm, corporation, partnership, association,
31 agency, institution, or other legal entity, but not including an
32 individual public assistance recipient of health care, shall, on
33 behalf of himself or herself or others, obtain or attempt to obtain
34 benefits or payments under this chapter or other applicable law in a
35 greater amount than that to which entitled by means of:

- 36 (a) A willful false statement;
- 37 (b) By willful misrepresentation, or by concealment of any
38 material facts; or

1 (c) By other fraudulent scheme or device, including, but not
2 limited to:

3 (i) Billing for services, drugs, supplies, or equipment that were
4 unfurnished, of lower quality, or a substitution or misrepresentation
5 of items billed; or

6 (ii) Repeated billing for purportedly covered items, which were
7 not in fact so covered.

8 (2) Any person or entity knowingly violating any of the
9 provisions of subsection (1) of this section shall be liable for
10 repayment of any excess benefits or payments received, plus interest
11 at the rate and in the manner provided in RCW 43.20B.695. Such person
12 or other entity shall further, in addition to any other penalties
13 provided by law, be subject to civil penalties. The director or the
14 attorney general may assess civil penalties in an amount not to
15 exceed three times the amount of such excess benefits or payments:
16 PROVIDED, That these civil penalties shall not apply to any acts or
17 omissions occurring prior to September 1, 1979. RCW 43.20A.215
18 governs notice of a civil fine assessed by the director and provides
19 the right to an adjudicative proceeding.

20 (3) A criminal action need not be brought against a person for
21 that person to be civilly liable under this section.

22 (4) In all administrative proceedings under this section,
23 service, adjudicative proceedings, and judicial review of such
24 determinations shall be in accordance with chapter 34.05 RCW, the
25 administrative procedure act.

26 (5) Civil penalties shall be deposited upon their receipt into
27 the medicaid fraud penalty account established in RCW 74.09.215.

28 (6) The attorney general may contract with private attorneys and
29 local governments in bringing actions under this section as
30 necessary.

31 **Sec. 7010.** RCW 74.09.220 and 1987 c 283 s 8 are each amended to
32 read as follows:

33 Any person, firm, corporation, partnership, association, agency,
34 institution or other legal entity, but not including an individual
35 public assistance recipient of health care, that, without intent to
36 violate this chapter or other applicable law, obtains benefits or
37 payments under this code to which such person or entity is not
38 entitled, or in a greater amount than that to which entitled, shall
39 be liable for (1) any excess benefits or payments received, and (2)

1 interest calculated at the rate and in the manner provided in RCW
2 43.20B.695. Whenever a penalty is due under RCW 74.09.210 or interest
3 is due under RCW 43.20B.695, such penalty or interest shall not be
4 reimbursable by the state as an allowable cost under any of the
5 provisions of this chapter or other applicable law.

6 **Sec. 7011.** RCW 74.09.230 and 2013 c 23 s 203 are each amended to
7 read as follows:

8 Any person, including any corporation, that

9 (1) knowingly makes or causes to be made any false statement or
10 representation of a material fact in any application for any payment
11 under any medical care program authorized under this chapter or other
12 applicable law, or

13 (2) at any time knowingly makes or causes to be made any false
14 statement or representation of a material fact for use in determining
15 rights to such payment, or knowingly falsifies, conceals, or covers
16 up by any trick, scheme, or device a material fact in connection with
17 such application or payment, or

18 (3) having knowledge of the occurrence of any event affecting (a)
19 the initial or continued right to any payment, or (b) the initial or
20 continued right to any such payment of any other individual in whose
21 behalf he or she has applied for or is receiving such payment,
22 conceals or fails to disclose such event with an intent fraudulently
23 to secure such payment either in a greater amount or quantity than is
24 due or when no such payment is authorized,
25 shall be guilty of a class C felony: PROVIDED, That the fine, if
26 imposed, shall not be in an amount more than twenty-five thousand
27 dollars, except as authorized by RCW 9A.20.030.

28 **Sec. 7012.** RCW 74.09.240 and 2011 1st sp.s. c 15 s 16 are each
29 amended to read as follows:

30 (1) Any person, including any corporation, that solicits or
31 receives any remuneration (including any kickback, bribe, or rebate)
32 directly or indirectly, overtly or covertly, in cash or in kind

33 (a) in return for referring an individual to a person for the
34 furnishing or arranging for the furnishing of any item or service for
35 which payment may be made in whole or in part under this chapter or
36 other applicable law, or

37 (b) in return for purchasing, leasing, ordering, or arranging for
38 or recommending purchasing, leasing, or ordering any goods, facility,

1 service, or item for which payment may be made in whole or in part
2 under this chapter or other applicable law,
3 shall be guilty of a class C felony; however, the fine, if imposed,
4 shall not be in an amount more than twenty-five thousand dollars,
5 except as authorized by RCW 9A.20.030.

6 (2) Any person, including any corporation, that offers or pays
7 any remuneration (including any kickback, bribe, or rebate) directly
8 or indirectly, overtly or covertly, in cash or in kind to any person
9 to induce such person

10 (a) to refer an individual to a person for the furnishing or
11 arranging for the furnishing of any item or service for which payment
12 may be made, in whole or in part, under this chapter or other
13 applicable law, or

14 (b) to purchase, lease, order, or arrange for or recommend
15 purchasing, leasing, or ordering any goods, facility, service, or
16 item for which payment may be made in whole or in part under this
17 chapter or other applicable law,
18 shall be guilty of a class C felony; however, the fine, if imposed,
19 shall not be in an amount more than twenty-five thousand dollars,
20 except as authorized by RCW 9A.20.030.

21 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are
22 prohibited from self-referring any client eligible under this chapter
23 for the following designated health services to a facility in which
24 the physician or an immediate family member has a financial
25 relationship:

- 26 (i) Clinical laboratory services;
- 27 (ii) Physical therapy services;
- 28 (iii) Occupational therapy services;
- 29 (iv) Radiology including magnetic resonance imaging, computerized
30 axial tomography, and ultrasound services;
- 31 (v) Durable medical equipment and supplies;
- 32 (vi) Parenteral and enteral nutrients equipment and supplies;
- 33 (vii) Prosthetics, orthotics, and prosthetic devices;
- 34 (viii) Home health services;
- 35 (ix) Outpatient prescription drugs;
- 36 (x) Inpatient and outpatient hospital services;
- 37 (xi) Radiation therapy services and supplies.

38 (b) For purposes of this subsection, "financial relationship"
39 means the relationship between a physician and an entity that
40 includes either:

- 1 (i) An ownership or investment interest; or
- 2 (ii) A compensation arrangement.

3 For purposes of this subsection, "compensation arrangement" means
4 an arrangement involving remuneration between a physician, or an
5 immediate family member of a physician, and an entity.

6 (c) The department or authority, as appropriate, is authorized to
7 adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23,
8 1995.

9 (d) This section shall not apply in any case covered by a general
10 exception specified in 42 U.S.C. Sec. 1395 nn.

11 (4) Subsections (1) and (2) of this section shall not apply to:

12 (a) A discount or other reduction in price obtained by a provider
13 of services or other entity under this chapter or other applicable
14 law if the reduction in price is properly disclosed and appropriately
15 reflected in the costs claimed or charges made by the provider or
16 entity under this chapter or other applicable law; and

17 (b) Any amount paid by an employer to an employee (who has a bona
18 fide employment relationship with such employer) for employment in
19 the provision of covered items or services.

20 (5) Subsections (1) and (2) of this section, if applicable to the
21 conduct involved, shall supersede the criminal provisions of chapter
22 19.68 RCW, but shall not preclude administrative proceedings
23 authorized by chapter 19.68 RCW.

24 **Sec. 7013.** RCW 74.09.260 and 2011 1st sp.s. c 15 s 17 are each
25 amended to read as follows:

26 Any person, including any corporation, that knowingly:

27 (1) Charges, for any service provided to a patient under any
28 medical care plan authorized under this chapter or other applicable
29 law, money or other consideration at a rate in excess of the rates
30 established by the department or authority, as appropriate; or

31 (2) Charges, solicits, accepts, or receives, in addition to any
32 amount otherwise required to be paid under such plan, any gift,
33 money, donation, or other consideration (other than a charitable,
34 religious, or philanthropic contribution from an organization or from
35 a person unrelated to the patient):

36 (a) As a precondition of admitting a patient to a hospital or
37 nursing facility; or

38 (b) As a requirement for the patient's continued stay in such
39 facility,

1 when the cost of the services provided therein to the patient is paid
2 for, in whole or in part, under such plan, shall be guilty of a class
3 C felony: PROVIDED, That the fine, if imposed, shall not be in an
4 amount more than twenty-five thousand dollars, except as authorized
5 by RCW 9A.20.030.

6 **Sec. 7014.** RCW 74.09.280 and 2011 1st sp.s. c 15 s 18 are each
7 amended to read as follows:

8 The secretary or director may by rule require that any
9 application, statement, or form filled out by suppliers of medical
10 care under this chapter or other applicable law shall contain or be
11 verified by a written statement that it is made under the penalties
12 of perjury and such declaration shall be in lieu of any oath
13 otherwise required, and each such paper shall in such event so state.
14 The making or subscribing of any such papers or forms containing any
15 false or misleading information may be prosecuted and punished under
16 chapter 9A.72 RCW.

17 **Sec. 7015.** RCW 74.09.290 and 2011 1st sp.s. c 15 s 19 are each
18 amended to read as follows:

19 The secretary or director shall have the authority to:

20 (1) Conduct audits and investigations of providers of medical and
21 other services furnished pursuant to this chapter or other applicable
22 law, except that the Washington state medical quality assurance
23 commission shall generally serve in an advisory capacity to the
24 secretary or director in the conduct of audits or investigations of
25 physicians. Any overpayment discovered as a result of an audit of a
26 provider under this authority shall be offset by any underpayments
27 discovered in that same audit sample. In order to determine the
28 provider's actual, usual, customary, or prevailing charges, the
29 secretary or director may examine such random representative records
30 as necessary to show accounts billed and accounts received except
31 that in the conduct of such examinations, patient names, other than
32 public assistance applicants or recipients, shall not be noted,
33 copied, or otherwise made available to the department or authority.
34 In order to verify costs incurred by the department or authority for
35 treatment of public assistance applicants or recipients, the
36 secretary or director may examine patient records or portions thereof
37 in connection with services to such applicants or recipients rendered
38 by a health care provider, notwithstanding the provisions of RCW

1 5.60.060, 18.53.200, 18.83.110, or any other statute which may make
2 or purport to make such records privileged or confidential: PROVIDED,
3 That no original patient records shall be removed from the premises
4 of the health care provider, and that the disclosure of any records
5 or information by the department or the authority is prohibited and
6 shall be punishable as a class C felony according to chapter 9A.20
7 RCW, unless such disclosure is directly connected to the official
8 purpose for which the records or information were obtained: PROVIDED
9 FURTHER, That the disclosure of patient information as required under
10 this section shall not subject any physician or other health services
11 provider to any liability for breach of any confidential relationship
12 between the provider and the patient, but no evidence resulting from
13 such disclosure may be used in any civil, administrative, or criminal
14 proceeding against the patient unless a waiver of the applicable
15 evidentiary privilege is obtained: PROVIDED FURTHER, That the
16 secretary or director shall destroy all copies of patient medical
17 records in their possession upon completion of the audit,
18 investigation or proceedings;

19 (2) Approve or deny applications to participate as a provider of
20 services furnished pursuant to this chapter or other applicable law;

21 (3) Terminate or suspend eligibility to participate as a provider
22 of services furnished pursuant to this chapter or other applicable
23 law; and

24 (4) Adopt, promulgate, amend, and repeal administrative rules, in
25 accordance with the administrative procedure act, chapter 34.05 RCW,
26 to carry out the policies and purposes of this section and RCW
27 74.09.200 through ((74.09.290)) 74.09.280.

28 **Sec. 7016.** RCW 74.09.315 and 2012 c 241 s 104 are each amended
29 to read as follows:

30 (1) For the purposes of this section:

31 (a) "Employer" means any person, firm, corporation, partnership,
32 association, agency, institution, or other legal entity.

33 (b) "Whistleblower" means an employee of an employer that obtains
34 or attempts to obtain benefits or payments under this chapter or
35 other applicable law in violation of RCW 74.09.210, who in good faith
36 reports a violation of RCW 74.09.210 to the authority.

37 (c) "Workplace reprisal or retaliatory action" includes, but is
38 not limited to: Denial of adequate staff to fulfill duties; frequent
39 staff changes; frequent and undesirable office changes; refusal to

1 assign meaningful work; unwarranted and unsubstantiated report of
2 misconduct under Title 18 RCW; unwarranted and unsubstantiated
3 letters of reprimand or unsatisfactory performance evaluations;
4 demotion; reduction in pay; denial of promotion; suspension;
5 dismissal; denial of employment; ((~~or~~)) a supervisor or superior
6 behaving in or encouraging coworkers to behave in a hostile manner
7 toward the whistleblower; or a change in the physical location of the
8 employee's workplace or a change in the basic nature of the
9 employee's job, if either are in opposition to the employee's
10 expressed wish.

11 (2) A whistleblower who has been subjected to workplace reprisal
12 or retaliatory action has the remedies provided under chapter 49.60
13 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to
14 persons who communicate to government agencies, apply to complaints
15 made under this section. The identity of a whistleblower who
16 complains, in good faith, to the authority about a suspected
17 violation of RCW 74.09.210 may remain confidential if requested. The
18 identity of the whistleblower must subsequently remain confidential
19 unless the authority determines that the complaint was not made in
20 good faith.

21 (3) This section does not prohibit an employer from exercising
22 its authority to terminate, suspend, or discipline an employee who
23 engages in workplace reprisal or retaliatory action against a
24 whistleblower. The protections provided to whistleblowers under this
25 chapter do not prevent an employer from: (a) Terminating, suspending,
26 or disciplining a whistleblower for other lawful purposes; or (b)
27 reducing the hours of employment or terminating employment as a
28 result of the demonstrated inability to meet payroll requirements.
29 The authority shall determine if the employer cannot meet payroll in
30 cases where a whistleblower has been terminated or had hours of
31 employment reduced due to the inability of a facility to meet
32 payroll.

33 (4) The authority shall adopt rules to implement procedures for
34 filing, investigation, and resolution of whistleblower complaints
35 that are integrated with complaint procedures under this chapter. The
36 authority shall adopt rules designed to discourage whistleblower
37 complaints made in bad faith or for retaliatory purposes.

38 **Sec. 7017.** RCW 74.09.522 and 2015 c 256 s 1 are each amended to
39 read as follows:

1 (1) For the purposes of this section:

2 (a) "Managed health care system" means any health care
3 organization, including health care providers, insurers, health care
4 service contractors, health maintenance organizations, health
5 insuring organizations, or any combination thereof, that provides
6 directly or by contract health care services covered under this
7 chapter or other applicable law and rendered by licensed providers,
8 on a prepaid capitated basis and that meets the requirements of
9 section 1903(m)(1)(A) of Title XIX of the federal social security act
10 or federal demonstration waivers granted under section 1115(a) of
11 Title XI of the federal social security act;

12 (b) "Nonparticipating provider" means a person, health care
13 provider, practitioner, facility, or entity, acting within their
14 scope of practice, that does not have a written contract to
15 participate in a managed health care system's provider network, but
16 provides health care services to enrollees of programs authorized
17 under this chapter or other applicable law whose health care services
18 are provided by the managed health care system.

19 (2) The authority shall enter into agreements with managed health
20 care systems to provide health care services to recipients of
21 temporary assistance for needy families under the following
22 conditions:

23 (a) Agreements shall be made for at least thirty thousand
24 recipients statewide;

25 (b) Agreements in at least one county shall include enrollment of
26 all recipients of temporary assistance for needy families;

27 (c) To the extent that this provision is consistent with section
28 1903(m) of Title XIX of the federal social security act or federal
29 demonstration waivers granted under section 1115(a) of Title XI of
30 the federal social security act, recipients shall have a choice of
31 systems in which to enroll and shall have the right to terminate
32 their enrollment in a system: PROVIDED, That the authority may limit
33 recipient termination of enrollment without cause to the first month
34 of a period of enrollment, which period shall not exceed twelve
35 months: AND PROVIDED FURTHER, That the authority shall not restrict a
36 recipient's right to terminate enrollment in a system for good cause
37 as established by the authority by rule;

38 (d) To the extent that this provision is consistent with section
39 1903(m) of Title XIX of the federal social security act,
40 participating managed health care systems shall not enroll a

1 disproportionate number of medical assistance recipients within the
2 total numbers of persons served by the managed health care systems,
3 except as authorized by the authority under federal demonstration
4 waivers granted under section 1115(a) of Title XI of the federal
5 social security act;

6 (e)(i) In negotiating with managed health care systems the
7 authority shall adopt a uniform procedure to enter into contractual
8 arrangements, to be included in contracts issued or renewed on or
9 after January 1, 2015, including:

10 (A) Standards regarding the quality of services to be provided;

11 (B) The financial integrity of the responding system;

12 (C) Provider reimbursement methods that incentivize chronic care
13 management within health homes, including comprehensive medication
14 management services for patients with multiple chronic conditions
15 consistent with the findings and goals established in RCW 74.09.5223;

16 (D) Provider reimbursement methods that reward health homes that,
17 by using chronic care management, reduce emergency department and
18 inpatient use;

19 (E) Promoting provider participation in the program of training
20 and technical assistance regarding care of people with chronic
21 conditions described in RCW 43.70.533, including allocation of funds
22 to support provider participation in the training, unless the managed
23 care system is an integrated health delivery system that has programs
24 in place for chronic care management;

25 (F) Provider reimbursement methods within the medical billing
26 processes that incentivize pharmacists or other qualified providers
27 licensed in Washington state to provide comprehensive medication
28 management services consistent with the findings and goals
29 established in RCW 74.09.5223;

30 (G) Evaluation and reporting on the impact of comprehensive
31 medication management services on patient clinical outcomes and total
32 health care costs, including reductions in emergency department
33 utilization, hospitalization, and drug costs; and

34 (H) Established consistent processes to incentivize integration
35 of behavioral health services in the primary care setting, promoting
36 care that is integrated, collaborative, colocated, and preventive.

37 (ii)(A) Health home services contracted for under this subsection
38 may be prioritized to enrollees with complex, high cost, or multiple
39 chronic conditions.

1 (B) Contracts that include the items in (e)(i)(C) through (G) of
2 this subsection must not exceed the rates that would be paid in the
3 absence of these provisions;

4 (f) The authority shall seek waivers from federal requirements as
5 necessary to implement this chapter;

6 (g) The authority shall, wherever possible, enter into prepaid
7 capitation contracts that include inpatient care. However, if this is
8 not possible or feasible, the authority may enter into prepaid
9 capitation contracts that do not include inpatient care;

10 (h) The authority shall define those circumstances under which a
11 managed health care system is responsible for out-of-plan services
12 and assure that recipients shall not be charged for such services;

13 (i) Nothing in this section prevents the authority from entering
14 into similar agreements for other groups of people eligible to
15 receive services under this chapter; and

16 (j) The authority must consult with the federal center for
17 medicare and medicaid innovation and seek funding opportunities to
18 support health homes.

19 (3) The authority shall ensure that publicly supported community
20 health centers and providers in rural areas, who show serious intent
21 and apparent capability to participate as managed health care systems
22 are seriously considered as contractors. The authority shall
23 coordinate its managed care activities with activities under chapter
24 70.47 RCW.

25 (4) The authority shall work jointly with the state of Oregon and
26 other states in this geographical region in order to develop
27 recommendations to be presented to the appropriate federal agencies
28 and the United States congress for improving health care of the poor,
29 while controlling related costs.

30 (5) The legislature finds that competition in the managed health
31 care marketplace is enhanced, in the long term, by the existence of a
32 large number of managed health care system options for medicaid
33 clients. In a managed care delivery system, whose goal is to focus on
34 prevention, primary care, and improved enrollee health status,
35 continuity in care relationships is of substantial importance, and
36 disruption to clients and health care providers should be minimized.
37 To help ensure these goals are met, the following principles shall
38 guide the authority in its healthy options managed health care
39 purchasing efforts:

1 (a) All managed health care systems should have an opportunity to
2 contract with the authority to the extent that minimum contracting
3 requirements defined by the authority are met, at payment rates that
4 enable the authority to operate as far below appropriated spending
5 levels as possible, consistent with the principles established in
6 this section.

7 (b) Managed health care systems should compete for the award of
8 contracts and assignment of medicaid beneficiaries who do not
9 voluntarily select a contracting system, based upon:

10 (i) Demonstrated commitment to or experience in serving low-
11 income populations;

12 (ii) Quality of services provided to enrollees;

13 (iii) Accessibility, including appropriate utilization, of
14 services offered to enrollees;

15 (iv) Demonstrated capability to perform contracted services,
16 including ability to supply an adequate provider network;

17 (v) Payment rates; and

18 (vi) The ability to meet other specifically defined contract
19 requirements established by the authority, including consideration of
20 past and current performance and participation in other state or
21 federal health programs as a contractor.

22 (c) Consideration should be given to using multiple year
23 contracting periods.

24 (d) Quality, accessibility, and demonstrated commitment to
25 serving low-income populations shall be given significant weight in
26 the contracting, evaluation, and assignment process.

27 (e) All contractors that are regulated health carriers must meet
28 state minimum net worth requirements as defined in applicable state
29 laws. The authority shall adopt rules establishing the minimum net
30 worth requirements for contractors that are not regulated health
31 carriers. This subsection does not limit the authority of the
32 Washington state health care authority to take action under a
33 contract upon finding that a contractor's financial status seriously
34 jeopardizes the contractor's ability to meet its contract
35 obligations.

36 (f) Procedures for resolution of disputes between the authority
37 and contract bidders or the authority and contracting carriers
38 related to the award of, or failure to award, a managed care contract
39 must be clearly set out in the procurement document.

1 (6) The authority may apply the principles set forth in
2 subsection (5) of this section to its managed health care purchasing
3 efforts on behalf of clients receiving supplemental security income
4 benefits to the extent appropriate.

5 (7) By April 1, 2016, any contract with a managed health care
6 system to provide services to medical assistance enrollees shall
7 require that managed health care systems offer contracts to
8 behavioral health organizations, mental health providers, or chemical
9 dependency treatment providers to provide access to primary care
10 services integrated into behavioral health clinical settings, for
11 individuals with behavioral health and medical comorbidities.

12 (8) Managed health care system contracts effective on or after
13 April 1, 2016, shall serve geographic areas that correspond to the
14 regional service areas established in RCW 43.20A.893 (as recodified
15 by this act).

16 (9) A managed health care system shall pay a nonparticipating
17 provider that provides a service covered under this chapter or other
18 applicable law to the system's enrollee no more than the lowest
19 amount paid for that service under the managed health care system's
20 contracts with similar providers in the state if the managed health
21 care system has made good faith efforts to contract with the
22 nonparticipating provider.

23 (10) For services covered under this chapter or other applicable
24 law to medical assistance or medical care services enrollees and
25 provided on or after August 24, 2011, nonparticipating providers must
26 accept as payment in full the amount paid by the managed health care
27 system under subsection (9) of this section in addition to any
28 deductible, coinsurance, or copayment that is due from the enrollee
29 for the service provided. An enrollee is not liable to any
30 nonparticipating provider for covered services, except for amounts
31 due for any deductible, coinsurance, or copayment under the terms and
32 conditions set forth in the managed health care system contract to
33 provide services under this section.

34 (11) Pursuant to federal managed care access standards, 42 C.F.R.
35 Sec. 438, managed health care systems must maintain a network of
36 appropriate providers that is supported by written agreements
37 sufficient to provide adequate access to all services covered under
38 the contract with the authority, including hospital-based physician
39 services. The authority will monitor and periodically report on the
40 proportion of services provided by contracted providers and

1 nonparticipating providers, by county, for each managed health care
2 system to ensure that managed health care systems are meeting network
3 adequacy requirements. No later than January 1st of each year, the
4 authority will review and report its findings to the appropriate
5 policy and fiscal committees of the legislature for the preceding
6 state fiscal year.

7 (12) Payments under RCW 74.60.130 are exempt from this section.

8 (13) Subsections (9) through (11) of this section expire July 1,
9 2021.

10 **Sec. 7018.** RCW 74.09.530 and 2011 1st sp.s. c 15 s 32 are each
11 amended to read as follows:

12 (1)(a) The authority is designated as the single state agency for
13 purposes of Title XIX of the federal social security act.

14 (b) The amount and nature of medical assistance and the
15 determination of eligibility of recipients for medical assistance
16 shall be the responsibility of the authority.

17 (c) The authority shall establish reasonable standards of
18 assistance and resource and income exemptions which shall be
19 consistent with the provisions of the social security act and federal
20 regulations for determining eligibility of individuals for medical
21 assistance and the extent of such assistance to the extent that funds
22 are available from the state and federal government. The authority
23 shall not consider resources in determining continuing eligibility
24 for recipients eligible under section 1931 of the social security
25 act.

26 (d) The authority is authorized to collaborate with other state
27 or local agencies and nonprofit organizations in carrying out its
28 duties under this chapter or other applicable law and, to the extent
29 appropriate, may enter into agreements with such other entities.

30 (2) Individuals eligible for medical assistance under RCW
31 74.09.510(3) shall be transitioned into coverage under that
32 subsection immediately upon their termination from coverage under RCW
33 74.09.510(2)(a). The authority shall use income eligibility standards
34 and eligibility determinations applicable to children placed in
35 foster care. The authority shall provide information regarding basic
36 health plan enrollment and shall offer assistance with the
37 application and enrollment process to individuals covered under RCW
38 74.09.510(3) who are approaching their twenty-first birthday.

1 **Sec. 7019.** RCW 74.09.540 and 2011 1st sp.s. c 15 s 33 are each
2 amended to read as follows:

3 (1) It is the intent of the legislature to remove barriers to
4 employment for individuals with disabilities by providing medical
5 assistance to working individuals with disabilities through a buy-in
6 program in accordance with section 1902(a)(10)(A)(ii) of the social
7 security act and eligibility and cost-sharing requirements
8 established by the authority.

9 (2) The authority shall establish income, resource, and cost-
10 sharing requirements for the buy-in program in accordance with
11 federal law and any conditions or limitations specified in the
12 omnibus appropriations act. The authority shall establish and modify
13 eligibility and cost-sharing requirements in order to administer the
14 program within available funds. The authority shall make every effort
15 to coordinate benefits with employer-sponsored coverage available to
16 the working individuals with disabilities receiving benefits under
17 this chapter or other applicable law.

18 **Sec. 7020.** RCW 74.09.730 and 2011 1st sp.s. c 15 s 47 are each
19 amended to read as follows:

20 (1) In establishing Title XIX payments for inpatient hospital
21 services:

22 ~~((1))~~ (a) To the extent funds are appropriated specifically for
23 this purpose, and subject to any conditions placed on appropriations
24 made for this purpose, the authority shall provide a disproportionate
25 share hospital adjustment considering the following components:

26 ~~((a))~~ (i) A low-income care component based on a hospital's
27 medicaid utilization rate, its low-income utilization rate, its
28 provision of obstetric services, and other factors authorized by
29 federal law;

30 ~~((b))~~ (ii) A medical indigency care component based on a
31 hospital's services to persons who are medically indigent; and

32 ~~((c))~~ (iii) A state-only component, to be paid from available
33 state funds to hospitals that do not qualify for federal payments
34 under ~~((b))~~ (a)(ii) of this subsection, based on a hospital's
35 services to persons who are medically indigent;

36 ~~((2))~~ (b) The payment methodology for disproportionate share
37 hospitals shall be specified by the authority in regulation.

38 ~~((3))~~ (2) Nothing in this section shall be construed as a right
39 or an entitlement by any hospital to any payment from the authority.

1 **Sec. 7021.** RCW 74.09.780 and 1989 1st ex.s. c 10 s 3 are each
2 amended to read as follows:

3 The legislature reserves the right to amend or repeal all or any
4 part of this ((chapter-[subchapter])) subchapter at any time and
5 there shall be no vested private right of any kind against such
6 amendment or repeal. All rights, privileges, or immunities conferred
7 by this ((chapter-[subchapter])) subchapter or any acts done pursuant
8 thereto shall exist subject to the power of the legislature to amend
9 or repeal this ((chapter-[subchapter])) subchapter at any time.

10 **Sec. 7022.** RCW 74.64.010 and 2012 c 234 s 2 are each amended to
11 read as follows:

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Authority" means the Washington state health care authority.

15 (2) "Enrollee" means an individual who receives benefits through
16 a medical services program.

17 (3) "Medical services programs" means those medical programs
18 established under chapter 74.09 RCW or other applicable law,
19 including medical assistance, the limited casualty program,
20 children's health program, medical care services, and state
21 children's health insurance program.

22 **Sec. 7023.** RCW 74.66.010 and 2012 c 241 s 201 are each amended
23 to read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter:

26 (1)(a) "Claim" means any request or demand made for a medicaid
27 payment under chapter 74.09 RCW or other applicable law, whether
28 under a contract or otherwise, for money or property and whether or
29 not a government entity has title to the money or property, that:

30 (i) Is presented to an officer, employee, or agent of a
31 government entity; or

32 (ii) Is made to a contractor, grantee, or other recipient, if the
33 money or property is to be spent or used on the government entity's
34 behalf or to advance a government entity program or interest, and the
35 government entity:

36 (A) Provides or has provided any portion of the money or property
37 requested or demanded; or

1 (B) Will reimburse such contractor, grantee, or other recipient
2 for any portion of the money or property which is requested or
3 demanded.

4 (b) A "claim" does not include requests or demands for money or
5 property that the government entity has paid to an individual as
6 compensation for employment or as an income subsidy with no
7 restrictions on that individual's use of the money or property.

8 (2) "Custodian" means the custodian, or any deputy custodian,
9 designated by the attorney general.

10 (3) "Documentary material" includes the original or any copy of
11 any book, record, report, memorandum, paper, communication,
12 tabulation, chart, or other document, or data compilations stored in
13 or accessible through computer or other information retrieval
14 systems, together with instructions and all other materials necessary
15 to use or interpret the data compilations, and any product of
16 discovery.

17 (4) "False claims act investigation" means any inquiry conducted
18 by any false claims act investigator for the purpose of ascertaining
19 whether any person is or has been engaged in any violation of this
20 chapter.

21 (5) "False claims act investigator" means any attorney or
22 investigator employed by the state attorney general who is charged
23 with the duty of enforcing or carrying into effect any provision of
24 this chapter, or any officer or employee of the state of Washington
25 acting under the direction and supervision of the attorney or
26 investigator in connection with an investigation pursuant to this
27 chapter.

28 (6) "Government entity" means all Washington state agencies that
29 administer medicaid-funded programs under this title.

30 (7)(a) "Knowing" and "knowingly" mean that a person, with respect
31 to information:

32 (i) Has actual knowledge of the information;

33 (ii) Acts in deliberate ignorance of the truth or falsity of the
34 information; or

35 (iii) Acts in reckless disregard of the truth or falsity of the
36 information.

37 (b) "Knowing" and "knowingly" do not require proof of specific
38 intent to defraud.

1 (8) "Material" means having a natural tendency to influence, or
2 be capable of influencing, the payment or receipt of money or
3 property.

4 (9) "Obligation" means an established duty, whether or not fixed,
5 arising from an express or implied contractual, grantor-grantee, or
6 licensor-licensee relationship, from a fee-based or similar
7 relationship, from statute or rule, or from the retention of any
8 overpayment.

9 (10) "Official use" means any use that is consistent with the
10 law, and the rules and policies of the attorney general, including
11 use in connection with: Internal attorney general memoranda and
12 reports; communications between the attorney general and a federal,
13 state, or local government agency, or a contractor of a federal,
14 state, or local government agency, undertaken in furtherance of an
15 investigation or prosecution of a case; interviews of any qui tam
16 relator or other witness; oral examinations; depositions; preparation
17 for and response to civil discovery requests; introduction into the
18 record of a case or proceeding; applications, motions, memoranda, and
19 briefs submitted to a court or other tribunal; and communications
20 with attorney general investigators, auditors, consultants and
21 experts, the counsel of other parties, and arbitrators or mediators,
22 concerning an investigation, case, or proceeding.

23 (11) "Person" means any natural person, partnership, corporation,
24 association, or other legal entity, including any local or political
25 subdivision of a state.

26 (12) "Product of discovery" includes:

27 (a) The original or duplicate of any deposition, interrogatory,
28 document, thing, result of the inspection of land or other property,
29 examination, or admission, which is obtained by any method of
30 discovery in any judicial or administrative proceeding of an
31 adversarial nature;

32 (b) Any digest, analysis, selection, compilation, or derivation
33 of any item listed in (a) of this subsection; and

34 (c) Any index or other manner of access to any item listed in (a)
35 of this subsection.

36 (13) "Qui tam action" is an action brought by a person under RCW
37 74.66.050.

38 (14) "Qui tam relator" or "relator" is a person who brings an
39 action under RCW 74.66.050.

PART 8

1
2 **Sec. 8001.** RCW 70.02.010 and 2016 sp.s. c 29 s 416 are each
3 amended to read as follows:

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

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

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

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

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

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

15 (3) "Authority" means the Washington state health care authority.

16 ~~(4)~~ (5) "Commitment" has the same meaning as in RCW 71.05.020.

17 ~~((+4))~~ (5) "Custody" has the same meaning as in RCW 71.05.020.
18 ~~((+5))~~ (6) "Deidentified" means health information that does not
19 identify an individual and with respect to which there is no
20 reasonable basis to believe that the information can be used to
21 identify an individual.

22 ~~((+6))~~ (7) "Department" means the department of social and
23 health services.

24 ~~((+7))~~ (8) "Designated crisis responder" has the same meaning as
25 in RCW 71.05.020 or 71.34.020, as applicable.

26 ~~((+8))~~ (9) "Detention" or "detain" has the same meaning as in
27 RCW 71.05.020.

28 ~~((+9))~~ (10) "Directory information" means information disclosing
29 the presence, and for the purpose of identification, the name,
30 location within a health care facility, and the general health
31 condition of a particular patient who is a patient in a health care
32 facility or who is currently receiving emergency health care in a
33 health care facility.

34 ~~((+10))~~ (11) "Discharge" has the same meaning as in RCW
35 71.05.020.

36 ~~((+11))~~ (12) "Evaluation and treatment facility" has the same
37 meaning as in RCW 71.05.020 or 71.34.020, as applicable.

38 ~~((+12))~~ (13) "Federal, state, or local law enforcement
39 authorities" means an officer of any agency or authority in the

1 United States, a state, a tribe, a territory, or a political
2 subdivision of a state, a tribe, or a territory who is empowered by
3 law to: (a) Investigate or conduct an official inquiry into a
4 potential criminal violation of law; or (b) prosecute or otherwise
5 conduct a criminal proceeding arising from an alleged violation of
6 law.

7 ~~((13))~~ (14) "General health condition" means the patient's
8 health status described in terms of "critical," "poor," "fair,"
9 "good," "excellent," or terms denoting similar conditions.

10 ~~((14))~~ (15) "Health care" means any care, service, or procedure
11 provided by a health care provider:

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

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

15 ~~((15))~~ (16) "Health care facility" means a hospital, clinic,
16 nursing home, laboratory, office, or similar place where a health
17 care provider provides health care to patients.

18 ~~((16))~~ (17) "Health care information" means any information,
19 whether oral or recorded in any form or medium, that identifies or
20 can readily be associated with the identity of a patient and directly
21 relates to the patient's health care, including a patient's
22 deoxyribonucleic acid and identified sequence of chemical base pairs.
23 The term includes any required accounting of disclosures of health
24 care information.

25 ~~((17))~~ (18) "Health care operations" means any of the following
26 activities of a health care provider, health care facility, or third-
27 party payor to the extent that the activities are related to
28 functions that make an entity a health care provider, a health care
29 facility, or a third-party payor:

30 (a) Conducting: Quality assessment and improvement activities,
31 including outcomes evaluation and development of clinical guidelines,
32 if the obtaining of generalizable knowledge is not the primary
33 purpose of any studies resulting from such activities; population-
34 based activities relating to improving health or reducing health care
35 costs, protocol development, case management and care coordination,
36 contacting of health care providers and patients with information
37 about treatment alternatives; and related functions that do not
38 include treatment;

39 (b) Reviewing the competence or qualifications of health care
40 professionals, evaluating practitioner and provider performance and

1 third-party payor performance, conducting training programs in which
2 students, trainees, or practitioners in areas of health care learn
3 under supervision to practice or improve their skills as health care
4 providers, training of nonhealth care professionals, accreditation,
5 certification, licensing, or credentialing activities;

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

12 (d) Conducting or arranging for medical review, legal services,
13 and auditing functions, including fraud and abuse detection and
14 compliance programs;

15 (e) Business planning and development, such as conducting cost-
16 management and planning-related analyses related to managing and
17 operating the health care facility or third-party payor, including
18 formulary development and administration, development, or improvement
19 of methods of payment or coverage policies; and

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

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

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

29 (iii) Resolution of internal grievances;

30 (iv) The sale, transfer, merger, or consolidation of all or part
31 of a health care provider, health care facility, or third-party payor
32 with another health care provider, health care facility, or third-
33 party payor or an entity that following such activity will become a
34 health care provider, health care facility, or third-party payor, and
35 due diligence related to such activity; and

36 (v) Consistent with applicable legal requirements, creating
37 deidentified health care information or a limited dataset for the
38 benefit of the health care provider, health care facility, or third-
39 party payor.

1 ~~((18))~~ (19) "Health care provider" means a person who is
2 licensed, certified, registered, or otherwise authorized by the law
3 of this state to provide health care in the ordinary course of
4 business or practice of a profession.

5 ~~((19))~~ (20) "Human immunodeficiency virus" or "HIV" has the
6 same meaning as in RCW 70.24.017.

7 ~~((20))~~ (21) "Imminent" has the same meaning as in RCW
8 71.05.020.

9 ~~((21))~~ (22) "Information and records related to mental health
10 services" means a type of health care information that relates to all
11 information and records compiled, obtained, or maintained in the
12 course of providing services by a mental health service agency or
13 mental health professional to persons who are receiving or have
14 received services for mental illness. The term includes mental health
15 information contained in a medical bill, registration records, as
16 defined in RCW 71.05.020, and all other records regarding the person
17 maintained by the department, by the authority, by ~~((regional support
18 networks))~~ behavioral health organizations and their staff, and by
19 treatment facilities. The term further includes documents of legal
20 proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic
21 health care information. For health care information maintained by a
22 hospital as defined in RCW 70.41.020 or a health care facility or
23 health care provider that participates with a hospital in an
24 organized health care arrangement defined under federal law,
25 "information and records related to mental health services" is
26 limited to information and records of services provided by a mental
27 health professional or information and records of services created by
28 a hospital-operated behavioral health program as defined in RCW
29 71.24.025. The term does not include psychotherapy notes.

30 ~~((22))~~ (23) "Information and records related to sexually
31 transmitted diseases" means a type of health care information that
32 relates to the identity of any person upon whom an HIV antibody test
33 or other sexually transmitted infection test is performed, the
34 results of such tests, and any information relating to diagnosis of
35 or treatment for any confirmed sexually transmitted infections.

36 ~~((23))~~ (24) "Institutional review board" means any board,
37 committee, or other group formally designated by an institution, or
38 authorized under federal or state law, to review, approve the
39 initiation of, or conduct periodic review of research programs to

1 assure the protection of the rights and welfare of human research
2 subjects.

3 ~~((24))~~ (25) "Legal counsel" has the same meaning as in RCW
4 71.05.020.

5 ~~((25))~~ (26) "Local public health officer" has the same meaning
6 as in RCW 70.24.017.

7 ~~((26))~~ (27) "Maintain," as related to health care information,
8 means to hold, possess, preserve, retain, store, or control that
9 information.

10 ~~((27))~~ (28) "Mental health professional" means a psychiatrist,
11 psychologist, psychiatric advanced registered nurse practitioner,
12 psychiatric nurse, or social worker, and such other mental health
13 professionals as may be defined by rules adopted by the secretary of
14 ~~((social and health services))~~ health under chapter 71.05 RCW,
15 whether that person works in a private or public setting.

16 ~~((28))~~ (29) "Mental health service agency" means a public or
17 private agency that provides services to persons with mental
18 disorders as defined under RCW 71.05.020 or 71.34.020 and receives
19 funding from public sources. This includes evaluation and treatment
20 facilities as defined in RCW 71.34.020, community mental health
21 service delivery systems, or behavioral health programs, as defined
22 in RCW 71.24.025, and facilities conducting competency evaluations
23 and restoration under chapter 10.77 RCW.

24 ~~((29))~~ (30) "Minor" has the same meaning as in RCW 71.34.020.

25 ~~((30))~~ (31) "Parent" has the same meaning as in RCW 71.34.020.

26 ~~((31))~~ (32) "Patient" means an individual who receives or has
27 received health care. The term includes a deceased individual who has
28 received health care.

29 ~~((32))~~ (33) "Payment" means:

30 (a) The activities undertaken by:

31 (i) A third-party payor to obtain premiums or to determine or
32 fulfill its responsibility for coverage and provision of benefits by
33 the third-party payor; or

34 (ii) A health care provider, health care facility, or third-party
35 payor, to obtain or provide reimbursement for the provision of health
36 care; and

37 (b) The activities in (a) of this subsection that relate to the
38 patient to whom health care is provided and that include, but are not
39 limited to:

1 (i) Determinations of eligibility or coverage, including
2 coordination of benefits or the determination of cost-sharing
3 amounts, and adjudication or subrogation of health benefit claims;

4 (ii) Risk adjusting amounts due based on enrollee health status
5 and demographic characteristics;

6 (iii) Billing, claims management, collection activities,
7 obtaining payment under a contract for reinsurance, including stop-
8 loss insurance and excess of loss insurance, and related health care
9 data processing;

10 (iv) Review of health care services with respect to medical
11 necessity, coverage under a health plan, appropriateness of care, or
12 justification of charges;

13 (v) Utilization review activities, including precertification and
14 preauthorization of services, and concurrent and retrospective review
15 of services; and

16 (vi) Disclosure to consumer reporting agencies of any of the
17 following health care information relating to collection of premiums
18 or reimbursement:

19 (A) Name and address;

20 (B) Date of birth;

21 (C) Social security number;

22 (D) Payment history;

23 (E) Account number; and

24 (F) Name and address of the health care provider, health care
25 facility, and/or third-party payor.

26 ~~((33))~~ (34) "Person" means an individual, corporation, business
27 trust, estate, trust, partnership, association, joint venture,
28 government, governmental subdivision or agency, or any other legal or
29 commercial entity.

30 ~~((34))~~ (35) "Professional person" has the same meaning as in
31 RCW 71.05.020.

32 ~~((35))~~ (36) "Psychiatric advanced registered nurse
33 practitioner" has the same meaning as in RCW 71.05.020.

34 ~~((36))~~ (37) "Psychotherapy notes" means notes recorded, in any
35 medium, by a mental health professional documenting or analyzing the
36 contents of conversations during a private counseling session or
37 group, joint, or family counseling session, and that are separated
38 from the rest of the individual's medical record. The term excludes
39 mediation prescription and monitoring, counseling session start and
40 stop times, the modalities and frequencies of treatment furnished,

1 results of clinical tests, and any summary of the following items:
2 Diagnosis, functional status, the treatment plan, symptoms,
3 prognosis, and progress to date.

4 ~~((37))~~ (38) "Reasonable fee" means the charges for duplicating
5 or searching the record, but shall not exceed sixty-five cents per
6 page for the first thirty pages and fifty cents per page for all
7 other pages. In addition, a clerical fee for searching and handling
8 may be charged not to exceed fifteen dollars. These amounts shall be
9 adjusted biennially in accordance with changes in the consumer price
10 index, all consumers, for Seattle-Tacoma metropolitan statistical
11 area as determined by the secretary of health. However, where editing
12 of records by a health care provider is required by statute and is
13 done by the provider personally, the fee may be the usual and
14 customary charge for a basic office visit.

15 ~~((38))~~ (39) "Release" has the same meaning as in RCW 71.05.020.

16 ~~((39))~~ (40) "Resource management services" has the same meaning
17 as in RCW 71.05.020.

18 ~~((40))~~ (41) "Serious violent offense" has the same meaning as
19 in RCW 71.05.020.

20 ~~((41))~~ (42) "Sexually transmitted infection" or "sexually
21 transmitted disease" has the same meaning as "sexually transmitted
22 disease" in RCW 70.24.017.

23 ~~((42))~~ (43) "Test for a sexually transmitted disease" has the
24 same meaning as in RCW 70.24.017.

25 ~~((43))~~ (44) "Third-party payor" means an insurer regulated
26 under Title 48 RCW authorized to transact business in this state or
27 other jurisdiction, including a health care service contractor, and
28 health maintenance organization; or an employee welfare benefit plan,
29 excluding fitness or wellness plans; or a state or federal health
30 benefit program.

31 ~~((44))~~ (45) "Treatment" means the provision, coordination, or
32 management of health care and related services by one or more health
33 care providers or health care facilities, including the coordination
34 or management of health care by a health care provider or health care
35 facility with a third party; consultation between health care
36 providers or health care facilities relating to a patient; or the
37 referral of a patient for health care from one health care provider
38 or health care facility to another.

1 **Sec. 8002.** RCW 70.02.230 and 2017 3rd sp.s. c 6 s 816 are each
2 amended to read as follows:

3 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
4 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or
5 pursuant to a valid authorization under RCW 70.02.030, the fact of
6 admission to a provider for mental health services and all
7 information and records compiled, obtained, or maintained in the
8 course of providing mental health services to either voluntary or
9 involuntary recipients of services at public or private agencies must
10 be confidential.

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

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

18 (i) Employed by the facility;

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

20 (iii) Who is a designated crisis responder;

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

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

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

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

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

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

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

39 (B) A statement evaluating the mental and physical condition of
40 the patient, and a statement of the probable duration of the

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

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

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

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

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

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

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

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

35 (g) To the prosecuting attorney as necessary to carry out the
36 responsibilities of the office under RCW 71.05.330(2),
37 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
38 access to records regarding the committed person's treatment and
39 prognosis, medication, behavior problems, and other records relevant
40 to the issue of whether treatment less restrictive than inpatient

1 treatment is in the best interest of the committed person or others.
2 Information must be disclosed only after giving notice to the
3 committed person and the person's counsel;

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

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

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

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

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

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

38 (l) To mark headstones or otherwise memorialize patients interred
39 at state hospital cemeteries. The department of social and health
40 services shall make available the name, date of birth, and date of

1 death of patients buried in state hospital cemeteries fifty years
2 after the death of a patient;

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

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

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

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

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

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

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

38 (q) Within the mental health service agency where the patient is
39 receiving treatment, confidential information may be disclosed to
40 persons employed, serving in bona fide training programs, or

1 participating in supervised volunteer programs, at the facility when
2 it is necessary to perform their duties;

3 (r) Within the department and the authority as necessary to
4 coordinate treatment for mental illness, developmental disabilities,
5 alcoholism, or (~~drug abuse~~) substance use disorder of persons who
6 are under the supervision of the department;

7 (s) Between the department of social and health services, the
8 department of children, youth, and families, and the health care
9 authority as necessary to coordinate treatment for mental illness,
10 developmental disabilities, alcoholism, or drug abuse of persons who
11 are under the supervision of the department of social and health
12 services or the department of children, youth, and families;

13 (t) To a licensed physician or psychiatric advanced registered
14 nurse practitioner who has determined that the life or health of the
15 person is in danger and that treatment without the information and
16 records related to mental health services could be injurious to the
17 patient's health. Disclosure must be limited to the portions of the
18 records necessary to meet the medical emergency;

19 (u)(i) Consistent with the requirements of the federal health
20 insurance portability and accountability act, to:

21 (A) A health care provider who is providing care to a patient, or
22 to whom a patient has been referred for evaluation or treatment; or

23 (B) Any other person who is working in a care coordinator role
24 for a health care facility or health care provider or is under an
25 agreement pursuant to the federal health insurance portability and
26 accountability act with a health care facility or a health care
27 provider and requires the information and records to assure
28 coordinated care and treatment of that patient.

29 (ii) A person authorized to use or disclose information and
30 records related to mental health services under this subsection
31 (2)(u) must take appropriate steps to protect the information and
32 records relating to mental health services.

33 (iii) Psychotherapy notes may not be released without
34 authorization of the patient who is the subject of the request for
35 release of information;

36 (v) To administrative and office support staff designated to
37 obtain medical records for those licensed professionals listed in (u)
38 of this subsection;

39 (w) To a facility that is to receive a person who is
40 involuntarily committed under chapter 71.05 RCW, or upon transfer of

1 the person from one evaluation and treatment facility to another. The
2 release of records under this subsection is limited to the
3 information and records related to mental health services required by
4 law, a record or summary of all somatic treatments, and a discharge
5 summary. The discharge summary may include a statement of the
6 patient's problem, the treatment goals, the type of treatment which
7 has been provided, and recommendation for future treatment, but may
8 not include the patient's complete treatment record;

9 (x) To the person's counsel or guardian ad litem, without
10 modification, at any time in order to prepare for involuntary
11 commitment or recommitment proceedings, reexaminations, appeals, or
12 other actions relating to detention, admission, commitment, or
13 patient's rights under chapter 71.05 RCW;

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

32 (z) To all current treating providers of the patient with
33 prescriptive authority who have written a prescription for the
34 patient within the last twelve months. For purposes of coordinating
35 health care, the department or the authority may release without
36 written authorization of the patient, information acquired for
37 billing and collection purposes as described in RCW 70.02.050(1)(d).
38 The department, or the authority, if applicable, shall notify the
39 patient that billing and collection information has been released to
40 named providers, and provide the substance of the information

1 released and the dates of such release. Neither the department nor
2 the authority may (~~not~~) release counseling, inpatient psychiatric
3 hospitalization, or drug and alcohol treatment information without a
4 signed written release from the client;

5 (aa)(i) To the secretary of social and health services and the
6 director of the health care authority for either program evaluation
7 or research, or both so long as the secretary or director, where
8 applicable, adopts rules for the conduct of the evaluation or
9 research, or both. Such rules must include, but need not be limited
10 to, the requirement that all evaluators and researchers sign an oath
11 of confidentiality substantially as follows:

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

19 I recognize that unauthorized release of confidential information
20 may subject me to civil liability under the provisions of state law.
21 /s/"

22 (ii) Nothing in this chapter may be construed to prohibit the
23 compilation and publication of statistical data for use by government
24 or researchers under standards, including standards to assure
25 maintenance of confidentiality, set forth by the secretary, or
26 director, where applicable;

27 (bb) To any person if the conditions in RCW 70.02.205 are met.

28 (3) Whenever federal law or federal regulations restrict the
29 release of information contained in the information and records
30 related to mental health services of any patient who receives
31 treatment for chemical dependency, the department or the authority
32 may restrict the release of the information as necessary to comply
33 with federal law and regulations.

34 (4) Civil liability and immunity for the release of information
35 about a particular person who is committed to the department of
36 social and health services or the authority under RCW 71.05.280(3)
37 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
38 RCW 9.94A.030, is governed by RCW 4.24.550.

1 (5) The fact of admission to a provider of mental health
2 services, as well as all records, files, evidence, findings, or
3 orders made, prepared, collected, or maintained pursuant to chapter
4 71.05 RCW are not admissible as evidence in any legal proceeding
5 outside that chapter without the written authorization of the person
6 who was the subject of the proceeding except as provided in RCW
7 70.02.260, in a subsequent criminal prosecution of a person committed
8 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
9 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
10 trial, in a civil commitment proceeding pursuant to chapter 71.09
11 RCW, or, in the case of a minor, a guardianship or dependency
12 proceeding. The records and files maintained in any court proceeding
13 pursuant to chapter 71.05 RCW must be confidential and available
14 subsequent to such proceedings only to the person who was the subject
15 of the proceeding or his or her attorney. In addition, the court may
16 order the subsequent release or use of such records or files only
17 upon good cause shown if the court finds that appropriate safeguards
18 for strict confidentiality are and will be maintained.

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

24 (i) One thousand dollars; or

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

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

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

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

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

38 **Sec. 8003.** RCW 70.02.240 and 2013 c 200 s 8 are each amended to
39 read as follows:

1 The fact of admission and all information and records related to
2 mental health services obtained through treatment under chapter 71.34
3 RCW is confidential, except as authorized in RCW 70.02.050,
4 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential
5 information may be disclosed only:

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

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

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

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

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

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

27 (7) To the secretary of social and health services and the
28 director of the health care authority for assistance in data
29 collection and program evaluation or research so long as the
30 secretary or director, where applicable, adopts rules for the conduct
31 of such evaluation and research. The rules must include, but need not
32 be limited to, the requirement that all evaluators and researchers
33 sign an oath of confidentiality substantially as follows:

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

1 regarding minors who have received services in a manner such that the
2 minor is identifiable.

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

5 /s/";

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

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

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

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

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

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

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

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

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

9 (14) This section may not be construed to prohibit the
10 compilation and publication of statistical data for use by government
11 or researchers under standards, including standards to assure
12 maintenance of confidentiality, set forth by the director of the
13 health care authority or the secretary of the department of social
14 and health services, where applicable. The fact of admission and all
15 information obtained pursuant to chapter 71.34 RCW are not admissible
16 as evidence in any legal proceeding outside chapter 71.34 RCW, except
17 guardianship or dependency, without the written consent of the minor
18 or the minor's parent;

19 (15) For the purpose of a correctional facility participating in
20 the postinstitutional medical assistance system supporting the
21 expedited medical determinations and medical suspensions as provided
22 in RCW 74.09.555 and 74.09.295;

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

24 **Sec. 8004.** RCW 70.02.250 and 2014 c 225 s 72 are each amended to
25 read as follows:

26 (1) Information and records related to mental health services
27 delivered to a person subject to chapter 9.94A or 9.95 RCW must be
28 released, upon request, by a mental health service agency to
29 department of corrections personnel for whom the information is
30 necessary to carry out the responsibilities of their office. The
31 information must be provided only for the purpose of completing
32 presentence investigations, supervision of an incarcerated person,
33 planning for and provision of supervision of a person, or assessment
34 of a person's risk to the community. The request must be in writing
35 and may not require the consent of the subject of the records.

36 (2) The information to be released to the department of
37 corrections must include all relevant records and reports, as defined
38 by rule, necessary for the department of corrections to carry out its

1 duties, including those records and reports identified in subsection
2 (1) of this section.

3 (3) The (~~department~~) authority shall, subject to available
4 resources, electronically, or by the most cost-effective means
5 available, provide the department of corrections with the names, last
6 dates of services, and addresses of specific behavioral health
7 organizations and mental health service agencies that delivered
8 mental health services to a person subject to chapter 9.94A or 9.95
9 RCW pursuant to an agreement between the authority and the
10 department(~~s~~) of corrections.

11 (4) The (~~department and the department of corrections~~)
12 authority, in consultation with the department, the department of
13 corrections, behavioral health organizations, mental health service
14 agencies as defined in RCW 70.02.010, mental health consumers, and
15 advocates for persons with mental illness, shall adopt rules to
16 implement the provisions of this section related to the type and
17 scope of information to be released. These rules must:

18 (a) Enhance and facilitate the ability of the department of
19 corrections to carry out its responsibility of planning and ensuring
20 community protection with respect to persons subject to sentencing
21 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
22 disclosing information of persons who received mental health services
23 as a minor; and

24 (b) Establish requirements for the notification of persons under
25 the supervision of the department of corrections regarding the
26 provisions of this section.

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

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

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

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

4 **Sec. 8005.** RCW 70.02.260 and 2013 c 200 s 10 are each amended to
5 read as follows:

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

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

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

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

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

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

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

27 (2) The information subject to release under subsection (1) of
28 this section must be released to law enforcement officers, personnel
29 of a county or city jail, designated mental health professionals or
30 designated crisis responders, as appropriate, public health officers,
31 therapeutic court personnel as defined in RCW 71.05.020, or personnel
32 of the department of corrections, including the indeterminate
33 sentence review board and personnel assigned to perform board-related
34 duties, when such information is requested during the course of
35 business and for the purpose of carrying out the responsibilities of
36 the requesting person's office. No mental health service agency or
37 person employed by a mental health service agency, or its legal
38 counsel, may be liable for information released to or used under the

1 provisions of this section or rules adopted under this section except
2 under RCW 71.05.680.

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

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

9 (i) Completing presentence investigations or risk assessment
10 reports;

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

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

14 (iv) Planning for and provision of supervision of an offender,
15 including decisions related to sanctions for violations of conditions
16 of community supervision; and

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

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

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

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

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

32 (i) The information may be shared with other persons who have the
33 right to request similar information under subsection (2) of this
34 section, solely for the purpose of coordinating activities related to
35 the individual who is the subject of the information in a manner
36 consistent with the official responsibilities of the persons
37 involved;

38 (ii) The information may be shared with a prosecuting attorney
39 acting in an advisory capacity for a person who receives information
40 under this section. A prosecuting attorney under this subsection is

1 subject to the same restrictions and confidentiality limitations as
2 the person who requested the information; and

3 (iii) As provided in RCW 72.09.585.

4 (4) A request for information and records related to mental
5 health services under this section does not require the consent of
6 the subject of the records. The request must be provided in writing,
7 except to the extent authorized in subsection (5) of this section. A
8 written request may include requests made by email or facsimile so
9 long as the requesting person is clearly identified. The request must
10 specify the information being requested.

11 (5) In the event of an emergency situation that poses a
12 significant risk to the public or the offender, a mental health
13 service agency, or its legal counsel, shall release information
14 related to mental health services delivered to the offender and, if
15 known, information regarding where the offender is likely to be found
16 to the department of corrections or law enforcement upon request. The
17 initial request may be written or oral. All oral requests must be
18 subsequently confirmed in writing. Information released in response
19 to an oral request is limited to a statement as to whether the
20 offender is or is not being treated by the mental health service
21 agency and the address or information about the location or
22 whereabouts of the offender.

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

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

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

34 (9) In collaboration with interested organizations, the
35 (~~department~~) authority shall develop a standard form for requests
36 for information related to mental health services made under this
37 section and a standard format for information provided in response to
38 the requests. Consistent with the goals of the health information
39 privacy provisions of the federal health insurance portability and
40 accountability act, in developing the standard form for responsive

1 information, the (~~department~~) authority shall design the form in
2 such a way that the information disclosed is limited to the minimum
3 necessary to serve the purpose for which the information is
4 requested.

5 **Sec. 8006.** RCW 70.02.340 and 2014 c 220 s 13 are each amended to
6 read as follows:

7 The (~~department of social and health services~~) authority shall
8 adopt rules related to the disclosure of information and records
9 related to mental health services (~~in this chapter~~).

10 **Sec. 8007.** RCW 70.02.350 and 2013 c 200 s 19 are each amended to
11 read as follows:

12 In addition to any other information required to be released
13 under this chapter, the department of social and health services
14 (~~is~~) and the authority are authorized, pursuant to RCW 4.24.550, to
15 release relevant information that is necessary to protect the public,
16 concerning a specific person committed under RCW 71.05.280(3) or
17 71.05.320(3)(c) following dismissal of a sex offense as defined in
18 RCW 9.94A.030.

19 **Sec. 8008.** RCW 42.56.270 and 2017 c 317 s 17 are each amended to
20 read as follows:

21 The following financial, commercial, and proprietary information
22 is exempt from disclosure under this chapter:

23 (1) Valuable formulae, designs, drawings, computer source code or
24 object code, and research data obtained by any agency within five
25 years of the request for disclosure when disclosure would produce
26 private gain and public loss;

27 (2) Financial information supplied by or on behalf of a person,
28 firm, or corporation for the purpose of qualifying to submit a bid or
29 proposal for (a) a ferry system construction or repair contract as
30 required by RCW 47.60.680 through 47.60.750 or (b) highway
31 construction or improvement as required by RCW 47.28.070;

32 (3) Financial and commercial information and records supplied by
33 private persons pertaining to export services provided under chapters
34 43.163 and 53.31 RCW, and by persons pertaining to export projects
35 under RCW 43.23.035;

36 (4) Financial and commercial information and records supplied by
37 businesses or individuals during application for loans or program

1 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
2 43.168 RCW, or during application for economic development loans or
3 program services provided by any local agency;

4 (5) Financial information, business plans, examination reports,
5 and any information produced or obtained in evaluating or examining a
6 business and industrial development corporation organized or seeking
7 certification under chapter 31.24 RCW;

8 (6) Financial and commercial information supplied to the state
9 investment board by any person when the information relates to the
10 investment of public trust or retirement funds and when disclosure
11 would result in loss to such funds or in private loss to the
12 providers of this information;

13 (7) Financial and valuable trade information under RCW 51.36.120;

14 (8) Financial, commercial, operations, and technical and research
15 information and data submitted to or obtained by the clean Washington
16 center in applications for, or delivery of, program services under
17 chapter 70.95H RCW;

18 (9) Financial and commercial information requested by the public
19 stadium authority from any person or organization that leases or uses
20 the stadium and exhibition center as defined in RCW 36.102.010;

21 (10)(a) Financial information, including but not limited to
22 account numbers and values, and other identification numbers supplied
23 by or on behalf of a person, firm, corporation, limited liability
24 company, partnership, or other entity related to an application for a
25 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
26 marijuana producer, processor, or retailer license, liquor license,
27 gambling license, or lottery retail license;

28 (b) Internal control documents, independent auditors' reports and
29 financial statements, and supporting documents: (i) Of house-banked
30 social card game licensees required by the gambling commission
31 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
32 by tribes with an approved tribal/state compact for class III gaming;

33 (11) Proprietary data, trade secrets, or other information that
34 relates to: (a) A vendor's unique methods of conducting business; (b)
35 data unique to the product or services of the vendor; or (c)
36 determining prices or rates to be charged for services, submitted by
37 any vendor to the department of social and health services or the
38 health care authority for purposes of the development, acquisition,
39 or implementation of state purchased health care as defined in RCW
40 41.05.011;

1 (12)(a) When supplied to and in the records of the department of
2 commerce:

3 (i) Financial and proprietary information collected from any
4 person and provided to the department of commerce pursuant to RCW
5 43.330.050(8); and

6 (ii) Financial or proprietary information collected from any
7 person and provided to the department of commerce or the office of
8 the governor in connection with the siting, recruitment, expansion,
9 retention, or relocation of that person's business and until a siting
10 decision is made, identifying information of any person supplying
11 information under this subsection and the locations being considered
12 for siting, relocation, or expansion of a business;

13 (b) When developed by the department of commerce based on
14 information as described in (a)(i) of this subsection, any work
15 product is not exempt from disclosure;

16 (c) For the purposes of this subsection, "siting decision" means
17 the decision to acquire or not to acquire a site;

18 (d) If there is no written contact for a period of sixty days to
19 the department of commerce from a person connected with siting,
20 recruitment, expansion, retention, or relocation of that person's
21 business, information described in (a)(ii) of this subsection will be
22 available to the public under this chapter;

23 (13) Financial and proprietary information submitted to or
24 obtained by the department of ecology or the authority created under
25 chapter 70.95N RCW to implement chapter 70.95N RCW;

26 (14) Financial, commercial, operations, and technical and
27 research information and data submitted to or obtained by the life
28 sciences discovery fund authority in applications for, or delivery
29 of, grants under chapter 43.350 RCW, to the extent that such
30 information, if revealed, would reasonably be expected to result in
31 private loss to the providers of this information;

32 (15) Financial and commercial information provided as evidence to
33 the department of licensing as required by RCW 19.112.110 or
34 19.112.120, except information disclosed in aggregate form that does
35 not permit the identification of information related to individual
36 fuel licensees;

37 (16) Any production records, mineral assessments, and trade
38 secrets submitted by a permit holder, mine operator, or landowner to
39 the department of natural resources under RCW 78.44.085;

1 (17)(a) Farm plans developed by conservation districts, unless
2 permission to release the farm plan is granted by the landowner or
3 operator who requested the plan, or the farm plan is used for the
4 application or issuance of a permit;

5 (b) Farm plans developed under chapter 90.48 RCW and not under
6 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
7 to RCW 42.56.610 and 90.64.190;

8 (18) Financial, commercial, operations, and technical and
9 research information and data submitted to or obtained by a health
10 sciences and services authority in applications for, or delivery of,
11 grants under RCW 35.104.010 through 35.104.060, to the extent that
12 such information, if revealed, would reasonably be expected to result
13 in private loss to providers of this information;

14 (19) Information gathered under chapter 19.85 RCW or RCW
15 34.05.328 that can be identified to a particular business;

16 (20) Financial and commercial information submitted to or
17 obtained by the University of Washington, other than information the
18 university is required to disclose under RCW 28B.20.150, when the
19 information relates to investments in private funds, to the extent
20 that such information, if revealed, would reasonably be expected to
21 result in loss to the University of Washington consolidated endowment
22 fund or to result in private loss to the providers of this
23 information;

24 (21) Market share data submitted by a manufacturer under RCW
25 70.95N.190(4);

26 (22) Financial information supplied to the department of
27 financial institutions or to a portal under RCW 21.20.883, when filed
28 by or on behalf of an issuer of securities for the purpose of
29 obtaining the exemption from state securities registration for small
30 securities offerings provided under RCW 21.20.880 or when filed by or
31 on behalf of an investor for the purpose of purchasing such
32 securities;

33 (23) Unaggregated or individual notices of a transfer of crude
34 oil that is financial, proprietary, or commercial information,
35 submitted to the department of ecology pursuant to RCW
36 90.56.565(1)(a), and that is in the possession of the department of
37 ecology or any entity with which the department of ecology has shared
38 the notice pursuant to RCW 90.56.565;

39 (24) Financial institution and retirement account information,
40 and building security plan information, supplied to the liquor and

1 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
2 69.50.345, when filed by or on behalf of a licensee or prospective
3 licensee for the purpose of obtaining, maintaining, or renewing a
4 license to produce, process, transport, or sell marijuana as allowed
5 under chapter 69.50 RCW;

6 (25) Marijuana transport information, vehicle and driver
7 identification data, and account numbers or unique access identifiers
8 issued to private entities for traceability system access, submitted
9 by an individual or business to the liquor and cannabis board under
10 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
11 69.50.345 for the purpose of marijuana product traceability.
12 Disclosure to local, state, and federal officials is not considered
13 public disclosure for purposes of this section;

14 (26) Financial and commercial information submitted to or
15 obtained by the retirement board of any city that is responsible for
16 the management of an employees' retirement system pursuant to the
17 authority of chapter 35.39 RCW, when the information relates to
18 investments in private funds, to the extent that such information, if
19 revealed, would reasonably be expected to result in loss to the
20 retirement fund or to result in private loss to the providers of this
21 information except that (a) the names and commitment amounts of the
22 private funds in which retirement funds are invested and (b) the
23 aggregate quarterly performance results for a retirement fund's
24 portfolio of investments in such funds are subject to disclosure;

25 (27) Proprietary financial, commercial, operations, and technical
26 and research information and data submitted to or obtained by the
27 liquor and cannabis board in applications for marijuana research
28 licenses under RCW 69.50.372, or in reports submitted by marijuana
29 research licensees in accordance with rules adopted by the liquor and
30 cannabis board under RCW 69.50.372; and

31 (28) Trade secrets, technology, proprietary information, and
32 financial considerations contained in any agreements or contracts,
33 entered into by a licensed marijuana business under RCW 69.50.395,
34 which may be submitted to or obtained by the state liquor and
35 cannabis board.

36 **Sec. 8009.** RCW 43.70.080 and 1989 1st ex.s. c 9 s 201 are each
37 amended to read as follows:

38 The powers and duties of the department of social and health
39 services and the secretary of social and health services under the

1 following statutes are hereby transferred to the department of health
2 and the secretary of health: Chapters 16.70, (~~(18.207)~~) 18.46, 18.71,
3 18.73, 18.76, 69.30, 70.28, 70.30, (~~(70.32, 70.33)~~) 70.50, 70.58,
4 70.62, 70.83, (~~(70.83B)~~) 70.90, 70.98, 70.104, 70.116, 70.118,
5 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More
6 specifically, the following programs and services presently
7 administered by the department of social and health services are
8 hereby transferred to the department of health:

9 (1) Personal health and protection programs and related
10 management and support services, including, but not limited to:
11 Immunizations; tuberculosis; sexually transmitted diseases; AIDS;
12 diabetes control; primary health care; cardiovascular risk reduction;
13 kidney disease; regional genetic services; newborn metabolic
14 screening; sentinel birth defects; cytogenetics; communicable disease
15 epidemiology; and chronic disease epidemiology;

16 (2) Environmental health protection services and related
17 management and support services, including, but not limited to:
18 Radiation, including X-ray control, radioactive materials, uranium
19 mills, low-level waste, emergency response and reactor safety, and
20 environmental radiation protection; drinking water; toxic substances;
21 on-site sewage; recreational water contact facilities; food services
22 sanitation; shellfish; and general environmental health services,
23 including schools, vectors, parks, and camps;

24 (3) Public health laboratory;

25 (4) Public health support services, including, but not limited
26 to: Vital records; health data; local public health services support;
27 and health education and information;

28 (5) Licensing and certification services including, but not
29 limited to: Behavioral health agencies, agencies providing problem
30 and pathological gambling treatment, health and personal care
31 facility survey, construction review, emergency medical services,
32 laboratory quality assurance, and accommodations surveys; and

33 (6) Effective January 1, 1991, parent and child health services
34 and related management support services, including, but not limited
35 to: Maternal and infant health; child health; parental health;
36 nutrition; (~~(handicapped children's)~~) services for children with
37 disabilities; family planning; adolescent pregnancy services; high
38 priority infant tracking; early intervention; parenting education;
39 prenatal regionalization; and power and duties under RCW 43.20A.635.
40 The director of the office of financial management may recommend to

1 the legislature a delay in this transfer, if it is determined that
2 this time frame is not adequate.

3 **Sec. 8010.** RCW 43.59.030 and 2016 c 206 s 2 are each amended to
4 read as follows:

5 The governor shall be assisted in his or her duties and
6 responsibilities by the Washington state traffic safety commission.
7 The Washington traffic safety commission shall be composed of the
8 governor as chair, the superintendent of public instruction, the
9 director of licensing, the secretary of transportation, the chief of
10 the state patrol, the secretary of health, the (~~secretary of social
11 and health services~~) director of the health care authority, a
12 representative of the association of Washington cities to be
13 appointed by the governor, a member of the association of counties to
14 be appointed by the governor, and a representative of the judiciary
15 to be appointed by the governor. Appointments to any vacancies among
16 appointee members shall be as in the case of original appointment.

17 The governor may designate an employee of the governor's office
18 familiar with the traffic safety commission to act on behalf of the
19 governor during the absence of the governor at one or more of the
20 meetings of the commission. The vote of the designee shall have the
21 same effect as if cast by the governor if the designation is in
22 writing and is presented to the person presiding at the meetings
23 included within the designation.

24 The governor may designate a member, other than the governor's
25 designee, to preside during the governor's absence.

26 **Sec. 8011.** RCW 48.21.180 and 2003 c 248 s 9 are each amended to
27 read as follows:

28 Each group disability insurance contract which is delivered or
29 issued for delivery or renewed, on or after January 1, 1988, and
30 which insures for hospital or medical care must contain provisions
31 providing benefits for the treatment of chemical dependency rendered
32 to the insured by a provider which is an "approved substance use
33 disorder treatment program" under RCW 70.96A.020(~~(+3)~~) (2).

34 **Sec. 8012.** RCW 48.44.240 and 2005 c 223 s 25 are each amended to
35 read as follows:

36 Each group contract for health care services that is delivered or
37 issued for delivery or renewed, on or after January 1, 1988, must

1 contain provisions providing benefits for the treatment of chemical
2 dependency rendered to covered persons by a provider that is an
3 "approved substance use disorder treatment program" under RCW
4 70.96A.020(~~((3))~~) (2).

5 **Sec. 8013.** RCW 48.46.350 and 2003 c 248 s 19 are each amended to
6 read as follows:

7 Each group agreement for health care services that is delivered
8 or issued for delivery or renewed on or after January 1, 1988, must
9 contain provisions providing benefits for the treatment of chemical
10 dependency rendered to covered persons by a provider which is an
11 "approved substance use disorder treatment program" under RCW
12 70.96A.020(~~((3))~~) (2). However, this section does not apply to any
13 agreement written as supplemental coverage to any federal or state
14 programs of health care including, but not limited to, Title XVIII
15 health insurance for the aged, which is commonly referred to as
16 Medicare, Parts A&B, and amendments thereto. Treatment must be
17 covered under the chemical dependency coverage if treatment is
18 rendered by the health maintenance organization or if the health
19 maintenance organization refers the enrolled participant or the
20 enrolled participant's dependents to a physician licensed under
21 chapter 18.57 or 18.71 RCW, or to a qualified counselor employed by
22 an approved substance use disorder treatment program described in RCW
23 70.96A.020(~~((3))~~) (2). In all cases, a health maintenance
24 organization retains the right to diagnose the presence of chemical
25 dependency and select the modality of treatment that best serves the
26 interest of the health maintenance organization's enrolled
27 participant, or the enrolled participant's covered dependent.

28 **Sec. 8014.** RCW 69.50.540 and 2017 3rd sp.s. c 1 s 979 are each
29 amended to read as follows:

30 The legislature must annually appropriate moneys in the dedicated
31 marijuana account created in RCW 69.50.530 as follows:

32 (1) For the purposes listed in this subsection (1), the
33 legislature must appropriate to the respective agencies amounts
34 sufficient to make the following expenditures on a quarterly basis:

35 (a) Beginning July 1, (~~(2015)~~) 2017, one hundred twenty-five
36 thousand dollars to the (~~(department of social and health services)~~)
37 health care authority to design and administer the Washington state
38 healthy youth survey, analyze the collected data, and produce

1 reports, in collaboration with the office of the superintendent of
2 public instruction, department of health, department of commerce,
3 family policy council, and state liquor and cannabis board. The
4 survey must be conducted at least every two years and include
5 questions regarding, but not necessarily limited to, academic
6 achievement, age at time of substance use initiation, antisocial
7 behavior of friends, attitudes toward antisocial behavior, attitudes
8 toward substance use, laws and community norms regarding antisocial
9 behavior, family conflict, family management, parental attitudes
10 toward substance use, peer rewarding of antisocial behavior,
11 perceived risk of substance use, and rebelliousness. Funds disbursed
12 under this subsection may be used to expand administration of the
13 healthy youth survey to student populations attending institutions of
14 higher education in Washington;

15 (b) Beginning July 1, (~~(2015)~~) 2017, fifty thousand dollars to
16 the (~~(department of social and health services)~~) health care
17 authority for the purpose of contracting with the Washington state
18 institute for public policy to conduct the cost-benefit evaluation
19 and produce the reports described in RCW 69.50.550. This
20 appropriation ends after production of the final report required by
21 RCW 69.50.550;

22 (c) Beginning July 1, (~~(2015)~~) 2017, five thousand dollars to the
23 University of Washington alcohol and drug abuse institute for the
24 creation, maintenance, and timely updating of web-based public
25 education materials providing medically and scientifically accurate
26 information about the health and safety risks posed by marijuana use;

27 (d)(i) An amount not less than one million two hundred fifty
28 thousand dollars to the state liquor and cannabis board for
29 administration of this chapter as appropriated in the omnibus
30 appropriations act; and

31 (ii) Three hundred fifty-one thousand seven hundred fifty dollars
32 for fiscal year 2018 and three hundred fifty-one thousand seven
33 hundred fifty dollars for fiscal year 2019 to the health professions
34 account established under RCW 43.70.320 for the development and
35 administration of the marijuana authorization database by the
36 department of health. It is the intent of the legislature that this
37 policy will be continued in the 2019-2021 fiscal biennium;

38 (e) Twenty-three thousand seven hundred fifty dollars to the
39 department of enterprise services provided solely for the state
40 building code council established under RCW 19.27.070, to develop and

1 adopt fire and building code provisions related to marijuana
2 processing and extraction facilities. The distribution under this
3 subsection (1)(e) is for fiscal year 2016 only;

4 (2) From the amounts in the dedicated marijuana account after
5 appropriation of the amounts identified in subsection (1) of this
6 section, the legislature must appropriate for the purposes listed in
7 this subsection (2) as follows:

8 (a)(i) Up to fifteen percent to the (~~department of social and~~
9 ~~health services division of behavioral health and recovery~~) health
10 care authority for the development, implementation, maintenance, and
11 evaluation of programs and practices aimed at the prevention or
12 reduction of maladaptive substance use, substance use disorder,
13 substance abuse or substance dependence, as these terms are defined
14 in the Diagnostic and Statistical Manual of Mental Disorders, among
15 middle school and high school-age students, whether as an explicit
16 goal of a given program or practice or as a consistently
17 corresponding effect of its implementation, mental health services
18 for children and youth, and services for pregnant and parenting
19 women; PROVIDED, That:

20 (A) Of the funds appropriated under (a)(i) of this subsection for
21 new programs and new services, at least eighty-five percent must be
22 directed to evidence-based or research-based programs and practices
23 that produce objectively measurable results and, by September 1,
24 2020, are cost-beneficial; and

25 (B) Up to fifteen percent of the funds appropriated under (a)(i)
26 of this subsection for new programs and new services may be directed
27 to proven and tested practices, emerging best practices, or promising
28 practices.

29 (ii) In deciding which programs and practices to fund, the
30 (~~secretary of the department of social and health services~~)
31 director of the health care authority must consult, at least
32 annually, with the University of Washington's social development
33 research group and the University of Washington's alcohol and drug
34 abuse institute.

35 (iii) For the fiscal year beginning July 1, 2016, the legislature
36 must appropriate a minimum of twenty-seven million seven hundred
37 eighty-six thousand dollars, and for each subsequent fiscal year
38 thereafter, the legislature must appropriate a minimum of twenty-five
39 million five hundred thirty-six thousand dollars under this
40 subsection (2)(a);

1 (b)(i) Up to ten percent to the department of health for the
2 following, subject to (b)(ii) of this subsection (2):

3 (A) Creation, implementation, operation, and management of a
4 marijuana education and public health program that contains the
5 following:

6 (I) A marijuana use public health hotline that provides referrals
7 to substance abuse treatment providers, utilizes evidence-based or
8 research-based public health approaches to minimizing the harms
9 associated with marijuana use, and does not solely advocate an
10 abstinence-only approach;

11 (II) A grants program for local health departments or other local
12 community agencies that supports development and implementation of
13 coordinated intervention strategies for the prevention and reduction
14 of marijuana use by youth; and

15 (III) Media-based education campaigns across television,
16 internet, radio, print, and out-of-home advertising, separately
17 targeting youth and adults, that provide medically and scientifically
18 accurate information about the health and safety risks posed by
19 marijuana use;

20 (B) The Washington poison control center; and

21 (C) During the 2015-2017 fiscal biennium, the funds appropriated
22 under this subsection (2)(b) may be used for prevention activities
23 that target youth and populations with a high incidence of tobacco
24 use.

25 (ii) For the fiscal year beginning July 1, 2016, the legislature
26 must appropriate a minimum of seven million five hundred thousand
27 dollars and for each subsequent fiscal year thereafter, the
28 legislature must appropriate a minimum of nine million seven hundred
29 fifty thousand dollars under this subsection (2)(b);

30 (c)(i) Up to six-tenths of one percent to the University of
31 Washington and four-tenths of one percent to Washington State
32 University for research on the short and long-term effects of
33 marijuana use, to include but not be limited to formal and informal
34 methods for estimating and measuring intoxication and impairment, and
35 for the dissemination of such research.

36 (ii) For the fiscal year beginning July 1, 2016, the legislature
37 must appropriate a minimum of two hundred seven thousand dollars and
38 for each subsequent fiscal year, except for the 2017-2019 fiscal
39 biennium, the legislature must appropriate a minimum of one million
40 twenty-one thousand dollars to the University of Washington. For the

1 fiscal year beginning July 1, 2016, the legislature must appropriate
2 a minimum of one hundred thirty-eight thousand dollars and for each
3 subsequent fiscal year thereafter, except for the 2017-2019 fiscal
4 biennium, a minimum of six hundred eighty-one thousand dollars to
5 Washington State University under this subsection (2)(c). It is the
6 intent of the legislature that this policy will be continued in the
7 2019-2021 fiscal biennium;

8 (d) Fifty percent to the state basic health plan trust account to
9 be administered by the Washington basic health plan administrator and
10 used as provided under chapter 70.47 RCW;

11 (e) Five percent to the Washington state health care authority to
12 be expended exclusively through contracts with community health
13 centers to provide primary health and dental care services, migrant
14 health services, and maternity health care services as provided under
15 RCW 41.05.220;

16 (f)(i) Up to three-tenths of one percent to the office of the
17 superintendent of public instruction to fund grants to building
18 bridges programs under chapter 28A.175 RCW.

19 (ii) For the fiscal year beginning July 1, 2016, and each
20 subsequent fiscal year, the legislature must appropriate a minimum of
21 five hundred eleven thousand dollars to the office of the
22 superintendent of public instruction under this subsection (2)(f);
23 and

24 (g) At the end of each fiscal year, the treasurer must transfer
25 any amounts in the dedicated marijuana account that are not
26 appropriated pursuant to subsection (1) of this section and this
27 subsection (2) into the general fund, except as provided in (g)(i) of
28 this subsection (2).

29 (i) Beginning in fiscal year 2018, if marijuana excise tax
30 collections deposited into the general fund in the prior fiscal year
31 exceed twenty-five million dollars, then each fiscal year the
32 legislature must appropriate an amount equal to thirty percent of all
33 marijuana excise taxes deposited into the general fund the prior
34 fiscal year to the treasurer for distribution to counties, cities,
35 and towns as follows:

36 (A) Thirty percent must be distributed to counties, cities, and
37 towns where licensed marijuana retailers are physically located. Each
38 jurisdiction must receive a share of the revenue distribution under
39 this subsection (2)(g)(i)(A) based on the proportional share of the
40 total revenues generated in the individual jurisdiction from the

1 taxes collected under RCW 69.50.535, from licensed marijuana
2 retailers physically located in each jurisdiction. For purposes of
3 this subsection (2)(g)(i)(A), one hundred percent of the proportional
4 amount attributed to a retailer physically located in a city or town
5 must be distributed to the city or town.

6 (B) Seventy percent must be distributed to counties, cities, and
7 towns ratably on a per capita basis. Counties must receive sixty
8 percent of the distribution, which must be disbursed based on each
9 county's total proportional population. Funds may only be distributed
10 to jurisdictions that do not prohibit the siting of any state
11 licensed marijuana producer, processor, or retailer.

12 (ii) Distribution amounts allocated to each county, city, and
13 town must be distributed in four installments by the last day of each
14 fiscal quarter.

15 (iii) By September 15th of each year, the state liquor and
16 cannabis board must provide the state treasurer the annual
17 distribution amount, if any, for each county and city as determined
18 in (g)(i) of this subsection (2).

19 (iv) The total share of marijuana excise tax revenues distributed
20 to counties and cities in (g)(i) of this subsection (2) may not
21 exceed six million dollars in fiscal years 2018 and 2019 and twenty
22 million dollars per fiscal year thereafter. However, if the February
23 2018 forecast of state revenues for the general fund in the 2017-2019
24 fiscal biennium exceeds the amount estimated in the June 2017 revenue
25 forecast by over eighteen million dollars after adjusting for changes
26 directly related to legislation adopted in the 2017 legislative
27 session, the total share of marijuana excise tax revenue distributed
28 to counties and cities in (g)(i) of this subsection (2) may not
29 exceed fifteen million dollars in fiscal years 2018 and 2019. It is
30 the intent of the legislature that the policy for the maximum
31 distributions in the subsequent fiscal biennia will be no more than
32 ((~~\$6~~)) six million dollars per fiscal year.

33 For the purposes of this section, "marijuana products" means
34 "useable marijuana," "marijuana concentrates," and "marijuana-infused
35 products" as those terms are defined in RCW 69.50.101.

36 **PART 9**

37 **Sec. 9001.** RCW 2.30.020 and 2015 c 291 s 2 are each amended to
38 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

9 (2) "Evidence-based" means a program or practice that: (a) Has
10 been tested in heterogeneous or intended populations with multiple
11 randomized, or statistically controlled evaluations, or both; or one
12 large multiple site randomized, or statistically controlled
13 evaluation, or both, where the weight of the evidence from a systemic
14 review demonstrates sustained improvements in at least one outcome;
15 or (b) may be implemented with a set of procedures to allow
16 successful replication in Washington and, when possible, is
17 determined to be cost-beneficial.

18 (3) "Government authority" means prosecutor or other
19 representative initiating action leading to a proceeding in
20 therapeutic court.

21 (4) "Participant" means an accused person, offender, or
22 respondent in the judicial proceeding.

23 (5) "Research-based" means a program or practice that has been
24 tested with a single randomized, or statistically controlled
25 evaluation, or both, demonstrating sustained desirable outcomes; or
26 where the weight of the evidence from a systemic review supports
27 sustained outcomes as described in this subsection but does not meet
28 the full criteria for evidence-based.

29 (6) "Specialty court" and "therapeutic court" both mean a court
30 utilizing a program or programs structured to achieve both a
31 reduction in recidivism and an increase in the likelihood of
32 rehabilitation, or to reduce child abuse and neglect, out-of-home
33 placements of children, termination of parental rights, and substance
34 abuse and mental health symptoms among parents or guardians and their
35 children through continuous and intense judicially supervised
36 treatment and the appropriate use of services, sanctions, and
37 incentives.

38 (7) "Therapeutic court personnel" means the staff of a
39 therapeutic court including, but not limited to: Court and clerk
40 personnel with therapeutic court duties, prosecuting attorneys, the

1 attorney general or his or her representatives, defense counsel,
2 monitoring personnel, and others acting within the scope of
3 therapeutic court duties.

4 (8) "Trial court" means a superior court authorized under this
5 title ((2-RCW)) or a district or municipal court authorized under
6 Title 3 or 35 RCW.

7 **Sec. 9002.** RCW 2.30.030 and 2015 c 291 s 3 are each amended to
8 read as follows:

9 (1) Every trial and juvenile court in the state of Washington is
10 authorized and encouraged to establish and operate therapeutic
11 courts. Therapeutic courts, in conjunction with the government
12 authority and subject matter experts specific to the focus of the
13 therapeutic court, develop and process cases in ways that depart from
14 traditional judicial processes to allow defendants or respondents the
15 opportunity to obtain treatment services to address particular issues
16 that may have contributed to the conduct that led to their arrest or
17 involvement in the child welfare system in exchange for resolution of
18 the case or charges. In criminal cases, the consent of the prosecutor
19 is required.

20 (2) While a therapeutic court judge retains the discretion to
21 decline to accept a case into the therapeutic court, and while a
22 therapeutic court retains discretion to establish processes and
23 determine eligibility for admission to the therapeutic court process
24 unique to their community and jurisdiction, the effectiveness and
25 credibility of any therapeutic court will be enhanced when the court
26 implements evidence-based practices, research-based practices,
27 emerging best practices, or promising practices that have been
28 identified and accepted at the state and national levels. Promising
29 practices, emerging best practices, and/or research-based programs
30 are authorized where determined by the court to be appropriate. As
31 practices evolve, the trial court shall regularly assess the
32 effectiveness of its program and the methods by which it implements
33 and adopts new best practices.

34 (3) Except under special findings by the court, the following
35 individuals are not eligible for participation in therapeutic courts:

36 (a) Individuals who are currently charged or who have been
37 previously convicted of a serious violent offense or sex offense as
38 defined in RCW 9.94A.030;

1 (b) Individuals who are currently charged with an offense
2 alleging intentional discharge, threat to discharge, or attempt to
3 discharge a firearm in furtherance of the offense;

4 (c) Individuals who are currently charged with or who have been
5 previously convicted of vehicular homicide or an equivalent out-of-
6 state offense; or

7 (d) Individuals who are currently charged with or who have been
8 previously convicted of: An offense alleging substantial bodily harm
9 or great bodily harm as defined in RCW 9A.04.110, or death of another
10 person.

11 (4) Any jurisdiction establishing a therapeutic court shall
12 endeavor to incorporate the therapeutic court principles of best
13 practices as recognized by state and national therapeutic court
14 organizations in structuring a particular program, which may include:

15 (a) Determining the population;

16 (b) Performing a clinical assessment;

17 (c) Developing the treatment plan;

18 (d) Monitoring the participant, including any appropriate
19 testing;

20 (e) Forging agency, organization, and community partnerships;

21 (f) Taking a judicial leadership role;

22 (g) Developing case management strategies;

23 (h) Addressing transportation, housing, and subsistence issues;

24 (i) Evaluating the program;

25 (j) Ensuring a sustainable program.

26 (5) Upon a showing of indigence under RCW 10.101.010, fees may be
27 reduced or waived.

28 (6) The (~~department of social and health services~~) health care
29 authority shall furnish services to therapeutic courts addressing
30 dependency matters where substance abuse or mental health are an
31 issue unless the court contracts with providers outside of the
32 (~~department~~) health care authority.

33 (7) Any jurisdiction that has established more than one
34 therapeutic court under this chapter may combine the functions of
35 these courts into a single therapeutic court.

36 (8) Nothing in this section prohibits a district or municipal
37 court from ordering treatment or other conditions of sentence or
38 probation following a conviction, without the consent of either the
39 prosecutor or defendant.

1 (9) No therapeutic or specialty court may be established
2 specifically for the purpose of applying foreign law, including
3 foreign criminal, civil, or religious law, that is otherwise not
4 required by treaty.

5 (10) No therapeutic or specialty court established by court rule
6 shall enforce a foreign law, if doing so would violate a right
7 guaranteed by the Constitution of this state or of the United States.

8 **Sec. 9003.** RCW 9.41.300 and 2011 c 221 s 2 are each amended to
9 read as follows:

10 (1) It is unlawful for any person to enter the following places
11 when he or she knowingly possesses or knowingly has under his or her
12 control a weapon:

13 (a) The restricted access areas of a jail, or of a law
14 enforcement facility, or any place used for the confinement of a
15 person (i) arrested for, charged with, or convicted of an offense,
16 (ii) held for extradition or as a material witness, or (iii)
17 otherwise confined pursuant to an order of a court, except an order
18 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
19 include common areas of egress or ingress open to the general public;

20 (b) Those areas in any building which are used in connection with
21 court proceedings, including courtrooms, jury rooms, judge's
22 chambers, offices and areas used to conduct court business, waiting
23 areas, and corridors adjacent to areas used in connection with court
24 proceedings. The restricted areas do not include common areas of
25 ingress and egress to the building that is used in connection with
26 court proceedings, when it is possible to protect court areas without
27 restricting ingress and egress to the building. The restricted areas
28 shall be the minimum necessary to fulfill the objective of this
29 subsection (1)(b).

30 For purposes of this subsection (1)(b), "weapon" means any
31 firearm, explosive as defined in RCW 70.74.010, or any weapon of the
32 kind usually known as slung shot, sand club, or metal knuckles, or
33 any knife, dagger, dirk, or other similar weapon that is capable of
34 causing death or bodily injury and is commonly used with the intent
35 to cause death or bodily injury.

36 In addition, the local legislative authority shall provide either
37 a stationary locked box sufficient in size for pistols and key to a
38 weapon owner for weapon storage, or shall designate an official to
39 receive weapons for safekeeping, during the owner's visit to

1 restricted areas of the building. The locked box or designated
2 official shall be located within the same building used in connection
3 with court proceedings. The local legislative authority shall be
4 liable for any negligence causing damage to or loss of a weapon
5 either placed in a locked box or left with an official during the
6 owner's visit to restricted areas of the building.

7 The local judicial authority shall designate and clearly mark
8 those areas where weapons are prohibited, and shall post notices at
9 each entrance to the building of the prohibition against weapons in
10 the restricted areas;

11 (c) The restricted access areas of a public mental health
12 facility licensed or certified by the department of (~~social and~~
13 ~~health services~~) health for inpatient hospital care and state
14 institutions for the care of the mentally ill, excluding those
15 facilities solely for evaluation and treatment. Restricted access
16 areas do not include common areas of egress and ingress open to the
17 general public;

18 (d) That portion of an establishment classified by the state
19 liquor (~~control~~) and cannabis board as off-limits to persons under
20 twenty-one years of age; or

21 (e) The restricted access areas of a commercial service airport
22 designated in the airport security plan approved by the federal
23 transportation security administration, including passenger screening
24 checkpoints at or beyond the point at which a passenger initiates the
25 screening process. These areas do not include airport drives, general
26 parking areas and walkways, and shops and areas of the terminal that
27 are outside the screening checkpoints and that are normally open to
28 unscreened passengers or visitors to the airport. Any restricted
29 access area shall be clearly indicated by prominent signs indicating
30 that firearms and other weapons are prohibited in the area.

31 (2) Cities, towns, counties, and other municipalities may enact
32 laws and ordinances:

33 (a) Restricting the discharge of firearms in any portion of their
34 respective jurisdictions where there is a reasonable likelihood that
35 humans, domestic animals, or property will be jeopardized. Such laws
36 and ordinances shall not abridge the right of the individual
37 guaranteed by Article I, section 24 of the state Constitution to bear
38 arms in defense of self or others; and

1 (b) Restricting the possession of firearms in any stadium or
2 convention center, operated by a city, town, county, or other
3 municipality, except that such restrictions shall not apply to:

4 (i) Any pistol in the possession of a person licensed under RCW
5 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

6 (ii) Any showing, demonstration, or lecture involving the
7 exhibition of firearms.

8 (3)(a) Cities, towns, and counties may enact ordinances
9 restricting the areas in their respective jurisdictions in which
10 firearms may be sold, but, except as provided in (b) of this
11 subsection, a business selling firearms may not be treated more
12 restrictively than other businesses located within the same zone. An
13 ordinance requiring the cessation of business within a zone shall not
14 have a shorter grandfather period for businesses selling firearms
15 than for any other businesses within the zone.

16 (b) Cities, towns, and counties may restrict the location of a
17 business selling firearms to not less than five hundred feet from
18 primary or secondary school grounds, if the business has a
19 storefront, has hours during which it is open for business, and posts
20 advertisements or signs observable to passersby that firearms are
21 available for sale. A business selling firearms that exists as of the
22 date a restriction is enacted under this subsection (3)(b) shall be
23 grandfathered according to existing law.

24 (4) Violations of local ordinances adopted under subsection (2)
25 of this section must have the same penalty as provided for by state
26 law.

27 (5) The perimeter of the premises of any specific location
28 covered by subsection (1) of this section shall be posted at
29 reasonable intervals to alert the public as to the existence of any
30 law restricting the possession of firearms on the premises.

31 (6) Subsection (1) of this section does not apply to:

32 (a) A person engaged in military activities sponsored by the
33 federal or state governments, while engaged in official duties;

34 (b) Law enforcement personnel, except that subsection (1)(b) of
35 this section does apply to a law enforcement officer who is present
36 at a courthouse building as a party to an action under chapter 10.14,
37 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
38 has alleged the existence of domestic violence as defined in RCW
39 26.50.010; or

40 (c) Security personnel while engaged in official duties.

1 (7) Subsection (1)(a), (b), (c), and (e) of this section does not
2 apply to correctional personnel or community corrections officers, as
3 long as they are employed as such, who have completed government-
4 sponsored law enforcement firearms training, except that subsection
5 (1)(b) of this section does apply to a correctional employee or
6 community corrections officer who is present at a courthouse building
7 as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or
8 an action under Title 26 RCW where any party has alleged the
9 existence of domestic violence as defined in RCW 26.50.010.

10 (8) Subsection (1)(a) of this section does not apply to a person
11 licensed pursuant to RCW 9.41.070 who, upon entering the place or
12 facility, directly and promptly proceeds to the administrator of the
13 facility or the administrator's designee and obtains written
14 permission to possess the firearm while on the premises or checks his
15 or her firearm. The person may reclaim the firearms upon leaving but
16 must immediately and directly depart from the place or facility.

17 (9) Subsection (1)(c) of this section does not apply to any
18 administrator or employee of the facility or to any person who, upon
19 entering the place or facility, directly and promptly proceeds to the
20 administrator of the facility or the administrator's designee and
21 obtains written permission to possess the firearm while on the
22 premises.

23 (10) Subsection (1)(d) of this section does not apply to the
24 proprietor of the premises or his or her employees while engaged in
25 their employment.

26 (11) Government-sponsored law enforcement firearms training must
27 be training that correctional personnel and community corrections
28 officers receive as part of their job requirement and reference to
29 such training does not constitute a mandate that it be provided by
30 the correctional facility.

31 (12) Any person violating subsection (1) of this section is
32 guilty of a gross misdemeanor.

33 (13) "Weapon" as used in this section means any firearm,
34 explosive as defined in RCW 70.74.010, or instrument or weapon listed
35 in RCW 9.41.250.

36 **Sec. 9004.** RCW 9.94A.703 and 2015 c 81 s 3 are each amended to
37 read as follows:

1 When a court sentences a person to a term of community custody,
2 the court shall impose conditions of community custody as provided in
3 this section.

4 (1) **Mandatory conditions.** As part of any term of community
5 custody, the court shall:

6 (a) Require the offender to inform the department of court-
7 ordered treatment upon request by the department;

8 (b) Require the offender to comply with any conditions imposed by
9 the department under RCW 9.94A.704;

10 (c) If the offender was sentenced under RCW 9.94A.507 for an
11 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense
12 was under eighteen years of age at the time of the offense, prohibit
13 the offender from residing in a community protection zone;

14 (d) If the offender was sentenced under RCW 9A.36.120, prohibit
15 the offender from serving in any paid or volunteer capacity where he
16 or she has control or supervision of minors under the age of
17 thirteen.

18 (2) **Waivable conditions.** Unless waived by the court, as part of
19 any term of community custody, the court shall order an offender to:

20 (a) Report to and be available for contact with the assigned
21 community corrections officer as directed;

22 (b) Work at department-approved education, employment, or
23 community restitution, or any combination thereof;

24 (c) Refrain from possessing or consuming controlled substances
25 except pursuant to lawfully issued prescriptions;

26 (d) Pay supervision fees as determined by the department; and

27 (e) Obtain prior approval of the department for the offender's
28 residence location and living arrangements.

29 (3) **Discretionary conditions.** As part of any term of community
30 custody, the court may order an offender to:

31 (a) Remain within, or outside of, a specified geographical
32 boundary;

33 (b) Refrain from direct or indirect contact with the victim of
34 the crime or a specified class of individuals;

35 (c) Participate in crime-related treatment or counseling
36 services;

37 (d) Participate in rehabilitative programs or otherwise perform
38 affirmative conduct reasonably related to the circumstances of the
39 offense, the offender's risk of reoffending, or the safety of the
40 community;

1 (e) Refrain from possessing or consuming alcohol; or

2 (f) Comply with any crime-related prohibitions.

3 (4) **Special conditions.**

4 (a) In sentencing an offender convicted of a crime of domestic
5 violence, as defined in RCW 10.99.020, if the offender has a minor
6 child, or if the victim of the offense for which the offender was
7 convicted has a minor child, the court may order the offender to
8 participate in a domestic violence perpetrator program approved under
9 RCW 26.50.150.

10 (b)(i) In sentencing an offender convicted of an alcohol or drug-
11 related traffic offense, the court shall require the offender to
12 complete a diagnostic evaluation by (~~an alcohol or drug dependency~~
13 ~~agency~~) a substance use disorder treatment program approved by the
14 department of social and health services or a qualified probation
15 department, defined under RCW 46.61.516, that has been approved by
16 the department of social and health services. If the offense was
17 pursuant to chapter 46.61 RCW, the report shall be forwarded to the
18 department of licensing. If the offender is found to have an alcohol
19 or drug problem that requires treatment, the offender shall complete
20 treatment in (~~a program approved by the department of social and~~
21 ~~health services under chapter 70.96A RCW~~) an approved substance use
22 disorder treatment program as defined in chapter 71.24 RCW. If the
23 offender is found not to have an alcohol or drug problem that
24 requires treatment, the offender shall complete a course in an
25 alcohol and drug information school (~~approved~~) licensed or
26 certified by the department of (~~social and health services~~) health
27 under chapter 70.96A RCW. The offender shall pay all costs for any
28 evaluation, education, or treatment required by this section, unless
29 the offender is eligible for an existing program offered or approved
30 by the department of social and health services.

31 (ii) For purposes of this section, "alcohol or drug-related
32 traffic offense" means the following: Driving while under the
33 influence as defined by RCW 46.61.502, actual physical control while
34 under the influence as defined by RCW 46.61.504, vehicular homicide
35 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by
36 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW
37 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

38 (iii) This subsection (4)(b) does not require the department of
39 social and health services to add new treatment or assessment

1 facilities nor affect its use of existing programs and facilities
2 authorized by law.

3 **Sec. 9005.** RCW 10.05.040 and 2002 c 219 s 9 are each amended to
4 read as follows:

5 The ((facility)) program to which such person is referred, or the
6 department of social and health services if the petition is brought
7 under RCW 10.05.020(2), shall conduct an investigation and
8 examination to determine:

- 9 (1) Whether the person suffers from the problem described;
- 10 (2) Whether the problem is such that if not treated, or if no
11 child welfare services are provided, there is a probability that
12 similar misconduct will occur in the future;
- 13 (3) Whether extensive and long term treatment is required;
- 14 (4) Whether effective treatment or child welfare services for the
15 person's problem are available; and
- 16 (5) Whether the person is amenable to treatment or willing to
17 cooperate with child welfare services.

18 **Sec. 9006.** RCW 10.05.050 and 2002 c 219 s 10 are each amended to
19 read as follows:

20 (1) The ((facility)) program, or the department of social and
21 health services if the petition is brought under RCW 10.05.020(2),
22 shall make a written report to the court stating its findings and
23 recommendations after the examination required by RCW 10.05.040. If
24 its findings and recommendations support treatment or the
25 implementation of a child welfare service plan, it shall also
26 recommend a treatment or service plan setting out:

- 27 (a) The type;
- 28 (b) Nature;
- 29 (c) Length;
- 30 (d) A treatment or service time schedule; and
- 31 (e) Approximate cost of the treatment or child welfare services.

32 (2) In the case of a child welfare service plan, the plan shall
33 be designed in a manner so that a parent who successfully completes
34 the plan will not be likely to withhold the basic necessities of life
35 from his or her child.

36 (3) The report with the treatment or service plan shall be filed
37 with the court and a copy given to the petitioner and petitioner's
38 counsel. A copy of the treatment or service plan shall be given to

1 the prosecutor by petitioner's counsel at the request of the
2 prosecutor. The evaluation facility, or the department of social and
3 health services if the petition is brought under RCW 10.05.020(2),
4 making the written report shall append to the report a commitment by
5 the treatment ((facility)) program or the department of social and
6 health services that it will provide the treatment or child welfare
7 services in accordance with this chapter. The facility or the service
8 provider shall agree to provide the court with a statement every
9 three months for the first year and every six months for the second
10 year regarding (a) the petitioner's cooperation with the treatment or
11 child welfare service plan proposed and (b) the petitioner's progress
12 or failure in treatment or child welfare services. These statements
13 shall be made as a declaration by the person who is personally
14 responsible for providing the treatment or services.

15 **Sec. 9007.** RCW 18.205.080 and 1998 c 243 s 8 are each amended to
16 read as follows:

17 (1) The secretary shall appoint a chemical dependency
18 certification advisory committee to further the purposes of this
19 chapter. The committee shall be composed of seven members, one member
20 initially appointed for a term of one year, three for a term of two
21 years, and three for a term of three years. Subsequent appointments
22 shall be for terms of three years. No person may serve as a member of
23 the committee for more than two consecutive terms. Members of the
24 committee shall be residents of this state. The committee shall be
25 composed of four certified chemical dependency professionals; one
26 chemical dependency treatment program director; one physician
27 licensed under chapter 18.71 or 18.57 RCW who is certified in
28 addiction medicine or a licensed or certified mental health
29 practitioner; and one member of the public who has received chemical
30 dependency counseling.

31 (2) The secretary may remove any member of the committee for
32 cause as specified by rule. In the case of a vacancy, the secretary
33 shall appoint a person to serve for the remainder of the unexpired
34 term.

35 (3) The committee shall meet at the times and places designated
36 by the secretary and shall hold meetings during the year as necessary
37 to provide advice to the director. The committee may elect a chair
38 and a vice chair. A majority of the members currently serving shall
39 constitute a quorum.

1 (4) Each member of the committee shall be reimbursed for travel
2 expenses as authorized in RCW 43.03.050 and 43.03.060. In addition,
3 members of the committee shall be compensated in accordance with RCW
4 43.03.240 when engaged in the authorized business of the committee.

5 (5) The director of the (~~department of social and health~~
6 ~~services division of alcohol and substance abuse or the director's~~)
7 health care authority, or his or her designee, shall serve as an ex
8 officio member of the committee.

9 (6) The secretary, members of the committee, or individuals
10 acting on their behalf are immune from suit in any action, civil or
11 criminal, based on any certification or disciplinary proceedings or
12 other official acts performed in the course of their duties.

13 **Sec. 9008.** RCW 18.88A.020 and 2015 c 158 s 1 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Alternative training" means a nursing assistant-certified
18 program meeting criteria adopted by the commission under RCW
19 18.88A.087 to meet the requirements of a state-approved nurse aide
20 competency evaluation program consistent with 42 U.S.C. Sec.
21 1395i-3(e) and (f) of the federal social security act.

22 (2) "Approved training program" means a nursing assistant-
23 certified training program approved by the commission to meet the
24 requirements of a state-approved nurse aide training and competency
25 evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f)
26 of the federal social security act. For community college,
27 vocational-technical institutes, skill centers, and secondary school
28 as defined in chapter 28B.50 RCW, nursing assistant-certified
29 training programs shall be approved by the commission in cooperation
30 with the board for community and technical colleges or the
31 superintendent of public instruction.

32 (3) "Commission" means the Washington nursing care quality
33 assurance commission.

34 (4) "Competency evaluation" means the measurement of an
35 individual's knowledge and skills as related to safe, competent
36 performance as a nursing assistant.

37 (5) "Department" means the department of health.

38 (6) "Health care facility" means a nursing home, hospital
39 licensed under chapter 70.41 or 71.12 RCW, hospice care facility,

1 home health care agency, hospice agency, licensed or certified
2 service provider under chapter 71.24 RCW other than an individual
3 health care provider, or other entity for delivery of health care
4 services as defined by the commission.

5 (7) "Medication assistant" means a nursing assistant-certified
6 with a medication assistant endorsement issued under RCW 18.88A.082
7 who is authorized, in addition to his or her duties as a nursing
8 assistant-certified, to administer certain medications and perform
9 certain treatments in a nursing home under the supervision of a
10 registered nurse under RCW 18.88A.082.

11 (8) "Nursing assistant" means an individual, regardless of title,
12 who, under the direction and supervision of a registered nurse or
13 licensed practical nurse, assists in the delivery of nursing and
14 nursing-related activities to patients in a health care facility. The
15 two levels of nursing assistants are:

16 (a) "Nursing assistant-certified," an individual certified under
17 this chapter; and

18 (b) "Nursing assistant-registered," an individual registered
19 under this chapter.

20 (9) "Nursing home" means a nursing home licensed under chapter
21 18.51 RCW.

22 (10) "Secretary" means the secretary of health.

23 **Sec. 9009.** RCW 46.61.5055 and 2017 c 336 s 6 and 2017 c 335 s 3
24 are each reenacted and amended to read as follows:

25 (1) **No prior offenses in seven years.** Except as provided in RCW
26 46.61.502(6) or 46.61.504(6), a person who is convicted of a
27 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
28 within seven years shall be punished as follows:

29 (a) **Penalty for alcohol concentration less than 0.15.** In the case
30 of a person whose alcohol concentration was less than 0.15, or for
31 whom for reasons other than the person's refusal to take a test
32 offered pursuant to RCW 46.20.308 there is no test result indicating
33 the person's alcohol concentration:

34 (i) By imprisonment for not less than one day nor more than three
35 hundred sixty-four days. Twenty-four consecutive hours of the
36 imprisonment may not be suspended unless the court finds that the
37 imposition of this mandatory minimum sentence would impose a
38 substantial risk to the offender's physical or mental well-being.
39 Whenever the mandatory minimum sentence is suspended, the court shall

1 state in writing the reason for granting the suspension and the facts
2 upon which the suspension is based. In lieu of the mandatory minimum
3 term of imprisonment required under this subsection (1)(a)(i), the
4 court may order not less than fifteen days of electronic home
5 monitoring or a ninety-day period of 24/7 sobriety program
6 monitoring. The court may consider the offender's pretrial 24/7
7 sobriety program monitoring as fulfilling a portion of posttrial
8 sentencing. The offender shall pay the cost of electronic home
9 monitoring. The county or municipality in which the penalty is being
10 imposed shall determine the cost. The court may also require the
11 offender's electronic home monitoring device or other separate
12 alcohol monitoring device to include an alcohol detection
13 breathalyzer, and the court may restrict the amount of alcohol the
14 offender may consume during the time the offender is on electronic
15 home monitoring; and

16 (ii) By a fine of not less than three hundred fifty dollars nor
17 more than five thousand dollars. Three hundred fifty dollars of the
18 fine may not be suspended unless the court finds the offender to be
19 indigent; or

20 (b) **Penalty for alcohol concentration at least 0.15.** In the case
21 of a person whose alcohol concentration was at least 0.15, or for
22 whom by reason of the person's refusal to take a test offered
23 pursuant to RCW 46.20.308 there is no test result indicating the
24 person's alcohol concentration:

25 (i) By imprisonment for not less than two days nor more than
26 three hundred sixty-four days. Forty-eight consecutive hours of the
27 imprisonment may not be suspended unless the court finds that the
28 imposition of this mandatory minimum sentence would impose a
29 substantial risk to the offender's physical or mental well-being.
30 Whenever the mandatory minimum sentence is suspended, the court shall
31 state in writing the reason for granting the suspension and the facts
32 upon which the suspension is based. In lieu of the mandatory minimum
33 term of imprisonment required under this subsection (1)(b)(i), the
34 court may order not less than thirty days of electronic home
35 monitoring or a one hundred twenty day period of 24/7 sobriety
36 program monitoring. The court may consider the offender's pretrial
37 24/7 sobriety program testing as fulfilling a portion of posttrial
38 sentencing. The offender shall pay the cost of electronic home
39 monitoring. The county or municipality in which the penalty is being
40 imposed shall determine the cost. The court may also require the

1 offender's electronic home monitoring device to include an alcohol
2 detection breathalyzer or other separate alcohol monitoring device,
3 and the court may restrict the amount of alcohol the offender may
4 consume during the time the offender is on electronic home
5 monitoring; and

6 (ii) By a fine of not less than five hundred dollars nor more
7 than five thousand dollars. Five hundred dollars of the fine may not
8 be suspended unless the court finds the offender to be indigent.

9 (2) **One prior offense in seven years.** Except as provided in RCW
10 46.61.502(6) or 46.61.504(6), a person who is convicted of a
11 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
12 within seven years shall be punished as follows:

13 (a) **Penalty for alcohol concentration less than 0.15.** In the case
14 of a person whose alcohol concentration was less than 0.15, or for
15 whom for reasons other than the person's refusal to take a test
16 offered pursuant to RCW 46.20.308 there is no test result indicating
17 the person's alcohol concentration:

18 (i) By imprisonment for not less than thirty days nor more than
19 three hundred sixty-four days and sixty days of electronic home
20 monitoring. In lieu of the mandatory term of imprisonment and
21 electronic home monitoring under this subsection (2)(a)(i), the court
22 may order a minimum of four days in jail and either one hundred
23 eighty days of electronic home monitoring or a one hundred twenty-day
24 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300
25 through 36.28A.390. The court may consider the offender's pretrial
26 24/7 sobriety program monitoring as fulfilling a portion of posttrial
27 sentencing. The court shall order an expanded alcohol assessment and
28 treatment, if deemed appropriate by the assessment. The offender
29 shall pay for the cost of the electronic monitoring. The county or
30 municipality where the penalty is being imposed shall determine the
31 cost. The court may also require the offender's electronic home
32 monitoring device include an alcohol detection breathalyzer or other
33 separate alcohol monitoring device, and may restrict the amount of
34 alcohol the offender may consume during the time the offender is on
35 electronic home monitoring. Thirty days of imprisonment and sixty
36 days of electronic home monitoring may not be suspended unless the
37 court finds that the imposition of this mandatory minimum sentence
38 would impose a substantial risk to the offender's physical or mental
39 well-being. Whenever the mandatory minimum sentence is suspended, the

1 court shall state in writing the reason for granting the suspension
2 and the facts upon which the suspension is based; and

3 (ii) By a fine of not less than five hundred dollars nor more
4 than five thousand dollars. Five hundred dollars of the fine may not
5 be suspended unless the court finds the offender to be indigent; or

6 (b) **Penalty for alcohol concentration at least 0.15.** In the case
7 of a person whose alcohol concentration was at least 0.15, or for
8 whom by reason of the person's refusal to take a test offered
9 pursuant to RCW 46.20.308 there is no test result indicating the
10 person's alcohol concentration:

11 (i) By imprisonment for not less than forty-five days nor more
12 than three hundred sixty-four days and ninety days of electronic home
13 monitoring. In lieu of the mandatory minimum term of imprisonment and
14 electronic home monitoring under this subsection (2)(b)(i), the court
15 may order a minimum of six days in jail and either six months of
16 electronic home monitoring or a one hundred twenty-day period of 24/7
17 sobriety program monitoring pursuant to RCW 36.28A.300 through
18 36.28A.390. The court may consider the offender's pretrial 24/7
19 sobriety program monitoring as fulfilling a portion of posttrial
20 sentencing. The court shall order an expanded alcohol assessment and
21 treatment, if deemed appropriate by the assessment. The offender
22 shall pay for the cost of the electronic monitoring. The county or
23 municipality where the penalty is being imposed shall determine the
24 cost. The court may also require the offender's electronic home
25 monitoring device include an alcohol detection breathalyzer or other
26 separate alcohol monitoring device, and may restrict the amount of
27 alcohol the offender may consume during the time the offender is on
28 electronic home monitoring. Forty-five days of imprisonment and
29 ninety days of electronic home monitoring may not be suspended unless
30 the court finds that the imposition of this mandatory minimum
31 sentence would impose a substantial risk to the offender's physical
32 or mental well-being. Whenever the mandatory minimum sentence is
33 suspended, the court shall state in writing the reason for granting
34 the suspension and the facts upon which the suspension is based; and

35 (ii) By a fine of not less than seven hundred fifty dollars nor
36 more than five thousand dollars. Seven hundred fifty dollars of the
37 fine may not be suspended unless the court finds the offender to be
38 indigent.

39 (3) **Two prior offenses in seven years.** Except as provided in RCW
40 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has two prior
2 offenses within seven years shall be punished as follows:

3 (a) **Penalty for alcohol concentration less than 0.15.** In the case
4 of a person whose alcohol concentration was less than 0.15, or for
5 whom for reasons other than the person's refusal to take a test
6 offered pursuant to RCW 46.20.308 there is no test result indicating
7 the person's alcohol concentration:

8 (i) By imprisonment for not less than ninety days nor more than
9 three hundred sixty-four days, if available in that county or city, a
10 six-month period of 24/7 sobriety program monitoring pursuant to RCW
11 36.28A.300 through 36.28A.390, and one hundred twenty days of
12 electronic home monitoring. In lieu of the mandatory minimum term of
13 one hundred twenty days of electronic home monitoring, the court may
14 order at least an additional eight days in jail. The court shall
15 order an expanded alcohol assessment and treatment, if deemed
16 appropriate by the assessment. The offender shall pay for the cost of
17 the electronic monitoring. The county or municipality where the
18 penalty is being imposed shall determine the cost. The court may also
19 require the offender's electronic home monitoring device include an
20 alcohol detection breathalyzer or other separate alcohol monitoring
21 device, and may restrict the amount of alcohol the offender may
22 consume during the time the offender is on electronic home
23 monitoring. Ninety days of imprisonment and one hundred twenty days
24 of electronic home monitoring may not be suspended unless the court
25 finds that the imposition of this mandatory minimum sentence would
26 impose a substantial risk to the offender's physical or mental well-
27 being. Whenever the mandatory minimum sentence is suspended, the
28 court shall state in writing the reason for granting the suspension
29 and the facts upon which the suspension is based; and

30 (ii) By a fine of not less than one thousand dollars nor more
31 than five thousand dollars. One thousand dollars of the fine may not
32 be suspended unless the court finds the offender to be indigent; or

33 (b) **Penalty for alcohol concentration at least 0.15.** In the case
34 of a person whose alcohol concentration was at least 0.15, or for
35 whom by reason of the person's refusal to take a test offered
36 pursuant to RCW 46.20.308 there is no test result indicating the
37 person's alcohol concentration:

38 (i) By imprisonment for not less than one hundred twenty days nor
39 more than three hundred sixty-four days, if available in that county
40 or city, a six-month period of 24/7 sobriety program monitoring

1 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
2 days of electronic home monitoring. In lieu of the mandatory minimum
3 term of one hundred fifty days of electronic home monitoring, the
4 court may order at least an additional ten days in jail. The offender
5 shall pay for the cost of the electronic monitoring. The court shall
6 order an expanded alcohol assessment and treatment, if deemed
7 appropriate by the assessment. The county or municipality where the
8 penalty is being imposed shall determine the cost. The court may also
9 require the offender's electronic home monitoring device include an
10 alcohol detection breathalyzer or other separate alcohol monitoring
11 device, and may restrict the amount of alcohol the offender may
12 consume during the time the offender is on electronic home
13 monitoring. One hundred twenty days of imprisonment and one hundred
14 fifty days of electronic home monitoring may not be suspended unless
15 the court finds that the imposition of this mandatory minimum
16 sentence would impose a substantial risk to the offender's physical
17 or mental well-being. Whenever the mandatory minimum sentence is
18 suspended, the court shall state in writing the reason for granting
19 the suspension and the facts upon which the suspension is based; and

20 (ii) By a fine of not less than one thousand five hundred dollars
21 nor more than five thousand dollars. One thousand five hundred
22 dollars of the fine may not be suspended unless the court finds the
23 offender to be indigent.

24 (4) **Three or more prior offenses in ten years.** A person who is
25 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be
26 punished under chapter 9.94A RCW if:

27 (a) The person has three or more prior offenses within ten years;
28 or

29 (b) The person has ever previously been convicted of:

30 (i) A violation of RCW 46.61.520 committed while under the
31 influence of intoxicating liquor or any drug;

32 (ii) A violation of RCW 46.61.522 committed while under the
33 influence of intoxicating liquor or any drug;

34 (iii) An out-of-state offense comparable to the offense specified
35 in (b)(i) or (ii) of this subsection; or

36 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

37 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
38 require any person convicted of a violation of RCW 46.61.502 or
39 46.61.504 or an equivalent local ordinance to comply with the rules
40 and requirements of the department regarding the installation and use

1 of a functioning ignition interlock device installed on all motor
2 vehicles operated by the person.

3 (b) **Monitoring devices.** If the court orders that a person refrain
4 from consuming any alcohol, the court may order the person to submit
5 to alcohol monitoring through an alcohol detection breathalyzer
6 device, transdermal sensor device, or other technology designed to
7 detect alcohol in a person's system. The person shall pay for the
8 cost of the monitoring, unless the court specifies that the cost of
9 monitoring will be paid with funds that are available from an
10 alternative source identified by the court. The county or
11 municipality where the penalty is being imposed shall determine the
12 cost.

13 (c) **24/7 sobriety program monitoring.** In any county or city where
14 a 24/7 sobriety program is available and verified by the Washington
15 association of sheriffs and police chiefs, the court shall:

16 (i) Order the person to install and use a functioning ignition
17 interlock or other device in lieu of such period of 24/7 sobriety
18 program monitoring;

19 (ii) Order the person to a period of 24/7 sobriety program
20 monitoring pursuant to subsections (1) through (3) of this section;
21 or

22 (iii) Order the person to install and use a functioning ignition
23 interlock or other device in addition to a period of 24/7 sobriety
24 program monitoring pursuant to subsections (1) through (3) of this
25 section.

26 (6) **Penalty for having a minor passenger in vehicle.** If a person
27 who is convicted of a violation of RCW 46.61.502 or 46.61.504
28 committed the offense while a passenger under the age of sixteen was
29 in the vehicle, the court shall:

30 (a) Order the use of an ignition interlock or other device for an
31 additional six months;

32 (b) In any case in which the person has no prior offenses within
33 seven years, and except as provided in RCW 46.61.502(6) or
34 46.61.504(6), order an additional twenty-four hours of imprisonment
35 and a fine of not less than one thousand dollars and not more than
36 five thousand dollars. One thousand dollars of the fine may not be
37 suspended unless the court finds the offender to be indigent;

38 (c) In any case in which the person has one prior offense within
39 seven years, and except as provided in RCW 46.61.502(6) or
40 46.61.504(6), order an additional five days of imprisonment and a

1 fine of not less than two thousand dollars and not more than five
2 thousand dollars. One thousand dollars of the fine may not be
3 suspended unless the court finds the offender to be indigent;

4 (d) In any case in which the person has two prior offenses within
5 seven years, and except as provided in RCW 46.61.502(6) or
6 46.61.504(6), order an additional ten days of imprisonment and a fine
7 of not less than three thousand dollars and not more than ten
8 thousand dollars. One thousand dollars of the fine may not be
9 suspended unless the court finds the offender to be indigent.

10 (7) **Other items courts must consider while setting penalties.** In
11 exercising its discretion in setting penalties within the limits
12 allowed by this section, the court shall particularly consider the
13 following:

14 (a) Whether the person's driving at the time of the offense was
15 responsible for injury or damage to another or another's property;

16 (b) Whether at the time of the offense the person was driving or
17 in physical control of a vehicle with one or more passengers;

18 (c) Whether the driver was driving in the opposite direction of
19 the normal flow of traffic on a multiple lane highway, as defined by
20 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
21 or greater; and

22 (d) Whether a child passenger under the age of sixteen was an
23 occupant in the driver's vehicle.

24 (8) **Treatment and information school.** An offender punishable
25 under this section is subject to the alcohol assessment and treatment
26 provisions of RCW 46.61.5056.

27 (9) **Driver's license privileges of the defendant.** The license,
28 permit, or nonresident privilege of a person convicted of driving or
29 being in physical control of a motor vehicle while under the
30 influence of intoxicating liquor or drugs must:

31 (a) **Penalty for alcohol concentration less than 0.15.** If the
32 person's alcohol concentration was less than 0.15, or if for reasons
33 other than the person's refusal to take a test offered under RCW
34 46.20.308 there is no test result indicating the person's alcohol
35 concentration:

36 (i) Where there has been no prior offense within seven years, be
37 suspended or denied by the department for ninety days or until the
38 person is evaluated by an alcoholism agency or probation department
39 pursuant to RCW 46.20.311 and the person completes or is enrolled in
40 a ninety-day period of 24/7 sobriety program monitoring. In no

1 circumstances shall the license suspension be for fewer than two
2 days;

3 (ii) Where there has been one prior offense within seven years,
4 be revoked or denied by the department for two years or until the
5 person is evaluated by an alcoholism agency or probation department
6 pursuant to RCW 46.20.311 and the person completes or is enrolled in
7 a six-month period of 24/7 sobriety program monitoring. In no
8 circumstances shall the license suspension be for less than one year;
9 or

10 (iii) Where there have been two or more prior offenses within
11 seven years, be revoked or denied by the department for three years;

12 (b) **Penalty for alcohol concentration at least 0.15.** If the
13 person's alcohol concentration was at least 0.15:

14 (i) Where there has been no prior offense within seven years, be
15 revoked or denied by the department for one year or until the person
16 is evaluated by an alcoholism agency or probation department pursuant
17 to RCW 46.20.311 and the person completes or is enrolled in a one
18 hundred twenty day period of 24/7 sobriety program monitoring. In no
19 circumstances shall the license revocation be for fewer than four
20 days;

21 (ii) Where there has been one prior offense within seven years,
22 be revoked or denied by the department for nine hundred days; or

23 (iii) Where there have been two or more prior offenses within
24 seven years, be revoked or denied by the department for four years;
25 or

26 (c) **Penalty for refusing to take test.** If by reason of the
27 person's refusal to take a test offered under RCW 46.20.308, there is
28 no test result indicating the person's alcohol concentration:

29 (i) Where there have been no prior offenses within seven years,
30 be revoked or denied by the department for two years;

31 (ii) Where there has been one prior offense within seven years,
32 be revoked or denied by the department for three years; or

33 (iii) Where there have been two or more previous offenses within
34 seven years, be revoked or denied by the department for four years.

35 The department shall grant credit on a day-for-day basis for any
36 portion of a suspension, revocation, or denial already served under
37 this subsection for a suspension, revocation, or denial imposed under
38 RCW 46.20.3101 arising out of the same incident.

39 Upon receipt of a notice from the court under RCW 36.28A.390 that
40 a participant has been removed from a 24/7 sobriety program, the

1 department must resume any suspension, revocation, or denial that had
2 been terminated early under this subsection due to participation in
3 the program, granting credit on a day-for-day basis for any portion
4 of a suspension, revocation, or denial already served under RCW
5 46.20.3101 or this section arising out of the same incident.

6 Upon its own motion or upon motion by a person, a court may find,
7 on the record, that notice to the department under RCW 46.20.270 has
8 been delayed for three years or more as a result of a clerical or
9 court error. If so, the court may order that the person's license,
10 permit, or nonresident privilege shall not be revoked, suspended, or
11 denied for that offense. The court shall send notice of the finding
12 and order to the department and to the person. Upon receipt of the
13 notice from the court, the department shall not revoke, suspend, or
14 deny the license, permit, or nonresident privilege of the person for
15 that offense.

16 For purposes of this subsection (9), the department shall refer
17 to the driver's record maintained under RCW 46.52.120 when
18 determining the existence of prior offenses.

19 **(10) Probation of driving privilege.** After expiration of any
20 period of suspension, revocation, or denial of the offender's
21 license, permit, or privilege to drive required by this section, the
22 department shall place the offender's driving privilege in
23 probationary status pursuant to RCW 46.20.355.

24 **(11) Conditions of probation.** (a) In addition to any
25 nonsuspendable and nondeferrable jail sentence required by this
26 section, whenever the court imposes up to three hundred sixty-four
27 days in jail, the court shall also suspend but shall not defer a
28 period of confinement for a period not exceeding five years. The
29 court shall impose conditions of probation that include: (i) Not
30 driving a motor vehicle within this state without a valid license to
31 drive; (ii) not driving a motor vehicle within this state without
32 proof of liability insurance or other financial responsibility for
33 the future pursuant to RCW 46.30.020; (iii) not driving or being in
34 physical control of a motor vehicle within this state while having an
35 alcohol concentration of 0.08 or more or a THC concentration of 5.00
36 nanograms per milliliter of whole blood or higher, within two hours
37 after driving; (iv) not refusing to submit to a test of his or her
38 breath or blood to determine alcohol or drug concentration upon
39 request of a law enforcement officer who has reasonable grounds to
40 believe the person was driving or was in actual physical control of a

1 motor vehicle within this state while under the influence of
2 intoxicating liquor or drug; and (v) not driving a motor vehicle in
3 this state without a functioning ignition interlock device as
4 required by the department under RCW 46.20.720. The court may impose
5 conditions of probation that include nonrepetition, installation of
6 an ignition interlock device on the probationer's motor vehicle,
7 alcohol or drug treatment, supervised probation, or other conditions
8 that may be appropriate. The sentence may be imposed in whole or in
9 part upon violation of a condition of probation during the suspension
10 period.

11 (b) For each violation of mandatory conditions of probation under
12 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
13 order the convicted person to be confined for thirty days, which
14 shall not be suspended or deferred.

15 (c) For each incident involving a violation of a mandatory
16 condition of probation imposed under this subsection, the license,
17 permit, or privilege to drive of the person shall be suspended by the
18 court for thirty days or, if such license, permit, or privilege to
19 drive already is suspended, revoked, or denied at the time the
20 finding of probation violation is made, the suspension, revocation,
21 or denial then in effect shall be extended by thirty days. The court
22 shall notify the department of any suspension, revocation, or denial
23 or any extension of a suspension, revocation, or denial imposed under
24 this subsection.

25 (12) **Waiver of electronic home monitoring.** A court may waive the
26 electronic home monitoring requirements of this chapter when:

27 (a) The offender does not have a dwelling, telephone service, or
28 any other necessity to operate an electronic home monitoring system.
29 However, if a court determines that an alcohol monitoring device
30 utilizing wireless reporting technology is reasonably available, the
31 court may require the person to obtain such a device during the
32 period of required electronic home monitoring;

33 (b) The offender does not reside in the state of Washington; or

34 (c) The court determines that there is reason to believe that the
35 offender would violate the conditions of the electronic home
36 monitoring penalty.

37 Whenever the mandatory minimum term of electronic home monitoring
38 is waived, the court shall state in writing the reason for granting
39 the waiver and the facts upon which the waiver is based, and shall
40 impose an alternative sentence with similar punitive consequences.

1 The alternative sentence may include, but is not limited to, use of
2 an ignition interlock device, the 24/7 sobriety program monitoring,
3 additional jail time, work crew, or work camp.

4 Whenever the combination of jail time and electronic home
5 monitoring or alternative sentence would exceed three hundred sixty-
6 four days, the offender shall serve the jail portion of the sentence
7 first, and the electronic home monitoring or alternative portion of
8 the sentence shall be reduced so that the combination does not exceed
9 three hundred sixty-four days.

10 (13) **Extraordinary medical placement.** An offender serving a
11 sentence under this section, whether or not a mandatory minimum term
12 has expired, may be granted an extraordinary medical placement by the
13 jail administrator subject to the standards and limitations set forth
14 in RCW 9.94A.728(1)(c).

15 (14) **Definitions.** For purposes of this section and RCW 46.61.502
16 and 46.61.504:

17 (a) A "prior offense" means any of the following:

18 (i) A conviction for a violation of RCW 46.61.502 or an
19 equivalent local ordinance;

20 (ii) A conviction for a violation of RCW 46.61.504 or an
21 equivalent local ordinance;

22 (iii) A conviction for a violation of RCW 46.25.110 or an
23 equivalent local ordinance;

24 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
25 equivalent local ordinance;

26 (v) A conviction for a violation of RCW 79A.60.040(1) or an
27 equivalent local ordinance committed in a reckless manner if the
28 conviction is the result of a charge that was originally filed as a
29 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

30 (vi) A conviction for a violation of RCW 47.68.220 or an
31 equivalent local ordinance committed while under the influence of
32 intoxicating liquor or any drug;

33 (vii) A conviction for a violation of RCW 47.68.220 or an
34 equivalent local ordinance committed in a careless or reckless manner
35 if the conviction is the result of a charge that was originally filed
36 as a violation of RCW 47.68.220 or an equivalent local ordinance
37 while under the influence of intoxicating liquor or any drug;

38 (viii) A conviction for a violation of RCW 46.09.470(2) or an
39 equivalent local ordinance;

1 (ix) A conviction for a violation of RCW 46.10.490(2) or an
2 equivalent local ordinance;

3 (x) A conviction for a violation of RCW 46.61.520 committed while
4 under the influence of intoxicating liquor or any drug, or a
5 conviction for a violation of RCW 46.61.520 committed in a reckless
6 manner or with the disregard for the safety of others if the
7 conviction is the result of a charge that was originally filed as a
8 violation of RCW 46.61.520 committed while under the influence of
9 intoxicating liquor or any drug;

10 (xi) A conviction for a violation of RCW 46.61.522 committed
11 while under the influence of intoxicating liquor or any drug, or a
12 conviction for a violation of RCW 46.61.522 committed in a reckless
13 manner or with the disregard for the safety of others if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 46.61.522 committed while under the influence of
16 intoxicating liquor or any drug;

17 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
18 or 9A.36.050 or an equivalent local ordinance, if the conviction is
19 the result of a charge that was originally filed as a violation of
20 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
21 RCW 46.61.520 or 46.61.522;

22 (xiii) An out-of-state conviction for a violation that would have
23 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
24 subsection if committed in this state;

25 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a
26 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
27 equivalent local ordinance;

28 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
29 prosecution for a violation of RCW 46.61.5249, or an equivalent local
30 ordinance, if the charge under which the deferred prosecution was
31 granted was originally filed as a violation of RCW 46.61.502 or
32 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
33 46.61.522;

34 (xvi) A deferred prosecution granted in another state for a
35 violation of driving or having physical control of a vehicle while
36 under the influence of intoxicating liquor or any drug if the out-of-
37 state deferred prosecution is equivalent to the deferred prosecution
38 under chapter 10.05 RCW, including a requirement that the defendant
39 participate in a chemical dependency treatment program; or

1 (xvii) A deferred sentence imposed in a prosecution for a
2 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
3 equivalent local ordinance, if the charge under which the deferred
4 sentence was imposed was originally filed as a violation of RCW
5 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
6 violation of RCW 46.61.520 or 46.61.522;

7 If a deferred prosecution is revoked based on a subsequent
8 conviction for an offense listed in this subsection (14)(a), the
9 subsequent conviction shall not be treated as a prior offense of the
10 revoked deferred prosecution for the purposes of sentencing;

11 (b) "Treatment" means substance use disorder treatment
12 (~~approved~~) licensed or certified by the department of (~~social and~~
13 ~~health services~~) health;

14 (c) "Within seven years" means that the arrest for a prior
15 offense occurred within seven years before or after the arrest for
16 the current offense; and

17 (d) "Within ten years" means that the arrest for a prior offense
18 occurred within ten years before or after the arrest for the current
19 offense.

20 (15) All fines imposed by this section apply to adult offenders
21 only.

22 **Sec. 9010.** RCW 46.61.5056 and 2016 sp.s. c 29 s 531 are each
23 amended to read as follows:

24 (1) A person subject to alcohol assessment and treatment under
25 RCW 46.61.5055 shall be required by the court to complete a course in
26 an alcohol and drug information school (~~approved~~) licensed or
27 certified by the department of (~~social and~~) health (~~services~~) or
28 to complete more intensive treatment in a substance use disorder
29 treatment program (~~approved~~) licensed or certified by the
30 department of (~~social and~~) health (~~services~~), as determined by
31 the court. The court shall notify the department of licensing
32 whenever it orders a person to complete a course or treatment program
33 under this section.

34 (2) A diagnostic evaluation and treatment recommendation shall be
35 prepared under the direction of the court by (~~an alcoholism agency~~
36 ~~approved~~) a substance use disorder treatment program licensed or
37 certified by the department of (~~social and~~) health (~~services~~) or
38 a qualified probation department approved by the department of social
39 and health services. A copy of the report shall be forwarded to the

1 court and the department of licensing. Based on the diagnostic
2 evaluation, the court shall determine whether the person shall be
3 required to complete a course in an alcohol and drug information
4 school (~~(approved)~~) licensed or certified by the department of
5 (~~(social—and)~~) health (~~(services)~~) or more intensive treatment in
6 (~~(a)~~) an approved substance use disorder treatment program
7 (~~(approved)~~) licensed or certified by the department of (~~(social~~
8 ~~and)~~) health (~~(services)~~).

9 (3) Standards for approval for alcohol treatment programs shall
10 be prescribed by the department of (~~(social—and)~~) health
11 (~~(services)~~). The department of (~~(social—and)~~) health (~~(services)~~)
12 shall periodically review the costs of alcohol and drug information
13 schools and treatment programs.

14 (4) Any agency that provides treatment ordered under RCW
15 46.61.5055, shall immediately report to the appropriate probation
16 department where applicable, otherwise to the court, and to the
17 department of licensing any noncompliance by a person with the
18 conditions of his or her ordered treatment. The court shall notify
19 the department of licensing and the department of (~~(social—and)~~)
20 health (~~(services)~~) of any failure by an agency to so report
21 noncompliance. Any agency with knowledge of noncompliance that fails
22 to so report shall be fined two hundred fifty dollars by the
23 department of (~~(social—and)~~) health (~~(services)~~). Upon three such
24 failures by an agency within one year, the department of (~~(social~~
25 ~~and)~~) health (~~(services)~~) shall revoke the agency's (~~(approval)~~)
26 license or certification under this section.

27 (5) The department of licensing and the department of (~~(social~~
28 ~~and)~~) health (~~(services)~~) may adopt such rules as are necessary to
29 carry out this section.

30 **Sec. 9011.** RCW 72.09.350 and 2014 c 225 s 94 are each amended to
31 read as follows:

32 (1) The department of corrections and the University of
33 Washington may enter into a collaborative arrangement to provide
34 improved services for offenders with mental illness with a focus on
35 prevention, treatment, and reintegration into society. The
36 participants in the collaborative arrangement may develop a strategic
37 plan within sixty days after May 17, 1993, to address the management
38 of offenders with mental illness within the correctional system,
39 facilitating their reentry into the community and the mental health

1 system, and preventing the inappropriate incarceration of individuals
2 with mental illness. The collaborative arrangement may also specify
3 the establishment and maintenance of a corrections mental health
4 center located at McNeil Island corrections center. The collaborative
5 arrangement shall require that an advisory panel of key stakeholders
6 be established and consulted throughout the development and
7 implementation of the center. The stakeholders advisory panel shall
8 include a broad array of interest groups drawn from representatives
9 of mental health, criminal justice, and correctional systems. The
10 stakeholders advisory panel shall include, but is not limited to,
11 membership from: The department of corrections, the department of
12 social and health services mental health division and division of
13 juvenile rehabilitation, the health care authority, behavioral health
14 organizations, local and regional law enforcement agencies, the
15 sentencing guidelines commission, county and city jails, mental
16 health advocacy groups for individuals with mental illness or
17 developmental disabilities, ((and)) the traumatically brain-injured,
18 and the general public. The center established by the department of
19 corrections and University of Washington, in consultation with the
20 stakeholder advisory groups, shall have the authority to:

21 (a) Develop new and innovative treatment approaches for
22 corrections mental health clients;

23 (b) Improve the quality of mental health services within the
24 department and throughout the corrections system;

25 (c) Facilitate mental health staff recruitment and training to
26 meet departmental, county, and municipal needs;

27 (d) Expand research activities within the department in the area
28 of treatment services, the design of delivery systems, the
29 development of organizational models, and training for corrections
30 mental health care professionals;

31 (e) Improve the work environment for correctional employees by
32 developing the skills, knowledge, and understanding of how to work
33 with offenders with special chronic mental health challenges;

34 (f) Establish a more positive rehabilitative environment for
35 offenders;

36 (g) Strengthen multidisciplinary mental health collaboration
37 between the University of Washington, other groups committed to the
38 intent of this section, and the department of corrections;

1 (h) Strengthen department linkages between institutions of higher
2 education, public sector mental health systems, and county and
3 municipal corrections;

4 (i) Assist in the continued formulation of corrections mental
5 health policies;

6 (j) Develop innovative and effective recruitment and training
7 programs for correctional personnel working with offenders with
8 mental illness;

9 (k) Assist in the development of a coordinated continuum of
10 mental health care capable of providing services from corrections
11 entry to community return; and

12 (l) Evaluate all current and innovative approaches developed
13 within this center in terms of their effective and efficient
14 achievement of improved mental health of inmates, development and
15 utilization of personnel, the impact of these approaches on the
16 functioning of correctional institutions, and the relationship of the
17 corrections system to mental health and criminal justice systems.
18 Specific attention should be paid to evaluating the effects of
19 programs on the reintegration of offenders with mental illness into
20 the community and the prevention of inappropriate incarceration of
21 persons with mental illness.

22 (2) The corrections mental health center may conduct research,
23 training, and treatment activities for the offender with mental
24 illness within selected sites operated by the department. The
25 department shall provide support services for the center such as food
26 services, maintenance, perimeter security, classification, offender
27 supervision, and living unit functions. The University of Washington
28 may develop, implement, and evaluate the clinical, treatment,
29 research, and evaluation components of the mentally ill offender
30 center. The institute of for public policy and management may be
31 consulted regarding the development of the center and in the
32 recommendations regarding public policy. As resources permit,
33 training within the center shall be available to state, county, and
34 municipal agencies requiring the services. Other state colleges,
35 state universities, and mental health providers may be involved in
36 activities as required on a subcontract basis. Community mental
37 health organizations, research groups, and community advocacy groups
38 may be critical components of the center's operations and involved as
39 appropriate to annual objectives. Clients with mental illness may be
40 drawn from throughout the department's population and transferred to

1 the center as clinical need, available services, and department
2 jurisdiction permits.

3 (3) The department shall prepare a report of the center's
4 progress toward the attainment of stated goals and provide the report
5 to the legislature annually.

6 **Sec. 9012.** RCW 72.09.370 and 2016 sp.s. c 29 s 427 are each
7 amended to read as follows:

8 (1) The offender reentry community safety program is established
9 to provide intensive services to offenders identified under this
10 subsection and to thereby promote public safety. The secretary shall
11 identify offenders in confinement or partial confinement who: (a) Are
12 reasonably believed to be dangerous to themselves or others; and (b)
13 have a mental disorder. In determining an offender's dangerousness,
14 the secretary shall consider behavior known to the department and
15 factors, based on research, that are linked to an increased risk for
16 dangerousness of offenders with mental illnesses and shall include
17 consideration of an offender's chemical dependency or abuse.

18 (2) Prior to release of an offender identified under this
19 section, a team consisting of representatives of the department of
20 corrections, the ~~((division of mental health))~~ health care authority,
21 and, as necessary, the indeterminate sentence review board, ~~((other))~~
22 divisions or administrations within the department of social and
23 health services, specifically including ~~((the division of alcohol and
24 substance abuse and))~~ the division of developmental disabilities, the
25 appropriate behavioral health organization, and the providers, as
26 appropriate, shall develop a plan, as determined necessary by the
27 team, for delivery of treatment and support services to the offender
28 upon release. In developing the plan, the offender shall be offered
29 assistance in executing a mental health directive under chapter 71.32
30 RCW, after being fully informed of the benefits, scope, and purposes
31 of such directive. The team may include a school district
32 representative for offenders under the age of twenty-one. The team
33 shall consult with the offender's counsel, if any, and, as
34 appropriate, the offender's family and community. The team shall
35 notify the crime victim/witness program, which shall provide notice
36 to all people registered to receive notice under RCW 72.09.712 of the
37 proposed release plan developed by the team. Victims, witnesses, and
38 other interested people notified by the department may provide
39 information and comments to the department on potential safety risk

1 to specific individuals or classes of individuals posed by the
2 specific offender. The team may recommend: (a) That the offender be
3 evaluated by the designated crisis responder, as defined in chapter
4 71.05 RCW; (b) department-supervised community treatment; or (c)
5 voluntary community mental health or chemical dependency or abuse
6 treatment.

7 (3) Prior to release of an offender identified under this
8 section, the team shall determine whether or not an evaluation by a
9 designated crisis responder is needed. If an evaluation is
10 recommended, the supporting documentation shall be immediately
11 forwarded to the appropriate designated crisis responder. The
12 supporting documentation shall include the offender's criminal
13 history, history of judicially required or administratively ordered
14 involuntary antipsychotic medication while in confinement, and any
15 known history of involuntary civil commitment.

16 (4) If an evaluation by a designated crisis responder is
17 recommended by the team, such evaluation shall occur not more than
18 ten days, nor less than five days, prior to release.

19 (5) A second evaluation by a designated crisis responder shall
20 occur on the day of release if requested by the team, based upon new
21 information or a change in the offender's mental condition, and the
22 initial evaluation did not result in an emergency detention or a
23 summons under chapter 71.05 RCW.

24 (6) If the designated crisis responder determines an emergency
25 detention under chapter 71.05 RCW is necessary, the department shall
26 release the offender only to a state hospital or to a consenting
27 evaluation and treatment facility. The department shall arrange
28 transportation of the offender to the hospital or facility.

29 (7) If the designated crisis responder believes that a less
30 restrictive alternative treatment is appropriate, he or she shall
31 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to
32 require the offender to appear at an evaluation and treatment
33 facility. If a summons is issued, the offender shall remain within
34 the corrections facility until completion of his or her term of
35 confinement and be transported, by corrections personnel on the day
36 of completion, directly to the identified evaluation and treatment
37 facility.

38 (8) The secretary shall adopt rules to implement this section.

1 **Sec. 9013.** RCW 72.09.380 and 1999 c 214 s 3 are each amended to
2 read as follows:

3 The (~~secretaries~~) secretary of the department of corrections
4 and the (~~department of social and health services~~) director of the
5 health care authority shall adopt rules and develop working
6 agreements which will ensure that offenders identified under RCW
7 72.09.370(1) will be assisted in making application for medicaid to
8 facilitate a decision regarding their eligibility for such
9 entitlements prior to the end of their term of confinement in a
10 correctional facility.

11 **Sec. 9014.** RCW 72.09.381 and 2014 c 225 s 96 are each amended to
12 read as follows:

13 The secretary of the department of corrections and the
14 (~~secretary of the department of social and health services~~)
15 director of the health care authority shall, in consultation with the
16 behavioral health organizations and provider representatives, each
17 adopt rules as necessary to implement chapter 214, Laws of 1999.

18 **Sec. 9015.** RCW 72.09.585 and 2013 c 200 s 32 are each amended to
19 read as follows:

20 (1) When the department is determining an offender's risk
21 management level, the department shall inquire of the offender and
22 shall be told whether the offender is subject to court-ordered
23 treatment for mental health services or chemical dependency services.
24 The department shall request and the offender shall provide an
25 authorization to release information form that meets applicable state
26 and federal requirements and shall provide the offender with written
27 notice that the department will request the offender's mental health
28 and substance (~~abuse~~) use disorder treatment information. An
29 offender's failure to inform the department of court-ordered
30 treatment is a violation of the conditions of supervision if the
31 offender is in the community and an infraction if the offender is in
32 confinement, and the violation or infraction is subject to sanctions.

33 (2) When an offender discloses that he or she is subject to
34 court-ordered mental health services or chemical dependency
35 treatment, the department shall provide the mental health services
36 provider or chemical dependency treatment provider with a written
37 request for information and any necessary authorization to release
38 information forms. The written request shall comply with rules

1 adopted by the (~~department of social and health services~~) health
2 care authority or protocols developed jointly by the department and
3 the (~~department of social and health services~~) health care
4 authority. A single request shall be valid for the duration of the
5 offender's supervision in the community. Disclosures of information
6 related to mental health services made pursuant to a department
7 request shall not require consent of the offender.

8 (3) The information received by the department under RCW
9 71.05.445 or 70.02.250 may be released to the indeterminate sentence
10 review board as relevant to carry out its responsibility of planning
11 and ensuring community protection with respect to persons under its
12 jurisdiction. Further disclosure by the indeterminate sentence review
13 board is subject to the limitations set forth in subsections (5) and
14 (6) of this section and must be consistent with the written policy of
15 the indeterminate sentence review board. The decision to disclose or
16 not shall not result in civil liability for the indeterminate
17 sentence review board or staff assigned to perform board-related
18 duties provided that the decision was reached in good faith and
19 without gross negligence.

20 (4) The information received by the department under RCW
21 71.05.445 or 70.02.250 may be used to meet the statutory duties of
22 the department to provide evidence or report to the court. Disclosure
23 to the public of information provided to the court by the department
24 related to mental health services shall be limited in accordance with
25 RCW 9.94A.500 or this section.

26 (5) The information received by the department under RCW
27 71.05.445 or 70.02.250 may be disclosed by the department to other
28 state and local agencies as relevant to plan for and provide
29 offenders transition, treatment, and supervision services, or as
30 relevant and necessary to protect the public and counteract the
31 danger created by a particular offender, and in a manner consistent
32 with the written policy established by the secretary. The decision to
33 disclose or not shall not result in civil liability for the
34 department or its employees so long as the decision was reached in
35 good faith and without gross negligence. The information received by
36 a state or local agency from the department shall remain confidential
37 and subject to the limitations on disclosure set forth in chapters
38 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be
39 released only as relevant and necessary to counteract the danger
40 created by a particular offender.

1 (6) The information received by the department under RCW
2 71.05.445 or 70.02.250 may be disclosed by the department to
3 individuals only with respect to offenders who have been determined
4 by the department to have a high risk of reoffending by a risk
5 assessment, as defined in RCW 9.94A.030, only as relevant and
6 necessary for those individuals to take reasonable steps for the
7 purpose of self-protection, or as provided in RCW 72.09.370(2). The
8 information may not be disclosed for the purpose of engaging the
9 public in a system of supervision, monitoring, and reporting offender
10 behavior to the department. The department must limit the disclosure
11 of information related to mental health services to the public to
12 descriptions of an offender's behavior, risk he or she may present to
13 the community, and need for mental health treatment, including
14 medications, and shall not disclose or release to the public copies
15 of treatment documents or records, except as otherwise provided by
16 law. All disclosure of information to the public must be done in a
17 manner consistent with the written policy established by the
18 secretary. The decision to disclose or not shall not result in civil
19 liability for the department or its employees so long as the decision
20 was reached in good faith and without gross negligence. Nothing in
21 this subsection prevents any person from reporting to law enforcement
22 or the department behavior that he or she believes creates a public
23 safety risk.

24 **Sec. 9016.** RCW 74.34.020 and 2017 c 268 s 2 and 2017 c 266 s 12
25 are each reenacted and amended to read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Abandonment" means action or inaction by a person or entity
29 with a duty of care for a vulnerable adult that leaves the vulnerable
30 person without the means or ability to obtain necessary food,
31 clothing, shelter, or health care.

32 (2) "Abuse" means the willful action or inaction that inflicts
33 injury, unreasonable confinement, intimidation, or punishment on a
34 vulnerable adult. In instances of abuse of a vulnerable adult who is
35 unable to express or demonstrate physical harm, pain, or mental
36 anguish, the abuse is presumed to cause physical harm, pain, or
37 mental anguish. Abuse includes sexual abuse, mental abuse, physical
38 abuse, and personal exploitation of a vulnerable adult, and improper

1 use of restraint against a vulnerable adult which have the following
2 meanings:

3 (a) "Sexual abuse" means any form of nonconsensual sexual
4 conduct, including but not limited to unwanted or inappropriate
5 touching, rape, sodomy, sexual coercion, sexually explicit
6 photographing, and sexual harassment. Sexual abuse also includes any
7 sexual conduct between a staff person, who is not also a resident or
8 client, of a facility or a staff person of a program authorized under
9 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
10 receiving service from a program authorized under chapter 71A.12 RCW,
11 whether or not it is consensual.

12 (b) "Physical abuse" means the willful action of inflicting
13 bodily injury or physical mistreatment. Physical abuse includes, but
14 is not limited to, striking with or without an object, slapping,
15 pinching, choking, kicking, shoving, or prodding.

16 (c) "Mental abuse" means a willful verbal or nonverbal action
17 that threatens, humiliates, harasses, coerces, intimidates, isolates,
18 unreasonably confines, or punishes a vulnerable adult. Mental abuse
19 may include ridiculing, yelling, or swearing.

20 (d) "Personal exploitation" means an act of forcing, compelling,
21 or exerting undue influence over a vulnerable adult causing the
22 vulnerable adult to act in a way that is inconsistent with relevant
23 past behavior, or causing the vulnerable adult to perform services
24 for the benefit of another.

25 (e) "Improper use of restraint" means the inappropriate use of
26 chemical, physical, or mechanical restraints for convenience or
27 discipline or in a manner that: (i) Is inconsistent with federal or
28 state licensing or certification requirements for facilities,
29 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is
30 not medically authorized; or (iii) otherwise constitutes abuse under
31 this section.

32 (3) "Chemical restraint" means the administration of any drug to
33 manage a vulnerable adult's behavior in a way that reduces the safety
34 risk to the vulnerable adult or others, has the temporary effect of
35 restricting the vulnerable adult's freedom of movement, and is not
36 standard treatment for the vulnerable adult's medical or psychiatric
37 condition.

38 (4) "Consent" means express written consent granted after the
39 vulnerable adult or his or her legal representative has been fully

1 informed of the nature of the services to be offered and that the
2 receipt of services is voluntary.

3 (5) "Department" means the department of social and health
4 services.

5 (6) "Facility" means a residence licensed or required to be
6 licensed under chapter 18.20 RCW, assisted living facilities; chapter
7 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
8 chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW,
9 residential habilitation centers; or any other facility licensed or
10 certified by the department or the department of health.

11 (7) "Financial exploitation" means the illegal or improper use,
12 control over, or withholding of the property, income, resources, or
13 trust funds of the vulnerable adult by any person or entity for any
14 person's or entity's profit or advantage other than for the
15 vulnerable adult's profit or advantage. "Financial exploitation"
16 includes, but is not limited to:

17 (a) The use of deception, intimidation, or undue influence by a
18 person or entity in a position of trust and confidence with a
19 vulnerable adult to obtain or use the property, income, resources, or
20 trust funds of the vulnerable adult for the benefit of a person or
21 entity other than the vulnerable adult;

22 (b) The breach of a fiduciary duty, including, but not limited
23 to, the misuse of a power of attorney, trust, or a guardianship
24 appointment, that results in the unauthorized appropriation, sale, or
25 transfer of the property, income, resources, or trust funds of the
26 vulnerable adult for the benefit of a person or entity other than the
27 vulnerable adult; or

28 (c) Obtaining or using a vulnerable adult's property, income,
29 resources, or trust funds without lawful authority, by a person or
30 entity who knows or clearly should know that the vulnerable adult
31 lacks the capacity to consent to the release or use of his or her
32 property, income, resources, or trust funds.

33 (8) "Financial institution" has the same meaning as in RCW
34 30A.22.040 and 30A.22.041. For purposes of this chapter only,
35 "financial institution" also means a "broker-dealer" or "investment
36 adviser" as defined in RCW 21.20.005.

37 (9) "Hospital" means a facility licensed under chapter 70.41((~~7~~))
38 or 71.12((~~7~~)) RCW or a state hospital defined in chapter 72.23 RCW
39 and any employee, agent, officer, director, or independent contractor
40 thereof.

1 (10) "Incapacitated person" means a person who is at a
2 significant risk of personal or financial harm under RCW 11.88.010(1)
3 (a), (b), (c), or (d).

4 (11) "Individual provider" means a person under contract with the
5 department to provide services in the home under chapter 74.09 or
6 74.39A RCW.

7 (12) "Interested person" means a person who demonstrates to the
8 court's satisfaction that the person is interested in the welfare of
9 the vulnerable adult, that the person has a good faith belief that
10 the court's intervention is necessary, and that the vulnerable adult
11 is unable, due to incapacity, undue influence, or duress at the time
12 the petition is filed, to protect his or her own interests.

13 (13)(a) "Isolate" or "isolation" means to restrict a vulnerable
14 adult's ability to communicate, visit, interact, or otherwise
15 associate with persons of his or her choosing. Isolation may be
16 evidenced by acts including but not limited to:

17 (i) Acts that prevent a vulnerable adult from sending, making, or
18 receiving his or her personal mail, electronic communications, or
19 telephone calls; or

20 (ii) Acts that prevent or obstruct the vulnerable adult from
21 meeting with others, such as telling a prospective visitor or caller
22 that a vulnerable adult is not present, or does not wish contact,
23 where the statement is contrary to the express wishes of the
24 vulnerable adult.

25 (b) The term "isolate" or "isolation" may not be construed in a
26 manner that prevents a guardian or limited guardian from performing
27 his or her fiduciary obligations under chapter 11.92 RCW or prevents
28 a hospital or facility from providing treatment consistent with the
29 standard of care for delivery of health services.

30 (14) "Mandated reporter" is an employee of the department; law
31 enforcement officer; social worker; professional school personnel;
32 individual provider; an employee of a facility; an operator of a
33 facility; an employee of a social service, welfare, mental health,
34 adult day health, adult day care, home health, home care, or hospice
35 agency; county coroner or medical examiner; Christian Science
36 practitioner; or health care provider subject to chapter 18.130 RCW.

37 (15) "Mechanical restraint" means any device attached or adjacent
38 to the vulnerable adult's body that he or she cannot easily remove
39 that restricts freedom of movement or normal access to his or her
40 body. "Mechanical restraint" does not include the use of devices,

1 materials, or equipment that are (a) medically authorized, as
2 required, and (b) used in a manner that is consistent with federal or
3 state licensing or certification requirements for facilities,
4 hospitals, or programs authorized under chapter 71A.12 RCW.

5 (16) "Neglect" means (a) a pattern of conduct or inaction by a
6 person or entity with a duty of care that fails to provide the goods
7 and services that maintain physical or mental health of a vulnerable
8 adult, or that fails to avoid or prevent physical or mental harm or
9 pain to a vulnerable adult; or (b) an act or omission by a person or
10 entity with a duty of care that demonstrates a serious disregard of
11 consequences of such a magnitude as to constitute a clear and present
12 danger to the vulnerable adult's health, welfare, or safety,
13 including but not limited to conduct prohibited under RCW 9A.42.100.

14 (17) "Permissive reporter" means any person, including, but not
15 limited to, an employee of a financial institution, attorney, or
16 volunteer in a facility or program providing services for vulnerable
17 adults.

18 (18) "Physical restraint" means the application of physical force
19 without the use of any device, for the purpose of restraining the
20 free movement of a vulnerable adult's body. "Physical restraint" does
21 not include (a) briefly holding without undue force a vulnerable
22 adult in order to calm or comfort him or her, or (b) holding a
23 vulnerable adult's hand to safely escort him or her from one area to
24 another.

25 (19) "Protective services" means any services provided by the
26 department to a vulnerable adult with the consent of the vulnerable
27 adult, or the legal representative of the vulnerable adult, who has
28 been abandoned, abused, financially exploited, neglected, or in a
29 state of self-neglect. These services may include, but are not
30 limited to case management, social casework, home care, placement,
31 arranging for medical evaluations, psychological evaluations, day
32 care, or referral for legal assistance.

33 (20) "Self-neglect" means the failure of a vulnerable adult, not
34 living in a facility, to provide for himself or herself the goods and
35 services necessary for the vulnerable adult's physical or mental
36 health, and the absence of which impairs or threatens the vulnerable
37 adult's well-being. This definition may include a vulnerable adult
38 who is receiving services through home health, hospice, or a home
39 care agency, or an individual provider when the neglect is not a
40 result of inaction by that agency or individual provider.

1 (21) "Social worker" means:

2 (a) A social worker as defined in RCW 18.320.010(2); or

3 (b) Anyone engaged in a professional capacity during the regular
4 course of employment in encouraging or promoting the health, welfare,
5 support, or education of vulnerable adults, or providing social
6 services to vulnerable adults, whether in an individual capacity or
7 as an employee or agent of any public or private organization or
8 institution.

9 (22) "Vulnerable adult" includes a person:

10 (a) Sixty years of age or older who has the functional, mental,
11 or physical inability to care for himself or herself; or

12 (b) Found incapacitated under chapter 11.88 RCW; or

13 (c) Who has a developmental disability as defined under RCW
14 71A.10.020; or

15 (d) Admitted to any facility; or

16 (e) Receiving services from home health, hospice, or home care
17 agencies licensed or required to be licensed under chapter 70.127
18 RCW; or

19 (f) Receiving services from an individual provider; or

20 (g) Who self-directs his or her own care and receives services
21 from a personal aide under chapter 74.39 RCW.

22 (23) "Vulnerable adult advocacy team" means a team of three or
23 more persons who coordinate a multidisciplinary process, in
24 compliance with chapter 266, Laws of 2017 and the protocol governed
25 by RCW 74.34.320, for preventing, identifying, investigating,
26 prosecuting, and providing services related to abuse, neglect, or
27 financial exploitation of vulnerable adults.

28 **PART 10**

29 NEW SECTION. **Sec. 10001.** A new section is added to chapter
30 41.05 RCW to read as follows:

31 (1) The powers, duties, and functions of the department of social
32 and health services pertaining to the behavioral health system and
33 purchasing function of the behavioral health administration, except
34 for oversight and management of state-run mental health institutions
35 and licensing and certification activities, are hereby transferred to
36 the Washington state health care authority to the extent necessary to
37 carry out the purposes of this act. All references to the secretary
38 or the department of social and health services in the Revised Code

1 of Washington shall be construed to mean the director of the health
2 care authority or the health care authority when referring to the
3 functions transferred in this section.

4 (2)(a) All reports, documents, surveys, books, records, files,
5 papers, or written material in the possession of the department of
6 social and health services pertaining to the powers, duties, and
7 functions transferred shall be delivered to the custody of the health
8 care authority. All cabinets, furniture, office equipment, motor
9 vehicles, and other tangible property employed by the department of
10 social and health services in carrying out the powers, duties, and
11 functions transferred shall be made available to the health care
12 authority. All funds, credits, or other assets held by the department
13 of social and health services in connection with the powers, duties,
14 and functions transferred shall be assigned to the health care
15 authority.

16 (b) Any appropriations made to the department of social and
17 health services for carrying out the powers, functions, and duties
18 transferred shall, on the effective date of this section, be
19 transferred and credited to the health care authority.

20 (c) Whenever any question arises as to the transfer of any
21 personnel, funds, books, documents, records, papers, files,
22 equipment, or other tangible property used or held in the exercise of
23 the powers and the performance of the duties and functions
24 transferred, the director of financial management shall make a
25 determination as to the proper allocation and certify the same to the
26 state agencies concerned.

27 (3) All rules and all pending business before the department of
28 social and health services pertaining to the powers, duties, and
29 functions transferred shall be continued and acted upon by the health
30 care authority. All existing contracts and obligations shall remain
31 in full force and shall be performed by the health care authority.

32 (4) The transfer of the powers, duties, functions, and personnel
33 of the department of social and health services shall not affect the
34 validity of any act performed before the effective date of this
35 section.

36 (5) If apportionments of budgeted funds are required because of
37 the transfers directed by this section, the director of financial
38 management shall certify the apportionments to the agencies affected,
39 the state auditor, and the state treasurer. Each of these shall make

1 the appropriate transfer and adjustments in funds and appropriation
2 accounts and equipment records in accordance with the certification.

3 (6) On July 1, 2018, all employees of the department of social
4 and health services engaged in performing the powers, functions, and
5 duties transferred to the health care authority are transferred to
6 the health care authority. All employees classified under chapter
7 41.06 RCW, the state civil service law, are assigned to the health
8 care authority to perform their usual duties upon the same terms as
9 formerly, without any loss of rights, subject to any action that may
10 be appropriate thereafter in accordance with the laws and rules
11 governing state civil service law.

12 (7) Positions in any bargaining unit within the health care
13 authority existing on the effective date of this section will not be
14 removed from an existing bargaining unit as a result of this section
15 unless and until the existing bargaining unit is modified by the
16 public employment relations commission pursuant to Title 391 WAC. The
17 portions of any bargaining units of employees at the department of
18 social and health services existing on the effective date of this
19 section that are transferred to the health care authority shall be
20 considered separate appropriate units within the health care
21 authority unless and until modified by the public employment
22 relations commission pursuant to Title 391 WAC. The exclusive
23 bargaining representatives recognized as representing the portions of
24 the bargaining units of employees at the department of social and
25 health services existing on the effective date of this section shall
26 continue as the exclusive bargaining representatives of the
27 transferred bargaining units without the necessity of an election.

28 (8) The public employment relations commission may review the
29 appropriateness of the collective bargaining units that are a result
30 of the transfer from the department of social and health services to
31 the health care authority under this act. The employer or the
32 exclusive bargaining representative may petition the public
33 employment relations commission to review the bargaining units in
34 accordance with this section.

35 (9) On July 1, 2018, the health care authority must enter into an
36 agreement with the department of health to ensure coordination of
37 preventative behavioral health services or other necessary agreements
38 to carry out the intent of this act.

1 (10) The health care authority may enter into agreements as
2 necessary with the department of social and health services to carry
3 out the transfer of duties as set forth in this act.

4 NEW SECTION. **Sec. 10002.** A new section is added to chapter
5 43.70 RCW to read as follows:

6 (1) The powers, duties, and functions of the department of social
7 and health services pertaining to licensing and certification of
8 behavioral health provider agencies and facilities, except for state-
9 run mental health institutions, are hereby transferred to the
10 department of health to the extent necessary to carry out the
11 purposes of this act. All references to the secretary or the
12 department of social and health services in the Revised Code of
13 Washington shall be construed to mean the secretary of the department
14 of health or the department of health when referring to the functions
15 transferred in this section.

16 (2)(a) All reports, documents, surveys, books, records, files,
17 papers, or written material in the possession of the department of
18 social and health services pertaining to the powers, duties, and
19 functions transferred shall be delivered to the custody of the
20 department of health. All cabinets, furniture, office equipment,
21 motor vehicles, and other tangible property employed by the
22 department of social and health services in carrying out the powers,
23 duties, and functions transferred shall be made available to the
24 department of health. All funds, credits, or other assets held by the
25 department of social and health services in connection with the
26 powers, duties, and functions transferred shall be assigned to the
27 department of health.

28 (b) Any appropriations made to the department of social and
29 health services for carrying out the powers, functions, and duties
30 transferred shall, on the effective date of this section, be
31 transferred and credited to the department of health.

32 (c) If any question arises as to the transfer of any personnel,
33 funds, books, documents, records, papers, files, equipment, or other
34 tangible property used or held in the exercise of the powers and the
35 performance of the duties and functions transferred, the director of
36 financial management shall make a determination as to the proper
37 allocation and certify the same to the state agencies concerned.

38 (3) All rules and all pending business before the department of
39 social and health services pertaining to the powers, duties, and

1 functions transferred shall be continued and acted upon by the
2 department of health. All existing contracts and obligations shall
3 remain in full force and shall be performed by the department of
4 health.

5 (4) The transfer of the powers, duties, functions, and personnel
6 of the department of social and health services shall not affect the
7 validity of any act performed before the effective date of this
8 section.

9 (5) If apportionments of budgeted funds are required because of
10 the transfers directed by this section, the director of financial
11 management shall certify the apportionments to the agencies affected,
12 the state auditor, and the state treasurer. Each of these shall make
13 the appropriate transfer and adjustments in funds and appropriation
14 accounts and equipment records in accordance with the certification.

15 (6) On July 1, 2018, all employees of the department of social
16 and health services engaged in performing the powers, functions, and
17 duties transferred to the department of health are transferred to the
18 department of health. All employees classified under chapter 41.06
19 RCW, the state civil service law, are assigned to the department of
20 health to perform their usual duties upon the same terms as formerly,
21 without any loss of rights, subject to any action that may be
22 appropriate thereafter in accordance with the laws and rules
23 governing state civil service law.

24 (7) Positions in any bargaining unit within the department of
25 health existing on the effective date of this section will not be
26 removed from an existing bargaining unit as a result of this section
27 unless and until the existing bargaining unit is modified by the
28 public employment relations commission pursuant to Title 391 WAC.
29 Nonsupervisory civil service employees of the department of social
30 and health services assigned to the department of health under this
31 section whose positions are within the existing bargaining unit
32 description at the department of health shall become a part of that
33 unit under the provision of chapter 41.80 RCW. The existing
34 bargaining representative of the existing bargaining unit at the
35 department of health shall continue to be certified as the exclusive
36 bargaining representative without the necessity of an election.

37 (8) The department of health may enter into agreements as
38 necessary with the department of social and health services to carry
39 out the transfer of duties as set forth in this act.

1 NEW SECTION. **Sec. 10003.** The code reviser shall note wherever
2 the secretary or department of any agency or agency's duties
3 transferred or consolidated under this act is used or referred to in
4 statute that the name of the secretary or department has changed. The
5 code reviser shall prepare legislation for the 2019 regular session
6 that: (1) Changes all statutory references to the secretary or
7 department of any agency transferred or consolidated under this act;
8 and (2) changes statutory references to sections recodified by this
9 act but not amended in this act.

10 **PART 11**

11 NEW SECTION. **Sec. 11001.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 11002.** RCW 71.24.065 (Wraparound model of
16 integrated children's mental health services delivery—Contracts—
17 Evaluation—Report) is decodified.

18 NEW SECTION. **Sec. 11003.** (1) RCW 43.20A.025 is recodified as a
19 section in chapter 71.34 RCW.

20 (2) RCW 43.20A.065 and 43.20A.433 are each recodified as sections
21 in chapter 71.24 RCW.

22 (3) RCW 43.20A.890 and 43.20A.892 are each recodified as sections
23 in chapter 41.05 RCW.

24 (4) RCW 43.20A.893, 43.20A.894, 43.20A.896, and 43.20A.897 are
25 each recodified as sections in chapter 74.09 RCW.

26 NEW SECTION. **Sec. 11004.** Sections 3009, 3012, 3026, 5017, and
27 5020 of this act expire July 1, 2026.

28 NEW SECTION. **Sec. 11005.** Sections 3010, 3013, 3027, 5018, and
29 5021 of this act take effect July 1, 2026.

30 NEW SECTION. **Sec. 11006.** Except as provided in section 11005 of
31 this act, this act takes effect July 1, 2018."

32 Correct the title.

EFFECT: Corrects several references to be consistent with the rest of the bill, including: The addition of "licensed" facilities, as well as "certified facilities"; the authority of the Health Care Authority (HCA) in contracting with behavioral health organizations; the authority of the HCA in establishing minimum standards for the delivery of mental health services as also applying to substance use disorder services; the authority of the Department of Health (DOH) in establishing minimum standards for mental health services as also applying to substance use disorder services; the authority to regulate assisted living facilities as remaining with the Department of Social and Health Services (DSHS); and the term "hospital" to include state hospitals under vulnerable adult protection provisions.

Changes the designated agency from DSHS to HCA in firearms statutes, including notification to the agency of the restoration of a person's right to possess a firearm; the agency database to be consulted when conducting a background check; and that information from the agency be released upon signed application from a person seeking to purchase a pistol or upon request of a court or law enforcement agency. Changes references to the certifying agency for mental health facilities from DSHS to DOH.

Changes the requirements that the DSHS employees and activities related to community behavioral health be transferred to the HCA and the DOH by January 1, 2018, to July 1, 2018. Authorizes the DSHS, HCA, and the DOH to establish agreements related to the transfer of duties. Requires the DSHS and the HCA to enter into an agreement to ensure the coordination of preventative behavioral health services by July 1, 2018, instead of January 1, 2018.

Removes statutory amendments to sections that expire on April 1, 2018. Removes the emergency clause and changes the effective date to July 1, 2018.

--- END ---