
SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1388

State of Washington

65th Legislature

2017 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Rodne, Harris, Macri, and Frame; by request of Governor Inslee)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to changing the designation of the state
2 behavioral health authority from the department of social and health
3 services to the health care authority and transferring the related
4 powers, functions, and duties to the health care authority and the
5 department of health; amending RCW 43.20A.025, 43.20A.065,
6 43.20A.433, 43.20A.890, 43.20A.892, 43.20A.893, 43.20A.894,
7 43.20A.896, 43.20A.897, 74.04.015, 71.05.020, 71.05.026, 71.05.027,
8 71.05.040, 71.05.100, 71.05.203, 71.05.214, 71.05.240, 71.05.285,
9 71.05.320, 71.05.325, 71.05.330, 71.05.335, 71.05.340, 71.05.350,
10 71.05.435, 71.05.510, 71.05.520, 71.05.525, 71.05.560, 71.05.590,
11 71.05.590, 71.05.620, 71.05.720, 71.05.732, 71.05.740, 71.05.745,
12 71.05.750, 71.05.755, 71.05.760, 71.05.801, 71.05.940, 71.24.015,
13 71.24.030, 71.24.035, 71.24.037, 71.24.045, 71.24.061, 71.24.100,
14 71.24.155, 71.24.160, 71.24.215, 71.24.220, 71.24.240, 71.24.300,
15 71.24.310, 71.24.320, 71.24.330, 71.24.340, 71.24.350, 71.24.360,
16 71.24.370, 71.24.380, 71.24.385, 71.24.400, 71.24.405, 71.24.415,
17 71.24.420, 71.24.430, 71.24.455, 71.24.460, 71.24.470, 71.24.480,
18 71.24.490, 71.24.500, 71.24.515, 71.24.520, 71.24.525, 71.24.530,
19 71.24.535, 71.24.540, 71.24.545, 71.24.555, 71.24.565, 71.24.580,
20 71.24.590, 71.24.595, 71.24.605, 71.24.610, 71.24.615, 71.24.620,
21 71.24.625, 71.24.630, 71.24.640, 71.24.645, 71.24.650, 71.24.805,
22 71.24.810, 71.24.850, 71.24.860, 71.24.902, 71.34.010, 71.34.300,
23 71.34.365, 71.34.375, 71.34.380, 71.34.385, 71.34.390, 71.34.395,

1 71.34.400, 71.34.405, 71.34.420, 71.34.600, 71.34.610, 71.34.630,
2 71.34.640, 71.34.720, 71.34.760, 71.34.780, 71.34.780, 71.34.790,
3 71.36.025, 71.36.040, 71.36.060, 9.41.047, 9.41.090, 9.41.094,
4 9.41.097, 9.41.173, 9.41.300, 41.05.015, 41.05.021, 41.05A.005,
5 74.09.050, 74.09.055, 74.09.080, 74.09.120, 74.09.160, 74.09.210,
6 74.09.220, 74.09.230, 74.09.240, 74.09.260, 74.09.280, 74.09.290,
7 74.09.315, 74.09.522, 74.09.530, 74.09.540, 74.09.730, 74.09.780,
8 74.64.010, 74.66.010, 70.02.010, 70.02.230, 70.02.240, 70.02.250,
9 70.02.260, 70.02.340, 70.02.350, 42.56.270, 43.70.080, 43.59.030,
10 48.21.180, 48.44.240, 48.46.350, 69.50.540, 2.30.020, 2.30.030,
11 9.41.300, 9.94A.703, 10.05.040, 10.05.050, 18.205.080, 18.88A.020,
12 46.61.5056, 72.09.350, 72.09.370, 72.09.380, 72.09.381, and
13 72.09.585; reenacting and amending RCW 71.05.215, 71.05.240,
14 71.05.320, 71.05.425, 71.05.445, 71.24.025, 71.24.600, 71.34.020,
15 71.34.720, 71.36.010, 9.41.070, 46.61.5055, and 74.34.020; adding new
16 sections to chapter 71.24 RCW; adding new sections to chapter 41.05
17 RCW; adding a new section to chapter 43.70 RCW; adding a new section
18 to chapter 71.34 RCW; adding new sections to chapter 74.09 RCW;
19 creating new sections; recodifying RCW 43.20A.025, 43.20A.065,
20 43.20A.433, 43.20A.890, 43.20A.892, 43.20A.893, 43.20A.894,
21 43.20A.896, and 43.20A.897; decodifying RCW 71.24.065; providing
22 effective dates; and providing an expiration date.

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

24 **PART 1**

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

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

28 (2) Pursuant to existing legislative direction, Washington state
29 continues to transform how it delivers behavioral health services by
30 integrating the financing and delivery of behavioral and physical
31 health care by 2020. Integration will improve prevention and
32 treatment of behavioral health conditions. Integration, leading to
33 better whole person care, should also enable many individuals to
34 avoid commitment at the state psychiatric hospitals or divert from
35 jails, and support them in leading healthy, productive lives.

36 (3) The responsibility for oversight, purchasing, and management
37 of Washington state's community behavioral health system is currently

1 split between the department of social and health services, which is
2 the state's behavioral health authority, and the health care
3 authority, which is the single state medicaid agency responsible for
4 state health care purchasing.

5 (4) The health care authority is the state's primary health care
6 purchaser. Integrating and consolidating the oversight and purchasing
7 of state behavioral health care into a single state agency at the
8 health care authority will align core operations and provide better,
9 coordinated, and more cost-effective services, with the ultimate goal
10 of achieving whole person care.

11 (5) The legislature therefore intends to consolidate state
12 behavioral health care purchasing and oversight within the health
13 care authority, positioning the state to use its full purchasing
14 power to get the greatest value for its investment. The department of
15 social and health services will continue to operate the state mental
16 health institutions, with the intent of further analyzing the future
17 proper alignment of these services.

18 (6) Similar to the issues with our disparate purchasing programs,
19 the responsibility for licensing and certification of behavioral
20 health providers and facilities is currently spread across multiple
21 agencies, with the department of social and health services
22 regulating some behavioral health providers and the department of
23 health regulating others.

24 (7) The department of health is responsible for the majority of
25 licensing and certification of health care providers and facilities.
26 The state will best be able to ensure patient safety and reduce
27 administrative burdens of licensing and certification of behavioral
28 health providers and facilities by consolidating those functions
29 within a single agency at the department of health. This change will
30 streamline processes leading to improved patient safety outcomes.

31 (8) The legislature therefore intends to integrate and
32 consolidate the behavioral health licensing and certification
33 functions within the department of health.

34 **PART 2**

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

37 The (~~department of social and health services~~) authority shall
38 adopt rules defining "appropriately trained professional person" for

1 the purposes of conducting mental health and chemical dependency
2 evaluations under RCW 71.34.600(3) and 71.34.650(1).

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

5 The (~~department of social and health services~~) authority shall
6 annually review and monitor the expenditures made by any county or
7 group of counties which is funded, in whole or in part, with funds
8 provided by chapter 290, Laws of 2002. Counties shall repay any funds
9 that are not spent in accordance with the requirements of chapter
10 290, Laws of 2002.

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

13 (~~Beginning July 1, 2007,~~) The (~~secretary~~) director shall
14 require, in the contracts the (~~department~~) authority negotiates
15 pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate
16 increases provided for mental health and chemical dependency
17 treatment providers or programs who are parties to the contract or
18 subcontractors of any party to the contract shall be prioritized to
19 those providers and programs that maximize the use of evidence-based
20 and research-based practices(~~, as those terms are defined in section~~
21 ~~603 of this act,~~) unless otherwise designated by the legislature.

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

24 (1) A program for (a) the prevention and treatment of problem and
25 pathological gambling; and (b) the training of professionals in the
26 identification and treatment of problem and pathological gambling is
27 established within the (~~department of social and health services~~)
28 authority, to be administered by a qualified person who has training
29 and experience in problem gambling or the organization and
30 administration of treatment services for persons suffering from
31 problem gambling. The department of health may license or certify and
32 the authority may contract with treatment facilities for any services
33 provided under the program. The (~~department~~) authority shall track
34 program participation and client outcomes.

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

1 (a) Need treatment for problem or pathological gambling, or
2 because of the problem or pathological gambling of a family member,
3 but be unable to afford treatment; and

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

6 (3) Treatment under this section is available only to the extent
7 of the funds appropriated or otherwise made available to the
8 (~~department of social and health services~~) authority for this
9 purpose. The (~~department~~) authority may solicit and accept for use
10 any gift of money or property made by will or otherwise, and any
11 grant of money, services, or property from the federal government,
12 any tribal government, the state, or any political subdivision
13 thereof or any private source, and do all things necessary to
14 cooperate with the federal government or any of its agencies or any
15 tribal government in making an application for any grant.

16 (~~4~~) (~~The department may adopt rules establishing standards for~~
17 ~~the review and certification of treatment facilities under this~~
18 ~~program.~~

19 (~~5~~) The (~~department of social and health services~~) authority
20 shall establish an advisory committee to assist it in designing,
21 managing, and evaluating the effectiveness of the program established
22 in this section. The advisory committee shall give due consideration
23 in the design and management of the program that persons who hold
24 licenses or contracts issued by the gambling commission, horse racing
25 commission, and lottery commission are not excluded from, or
26 discouraged from, applying to participate in the program. The
27 committee shall include, at a minimum, persons knowledgeable in the
28 field of problem and pathological gambling and persons representing
29 tribal gambling, privately owned nontribal gambling, and the state
30 lottery.

31 (~~6~~) (5) For purposes of this section, "pathological gambling"
32 is a mental disorder characterized by loss of control over gambling,
33 progression in preoccupation with gambling and in obtaining money to
34 gamble, and continuation of gambling despite adverse consequences.
35 "Problem gambling" is an earlier stage of pathological gambling which
36 compromises, disrupts, or damages family or personal relationships or
37 vocational pursuits.

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

1 The problem gambling account is created in the state treasury.
2 Money in the account may be spent only after appropriation.
3 Expenditures from the account may be used only for the purposes of
4 the program established under RCW 43.20A.890 (as recodified by this
5 act).

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

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

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

16 (a) Include a sufficient number of medicaid lives to support full
17 financial risk managed care contracting for services included in
18 contracts with the department or the ~~((health care))~~ authority;

19 (b) Include full counties that are contiguous with one another;
20 and

21 (c) Reflect natural medical and behavioral health service
22 referral patterns and shared clinical, health care service,
23 behavioral health service, and behavioral health crisis response
24 resources.

25 (3) The Washington state association of counties must submit
26 their recommendations to the department, the ~~((health care))~~
27 authority, and the task force described in section 1, chapter 225,
28 Laws of 2014 on or before August 1, 2014.

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

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

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

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

4 (c) Accountability for the client outcomes established in RCW
5 43.20A.895, 70.320.020, and 71.36.025 and performance measures linked
6 to those outcomes;

7 (d) Standards requiring behavioral health organizations to
8 maintain a network of appropriate providers that is supported by
9 written agreements sufficient to provide adequate access to all
10 services covered under the contract with the ((~~department or the~~
11 ~~health care~~)) authority and to protect essential existing behavioral
12 health system infrastructure and capacity, including a continuum of
13 chemical dependency services;

14 (e) Provisions to require that medically necessary chemical
15 dependency and mental health treatment services be available to
16 clients;

17 (f) Standards requiring the use of behavioral health service
18 provider reimbursement methods that incentivize improved performance
19 with respect to the client outcomes established in RCW 43.20A.895 and
20 71.36.025, integration of behavioral health and primary care services
21 at the clinical level, and improved care coordination for individuals
22 with complex care needs;

23 (g) Standards related to the financial integrity of the
24 responding organization. The ((~~department~~)) authority shall adopt
25 rules establishing the solvency requirements and other financial
26 integrity standards for behavioral health organizations. This
27 subsection does not limit the authority of the ((~~department~~))
28 authority to take action under a contract upon finding that a
29 behavioral health organization's financial status jeopardizes the
30 organization's ability to meet its contractual obligations;

31 (h) Mechanisms for monitoring performance under the contract and
32 remedies for failure to substantially comply with the requirements of
33 the contract including, but not limited to, financial deductions,
34 termination of the contract, receivership, reprocurement of the
35 contract, and injunctive remedies;

36 (i) Provisions to maintain the decision-making independence of
37 designated mental health professionals or designated chemical
38 dependency specialists; and

39 (j) Provisions stating that public funds appropriated by the
40 legislature may not be used to promote or deter, encourage, or

1 discourage employees from exercising their rights under Title 29,
2 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

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

5 (a) Demonstrated commitment and experience in serving low-income
6 populations;

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

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

13 (d) Recognition that meeting enrollees' physical and behavioral
14 health care needs is a shared responsibility of contracted behavioral
15 health organizations, managed health care systems, service providers,
16 the state, and communities;

17 (e) Consideration of past and current performance and
18 participation in other state or federal behavioral health programs as
19 a contractor; and

20 (f) The ability to meet requirements established by the
21 ~~((department))~~ authority.

22 (3) For purposes of purchasing behavioral health services and
23 medical care services for persons eligible for benefits under
24 medicaid, Title XIX of the social security act and for persons not
25 eligible for medicaid, the ~~((department and the health care))~~
26 authority must use ~~((common))~~ regional service areas. The regional
27 service areas must be established by the ~~((department and the health
28 care))~~ authority as provided in RCW 43.20A.893 (as recodified by this
29 act).

30 (4) Consideration must be given to using multiple-biennia
31 contracting periods.

32 (5) Each behavioral health organization operating pursuant to a
33 contract issued under this section shall enroll clients within its
34 regional service area who meet the ~~((department's))~~ authority's
35 eligibility criteria for mental health and chemical dependency
36 services.

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

1 The (~~secretary~~) director shall require that behavioral health
2 organizations offer contracts to managed health care systems under
3 chapter 74.09 RCW or primary care practice settings to promote access
4 to the services of chemical dependency professionals under chapter
5 18.205 RCW and mental health professionals, as defined by the
6 department of health in rule, for the purposes of integrating such
7 services into primary care settings for individuals with behavioral
8 health and medical comorbidities.

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

11 (1) By November 30, 2013, the department and the (~~health-care~~)
12 authority must report to the governor and the relevant fiscal and
13 policy committees of the legislature, consistent with RCW 43.01.036,
14 a plan that establishes a tribal-centric behavioral health system
15 incorporating both mental health and chemical dependency services.
16 The plan must assure that child, adult, and older adult American
17 Indians and Alaskan Natives eligible for medicaid have increased
18 access to culturally appropriate mental health and chemical
19 dependency services. The plan must:

20 (a) Include implementation dates, major milestones, and fiscal
21 estimates as needed;

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

24 (c) Address equitable access to crisis services, outpatient care,
25 voluntary and involuntary hospitalization, and behavioral health care
26 coordination;

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

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

32 (2) The (~~department~~) authority shall enter into agreements with
33 the tribes and urban Indian health programs and modify behavioral
34 health organization contracts as necessary to develop a tribal-
35 centric behavioral health system that better serves the needs of the
36 tribes.

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

1 (1) The secretary of social and health services shall be the
2 responsible state officer for the administration and disbursement of
3 all funds, goods, commodities, and services, which may be received by
4 the state in connection with programs of public assistance or
5 services related directly or indirectly to assistance programs, and
6 all other matters included in the federal social security act as
7 amended, or any other federal act or as the same may be amended
8 except as otherwise provided by law.

9 (2) The director shall be the responsible state officer for the
10 administration and disbursement of funds that the state receives in
11 connection with the medical services programs established under
12 chapter 74.09 RCW, including the state children's health insurance
13 program, Titles XIX and XXI of the social security act of 1935, as
14 amended, and programs established under chapter 71.05, 71.24, and
15 71.34 RCW that are under the director's authority.

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

19 **PART 3**

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

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) "Admission" or "admit" means a decision by a physician,
25 physician assistant, or psychiatric advanced registered nurse
26 practitioner that a person should be examined or treated as a patient
27 in a hospital;

28 (2) "Alcoholism" means a disease, characterized by a dependency
29 on alcoholic beverages, loss of control over the amount and
30 circumstances of use, symptoms of tolerance, physiological or
31 psychological withdrawal, or both, if use is reduced or discontinued,
32 and impairment of health or disruption of social or economic
33 functioning;

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

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

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

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

9 (7) "Chemical dependency" means:

10 (a) Alcoholism;

11 (b) Drug addiction; or

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

14 ~~((+7))~~ (8) "Chemical dependency professional" means a person
15 certified as a chemical dependency professional by the department
16 ~~((of health))~~ under chapter 18.205 RCW;

17 ~~((+8))~~ (9) "Commitment" means the determination by a court that
18 a person should be detained for a period of either evaluation or
19 treatment, or both, in an inpatient or a less restrictive setting;

20 ~~((+9))~~ (10) "Conditional release" means a revocable modification
21 of a commitment, which may be revoked upon violation of any of its
22 terms;

23 ~~((+10))~~ (11) "Crisis stabilization unit" means a short-term
24 facility or a portion of a facility licensed or certified by the
25 department ~~((of health and certified by the department of social and
26 health services))~~ under RCW 71.24.035, such as an evaluation and
27 treatment facility or a hospital, which has been designed to assess,
28 diagnose, and treat individuals experiencing an acute crisis without
29 the use of long-term hospitalization;

30 ~~((+11))~~ (12) "Custody" means involuntary detention under the
31 provisions of this chapter or chapter 10.77 RCW, uninterrupted by any
32 period of unconditional release from commitment from a facility
33 providing involuntary care and treatment;

34 ~~((+12))~~ (13) "Department" means the department of ~~((social and))~~
35 health ~~((services))~~;

36 ~~((+13))~~ (14) "Designated crisis responder" means a mental health
37 professional appointed by the behavioral health organization to
38 perform the duties specified in this chapter;

39 ~~((+14))~~ (15) "Detention" or "detain" means the lawful
40 confinement of a person, under the provisions of this chapter;

1 ~~((15))~~ (16) "Developmental disabilities professional" means a
2 person who has specialized training and three years of experience in
3 directly treating or working with persons with developmental
4 disabilities and is a psychiatrist, physician assistant working with
5 a supervising psychiatrist, psychologist, psychiatric advanced
6 registered nurse practitioner, or social worker, and such other
7 developmental disabilities professionals as may be defined by rules
8 adopted by the secretary of the department of social and health
9 services;

10 ~~((16))~~ (17) "Developmental disability" means that condition
11 defined in RCW 71A.10.020(5);

12 ~~((17))~~ (18) "Director" means the director of the authority;

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

16 ~~((18))~~ (20) "Drug addiction" means a disease, characterized by
17 a dependency on psychoactive chemicals, loss of control over the
18 amount and circumstances of use, symptoms of tolerance, physiological
19 or psychological withdrawal, or both, if use is reduced or
20 discontinued, and impairment of health or disruption of social or
21 economic functioning;

22 ~~((19))~~ (21) "Evaluation and treatment facility" means any
23 facility which can provide directly, or by direct arrangement with
24 other public or private agencies, emergency evaluation and treatment,
25 outpatient care, and timely and appropriate inpatient care to persons
26 suffering from a mental disorder, and which is licensed or certified
27 as such by the department. The ~~((department))~~ authority may certify
28 single beds as temporary evaluation and treatment beds under RCW
29 71.05.745. A physically separate and separately operated portion of a
30 state hospital may be designated as an evaluation and treatment
31 facility. A facility which is part of, or operated by, the department
32 of social and health services or any federal agency will not require
33 certification. No correctional institution or facility, or jail,
34 shall be an evaluation and treatment facility within the meaning of
35 this chapter;

36 ~~((20))~~ (22) "Gravely disabled" means a condition in which a
37 person, as a result of a mental disorder, or as a result of the use
38 of alcohol or other psychoactive chemicals: (a) Is in danger of
39 serious physical harm resulting from a failure to provide for his or
40 her essential human needs of health or safety; or (b) manifests

1 severe deterioration in routine functioning evidenced by repeated and
2 escalating loss of cognitive or volitional control over his or her
3 actions and is not receiving such care as is essential for his or her
4 health or safety;

5 ~~((+21+))~~ (23) "Habilitative services" means those services
6 provided by program personnel to assist persons in acquiring and
7 maintaining life skills and in raising their levels of physical,
8 mental, social, and vocational functioning. Habilitative services
9 include education, training for employment, and therapy. The
10 habilitative process shall be undertaken with recognition of the risk
11 to the public safety presented by the person being assisted as
12 manifested by prior charged criminal conduct;

13 ~~((+22+))~~ (24) "History of one or more violent acts" refers to the
14 period of time ten years prior to the filing of a petition under this
15 chapter, excluding any time spent, but not any violent acts
16 committed, in a mental health facility, a long-term alcoholism or
17 drug treatment facility, or in confinement as a result of a criminal
18 conviction;

19 ~~((+23+))~~ (25) "Imminent" means the state or condition of being
20 likely to occur at any moment or near at hand, rather than distant or
21 remote;

22 ~~((+24+))~~ (26) "Individualized service plan" means a plan prepared
23 by a developmental disabilities professional with other professionals
24 as a team, for a person with developmental disabilities, which shall
25 state:

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

28 (b) The conditions and strategies necessary to achieve the
29 purposes of habilitation;

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

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

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

35 (f) Where relevant in light of past criminal behavior and due
36 consideration for public safety, the criteria for proposed movement
37 to less-restrictive settings, criteria for proposed eventual
38 discharge or release, and a projected possible date for discharge or
39 release; and

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

3 ~~((+25+))~~ (27) "Information related to mental health services"
4 means all information and records compiled, obtained, or maintained
5 in the course of providing services to either voluntary or
6 involuntary recipients of services by a mental health service
7 provider. This may include documents of legal proceedings under this
8 chapter or chapter 71.34 or 10.77 RCW, or somatic health care
9 information;

10 ~~((+26+))~~ (28) "Intoxicated person" means a person whose mental or
11 physical functioning is substantially impaired as a result of the use
12 of alcohol or other psychoactive chemicals;

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

34 ~~((+28+))~~ (30) "Judicial commitment" means a commitment by a court
35 pursuant to the provisions of this chapter;

36 ~~((+29+))~~ (31) "Legal counsel" means attorneys and staff employed
37 by county prosecutor offices or the state attorney general acting in
38 their capacity as legal representatives of public mental health and
39 substance use disorder service providers under RCW 71.05.130;

1 (~~(30)~~) (32) "Less restrictive alternative treatment" means a
2 program of individualized treatment in a less restrictive setting
3 than inpatient treatment that includes the services described in RCW
4 71.05.585;

5 (~~(31)~~) (33) "Licensed physician" means a person licensed to
6 practice medicine or osteopathic medicine and surgery in the state of
7 Washington;

8 (~~(32)~~) (34) "Likelihood of serious harm" means:

9 (a) A substantial risk that: (i) Physical harm will be inflicted
10 by a person upon his or her own person, as evidenced by threats or
11 attempts to commit suicide or inflict physical harm on oneself; (ii)
12 physical harm will be inflicted by a person upon another, as
13 evidenced by behavior which has caused such harm or which places
14 another person or persons in reasonable fear of sustaining such harm;
15 or (iii) physical harm will be inflicted by a person upon the
16 property of others, as evidenced by behavior which has caused
17 substantial loss or damage to the property of others; or

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

20 (~~(33)~~) (35) "Medical clearance" means a physician or other
21 health care provider has determined that a person is medically stable
22 and ready for referral to the designated crisis responder;

23 (~~(34)~~) (36) "Mental disorder" means any organic, mental, or
24 emotional impairment which has substantial adverse effects on a
25 person's cognitive or volitional functions;

26 (~~(35)~~) (37) "Mental health professional" means a psychiatrist,
27 psychologist, physician assistant working with a supervising
28 psychiatrist, psychiatric advanced registered nurse practitioner,
29 psychiatric nurse, or social worker, and such other mental health
30 professionals as may be defined by rules adopted by the secretary
31 pursuant to the provisions of this chapter;

32 (~~(36)~~) (38) "Mental health service provider" means a public or
33 private agency that provides mental health services to persons with
34 mental disorders or substance use disorders as defined under this
35 section and receives funding from public sources. This includes, but
36 is not limited to, hospitals licensed under chapter 70.41 RCW,
37 evaluation and treatment facilities as defined in this section,
38 community mental health service delivery systems or behavioral health
39 programs as defined in RCW 71.24.025, facilities conducting
40 competency evaluations and restoration under chapter 10.77 RCW,

1 approved substance use disorder treatment programs as defined in this
2 section, secure detoxification facilities as defined in this section,
3 and correctional facilities operated by state and local governments;

4 ~~((37))~~ (39) "Peace officer" means a law enforcement official of
5 a public agency or governmental unit, and includes persons
6 specifically given peace officer powers by any state law, local
7 ordinance, or judicial order of appointment;

8 ~~((38))~~ (40) "Physician assistant" means a person licensed as a
9 physician assistant under chapter 18.57A or 18.71A RCW;

10 ~~((39))~~ (41) "Private agency" means any person, partnership,
11 corporation, or association that is not a public agency, whether or
12 not financed in whole or in part by public funds, which constitutes
13 an evaluation and treatment facility or private institution, or
14 hospital, or approved substance use disorder treatment program, which
15 is conducted for, or includes a department or ward conducted for, the
16 care and treatment of persons with mental illness, substance use
17 disorders, or both mental illness and substance use disorders;

18 ~~((40))~~ (42) "Professional person" means a mental health
19 professional, chemical dependency professional, or designated crisis
20 responder and shall also mean a physician, physician assistant,
21 psychiatric advanced registered nurse practitioner, registered nurse,
22 and such others as may be defined by rules adopted by the secretary
23 pursuant to the provisions of this chapter;

24 ~~((41))~~ (43) "Psychiatric advanced registered nurse
25 practitioner" means a person who is licensed as an advanced
26 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
27 is board certified in advanced practice psychiatric and mental health
28 nursing;

29 ~~((42))~~ (44) "Psychiatrist" means a person having a license as a
30 physician and surgeon in this state who has in addition completed
31 three years of graduate training in psychiatry in a program approved
32 by the American medical association or the American osteopathic
33 association and is certified or eligible to be certified by the
34 American board of psychiatry and neurology;

35 ~~((43))~~ (45) "Psychologist" means a person who has been licensed
36 as a psychologist pursuant to chapter 18.83 RCW;

37 ~~((44))~~ (46) "Public agency" means any evaluation and treatment
38 facility or institution, secure detoxification facility, approved
39 substance use disorder treatment program, or hospital which is
40 conducted for, or includes a department or ward conducted for, the

1 care and treatment of persons with mental illness, substance use
2 disorders, or both mental illness and substance use disorders, if the
3 agency is operated directly by federal, state, county, or municipal
4 government, or a combination of such governments;

5 ~~((45)) "Registration records" include all the records of the~~
6 ~~department, behavioral health organizations, treatment facilities,~~
7 ~~and other persons providing services to the department, county~~
8 ~~departments, or facilities which identify persons who are receiving~~
9 ~~or who at any time have received services for mental illness or~~
10 ~~substance use disorders;~~

11 ~~(46))~~ (47) "Release" means legal termination of the commitment
12 under the provisions of this chapter;

13 ~~((47))~~ (48) "Resource management services" has the meaning
14 given in chapter 71.24 RCW;

15 ~~((48))~~ (49) "Secretary" means the secretary of the department
16 of ~~(social and)~~ health ~~(services)~~, or his or her designee;

17 ~~((49))~~ (50) "Secure detoxification facility" means a facility
18 operated by either a public or private agency or by the program of an
19 agency that:

20 (a) Provides for intoxicated persons:

21 (i) Evaluation and assessment, provided by certified chemical
22 dependency professionals;

23 (ii) Acute or subacute detoxification services; and

24 (iii) Discharge assistance provided by certified chemical
25 dependency professionals, including facilitating transitions to
26 appropriate voluntary or involuntary inpatient services or to less
27 restrictive alternatives as appropriate for the individual;

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

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

31 ~~((50))~~ (51) "Serious violent offense" has the same meaning as
32 provided in RCW 9.94A.030;

33 ~~((51))~~ (52) "Social worker" means a person with a master's or
34 further advanced degree from a social work educational program
35 accredited and approved as provided in RCW 18.320.010;

36 ~~((52))~~ (53) "Substance use disorder" means a cluster of
37 cognitive, behavioral, and physiological symptoms indicating that an
38 individual continues using the substance despite significant
39 substance-related problems. The diagnosis of a substance use disorder

1 is based on a pathological pattern of behaviors related to the use of
2 the substances;

3 ~~((+53+))~~ (54) "Therapeutic court personnel" means the staff of a
4 mental health court or other therapeutic court which has jurisdiction
5 over defendants who are dually diagnosed with mental disorders,
6 including court personnel, probation officers, a court monitor,
7 prosecuting attorney, or defense counsel acting within the scope of
8 therapeutic court duties;

9 ~~((+54+))~~ (55) "Treatment records" include registration and all
10 other records concerning persons who are receiving or who at any time
11 have received services for mental illness, which are maintained by
12 the department of social and health services, ~~((by))~~ the department,
13 the authority, behavioral health organizations and their staffs, and
14 by treatment facilities. Treatment records include mental health
15 information contained in a medical bill including but not limited to
16 mental health drugs, a mental health diagnosis, provider name, and
17 dates of service stemming from a medical service. Treatment records
18 do not include notes or records maintained for personal use by a
19 person providing treatment services for the department of social and
20 health services, the department, the authority, behavioral health
21 organizations, or a treatment facility if the notes or records are
22 not available to others;

23 ~~((+55+))~~ (56) "Triage facility" means a short-term facility or a
24 portion of a facility licensed or certified by the department ~~((of~~
25 ~~health and certified by the department of social and health~~
26 ~~services))~~ under RCW 71.24.035, which is designed as a facility to
27 assess and stabilize an individual or determine the need for
28 involuntary commitment of an individual, and must meet department
29 ~~((of health))~~ residential treatment facility standards. A triage
30 facility may be structured as a voluntary or involuntary placement
31 facility;

32 ~~((+56+))~~ (57) "Violent act" means behavior that resulted in
33 homicide, attempted suicide, nonfatal injuries, or substantial damage
34 to property.

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

37 (1) Except for monetary damage claims which have been reduced to
38 final judgment by a superior court, this section applies to all

1 claims against the state, state agencies, state officials, or state
2 employees that exist on or arise after March 29, 2006.

3 (2) Except as expressly provided in contracts entered into
4 between the (~~department~~) authority and the behavioral health
5 organizations after March 29, 2006, the entities identified in
6 subsection (3) of this section shall have no claim for declaratory
7 relief, injunctive relief, judicial review under chapter 34.05 RCW,
8 or civil liability against the state or state agencies for actions or
9 inactions performed pursuant to the administration of this chapter
10 with regard to the following: (a) The allocation or payment of
11 federal or state funds; (b) the use or allocation of state hospital
12 beds; or (c) financial responsibility for the provision of inpatient
13 mental health care or inpatient substance use disorder treatment.

14 (3) This section applies to counties, behavioral health
15 organizations, and entities which contract to provide behavioral
16 health organization services and their subcontractors, agents, or
17 employees.

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

20 (1) Not later than January 1, 2007, all persons providing
21 treatment under this chapter shall also implement the integrated
22 comprehensive screening and assessment process for chemical
23 dependency and mental disorders adopted pursuant to RCW
24 (~~(70.96C.010)~~) 71.24.630 and shall document the numbers of clients
25 with co-occurring mental and substance abuse disorders based on a
26 quadrant system of low and high needs.

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

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

34 Persons (~~(who are developmentally disabled)~~) with developmental
35 disabilities, impaired by (~~(chronic alcoholism or drug abuse)~~)
36 substance use disorder, or suffering from dementia shall not be
37 detained for evaluation and treatment or judicially committed solely
38 by reason of that condition unless such condition causes a person to

1 be gravely disabled or as a result of a mental disorder such
2 condition exists that constitutes a likelihood of serious harm(~~+~~
3 ~~Provided~~)). However, ((That)) persons ((who are developmentally
4 ~~disabled)) with developmental disabilities, impaired by ((chronic~~
5 ~~alcoholism or drug abuse)) substance use disorder, or suffering from~~
6 dementia and who otherwise meet the criteria for detention or
7 judicial commitment are not ineligible for detention or commitment
8 based on this condition alone.

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

11 In addition to the responsibility provided for by RCW 43.20B.330,
12 any person, or his or her estate, or his or her spouse, or the
13 parents of a minor person who is involuntarily detained pursuant to
14 this chapter for the purpose of treatment and evaluation outside of a
15 facility maintained and operated by the department of social and
16 health services shall be responsible for the cost of such care and
17 treatment. In the event that an individual is unable to pay for such
18 treatment or in the event payment would result in a substantial
19 hardship upon the individual or his or her family, then the county of
20 residence of such person shall be responsible for such costs. If it
21 is not possible to determine the county of residence of the person,
22 the cost shall be borne by the county where the person was originally
23 detained. The department of social and health services, or the
24 authority, as appropriate, shall, pursuant to chapter 34.05 RCW,
25 adopt standards as to (1) inability to pay in whole or in part, (2) a
26 definition of substantial hardship, and (3) appropriate payment
27 schedules. (~~Such standards shall be applicable to all county mental~~
28 ~~health administrative boards.~~) Financial responsibility with respect
29 to (~~department~~) services and facilities of the department of social
30 and health services shall continue to be as provided in RCW
31 43.20B.320 through 43.20B.360 and 43.20B.370.

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

34 (1) The (~~department~~) authority and each behavioral health
35 organization or agency employing designated crisis responders shall
36 publish information in an easily accessible format describing the
37 process for an immediate family member, guardian, or conservator to

1 petition for court review of a detention decision under RCW
2 71.05.201.

3 (2) A designated crisis responder or designated crisis responder
4 agency that receives a request for investigation for possible
5 detention under this chapter must inquire whether the request comes
6 from an immediate family member, guardian, or conservator who would
7 be eligible to petition under RCW 71.05.201. If the designated crisis
8 responder decides not to detain the person for evaluation and
9 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have
10 elapsed since the request for investigation was received and the
11 designated crisis responder has not taken action to have the person
12 detained, the designated crisis responder or designated crisis
13 responder agency must inform the immediate family member, guardian,
14 or conservator who made the request for investigation about the
15 process to petition for court review under RCW 71.05.201 and, to the
16 extent feasible, provide the immediate family member, guardian, or
17 conservator with written or electronic information about the petition
18 process. If provision of written or electronic information is not
19 feasible, the designated crisis responder or designated crisis
20 responder agency must refer the immediate family member, guardian, or
21 conservator to a web site where published information on the petition
22 process may be accessed. The designated crisis responder or
23 designated crisis responder agency must document the manner and date
24 on which the information required under this subsection was provided
25 to the immediate family member, guardian, or conservator.

26 (3) A designated crisis responder or designated crisis responder
27 agency must, upon request, disclose the date of a designated crisis
28 responder investigation under this chapter to an immediate family
29 member, guardian, or conservator of a person to assist in the
30 preparation of a petition under RCW 71.05.201.

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

33 The ((department)) authority shall develop statewide protocols to
34 be utilized by professional persons and designated crisis responders
35 in administration of this chapter and chapter 10.77 RCW. The
36 protocols shall be updated at least every three years. The protocols
37 shall provide uniform development and application of criteria in
38 evaluation and commitment recommendations, of persons who have, or

1 are alleged to have, mental disorders or substance use disorders and
2 are subject to this chapter.

3 The initial protocols shall be developed not later than September
4 1, 1999. The ((~~department~~)) authority shall develop and update the
5 protocols in consultation with representatives of designated crisis
6 responders, the department of social and health services, local
7 government, law enforcement, county and city prosecutors, public
8 defenders, and groups concerned with mental illness and substance use
9 disorders. The protocols shall be submitted to the governor and
10 legislature upon adoption by the ((~~department~~)) authority.

11 **Sec. 3008.** RCW 71.05.215 and 2016 sp.s. c 29 s 228 and 2016 c
12 155 s 3 are each reenacted and amended to read as follows:

13 (1) A person found to be gravely disabled or presents a
14 likelihood of serious harm as a result of a mental disorder or
15 substance use disorder has a right to refuse antipsychotic medication
16 unless it is determined that the failure to medicate may result in a
17 likelihood of serious harm or substantial deterioration or
18 substantially prolong the length of involuntary commitment and there
19 is no less intrusive course of treatment than medication in the best
20 interest of that person.

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

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

25 (b) For short-term treatment up to thirty days, the right to
26 refuse antipsychotic medications unless there is an additional
27 concurring medical opinion approving medication by a psychiatrist,
28 physician assistant working with a supervising psychiatrist,
29 psychiatric advanced registered nurse practitioner, or physician or
30 physician assistant in consultation with a mental health professional
31 with prescriptive authority.

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

36 (d) Administration of antipsychotic medication in an emergency
37 and review of this decision within twenty-four hours. An emergency
38 exists if the person presents an imminent likelihood of serious harm,
39 and medically acceptable alternatives to administration of

1 antipsychotic medications are not available or are unlikely to be
2 successful; and in the opinion of the physician, physician assistant,
3 or psychiatric advanced registered nurse practitioner, the person's
4 condition constitutes an emergency requiring the treatment be
5 instituted prior to obtaining a second medical opinion.

6 (e) Documentation in the medical record of the attempt by the
7 physician, physician assistant, or psychiatric advanced registered
8 nurse practitioner to obtain informed consent and the reasons why
9 antipsychotic medication is being administered over the person's
10 objection or lack of consent.

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

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

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

29 (3)(a) Subject to (b) of this subsection, at the conclusion of
30 the probable cause hearing, if the court finds by a preponderance of
31 the evidence that such person, as the result of a mental disorder or
32 substance use disorder, presents a likelihood of serious harm, or is
33 gravely disabled, and, after considering less restrictive
34 alternatives to involuntary detention and treatment, finds that no
35 such alternatives are in the best interests of such person or others,
36 the court shall order that such person be detained for involuntary
37 treatment not to exceed fourteen days in a facility licensed or
38 certified to provide treatment by the department.

1 (b) Commitment for up to fourteen days based on a substance use
2 disorder must be to either a secure detoxification facility or an
3 approved substance use disorder treatment program. A court may only
4 enter a commitment order based on a substance use disorder if there
5 is an available secure detoxification facility or approved substance
6 use disorder treatment program with adequate space for the person.

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

15 (d) If the court finds by a preponderance of the evidence that
16 such person, as the result of a mental disorder, is in need of
17 assisted outpatient mental health treatment, and that the person does
18 not present a likelihood of serious harm or grave disability, the
19 court shall order an appropriate less restrictive alternative course
20 of treatment not to exceed ninety days, and may not order inpatient
21 treatment.

22 (e) An order for less restrictive alternative treatment must name
23 the mental health service provider responsible for identifying the
24 services the person will receive in accordance with RCW 71.05.585,
25 and must include a requirement that the person cooperate with the
26 services planned by the mental health service provider.

27 (4) The court shall specifically state to such person and give
28 such person notice in writing that if involuntary treatment beyond
29 the fourteen day period or beyond the ninety days of less restrictive
30 treatment is to be sought, such person will have the right to a full
31 hearing or jury trial as required by RCW 71.05.310. If the commitment
32 is for mental health treatment, the court shall also state to the
33 person and provide written notice that the person is barred from the
34 possession of firearms and that the prohibition remains in effect
35 until a court restores his or her right to possess a firearm under
36 RCW 9.41.047.

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

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

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

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

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

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

38 (d) If the court finds by a preponderance of the evidence that
39 such person, as the result of a mental disorder, is in need of
40 assisted outpatient mental health treatment, and that the person does

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

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

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

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

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

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

34 (1)(a) Subject to (b) of this subsection, if the court or jury
35 finds that grounds set forth in RCW 71.05.280 have been proven and
36 that the best interests of the person or others will not be served by
37 a less restrictive treatment which is an alternative to detention,
38 the court shall remand him or her to the custody of the department of

1 social and health services or to a facility certified for ninety day
2 treatment by the department for a further period of intensive
3 treatment not to exceed ninety days from the date of judgment.

4 (b) If the order for inpatient treatment is based on a substance
5 use disorder, treatment must take place at an approved substance use
6 disorder treatment program. The court may only enter an order for
7 commitment based on a substance use disorder if there is an available
8 approved substance use disorder treatment program with adequate space
9 for the person.

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

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

34 (3) An order for less restrictive alternative treatment entered
35 under subsection (2) of this section must name the mental health
36 service provider responsible for identifying the services the person
37 will receive in accordance with RCW 71.05.585, and must include a
38 requirement that the person cooperate with the services planned by
39 the mental health service provider.

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

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

13 (b) Was taken into custody as a result of conduct in which he or
14 she attempted or inflicted serious physical harm upon the person of
15 another, and continues to present, as a result of mental disorder,
16 substance use disorder, or developmental disability a likelihood of
17 serious harm; or

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

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

38 (d) Continues to be gravely disabled; or

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

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

4 If less restrictive alternative treatment is sought, the petition
5 shall set forth any recommendations for less restrictive alternative
6 treatment services.

7 (5) A new petition for involuntary treatment filed under
8 subsection (4) of this section shall be filed and heard in the
9 superior court of the county of the facility which is filing the new
10 petition for involuntary treatment unless good cause is shown for a
11 change of venue. The cost of the proceedings shall be borne by the
12 state.

13 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
14 and if the court or jury finds that the grounds for additional
15 confinement as set forth in this section are present, subject to
16 subsection (1)(b) of this section, the court may order the committed
17 person returned for an additional period of treatment not to exceed
18 one hundred eighty days from the date of judgment, except as provided
19 in subsection (7) of this section. If the court's order is based
20 solely on the grounds identified in subsection (4)(e) of this
21 section, the court may enter an order for less restrictive
22 alternative treatment not to exceed one hundred eighty days from the
23 date of judgment, and may not enter an order for inpatient treatment.
24 An order for less restrictive alternative treatment must name the
25 mental health service provider responsible for identifying the
26 services the person will receive in accordance with RCW 71.05.585,
27 and must include a requirement that the person cooperate with the
28 services planned by the mental health service provider.

29 (b) At the end of the one hundred eighty day period of
30 commitment, or one-year period of commitment if subsection (7) of
31 this section applies, the committed person shall be released unless a
32 petition for an additional one hundred eighty day period of continued
33 treatment is filed and heard in the same manner as provided in this
34 section. Successive one hundred eighty day commitments are
35 permissible on the same grounds and pursuant to the same procedures
36 as the original one hundred eighty day commitment.

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

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

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

7 (1) If the court or jury finds that grounds set forth in RCW
8 71.05.280 have been proven and that the best interests of the person
9 or others will not be served by a less restrictive treatment which is
10 an alternative to detention, the court shall remand him or her to the
11 custody of the department of social and health services or to a
12 facility certified for ninety day treatment by the department for a
13 further period of intensive treatment not to exceed ninety days from
14 the date of judgment.

15 If the order for inpatient treatment is based on a substance use
16 disorder, treatment must take place at an approved substance use
17 disorder treatment program. If the grounds set forth in RCW
18 71.05.280(3) are the basis of commitment, then the period of
19 treatment may be up to but not exceed one hundred eighty days from
20 the date of judgment (~~in~~) to the custody of the department of
21 social and health services or to a facility certified for one hundred
22 eighty day treatment by the department.

23 (2) If the court or jury finds that grounds set forth in RCW
24 71.05.280 have been proven, but finds that treatment less restrictive
25 than detention will be in the best interest of the person or others,
26 then the court shall remand him or her to the custody of the
27 department of social and health services or to a facility certified
28 for ninety day treatment by the department or to a less restrictive
29 alternative for a further period of less restrictive treatment not to
30 exceed ninety days from the date of judgment. If the order for less
31 restrictive treatment is based on a substance use disorder, treatment
32 must be provided by an approved substance use disorder treatment
33 program. If the grounds set forth in RCW 71.05.280(3) are the basis
34 of commitment, then the period of treatment may be up to but not
35 exceed one hundred eighty days from the date of judgment. If the
36 court or jury finds that the grounds set forth in RCW 71.05.280(5)
37 have been proven, and provide the only basis for commitment, the
38 court must enter an order for less restrictive alternative treatment

1 for up to ninety days from the date of judgment and may not order
2 inpatient treatment.

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

9 (4) The person shall be released from involuntary treatment at
10 the expiration of the period of commitment imposed under subsection
11 (1) or (2) of this section unless the superintendent or professional
12 person in charge of the facility in which he or she is confined, or
13 in the event of a less restrictive alternative, the designated crisis
14 responder, files a new petition for involuntary treatment on the
15 grounds that the committed person:

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

21 (b) Was taken into custody as a result of conduct in which he or
22 she attempted or inflicted serious physical harm upon the person of
23 another, and continues to present, as a result of mental disorder,
24 substance use disorder, or developmental disability a likelihood of
25 serious harm; or

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

31 (ii) In cases under this subsection where the court has made an
32 affirmative special finding under RCW 71.05.280(3)(b), the commitment
33 shall continue for up to an additional one hundred eighty day period
34 whenever the petition presents prima facie evidence that the person
35 continues to suffer from a mental disorder or developmental
36 disability that results in a substantial likelihood of committing
37 acts similar to the charged criminal behavior, unless the person
38 presents proof through an admissible expert opinion that the person's
39 condition has so changed such that the mental disorder or
40 developmental disability no longer presents a substantial likelihood

1 of the person committing acts similar to the charged criminal
2 behavior. The initial or additional commitment period may include
3 transfer to a specialized program of intensive support and treatment,
4 which may be initiated prior to or after discharge from the state
5 hospital; or

6 (d) Continues to be gravely disabled; or

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

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

11 If less restrictive alternative treatment is sought, the petition
12 shall set forth any recommendations for less restrictive alternative
13 treatment services.

14 (5) A new petition for involuntary treatment filed under
15 subsection (4) of this section shall be filed and heard in the
16 superior court of the county of the facility which is filing the new
17 petition for involuntary treatment unless good cause is shown for a
18 change of venue. The cost of the proceedings shall be borne by the
19 state.

20 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
21 and if the court or jury finds that the grounds for additional
22 confinement as set forth in this section are present, the court may
23 order the committed person returned for an additional period of
24 treatment not to exceed one hundred eighty days from the date of
25 judgment, except as provided in subsection (7) of this section. If
26 the court's order is based solely on the grounds identified in
27 subsection (4)(e) of this section, the court may enter an order for
28 less restrictive alternative treatment not to exceed one hundred
29 eighty days from the date of judgment, and may not enter an order for
30 inpatient treatment. An order for less restrictive alternative
31 treatment must name the mental health service provider responsible
32 for identifying the services the person will receive in accordance
33 with RCW 71.05.585, and must include a requirement that the person
34 cooperate with the services planned by the mental health service
35 provider.

36 (b) At the end of the one hundred eighty day period of
37 commitment, or one-year period of commitment if subsection (7) of
38 this section applies, the committed person shall be released unless a
39 petition for an additional one hundred eighty day period of continued
40 treatment is filed and heard in the same manner as provided in this

1 section. Successive one hundred eighty day commitments are
2 permissible on the same grounds and pursuant to the same procedures
3 as the original one hundred eighty day commitment.

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

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

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

14 (1) Before a person committed under grounds set forth in RCW
15 71.05.280(3) is released because a new petition for involuntary
16 treatment has not been filed under RCW 71.05.320(~~(3)~~) (4), the
17 superintendent, professional person, or designated crisis responder
18 responsible for the decision whether to file a new petition shall in
19 writing notify the prosecuting attorney of the county in which the
20 criminal charges against the committed person were dismissed, of the
21 decision not to file a new petition for involuntary treatment. Notice
22 shall be provided at least forty-five days before the period of
23 commitment expires.

24 (2)(a) Before a person committed under grounds set forth in RCW
25 71.05.280(3) is permitted temporarily to leave a treatment facility
26 pursuant to RCW 71.05.270 for any period of time without constant
27 accompaniment by facility staff, the superintendent, professional
28 person in charge of a treatment facility, or his or her professional
29 designee shall in writing notify the prosecuting attorney of any
30 county of the person's destination and the prosecuting attorney of
31 the county in which the criminal charges against the committed person
32 were dismissed. The notice shall be provided at least forty-five days
33 before the anticipated leave and shall describe the conditions under
34 which the leave is to occur.

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

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

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

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

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

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

13 (1) Nothing in this chapter shall prohibit the superintendent or
14 professional person in charge of the hospital or facility in which
15 the person is being involuntarily treated from releasing him or her
16 prior to the expiration of the commitment period when, in the opinion
17 of the superintendent or professional person in charge, the person
18 being involuntarily treated no longer presents a likelihood of
19 serious harm.

20 Whenever the superintendent or professional person in charge of a
21 hospital or facility providing involuntary treatment pursuant to this
22 chapter releases a person prior to the expiration of the period of
23 commitment, the superintendent or professional person in charge shall
24 in writing notify the court which committed the person for treatment.

25 (2) Before a person committed under grounds set forth in RCW
26 71.05.280(3) or 71.05.320(~~(+2)~~) (4)(c) is released under this
27 section, the superintendent or professional person in charge shall in
28 writing notify the prosecuting attorney of the county in which the
29 criminal charges against the committed person were dismissed, of the
30 release date. Notice shall be provided at least thirty days before
31 the release date. Within twenty days after receiving notice, the
32 prosecuting attorney may petition the court in the county in which
33 the person is being involuntarily treated for a hearing to determine
34 whether the person is to be released. The prosecuting attorney shall
35 provide a copy of the petition to the superintendent or professional
36 person in charge of the hospital or facility providing involuntary
37 treatment, the attorney, if any, and the guardian or conservator of
38 the committed person. The court shall conduct a hearing on the
39 petition within ten days of filing the petition. The committed person

1 shall have the same rights with respect to notice, hearing, and
2 counsel as for an involuntary treatment proceeding, except as set
3 forth in this subsection and except that there shall be no right to
4 jury trial. The issue to be determined at the hearing is whether or
5 not the person may be released without substantial danger to other
6 persons, or substantial likelihood of committing criminal acts
7 jeopardizing public safety or security. If the court disapproves of
8 the release, it may do so only on the basis of substantial evidence.
9 Pursuant to the determination of the court upon the hearing, the
10 committed person shall be released or shall be returned for
11 involuntary treatment subject to release at the end of the period for
12 which he or she was committed, or otherwise in accordance with the
13 provisions of this chapter.

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

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

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

27 (1)(a) When, in the opinion of the superintendent or the
28 professional person in charge of the hospital or facility providing
29 involuntary treatment, the committed person can be appropriately
30 served by outpatient treatment prior to or at the expiration of the
31 period of commitment, then such outpatient care may be required as a
32 term of conditional release for a period which, when added to the
33 inpatient treatment period, shall not exceed the period of
34 commitment. If the facility or agency designated to provide
35 outpatient treatment is other than the facility providing involuntary
36 treatment, the outpatient facility so designated must agree in
37 writing to assume such responsibility. A copy of the terms of
38 conditional release shall be given to the patient, the designated

1 crisis responder in the county in which the patient is to receive
2 outpatient treatment, and to the court of original commitment.

3 (b) Before a person committed under grounds set forth in RCW
4 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)
5 of this subsection, the superintendent or professional person in
6 charge of the hospital or facility providing involuntary treatment
7 shall in writing notify the prosecuting attorney of the county in
8 which the criminal charges against the committed person were
9 dismissed, of the decision to conditionally release the person.
10 Notice and a copy of the terms of conditional release shall be
11 provided at least thirty days before the person is released from
12 inpatient care. Within twenty days after receiving notice, the
13 prosecuting attorney may petition the court in the county that issued
14 the commitment order to hold a hearing to determine whether the
15 person may be conditionally released and the terms of the conditional
16 release. The prosecuting attorney shall provide a copy of the
17 petition to the superintendent or professional person in charge of
18 the hospital or facility providing involuntary treatment, the
19 attorney, if any, and guardian or conservator of the committed
20 person, and the court of original commitment. If the county in which
21 the committed person is to receive outpatient treatment is the same
22 county in which the criminal charges against the committed person
23 were dismissed, then the court shall, upon the motion of the
24 prosecuting attorney, transfer the proceeding to the court in that
25 county. The court shall conduct a hearing on the petition within ten
26 days of the filing of the petition. The committed person shall have
27 the same rights with respect to notice, hearing, and counsel as for
28 an involuntary treatment proceeding, except as set forth in this
29 subsection and except that there shall be no right to jury trial. The
30 issue to be determined at the hearing is whether or not the person
31 may be conditionally released without substantial danger to other
32 persons, or substantial likelihood of committing criminal acts
33 jeopardizing public safety or security. If the court disapproves of
34 the conditional release, it may do so only on the basis of
35 substantial evidence. Pursuant to the determination of the court upon
36 the hearing, the conditional release of the person shall be approved
37 by the court on the same or modified conditions or the person shall
38 be returned for involuntary treatment on an inpatient basis subject
39 to release at the end of the period for which he or she was

1 committed, or otherwise in accordance with the provisions of this
2 chapter.

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

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

12 No indigent patient shall be conditionally released or discharged
13 from involuntary treatment without suitable clothing, and the
14 superintendent of a state hospital shall furnish the same, together
15 with such sum of money as he or she deems necessary for the immediate
16 welfare of the patient. Such sum of money shall be the same as the
17 amount required by RCW 72.02.100 to be provided to persons in need
18 being released from correctional institutions. As funds are
19 available, the secretary of the department of social and health
20 services may provide payment to indigent persons conditionally
21 released pursuant to this chapter consistent with the optional
22 provisions of RCW 72.02.100 and 72.02.110, and may adopt rules and
23 regulations to do so.

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

26 (1)(a) Except as provided in subsection (2) of this section, at
27 the earliest possible date, and in no event later than thirty days
28 before conditional release, final release, authorized leave under RCW
29 71.05.325(2), or transfer to a facility other than a state mental
30 hospital, the superintendent shall send written notice of conditional
31 release, release, authorized leave, or transfer of a person committed
32 under RCW 71.05.280(3) or 71.05.320(~~(+3)~~) (4)(c) following dismissal
33 of a sex, violent, or felony harassment offense pursuant to RCW
34 10.77.086(4) to the following:

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

37 (ii) The sheriff of the county in which the person will reside;
38 and

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

3 (b) The same notice as required by (a) of this subsection shall
4 be sent to the following, if such notice has been requested in
5 writing about a specific person committed under RCW 71.05.280(3) or
6 71.05.320(~~(+3)~~) (4)(c) following dismissal of a sex, violent, or
7 felony harassment offense pursuant to RCW 10.77.086(4):

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

12 (ii) Any witnesses who testified against the person in any court
13 proceedings;

14 (iii) Any person specified in writing by the prosecuting
15 attorney. Information regarding victims, next of kin, or witnesses
16 requesting the notice, information regarding any other person
17 specified in writing by the prosecuting attorney to receive the
18 notice, and the notice are confidential and shall not be available to
19 the person committed under this chapter; and

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

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

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

28 (2) If a person committed under RCW 71.05.280(3) or
29 71.05.320(~~(+3)~~) (4)(c) following dismissal of a sex, violent, or
30 felony harassment offense pursuant to RCW 10.77.086(4) escapes, the
31 superintendent shall immediately notify, by the most reasonable and
32 expedient means available, the chief of police of the city and the
33 sheriff of the county in which the person escaped and in which the
34 person resided immediately before the person's arrest and the
35 prosecuting attorney of the county in which the criminal charges
36 against the committed person were dismissed. If previously requested,
37 the superintendent shall also notify the witnesses and the victim of
38 the sex, violent, or felony harassment offense that was dismissed
39 pursuant to RCW 10.77.086(4) preceding commitment under RCW
40 71.05.280(3) or 71.05.320(~~(+3)~~) (4) or the victim's next of kin if

1 the crime was a homicide. In addition, the secretary shall also
2 notify appropriate parties pursuant to RCW 70.02.230(2)(n). If the
3 person is recaptured, the superintendent shall send notice to the
4 persons designated in this subsection as soon as possible but in no
5 event later than two working days after the department of social and
6 health services learns of such recapture.

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

10 (4) The superintendent shall send the notices required by this
11 chapter to the last address provided to the department of social and
12 health services by the requesting party. The requesting party shall
13 furnish the department of social and health services with a current
14 address.

15 (5) For purposes of this section the following terms have the
16 following meanings:

17 (a) "Violent offense" means a violent offense under RCW
18 9.94A.030;

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

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

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

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

26 (1) Whenever a person who is the subject of an involuntary
27 commitment order under this chapter is discharged from an evaluation
28 and treatment facility, state hospital, secure detoxification
29 facility, or approved substance use disorder treatment program
30 providing involuntary treatment services, the entity discharging the
31 person shall provide notice of the person's discharge to the
32 designated crisis responder office responsible for the initial
33 commitment and the designated crisis responder office that serves the
34 county in which the person is expected to reside. The entity
35 discharging the person must also provide these offices with a copy of
36 any less restrictive order or conditional release order entered in
37 conjunction with the discharge of the person, unless the entity
38 discharging the person has entered into a memorandum of understanding
39 obligating another entity to provide these documents.

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

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

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

12 (1)(a) When a mental health service provider conducts its initial
13 assessment for a person receiving court-ordered treatment, the
14 service provider shall inquire and shall be told by the offender
15 whether he or she is subject to supervision by the department of
16 corrections.

17 (b) When a person receiving court-ordered treatment or treatment
18 ordered by the department of corrections discloses to his or her
19 mental health service provider that he or she is subject to
20 supervision by the department of corrections, the mental health
21 service provider shall notify the department of corrections that he
22 or she is treating the offender and shall notify the offender that
23 his or her community corrections officer will be notified of the
24 treatment, provided that if the offender has received relief from
25 disclosure pursuant to RCW 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132
26 and the offender has provided the mental health service provider with
27 a copy of the order granting relief from disclosure pursuant to RCW
28 9.94A.562(~~(, 70.96A.155,)~~) or 71.05.132, the mental health service
29 provider is not required to notify the department of corrections that
30 the mental health service provider is treating the offender. The
31 notification may be written or oral and shall not require the consent
32 of the offender. If an oral notification is made, it must be
33 confirmed by a written notification. For purposes of this section, a
34 written notification includes notification by email or facsimile, so
35 long as the notifying mental health service provider is clearly
36 identified.

37 (2) The information to be released to the department of
38 corrections shall include all relevant records and reports, as

1 defined by rule, necessary for the department of corrections to carry
2 out its duties.

3 (3) The (~~department~~) authority and the department of
4 corrections, in consultation with behavioral health organizations,
5 mental health service providers as defined in RCW 71.05.020, mental
6 health consumers, and advocates for persons with mental illness,
7 shall adopt rules to implement the provisions of this section related
8 to the type and scope of information to be released. These rules
9 shall:

10 (a) Enhance and facilitate the ability of the department of
11 corrections to carry out its responsibility of planning and ensuring
12 community protection with respect to persons subject to sentencing
13 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
14 disclosing information of persons who received mental health services
15 as a minor; and

16 (b) Establish requirements for the notification of persons under
17 the supervision of the department of corrections regarding the
18 provisions of this section.

19 (4) The information received by the department of corrections
20 under this section shall remain confidential and subject to the
21 limitations on disclosure outlined in this chapter (~~(71.05—RCW)~~),
22 except as provided in RCW 72.09.585.

23 (5) No mental health service provider or individual employed by a
24 mental health service provider shall be held responsible for
25 information released to or used by the department of corrections
26 under the provisions of this section or rules adopted under this
27 section.

28 (6) Whenever federal law or federal regulations restrict the
29 release of information and records related to mental health services
30 for any patient who receives treatment for alcoholism or drug
31 dependency, the release of the information may be restricted as
32 necessary to comply with federal law and regulations.

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

36 (8) The (~~department~~) authority shall, subject to available
37 resources, electronically, or by the most cost-effective means
38 available, provide the department of corrections with the names, last
39 dates of services, and addresses of specific behavioral health
40 organizations and mental health service providers that delivered

1 mental health services to a person subject to chapter 9.94A or 9.95
2 RCW pursuant to an agreement between the authority and the
3 department(~~(s)~~) of corrections.

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

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

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

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

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

34 When, in the judgment of the department of social and health
35 services, the welfare of any person committed to or confined in any
36 state juvenile correctional institution or facility necessitates that
37 such a person be transferred or moved for observation, diagnosis or

1 treatment to any state institution or facility for the care of
2 (~~mentally ill~~) juveniles with mental illness the secretary of the
3 department of social and health services, or his or her designee, is
4 authorized to order and effect such move or transfer: PROVIDED,
5 HOWEVER, That the secretary of the department of social and health
6 services shall adopt and implement procedures to assure that persons
7 so transferred shall, while detained or confined in such institution
8 or facility for the care of (~~mentally ill~~) juveniles with mental
9 illness, be provided with substantially similar opportunities for
10 parole or early release evaluation and determination as persons
11 detained or confined in state juvenile correctional institutions or
12 facilities: PROVIDED, FURTHER, That the secretary of the department
13 of social and health services shall notify the original committing
14 court of such transfer.

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

17 The department, the department of social and health services, and
18 the authority shall adopt such rules as may be necessary to
19 effectuate the intent and purposes of this chapter, which shall
20 include but not be limited to evaluation of the quality of the
21 program and facilities operating pursuant to this chapter, evaluation
22 of the effectiveness and cost effectiveness of such programs and
23 facilities, and procedures and standards for licensing or
24 certification and other action relevant to evaluation and treatment
25 facilities, secure detoxification facilities, and approved substance
26 use disorder treatment programs.

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

29 (1) Either an agency or facility designated to monitor or provide
30 services under a less restrictive alternative order or conditional
31 release order, or a designated crisis responder, may take action to
32 enforce, modify, or revoke a less restrictive alternative or
33 conditional release order. The agency, facility, or designated crisis
34 responder must determine that:

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

37 (b) Substantial deterioration in the person's functioning has
38 occurred;

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

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

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

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

14 (b) To increase the intensity of outpatient services provided to
15 the person by increasing the frequency of contacts with the provider,
16 referring the person for an assessment for assertive community
17 services, or by other means;

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

28 (d) To cause the person to be transported by a peace officer,
29 designated crisis responder, or other means to the agency or facility
30 monitoring or providing services under the court order, or to a
31 triage facility, crisis stabilization unit, emergency department, or
32 to an evaluation and treatment facility if the person is committed
33 for mental health treatment, or to a secure detoxification facility
34 with available space or an approved substance use disorder treatment
35 program with available space if the person is committed for substance
36 use disorder treatment. The person may be detained at the facility
37 for up to twelve hours for the purpose of an evaluation to determine
38 whether modification, revocation, or commitment proceedings are
39 necessary and appropriate to stabilize the person and prevent
40 decompensation, deterioration, or physical harm. Temporary detention

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

10 (e) To initiate revocation procedures under subsection (4) of
11 this section.

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

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

32 (b) A person detained under this subsection (4) must be held
33 until such time, not exceeding five days, as a hearing can be
34 scheduled to determine whether or not the person should be returned
35 to the hospital or facility from which he or she had been released.
36 If the person is not detained, the hearing must be scheduled within
37 five days of service on the person. The designated crisis responder
38 or the secretary of the department of social and health services may
39 modify or rescind the order at any time prior to commencement of the
40 court hearing.

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

15 (d) The issues for the court to determine are whether: (i) The
16 person adhered to the terms and conditions of the court order; (ii)
17 substantial deterioration in the person's functioning has occurred;
18 (iii) there is evidence of substantial decompensation with a
19 reasonable probability that the decompensation can be reversed by
20 further inpatient treatment; or (iv) there is a likelihood of serious
21 harm; and, if any of the above conditions apply, whether the court
22 should reinstate or modify the person's less restrictive alternative
23 or conditional release order or order the person's detention for
24 inpatient treatment. The person may waive the court hearing and allow
25 the court to enter a stipulated order upon the agreement of all
26 parties. If the court orders detention for inpatient treatment, the
27 treatment period may be for no longer than the period authorized in
28 the original court order. A court may not issue an order to detain a
29 person for inpatient treatment in a secure detoxification facility or
30 approved substance use disorder treatment program under this
31 subsection unless there is a secure detoxification facility or
32 approved substance use disorder treatment program available and with
33 adequate space for the person.

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

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

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

9 (1) Either an agency or facility designated to monitor or provide
10 services under a less restrictive alternative order or conditional
11 release order, or a designated crisis responder, may take action to
12 enforce, modify, or revoke a less restrictive alternative or
13 conditional release order. The agency, facility, or designated crisis
14 responder must determine that:

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

17 (b) Substantial deterioration in the person's functioning has
18 occurred;

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

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

23 (2) Actions taken under this section must include a flexible
24 range of responses of varying levels of intensity appropriate to the
25 circumstances and consistent with the interests of the individual and
26 the public in personal autonomy, safety, recovery, and compliance.
27 Available actions may include, but are not limited to, any of the
28 following:

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

32 (b) To increase the intensity of outpatient services provided to
33 the person by increasing the frequency of contacts with the provider,
34 referring the person for an assessment for assertive community
35 services, or by other means;

36 (c) To request a court hearing for review and modification of the
37 court order. The request must be made to the court with jurisdiction
38 over the order and specify the circumstances that give rise to the
39 request and what modification is being sought. The county prosecutor

1 shall assist the agency or facility in requesting this hearing and
2 issuing an appropriate summons to the person. This subsection does
3 not limit the inherent authority of a treatment provider to alter
4 conditions of treatment for clinical reasons, and is intended to be
5 used only when court intervention is necessary or advisable to secure
6 the person's compliance and prevent decompensation or deterioration;

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

28 (e) To initiate revocation procedures under subsection (4) of
29 this section.

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

36 (4)(a) A designated crisis responder or the secretary of the
37 department of social and health services may upon their own motion or
38 notification by the facility or agency designated to provide
39 outpatient care order a person subject to a court order under this
40 chapter to be apprehended and taken into custody and temporary

1 detention in an evaluation and treatment facility in or near the
2 county in which he or she is receiving outpatient treatment if the
3 person is committed for mental health treatment, or, if the person is
4 committed for substance use disorder treatment, in a secure
5 detoxification facility or approved substance use disorder treatment
6 program if either is available in or near the county in which he or
7 she is receiving outpatient treatment. Proceedings under this
8 subsection (4) may be initiated without ordering the apprehension and
9 detention of the person.

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

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

33 (d) The issues for the court to determine are whether: (i) The
34 person adhered to the terms and conditions of the court order; (ii)
35 substantial deterioration in the person's functioning has occurred;
36 (iii) there is evidence of substantial decompensation with a
37 reasonable probability that the decompensation can be reversed by
38 further inpatient treatment; or (iv) there is a likelihood of serious
39 harm; and, if any of the above conditions apply, whether the court
40 should reinstate or modify the person's less restrictive alternative

1 or conditional release order or order the person's detention for
2 inpatient treatment. The person may waive the court hearing and allow
3 the court to enter a stipulated order upon the agreement of all
4 parties. If the court orders detention for inpatient treatment, the
5 treatment period may be for no longer than the period authorized in
6 the original court order.

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

13 (5) In determining whether or not to take action under this
14 section the designated crisis responder, agency, or facility must
15 consider the factors specified under RCW 71.05.212 and the court must
16 consider the factors specified under RCW 71.05.245 as they apply to
17 the question of whether to enforce, modify, or revoke a court order
18 for involuntary treatment.

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

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

23 (a) The department;

24 (b) The department of social and health services;

25 (c) The authority;

26 (d) The state hospitals as defined in RCW 72.23.010;

27 ~~((e))~~ (e) Any person who is the subject of a petition;

28 ~~((d))~~ (f) The attorney or guardian of the person;

29 ~~((e))~~ (g) Resource management services for that person; and

30 ~~((f))~~ (h) Service providers authorized to receive such
31 information by resource management services.

32 (2) The ~~((department))~~ authority shall adopt rules to implement
33 this section.

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

36 Annually, all community mental health employees who work directly
37 with clients shall be provided with training on safety and violence
38 prevention topics described in RCW 49.19.030. The curriculum for the

1 training shall be developed collaboratively among the ((~~department of~~
2 ~~social and health services~~)) authority, the department, contracted
3 mental health providers, and employee organizations that represent
4 community mental health workers.

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

7 (1) The joint legislative audit and review committee shall
8 conduct an independent assessment of the direct costs of providing
9 judicial services under this chapter and chapter 71.34 RCW as defined
10 in RCW 71.05.730. The assessment shall include a review and analysis
11 of the reasons for differences in costs among counties. The
12 assessment shall be conducted for any county in which more than
13 twenty civil commitment cases were conducted during the year prior to
14 the study. The assessment must be completed by June 1, 2012.

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

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

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

24 ((~~By August 1, 2013,~~)) All behavioral health organizations in the
25 state of Washington must forward historical mental health involuntary
26 commitment information retained by the organization including
27 identifying information and dates of commitment to the ((~~department~~))
28 authority. As soon as feasible, the behavioral health organizations
29 must arrange to report new commitment data to the ((~~department~~))
30 authority within twenty-four hours. Commitment information under this
31 section does not need to be resent if it is already in the possession
32 of the ((~~department~~)) authority. Behavioral health organizations and
33 the ((~~department~~)) authority shall be immune from liability related
34 to the sharing of commitment information under this section.

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

1 (1) The ((department)) authority may use a single bed
2 certification process as outlined in rule to provide additional
3 treatment capacity for a person suffering from a mental disorder for
4 whom an evaluation and treatment bed is not available. The facility
5 that is the proposed site of the single bed certification must be a
6 facility that is willing and able to provide the person with timely
7 and appropriate treatment either directly or by arrangement with
8 other public or private agencies.

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

11 (3) A designated crisis responder who submits an application for
12 a single bed certification for treatment at a facility that is
13 willing and able to provide timely and appropriate mental health
14 treatment in good faith belief that the single bed certification is
15 appropriate may presume that the single bed certification will be
16 approved for the purpose of completing the detention process and
17 responding to other emergency calls.

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

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

23 (1) A designated crisis responder shall make a report to the
24 ((department)) authority when he or she determines a person meets
25 detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or
26 71.34.710 and there are not any beds available at an evaluation and
27 treatment facility, the person has not been provisionally accepted
28 for admission by a facility, and the person cannot be served on a
29 single bed certification or less restrictive alternative. Starting at
30 the time when the designated crisis responder determines a person
31 meets detention criteria and the investigation has been completed,
32 the designated crisis responder has twenty-four hours to submit a
33 completed report to the ((department)) authority.

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

36 (a) The date and time that the investigation was completed;

37 (b) The identity of the responsible behavioral health
38 organization;

39 (c) The county in which the person met detention criteria;

1 (d) A list of facilities which refused to admit the person; and
2 (e) Identifying information for the person, including age or date
3 of birth.

4 (3) The ~~((department))~~ authority shall develop a standardized
5 reporting form or modify the current form used for single bed
6 certifications for the report required under subsection (2) of this
7 section and may require additional reporting elements as it
8 determines are necessary or supportive. The ~~((department))~~ authority
9 shall also determine the method for the transmission of the completed
10 report from the designated crisis responder to the ~~((department))~~
11 authority.

12 (4) The ~~((department))~~ authority shall create quarterly reports
13 displayed on its web site that summarize the information reported
14 under subsection (2) of this section. At a minimum, the reports must
15 display data by county and by month. The reports must also include
16 the number of single bed certifications granted by category. The
17 categories must include all of the reasons that the ~~((department))~~
18 authority recognizes for issuing a single bed certification, as
19 identified in rule.

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

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

30 (a) Not licensed or certified as an inpatient evaluation and
31 treatment facility; or

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

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

36 (1) The ~~((department))~~ authority shall promptly share reports it
37 receives under RCW 71.05.750 with the responsible regional support
38 network or behavioral health organization. The regional support
39 network or behavioral health organization receiving this notification

1 must attempt to engage the person in appropriate services for which
2 the person is eligible and report back within seven days to the
3 ((department)) authority.

4 (2) The ((department)) authority shall track and analyze reports
5 submitted under RCW 71.05.750. The ((department)) authority must
6 initiate corrective action when appropriate to ensure that each
7 regional support network or behavioral health organization has
8 implemented an adequate plan to provide evaluation and treatment
9 services. Corrective actions may include remedies under RCW 71.24.330
10 and 43.20A.894 (as recodified by this act), including requiring
11 expenditure of reserve funds. An adequate plan may include
12 development of less restrictive alternatives to involuntary
13 commitment such as crisis triage, crisis diversion, voluntary
14 treatment, or prevention programs reasonably calculated to reduce
15 demand for evaluation and treatment under this chapter.

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

18 (1)(a) By April 1, 2018, the ((department)) authority, by rule,
19 must combine the functions of a designated mental health professional
20 and designated chemical dependency specialist by establishing a
21 designated crisis responder who is authorized to conduct
22 investigations, detain persons up to seventy-two hours to the proper
23 facility, and carry out the other functions identified in this
24 chapter and chapter 71.34 RCW. The behavioral health organizations
25 shall provide training to the designated crisis responders as
26 required by the ((department)) authority.

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

30 (A) Psychiatrist, psychologist, physician assistant working with
31 a supervising psychiatrist, psychiatric advanced registered nurse
32 practitioner, or social worker;

33 (B) Person who is licensed by the department as a mental health
34 counselor or mental health counselor associate, or marriage and
35 family therapist or marriage and family therapist associate;

36 (C) Person with a master's degree or further advanced degree in
37 counseling or one of the social sciences from an accredited college
38 or university and who have, in addition, at least two years of
39 experience in direct treatment of persons with mental illness or

1 emotional disturbance, such experience gained under the direction of
2 a mental health professional;

3 ((+C+)) (D) Person who meets the waiver criteria of RCW
4 71.24.260, which waiver was granted before 1986;

5 ((+D+)) (E) Person who had an approved waiver to perform the
6 duties of a mental health professional that was requested by the
7 regional support network and granted by the department of social and
8 health services before July 1, 2001; or

9 ((+E+)) (F) Person who has been granted an exception of the
10 minimum requirements of a mental health professional by the
11 department consistent with rules adopted by the secretary.

12 (ii) Training must include chemical dependency training specific
13 to the duties of a designated crisis responder, including diagnosis
14 of substance abuse and dependence and assessment of risk associated
15 with substance use.

16 (c) The ((department)) authority must develop a transition
17 process for any person who has been designated as a designated mental
18 health professional or a designated chemical dependency specialist
19 before April 1, 2018, to be converted to a designated crisis
20 responder. The behavioral health organizations shall provide
21 training, as required by the ((department)) authority, to persons
22 converting to designated crisis responders, which must include both
23 mental health and chemical dependency training applicable to the
24 designated crisis responder role.

25 (2)(a) The ((department)) authority must ensure that at least one
26 sixteen-bed secure detoxification facility is operational by April 1,
27 2018, and that at least two sixteen-bed secure detoxification
28 facilities are operational by April 1, 2019.

29 (b) If, at any time during the implementation of secure
30 detoxification facility capacity, federal funding becomes unavailable
31 for federal match for services provided in secure detoxification
32 facilities, then the ((department)) authority must cease any
33 expansion of secure detoxification facilities until further direction
34 is provided by the legislature.

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

37 When appropriate and subject to available funds, the treatment
38 and training of a person with a developmental disability who is
39 committed to the custody of the department of social and health

1 services or to a facility licensed or certified for ninety day
2 treatment by the department for a further period of intensive
3 treatment under RCW 71.05.320 must be provided in a program
4 specifically reserved for the treatment and training of persons with
5 developmental disabilities. A person so committed shall receive
6 habilitation services pursuant to an individualized service plan
7 specifically developed to treat the behavior which was the subject of
8 the criminal proceedings. The treatment program shall be administered
9 by developmental disabilities professionals and others trained
10 specifically in the needs of persons with developmental disabilities.
11 The department of social and health services may limit admissions to
12 this specialized program in order to ensure that expenditures for
13 services do not exceed amounts appropriated by the legislature and
14 allocated by the department of social and health services for such
15 services. The department of social and health services may establish
16 admission priorities in the event that the number of eligible persons
17 exceeds the limits set by the department of social and health
18 services.

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

21 The provisions of chapter 420, Laws of 1989 shall apply equally
22 to persons in the custody of the department of social and health
23 services on May 13, 1989, who were found by a court to be not guilty
24 by reason of insanity or incompetent to stand trial, or who have been
25 found to have committed acts constituting a felony pursuant to RCW
26 71.05.280(3) and present a substantial likelihood of repeating
27 similar acts, and the secretary of the department of social and
28 health services shall cause such persons to be evaluated to ascertain
29 if such persons (~~are developmentally disabled~~) have a developmental
30 disability for placement in a program specifically reserved for the
31 treatment and training of persons with developmental disabilities.

32 **PART 4**

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

35 It is the intent of the legislature to establish a community
36 mental health program which shall help people experiencing mental
37 illness to retain a respected and productive position in the

1 community. This will be accomplished through programs that focus on
2 resilience and recovery, and practices that are evidence-based,
3 research-based, consensus-based, or, where these do not exist,
4 promising or emerging best practices, which provide for:

5 (1) Access to mental health services for adults with mental
6 illness and children with mental illness or emotional disturbances
7 who meet access to care standards which services recognize the
8 special needs of underserved populations, including minorities,
9 children, (~~the elderly [older adults]~~) older adults, individuals
10 with disabilities, and low-income persons. Access to mental health
11 services shall not be limited by a person's history of confinement in
12 a state, federal, or local correctional facility. It is also the
13 purpose of this chapter to promote the early identification of
14 children with mental illness and to ensure that they receive the
15 mental health care and treatment which is appropriate to their
16 developmental level. This care should improve home, school, and
17 community functioning, maintain children in a safe and nurturing home
18 environment, and should enable treatment decisions to be made in
19 response to clinical needs in accordance with sound professional
20 judgment while also recognizing parents' rights to participate in
21 treatment decisions for their children;

22 (2) The involvement of persons with mental illness, their family
23 members, and advocates in designing and implementing mental health
24 services that reduce unnecessary hospitalization and incarceration
25 and promote the recovery and employment of persons with mental
26 illness. To improve the quality of services available and promote the
27 rehabilitation, recovery, and reintegration of persons with mental
28 illness, consumer and advocate participation in mental health
29 services is an integral part of the community mental health system
30 and shall be supported;

31 (3) Accountability of efficient and effective services through
32 state-of-the-art outcome and performance measures and statewide
33 standards for monitoring client and system outcomes, performance, and
34 reporting of client and system outcome information. These processes
35 shall be designed so as to maximize the use of available resources
36 for direct care of people with a mental illness and to assure uniform
37 data collection across the state;

38 (4) Minimum service delivery standards;

1 (5) Priorities for the use of available resources for the care of
2 individuals with mental illness consistent with the priorities
3 defined in the statute;

4 (6) Coordination of services within the department of social and
5 health services, including those divisions within the department of
6 social and health services that provide services to children, between
7 the authority, department of social and health services, and the
8 office of the superintendent of public instruction, and among state
9 mental hospitals, county authorities, behavioral health
10 organizations, community mental health services, and other support
11 services, which shall to the maximum extent feasible also include the
12 families of individuals with mental illness, and other service
13 providers; and

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

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

39 It is further the intent of the legislature to integrate the
40 provision of services to provide continuity of care through all

1 phases of treatment. To this end, the legislature intends to promote
2 active engagement with persons with mental illness and collaboration
3 between families and service providers.

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

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

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

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

12 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
13 case of a child, a gravely disabled minor as defined in RCW
14 71.34.020; or

15 (c) Presenting a likelihood of serious harm as defined in RCW
16 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

23 (3) "Approved substance use disorder treatment program" means a
24 program for persons with a substance use disorder provided by a
25 treatment program licensed or certified by the department (~~(of social~~
26 ~~and health services))~~) as meeting standards adopted under this
27 chapter.

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

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

1 ~~((+5))~~ (6) "Behavioral health organization" means any county
2 authority or group of county authorities or other entity recognized
3 by the ~~((secretary))~~ director in contract in a defined region.

4 ~~((+6))~~ (7) "Behavioral health program" means all expenditures,
5 services, activities, or programs, including reasonable
6 administration and overhead, designed and conducted to prevent or
7 treat chemical dependency and mental illness.

8 ~~((+7))~~ (8) "Behavioral health services" means mental health
9 services as described in this chapter and chapter 71.36 RCW and
10 substance use disorder treatment services as described in this
11 chapter.

12 ~~((+8))~~ (9) "Child" means a person under the age of eighteen
13 years.

14 ~~((+9))~~ (10) "Chronically mentally ill adult" or "adult who is
15 chronically mentally ill" means an adult who has a mental disorder
16 and meets at least one of the following criteria:

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

19 (b) Has experienced a continuous psychiatric hospitalization or
20 residential treatment exceeding six months' duration within the
21 preceding year; or

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

27 ~~((+10))~~ (11) "Clubhouse" means a community-based program that
28 provides rehabilitation services and is licensed or certified by the
29 department ~~((of social and health services))~~.

30 ~~((+11))~~ (12) "Community mental health service delivery system"
31 means public, private, or tribal agencies that provide services
32 specifically to persons with mental disorders as defined under RCW
33 71.05.020 and receive funding from public sources.

34 ~~((+12))~~ (13) "Community support services" means services
35 authorized, planned, and coordinated through resource management
36 services including, at a minimum, assessment, diagnosis, emergency
37 crisis intervention available twenty-four hours, seven days a week,
38 prescreening determinations for persons who are mentally ill being
39 considered for placement in nursing homes as required by federal law,
40 screening for patients being considered for admission to residential

1 services, diagnosis and treatment for children who are acutely
2 mentally ill or severely emotionally disturbed discovered under
3 screening through the federal Title XIX early and periodic screening,
4 diagnosis, and treatment program, investigation, legal, and other
5 nonresidential services under chapter 71.05 RCW, case management
6 services, psychiatric treatment including medication supervision,
7 counseling, psychotherapy, assuring transfer of relevant patient
8 information between service providers, recovery services, and other
9 services determined by behavioral health organizations.

10 ~~((13))~~ (14) "Consensus-based" means a program or practice that
11 has general support among treatment providers and experts, based on
12 experience or professional literature, and may have anecdotal or case
13 study support, or that is agreed but not possible to perform studies
14 with random assignment and controlled groups.

15 ~~((14))~~ (15) "County authority" means the board of county
16 commissioners, county council, or county executive having authority
17 to establish a community mental health program, or two or more of the
18 county authorities specified in this subsection which have entered
19 into an agreement to provide a community mental health program.

20 ~~((15))~~ (16) "Department" means the department of ~~((social and))~~
21 health ~~((services))~~.

22 ~~((16))~~ (17) "Designated crisis responder" means a mental health
23 professional designated by the county or other authority authorized
24 in rule to perform the duties specified in this chapter.

25 ~~((17))~~ (18) "Director" means the director of the authority.

26 (19) "Drug addiction" means a disease characterized by a
27 dependency on psychoactive chemicals, loss of control over the amount
28 and circumstances of use, symptoms of tolerance, physiological or
29 psychological withdrawal, or both, if use is reduced or discontinued,
30 and impairment of health or disruption of social or economic
31 functioning.

32 ~~((18))~~ (20) "Early adopter" means a regional service area for
33 which all of the county authorities have requested that the
34 ~~((department and the health care))~~ authority ~~((jointly))~~ purchase
35 medical and behavioral health services through a managed care health
36 system as defined under RCW 71.24.380(6).

37 ~~((19))~~ (21) "Emerging best practice" or "promising practice"
38 means a program or practice that, based on statistical analyses or a
39 well established theory of change, shows potential for meeting the
40 evidence-based or research-based criteria, which may include the use

1 of a program that is evidence-based for outcomes other than those
2 listed in subsection ~~((+20+))~~ (22) of this section.

3 ~~((+20+))~~ (22) "Evidence-based" means a program or practice that
4 has been tested in heterogeneous or intended populations with
5 multiple randomized, or statistically controlled evaluations, or
6 both; or one large multiple site randomized, or statistically
7 controlled evaluation, or both, where the weight of the evidence from
8 a systemic review demonstrates sustained improvements in at least one
9 outcome. "Evidence-based" also means a program or practice that can
10 be implemented with a set of procedures to allow successful
11 replication in Washington and, when possible, is determined to be
12 cost-beneficial.

13 ~~((+21+))~~ (23) "Licensed physician" means a person licensed to
14 practice medicine or osteopathic medicine and surgery in the state of
15 Washington.

16 ~~((+22+))~~ (24) "Licensed or certified service provider" means an
17 entity licensed or certified according to this chapter or chapter
18 71.05 RCW or an entity deemed to meet state minimum standards as a
19 result of accreditation by a recognized behavioral health accrediting
20 body recognized and having a current agreement with the department,
21 or tribal attestation that meets state minimum standards, or persons
22 licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79
23 RCW, as it applies to registered nurses and advanced registered nurse
24 practitioners.

25 ~~((+23+))~~ (25) "Long-term inpatient care" means inpatient services
26 for persons committed for, or voluntarily receiving intensive
27 treatment for, periods of ninety days or greater under chapter 71.05
28 RCW. "Long-term inpatient care" as used in this chapter does not
29 include: (a) Services for individuals committed under chapter 71.05
30 RCW who are receiving services pursuant to a conditional release or a
31 court-ordered less restrictive alternative to detention; or (b)
32 services for individuals voluntarily receiving less restrictive
33 alternative treatment on the grounds of the state hospital.

34 ~~((+24+))~~ (26) "Mental health services" means all services
35 provided by behavioral health organizations and other services
36 provided by the state for persons who are mentally ill.

37 ~~((+25+))~~ (27) Mental health "treatment records" include
38 registration and all other records concerning persons who are
39 receiving or who at any time have received services for mental
40 illness, which are maintained by the department of social and health

1 services or the authority, by behavioral health organizations and
2 their staffs, ~~((and))~~ or by treatment facilities. "Treatment records"
3 do not include notes or records maintained for personal use by a
4 person providing treatment services for the department of social and
5 health services, behavioral health organizations, or a treatment
6 facility if the notes or records are not available to others.

7 ~~((+26+))~~ (28) "Mentally ill persons," "persons who are mentally
8 ill," and "the mentally ill" mean persons and conditions defined in
9 subsections (1), ~~((+9), (34), and (35+))~~ (10), (36), and (37) of this
10 section.

11 ~~((+27+))~~ (29) "Recovery" means the process in which people are
12 able to live, work, learn, and participate fully in their
13 communities.

14 ~~((+28+))~~ (30) "Registration records" include all the records of
15 the department of social and health services, the authority,
16 behavioral health organizations, treatment facilities, and other
17 persons providing services ~~((to))~~ for the department of social and
18 health services, the authority, county departments, or facilities
19 which identify persons who are receiving or who at any time have
20 received services for mental illness.

21 ~~((+29+))~~ (31) "Research-based" means a program or practice that
22 has been tested with a single randomized, or statistically controlled
23 evaluation, or both, demonstrating sustained desirable outcomes; or
24 where the weight of the evidence from a systemic review supports
25 sustained outcomes as described in subsection ~~((+20+))~~ (22) of this
26 section but does not meet the full criteria for evidence-based.

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

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

7 ~~((31))~~ (33) "Resilience" means the personal and community
8 qualities that enable individuals to rebound from adversity, trauma,
9 tragedy, threats, or other stresses, and to live productive lives.

10 ~~((32))~~ (34) "Resource management services" mean the planning,
11 coordination, and authorization of residential services and community
12 support services administered pursuant to an individual service plan
13 for: (a) Adults and children who are acutely mentally ill; (b) adults
14 who are chronically mentally ill; (c) children who are severely
15 emotionally disturbed; or (d) adults who are seriously disturbed and
16 determined solely by a behavioral health organization to be at risk
17 of becoming acutely or chronically mentally ill. Such planning,
18 coordination, and authorization shall include mental health screening
19 for children eligible under the federal Title XIX early and periodic
20 screening, diagnosis, and treatment program. Resource management
21 services include seven day a week, twenty-four hour a day
22 availability of information regarding enrollment of adults and
23 children who are mentally ill in services and their individual
24 service plan to designated crisis responders, evaluation and
25 treatment facilities, and others as determined by the behavioral
26 health organization.

27 ~~((33))~~ (35) "Secretary" means the secretary of ~~((social and~~
28 ~~health services))~~ the department of health.

29 ~~((34))~~ (36) "Seriously disturbed person" means a person who:
30 (a) Is gravely disabled or presents a likelihood of serious harm
31 to himself or herself or others, or to the property of others, as a
32 result of a mental disorder as defined in chapter 71.05 RCW;
33 (b) Has been on conditional release status, or under a less
34 restrictive alternative order, at some time during the preceding two
35 years from an evaluation and treatment facility or a state mental
36 health hospital;
37 (c) Has a mental disorder which causes major impairment in
38 several areas of daily living;
39 (d) Exhibits suicidal preoccupation or attempts; or

1 (e) Is a child diagnosed by a mental health professional, as
2 defined in chapter 71.34 RCW, as experiencing a mental disorder which
3 is clearly interfering with the child's functioning in family or
4 school or with peers or is clearly interfering with the child's
5 personality development and learning.

6 ~~((35))~~ (37) "Severely emotionally disturbed child" or "child
7 who is severely emotionally disturbed" means a child who has been
8 determined by the behavioral health organization to be experiencing a
9 mental disorder as defined in chapter 71.34 RCW, including those
10 mental disorders that result in a behavioral or conduct disorder,
11 that is clearly interfering with the child's functioning in family or
12 school or with peers and who meets at least one of the following
13 criteria:

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

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

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

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

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

24 (ii) Changes in custodial adult;

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

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

30 (v) Drug or alcohol abuse; or

31 (vi) Homelessness.

32 ~~((36))~~ (38) "State minimum standards" means minimum
33 requirements established by rules adopted ~~((by the secretary))~~ and
34 necessary to implement this chapter ~~((for))~~ by:

35 (a) The authority for:

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

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

40 (b) The department of health for:

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

3 (ii) Residential services.

4 ~~((37))~~ (39) "Substance use disorder" means a cluster of
5 cognitive, behavioral, and physiological symptoms indicating that an
6 individual continues using the substance despite significant
7 substance-related problems. The diagnosis of a substance use disorder
8 is based on a pathological pattern of behaviors related to the use of
9 the substances.

10 ~~((38))~~ (40) "Tribal authority," for the purposes of this
11 section and RCW 71.24.300 only, means: The federally recognized
12 Indian tribes and the major Indian organizations recognized by the
13 ~~((secretary))~~ director insofar as these organizations do not have a
14 financial relationship with any behavioral health organization that
15 would present a conflict of interest.

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

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

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

23 (1) The ~~((department))~~ authority is designated as the state
24 behavioral health authority which includes recognition as the single
25 state authority for substance use disorders and state mental health
26 authority.

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

32 (3) The ~~((secretary))~~ director shall provide for participation in
33 developing the state behavioral health program for children and other
34 underserved populations, by including representatives on any
35 committee established to provide oversight to the state behavioral
36 health program.

37 (4) The ~~((secretary))~~ director shall be designated as the
38 behavioral health organization if the behavioral health organization

1 fails to meet state minimum standards or refuses to exercise
2 responsibilities under its contract or RCW 71.24.045, until such time
3 as a new behavioral health organization is designated.

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

5 (a) Develop a biennial state behavioral health program that
6 incorporates regional biennial needs assessments and regional mental
7 health service plans and state services for adults and children with
8 mental disorders or substance use disorders or both;

9 (b) Assure that any behavioral health organization or county
10 community behavioral health program provides medically necessary
11 services to medicaid recipients consistent with the state's medicaid
12 state plan or federal waiver authorities, and nonmedicaid services
13 consistent with priorities established by the ~~((department))~~
14 authority;

15 (c) Develop and adopt rules establishing state minimum standards
16 for the delivery of behavioral health services pursuant to RCW
17 71.24.037 including, but not limited to:

18 (i) Licensed or certified service providers. These rules shall
19 permit a county-operated behavioral health program to be licensed as
20 a service provider subject to compliance with applicable statutes and
21 rules. ~~((The secretary shall provide for deeming of compliance with
22 state minimum standards for those entities accredited by recognized
23 behavioral health accrediting bodies recognized and having a current
24 agreement with the department;))~~

25 (ii) Inpatient services, an adequate network of evaluation and
26 treatment services and facilities under chapter 71.05 RCW to ensure
27 access to treatment, resource management services, and community
28 support services;

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

33 (e) Establish a standard contract or contracts, consistent with
34 state minimum standards which shall be used in contracting with
35 behavioral health organizations. The standard contract shall include
36 a maximum fund balance, which shall be consistent with that required
37 by federal regulations or waiver stipulations;

38 (f) Make contracts necessary or incidental to the performance of
39 its duties and the execution of its powers, including managed care
40 contracts for behavioral health services, contracts entered into

1 under RCW 74.09.522, and contracts with public and private agencies,
2 organizations, and individuals to pay them for behavioral health
3 services;

4 (g) Establish, to the extent possible, a standardized auditing
5 procedure which is designed to assure compliance with contractual
6 agreements authorized by this chapter and minimizes paperwork
7 requirements of behavioral health organizations and licensed or
8 certified service providers. The audit procedure shall focus on the
9 outcomes of service as provided in RCW 43.20A.895, 70.320.020, and
10 71.36.025;

11 (h) Develop and maintain an information system to be used by the
12 state and behavioral health organizations that includes a tracking
13 method which allows the ~~((department))~~ authority and behavioral
14 health organizations to identify behavioral health clients'
15 participation in any behavioral health service or public program on
16 an immediate basis. The information system shall not include
17 individual patient's case history files. Confidentiality of client
18 information and records shall be maintained as provided in this
19 chapter and chapter 70.02 RCW;

20 ~~((i)) ~~((License service providers who meet state minimum standards;~~
21 ~~(j))~~ Periodically monitor the compliance of behavioral health
22 organizations and their network of licensed or certified service
23 providers for compliance with the contract between the ~~((department))~~
24 authority, the behavioral health organization, and federal and state
25 rules at reasonable times and in a reasonable manner;~~

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

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

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

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

35 ~~(o) ~~License or certify clubhouses that meet state minimum~~
36 ~~standards;~~~~

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

39 ~~((q))~~ (l) Administer or supervise the administration of the
40 provisions relating to persons with substance use disorders and

1 intoxicated persons of any state plan submitted for federal funding
2 pursuant to federal health, welfare, or treatment legislation.

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

5 (a) To the extent authorized, and in accordance with any
6 priorities or conditions specified, in the biennial appropriations
7 act; or

8 (b) To incentivize improved performance with respect to the
9 client outcomes established in RCW 43.20A.895, 70.320.020, and
10 71.36.025, integration of behavioral health and medical services at
11 the clinical level, and improved care coordination for individuals
12 with complex care needs.

13 (7) Each behavioral health organization and licensed or certified
14 service provider shall file with the secretary of the department of
15 health or the director, on request, such data, statistics, schedules,
16 and information as the secretary of the department of health or the
17 director reasonably requires. A behavioral health organization or
18 licensed or certified service provider which, without good cause,
19 fails to furnish any data, statistics, schedules, or information as
20 requested, or files fraudulent reports thereof, may be subject to the
21 behavioral health organization contractual remedies in RCW 43.20A.894
22 (as recodified by this act) or may have its service provider
23 certification or license revoked or suspended.

24 ~~((The secretary may suspend, revoke, limit, or restrict a~~
25 ~~certification or license, or refuse to grant a certification or~~
26 ~~license for failure to conform to: (a) The law; (b) applicable rules~~
27 ~~and regulations; (c) applicable standards; or (d) state minimum~~
28 ~~standards.~~

29 ~~(9))~~ The superior court may restrain any behavioral health
30 organization or service provider from operating without a contract,
31 certification, or a license or any other violation of this section.
32 The court may also review, pursuant to procedures contained in
33 chapter 34.05 RCW, any denial, suspension, limitation, restriction,
34 or revocation of certification or license, and grant other relief
35 required to enforce the provisions of this chapter.

36 ~~((10))~~ (9) Upon petition by the secretary of the department of
37 health or the director, and after hearing held upon reasonable notice
38 to the facility, the superior court may issue a warrant to an officer
39 or employee of the secretary of the department of health or the
40 director authorizing him or her to enter at reasonable times, and

1 examine the records, books, and accounts of any behavioral health
2 organization or service provider refusing to consent to inspection or
3 examination by the authority.

4 ~~((11))~~ (10) Notwithstanding the existence or pursuit of any
5 other remedy, the secretary of the department of health or the
6 director may file an action for an injunction or other process
7 against any person or governmental unit to restrain or prevent the
8 establishment, conduct, or operation of a behavioral health
9 organization or service provider without a contract, certification,
10 or a license under this chapter.

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

14 ~~((13))~~ (12) The ~~((secretary))~~ director shall assume all duties
15 assigned to the nonparticipating behavioral health organizations
16 under chapters 71.05 and 71.34 RCW and this chapter. Such
17 responsibilities shall include those which would have been assigned
18 to the nonparticipating counties in regions where there are not
19 participating behavioral health organizations.

20 The behavioral health organizations, or the ~~((secretary's))~~
21 director's assumption of all responsibilities under chapters 71.05
22 and 71.34 RCW and this chapter, shall be included in all state and
23 federal plans affecting the state behavioral health program including
24 at least those required by this chapter, the medicaid program, and
25 P.L. 99-660. Nothing in these plans shall be inconsistent with the
26 intent and requirements of this chapter.

27 ~~((14))~~ (13) The ~~((secretary))~~ director shall:

28 (a) Disburse funds for the behavioral health organizations within
29 sixty days of approval of the biennial contract. The ~~((department))~~
30 authority must either approve or reject the biennial contract within
31 sixty days of receipt.

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

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

1 (d) Deny all or part of the funding allocations to behavioral
2 health organizations based solely upon formal findings of
3 noncompliance with the terms of the behavioral health organization's
4 contract with the (~~department~~) authority. Behavioral health
5 organizations disputing the decision of the (~~secretary~~) director to
6 withhold funding allocations are limited to the remedies provided in
7 the (~~department's~~) authority's contracts with the behavioral health
8 organizations.

9 (~~(15)~~) (14) The (~~department~~) authority, in cooperation with
10 the state congressional delegation, shall actively seek waivers of
11 federal requirements and such modifications of federal regulations as
12 are necessary to allow federal medicaid reimbursement for services
13 provided by freestanding evaluation and treatment facilities licensed
14 under chapter 71.12 RCW or certified under chapter 71.05 RCW. The
15 (~~department~~) authority shall periodically report its efforts to the
16 appropriate committees of the senate and the house of
17 representatives.

18 (~~(16)~~) (15) The (~~department~~) authority may:

19 (a) Plan, establish, and maintain substance use disorder
20 prevention and substance use disorder treatment programs as necessary
21 or desirable;

22 (b) Coordinate its activities and cooperate with behavioral
23 programs in this and other states, and make contracts and other joint
24 or cooperative arrangements with state, local, or private agencies in
25 this and other states for behavioral health services and for the
26 common advancement of substance use disorder programs;

27 (c) Solicit and accept for use any gift of money or property made
28 by will or otherwise, and any grant of money, services, or property
29 from the federal government, the state, or any political subdivision
30 thereof or any private source, and do all things necessary to
31 cooperate with the federal government or any of its agencies in
32 making an application for any grant;

33 (d) Keep records and engage in research and the gathering of
34 relevant statistics; and

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

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

1 (1) The secretary shall by rule establish state minimum standards
2 for licensed or certified behavioral health service providers and
3 services, whether those service providers and services are licensed
4 or certified to provide solely mental health services, substance use
5 disorder treatment services, or services to persons with co-occurring
6 disorders.

7 (2) Minimum standards for licensed or certified behavioral health
8 service providers shall, at a minimum, establish: Qualifications for
9 staff providing services directly to persons with mental disorders,
10 substance use disorders, or both, the intended result of each
11 service, and the rights and responsibilities of persons receiving
12 behavioral health services pursuant to this chapter. The secretary
13 shall provide for deeming of licensed or certified behavioral health
14 service providers as meeting state minimum standards as a result of
15 accreditation by a recognized behavioral health accrediting body
16 recognized and having a current agreement with the department.

17 (3) Minimum standards for community support services and resource
18 management services shall include at least qualifications for
19 resource management services, client tracking systems, and the
20 transfer of patient information between behavioral health service
21 providers.

22 (4) The department may suspend, revoke, limit, restrict, or
23 modify an approval, or refuse to grant approval, for failure to meet
24 the provisions of this chapter, or the standards adopted under this
25 chapter. RCW ((~~43.20A.205~~)) 43.70.115 governs notice of a license or
26 certification denial, revocation, suspension, or modification and
27 provides the right to an adjudicative proceeding.

28 (5) No licensed or certified behavioral health service provider
29 may advertise or represent itself as a licensed or certified
30 behavioral health service provider if approval has not been granted,
31 has been denied, suspended, revoked, or canceled.

32 (6) Licensure or certification as a behavioral health service
33 provider is effective for one calendar year from the date of issuance
34 of the license or certification. The license or certification must
35 specify the types of services provided by the behavioral health
36 service provider that meet the standards adopted under this chapter.
37 Renewal of a license or certification must be made in accordance with
38 this section for initial approval and in accordance with the
39 standards set forth in rules adopted by the secretary.

1 (7) Licensure or certification as a licensed or certified
2 behavioral health service provider must specify the types of services
3 provided that meet the standards adopted under this chapter. Renewal
4 of a license or certification must be made in accordance with this
5 section for initial approval and in accordance with the standards set
6 forth in rules adopted by the secretary.

7 (8) Licensed or certified behavioral health service providers may
8 not provide types of services for which the licensed or certified
9 behavioral health service provider has not been certified. Licensed
10 or certified behavioral health service providers may provide services
11 for which approval has been sought and is pending, if approval for
12 the services has not been previously revoked or denied.

13 (9) The department periodically shall inspect licensed or
14 certified behavioral health service providers at reasonable times and
15 in a reasonable manner.

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

24 (11) The department shall maintain and periodically publish a
25 current list of licensed or certified behavioral health service
26 providers.

27 (12) Each licensed or certified behavioral health service
28 provider shall file with the department or the authority upon
29 request, data, statistics, schedules, and information the department
30 or the authority reasonably requires. A licensed or certified
31 behavioral health service provider that without good cause fails to
32 furnish any data, statistics, schedules, or information as requested,
33 or files fraudulent returns thereof, may have its license or
34 certification revoked or suspended.

35 (13) The (~~department~~) authority shall use the data provided in
36 subsection (12) of this section to evaluate each program that admits
37 children to inpatient substance use disorder treatment upon
38 application of their parents. The evaluation must be done at least
39 once every twelve months. In addition, the (~~department~~) authority
40 shall randomly select and review the information on individual

1 children who are admitted on application of the child's parent for
2 the purpose of determining whether the child was appropriately placed
3 into substance use disorder treatment based on an objective
4 evaluation of the child's condition and the outcome of the child's
5 treatment.

6 (14) Any settlement agreement entered into between the department
7 and licensed or certified behavioral health service providers to
8 resolve administrative complaints, license or certification
9 violations, license or certification suspensions, or license or
10 certification revocations may not reduce the number of violations
11 reported by the department unless the department concludes, based on
12 evidence gathered by inspectors, that the licensed or certified
13 behavioral health service provider did not commit one or more of the
14 violations.

15 (15) In cases in which a behavioral health service provider that
16 is in violation of licensing or certification standards attempts to
17 transfer or sell the behavioral health service provider to a family
18 member, the transfer or sale may only be made for the purpose of
19 remedying license or certification violations and achieving full
20 compliance with the terms of the license or certification. Transfers
21 or sales to family members are prohibited in cases in which the
22 purpose of the transfer or sale is to avoid liability or reset the
23 number of license or certification violations found before the
24 transfer or sale. If the department finds that the owner intends to
25 transfer or sell, or has completed the transfer or sale of, ownership
26 of the behavioral health service provider to a family member solely
27 for the purpose of resetting the number of violations found before
28 the transfer or sale, the department may not renew the behavioral
29 health service provider's license or certification or issue a new
30 license or certification to the behavioral health service provider.

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

33 The behavioral health organization shall:

34 (1) Contract as needed with licensed or certified service
35 providers. The behavioral health organization may, in the absence of
36 a licensed or certified service provider entity, become a licensed or
37 certified service provider entity pursuant to minimum standards
38 required for licensing or certification by the department for the

1 purpose of providing services not available from licensed or
2 certified service providers;

3 (2) Operate as a licensed or certified service provider if it
4 deems that doing so is more efficient and cost effective than
5 contracting for services. When doing so, the behavioral health
6 organization shall comply with rules (~~promulgated~~) adopted by the
7 (~~secretary~~) director that shall provide measurements to determine
8 when a behavioral health organization provided service is more
9 efficient and cost effective;

10 (3) Monitor and perform biennial fiscal audits of licensed or
11 certified service providers who have contracted with the behavioral
12 health organization to provide services required by this chapter. The
13 monitoring and audits shall be performed by means of a formal process
14 which insures that the licensed or certified service providers and
15 professionals designated in this subsection meet the terms of their
16 contracts;

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

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

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

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

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

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

33 (10) Coordinate services for individuals who have received
34 services through the community mental health system and who become
35 patients at a state psychiatric hospital to ensure they are
36 transitioned into the community in accordance with mutually agreed
37 upon discharge plans and upon determination by the medical director
38 of the state psychiatric hospital that they no longer need intensive
39 inpatient care.

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

3 (1) The (~~department~~) authority shall provide flexibility in
4 provider contracting to behavioral health organizations for
5 children's mental health services. (~~Beginning with 2007-2009~~
6 ~~biennium contracts,~~) Behavioral health organization contracts shall
7 authorize behavioral health organizations to allow and encourage
8 licensed or certified community mental health centers to subcontract
9 with individual licensed mental health professionals when necessary
10 to meet the need for an adequate, culturally competent, and qualified
11 children's mental health provider network.

12 (2) To the extent that funds are specifically appropriated for
13 this purpose or that nonstate funds are available, a children's
14 mental health evidence-based practice institute shall be established
15 at the University of Washington division of public behavioral health
16 and justice policy. The institute shall closely collaborate with
17 entities currently engaged in evaluating and promoting the use of
18 evidence-based, research-based, promising, or consensus-based
19 practices in children's mental health treatment, including but not
20 limited to the University of Washington department of psychiatry and
21 behavioral sciences, children's hospital and regional medical center,
22 the University of Washington school of nursing, the University of
23 Washington school of social work, and the Washington state institute
24 for public policy. To ensure that funds appropriated are used to the
25 greatest extent possible for their intended purpose, the University
26 of Washington's indirect costs of administration shall not exceed ten
27 percent of appropriated funding. The institute shall:

28 (a) Improve the implementation of evidence-based and
29 research-based practices by providing sustained and effective
30 training and consultation to licensed children's mental health
31 providers and child-serving agencies who are implementing
32 evidence-based or researched-based practices for treatment of
33 children's emotional or behavioral disorders, or who are interested
34 in adapting these practices to better serve ethnically or culturally
35 diverse children. Efforts under this subsection should include a
36 focus on appropriate oversight of implementation of evidence-based
37 practices to ensure fidelity to these practices and thereby achieve
38 positive outcomes;

39 (b) Continue the successful implementation of the "partnerships
40 for success" model by consulting with communities so they may select,

1 implement, and continually evaluate the success of evidence-based
2 practices that are relevant to the needs of children, youth, and
3 families in their community;

4 (c) Partner with youth, family members, family advocacy, and
5 culturally competent provider organizations to develop a series of
6 information sessions, literature, and online resources for families
7 to become informed and engaged in evidence-based and research-based
8 practices;

9 (d) Participate in the identification of outcome-based
10 performance measures under RCW 71.36.025(2) and partner in a
11 statewide effort to implement statewide outcomes monitoring and
12 quality improvement processes; and

13 (e) Serve as a statewide resource to the ((department)) authority
14 and other entities on child and adolescent evidence-based, research-
15 based, promising, or consensus-based practices for children's mental
16 health treatment, maintaining a working knowledge through ongoing
17 review of academic and professional literature, and knowledge of
18 other evidence-based practice implementation efforts in Washington
19 and other states.

20 (3) To the extent that funds are specifically appropriated for
21 this purpose, the ((department)) authority in collaboration with the
22 evidence-based practice institute shall implement a pilot program to
23 support primary care providers in the assessment and provision of
24 appropriate diagnosis and treatment of children with mental and
25 behavioral health disorders and track outcomes of this program. The
26 program shall be designed to promote more accurate diagnoses and
27 treatment through timely case consultation between primary care
28 providers and child psychiatric specialists, and focused educational
29 learning collaboratives with primary care providers.

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

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

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

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

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

10 Grants shall be made by the (~~department~~) authority to
11 behavioral health organizations for community mental health programs
12 totaling not less than ninety-five percent of available resources.
13 The (~~department~~) authority may use up to forty percent of the
14 remaining five percent to provide community demonstration projects,
15 including early intervention or primary prevention programs for
16 children, and the remainder shall be for emergency needs and
17 technical assistance under this chapter.

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

20 The behavioral health organizations shall make satisfactory
21 showing to the (~~secretary~~) director that state funds shall in no
22 case be used to replace local funds from any source being used to
23 finance mental health services prior to January 1, 1990. Maintenance
24 of effort funds devoted to judicial services related to involuntary
25 commitment reimbursed under RCW 71.05.730 must be expended for other
26 purposes that further treatment for mental health and chemical
27 dependency disorders.

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

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

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

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

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

7 In order to establish eligibility for funding under this chapter,
8 any behavioral health organization seeking to obtain federal funds
9 for the support of any aspect of a community mental health program as
10 defined in this chapter shall submit program plans to the
11 ((secretary)) director for prior review and approval before such
12 plans are submitted to any federal agency.

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

15 (1) Upon the request of a tribal authority or authorities within
16 a behavioral health organization the joint operating agreement or the
17 county authority shall allow for the inclusion of the tribal
18 authority to be represented as a party to the behavioral health
19 organization.

20 (2) The roles and responsibilities of the county and tribal
21 authorities shall be determined by the terms of that agreement
22 including a determination of membership on the governing board and
23 advisory committees, the number of tribal representatives to be party
24 to the agreement, and the provisions of law and shall assure the
25 provision of culturally competent services to the tribes served.

26 (3) The state behavioral health authority may not determine the
27 roles and responsibilities of county authorities as to each other
28 under behavioral health organizations by rule, except to assure that
29 all duties required of behavioral health organizations are assigned
30 and that counties and the behavioral health organization do not
31 duplicate functions and that a single authority has final
32 responsibility for all available resources and performance under the
33 behavioral health organization's contract with the ((secretary))
34 director.

35 (4) If a behavioral health organization is a private entity, the
36 ((department)) authority shall allow for the inclusion of the tribal
37 authority to be represented as a party to the behavioral health
38 organization.

1 (5) The roles and responsibilities of the private entity and the
2 tribal authorities shall be determined by the ((department))
3 authority, through negotiation with the tribal authority.

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

8 (a) Administer and provide for the availability of all resource
9 management services, residential services, and community support
10 services.

11 (b) Administer and provide for the availability of an adequate
12 network of evaluation and treatment services to ensure access to
13 treatment, all investigation, transportation, court-related, and
14 other services provided by the state or counties pursuant to chapter
15 71.05 RCW.

16 (c) Provide within the boundaries of each behavioral health
17 organization evaluation and treatment services for at least ninety
18 percent of persons detained or committed for periods up to seventeen
19 days according to chapter 71.05 RCW. Behavioral health organizations
20 may contract to purchase evaluation and treatment services from other
21 organizations if they are unable to provide for appropriate resources
22 within their boundaries. Insofar as the original intent of serving
23 persons in the community is maintained, the ((secretary)) director is
24 authorized to approve exceptions on a case-by-case basis to the
25 requirement to provide evaluation and treatment services within the
26 boundaries of each behavioral health organization. Such exceptions
27 are limited to:

28 (i) Contracts with neighboring or contiguous regions; or

29 (ii) Individuals detained or committed for periods up to
30 seventeen days at the state hospitals at the discretion of the
31 ((secretary)) director.

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

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

39 (7) A behavioral health organization may request that any state-
40 owned land, building, facility, or other capital asset which was ever

1 purchased, deeded, given, or placed in trust for the care of the
2 persons with mental illness and which is within the boundaries of a
3 behavioral health organization be made available to support the
4 operations of the behavioral health organization. State agencies
5 managing such capital assets shall give first priority to requests
6 for their use pursuant to this chapter.

7 (8) Each behavioral health organization shall appoint a
8 behavioral health advisory board which shall review and provide
9 comments on plans and policies developed under this chapter, provide
10 local oversight regarding the activities of the behavioral health
11 organization, and work with the behavioral health organization to
12 resolve significant concerns regarding service delivery and outcomes.
13 The ((department)) authority shall establish statewide procedures for
14 the operation of regional advisory committees including mechanisms
15 for advisory board feedback to the ((department)) authority regarding
16 behavioral health organization performance. The composition of the
17 board shall be broadly representative of the demographic character of
18 the region and shall include, but not be limited to, representatives
19 of consumers of substance use disorder and mental health services and
20 their families, law enforcement, and, where the county is not the
21 behavioral health organization, county elected officials. Composition
22 and length of terms of board members may differ between behavioral
23 health organizations but shall be included in each behavioral health
24 organization's contract and approved by the ((secretary)) director.

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

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

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

37 The legislature finds that administration of chapter 71.05 RCW
38 and this chapter can be most efficiently and effectively implemented
39 as part of the behavioral health organization defined in RCW

1 71.24.025. For this reason, the legislature intends that the
2 ((~~department~~)) authority and the behavioral health organizations
3 shall work together to implement chapter 71.05 RCW as follows:

4 (1) ((~~By June 1, 2006,~~)) Behavioral health organizations shall
5 recommend to the ((~~department~~)) authority the number of state
6 hospital beds that should be allocated for use by each behavioral
7 health organization. The statewide total allocation shall not exceed
8 the number of state hospital beds offering long-term inpatient care,
9 as defined in this chapter, for which funding is provided in the
10 biennial appropriations act.

11 (2) If there is consensus among the behavioral health
12 organizations regarding the number of state hospital beds that should
13 be allocated for use by each behavioral health organization, the
14 ((~~department~~)) authority shall contract with each behavioral health
15 organization accordingly.

16 (3) If there is not consensus among the behavioral health
17 organizations regarding the number of beds that should be allocated
18 for use by each behavioral health organization, the ((~~department~~))
19 authority shall establish by emergency rule the number of state
20 hospital beds that are available for use by each behavioral health
21 organization. ((~~The emergency rule shall be effective September 1,~~
22 ~~2006.~~)) The primary factor used in the allocation shall be the
23 estimated number of adults with acute and chronic mental illness in
24 each behavioral health organization area, based upon population-
25 adjusted incidence and utilization.

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

35 (5) The ((~~department~~)) authority is encouraged to enter
36 performance-based contracts with behavioral health organizations to
37 provide some or all of the behavioral health organization's allocated
38 long-term inpatient treatment capacity in the community, rather than
39 in the state hospital. The performance contracts shall specify the

1 number of patient days of care available for use by the behavioral
2 health organization in the state hospital.

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

13 (7) One-half of any reimbursements received pursuant to
14 subsection (6) of this section shall be used to support the cost of
15 operating the state hospital ~~((and, during the 2007-2009 fiscal
16 biennium, implementing new services that will enable a behavioral
17 health organization to reduce its utilization of the state
18 hospital))~~. The ~~((department))~~ authority shall distribute the
19 remaining half of such reimbursements among behavioral health
20 organizations that have used less than their allocated or contracted
21 patient days of care at that hospital, proportional to the number of
22 patient days of care not used.

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

25 (1) If an existing behavioral health organization chooses not to
26 respond to a request for a detailed plan, or is unable to
27 substantially meet the requirements of a request for a detailed plan,
28 or notifies the ~~((department of social and health services))~~
29 authority it will no longer serve as a behavioral health
30 organization, the ~~((department))~~ authority shall utilize a
31 procurement process in which other entities recognized by the
32 ~~((secretary))~~ director may bid to serve as the behavioral health
33 organization.

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

37 (b) The ~~((department))~~ authority shall provide detailed briefings
38 to all bidders in accordance with ~~((department))~~ authority and state
39 procurement policies.

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

6 (2) A behavioral health organization that voluntarily terminates,
7 refuses to renew, or refuses to sign a mandatory amendment to its
8 contract to act as a behavioral health organization is prohibited
9 from responding to a procurement under this section or serving as a
10 behavioral health organization for five years from the date that the
11 department of social and health services, or the authority, as
12 applicable, signs a contract with the entity that will serve as the
13 behavioral health organization.

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

16 (1)(a) Contracts between a behavioral health organization and the
17 (~~department~~) authority shall include mechanisms for monitoring
18 performance under the contract and remedies for failure to
19 substantially comply with the requirements of the contract including,
20 but not limited to, financial penalties, termination of the contract,
21 and reprocurement of the contract.

22 (b) The (~~department~~) authority shall incorporate the criteria
23 to measure the performance of service coordination organizations into
24 contracts with behavioral health organizations as provided in chapter
25 70.320 RCW.

26 (2) The behavioral health organization procurement processes
27 shall encourage the preservation of infrastructure previously
28 purchased by the community mental health service delivery system, the
29 maintenance of linkages between other services and delivery systems,
30 and maximization of the use of available funds for services versus
31 profits. However, a behavioral health organization selected through
32 the procurement process is not required to contract for services with
33 any county-owned or operated facility. The behavioral health
34 organization procurement process shall provide that public funds
35 appropriated by the legislature shall not be used to promote or
36 deter, encourage, or discourage employees from exercising their
37 rights under Title 29, chapter 7, subchapter II, United States Code
38 or chapter 41.56 RCW.

1 (3) In addition to the requirements of RCW 71.24.035, contracts
2 shall:

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

6 (b) Require effective collaboration with law enforcement,
7 criminal justice agencies, and the chemical dependency treatment
8 system;

9 (c) Require substantial implementation of ~~((department))~~
10 authority adopted integrated screening and assessment process and
11 matrix of best practices;

12 (d) Maintain the decision-making independence of designated
13 crisis responders;

14 (e) Except at the discretion of the secretary of the department
15 of social and health services in consultation with the director or as
16 specified in the biennial budget, require behavioral health
17 organizations to pay the state for the costs associated with
18 individuals who are being served on the grounds of the state
19 hospitals and who are not receiving long-term inpatient care as
20 defined in RCW 71.24.025;

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

22 (g) Include a provision requiring either party to provide one
23 hundred eighty days' notice of any issue that may cause either party
24 to voluntarily terminate, refuse to renew, or refuse to sign a
25 mandatory amendment to the contract to act as a behavioral health
26 organization. If either party decides to voluntarily terminate,
27 refuse to renew, or refuse to sign a mandatory amendment to the
28 contract to serve as a behavioral health organization they shall
29 provide ninety days' advance notice in writing to the other party;

30 (h) Require behavioral health organizations to provide services
31 as identified in RCW 71.05.585 to individuals committed for
32 involuntary commitment under less restrictive alternative court
33 orders when:

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

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

1 (i) Establish caseload guidelines for care coordinators who
2 supervise less restrictive alternative orders and guidelines for
3 response times during and immediately following periods of
4 hospitalization or incarceration.

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

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

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

13 The ((~~department~~)) authority shall require each behavioral health
14 organization to provide for a separately funded behavioral health
15 ombuds office in each behavioral health organization that is
16 independent of the behavioral health organization. The ombuds office
17 shall maximize the use of consumer advocates.

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

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

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

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

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

31 (2) The ((~~department~~)) authority may establish no fewer than six
32 and no more than fourteen behavioral health organizations under this
33 chapter. No entity shall be responsible for more than three
34 behavioral health organizations.

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

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

5 (2) Except as expressly provided in contracts entered into
6 between the (~~department~~) authority and the behavioral health
7 organizations after March 29, 2006, the entities identified in
8 subsection (3) of this section shall have no claim for declaratory
9 relief, injunctive relief, judicial review under chapter 34.05 RCW,
10 or civil liability against the state or state agencies for actions or
11 inactions performed pursuant to the administration of this chapter
12 with regard to the following: (a) The allocation or payment of
13 federal or state funds; (b) the use or allocation of state hospital
14 beds; or (c) financial responsibility for the provision of inpatient
15 mental health care.

16 (3) This section applies to counties, behavioral health
17 organizations, and entities which contract to provide behavioral
18 health organization services and their subcontractors, agents, or
19 employees.

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

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

26 (2)(a) The (~~secretary~~) director shall request a detailed plan
27 from the entities identified in (b) of this subsection that
28 demonstrates compliance with the contractual elements of RCW
29 43.20A.894 (as recodified by this act) and federal regulations
30 related to medicaid managed care contracting(~~(7)~~) including, but not
31 limited to: Having a sufficient network of providers to provide
32 adequate access to mental health and chemical dependency services for
33 residents of the regional service area that meet eligibility criteria
34 for services, ability to maintain and manage adequate reserves, and
35 maintenance of quality assurance processes. Any responding entity
36 that submits a detailed plan that demonstrates that it can meet the
37 requirements of this section must be awarded the contract to serve as
38 the behavioral health organization.

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

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

6 (B) In the event that a county has made a decision prior to
7 January 1, 2014, not to contract as a regional support network, any
8 private entity that serves as the regional support network for that
9 area;

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

15 (ii) In the event that a regional service area is comprised of
16 multiple counties including one that has made a decision prior to
17 January 1, 2014, not to contract as a regional support network the
18 counties shall adopt an interlocal agreement and may respond to the
19 request for a detailed plan under (a) of this subsection and the
20 private entity may also respond to the request for a detailed plan.
21 If both responding entities meet the requirements of this section,
22 the responding entities shall follow the (~~department's~~) authority's
23 procurement process established in subsection (3) of this section.

24 (3) If an entity that has received a request under this section
25 to submit a detailed plan does not respond to the request, a
26 responding entity under subsection (1) of this section is unable to
27 substantially meet the requirements of the request for a detailed
28 plan, or more than one responding entity substantially meets the
29 requirements for the request for a detailed plan, the (~~department~~)
30 authority shall use a procurement process in which other entities
31 recognized by the (~~secretary~~) director may bid to serve as the
32 behavioral health organization in that regional service area.

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

35 (5) Upon request of all of the county authorities in a regional
36 service area, the (~~department and the health care~~) authority may
37 (~~jointly~~) purchase behavioral health services through an integrated
38 medical and behavioral health services contract with a behavioral
39 health organization or a managed health care system as defined in RCW
40 74.09.522, pursuant to standards to be developed (~~jointly~~) by the

1 ((~~secretary and the health care~~)) authority. Any contract for such a
2 purchase must comply with all federal medicaid and state law
3 requirements related to managed health care contracting.

4 (6) As an incentive to county authorities to become early
5 adopters of fully integrated purchasing of medical and behavioral
6 health services, the standards adopted by the ((~~secretary and the~~
7 ~~health care~~)) authority under subsection (5) of this section shall
8 provide for an incentive payment to counties which elect to move to
9 full integration by January 1, 2016. Subject to federal approval, the
10 incentive payment shall be targeted at ten percent of savings
11 realized by the state within the regional service area in which the
12 fully integrated purchasing takes place. Savings shall be calculated
13 in alignment with the outcome and performance measures established in
14 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for
15 early adopter counties shall be made available for up to a six-year
16 period, or until full integration of medical and behavioral health
17 services is accomplished statewide, whichever comes sooner, according
18 to rules to be developed by the ((~~secretary and health care~~))
19 authority.

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

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

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

- 27 (i) Crisis diversion services;
- 28 (ii) Evaluation and treatment and community hospital beds;
- 29 (iii) Residential treatment;
- 30 (iv) Programs for intensive community treatment;
- 31 (v) Outpatient services;
- 32 (vi) Peer support services;
- 33 (vii) Community support services;
- 34 (viii) Resource management services; and
- 35 (ix) Supported housing and supported employment services.

36 (b) With substance use disorders and their families, people
37 incapacitated by alcohol or other psychoactive chemicals, and
38 intoxicated people.

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

- 4 (A) Withdrawal management;
- 5 (B) Residential treatment; and
- 6 (C) Outpatient treatment.

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

9 (iii) The ((~~department~~)) authority may contract for the use of an
10 approved substance use disorder treatment program or other individual
11 or organization if the ((~~secretary~~)) director considers this to be an
12 effective and economical course to follow.

13 (2) The behavioral health organization shall have the
14 flexibility, within the funds appropriated by the legislature for
15 this purpose and the terms of their contract, to design the mix of
16 services that will be most effective within their service area of
17 meeting the needs of people with behavioral health disorders and
18 avoiding placement of such individuals at the state mental hospital.
19 Behavioral health organizations are encouraged to maximize the use of
20 evidence-based practices and alternative resources with the goal of
21 substantially reducing and potentially eliminating the use of
22 institutions for mental diseases.

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

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

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

30 The legislature finds that the current complex set of federal,
31 state, and local rules and regulations, audited and administered at
32 multiple levels, which affect the community mental health service
33 delivery system, focus primarily on the process of providing mental
34 health services and do not sufficiently address consumer and system
35 outcomes. The legislature finds that the ((~~department~~)) authority and
36 the community mental health service delivery system must make ongoing
37 efforts to achieve the purposes set forth in RCW 71.24.015 related to
38 reduced administrative layering, duplication, elimination of process

1 measures not specifically required by the federal government for the
2 receipt of federal funds, and reduced administrative costs.

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

5 The (~~department~~) authority shall establish a comprehensive and
6 collaborative effort within behavioral health organizations and with
7 local mental health service providers aimed at creating innovative
8 and streamlined community mental health service delivery systems, in
9 order to carry out the purposes set forth in RCW 71.24.400 and to
10 capture the diversity of the community mental health service delivery
11 system.

12 The (~~department~~) authority must accomplish the following:

13 (1) Identification, review, and cataloging of all rules,
14 regulations, duplicative administrative and monitoring functions, and
15 other requirements that currently lead to inefficiencies in the
16 community mental health service delivery system and, if possible,
17 eliminate the requirements;

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

23 (3) The elimination of process regulations and related contract
24 and reporting requirements. In place of the regulations and
25 requirements, a set of outcomes for mental health adult and children
26 clients according to this chapter (~~(71.24—RCW)~~) must be used to
27 measure the performance of mental health service providers and
28 behavioral health organizations. Such outcomes shall focus on
29 stabilizing out-of-home and hospital care, increasing stable
30 community living, increasing age-appropriate activities, achieving
31 family and consumer satisfaction with services, and system
32 efficiencies;

33 (4) Evaluation of the feasibility of contractual agreements
34 between the (~~department of social and health services~~) authority
35 and behavioral health organizations and mental health service
36 providers that link financial incentives to the success or failure of
37 mental health service providers and behavioral health organizations
38 to meet outcomes established for mental health service clients;

1 (5) The involvement of mental health consumers and their
2 representatives. Mental health consumers and their representatives
3 will be involved in the development of outcome standards for mental
4 health clients under section 5 of this act; and

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

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

10 To carry out the purposes specified in RCW 71.24.400, the
11 ((~~department~~)) authority is encouraged to utilize its authority to
12 eliminate any unnecessary rules, regulations, standards, or
13 contracts, to immediately eliminate duplication of audits or any
14 other unnecessarily duplicated functions, and to seek any waivers of
15 federal or state rules or regulations necessary to achieve the
16 purpose of streamlining the community mental health service delivery
17 system and infusing it with incentives that reward efficiency,
18 positive outcomes for clients, and quality services.

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

21 The ((~~department~~)) authority shall operate the community mental
22 health service delivery system authorized under this chapter within
23 the following constraints:

24 (1) The full amount of federal funds for mental health services,
25 plus qualifying state expenditures as appropriated in the biennial
26 operating budget, shall be appropriated to the ((~~department~~))
27 authority each year in the biennial appropriations act to carry out
28 the provisions of the community mental health service delivery system
29 authorized in this chapter.

30 (2) The ((~~department~~)) authority may expend funds defined in
31 subsection (1) of this section in any manner that will effectively
32 accomplish the outcome measures established in RCW 43.20A.895 and
33 71.36.025 and performance measures linked to those outcomes.

34 (3) The ((~~department~~)) authority shall implement strategies that
35 accomplish the outcome measures established in RCW 43.20A.895,
36 70.320.020, and 71.36.025 and performance measures linked to those
37 outcomes.

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

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

6 (1) The ((~~department~~)) authority shall ensure the coordination of
7 allied services for mental health clients. The ((~~department~~))
8 authority shall implement strategies for resolving organizational,
9 regulatory, and funding issues at all levels of the system, including
10 the state, the behavioral health organizations, and local service
11 providers.

12 (2) The ((~~department~~)) authority shall propose, in operating
13 budget requests, transfers of funding among programs to support
14 collaborative service delivery to persons who require services from
15 multiple department of social and health services and authority
16 programs. The ((~~department~~)) authority shall report annually to the
17 appropriate committees of the senate and house of representatives on
18 actions and projects it has taken to promote collaborative service
19 delivery.

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

22 (1) The ((~~secretary~~)) director shall select and contract with a
23 behavioral health organization or private provider to provide
24 specialized access and services to offenders with mental illness upon
25 release from total confinement within the department of corrections
26 who have been identified by the department of corrections and
27 selected by the behavioral health organization or private provider as
28 high-priority clients for services and who meet service program
29 entrance criteria. The program shall enroll no more than twenty-five
30 offenders at any one time, or a number of offenders that can be
31 accommodated within the appropriated funding level, and shall seek to
32 fill any vacancies that occur.

33 (2) Criteria shall include a determination by department of
34 corrections staff that:

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

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

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

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

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

12 (3) The behavioral health organization or private provider shall
13 provide specialized access and services to the selected offenders.
14 The services shall be aimed at lowering the risk of recidivism. An
15 oversight committee composed of a representative of the
16 (~~department~~) authority, a representative of the selected behavioral
17 health organization or private provider, and a representative of the
18 department of corrections shall develop policies to guide the pilot
19 program, provide dispute resolution including making determinations
20 as to when entrance criteria or required services may be waived in
21 individual cases, advise the department of corrections and the
22 behavioral health organization or private provider on the selection
23 of eligible offenders, and set minimum requirements for service
24 contracts. The selected behavioral health organization or private
25 provider shall implement the policies and service contracts. The
26 following services shall be provided:

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

34 (b) The case manager shall attempt to locate and procure housing
35 appropriate to the living and clinical needs of the offender and as
36 needed to maintain the psychiatric stability of the offender. The
37 entire range of emergency, transitional, and permanent housing and
38 involuntary hospitalization must be considered as available housing
39 options. A housing subsidy may be provided to offenders to defray
40 housing costs up to a maximum of six thousand six hundred dollars per

1 offender per year and be administered by the case manager. Additional
2 funding sources may be used to offset these costs when available.

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

7 (d) Medications including the full range of psychotropic
8 medications including atypical antipsychotic medications may be
9 required as a condition of the program. Medication prescription,
10 medication monitoring, and counseling to support offender
11 understanding, acceptance, and compliance with prescribed medication
12 regimens must be included.

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

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

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

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

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

29 (5) Specialized training in the management and supervision of
30 high-crime risk offenders with mental illness shall be provided to
31 all participating mental health providers by the ((department))
32 authority and the department of corrections prior to their
33 participation in the program and as requested thereafter.

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

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

38 The ((department)) authority, in collaboration with the
39 department of corrections and the oversight committee created in RCW

1 71.24.455, shall track outcomes and submit to the legislature annual
2 reports regarding services and outcomes. The reports shall include
3 the following: (1) A statistical analysis regarding the reoffense and
4 reinstitutionalization rate by the enrollees in the program set forth
5 in RCW 71.24.455; (2) a quantitative description of the services
6 provided in the program set forth in RCW 71.24.455; and (3)
7 recommendations for any needed modifications in the services and
8 funding levels to increase the effectiveness of the program set forth
9 in RCW 71.24.455. By December 1, 2003, the department shall certify
10 the reoffense rate for enrollees in the program authorized by RCW
11 71.24.455 to the office of financial management and the appropriate
12 legislative committees. If the reoffense rate exceeds fifteen
13 percent, the authorization for the department to conduct the program
14 under RCW 71.24.455 is terminated on January 1, 2004.

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

17 (1) The ((~~secretary~~)) director shall contract, to the extent that
18 funds are appropriated for this purpose, for case management services
19 and such other services as the ((~~secretary~~)) director deems necessary
20 to assist offenders identified under RCW 72.09.370 for participation
21 in the offender reentry community safety program. The contracts may
22 be with behavioral health organizations or any other qualified and
23 appropriate entities.

24 (2) The case manager has the authority to assist these offenders
25 in obtaining the services, as set forth in the plan created under RCW
26 72.09.370(2), for up to five years. The services may include
27 coordination of mental health services, assistance with unfunded
28 medical expenses, obtaining chemical dependency treatment, housing,
29 employment services, educational or vocational training, independent
30 living skills, parenting education, anger management services, and
31 such other services as the case manager deems necessary.

32 (3) The legislature intends that funds appropriated for the
33 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section
34 and distributed to the behavioral health organizations are to
35 supplement and not to supplant general funding. Funds appropriated to
36 implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section
37 are not to be considered available resources as defined in RCW
38 71.24.025 and are not subject to the priorities, terms, or conditions
39 in the appropriations act established pursuant to RCW 71.24.035.

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

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

5 (1) A licensed or certified service provider or behavioral health
6 organization, acting in the course of the provider's or
7 organization's duties under this chapter, is not liable for civil
8 damages resulting from the injury or death of another caused by a
9 participant in the offender reentry community safety program who is a
10 client of the provider or organization, unless the act or omission of
11 the provider or organization constitutes:

12 (a) Gross negligence;

13 (b) Willful or wanton misconduct; or

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

18 (2) In addition to any other requirements to report violations,
19 the licensed or certified service provider and behavioral health
20 organization shall report an offender's expressions of intent to harm
21 or other predatory behavior, regardless of whether there is an
22 ascertainable victim, in progress reports and other established
23 processes that enable courts and supervising entities to assess and
24 address the progress and appropriateness of treatment.

25 (3) A licensed or certified service provider's or behavioral
26 health organization's mere act of treating a participant in the
27 offender reentry community safety program is not negligence. Nothing
28 in this subsection alters the licensed or certified service
29 provider's or behavioral health organization's normal duty of care
30 with regard to the client.

31 (4) The limited liability provided by this section applies only
32 to the conduct of licensed or certified service providers and
33 behavioral health organizations and does not apply to conduct of the
34 state.

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

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

3 The (~~department~~) authority must collaborate with regional
4 support networks or behavioral health organizations and the
5 Washington state institute for public policy to estimate the capacity
6 needs for evaluation and treatment services within each regional
7 service area. Estimated capacity needs shall include consideration of
8 the average occupancy rates needed to provide an adequate network of
9 evaluation and treatment services to ensure access to treatment. A
10 regional service network or behavioral health organization must
11 develop and maintain an adequate plan to provide for evaluation and
12 treatment needs.

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

15 The department of social and health services and the (~~Washington~~
16 ~~state health care~~) authority shall publish written guidance and
17 provide trainings to behavioral health organizations, managed care
18 organizations, and behavioral health providers related to how these
19 organizations may provide outreach, assistance, transition planning,
20 and rehabilitation case management reimbursable under federal law to
21 persons who are incarcerated, involuntarily hospitalized, or in the
22 process of transitioning out of one of these services. The guidance
23 and trainings may also highlight preventive activities not
24 reimbursable under federal law which may be cost-effective in a
25 managed care environment. The purpose of this written guidance and
26 trainings is to champion best clinical practices including, where
27 appropriate, use of care coordination and long-acting injectable
28 psychotropic medication, and to assist the health community to
29 leverage federal funds and standardize payment and reporting
30 procedures. The authority and the department of social and health
31 services shall construe governing laws liberally to effectuate the
32 broad remedial purposes of chapter 154, Laws of 2016, and provide a
33 status update to the legislature by December 31, 2016.

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

36 (1) The department of social and health services shall contract
37 for chemical dependency specialist services at division of children
38 and family services offices to enhance the timeliness and quality of

1 child protective services assessments and to better connect families
2 to needed treatment services.

3 (2) The chemical dependency specialist's duties may include, but
4 are not limited to: Conducting on-site substance use disorder
5 screening and assessment, facilitating progress reports to department
6 of social and health services employees, in-service training of
7 department of social and health services employees and staff on
8 substance use disorder issues, referring clients from the department
9 of social and health services to treatment providers, and providing
10 consultation on cases to department of social and health services
11 employees.

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

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

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

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

21 (2) Make contracts necessary or incidental to the performance of
22 its duties and the execution of its powers, including managed care
23 contracts for behavioral health services, contracts entered into
24 under RCW 74.09.522, and contracts with public and private agencies,
25 organizations, and individuals to pay them for services rendered or
26 furnished to persons with substance use disorders, persons
27 incapacitated by alcohol or other psychoactive chemicals, or
28 intoxicated persons;

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

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

35 (5) Solicit and accept for use any gift of money or property made
36 by will or otherwise, and any grant of money, services, or property
37 from the federal government, the state, or any political subdivision
38 thereof or any private source, and do all things necessary to

1 cooperate with the federal government or any of its agencies in
2 making an application for any grant;

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

7 (7) Coordinate its activities and cooperate with chemical
8 dependency programs in this and other states, and make contracts and
9 other joint or cooperative arrangements with state, local, or private
10 agencies in this and other states for the treatment of persons with
11 substance use disorders and their families, persons incapacitated by
12 alcohol or other psychoactive chemicals, and intoxicated persons and
13 for the common advancement of chemical dependency programs;

14 (8) Keep records and engage in research and the gathering of
15 relevant statistics;

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

18 (10) Acquire, hold, or dispose of real property or any interest
19 therein, and construct, lease, or otherwise provide treatment
20 programs.

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

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

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

28 Except as provided in this chapter, the ((~~secretary~~)) director
29 shall not approve any substance use disorder facility, plan, or
30 program for financial assistance under RCW 71.24.520 unless at least
31 ten percent of the amount spent for the facility, plan, or program is
32 provided from local public or private sources. When deemed necessary
33 to maintain public standards of care in the substance use disorder
34 facility, plan, or program, the ((~~secretary~~)) director may require
35 the substance use disorder facility, plan, or program to provide up
36 to fifty percent of the total spent for the program through fees,
37 gifts, contributions, or volunteer services. The ((~~secretary~~))

1 director shall determine the value of the gifts, contributions, and
2 volunteer services.

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

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

6 (1) Develop, encourage, and foster statewide, regional, and local
7 plans and programs for the prevention of alcoholism and other drug
8 addiction, treatment of persons with substance use disorders and
9 their families, persons incapacitated by alcohol or other
10 psychoactive chemicals, and intoxicated persons in cooperation with
11 public and private agencies, organizations, and individuals and
12 provide technical assistance and consultation services for these
13 purposes;

14 (2) Assure that any behavioral health organization managed care
15 contract, or managed care contract under RCW 74.09.522 for behavioral
16 health services or programs for the treatment of persons with
17 substance use disorders and their families, persons incapacitated by
18 alcohol or other psychoactive chemicals, and intoxicated persons
19 provides medically necessary services to medicaid recipients. This
20 must include a continuum of mental health and substance use disorder
21 services consistent with the state's medicaid plan or federal waiver
22 authorities, and nonmedicaid services consistent with priorities
23 established by the (~~department~~) authority;

24 (3) Coordinate the efforts and enlist the assistance of all
25 public and private agencies, organizations, and individuals
26 interested in prevention of alcoholism and drug addiction, and
27 treatment of persons with substance use disorders and their families,
28 persons incapacitated by alcohol or other psychoactive chemicals, and
29 intoxicated persons;

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

35 (5) Cooperate with the superintendent of public instruction,
36 state board of education, schools, police departments, courts, and
37 other public and private agencies, organizations and individuals in
38 establishing programs for the prevention of substance use disorders,
39 treatment of persons with substance use disorders and their families,

1 persons incapacitated by alcohol or other psychoactive chemicals, and
2 intoxicated persons, and preparing curriculum materials thereon for
3 use at all levels of school education;

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

7 (7) Develop and implement, as an integral part of substance use
8 disorder treatment programs, an educational program for use in the
9 treatment of persons with substance use disorders, persons
10 incapacitated by alcohol or other psychoactive chemicals, and
11 intoxicated persons, which program shall include the dissemination of
12 information concerning the nature and effects of alcohol and other
13 psychoactive chemicals, the consequences of their use, the principles
14 of recovery, and HIV and AIDS;

15 (8) Organize and foster training programs for persons engaged in
16 treatment of persons with substance use disorders, persons
17 incapacitated by alcohol or other psychoactive chemicals, and
18 intoxicated persons;

19 (9) Sponsor and encourage research into the causes and nature of
20 substance use disorders, treatment of persons with substance use
21 disorders, persons incapacitated by alcohol or other psychoactive
22 chemicals, and intoxicated persons, and serve as a clearinghouse for
23 information relating to substance use disorders;

24 (10) Specify uniform methods for keeping statistical information
25 by public and private agencies, organizations, and individuals, and
26 collect and make available relevant statistical information,
27 including number of persons treated, frequency of admission and
28 readmission, and frequency and duration of treatment;

29 (11) Advise the governor in the preparation of a comprehensive
30 plan for treatment of persons with substance use disorders, persons
31 incapacitated by alcohol or other psychoactive chemicals, and
32 intoxicated persons for inclusion in the state's comprehensive health
33 plan;

34 (12) Review all state health, welfare, and treatment plans to be
35 submitted for federal funding under federal legislation, and advise
36 the governor on provisions to be included relating to substance use
37 disorders;

38 (13) Assist in the development of, and cooperate with, programs
39 for alcohol and other psychoactive chemical education and treatment

1 for employees of state and local governments and businesses and
2 industries in the state;

3 (14) Use the support and assistance of interested persons in the
4 community to encourage persons with substance use disorders
5 voluntarily to undergo treatment;

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

9 (16) Encourage general hospitals and other appropriate health
10 facilities to admit without discrimination persons with substance use
11 disorders, persons incapacitated by alcohol or other psychoactive
12 chemicals, and intoxicated persons and to provide them with adequate
13 and appropriate treatment;

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

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

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

21 The (~~department~~) authority shall contract with counties
22 operating drug courts and counties in the process of implementing new
23 drug courts for the provision of substance use disorder treatment
24 services.

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

27 (1) (~~In coordination with the health care~~) The authority(~~(, the~~
28 ~~department)~~) shall establish by appropriate means(~~(,)~~) a
29 comprehensive and coordinated program for the treatment of persons
30 with substance use disorders and their families, persons
31 incapacitated by alcohol or other psychoactive chemicals, and
32 intoxicated persons.

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

36 (i) Withdrawal management;

37 (ii) Residential treatment; and

38 (iii) Outpatient treatment.

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

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

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

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

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

16 To be eligible to receive its share of liquor taxes and profits,
17 each city and county shall devote no less than two percent of its
18 share of liquor taxes and profits to the support of a substance use
19 disorder program approved by the behavioral health organization and
20 the (~~secretary~~) director, and licensed or certified by the
21 department of health.

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

24 The (~~secretary~~) director shall adopt and may amend and repeal
25 rules for acceptance of persons into the approved treatment program,
26 considering available treatment resources and facilities, for the
27 purpose of early and effective treatment of persons with substance
28 use disorders, persons incapacitated by alcohol or other psychoactive
29 chemicals, and intoxicated persons. In establishing the rules, the
30 secretary shall be guided by the following standards:

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

33 (2) A patient shall be initially assigned or transferred to
34 outpatient treatment, unless he or she is found to require
35 residential treatment.

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

1 (4) An individualized treatment plan shall be prepared and
2 maintained on a current basis for each patient.

3 (5) Provision shall be made for a continuum of coordinated
4 treatment services, so that a person who leaves a facility or a form
5 of treatment will have available and use other appropriate treatment.

6 **Sec. 4044.** RCW 71.24.580 and 2017 3rd sp.s. c 1 s 981 are each
7 amended to read as follows:

8 (1) The criminal justice treatment account is created in the
9 state treasury. Moneys in the account may be expended solely for: (a)
10 Substance use disorder treatment and treatment support services for
11 offenders with a substance use disorder that, if not treated, would
12 result in addiction, against whom charges are filed by a prosecuting
13 attorney in Washington state; (b) the provision of substance use
14 disorder treatment services and treatment support services for
15 nonviolent offenders within a drug court program; and (c) the
16 administrative and overhead costs associated with the operation of a
17 drug court. (~~During the 2015-2017 fiscal biennium, the legislature
18 may transfer from the criminal justice treatment account to the state
19 general fund amounts as reflect the state savings associated with the
20 implementation of the medicaid expansion of the federal affordable
21 care act and the excess fund balance of the account.~~) During the
22 2017-2019 fiscal biennium, the legislature may direct the state
23 treasurer to make transfers of moneys in the criminal justice
24 treatment account to the state general fund. It is the intent of the
25 legislature to continue, in future biennia, the policy of
26 transferring to the state general fund such amounts as reflect the
27 excess fund balance of the account. Moneys in the account may be
28 spent only after appropriation.

29 (2) For purposes of this section:

30 (a) "Treatment" means services that are critical to a
31 participant's successful completion of his or her substance use
32 disorder treatment program, but does not include the following
33 services: Housing other than that provided as part of an inpatient
34 substance use disorder treatment program, vocational training, and
35 mental health counseling; and

36 (b) "Treatment support" means transportation to or from inpatient
37 or outpatient treatment services when no viable alternative exists,
38 and child care services that are necessary to ensure a participant's
39 ability to attend outpatient treatment sessions.

1 (3) Revenues to the criminal justice treatment account consist
2 of: (a) Funds transferred to the account pursuant to this section;
3 and (b) any other revenues appropriated to or deposited in the
4 account.

5 (4)(a) For the fiscal year beginning July 1, 2006, and each
6 subsequent fiscal year, the amount transferred shall be increased on
7 an annual basis by the implicit price deflator as published by the
8 federal bureau of labor statistics.

9 (b) In each odd-numbered year, the legislature shall appropriate
10 the amount transferred to the criminal justice treatment account in
11 (a) of this subsection to the department for the purposes of
12 subsection (5) of this section.

13 (5) Moneys appropriated to the ((~~department~~)) authority from the
14 criminal justice treatment account shall be distributed as specified
15 in this subsection. The ((~~department~~)) authority may retain up to
16 three percent of the amount appropriated under subsection (4)(b) of
17 this section for its administrative costs.

18 (a) Seventy percent of amounts appropriated to the ((~~department~~))
19 authority from the account shall be distributed to counties pursuant
20 to the distribution formula adopted under this section. The
21 ((~~division of alcohol and substance abuse~~)) authority, in
22 consultation with the department of corrections, the Washington state
23 association of counties, the Washington state association of drug
24 court professionals, the superior court judges' association, the
25 Washington association of prosecuting attorneys, representatives of
26 the criminal defense bar, representatives of substance use disorder
27 treatment providers, and any other person deemed by the
28 ((~~department~~)) authority to be necessary, shall establish a fair and
29 reasonable methodology for distribution to counties of moneys in the
30 criminal justice treatment account. County or regional plans
31 submitted for the expenditure of formula funds must be approved by
32 the panel established in (b) of this subsection.

33 (b) Thirty percent of the amounts appropriated to the
34 ((~~department~~)) authority from the account shall be distributed as
35 grants for purposes of treating offenders against whom charges are
36 filed by a county prosecuting attorney. The ((~~department~~)) authority
37 shall appoint a panel of representatives from the Washington
38 association of prosecuting attorneys, the Washington association of
39 sheriffs and police chiefs, the superior court judges' association,
40 the Washington state association of counties, the Washington

1 defender's association or the Washington association of criminal
2 defense lawyers, the department of corrections, the Washington state
3 association of drug court professionals, and substance use disorder
4 treatment providers(~~(, and the division)~~). The panel shall review
5 county or regional plans for funding under (a) of this subsection and
6 grants approved under this subsection. The panel shall attempt to
7 ensure that treatment as funded by the grants is available to
8 offenders statewide.

9 (6) The county alcohol and drug coordinator, county prosecutor,
10 county sheriff, county superior court, a substance abuse treatment
11 provider appointed by the county legislative authority, a member of
12 the criminal defense bar appointed by the county legislative
13 authority, and, in counties with a drug court, a representative of
14 the drug court shall jointly submit a plan, approved by the county
15 legislative authority or authorities, to the panel established in
16 subsection (5)(b) of this section, for disposition of all the funds
17 provided from the criminal justice treatment account within that
18 county. The funds shall be used solely to provide approved alcohol
19 and substance abuse treatment pursuant to RCW 71.24.560, treatment
20 support services, and for the administrative and overhead costs
21 associated with the operation of a drug court.

22 (a) No more than ten percent of the total moneys received under
23 subsections (4) and (5) of this section by a county or group of
24 counties participating in a regional agreement shall be spent on the
25 administrative and overhead costs associated with the operation of a
26 drug court.

27 (b) No more than ten percent of the total moneys received under
28 subsections (4) and (5) of this section by a county or group of
29 counties participating in a regional agreement shall be spent for
30 treatment support services.

31 (7) Counties are encouraged to consider regional agreements and
32 submit regional plans for the efficient delivery of treatment under
33 this section.

34 (8) Moneys allocated under this section shall be used to
35 supplement, not supplant, other federal, state, and local funds used
36 for substance abuse treatment.

37 (9) Counties must meet the criteria established in RCW
38 2.30.030(3).

39 (10) The authority under this section to use funds from the
40 criminal justice treatment account for the administrative and

1 overhead costs associated with the operation of a drug court expires
2 June 30, 2015.

3 **Sec. 4045.** RCW 71.24.590 and 2017 c 297 s 14 are each amended to
4 read as follows:

5 (1) When making a decision on an application for licensing or
6 certification of a program, the department shall:

7 (a) Consult with the county legislative authorities in the area
8 in which an applicant proposes to locate a program and the city
9 legislative authority in any city in which an applicant proposes to
10 locate a program;

11 (b) License or certify only programs that will be sited in
12 accordance with the appropriate county or city land use ordinances.
13 Counties and cities may require conditional use permits with
14 reasonable conditions for the siting of programs. Pursuant to RCW
15 36.70A.200, no local comprehensive plan or development regulation may
16 preclude the siting of essential public facilities;

17 (c) Not discriminate in its licensing or certification decision
18 on the basis of the corporate structure of the applicant;

19 (d) Consider the size of the population in need of treatment in
20 the area in which the program would be located and license or certify
21 only applicants whose programs meet the necessary treatment needs of
22 that population;

23 (e) Consider the availability of other certified opioid treatment
24 programs near the area in which the applicant proposes to locate the
25 program;

26 (f) Consider the transportation systems that would provide
27 service to the program and whether the systems will provide
28 reasonable opportunities to access the program for persons in need of
29 treatment;

30 (g) Consider whether the applicant has, or has demonstrated in
31 the past, the capability to provide the appropriate services to
32 assist the persons who utilize the program in meeting goals
33 established by the legislature in RCW 71.24.585. The department shall
34 prioritize licensing or certification to applicants who have
35 demonstrated such capability and are able to measure their success in
36 meeting such outcomes;

37 (h) Hold one public hearing in the community in which the
38 facility is proposed to be located. The hearing shall be held at a
39 time and location that are most likely to permit the largest number

1 of interested persons to attend and present testimony. The department
2 shall notify all appropriate media outlets of the time, date, and
3 location of the hearing at least three weeks in advance of the
4 hearing.

5 (2) A county may impose a maximum capacity for a program of not
6 less than three hundred fifty participants if necessary to address
7 specific local conditions cited by the county.

8 (3) A program applying for licensing or certification from the
9 department and a program applying for a contract from a state agency
10 that has been denied the licensing or certification or contract shall
11 be provided with a written notice specifying the rationale and
12 reasons for the denial.

13 (4) For the purpose of this chapter, opioid treatment program
14 means:

15 (a) Dispensing a medication approved by the federal drug
16 administration for the treatment of opioid use disorder and
17 dispensing medication for the reversal of opioid overdose; and

18 (b) Providing a comprehensive range of medical and rehabilitative
19 services.

20 **Sec. 4046.** RCW 71.24.595 and 2017 c 297 s 16 are each amended to
21 read as follows:

22 (1) The department, in consultation with opioid treatment program
23 service providers and counties and cities, shall establish statewide
24 treatment standards for licensed or certified opioid treatment
25 programs. The department shall enforce these treatment standards. The
26 treatment standards shall include, but not be limited to, reasonable
27 provisions for all appropriate and necessary medical procedures,
28 counseling requirements, urinalysis, and other suitable tests as
29 needed to ensure compliance with this chapter.

30 (2) The department, in consultation with opioid treatment
31 programs and counties, shall establish statewide operating standards
32 for certified opioid treatment programs. The department shall enforce
33 these operating standards. The operating standards shall include, but
34 not be limited to, reasonable provisions necessary to enable the
35 department and counties to monitor certified (~~and~~) or licensed
36 opioid treatment programs for compliance with this chapter and the
37 treatment standards authorized by this chapter and to minimize the
38 impact of the opioid treatment programs upon the business and
39 residential neighborhoods in which the program is located.

1 (3) The department shall analyze and evaluate the data submitted
2 by each treatment program and take corrective action where necessary
3 to ensure compliance with the goals and standards enumerated under
4 this chapter. Opioid treatment programs are subject to the oversight
5 required for other substance use disorder treatment programs, as
6 described in this chapter.

7 **Sec. 4047.** RCW 71.24.600 and 1989 c 271 s 308 are each reenacted
8 and amended to read as follows:

9 The ((department)) authority shall not refuse admission for
10 diagnosis, evaluation, guidance or treatment to any applicant because
11 it is determined that the applicant is financially unable to
12 contribute fully or in part to the cost of any services or facilities
13 available under the program on alcoholism.

14 The ((department)) authority may limit admissions of such
15 applicants or modify its programs in order to ensure that
16 expenditures for services or programs do not exceed amounts
17 appropriated by the legislature and are allocated by the
18 ((department)) authority for such services or programs. The
19 ((department)) authority may establish admission priorities in the
20 event that the number of eligible applicants exceeds the limits set
21 by the ((department)) authority.

22 **Sec. 4048.** RCW 71.24.605 and 1998 c 245 s 136 are each amended
23 to read as follows:

24 The ((department)) authority shall contract with the University
25 of Washington fetal alcohol syndrome clinic to provide fetal alcohol
26 exposure screening and assessment services. The University indirect
27 charges shall not exceed ten percent of the total contract amount.
28 The contract shall require the University of Washington fetal alcohol
29 syndrome clinic to provide the following services:

30 (1) Training for health care staff in community-based fetal
31 alcohol exposure clinics to ensure the accurate diagnosis of
32 individuals with fetal alcohol exposure and the development and
33 implementation of appropriate service referral plans;

34 (2) Development of written or visual educational materials for
35 the individuals diagnosed with fetal alcohol exposure and their
36 families or caregivers;

37 (3) Systematic information retrieval from each community clinic
38 to (a) maintain diagnostic accuracy and reliability across all

1 community clinics, (b) facilitate the development of effective and
2 efficient screening tools for population-based identification of
3 individuals with fetal alcohol exposure, (c) facilitate
4 identification of the most clinically efficacious and cost-effective
5 educational, social, vocational, and health service interventions for
6 individuals with fetal alcohol exposure;

7 (4) Based on available funds, establishment of a network of
8 community-based fetal alcohol exposure clinics across the state to
9 meet the demand for fetal alcohol exposure diagnostic and referral
10 services; and

11 (5) Preparation of an annual report for submission to the
12 authority, the department of health, the department of social and
13 health services, the department of corrections, and the office of the
14 superintendent of public instruction which includes the information
15 retrieved under subsection (3) of this section.

16 **Sec. 4049.** RCW 71.24.610 and 1995 c 54 s 3 are each amended to
17 read as follows:

18 The authority, the department of social and health services, the
19 department of health, the department of corrections, and the office
20 of the superintendent of public instruction shall execute an
21 interagency agreement to ensure the coordination of identification,
22 prevention, and intervention programs for children who have fetal
23 alcohol exposure, and for women who are at high risk of having
24 children with fetal alcohol exposure.

25 The interagency agreement shall provide a process for community
26 advocacy groups to participate in the review and development of
27 identification, prevention, and intervention programs administered or
28 contracted for by the agencies executing this agreement.

29 **Sec. 4050.** RCW 71.24.615 and 2003 c 207 s 7 are each amended to
30 read as follows:

31 The ((~~department~~)) authority shall prioritize expenditures for
32 treatment provided under RCW 13.40.165. The ((~~department~~)) authority
33 shall provide funds for inpatient and outpatient treatment providers
34 that are the most successful, using the standards developed by the
35 University of Washington under section 27, chapter 338, Laws of 1997.
36 The ((~~department~~)) authority may consider variations between the
37 nature of the programs provided and clients served but must provide
38 funds first for those programs that demonstrate the greatest success

1 in treatment within categories of treatment and the nature of the
2 persons receiving treatment.

3 **Sec. 4051.** RCW 71.24.620 and 2016 sp.s. c 29 s 520 are each
4 amended to read as follows:

5 (1) Subject to funds appropriated for this specific purpose, the
6 (~~secretary~~) director shall select and contract with behavioral
7 health organizations to provide intensive case management for persons
8 with substance use disorders and histories of high utilization of
9 crisis services at two sites. In selecting the two sites, the
10 (~~secretary~~) director shall endeavor to site one in an urban county,
11 and one in a rural county; and to site them in counties other than
12 those selected pursuant to RCW 70.96B.020, to the extent necessary to
13 facilitate evaluation of pilot project results. Subject to funds
14 appropriated for this specific purpose, the secretary may contract
15 with additional counties to provide intensive case management.

16 (2) The contracted sites shall implement the pilot programs by
17 providing intensive case management to persons with a primary
18 substance use disorder diagnosis or dual primary substance use
19 disorder and mental health diagnoses, through the employment of
20 substance use disorder case managers. The substance use disorder case
21 managers shall:

22 (a) Be trained in and use the integrated, comprehensive screening
23 and assessment process adopted under RCW 71.24.630;

24 (b) Reduce the use of crisis medical, substance use disorder
25 treatment and mental health services, including but not limited
26 to(~~τ~~) emergency room admissions, hospitalizations, withdrawal
27 management programs, inpatient psychiatric admissions, involuntary
28 treatment petitions, emergency medical services, and ambulance
29 services;

30 (c) Reduce the use of emergency first responder services
31 including police, fire, emergency medical, and ambulance services;

32 (d) Reduce the number of criminal justice interventions including
33 arrests, violations of conditions of supervision, bookings, jail
34 days, prison sanction day for violations, court appearances, and
35 prosecutor and defense costs;

36 (e) Where appropriate and available, work with therapeutic courts
37 including drug courts and mental health courts to maximize the
38 outcomes for the individual and reduce the likelihood of reoffense;

1 (f) Coordinate with local offices of the economic services
2 administration to assist the person in accessing and remaining
3 enrolled in those programs to which the person may be entitled;

4 (g) Where appropriate and available, coordinate with primary care
5 and other programs operated through the federal government including
6 federally qualified health centers, Indian health programs, and
7 veterans' health programs for which the person is eligible to reduce
8 duplication of services and conflicts in case approach;

9 (h) Where appropriate, advocate for the client's needs to assist
10 the person in achieving and maintaining stability and progress toward
11 recovery;

12 (i) Document the numbers of persons with co-occurring mental and
13 substance use disorders and the point of determination of the co-
14 occurring disorder by quadrant of intensity of need; and

15 (j) Where a program participant is under supervision by the
16 department of corrections, collaborate with the department of
17 corrections to maximize treatment outcomes and reduce the likelihood
18 of reoffense.

19 (3) The pilot programs established by this section shall begin
20 providing services by March 1, 2006.

21 **Sec. 4052.** RCW 71.24.625 and 2016 sp.s. c 29 s 521 are each
22 amended to read as follows:

23 The (~~department~~) authority shall ensure that the provisions of
24 this chapter are applied by the behavioral health organizations in a
25 consistent and uniform manner. The (~~department~~) authority shall
26 also ensure that, to the extent possible within available funds, the
27 behavioral health organization-designated chemical dependency
28 specialists are specifically trained in adolescent chemical
29 dependency issues, the chemical dependency commitment laws, and the
30 criteria for commitment, as specified in this chapter and chapter
31 70.96A RCW.

32 **Sec. 4053.** RCW 71.24.630 and 2016 sp.s. c 29 s 513 are each
33 amended to read as follows:

34 (1) The (~~department of social and health services~~) authority
35 shall maintain an integrated and comprehensive screening and
36 assessment process for substance use and mental disorders and co-
37 occurring substance use and mental disorders.

38 (a) The process adopted shall include, at a minimum:

1 (i) An initial screening tool that can be used by intake
2 personnel system-wide and which will identify the most common types
3 of co-occurring disorders;

4 (ii) An assessment process for those cases in which assessment is
5 indicated that provides an appropriate degree of assessment for most
6 situations, which can be expanded for complex situations;

7 (iii) Identification of triggers in the screening that indicate
8 the need to begin an assessment;

9 (iv) Identification of triggers after or outside the screening
10 that indicate a need to begin or resume an assessment;

11 (v) The components of an assessment process and a protocol for
12 determining whether part or all of the assessment is necessary, and
13 at what point; and

14 (vi) Emphasis that the process adopted under this section is to
15 replace and not to duplicate existing intake, screening, and
16 assessment tools and processes.

17 (b) The ((department)) authority shall consider existing models,
18 including those already adopted by other states, and to the extent
19 possible, adopt an established, proven model.

20 (c) The integrated, comprehensive screening and assessment
21 process shall be implemented statewide by all substance use disorder
22 and mental health treatment providers as well as all designated
23 mental health professionals, designated chemical dependency
24 specialists, and designated crisis responders.

25 (2) The ((department)) authority shall provide adequate training
26 to effect statewide implementation by the dates designated in this
27 section and shall report the rates of co-occurring disorders and the
28 stage of screening or assessment at which the co-occurring disorder
29 was identified to the appropriate committees of the legislature.

30 (3) The ((department)) authority shall establish contractual
31 penalties to contracted treatment providers, the behavioral health
32 organizations, and their contracted providers for failure to
33 implement the integrated screening and assessment process.

34 **Sec. 4054.** RCW 71.24.640 and 2016 sp.s. c 29 s 507 are each
35 amended to read as follows:

36 The secretary shall license or certify evaluation and treatment
37 facilities that meet state minimum standards. The standards for
38 certification or licensure of evaluation and treatment facilities by
39 the department must include standards relating to maintenance of good

1 physical and mental health and other services to be afforded persons
2 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and must
3 otherwise assure the effectuation of the purposes of these chapters.

4 **Sec. 4055.** RCW 71.24.645 and 2016 sp.s. c 29 s 508 are each
5 amended to read as follows:

6 The secretary shall license or certify crisis stabilization units
7 that meet state minimum standards. The standards for certification or
8 licensure of crisis stabilization units by the department must
9 include standards that:

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

12 (2) Require administration of the unit by mental health
13 professionals who direct the stabilization and rehabilitation
14 efforts; and

15 (3) Provide an environment affording security appropriate with
16 the alleged criminal behavior and necessary to protect the public
17 safety.

18 NEW SECTION. **Sec. 4056.** A new section is added to chapter 71.24
19 RCW to read as follows:

20 The secretary shall license or certify triage facilities that
21 meet state minimum standards. The standards for certification or
22 licensure of triage facilities by the department must include
23 standards related to the ability to assess and stabilize an
24 individual or determine the need for involuntary commitment of an
25 individual.

26 **Sec. 4057.** RCW 71.24.650 and 2016 sp.s. c 29 s 509 are each
27 amended to read as follows:

28 The secretary shall license or certify clubhouses that meet state
29 minimum standards. The standards for certification or licensure of a
30 clubhouse by the department must at a minimum include:

31 (1) The facilities may be peer-operated and must be
32 recovery-focused;

33 (2) Members and employees must work together;

34 (3) Members must have the opportunity to participate in all the
35 work of the clubhouse, including administration, research, intake and
36 orientation, outreach, hiring, training and evaluation of staff,

1 public relations, advocacy, and evaluation of clubhouse
2 effectiveness;

3 (4) Members and staff and ultimately the clubhouse director must
4 be responsible for the operation of the clubhouse, central to this
5 responsibility is the engagement of members and staff in all aspects
6 of clubhouse operations;

7 (5) Clubhouse programs must be comprised of structured activities
8 including but not limited to social skills training, vocational
9 rehabilitation, employment training and job placement, and community
10 resource development;

11 (6) Clubhouse programs must provide in-house educational programs
12 that significantly utilize the teaching and tutoring skills of
13 members and assist members by helping them to take advantage of adult
14 education opportunities in the community;

15 (7) Clubhouse programs must focus on strengths, talents, and
16 abilities of its members;

17 (8) The work-ordered day may not include medication clinics, day
18 treatment, or other therapy programs within the clubhouse.

19 **Sec. 4058.** RCW 71.24.805 and 2001 c 334 s 1 are each amended to
20 read as follows:

21 The legislature affirms its support for those recommendations of
22 the performance audit of the public mental health system conducted by
23 the joint legislative audit and review committee relating to:
24 Improving the coordination of services for clients with multiple
25 needs; improving the consistency of client, service, and fiscal data
26 collected by the (~~mental health division~~) authority; replacing
27 process-oriented accountability activities with a uniform statewide
28 outcome measurement system; and using outcome information to identify
29 and provide incentives for best practices in the provision of public
30 mental health services.

31 **Sec. 4059.** RCW 71.24.810 and 2001 c 334 s 2 are each amended to
32 read as follows:

33 The legislature supports recommendations 1 through 10 and 12
34 through 14 of the mental health system performance audit conducted by
35 the joint legislative audit and review committee. The legislature
36 expects the (~~department of social and health services~~) authority to
37 work diligently within available funds to implement these
38 recommendations.

1 **Sec. 4060.** RCW 71.24.850 and 2014 c 225 s 8 are each amended to
2 read as follows:

3 (1) By December 1, 2018, the department of social and health
4 services and the ((health-care)) authority shall report to the
5 governor and the legislature regarding the preparedness of each
6 regional service area to provide mental health services, chemical
7 dependency services, and medical care services to medicaid clients
8 under a fully integrated managed care health system.

9 (2) By January 1, 2020, the community behavioral health program
10 must be fully integrated in a managed care health system that
11 provides mental health services, chemical dependency services, and
12 medical care services to medicaid clients.

13 **Sec. 4061.** RCW 71.24.860 and 2016 sp.s. c 29 s 533 are each
14 amended to read as follows:

15 (1) The department of social and health services and the
16 ((Washington state health-care)) authority shall convene a task force
17 including participation by a representative cross-section of
18 behavioral health organizations and behavioral health providers to
19 align regulations between behavioral health and primary health care
20 settings and simplify regulations for behavioral health providers.
21 The alignment must support clinical integration from the standpoint
22 of standardizing practices and culture in a manner that to the extent
23 practicable reduces barriers to access, including reducing the
24 paperwork burden for patients and providers. Brief integrated
25 behavioral health services must not, in general, take longer to
26 document than to provide. Regulations should emphasize the desired
27 outcome rather than how they should be achieved. The task force may
28 also make recommendations to the department of social and health
29 services concerning subsections (2) and (3) of this section.

30 (2) The department of social and health services shall
31 collaborate with the department of health, the Washington state
32 health care authority, and other appropriate government partners to
33 reduce unneeded costs and burdens to health plans and providers
34 associated with excessive audits, the licensing process, and
35 contracting. In pursuit of this goal, the department of social and
36 health services shall consider steps such as cooperating across
37 divisions and agencies to combine audit functions when multiple
38 audits of an agency or site are scheduled, sharing audit information
39 across divisions and agencies to reduce redundancy of audits, and

1 treating organizations with multiple sites and programs as single
2 entities instead of as multiple agencies.

3 (3) The department of social and health services shall review its
4 practices under RCW 71.24.035(5)(c)(i) to determine whether its
5 practices comply with the statutory mandate to deem accreditation by
6 recognized behavioral health accrediting bodies as equivalent to
7 meeting licensure requirements, comport with standard practices used
8 by other state divisions or agencies, and properly incentivize
9 voluntary accreditation to the highest industry standards.

10 (4) The task force described in subsection (1) of this section
11 must consider means to provide notice to parents when a minor
12 requests chemical dependency treatment, which are consistent with
13 federal privacy laws and consistent with the best interests of the
14 minor and the minor's family. The department of social and health
15 services must provide a report to the relevant committees of the
16 legislature by December 1, 2016.

17 NEW SECTION. Sec. 4062. A new section is added to chapter 71.24
18 RCW to read as follows:

19 (1) The authority shall, upon the request of a county authority
20 or authorities within a regional service area, collaborate with
21 counties to create an interlocal leadership structure that includes
22 participation from counties and the managed health care systems
23 serving that regional service area. The interlocal leadership
24 structure must include representation from physical and behavioral
25 health care providers, tribes, and other entities serving the
26 regional service area as necessary.

27 (2) The interlocal leadership structure regional organization
28 must be chaired by the counties and jointly administered by the
29 authority, managed health care systems, and counties. It must design
30 and implement the fully integrated managed care model for that
31 regional service area to assure clients are at the center of care
32 delivery and support integrated delivery of physical and behavioral
33 health care at the provider level.

34 (3) The interlocal leadership structure may address, but is not
35 limited to addressing, the following topics:

36 (a) Alignment of contracting, administrative functions, and other
37 processes to minimize administrative burden at the provider level to
38 achieve outcomes;

1 (b) Monitoring implementation of fully integrated managed care in
2 the regional service area, including design of an early warning
3 system to monitor ongoing success to achieve better outcomes and to
4 make adjustments to the system as necessary;

5 (c) Developing regional coordination processes for capital
6 infrastructure requests, local capacity building, and other community
7 investments;

8 (d) Identifying, using, and building on measures and data
9 consistent with, but not limited to, RCW 70.320.030 and 41.05.690,
10 for tracking and maintaining regional accountability for delivery
11 system performance; and

12 (e) Discussing whether the managed health care systems awarded
13 the contract by the authority for a regional service area should
14 subcontract with a county-based administrative service organization
15 or other local organization, which may include and determine, in
16 partnership with that organization, which value-add services will
17 best support a bidirectional system of care.

18 (4) To ensure an optimal transition, regional service areas that
19 enter as mid-adopters must be allowed a transition period of up to
20 one year during which the interlocal leadership structure develops
21 and implements a local plan, including measurable milestones, to
22 transition to fully integrated managed care. The transition plan may
23 include provisions for the counties' organization to maintain
24 existing contracts during some or all of the transition period if the
25 managed care design begins during 2017 to 2018, with the mid-adopter
26 transition year occurring in 2019.

27 (5) Nothing in this section may be used to compel contracts
28 between a provider, integrated managed health care system, or
29 administrative service organization.

30 (6) The interlocal leadership group expires December 1, 2021,
31 unless the interlocal leadership group decides locally to extend it.

32 **Sec. 4063.** RCW 71.24.902 and 1986 c 274 s 7 are each amended to
33 read as follows:

34 Nothing in this chapter shall be construed as prohibiting the
35 secretary of the department of social and health services from
36 consolidating (~~within the department~~) children's mental health
37 services with other (~~departmental~~) services related to children.

1 **Sec. 5001.** RCW 71.34.010 and 1998 c 296 s 7 are each amended to
2 read as follows:

3 It is the purpose of this chapter to assure that minors in need
4 of mental health care and treatment receive an appropriate continuum
5 of culturally relevant care and treatment, including prevention and
6 early intervention, self-directed care, parent-directed care, and
7 involuntary treatment. To facilitate the continuum of care and
8 treatment to minors in out-of-home placements, all divisions of the
9 authority and the department that provide mental health services to
10 minors shall jointly plan and deliver those services.

11 It is also the purpose of this chapter to protect the rights of
12 minors against needless hospitalization and deprivations of liberty
13 and to enable treatment decisions to be made in response to clinical
14 needs in accordance with sound professional judgment. The mental
15 health care and treatment providers shall encourage the use of
16 voluntary services and, whenever clinically appropriate, the
17 providers shall offer less restrictive alternatives to inpatient
18 treatment. Additionally, all mental health care and treatment
19 providers shall assure that minors' parents are given an opportunity
20 to participate in the treatment decisions for their minor children.
21 The mental health care and treatment providers shall, to the extent
22 possible, offer services that involve minors' parents or family.

23 It is also the purpose of this chapter to assure the ability of
24 parents to exercise reasonable, compassionate care and control of
25 their minor children when there is a medical necessity for treatment
26 and without the requirement of filing a petition under this chapter.

27 **Sec. 5002.** RCW 71.34.020 and 2016 sp.s. c 29 s 254 and 2016 c
28 155 s 17 are each reenacted and amended to read as follows:

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

31 (1) "Alcoholism" means a disease, characterized by a dependency
32 on alcoholic beverages, loss of control over the amount and
33 circumstances of use, symptoms of tolerance, physiological or
34 psychological withdrawal, or both, if use is reduced or discontinued,
35 and impairment of health or disruption of social or economic
36 functioning.

37 (2) "Approved substance use disorder treatment program" means a
38 program for minors with substance use disorders provided by a

1 treatment program licensed or certified by the department of health
2 as meeting standards adopted under chapter 71.24 RCW.

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

4 (4) "Chemical dependency" means:

5 (a) Alcoholism;

6 (b) Drug addiction; or

7 (c) Dependence on alcohol and one or more other psychoactive
8 chemicals, as the context requires.

9 ~~((4))~~ (5) "Chemical dependency professional" means a person
10 certified as a chemical dependency professional by the department of
11 health under chapter 18.205 RCW.

12 ~~((5))~~ (6) "Child psychiatrist" means a person having a license
13 as a physician and surgeon in this state, who has had graduate
14 training in child psychiatry in a program approved by the American
15 Medical Association or the American Osteopathic Association, and who
16 is board eligible or board certified in child psychiatry.

17 ~~((6))~~ (7) "Children's mental health specialist" means:

18 (a) A mental health professional who has completed a minimum of
19 one hundred actual hours, not quarter or semester hours, of
20 specialized training devoted to the study of child development and
21 the treatment of children; and

22 (b) A mental health professional who has the equivalent of one
23 year of full-time experience in the treatment of children under the
24 supervision of a children's mental health specialist.

25 ~~((7))~~ (8) "Commitment" means a determination by a judge or
26 court commissioner, made after a commitment hearing, that the minor
27 is in need of inpatient diagnosis, evaluation, or treatment or that
28 the minor is in need of less restrictive alternative treatment.

29 ~~((8))~~ (9) "Department" means the department of social and
30 health services.

31 ~~((9))~~ (10) "Designated crisis responder" means a person
32 designated by a behavioral health organization to perform the duties
33 specified in this chapter.

34 ~~((10))~~ (11) "Director" means the director of the authority.

35 (12) "Drug addiction" means a disease, characterized by a
36 dependency on psychoactive chemicals, loss of control over the amount
37 and circumstances of use, symptoms of tolerance, physiological or
38 psychological withdrawal, or both, if use is reduced or discontinued,
39 and impairment of health or disruption of social or economic
40 functioning.

1 (~~(11)~~) (13) "Evaluation and treatment facility" means a public
2 or private facility or unit that is licensed or certified by the
3 department of health to provide emergency, inpatient, residential, or
4 outpatient mental health evaluation and treatment services for
5 minors. A physically separate and separately-operated portion of a
6 state hospital may be designated as an evaluation and treatment
7 facility for minors. A facility which is part of or operated by the
8 (~~department~~) state or federal agency does not require licensure or
9 certification. No correctional institution or facility, juvenile
10 court detention facility, or jail may be an evaluation and treatment
11 facility within the meaning of this chapter.

12 (~~(12)~~) (14) "Evaluation and treatment program" means the total
13 system of services and facilities coordinated and approved by a
14 county or combination of counties for the evaluation and treatment of
15 minors under this chapter.

16 (~~(13)~~) (15) "Gravely disabled minor" means a minor who, as a
17 result of a mental disorder, or as a result of the use of alcohol or
18 other psychoactive chemicals, is in danger of serious physical harm
19 resulting from a failure to provide for his or her essential human
20 needs of health or safety, or manifests severe deterioration in
21 routine functioning evidenced by repeated and escalating loss of
22 cognitive or volitional control over his or her actions and is not
23 receiving such care as is essential for his or her health or safety.

24 (~~(14)~~) (16) "Inpatient treatment" means twenty-four-hour-per-
25 day mental health care provided within a general hospital,
26 psychiatric hospital, residential treatment facility licensed or
27 certified by the department of health as an evaluation and treatment
28 facility for minors, secure detoxification facility for minors, or
29 approved substance use disorder treatment program for minors.

30 (~~(15)~~) (17) "Intoxicated minor" means a minor whose mental or
31 physical functioning is substantially impaired as a result of the use
32 of alcohol or other psychoactive chemicals.

33 (~~(16)~~) (18) "Less restrictive alternative" or "less restrictive
34 setting" means outpatient treatment provided to a minor who is not
35 residing in a facility providing inpatient treatment as defined in
36 this chapter.

37 (~~(17)~~) (19) "Likelihood of serious harm" means either: (a) A
38 substantial risk that physical harm will be inflicted by an
39 individual upon his or her own person, as evidenced by threats or
40 attempts to commit suicide or inflict physical harm on oneself; (b) a

1 substantial risk that physical harm will be inflicted by an
2 individual upon another, as evidenced by behavior which has caused
3 such harm or which places another person or persons in reasonable
4 fear of sustaining such harm; or (c) a substantial risk that physical
5 harm will be inflicted by an individual upon the property of others,
6 as evidenced by behavior which has caused substantial loss or damage
7 to the property of others.

8 ~~((+18+))~~ (20) "Medical necessity" for inpatient care means a
9 requested service which is reasonably calculated to: (a) Diagnose,
10 correct, cure, or alleviate a mental disorder or substance use
11 disorder; or (b) prevent the progression of a substance use disorder
12 that endangers life or causes suffering and pain, or results in
13 illness or infirmity or threatens to cause or aggravate a handicap,
14 or causes physical deformity or malfunction, and there is no adequate
15 less restrictive alternative available.

16 ~~((+19+))~~ (21) "Mental disorder" means any organic, mental, or
17 emotional impairment that has substantial adverse effects on an
18 individual's cognitive or volitional functions. The presence of
19 alcohol abuse, drug abuse, juvenile criminal history, antisocial
20 behavior, or intellectual disabilities alone is insufficient to
21 justify a finding of "mental disorder" within the meaning of this
22 section.

23 ~~((+20+))~~ (22) "Mental health professional" means a psychiatrist,
24 psychiatric advanced registered nurse practitioner, physician
25 assistant working with a supervising psychiatrist, psychologist,
26 psychiatric nurse, or social worker, and such other mental health
27 professionals as may be defined by rules adopted by the secretary of
28 the department of health under this chapter.

29 ~~((+21+))~~ (23) "Minor" means any person under the age of eighteen
30 years.

31 ~~((+22+))~~ (24) "Outpatient treatment" means any of the
32 nonresidential services mandated under chapter 71.24 RCW and provided
33 by licensed or certified service providers as identified by RCW
34 71.24.025.

35 ~~((+23+))~~ (25) "Parent" means:

36 (a) A biological or adoptive parent who has legal custody of the
37 child, including either parent if custody is shared under a joint
38 custody agreement; or

39 (b) A person or agency judicially appointed as legal guardian or
40 custodian of the child.

1 ~~((+24+))~~ (26) "Private agency" means any person, partnership,
2 corporation, or association that is not a public agency, whether or
3 not financed in whole or in part by public funds, that constitutes an
4 evaluation and treatment facility or private institution, or
5 hospital, or approved substance use disorder treatment program, that
6 is conducted for, or includes a ~~((department))~~ distinct unit, floor,
7 or ward conducted for, the care and treatment of persons with mental
8 illness, substance use disorders, or both mental illness and
9 substance use disorders.

10 ~~((+25+))~~ (27) "Physician assistant" means a person licensed as a
11 physician assistant under chapter 18.57A or 18.71A RCW.

12 ~~((+26+))~~ (28) "Professional person in charge" or "professional
13 person" means a physician, other mental health professional, or other
14 person empowered by an evaluation and treatment facility, secure
15 detoxification facility, or approved substance use disorder treatment
16 program with authority to make admission and discharge decisions on
17 behalf of that facility.

18 ~~((+27+))~~ (29) "Psychiatric nurse" means a registered nurse who
19 has ~~((a bachelor's degree from an accredited college or university,~~
20 ~~and who has had, in addition, at least two years'))~~ experience in the
21 direct treatment of persons who have a mental illness or who are
22 emotionally disturbed, such experience gained under the supervision
23 of a mental health professional. ~~((("Psychiatric nurse" shall also~~
24 ~~mean any other registered nurse who has three years of such~~
25 ~~experience.))~~

26 ~~((+28+))~~ (30) "Psychiatrist" means a person having a license as a
27 physician in this state who has completed residency training in
28 psychiatry in a program approved by the American Medical Association
29 or the American Osteopathic Association, and is board eligible or
30 board certified in psychiatry.

31 ~~((+29+))~~ (31) "Psychologist" means a person licensed as a
32 psychologist under chapter 18.83 RCW.

33 ~~((+30+))~~ (32) "Public agency" means any evaluation and treatment
34 facility or institution, or hospital, or approved substance use
35 disorder treatment program that is conducted for, or includes a
36 ~~((department))~~ distinct unit, floor, or ward conducted for, the care
37 and treatment of persons with mental illness, substance use
38 disorders, or both mental illness and substance use disorders if the
39 agency is operated directly by federal, state, county, or municipal
40 government, or a combination of such governments.

1 (~~(31)~~) (33) "Responsible other" means the minor, the minor's
2 parent or estate, or any other person legally responsible for support
3 of the minor.

4 (~~(32)~~) (34) "Secretary" means the secretary of the department
5 or secretary's designee.

6 (~~(33)~~) (35) "Secure detoxification facility" means a facility
7 operated by either a public or private agency or by the program of an
8 agency that:

9 (a) Provides for intoxicated minors:

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

12 (ii) Acute or subacute detoxification services; and

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

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

19 (c) Is licensed or certified as such by the department of health.

20 (~~(34)~~) (36) "Social worker" means a person with a master's or
21 further advanced degree from a social work educational program
22 accredited and approved as provided in RCW 18.320.010.

23 (~~(35)~~) (37) "Start of initial detention" means the time of
24 arrival of the minor at the first evaluation and treatment facility,
25 secure detoxification facility, or approved substance use disorder
26 treatment program offering inpatient treatment if the minor is being
27 involuntarily detained at the time. With regard to voluntary
28 patients, "start of initial detention" means the time at which the
29 minor gives notice of intent to leave under the provisions of this
30 chapter.

31 (~~(36)~~) (38) "Substance use disorder" means a cluster of
32 cognitive, behavioral, and physiological symptoms indicating that an
33 individual continues using the substance despite significant
34 substance-related problems. The diagnosis of a substance use disorder
35 is based on a pathological pattern of behaviors related to the use of
36 the substances.

37 **Sec. 5003.** RCW 71.34.300 and 2011 c 343 s 7 are each amended to
38 read as follows:

1 (1) The county or combination of counties is responsible for
2 development and coordination of the evaluation and treatment program
3 for minors, for incorporating the program into the ((county)) mental
4 health plan, and for coordination of evaluation and treatment
5 services and resources with the community mental health program
6 required under chapter 71.24 RCW.

7 (2) The county shall be responsible for maintaining its support
8 of involuntary treatment services for minors at its 1984 level,
9 adjusted for inflation, with the ((department)) authority responsible
10 for additional costs to the county resulting from this chapter.
11 Maintenance of effort funds devoted to judicial services related to
12 involuntary commitment reimbursed under RCW 71.05.730 must be
13 expended for other purposes that further treatment for mental health
14 and chemical dependency disorders.

15 **Sec. 5004.** RCW 71.34.365 and 1985 c 354 s 17 are each amended to
16 read as follows:

17 (1) If a minor is not accepted for admission or is released by an
18 inpatient evaluation and treatment facility, the facility shall
19 release the minor to the custody of the minor's parent or other
20 responsible person. If not otherwise available, the facility shall
21 furnish transportation for the minor to the minor's residence or
22 other appropriate place.

23 (2) If the minor is released to someone other than the minor's
24 parent, the facility shall make every effort to notify the minor's
25 parent of the release as soon as possible.

26 (3) No indigent minor may be released to less restrictive
27 alternative treatment or setting or discharged from inpatient
28 treatment without suitable clothing, and the ((department)) authority
29 shall furnish this clothing. As funds are available, the
30 ((secretary)) director may provide necessary funds for the immediate
31 welfare of indigent minors upon discharge or release to less
32 restrictive alternative treatment.

33 **Sec. 5005.** RCW 71.34.375 and 2016 sp.s. c 29 s 256 are each
34 amended to read as follows:

35 (1) If a parent or guardian, for the purpose of mental health
36 treatment, substance use disorder treatment, or evaluation, brings
37 his or her minor child to an evaluation and treatment facility, a
38 hospital emergency room, an inpatient facility licensed under chapter

1 72.23 RCW, an inpatient facility licensed under chapter 70.41 or
2 71.12 RCW operating inpatient psychiatric beds for minors, a secure
3 detoxification facility, or an approved substance use disorder
4 treatment program, the facility is required to promptly provide
5 written and verbal notice of all statutorily available treatment
6 options contained in this chapter. The notice need not be given more
7 than once if written and verbal notice has already been provided and
8 documented by the facility.

9 (2) The provision of notice must be documented by the facilities
10 required to give notice under subsection (1) of this section and must
11 be accompanied by a signed acknowledgment of receipt by the parent or
12 guardian. The notice must contain the following information:

13 (a) All current statutorily available treatment options including
14 but not limited to those provided in this chapter; and

15 (b) The procedures to be followed to utilize the treatment
16 options described in this chapter.

17 (3) The department of health shall produce, and make available,
18 the written notification that must include, at a minimum, the
19 information contained in subsection (2) of this section. The
20 department of health must revise the written notification as
21 necessary to reflect changes in the law.

22 **Sec. 5006.** RCW 71.34.380 and 1985 c 354 s 25 are each amended to
23 read as follows:

24 (1) The department, department of health, and the authority shall
25 adopt such rules pursuant to chapter 34.05 RCW as may be necessary to
26 effectuate the intent and purposes of this chapter~~((, which shall~~
27 ~~include but not be limited to evaluation of))~~.

28 (2) The authority shall evaluate the quality, effectiveness,
29 efficiency, and use of services ~~((and facilities operating under this~~
30 ~~chapter))~~, procedures and standards for commitment, and ~~((other~~
31 ~~action relevant to))~~ establish criteria and procedures for placement
32 and transfer of committed minors.

33 (3) The department of health shall regulate the evaluation and
34 treatment facilities~~((, and establishment of criteria and procedures~~
35 ~~for placement and transfer of committed minors))~~ and programs.

36 (4) The department shall operate and maintain the child study and
37 treatment center.

1 **Sec. 5007.** RCW 71.34.385 and 2016 sp.s. c 29 s 257 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 counties in a consistent and uniform
5 manner. The ((department)) authority shall also ensure that, to the
6 extent possible within available funds, the designated crisis
7 responders are specifically trained in adolescent mental health
8 issues, the mental health and substance use disorder civil commitment
9 laws, and the criteria for civil commitment.

10 **Sec. 5008.** RCW 71.34.390 and 1992 c 205 s 303 are each amended
11 to read as follows:

12 For the purpose of encouraging the expansion of existing
13 evaluation and treatment facilities and the creation of new
14 facilities, the ((department)) authority shall endeavor to redirect
15 federal Title XIX funds which are expended on out-of-state placements
16 to fund placements within the state.

17 **Sec. 5009.** RCW 71.34.395 and 1998 c 296 s 21 are each amended to
18 read as follows:

19 The ability of a parent to bring his or her minor child to a
20 licensed or certified evaluation and treatment program for evaluation
21 and treatment does not create a right to obtain or benefit from any
22 funds or resources of the state. The state may provide services for
23 indigent minors to the extent that funds are available.

24 **Sec. 5010.** RCW 71.34.400 and 2016 sp.s. c 29 s 258 are each
25 amended to read as follows:

26 For purposes of eligibility for medical assistance under chapter
27 74.09 RCW, minors in inpatient mental health or inpatient substance
28 use disorder treatment shall be considered to be part of their
29 parent's or legal guardian's household, unless the minor has been
30 assessed by the ((department)) authority or its designee as likely to
31 require such treatment for at least ninety consecutive days, or is in
32 out-of-home care in accordance with chapter 13.34 RCW, or the parents
33 are found to not be exercising responsibility for care and control of
34 the minor. Payment for such care by the ((department)) authority
35 shall be made only in accordance with rules, guidelines, and clinical
36 criteria applicable to inpatient treatment of minors established by
37 the ((department)) authority.

1 **Sec. 5011.** RCW 71.34.405 and 1985 c 354 s 13 are each amended to
2 read as follows:

3 (1) A minor receiving treatment under the provisions of this
4 chapter and responsible others shall be liable for the costs of
5 treatment, care, and transportation to the extent of available
6 resources and ability to pay.

7 (2) The secretary or director, as appropriate, shall establish
8 rules to implement this section and to define income, resources, and
9 exemptions to determine the responsible person's or persons' ability
10 to pay.

11 **Sec. 5012.** RCW 71.34.420 and 2016 sp.s. c 29 s 260 are each
12 amended to read as follows:

13 (1) The (~~department~~) authority may use a single bed
14 certification process as outlined in rule to provide additional
15 treatment capacity for a minor suffering from a mental disorder for
16 whom an evaluation and treatment bed is not available. The facility
17 that is the proposed site of the single bed certification must be a
18 facility that is willing and able to provide the person with timely
19 and appropriate treatment either directly or by arrangement with
20 other public or private agencies.

21 (2) A single bed certification must be specific to the minor
22 receiving treatment.

23 (3) A designated crisis responder who submits an application for
24 a single bed certification for treatment at a facility that is
25 willing and able to provide timely and appropriate mental health
26 treatment in good faith belief that the single bed certification is
27 appropriate may presume that the single bed certification will be
28 approved for the purpose of completing the detention process and
29 responding to other emergency calls.

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

33 **Sec. 5013.** RCW 71.34.600 and 2016 sp.s. c 29 s 263 are each
34 amended to read as follows:

35 (1) A parent may bring, or authorize the bringing of, his or her
36 minor child to:

37 (a) An evaluation and treatment facility or an inpatient facility
38 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that

1 the professional person examine the minor to determine whether the
2 minor has a mental disorder and is in need of inpatient treatment; or

3 (b) A secure detoxification facility or approved substance use
4 disorder treatment program and request that a substance use disorder
5 assessment be conducted by a professional person to determine whether
6 the minor has a substance use disorder and is in need of inpatient
7 treatment.

8 (2) The consent of the minor is not required for admission,
9 evaluation, and treatment if the parent brings the minor to the
10 facility.

11 (3) An appropriately trained professional person may evaluate
12 whether the minor has a mental disorder or has a substance use
13 disorder. The evaluation shall be completed within twenty-four hours
14 of the time the minor was brought to the facility, unless the
15 professional person determines that the condition of the minor
16 necessitates additional time for evaluation. In no event shall a
17 minor be held longer than seventy-two hours for evaluation. If, in
18 the judgment of the professional person, it is determined it is a
19 medical necessity for the minor to receive inpatient treatment, the
20 minor may be held for treatment. The facility shall limit treatment
21 to that which the professional person determines is medically
22 necessary to stabilize the minor's condition until the evaluation has
23 been completed. Within twenty-four hours of completion of the
24 evaluation, the professional person shall notify the ((department))
25 authority if the child is held for treatment and of the date of
26 admission.

27 (4) No provider is obligated to provide treatment to a minor
28 under the provisions of this section except that no provider may
29 refuse to treat a minor under the provisions of this section solely
30 on the basis that the minor has not consented to the treatment. No
31 provider may admit a minor to treatment under this section unless it
32 is medically necessary.

33 (5) No minor receiving inpatient treatment under this section may
34 be discharged from the facility based solely on his or her request.

35 (6) Prior to the review conducted under RCW 71.34.610, the
36 professional person shall notify the minor of his or her right to
37 petition superior court for release from the facility.

38 (7) For the purposes of this section "professional person" means
39 "professional person" as defined in RCW 71.05.020.

1 **Sec. 5014.** RCW 71.34.610 and 1998 c 296 s 9 are each amended to
2 read as follows:

3 (1) The ((~~department~~)) authority shall assure that, for any minor
4 admitted to inpatient treatment under RCW 71.34.600, a review is
5 conducted by a physician or other mental health professional who is
6 employed by the ((~~department~~)) authority, or an agency under contract
7 with the ((~~department~~)) authority, and who neither has a financial
8 interest in continued inpatient treatment of the minor nor is
9 affiliated with the facility providing the treatment. The physician
10 or other mental health professional shall conduct the review not less
11 than seven nor more than fourteen days following the date the minor
12 was brought to the facility under RCW 71.34.600 to determine whether
13 it is a medical necessity to continue the minor's treatment on an
14 inpatient basis.

15 (2) In making a determination under subsection (1) of this
16 section, the ((~~department~~)) authority shall consider the opinion of
17 the treatment provider, the safety of the minor, and the likelihood
18 the minor's mental health will deteriorate if released from inpatient
19 treatment. The ((~~department~~)) authority shall consult with the parent
20 in advance of making its determination.

21 (3) If, after any review conducted by the ((~~department~~))
22 authority under this section, the ((~~department~~)) authority determines
23 it is no longer a medical necessity for a minor to receive inpatient
24 treatment, the ((~~department~~)) authority shall immediately notify the
25 parents and the facility. The facility shall release the minor to the
26 parents within twenty-four hours of receiving notice. If the
27 professional person in charge and the parent believe that it is a
28 medical necessity for the minor to remain in inpatient treatment, the
29 minor shall be released to the parent on the second judicial day
30 following the ((~~department's~~)) authority's determination in order to
31 allow the parent time to file an at-risk youth petition under chapter
32 13.32A RCW. If the ((~~department~~)) authority determines it is a
33 medical necessity for the minor to receive outpatient treatment and
34 the minor declines to obtain such treatment, such refusal shall be
35 grounds for the parent to file an at-risk youth petition.

36 (4) If the evaluation conducted under RCW 71.34.600 is done by
37 the ((~~department~~)) authority, the reviews required by subsection (1)
38 of this section shall be done by contract with an independent agency.

39 (5) The ((~~department~~)) authority may, subject to available funds,
40 contract with other governmental agencies to conduct the reviews

1 under this section. The ((department)) authority may seek
2 reimbursement from the parents, their insurance, or medicaid for the
3 expense of any review conducted by an agency under contract.

4 (6) In addition to the review required under this section, the
5 ((department)) authority may periodically determine and redetermine
6 the medical necessity of treatment for purposes of payment with
7 public funds.

8 **Sec. 5015.** RCW 71.34.630 and 2016 sp.s. c 29 s 264 are each
9 amended to read as follows:

10 If the minor is not released as a result of the petition filed
11 under RCW 71.34.620, he or she shall be released not later than
12 thirty days following the later of: (1) The date of the
13 ((department's)) authority's determination under RCW 71.34.610(2); or
14 (2) the filing of a petition for judicial review under RCW 71.34.620,
15 unless a professional person or the designated crisis responder
16 initiates proceedings under this chapter.

17 **Sec. 5016.** RCW 71.34.640 and 1996 c 133 s 36 are each amended to
18 read as follows:

19 The ((department)) authority shall randomly select and review the
20 information on children who are admitted to inpatient treatment on
21 application of the child's parent regardless of the source of
22 payment, if any. The review shall determine whether the children
23 reviewed were appropriately admitted into treatment based on an
24 objective evaluation of the child's condition and the outcome of the
25 child's treatment.

26 **Sec. 5017.** RCW 71.34.720 and 2016 sp.s. c 29 s 271 and 2016 c
27 155 s 19 are each reenacted and amended to read as follows:

28 (1) Each minor approved by the facility for inpatient admission
29 shall be examined and evaluated by a children's mental health
30 specialist, for minors admitted as a result of a mental disorder, or
31 by a chemical dependency professional, for minors admitted as a
32 result of a substance use disorder, as to the child's mental
33 condition and by a physician, physician assistant, or psychiatric
34 advanced registered nurse practitioner as to the child's physical
35 condition within twenty-four hours of admission. Reasonable measures
36 shall be taken to ensure medical treatment is provided for any
37 condition requiring immediate medical attention.

1 (2) If, after examination and evaluation, the children's mental
2 health specialist or substance use disorder specialist and the
3 physician, physician assistant, or psychiatric advanced registered
4 nurse practitioner determine that the initial needs of the minor, if
5 detained to an evaluation and treatment facility, would be better
6 served by placement in a substance use disorder treatment
7 ((facility)) program or, if detained to a secure detoxification
8 facility or approved substance use disorder treatment program, would
9 be better served in an evaluation and treatment facility, then the
10 minor shall be referred to the more appropriate placement; however a
11 minor may only be referred to a secure detoxification facility or
12 approved substance use disorder treatment program if there is a
13 secure detoxification facility or approved substance use disorder
14 treatment program available and that has adequate space for the
15 minor.

16 (3) The admitting facility shall take reasonable steps to notify
17 immediately the minor's parent of the admission.

18 (4) During the initial seventy-two hour treatment period, the
19 minor has a right to associate or receive communications from parents
20 or others unless the professional person in charge determines that
21 such communication would be seriously detrimental to the minor's
22 condition or treatment and so indicates in the minor's clinical
23 record, and notifies the minor's parents of this determination. In no
24 event may the minor be denied the opportunity to consult an attorney.

25 (5) If the evaluation and treatment facility, secure
26 detoxification facility, or approved substance use disorder treatment
27 program admits the minor, it may detain the minor for evaluation and
28 treatment for a period not to exceed seventy-two hours from the time
29 of provisional acceptance. The computation of such seventy-two hour
30 period shall exclude Saturdays, Sundays, and holidays. This initial
31 treatment period shall not exceed seventy-two hours except when an
32 application for voluntary inpatient treatment is received or a
33 petition for fourteen-day commitment is filed.

34 (6) Within twelve hours of the admission, the facility shall
35 advise the minor of his or her rights as set forth in this chapter.

36 **Sec. 5018.** RCW 71.34.720 and 2016 sp.s. c 29 s 272 are each
37 amended to read as follows:

38 (1) Each minor approved by the facility for inpatient admission
39 shall be examined and evaluated by a children's mental health

1 specialist, for minors admitted as a result of a mental disorder, or
2 by a chemical dependency professional, for minors admitted as a
3 result of a substance use disorder, as to the child's mental
4 condition and by a physician, physician assistant, or psychiatric
5 advanced registered nurse practitioner as to the child's physical
6 condition within twenty-four hours of admission. Reasonable measures
7 shall be taken to ensure medical treatment is provided for any
8 condition requiring immediate medical attention.

9 (2) If, after examination and evaluation, the children's mental
10 health specialist or substance use disorder specialist and the
11 physician, physician assistant, or psychiatric advanced registered
12 nurse practitioner determine that the initial needs of the minor, if
13 detained to an evaluation and treatment facility, would be better
14 served by placement in a substance use disorder treatment
15 ((~~facility~~)) program or, if detained to a secure detoxification
16 facility or approved substance use disorder treatment program, would
17 be better served in an evaluation and treatment facility, then the
18 minor shall be referred to the more appropriate placement.

19 (3) The admitting facility shall take reasonable steps to notify
20 immediately the minor's parent of the admission.

21 (4) During the initial seventy-two hour treatment period, the
22 minor has a right to associate or receive communications from parents
23 or others unless the professional person in charge determines that
24 such communication would be seriously detrimental to the minor's
25 condition or treatment and so indicates in the minor's clinical
26 record, and notifies the minor's parents of this determination. In no
27 event may the minor be denied the opportunity to consult an attorney.

28 (5) If the evaluation and treatment facility, secure
29 detoxification facility, or approved substance use disorder treatment
30 program admits the minor, it may detain the minor for evaluation and
31 treatment for a period not to exceed seventy-two hours from the time
32 of provisional acceptance. The computation of such seventy-two hour
33 period shall exclude Saturdays, Sundays, and holidays. This initial
34 treatment period shall not exceed seventy-two hours except when an
35 application for voluntary inpatient treatment is received or a
36 petition for fourteen-day commitment is filed.

37 (6) Within twelve hours of the admission, the facility shall
38 advise the minor of his or her rights as set forth in this chapter.

1 **Sec. 5019.** RCW 71.34.760 and 2016 sp.s. c 29 s 278 are each
2 amended to read as follows:

3 (1) If a minor is committed for one hundred eighty-day inpatient
4 treatment and is to be placed in a state-supported program, the
5 (~~secretary~~) director shall accept immediately and place the minor
6 in a state-funded long-term evaluation and treatment facility or
7 state-funded approved substance use disorder treatment program.

8 (2) The (~~secretary's~~) director's placement authority shall be
9 exercised through a designated placement committee appointed by the
10 (~~secretary~~) director and composed of children's mental health
11 specialists and chemical dependency professionals, including at least
12 one child psychiatrist who represents the state-funded, long-term,
13 evaluation and treatment facility for minors and one chemical
14 dependency professional who represents the state-funded approved
15 substance use disorder treatment program. The responsibility of the
16 placement committee will be to:

17 (a) Make the long-term placement of the minor in the most
18 appropriate, available state-funded evaluation and treatment facility
19 or approved substance use disorder treatment program, having
20 carefully considered factors including the treatment needs of the
21 minor, the most appropriate facility able to respond to the minor's
22 identified treatment needs, the geographic proximity of the facility
23 to the minor's family, the immediate availability of bed space, and
24 the probable impact of the placement on other residents of the
25 facility;

26 (b) Approve or deny requests from treatment facilities for
27 transfer of a minor to another facility;

28 (c) Receive and monitor reports required under this section;

29 (d) Receive and monitor reports of all discharges.

30 (3) The (~~secretary~~) director may authorize transfer of minors
31 among treatment facilities if the transfer is in the best interests
32 of the minor or due to treatment priorities.

33 (4) The responsible state-funded evaluation and treatment
34 facility or approved substance use disorder treatment program shall
35 submit a report to the (~~department's~~) authority's designated
36 placement committee within ninety days of admission and no less than
37 every one hundred eighty days thereafter, setting forth such facts as
38 the (~~department~~) authority requires, including the minor's
39 individual treatment plan and progress, recommendations for future
40 treatment, and possible less restrictive treatment.

1 **Sec. 5020.** RCW 71.34.780 and 2016 sp.s. c 29 s 279 are each
2 amended to read as follows:

3 (1) If the professional person in charge of an outpatient
4 treatment program, a designated crisis responder, or the director or
5 secretary, as appropriate, determines that a minor is failing to
6 adhere to the conditions of the court order for less restrictive
7 alternative treatment or the conditions for the conditional release,
8 or that substantial deterioration in the minor's functioning has
9 occurred, the designated crisis responder, or the director or
10 secretary, as appropriate, may order that the minor, if committed for
11 mental health treatment, be taken into custody and transported to an
12 inpatient evaluation and treatment facility or, if committed for
13 substance use disorder treatment, be taken into custody and
14 transported to a secure detoxification facility or approved substance
15 use disorder treatment program if there is an available secure
16 detoxification facility or approved substance use disorder treatment
17 program that has adequate space for the minor.

18 (2) The designated crisis responder or the director or secretary,
19 as appropriate, shall file the order of apprehension and detention
20 and serve it upon the minor and notify the minor's parent and the
21 minor's attorney, if any, of the detention within two days of return.
22 At the time of service the minor shall be informed of the right to a
23 hearing and to representation by an attorney. The designated crisis
24 responder or the director or secretary, as appropriate, may modify or
25 rescind the order of apprehension and detention at any time prior to
26 the hearing.

27 (3) A petition for revocation of less restrictive alternative
28 treatment shall be filed by the designated crisis responder or the
29 director or secretary, as appropriate, with the court in the county
30 ordering the less restrictive alternative treatment. The court shall
31 conduct the hearing in that county. A petition for revocation of
32 conditional release may be filed with the court in the county
33 ordering inpatient treatment or the county where the minor on
34 conditional release is residing. A petition shall describe the
35 behavior of the minor indicating violation of the conditions or
36 deterioration of routine functioning and a dispositional
37 recommendation. Upon motion for good cause, the hearing may be
38 transferred to the county of the minor's residence or to the county
39 in which the alleged violations occurred. The hearing shall be held
40 within seven days of the minor's return. The issues to be determined

1 are whether the minor did or did not adhere to the conditions of the
2 less restrictive alternative treatment or conditional release, or
3 whether the minor's routine functioning has substantially
4 deteriorated, and, if so, whether the conditions of less restrictive
5 alternative treatment or conditional release should be modified or,
6 subject to subsection (4) of this section, whether the minor should
7 be returned to inpatient treatment. Pursuant to the determination of
8 the court, the minor shall be returned to less restrictive
9 alternative treatment or conditional release on the same or modified
10 conditions or shall be returned to inpatient treatment. If the minor
11 is returned to inpatient treatment, RCW 71.34.760 regarding the
12 ((~~secretary's~~)) director's placement responsibility shall apply. The
13 hearing may be waived by the minor and the minor returned to
14 inpatient treatment or to less restrictive alternative treatment or
15 conditional release on the same or modified conditions.

16 (4) A court may not order the return of a minor to inpatient
17 treatment in a secure detoxification facility or approved substance
18 use disorder treatment program unless there is a secure
19 detoxification facility or approved substance use disorder treatment
20 program available with adequate space for the minor.

21 **Sec. 5021.** RCW 71.34.780 and 2016 sp.s. c 29 s 280 are each
22 amended to read as follows:

23 (1) If the professional person in charge of an outpatient
24 treatment program, a designated crisis responder, or the director or
25 secretary, as appropriate, determines that a minor is failing to
26 adhere to the conditions of the court order for less restrictive
27 alternative treatment or the conditions for the conditional release,
28 or that substantial deterioration in the minor's functioning has
29 occurred, the designated crisis responder, or the director or
30 secretary, as appropriate, may order that the minor, if committed for
31 mental health treatment, be taken into custody and transported to an
32 inpatient evaluation and treatment facility or, if committed for
33 substance use disorder treatment, be taken into custody and
34 transported to a secure detoxification facility or approved substance
35 use disorder treatment program.

36 (2) The designated crisis responder or the director or secretary,
37 as appropriate, shall file the order of apprehension and detention
38 and serve it upon the minor and notify the minor's parent and the
39 minor's attorney, if any, of the detention within two days of return.

1 At the time of service the minor shall be informed of the right to a
2 hearing and to representation by an attorney. The designated crisis
3 responder or the director or secretary, as appropriate, may modify or
4 rescind the order of apprehension and detention at any time prior to
5 the hearing.

6 (3) A petition for revocation of less restrictive alternative
7 treatment shall be filed by the designated crisis responder or the
8 director or secretary, as appropriate, with the court in the county
9 ordering the less restrictive alternative treatment. The court shall
10 conduct the hearing in that county. A petition for revocation of
11 conditional release may be filed with the court in the county
12 ordering inpatient treatment or the county where the minor on
13 conditional release is residing. A petition shall describe the
14 behavior of the minor indicating violation of the conditions or
15 deterioration of routine functioning and a dispositional
16 recommendation. Upon motion for good cause, the hearing may be
17 transferred to the county of the minor's residence or to the county
18 in which the alleged violations occurred. The hearing shall be held
19 within seven days of the minor's return. The issues to be determined
20 are whether the minor did or did not adhere to the conditions of the
21 less restrictive alternative treatment or conditional release, or
22 whether the minor's routine functioning has substantially
23 deteriorated, and, if so, whether the conditions of less restrictive
24 alternative treatment or conditional release should be modified or
25 whether the minor should be returned to inpatient treatment. Pursuant
26 to the determination of the court, the minor shall be returned to
27 less restrictive alternative treatment or conditional release on the
28 same or modified conditions or shall be returned to inpatient
29 treatment. If the minor is returned to inpatient treatment, RCW
30 71.34.760 regarding the ((~~secretary's~~)) director's placement
31 responsibility shall apply. The hearing may be waived by the minor
32 and the minor returned to inpatient treatment or to less restrictive
33 alternative treatment or conditional release on the same or modified
34 conditions.

35 **Sec. 5022.** RCW 71.34.790 and 1985 c 354 s 15 are each amended to
36 read as follows:

37 Necessary transportation for minors committed to the
38 ((~~secretary~~)) director under this chapter for one hundred eighty-day

1 treatment shall be provided by the (~~department~~) authority in the
2 most appropriate and cost-effective means.

3 **Sec. 5023.** RCW 71.36.010 and 2014 c 225 s 91 are each reenacted
4 and amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Agency" means a state, tribal, or local governmental entity
8 or a private not-for-profit organization.

9 (2) "Behavioral health organization" means a county authority or
10 group of county authorities or other nonprofit entity that has
11 entered into contracts with the (~~secretary~~) health care authority
12 pursuant to chapter 71.24 RCW.

13 (3) "Child" means a person under eighteen years of age, except as
14 expressly provided otherwise in state or federal law.

15 (4) "Consensus-based" means a program or practice that has
16 general support among treatment providers and experts, based on
17 experience or professional literature, and may have anecdotal or case
18 study support, or that is agreed but not possible to perform studies
19 with random assignment and controlled groups.

20 (5) "County authority" means the board of county commissioners or
21 county executive.

22 (6) (~~("Department" means the department of social and health~~
23 ~~services.~~

24 ~~(7))~~ "Early periodic screening, diagnosis, and treatment" means
25 the component of the federal medicaid program established pursuant to
26 42 U.S.C. Sec. 1396d(r), as amended.

27 (~~(8))~~ (7) "Evidence-based" means a program or practice that has
28 had multiple site random controlled trials across heterogeneous
29 populations demonstrating that the program or practice is effective
30 for the population.

31 (~~(9))~~ (8) "Family" means a child's biological parents, adoptive
32 parents, foster parents, guardian, legal custodian authorized
33 pursuant to Title 26 RCW, a relative with whom a child has been
34 placed by the department of social and health services, or a tribe.

35 (~~(10))~~ (9) "Promising practice" or "emerging best practice"
36 means a practice that presents, based upon preliminary information,
37 potential for becoming a research-based or consensus-based practice.

1 (~~(11)~~) (10) "Research-based" means a program or practice that
2 has some research demonstrating effectiveness, but that does not yet
3 meet the standard of evidence-based practices.

4 (~~(12)~~) "~~Secretary~~" ~~means the secretary of social and health~~
5 ~~services.~~

6 ~~(13)~~) (11) "Wraparound process" means a family driven planning
7 process designed to address the needs of children and youth by the
8 formation of a team that empowers families to make key decisions
9 regarding the care of the child or youth in partnership with
10 professionals and the family's natural community supports. The team
11 produces a community-based and culturally competent intervention plan
12 which identifies the strengths and needs of the child or youth and
13 family and defines goals that the team collaborates on achieving with
14 respect for the unique cultural values of the family. The "wraparound
15 process" shall emphasize principles of persistence and outcome-based
16 measurements of success.

17 **Sec. 5024.** RCW 71.36.025 and 2014 c 225 s 92 are each amended to
18 read as follows:

19 (1) It is the goal of the legislature that, by 2012, the
20 children's mental health system in Washington state include the
21 following elements:

22 (a) A continuum of services from early identification,
23 intervention, and prevention through crisis intervention and
24 inpatient treatment, including peer support and parent mentoring
25 services;

26 (b) Equity in access to services for similarly situated children,
27 including children with co-occurring disorders;

28 (c) Developmentally appropriate, high quality, and culturally
29 competent services available statewide;

30 (d) Treatment of each child in the context of his or her family
31 and other persons that are a source of support and stability in his
32 or her life;

33 (e) A sufficient supply of qualified and culturally competent
34 children's mental health providers;

35 (f) Use of developmentally appropriate evidence-based and
36 research-based practices;

37 (g) Integrated and flexible services to meet the needs of
38 children who, due to mental illness or emotional or behavioral

1 disturbance, are at risk of out-of-home placement or involved with
2 multiple child-serving systems.

3 (2) The effectiveness of the children's mental health system
4 shall be determined through the use of outcome-based performance
5 measures. The ((department)) health care authority and the evidence-
6 based practice institute established in RCW 71.24.061, in
7 consultation with parents, caregivers, youth, behavioral health
8 organizations, mental health services providers, health plans,
9 primary care providers, tribes, and others, shall develop outcome-
10 based performance measures such as:

11 (a) Decreased emergency room utilization;

12 (b) Decreased psychiatric hospitalization;

13 (c) Lessening of symptoms, as measured by commonly used
14 assessment tools;

15 (d) Decreased out-of-home placement, including residential,
16 group, and foster care, and increased stability of such placements,
17 when necessary;

18 (e) Decreased runaways from home or residential placements;

19 (f) Decreased rates of chemical dependency;

20 (g) Decreased involvement with the juvenile justice system;

21 (h) Improved school attendance and performance;

22 (i) Reductions in school or child care suspensions or expulsions;

23 (j) Reductions in use of prescribed medication where cognitive
24 behavioral therapies are indicated;

25 (k) Improved rates of high school graduation and employment; and

26 (l) Decreased use of mental health services upon reaching
27 adulthood for mental disorders other than those that require ongoing
28 treatment to maintain stability.

29 Performance measure reporting for children's mental health
30 services should be integrated into existing performance measurement
31 and reporting systems developed and implemented under chapter 71.24
32 RCW.

33 **Sec. 5025.** RCW 71.36.040 and 2014 c 225 s 93 are each amended to
34 read as follows:

35 (1) The legislature supports recommendations made in the August
36 2002 study of the public mental health system for children conducted
37 by the joint legislative audit and review committee.

38 (2) The ((department)) health care authority shall, within
39 available funds:

1 (a) Identify internal business operation issues that limit the
2 agency's ability to meet legislative intent to coordinate existing
3 categorical children's mental health programs and funding;

4 (b) Collect reliable mental health cost, service, and outcome
5 data specific to children. This information must be used to identify
6 best practices and methods of improving fiscal management;

7 (c) Revise the early periodic screening diagnosis and treatment
8 plan to reflect the mental health system structure in place on July
9 27, 2003, and thereafter revise the plan as necessary to conform to
10 subsequent changes in the structure.

11 (3) The ((department)) health care authority and the office of
12 the superintendent of public instruction shall jointly identify
13 school districts where mental health and education systems coordinate
14 services and resources to provide public mental health care for
15 children. The ((department)) health care authority and the office of
16 the superintendent of public instruction shall work together to share
17 information about these approaches with other school districts,
18 behavioral health organizations, and state agencies.

19 **Sec. 5026.** RCW 71.36.060 and 2007 c 359 s 6 are each amended to
20 read as follows:

21 The ((department)) health care authority shall explore the
22 feasibility of obtaining a medicaid state plan amendment to allow the
23 state to receive medicaid matching funds for health services provided
24 to medicaid enrolled youth who are temporarily placed in a juvenile
25 detention facility. Temporary placement shall be defined as until
26 adjudication or up to sixty continuous days, whichever occurs first.

27 **PART 6**

28 **Sec. 6001.** RCW 9.41.047 and 2016 c 93 s 1 are each amended to
29 read as follows:

30 (1)(a) At the time a person is convicted or found not guilty by
31 reason of insanity of an offense making the person ineligible to
32 possess a firearm, or at the time a person is committed by court
33 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or
34 chapter 10.77 RCW for mental health treatment, the convicting or
35 committing court shall notify the person, orally and in writing, that
36 the person must immediately surrender any concealed pistol license
37 and that the person may not possess a firearm unless his or her right

1 to do so is restored by a court of record. For purposes of this
2 section a convicting court includes a court in which a person has
3 been found not guilty by reason of insanity.

4 (b) The convicting or committing court shall forward within three
5 judicial days after conviction or entry of the commitment order a
6 copy of the person's driver's license or identicard, or comparable
7 information, along with the date of conviction or commitment, to the
8 department of licensing. When a person is committed by court order
9 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter
10 10.77 RCW, for mental health treatment, the committing court also
11 shall forward, within three judicial days after entry of the
12 commitment order, a copy of the person's driver's license, or
13 comparable information, along with the date of commitment, to the
14 national instant criminal background check system index, denied
15 persons file, created by the federal Brady handgun violence
16 prevention act (P.L. 103-159). The petitioning party shall provide
17 the court with the information required. If more than one commitment
18 order is entered under one cause number, only one notification to the
19 department of licensing and the national instant criminal background
20 check system is required.

21 (2) Upon receipt of the information provided for by subsection
22 (1) of this section, the department of licensing shall determine if
23 the convicted or committed person has a concealed pistol license. If
24 the person does have a concealed pistol license, the department of
25 licensing shall immediately notify the license-issuing authority
26 which, upon receipt of such notification, shall immediately revoke
27 the license.

28 (3)(a) A person who is prohibited from possessing a firearm, by
29 reason of having been involuntarily committed for mental health
30 treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750,
31 chapter 10.77 RCW, or equivalent statutes of another jurisdiction
32 may, upon discharge, petition the superior court to have his or her
33 right to possess a firearm restored.

34 (b) The petition must be brought in the superior court that
35 ordered the involuntary commitment or the superior court of the
36 county in which the petitioner resides.

37 (c) Except as provided in (d) of this subsection, the court shall
38 restore the petitioner's right to possess a firearm if the petitioner
39 proves by a preponderance of the evidence that:

1 (i) The petitioner is no longer required to participate in court-
2 ordered inpatient or outpatient treatment;

3 (ii) The petitioner has successfully managed the condition
4 related to the commitment;

5 (iii) The petitioner no longer presents a substantial danger to
6 himself or herself, or the public; and

7 (iv) The symptoms related to the commitment are not reasonably
8 likely to recur.

9 (d) If a preponderance of the evidence in the record supports a
10 finding that the person petitioning the court has engaged in violence
11 and that it is more likely than not that the person will engage in
12 violence after his or her right to possess a firearm is restored, the
13 person shall bear the burden of proving by clear, cogent, and
14 convincing evidence that he or she does not present a substantial
15 danger to the safety of others.

16 (e) When a person's right to possess a firearm has been restored
17 under this subsection, the court shall forward, within three judicial
18 days after entry of the restoration order, notification that the
19 person's right to possess a firearm has been restored to the
20 department of licensing, the ~~((department of social and health
21 services))~~ health care authority, and the national instant criminal
22 background check system index, denied persons file.

23 (4) No person who has been found not guilty by reason of insanity
24 may petition a court for restoration of the right to possess a
25 firearm unless the person meets the requirements for the restoration
26 of the right to possess a firearm under RCW 9.41.040(4).

27 **Sec. 6002.** RCW 9.41.070 and 2017 c 282 s 1 and 2017 c 174 s 1
28 are each reenacted and amended to read as follows:

29 (1) The chief of police of a municipality or the sheriff of a
30 county shall within thirty days after the filing of an application of
31 any person, issue a license to such person to carry a pistol
32 concealed on his or her person within this state for five years from
33 date of issue, for the purposes of protection or while engaged in
34 business, sport, or while traveling. However, if the applicant does
35 not have a valid permanent Washington driver's license or Washington
36 state identification card or has not been a resident of the state for
37 the previous consecutive ninety days, the issuing authority shall
38 have up to sixty days after the filing of the application to issue a
39 license. The issuing authority shall not refuse to accept completed

1 applications for concealed pistol licenses during regular business
2 hours.

3 The applicant's constitutional right to bear arms shall not be
4 denied, unless:

5 (a) He or she is ineligible to possess a firearm under the
6 provisions of RCW 9.41.040 or 9.41.045, or is prohibited from
7 possessing a firearm under federal law;

8 (b) The applicant's concealed pistol license is in a revoked
9 status;

10 (c) He or she is under twenty-one years of age;

11 (d) He or she is subject to a court order or injunction regarding
12 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
13 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,
14 26.50.070, or 26.26.590;

15 (e) He or she is free on bond or personal recognizance pending
16 trial, appeal, or sentencing for a felony offense;

17 (f) He or she has an outstanding warrant for his or her arrest
18 from any court of competent jurisdiction for a felony or misdemeanor;
19 or

20 (g) He or she has been ordered to forfeit a firearm under RCW
21 9.41.098(1)(e) within one year before filing an application to carry
22 a pistol concealed on his or her person.

23 No person convicted of a felony may have his or her right to
24 possess firearms restored or his or her privilege to carry a
25 concealed pistol restored, unless the person has been granted relief
26 from disabilities by the attorney general under 18 U.S.C. Sec.
27 925(c), or RCW 9.41.040 (3) or (4) applies.

28 (2)(a) The issuing authority shall conduct a check through the
29 national instant criminal background check system, the Washington
30 state patrol electronic database, the (~~department of social and~~
31 ~~health services~~) health care authority electronic database, and with
32 other agencies or resources as appropriate, to determine whether the
33 applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a
34 firearm, or is prohibited from possessing a firearm under federal
35 law, and therefore ineligible for a concealed pistol license.

36 (b) The issuing authority shall deny a permit to anyone who is
37 found to be prohibited from possessing a firearm under federal or
38 state law.

1 (c) This subsection applies whether the applicant is applying for
2 a new concealed pistol license or to renew a concealed pistol
3 license.

4 (3) Any person whose firearms rights have been restricted and who
5 has been granted relief from disabilities by the attorney general
6 under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec.
7 921(a)(20)(A) shall have his or her right to acquire, receive,
8 transfer, ship, transport, carry, and possess firearms in accordance
9 with Washington state law restored except as otherwise prohibited by
10 this chapter.

11 (4) The license application shall bear the full name, residential
12 address, telephone number at the option of the applicant, email
13 address at the option of the applicant, date and place of birth,
14 race, gender, description, a complete set of fingerprints, and
15 signature of the licensee, and the licensee's driver's license number
16 or state identification card number if used for identification in
17 applying for the license. A signed application for a concealed pistol
18 license shall constitute a waiver of confidentiality and written
19 request that the (~~department of social and health services~~) health
20 care authority, mental health institutions, and other health care
21 facilities release information relevant to the applicant's
22 eligibility for a concealed pistol license to an inquiring court or
23 law enforcement agency.

24 The application for an original license shall include a complete
25 set of fingerprints to be forwarded to the Washington state patrol.

26 The license and application shall contain a warning substantially
27 as follows:

28 CAUTION: Although state and local laws do not differ, federal
29 law and state law on the possession of firearms differ. If
30 you are prohibited by federal law from possessing a firearm,
31 you may be prosecuted in federal court. A state license is
32 not a defense to a federal prosecution.

33 The license shall contain a description of the major differences
34 between state and federal law and an explanation of the fact that
35 local laws and ordinances on firearms are preempted by state law and
36 must be consistent with state law.

37 The application shall contain questions about the applicant's
38 eligibility under RCW 9.41.040 and federal law to possess a pistol,
39 the applicant's place of birth, and whether the applicant is a United

1 States citizen. If the applicant is not a United States citizen, the
2 applicant must provide the applicant's country of citizenship, United
3 States issued alien number or admission number, and the basis on
4 which the applicant claims to be exempt from federal prohibitions on
5 firearm possession by aliens. The applicant shall not be required to
6 produce a birth certificate or other evidence of citizenship. A
7 person who is not a citizen of the United States shall, if
8 applicable, meet the additional requirements of RCW 9.41.173 and
9 produce proof of compliance with RCW 9.41.173 upon application. The
10 license may be in triplicate or in a form to be prescribed by the
11 department of licensing.

12 The original thereof shall be delivered to the licensee, the
13 duplicate shall within seven days be sent to the director of
14 licensing and the triplicate shall be preserved for six years, by the
15 authority issuing the license.

16 The department of licensing shall make available to law
17 enforcement and corrections agencies, in an on-line format, all
18 information received under this subsection.

19 (5) The nonrefundable fee, paid upon application, for the
20 original five-year license shall be thirty-six dollars plus
21 additional charges imposed by the federal bureau of investigation
22 that are passed on to the applicant. No other state or local branch
23 or unit of government may impose any additional charges on the
24 applicant for the issuance of the license.

25 The fee shall be distributed as follows:

26 (a) Fifteen dollars shall be paid to the state general fund;

27 (b) Four dollars shall be paid to the agency taking the
28 fingerprints of the person licensed;

29 (c) Fourteen dollars shall be paid to the issuing authority for
30 the purpose of enforcing this chapter;

31 (d) Two dollars and sixteen cents to the firearms range account
32 in the general fund; and

33 (e) Eighty-four cents to the concealed pistol license renewal
34 notification account created in RCW 43.79.540.

35 (6) The nonrefundable fee for the renewal of such license shall
36 be thirty-two dollars. No other branch or unit of government may
37 impose any additional charges on the applicant for the renewal of the
38 license.

39 The renewal fee shall be distributed as follows:

40 (a) Fifteen dollars shall be paid to the state general fund;

1 (b) Fourteen dollars shall be paid to the issuing authority for
2 the purpose of enforcing this chapter;

3 (c) Two dollars and sixteen cents to the firearms range account
4 in the general fund; and

5 (d) Eighty-four cents to the concealed pistol license renewal
6 notification account created in RCW 43.79.540.

7 (7) The nonrefundable fee for replacement of lost or damaged
8 licenses is ten dollars to be paid to the issuing authority.

9 (8) Payment shall be by cash, check, or money order at the option
10 of the applicant. Additional methods of payment may be allowed at the
11 option of the issuing authority.

12 (9)(a) A licensee may renew a license if the licensee applies for
13 renewal within ninety days before or after the expiration date of the
14 license. A license so renewed shall take effect on the expiration
15 date of the prior license. A licensee renewing after the expiration
16 date of the license must pay a late renewal penalty of ten dollars in
17 addition to the renewal fee specified in subsection (6) of this
18 section. The fee shall be distributed as follows:

19 (i) Three dollars shall be deposited in the state wildlife
20 account and used exclusively first for the printing and distribution
21 of a pamphlet on the legal limits of the use of firearms, firearms
22 safety, and the preemptive nature of state law, and subsequently the
23 support of volunteer instructors in the basic firearms safety
24 training program conducted by the department of fish and wildlife.
25 The pamphlet shall be given to each applicant for a license; and

26 (ii) Seven dollars shall be paid to the issuing authority for the
27 purpose of enforcing this chapter.

28 (b) Beginning with concealed pistol licenses that expire on or
29 after August 1, 2018, the department of licensing shall mail a
30 renewal notice approximately ninety days before the license
31 expiration date to the licensee at the address listed on the
32 concealed pistol license application, or to the licensee's new
33 address if the licensee has notified the department of licensing of a
34 change of address. Alternatively, if the licensee provides an email
35 address at the time of license application, the department of
36 licensing may send the renewal notice to the licensee's email
37 address. The notice must contain the date the concealed pistol
38 license will expire, the amount of renewal fee, the penalty for late
39 renewal, and instructions on how to renew the license.

1 (10) Notwithstanding the requirements of subsections (1) through
2 (9) of this section, the chief of police of the municipality or the
3 sheriff of the county of the applicant's residence may issue a
4 temporary emergency license for good cause pending review under
5 subsection (1) of this section. However, a temporary emergency
6 license issued under this subsection shall not exempt the holder of
7 the license from any records check requirement. Temporary emergency
8 licenses shall be easily distinguishable from regular licenses.

9 (11) A political subdivision of the state shall not modify the
10 requirements of this section or chapter, nor may a political
11 subdivision ask the applicant to voluntarily submit any information
12 not required by this section.

13 (12) A person who knowingly makes a false statement regarding
14 citizenship or identity on an application for a concealed pistol
15 license is guilty of false swearing under RCW 9A.72.040. In addition
16 to any other penalty provided for by law, the concealed pistol
17 license of a person who knowingly makes a false statement shall be
18 revoked, and the person shall be permanently ineligible for a
19 concealed pistol license.

20 (13) A person may apply for a concealed pistol license:

21 (a) To the municipality or to the county in which the applicant
22 resides if the applicant resides in a municipality;

23 (b) To the county in which the applicant resides if the applicant
24 resides in an unincorporated area; or

25 (c) Anywhere in the state if the applicant is a nonresident.

26 (14) Any person who, as a member of the armed forces, including
27 the national guard and armed forces reserves, is unable to renew his
28 or her license under subsections (6) and (9) of this section because
29 of the person's assignment, reassignment, or deployment for out-of-
30 state military service may renew his or her license within ninety
31 days after the person returns to this state from out-of-state
32 military service, if the person provides the following to the issuing
33 authority no later than ninety days after the person's date of
34 discharge or assignment, reassignment, or deployment back to this
35 state: (a) A copy of the person's original order designating the
36 specific period of assignment, reassignment, or deployment for out-
37 of-state military service, and (b) if appropriate, a copy of the
38 person's discharge or amended or subsequent assignment, reassignment,
39 or deployment order back to this state. A license so renewed under
40 this subsection (14) shall take effect on the expiration date of the

1 prior license. A licensee renewing after the expiration date of the
2 license under this subsection (14) shall pay only the renewal fee
3 specified in subsection (6) of this section and shall not be required
4 to pay a late renewal penalty in addition to the renewal fee.

5 **Sec. 6003.** RCW 9.41.090 and 2015 c 1 s 5 are each amended to
6 read as follows:

7 (1) In addition to the other requirements of this chapter, no
8 dealer may deliver a pistol to the purchaser thereof until:

9 (a) The purchaser produces a valid concealed pistol license and
10 the dealer has recorded the purchaser's name, license number, and
11 issuing agency, such record to be made in triplicate and processed as
12 provided in subsection (5) of this section. For purposes of this
13 subsection (1)(a), a "valid concealed pistol license" does not
14 include a temporary emergency license, and does not include any
15 license issued before July 1, 1996, unless the issuing agency
16 conducted a records search for disqualifying crimes under RCW
17 9.41.070 at the time of issuance;

18 (b) The dealer is notified in writing by the chief of police or
19 the sheriff of the jurisdiction in which the purchaser resides that
20 the purchaser is eligible to possess a pistol under RCW 9.41.040 and
21 that the application to purchase is approved by the chief of police
22 or sheriff; or

23 (c) The requirements or time periods in RCW 9.41.092 have been
24 satisfied.

25 (2)(a) Except as provided in (b) of this subsection, in
26 determining whether the purchaser meets the requirements of RCW
27 9.41.040, the chief of police or sheriff, or the designee of either,
28 shall check with the national crime information center, the
29 Washington state patrol electronic database, the (~~department of~~
30 ~~social and health services~~) health care authority electronic
31 database, and with other agencies or resources as appropriate, to
32 determine whether the applicant is ineligible under RCW 9.41.040 to
33 possess a firearm.

34 (b) Once the system is established, a dealer shall use the state
35 system and national instant criminal background check system,
36 provided for by the Brady Handgun Violence Prevention Act (18 U.S.C.
37 Sec. 921 et seq.), to make criminal background checks of applicants
38 to purchase firearms. However, a chief of police or sheriff, or a
39 designee of either, shall continue to check the (~~department of~~

1 ~~social and health services¹)~~) health care authority's electronic
2 database and with other agencies or resources as appropriate, to
3 determine whether applicants are ineligible under RCW 9.41.040 to
4 possess a firearm.

5 (3) In any case under this section where the applicant has an
6 outstanding warrant for his or her arrest from any court of competent
7 jurisdiction for a felony or misdemeanor, the dealer shall hold the
8 delivery of the pistol until the warrant for arrest is served and
9 satisfied by appropriate court appearance. The local jurisdiction for
10 purposes of the sale shall confirm the existence of outstanding
11 warrants within seventy-two hours after notification of the
12 application to purchase a pistol is received. The local jurisdiction
13 shall also immediately confirm the satisfaction of the warrant on
14 request of the dealer so that the hold may be released if the warrant
15 was for an offense other than an offense making a person ineligible
16 under RCW 9.41.040 to possess a pistol.

17 (4) In any case where the chief or sheriff of the local
18 jurisdiction has reasonable grounds based on the following
19 circumstances: (a) Open criminal charges, (b) pending criminal
20 proceedings, (c) pending commitment proceedings, (d) an outstanding
21 warrant for an offense making a person ineligible under RCW 9.41.040
22 to possess a pistol, or (e) an arrest for an offense making a person
23 ineligible under RCW 9.41.040 to possess a pistol, if the records of
24 disposition have not yet been reported or entered sufficiently to
25 determine eligibility to purchase a pistol, the local jurisdiction
26 may hold the sale and delivery of the pistol up to thirty days in
27 order to confirm existing records in this state or elsewhere. After
28 thirty days, the hold will be lifted unless an extension of the
29 thirty days is approved by a local district court or municipal court
30 for good cause shown. A dealer shall be notified of each hold placed
31 on the sale by local law enforcement and of any application to the
32 court for additional hold period to confirm records or confirm the
33 identity of the applicant.

34 (5) At the time of applying for the purchase of a pistol, the
35 purchaser shall sign in triplicate and deliver to the dealer an
36 application containing his or her full name, residential address,
37 date and place of birth, race, and gender; the date and hour of the
38 application; the applicant's driver's license number or state
39 identification card number; a description of the pistol including the
40 make, model, caliber and manufacturer's number if available at the

1 time of applying for the purchase of a pistol. If the manufacturer's
2 number is not available, the application may be processed, but
3 delivery of the pistol to the purchaser may not occur unless the
4 manufacturer's number is recorded on the application by the dealer
5 and transmitted to the chief of police of the municipality or the
6 sheriff of the county in which the purchaser resides; and a statement
7 that the purchaser is eligible to possess a pistol under RCW
8 9.41.040.

9 The application shall contain a warning substantially as follows:

10 CAUTION: Although state and local laws do not differ, federal law and
11 state law on the possession of firearms differ. If you are prohibited
12 by federal law from possessing a firearm, you may be prosecuted in
13 federal court. State permission to purchase a firearm is not a
14 defense to a federal prosecution.

15 The purchaser shall be given a copy of the department of fish and
16 wildlife pamphlet on the legal limits of the use of firearms,
17 firearms safety, and the fact that local laws and ordinances on
18 firearms are preempted by state law and must be consistent with state
19 law.

20 The dealer shall, by the end of the business day, sign and attach
21 his or her address and deliver a copy of the application and such
22 other documentation as required under subsection (1) of this section
23 to the chief of police of the municipality or the sheriff of the
24 county of which the purchaser is a resident. The triplicate shall be
25 retained by the dealer for six years. The dealer shall deliver the
26 pistol to the purchaser following the period of time specified in
27 this chapter unless the dealer is notified of an investigative hold
28 under subsection (4) of this section in writing by the chief of
29 police of the municipality or the sheriff of the county, whichever is
30 applicable, denying the purchaser's application to purchase and the
31 grounds thereof. The application shall not be denied unless the
32 purchaser is not eligible to possess a pistol under RCW 9.41.040 or
33 9.41.045, or federal law.

34 The chief of police of the municipality or the sheriff of the
35 county shall retain or destroy applications to purchase a pistol in
36 accordance with the requirements of 18 U.S.C. Sec. 922.

37 (6) A person who knowingly makes a false statement regarding
38 identity or eligibility requirements on the application to purchase a
39 pistol is guilty of false swearing under RCW 9A.72.040.

1 (7) This section does not apply to sales to licensed dealers for
2 resale or to the sale of antique firearms.

3 **Sec. 6004.** RCW 9.41.094 and 1994 sp.s. c 7 s 411 are each
4 amended to read as follows:

5 A signed application to purchase a pistol shall constitute a
6 waiver of confidentiality and written request that the (~~department~~
7 ~~of social and health services~~) health care authority, mental health
8 institutions, and other health care facilities release, to an
9 inquiring court or law enforcement agency, information relevant to
10 the applicant's eligibility to purchase a pistol to an inquiring
11 court or law enforcement agency.

12 **Sec. 6005.** RCW 9.41.097 and 2009 c 216 s 6 are each amended to
13 read as follows:

14 (1) The (~~department of social and health services~~) health care
15 authority, mental health institutions, and other health care
16 facilities shall, upon request of a court or law enforcement agency,
17 supply such relevant information as is necessary to determine the
18 eligibility of a person to possess a pistol or to be issued a
19 concealed pistol license under RCW 9.41.070 or to purchase a pistol
20 under RCW 9.41.090.

21 (2) Mental health information received by: (a) The department of
22 licensing pursuant to RCW 9.41.047 or 9.41.173; (b) an issuing
23 authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police
24 or sheriff pursuant to RCW 9.41.090 or 9.41.173; (d) a court or law
25 enforcement agency pursuant to subsection (1) of this section, shall
26 not be disclosed except as provided in RCW 42.56.240(4).

27 **Sec. 6006.** RCW 9.41.173 and 2017 c 174 s 2 are each amended to
28 read as follows:

29 (1) In order to obtain an alien firearm license, a nonimmigrant
30 alien residing in Washington must apply to the sheriff of the county
31 in which he or she resides.

32 (2) The sheriff of the county shall within sixty days after the
33 filing of an application of a nonimmigrant alien residing in the
34 state of Washington, issue an alien firearm license to such person to
35 carry or possess a firearm for the purposes of hunting and sport
36 shooting. The license shall be good for two years. The issuing
37 authority shall not refuse to accept completed applications for alien

1 firearm licenses during regular business hours. An application for a
2 license may not be denied, unless the applicant's alien firearm
3 license is in a revoked status, or the applicant:

4 (a) Is ineligible to possess a firearm under the provisions of
5 RCW 9.41.040 or 9.41.045;

6 (b) Is subject to a court order or injunction regarding firearms
7 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
8 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,
9 26.50.070, or 26.26.590;

10 (c) Is free on bond or personal recognizance pending trial,
11 appeal, or sentencing for a felony offense; or

12 (d) Has an outstanding warrant for his or her arrest from any
13 court of competent jurisdiction for a felony or misdemeanor.

14 No license application shall be granted to a nonimmigrant alien
15 convicted of a felony unless the person has been granted relief from
16 disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or
17 unless RCW 9.41.040 (3) or (4) applies.

18 (3) The sheriff shall check with the national crime information
19 center, the Washington state patrol electronic database, the
20 (~~department of social and health services~~) health care authority
21 electronic database, and with other agencies or resources as
22 appropriate, to determine whether the applicant is ineligible under
23 RCW 9.41.040 or 9.41.045 to possess a firearm.

24 (4) The license application shall bear the full name, residential
25 address, telephone number at the option of the applicant, date and
26 place of birth, race, gender, description, a complete set of
27 fingerprints, and signature of the applicant, a copy of the
28 applicant's passport and visa showing the applicant is in the country
29 legally, and a valid Washington hunting license or documentation that
30 the applicant is a member of a sport shooting club.

31 A signed application for an alien firearm license shall
32 constitute a waiver of confidentiality and written request that the
33 (~~department of social and health services~~) health care authority,
34 mental health institutions, and other health care facilities release
35 information relevant to the applicant's eligibility for an alien
36 firearm license to an inquiring court or law enforcement agency.

37 The application for an original license shall include a complete
38 set of fingerprints to be forwarded to the Washington state patrol.

39 The license and application shall contain a warning substantially
40 as follows:

1 CAUTION: Although state and local laws do not differ, federal
2 law and state law on the possession of firearms differ. If
3 you are prohibited by federal law from possessing a firearm,
4 you may be prosecuted in federal court. A state license is
5 not a defense to a federal prosecution.

6 The license shall contain a description of the major differences
7 between state and federal law and an explanation of the fact that
8 local laws and ordinances on firearms are preempted by state law and
9 must be consistent with state law. The application shall contain
10 questions about the applicant's eligibility under RCW 9.41.040 to
11 possess a firearm. The nonimmigrant alien applicant shall be required
12 to produce a passport and visa as evidence of being in the country
13 legally.

14 The license may be in triplicate or in a form to be prescribed by
15 the department of licensing. The original thereof shall be delivered
16 to the licensee, the duplicate shall within seven days be sent to the
17 director of licensing and the triplicate shall be preserved for six
18 years, by the authority issuing the license.

19 The department of licensing shall make available to law
20 enforcement and corrections agencies, in an online format, all
21 information received under this section.

22 (5) The sheriff has the authority to collect a nonrefundable fee,
23 paid upon application, for the two-year license. The fee shall be
24 fifty dollars plus additional charges imposed by the Washington state
25 patrol and the federal bureau of investigation that are passed on to
26 the applicant. No other state or local branch or unit of government
27 may impose any additional charges on the applicant for the issuance
28 of the license. The fee shall be retained by the sheriff.

29 (6) Payment shall be by cash, check, or money order at the option
30 of the applicant. Additional methods of payment may be allowed at the
31 option of the sheriff.

32 (7) A political subdivision of the state shall not modify the
33 requirements of this section, nor may a political subdivision ask the
34 applicant to voluntarily submit any information not required by this
35 section.

36 (8) A person who knowingly makes a false statement regarding
37 citizenship or identity on an application for an alien firearm
38 license is guilty of false swearing under RCW 9A.72.040. In addition
39 to any other penalty provided for by law, the alien firearm license

1 of a person who knowingly makes a false statement shall be revoked,
2 and the person shall be permanently ineligible for an alien firearm
3 license.

4 **Sec. 6007.** RCW 9.41.300 and 2011 c 221 s 2 are each amended to
5 read as follows:

6 (1) It is unlawful for any person to enter the following places
7 when he or she knowingly possesses or knowingly has under his or her
8 control a weapon:

9 (a) The restricted access areas of a jail, or of a law
10 enforcement facility, or any place used for the confinement of a
11 person (i) arrested for, charged with, or convicted of an offense,
12 (ii) held for extradition or as a material witness, or (iii)
13 otherwise confined pursuant to an order of a court, except an order
14 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
15 include common areas of egress or ingress open to the general public;

16 (b) Those areas in any building which are used in connection with
17 court proceedings, including courtrooms, jury rooms, judge's
18 chambers, offices and areas used to conduct court business, waiting
19 areas, and corridors adjacent to areas used in connection with court
20 proceedings. The restricted areas do not include common areas of
21 ingress and egress to the building that is used in connection with
22 court proceedings, when it is possible to protect court areas without
23 restricting ingress and egress to the building. The restricted areas
24 shall be the minimum necessary to fulfill the objective of this
25 subsection (1)(b).

26 For purposes of this subsection (1)(b), "weapon" means any
27 firearm, explosive as defined in RCW 70.74.010, or any weapon of the
28 kind usually known as slung shot, sand club, or metal knuckles, or
29 any knife, dagger, dirk, or other similar weapon that is capable of
30 causing death or bodily injury and is commonly used with the intent
31 to cause death or bodily injury.

32 In addition, the local legislative authority shall provide either
33 a stationary locked box sufficient in size for pistols and key to a
34 weapon owner for weapon storage, or shall designate an official to
35 receive weapons for safekeeping, during the owner's visit to
36 restricted areas of the building. The locked box or designated
37 official shall be located within the same building used in connection
38 with court proceedings. The local legislative authority shall be
39 liable for any negligence causing damage to or loss of a weapon

1 either placed in a locked box or left with an official during the
2 owner's visit to restricted areas of the building.

3 The local judicial authority shall designate and clearly mark
4 those areas where weapons are prohibited, and shall post notices at
5 each entrance to the building of the prohibition against weapons in
6 the restricted areas;

7 (c) The restricted access areas of a public mental health
8 facility certified by the department of (~~social—and~~) health
9 (~~services~~) for inpatient hospital care and state institutions for
10 the care of the mentally ill, excluding those facilities solely for
11 evaluation and treatment. Restricted access areas do not include
12 common areas of egress and ingress open to the general public;

13 (d) That portion of an establishment classified by the state
14 liquor (~~control~~) and cannabis board as off-limits to persons under
15 twenty-one years of age; or

16 (e) The restricted access areas of a commercial service airport
17 designated in the airport security plan approved by the federal
18 transportation security administration, including passenger screening
19 checkpoints at or beyond the point at which a passenger initiates the
20 screening process. These areas do not include airport drives, general
21 parking areas and walkways, and shops and areas of the terminal that
22 are outside the screening checkpoints and that are normally open to
23 unscreened passengers or visitors to the airport. Any restricted
24 access area shall be clearly indicated by prominent signs indicating
25 that firearms and other weapons are prohibited in the area.

26 (2) Cities, towns, counties, and other municipalities may enact
27 laws and ordinances:

28 (a) Restricting the discharge of firearms in any portion of their
29 respective jurisdictions where there is a reasonable likelihood that
30 humans, domestic animals, or property will be jeopardized. Such laws
31 and ordinances shall not abridge the right of the individual
32 guaranteed by Article I, section 24 of the state Constitution to bear
33 arms in defense of self or others; and

34 (b) Restricting the possession of firearms in any stadium or
35 convention center, operated by a city, town, county, or other
36 municipality, except that such restrictions shall not apply to:

37 (i) Any pistol in the possession of a person licensed under RCW
38 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

39 (ii) Any showing, demonstration, or lecture involving the
40 exhibition of firearms.

1 (3)(a) Cities, towns, and counties may enact ordinances
2 restricting the areas in their respective jurisdictions in which
3 firearms may be sold, but, except as provided in (b) of this
4 subsection, a business selling firearms may not be treated more
5 restrictively than other businesses located within the same zone. An
6 ordinance requiring the cessation of business within a zone shall not
7 have a shorter grandfather period for businesses selling firearms
8 than for any other businesses within the zone.

9 (b) Cities, towns, and counties may restrict the location of a
10 business selling firearms to not less than five hundred feet from
11 primary or secondary school grounds, if the business has a
12 storefront, has hours during which it is open for business, and posts
13 advertisements or signs observable to passersby that firearms are
14 available for sale. A business selling firearms that exists as of the
15 date a restriction is enacted under this subsection (3)(b) shall be
16 grandfathered according to existing law.

17 (4) Violations of local ordinances adopted under subsection (2)
18 of this section must have the same penalty as provided for by state
19 law.

20 (5) The perimeter of the premises of any specific location
21 covered by subsection (1) of this section shall be posted at
22 reasonable intervals to alert the public as to the existence of any
23 law restricting the possession of firearms on the premises.

24 (6) Subsection (1) of this section does not apply to:

25 (a) A person engaged in military activities sponsored by the
26 federal or state governments, while engaged in official duties;

27 (b) Law enforcement personnel, except that subsection (1)(b) of
28 this section does apply to a law enforcement officer who is present
29 at a courthouse building as a party to an action under chapter 10.14,
30 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
31 has alleged the existence of domestic violence as defined in RCW
32 26.50.010; or

33 (c) Security personnel while engaged in official duties.

34 (7) Subsection (1)(a), (b), (c), and (e) of this section does not
35 apply to correctional personnel or community corrections officers, as
36 long as they are employed as such, who have completed government-
37 sponsored law enforcement firearms training, except that subsection
38 (1)(b) of this section does apply to a correctional employee or
39 community corrections officer who is present at a courthouse building
40 as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or

1 an action under Title 26 RCW where any party has alleged the
2 existence of domestic violence as defined in RCW 26.50.010.

3 (8) Subsection (1)(a) of this section does not apply to a person
4 licensed pursuant to RCW 9.41.070 who, upon entering the place or
5 facility, directly and promptly proceeds to the administrator of the
6 facility or the administrator's designee and obtains written
7 permission to possess the firearm while on the premises or checks his
8 or her firearm. The person may reclaim the firearms upon leaving but
9 must immediately and directly depart from the place or facility.

10 (9) Subsection (1)(c) of this section does not apply to any
11 administrator or employee of the facility or to any person who, upon
12 entering the place or facility, directly and promptly proceeds to the
13 administrator of the facility or the administrator's designee and
14 obtains written permission to possess the firearm while on the
15 premises.

16 (10) Subsection (1)(d) of this section does not apply to the
17 proprietor of the premises or his or her employees while engaged in
18 their employment.

19 (11) Government-sponsored law enforcement firearms training must
20 be training that correctional personnel and community corrections
21 officers receive as part of their job requirement and reference to
22 such training does not constitute a mandate that it be provided by
23 the correctional facility.

24 (12) Any person violating subsection (1) of this section is
25 guilty of a gross misdemeanor.

26 (13) "Weapon" as used in this section means any firearm,
27 explosive as defined in RCW 70.74.010, or instrument or weapon listed
28 in RCW 9.41.250.

29 **PART 7**

30 **Sec. 7001.** RCW 41.05.015 and 2011 1st sp.s. c 15 s 55 are each
31 amended to read as follows:

32 The director shall designate a medical director who is licensed
33 under chapter 18.57 or 18.71 RCW. The director shall also appoint
34 such professional personnel and other assistants and employees,
35 including professional medical screeners, as may be reasonably
36 necessary to carry out the provisions of this chapter and chapter
37 74.09 RCW and other applicable law. The medical screeners must be

1 supervised by one or more physicians whom the director or the
2 director's designee shall appoint.

3 **Sec. 7002.** RCW 41.05.021 and 2017 3rd sp.s. c 13 s 803 are each
4 amended to read as follows:

5 (1) The Washington state health care authority is created within
6 the executive branch. The authority shall have a director appointed
7 by the governor, with the consent of the senate. The director shall
8 serve at the pleasure of the governor. The director may employ a
9 deputy director, and such assistant directors and special assistants
10 as may be needed to administer the authority, who shall be exempt
11 from chapter 41.06 RCW, and any additional staff members as are
12 necessary to administer this chapter. The director may delegate any
13 power or duty vested in him or her by law, including authority to
14 make final decisions and enter final orders in hearings conducted
15 under chapter 34.05 RCW. The primary duties of the authority shall be
16 to: Administer insurance benefits for state employees, retired or
17 disabled state and school employees, and subject to school employees'
18 benefits board direction, school employees; administer the basic
19 health plan pursuant to chapter 70.47 RCW; administer the children's
20 health program pursuant to chapter 74.09 RCW; study state purchased
21 health care programs in order to maximize cost containment in these
22 programs while ensuring access to quality health care; implement
23 state initiatives, joint purchasing strategies, and techniques for
24 efficient administration that have potential application to all
25 state-purchased health services; and administer grants that further
26 the mission and goals of the authority. The authority's duties
27 include, but are not limited to, the following:

28 (a) To administer health care benefit programs for state
29 employees, retired or disabled state and school employees, and
30 subject to school employees' benefits board direction, school
31 employees as specifically authorized in RCW 41.05.065 and 41.05.740
32 and in accordance with the methods described in RCW 41.05.075,
33 41.05.140, and other provisions of this chapter;

34 (b) To analyze state purchased health care programs and to
35 explore options for cost containment and delivery alternatives for
36 those programs that are consistent with the purposes of those
37 programs, including, but not limited to:

38 (i) Creation of economic incentives for the persons for whom the
39 state purchases health care to appropriately utilize and purchase

1 health care services, including the development of flexible benefit
2 plans to offset increases in individual financial responsibility;

3 (ii) Utilization of provider arrangements that encourage cost
4 containment, including but not limited to prepaid delivery systems,
5 utilization review, and prospective payment methods, and that ensure
6 access to quality care, including assuring reasonable access to local
7 providers, especially for employees residing in rural areas;

8 (iii) Coordination of state agency efforts to purchase drugs
9 effectively as provided in RCW 70.14.050;

10 (iv) Development of recommendations and methods for purchasing
11 medical equipment and supporting services on a volume discount basis;

12 (v) Development of data systems to obtain utilization data from
13 state purchased health care programs in order to identify cost
14 centers, utilization patterns, provider and hospital practice
15 patterns, and procedure costs, utilizing the information obtained
16 pursuant to RCW 41.05.031; and

17 (vi) In collaboration with other state agencies that administer
18 state purchased health care programs, private health care purchasers,
19 health care facilities, providers, and carriers:

20 (A) Use evidence-based medicine principles to develop common
21 performance measures and implement financial incentives in contracts
22 with insuring entities, health care facilities, and providers that:

23 (I) Reward improvements in health outcomes for individuals with
24 chronic diseases, increased utilization of appropriate preventive
25 health services, and reductions in medical errors; and

26 (II) Increase, through appropriate incentives to insuring
27 entities, health care facilities, and providers, the adoption and use
28 of information technology that contributes to improved health
29 outcomes, better coordination of care, and decreased medical errors;

30 (B) Through state health purchasing, reimbursement, or pilot
31 strategies, promote and increase the adoption of health information
32 technology systems, including electronic medical records, by
33 hospitals as defined in RCW 70.41.020, integrated delivery systems,
34 and providers that:

35 (I) Facilitate diagnosis or treatment;

36 (II) Reduce unnecessary duplication of medical tests;

37 (III) Promote efficient electronic physician order entry;

38 (IV) Increase access to health information for consumers and
39 their providers; and

40 (V) Improve health outcomes;

1 (C) Coordinate a strategy for the adoption of health information
2 technology systems using the final health information technology
3 report and recommendations developed under chapter 261, Laws of 2005;

4 (c) To analyze areas of public and private health care
5 interaction;

6 (d) To provide information and technical and administrative
7 assistance to the board and the school employees' benefits board;

8 (e) To review and approve or deny applications from counties,
9 municipalities, and other political subdivisions of the state to
10 provide state-sponsored insurance or self-insurance programs to their
11 employees in accordance with the provisions of RCW 41.04.205 and (g)
12 of this subsection, setting the premium contribution for approved
13 groups as outlined in RCW 41.05.050;

14 (f) To review and approve or deny the application when the
15 governing body of a tribal government applies to transfer their
16 employees to an insurance or self-insurance program administered
17 under this chapter. In the event of an employee transfer pursuant to
18 this subsection (1)(f), members of the governing body are eligible to
19 be included in such a transfer if the members are authorized by the
20 tribal government to participate in the insurance program being
21 transferred from and subject to payment by the members of all costs
22 of insurance for the members. The authority shall: (i) Establish the
23 conditions for participation; (ii) have the sole right to reject the
24 application; and (iii) set the premium contribution for approved
25 groups as outlined in RCW 41.05.050. Approval of the application by
26 the authority transfers the employees and dependents involved to the
27 insurance, self-insurance, or health care program approved by the
28 authority;

29 (g) To ensure the continued status of the employee insurance or
30 self-insurance programs administered under this chapter as a
31 governmental plan under section 3(32) of the employee retirement
32 income security act of 1974, as amended, the authority shall limit
33 the participation of employees of a county, municipal, school
34 district, educational service district, or other political
35 subdivision, the Washington health benefit exchange, or a tribal
36 government, including providing for the participation of those
37 employees whose services are substantially all in the performance of
38 essential governmental functions, but not in the performance of
39 commercial activities;

1 (h) To establish billing procedures and collect funds from school
2 districts in a way that minimizes the administrative burden on
3 districts;

4 (i) Through December 31, 2019, to publish and distribute to
5 nonparticipating school districts and educational service districts
6 by October 1st of each year a description of health care benefit
7 plans available through the authority and the estimated cost if
8 school districts and educational service district employees were
9 enrolled;

10 (j) To apply for, receive, and accept grants, gifts, and other
11 payments, including property and service, from any governmental or
12 other public or private entity or person, and make arrangements as to
13 the use of these receipts to implement initiatives and strategies
14 developed under this section;

15 (k) To issue, distribute, and administer grants that further the
16 mission and goals of the authority;

17 (l) To adopt rules consistent with this chapter as described in
18 RCW 41.05.160 including, but not limited to:

19 (i) Setting forth the criteria established by the board under RCW
20 41.05.065, and by the school employees' benefits board under RCW
21 41.05.740, for determining whether an employee is eligible for
22 benefits;

23 (ii) Establishing an appeal process in accordance with chapter
24 34.05 RCW by which an employee may appeal an eligibility
25 determination;

26 (iii) Establishing a process to assure that the eligibility
27 determinations of an employing agency comply with the criteria under
28 this chapter, including the imposition of penalties as may be
29 authorized by the board or the school employees' benefits board;

30 (m)(i) To administer the medical services programs established
31 under chapter 74.09 RCW as the designated single state agency for
32 purposes of Title XIX of the federal social security act;

33 (ii) To administer the state children's health insurance program
34 under chapter 74.09 RCW for purposes of Title XXI of the federal
35 social security act;

36 (iii) To enter into agreements with the department of social and
37 health services for administration of medical care services programs
38 under Titles XIX and XXI of the social security act and programs
39 under chapters 71.05, 71.24, and 71.34 RCW. The agreements shall
40 establish the division of responsibilities between the authority and

1 the department with respect to mental health, chemical dependency,
2 and long-term care services, including services for persons with
3 developmental disabilities. The agreements shall be revised as
4 necessary, to comply with the final implementation plan adopted under
5 section 116, chapter 15, Laws of 2011 1st sp. sess.;

6 (iv) To adopt rules to carry out the purposes of chapter 74.09
7 RCW;

8 (v) To appoint such advisory committees or councils as may be
9 required by any federal statute or regulation as a condition to the
10 receipt of federal funds by the authority. The director may appoint
11 statewide committees or councils in the following subject areas: (A)
12 Health facilities; (B) children and youth services; (C) blind
13 services; (D) medical and health care; (E) drug abuse and alcoholism;
14 (F) rehabilitative services; and (G) such other subject matters as
15 are or come within the authority's responsibilities. The statewide
16 councils shall have representation from both major political parties
17 and shall have substantial consumer representation. Such committees
18 or councils shall be constituted as required by federal law or as the
19 director in his or her discretion may determine. The members of the
20 committees or councils shall hold office for three years except in
21 the case of a vacancy, in which event appointment shall be only for
22 the remainder of the unexpired term for which the vacancy occurs. No
23 member shall serve more than two consecutive terms. Members of such
24 state advisory committees or councils may be paid their travel
25 expenses in accordance with RCW 43.03.050 and 43.03.060 as now
26 existing or hereafter amended;

27 (n) To review and approve or deny the application from the
28 governing board of the Washington health benefit exchange to provide
29 state-sponsored insurance or self-insurance programs to employees of
30 the exchange. The authority shall (i) establish the conditions for
31 participation; (ii) have the sole right to reject an application; and
32 (iii) set the premium contribution for approved groups as outlined in
33 RCW 41.05.050.

34 (2) (~~On and after January 1, 1996,~~) The public employees'
35 benefits board and the school employees' benefits board (~~(beginning~~
36 ~~October 1, 2017,~~) may implement strategies to promote managed
37 competition among employee health benefit plans. Strategies may
38 include but are not limited to:

39 (a) Standardizing the benefit package;

40 (b) Soliciting competitive bids for the benefit package;

1 (c) Limiting the state's contribution to a percent of the lowest
2 priced qualified plan within a geographical area;

3 (d) Monitoring the impact of the approach under this subsection
4 with regards to: Efficiencies in health service delivery, cost shifts
5 to subscribers, access to and choice of managed care plans statewide,
6 and quality of health services. The health care authority shall also
7 advise on the value of administering a benchmark employer-managed
8 plan to promote competition among managed care plans.

9 **Sec. 7003.** RCW 41.05A.005 and 2011 1st sp.s. c 15 s 88 are each
10 amended to read as follows:

11 The purpose of this chapter is to provide the health care
12 authority with the powers, duties, and authority with respect to the
13 collection of overpayments and the coordination of benefits that are
14 currently provided to the department of social and health services in
15 chapter 43.20B RCW. Providing the health care authority with these
16 powers is necessary for the authority to administer medical services
17 programs established under chapter 74.09 RCW currently administered
18 by the department of social and health services programs but
19 transferred to the authority under chapter 15, Laws of 2011 1st sp.
20 sess., and programs transferred to the authority under chapter . . . ,
21 Laws of 2018 (this act). The authority is authorized to collaborate
22 with other state agencies in carrying out its duties under this
23 chapter and, to the extent appropriate, may enter into agreements
24 with such other agencies. Nothing in this chapter may be construed as
25 diminishing the powers, duties, and authority granted to the
26 department of social and health services in chapter 43.20B RCW with
27 respect to the programs that will remain under its jurisdiction
28 following enactment of chapter 15, Laws of 2011 1st sp. sess. and
29 chapter . . . , Laws of 2018 (this act).

30 **Sec. 7004.** RCW 74.09.050 and 2011 1st sp.s. c 15 s 5 are each
31 amended to read as follows:

32 (1) The director shall appoint such professional personnel and
33 other assistants and employees, including professional medical
34 screeners, as may be reasonably necessary to carry out the provisions
35 of this chapter or other applicable law. The medical screeners shall
36 be supervised by one or more physicians who shall be appointed by the
37 director or his or her designee. The director shall appoint a medical
38 director who is licensed under chapter 18.57 or 18.71 RCW.

1 (2) Whenever the director's authority is not specifically limited
2 by law, he or she has complete charge and supervisory powers over the
3 authority. The director is authorized to create such administrative
4 structures as deemed appropriate, except as otherwise specified by
5 law. The director has the power to employ such assistants and
6 personnel as may be necessary for the general administration of the
7 authority. Except as elsewhere specified, such employment must be in
8 accordance with the rules of the state civil service law, chapter
9 41.06 RCW.

10 **Sec. 7005.** RCW 74.09.055 and 2011 1st sp.s. c 15 s 6 are each
11 amended to read as follows:

12 The authority is authorized to establish copayment, deductible,
13 or coinsurance, or other cost-sharing requirements for recipients of
14 any medical programs defined in RCW 74.09.010 or other applicable
15 law, except that premiums shall not be imposed on children in
16 households at or below two hundred percent of the federal poverty
17 level.

18 **Sec. 7006.** RCW 74.09.080 and 2011 1st sp.s. c 15 s 8 are each
19 amended to read as follows:

20 In carrying out the administrative responsibility of this chapter
21 or other applicable law, the department or authority, as appropriate:

22 (1) May contract with an individual or a group, may utilize
23 existing local state public assistance offices, or establish separate
24 welfare medical care offices on a county or multicounty unit basis as
25 found necessary; and

26 (2) Shall determine both financial and functional eligibility for
27 persons applying for long-term care services under chapter 74.39 or
28 74.39A RCW as a unified process in a single long-term care
29 organizational unit.

30 **Sec. 7007.** RCW 74.09.120 and 2012 c 10 s 60 are each amended to
31 read as follows:

32 (1) The department shall purchase nursing home care by contract
33 and payment for the care shall be in accordance with the provisions
34 of chapter 74.46 RCW and rules adopted by the department. No payment
35 shall be made to a nursing home which does not permit inspection by
36 the authority and the department of every part of its premises and an
37 examination of all records, including financial records, methods of

1 administration, general and special dietary programs, the
2 disbursement of drugs and methods of supply, and any other records
3 the authority or the department deems relevant to the regulation of
4 nursing home operations, enforcement of standards for resident care,
5 and payment for nursing home services.

6 (2) The department may purchase nursing home care by contract in
7 veterans' homes operated by the state department of veterans affairs
8 and payment for the care shall be in accordance with the provisions
9 of chapter 74.46 RCW and rules adopted by the department under the
10 authority of RCW 74.46.800.

11 (3) The department may purchase care in institutions for persons
12 with intellectual disabilities, also known as intermediate care
13 facilities for persons with intellectual disabilities. The department
14 shall establish rules for reasonable accounting and reimbursement
15 systems for such care. Institutions for persons with intellectual
16 disabilities include licensed nursing homes, public institutions,
17 licensed assisted living facilities with fifteen beds or less, and
18 hospital facilities certified as intermediate care facilities for
19 persons with intellectual disabilities under the federal medicaid
20 program to provide health, habilitative, or rehabilitative services
21 and twenty-four hour supervision for persons with intellectual
22 disabilities or related conditions and includes in the program
23 "active treatment" as federally defined.

24 (4) The department may purchase care in institutions for mental
25 diseases by contract. The department shall establish rules for
26 reasonable accounting and reimbursement systems for such care.
27 Institutions for mental diseases are certified under the federal
28 medicaid program and primarily engaged in providing diagnosis,
29 treatment, or care to persons with mental diseases, including medical
30 attention, nursing care, and related services.

31 (5) Both the department and the authority may each purchase all
32 other services provided under this chapter or other applicable law by
33 contract or at rates established by the department or the authority
34 respectively.

35 **Sec. 7008.** RCW 74.09.160 and 2011 1st sp.s. c 15 s 10 are each
36 amended to read as follows:

37 Each vendor or group who has a contract and is rendering service
38 to eligible persons as defined in this chapter or other applicable
39 law shall submit such charges as agreed upon between the department

1 or authority, as appropriate, and the individual or group no later
2 than twelve months from the date of service. If the final charges are
3 not presented within the twelve-month period, they shall not be a
4 charge against the state. Said twelve-month period may also be
5 extended by regulation, but only if required by applicable federal
6 law or regulation, and to no more than the extension of time so
7 required.

8 **Sec. 7009.** RCW 74.09.210 and 2013 c 23 s 202 are each amended to
9 read as follows:

10 (1) No person, firm, corporation, partnership, association,
11 agency, institution, or other legal entity, but not including an
12 individual public assistance recipient of health care, shall, on
13 behalf of himself or herself or others, obtain or attempt to obtain
14 benefits or payments under this chapter or other applicable law in a
15 greater amount than that to which entitled by means of:

16 (a) A willful false statement;

17 (b) By willful misrepresentation, or by concealment of any
18 material facts; or

19 (c) By other fraudulent scheme or device, including, but not
20 limited to:

21 (i) Billing for services, drugs, supplies, or equipment that were
22 unfurnished, of lower quality, or a substitution or misrepresentation
23 of items billed; or

24 (ii) Repeated billing for purportedly covered items, which were
25 not in fact so covered.

26 (2) Any person or entity knowingly violating any of the
27 provisions of subsection (1) of this section shall be liable for
28 repayment of any excess benefits or payments received, plus interest
29 at the rate and in the manner provided in RCW 43.20B.695. Such person
30 or other entity shall further, in addition to any other penalties
31 provided by law, be subject to civil penalties. The director or the
32 attorney general may assess civil penalties in an amount not to
33 exceed three times the amount of such excess benefits or payments:
34 PROVIDED, That these civil penalties shall not apply to any acts or
35 omissions occurring prior to September 1, 1979. RCW 43.20A.215
36 governs notice of a civil fine assessed by the director and provides
37 the right to an adjudicative proceeding.

38 (3) A criminal action need not be brought against a person for
39 that person to be civilly liable under this section.

1 (4) In all administrative proceedings under this section,
2 service, adjudicative proceedings, and judicial review of such
3 determinations shall be in accordance with chapter 34.05 RCW, the
4 administrative procedure act.

5 (5) Civil penalties shall be deposited upon their receipt into
6 the medicaid fraud penalty account established in RCW 74.09.215.

7 (6) The attorney general may contract with private attorneys and
8 local governments in bringing actions under this section as
9 necessary.

10 **Sec. 7010.** RCW 74.09.220 and 1987 c 283 s 8 are each amended to
11 read as follows:

12 Any person, firm, corporation, partnership, association, agency,
13 institution or other legal entity, but not including an individual
14 public assistance recipient of health care, that, without intent to
15 violate this chapter or other applicable law, obtains benefits or
16 payments under this code to which such person or entity is not
17 entitled, or in a greater amount than that to which entitled, shall
18 be liable for (1) any excess benefits or payments received, and (2)
19 interest calculated at the rate and in the manner provided in RCW
20 43.20B.695. Whenever a penalty is due under RCW 74.09.210 or interest
21 is due under RCW 43.20B.695, such penalty or interest shall not be
22 reimbursable by the state as an allowable cost under any of the
23 provisions of this chapter or other applicable law.

24 **Sec. 7011.** RCW 74.09.230 and 2013 c 23 s 203 are each amended to
25 read as follows:

26 Any person, including any corporation, that

27 (1) knowingly makes or causes to be made any false statement or
28 representation of a material fact in any application for any payment
29 under any medical care program authorized under this chapter or other
30 applicable law, or

31 (2) at any time knowingly makes or causes to be made any false
32 statement or representation of a material fact for use in determining
33 rights to such payment, or knowingly falsifies, conceals, or covers
34 up by any trick, scheme, or device a material fact in connection with
35 such application or payment, or

36 (3) having knowledge of the occurrence of any event affecting (a)
37 the initial or continued right to any payment, or (b) the initial or
38 continued right to any such payment of any other individual in whose

1 behalf he or she has applied for or is receiving such payment,
2 conceals or fails to disclose such event with an intent fraudulently
3 to secure such payment either in a greater amount or quantity than is
4 due or when no such payment is authorized,
5 shall be guilty of a class C felony: PROVIDED, That the fine, if
6 imposed, shall not be in an amount more than twenty-five thousand
7 dollars, except as authorized by RCW 9A.20.030.

8 **Sec. 7012.** RCW 74.09.240 and 2011 1st sp.s. c 15 s 16 are each
9 amended to read as follows:

10 (1) Any person, including any corporation, that solicits or
11 receives any remuneration (including any kickback, bribe, or rebate)
12 directly or indirectly, overtly or covertly, in cash or in kind

13 (a) in return for referring an individual to a person for the
14 furnishing or arranging for the furnishing of any item or service for
15 which payment may be made in whole or in part under this chapter or
16 other applicable law, or

17 (b) in return for purchasing, leasing, ordering, or arranging for
18 or recommending purchasing, leasing, or ordering any goods, facility,
19 service, or item for which payment may be made in whole or in part
20 under this chapter or other applicable law,
21 shall be guilty of a class C felony; however, the fine, if imposed,
22 shall not be in an amount more than twenty-five thousand dollars,
23 except as authorized by RCW 9A.20.030.

24 (2) Any person, including any corporation, that offers or pays
25 any remuneration (including any kickback, bribe, or rebate) directly
26 or indirectly, overtly or covertly, in cash or in kind to any person
27 to induce such person

28 (a) to refer an individual to a person for the furnishing or
29 arranging for the furnishing of any item or service for which payment
30 may be made, in whole or in part, under this chapter or other
31 applicable law, or

32 (b) to purchase, lease, order, or arrange for or recommend
33 purchasing, leasing, or ordering any goods, facility, service, or
34 item for which payment may be made in whole or in part under this
35 chapter or other applicable law,
36 shall be guilty of a class C felony; however, the fine, if imposed,
37 shall not be in an amount more than twenty-five thousand dollars,
38 except as authorized by RCW 9A.20.030.

1 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are
2 prohibited from self-referring any client eligible under this chapter
3 for the following designated health services to a facility in which
4 the physician or an immediate family member has a financial
5 relationship:

6 (i) Clinical laboratory services;

7 (ii) Physical therapy services;

8 (iii) Occupational therapy services;

9 (iv) Radiology including magnetic resonance imaging, computerized
10 axial tomography, and ultrasound services;

11 (v) Durable medical equipment and supplies;

12 (vi) Parenteral and enteral nutrients equipment and supplies;

13 (vii) Prosthetics, orthotics, and prosthetic devices;

14 (viii) Home health services;

15 (ix) Outpatient prescription drugs;

16 (x) Inpatient and outpatient hospital services;

17 (xi) Radiation therapy services and supplies.

18 (b) For purposes of this subsection, "financial relationship"
19 means the relationship between a physician and an entity that
20 includes either:

21 (i) An ownership or investment interest; or

22 (ii) A compensation arrangement.

23 For purposes of this subsection, "compensation arrangement" means
24 an arrangement involving remuneration between a physician, or an
25 immediate family member of a physician, and an entity.

26 (c) The department or authority, as appropriate, is authorized to
27 adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23,
28 1995.

29 (d) This section shall not apply in any case covered by a general
30 exception specified in 42 U.S.C. Sec. 1395 nn.

31 (4) Subsections (1) and (2) of this section shall not apply to:

32 (a) A discount or other reduction in price obtained by a provider
33 of services or other entity under this chapter or other applicable
34 law if the reduction in price is properly disclosed and appropriately
35 reflected in the costs claimed or charges made by the provider or
36 entity under this chapter or other applicable law; and

37 (b) Any amount paid by an employer to an employee (who has a bona
38 fide employment relationship with such employer) for employment in
39 the provision of covered items or services.

1 (5) Subsections (1) and (2) of this section, if applicable to the
2 conduct involved, shall supersede the criminal provisions of chapter
3 19.68 RCW, but shall not preclude administrative proceedings
4 authorized by chapter 19.68 RCW.

5 **Sec. 7013.** RCW 74.09.260 and 2011 1st sp.s. c 15 s 17 are each
6 amended to read as follows:

7 Any person, including any corporation, that knowingly:

8 (1) Charges, for any service provided to a patient under any
9 medical care plan authorized under this chapter or other applicable
10 law, money or other consideration at a rate in excess of the rates
11 established by the department or authority, as appropriate; or

12 (2) Charges, solicits, accepts, or receives, in addition to any
13 amount otherwise required to be paid under such plan, any gift,
14 money, donation, or other consideration (other than a charitable,
15 religious, or philanthropic contribution from an organization or from
16 a person unrelated to the patient):

17 (a) As a precondition of admitting a patient to a hospital or
18 nursing facility; or

19 (b) As a requirement for the patient's continued stay in such
20 facility,

21 when the cost of the services provided therein to the patient is paid
22 for, in whole or in part, under such plan, shall be guilty of a class
23 C felony: PROVIDED, That the fine, if imposed, shall not be in an
24 amount more than twenty-five thousand dollars, except as authorized
25 by RCW 9A.20.030.

26 **Sec. 7014.** RCW 74.09.280 and 2011 1st sp.s. c 15 s 18 are each
27 amended to read as follows:

28 The secretary or director may by rule require that any
29 application, statement, or form filled out by suppliers of medical
30 care under this chapter or other applicable law shall contain or be
31 verified by a written statement that it is made under the penalties
32 of perjury and such declaration shall be in lieu of any oath
33 otherwise required, and each such paper shall in such event so state.
34 The making or subscribing of any such papers or forms containing any
35 false or misleading information may be prosecuted and punished under
36 chapter 9A.72 RCW.

1 **Sec. 7015.** RCW 74.09.290 and 2011 1st sp.s. c 15 s 19 are each
2 amended to read as follows:

3 The secretary or director shall have the authority to:

4 (1) Conduct audits and investigations of providers of medical and
5 other services furnished pursuant to this chapter or other applicable
6 law, except that the Washington state medical quality assurance
7 commission shall generally serve in an advisory capacity to the
8 secretary or director in the conduct of audits or investigations of
9 physicians. Any overpayment discovered as a result of an audit of a
10 provider under this authority shall be offset by any underpayments
11 discovered in that same audit sample. In order to determine the
12 provider's actual, usual, customary, or prevailing charges, the
13 secretary or director may examine such random representative records
14 as necessary to show accounts billed and accounts received except
15 that in the conduct of such examinations, patient names, other than
16 public assistance applicants or recipients, shall not be noted,
17 copied, or otherwise made available to the department or authority.
18 In order to verify costs incurred by the department or authority for
19 treatment of public assistance applicants or recipients, the
20 secretary or director may examine patient records or portions thereof
21 in connection with services to such applicants or recipients rendered
22 by a health care provider, notwithstanding the provisions of RCW
23 5.60.060, 18.53.200, 18.83.110, or any other statute which may make
24 or purport to make such records privileged or confidential: PROVIDED,
25 That no original patient records shall be removed from the premises
26 of the health care provider, and that the disclosure of any records
27 or information by the department or the authority is prohibited and
28 shall be punishable as a class C felony according to chapter 9A.20
29 RCW, unless such disclosure is directly connected to the official
30 purpose for which the records or information were obtained: PROVIDED
31 FURTHER, That the disclosure of patient information as required under
32 this section shall not subject any physician or other health services
33 provider to any liability for breach of any confidential relationship
34 between the provider and the patient, but no evidence resulting from
35 such disclosure may be used in any civil, administrative, or criminal
36 proceeding against the patient unless a waiver of the applicable
37 evidentiary privilege is obtained: PROVIDED FURTHER, That the
38 secretary or director shall destroy all copies of patient medical
39 records in their possession upon completion of the audit,
40 investigation or proceedings;

1 (2) Approve or deny applications to participate as a provider of
2 services furnished pursuant to this chapter or other applicable law;

3 (3) Terminate or suspend eligibility to participate as a provider
4 of services furnished pursuant to this chapter or other applicable
5 law; and

6 (4) Adopt, promulgate, amend, and repeal administrative rules, in
7 accordance with the administrative procedure act, chapter 34.05 RCW,
8 to carry out the policies and purposes of this section and RCW
9 74.09.200 through ((74.09.290)) 74.09.280.

10 **Sec. 7016.** RCW 74.09.315 and 2012 c 241 s 104 are each amended
11 to read as follows:

12 (1) For the purposes of this section:

13 (a) "Employer" means any person, firm, corporation, partnership,
14 association, agency, institution, or other legal entity.

15 (b) "Whistleblower" means an employee of an employer that obtains
16 or attempts to obtain benefits or payments under this chapter or
17 other applicable law in violation of RCW 74.09.210, who in good faith
18 reports a violation of RCW 74.09.210 to the authority.

19 (c) "Workplace reprisal or retaliatory action" includes, but is
20 not limited to: Denial of adequate staff to fulfill duties; frequent
21 staff changes; frequent and undesirable office changes; refusal to
22 assign meaningful work; unwarranted and unsubstantiated report of
23 misconduct under Title 18 RCW; unwarranted and unsubstantiated
24 letters of reprimand or unsatisfactory performance evaluations;
25 demotion; reduction in pay; denial of promotion; suspension;
26 dismissal; denial of employment; ((or)) a supervisor or superior
27 behaving in or encouraging coworkers to behave in a hostile manner
28 toward the whistleblower; or a change in the physical location of the
29 employee's workplace or a change in the basic nature of the
30 employee's job, if either are in opposition to the employee's
31 expressed wish.

32 (2) A whistleblower who has been subjected to workplace reprisal
33 or retaliatory action has the remedies provided under chapter 49.60
34 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to
35 persons who communicate to government agencies, apply to complaints
36 made under this section. The identity of a whistleblower who
37 complains, in good faith, to the authority about a suspected
38 violation of RCW 74.09.210 may remain confidential if requested. The
39 identity of the whistleblower must subsequently remain confidential

1 unless the authority determines that the complaint was not made in
2 good faith.

3 (3) This section does not prohibit an employer from exercising
4 its authority to terminate, suspend, or discipline an employee who
5 engages in workplace reprisal or retaliatory action against a
6 whistleblower. The protections provided to whistleblowers under this
7 chapter do not prevent an employer from: (a) Terminating, suspending,
8 or disciplining a whistleblower for other lawful purposes; or (b)
9 reducing the hours of employment or terminating employment as a
10 result of the demonstrated inability to meet payroll requirements.
11 The authority shall determine if the employer cannot meet payroll in
12 cases where a whistleblower has been terminated or had hours of
13 employment reduced due to the inability of a facility to meet
14 payroll.

15 (4) The authority shall adopt rules to implement procedures for
16 filing, investigation, and resolution of whistleblower complaints
17 that are integrated with complaint procedures under this chapter. The
18 authority shall adopt rules designed to discourage whistleblower
19 complaints made in bad faith or for retaliatory purposes.

20 **Sec. 7017.** RCW 74.09.522 and 2015 c 256 s 1 are each amended to
21 read as follows:

22 (1) For the purposes of this section:

23 (a) "Managed health care system" means any health care
24 organization, including health care providers, insurers, health care
25 service contractors, health maintenance organizations, health
26 insuring organizations, or any combination thereof, that provides
27 directly or by contract health care services covered under this
28 chapter or other applicable law and rendered by licensed providers,
29 on a prepaid capitated basis and that meets the requirements of
30 section 1903(m)(1)(A) of Title XIX of the federal social security act
31 or federal demonstration waivers granted under section 1115(a) of
32 Title XI of the federal social security act;

33 (b) "Nonparticipating provider" means a person, health care
34 provider, practitioner, facility, or entity, acting within their
35 scope of practice, that does not have a written contract to
36 participate in a managed health care system's provider network, but
37 provides health care services to enrollees of programs authorized
38 under this chapter or other applicable law whose health care services
39 are provided by the managed health care system.

1 (2) The authority shall enter into agreements with managed health
2 care systems to provide health care services to recipients of
3 temporary assistance for needy families under the following
4 conditions:

5 (a) Agreements shall be made for at least thirty thousand
6 recipients statewide;

7 (b) Agreements in at least one county shall include enrollment of
8 all recipients of temporary assistance for needy families;

9 (c) To the extent that this provision is consistent with section
10 1903(m) of Title XIX of the federal social security act or federal
11 demonstration waivers granted under section 1115(a) of Title XI of
12 the federal social security act, recipients shall have a choice of
13 systems in which to enroll and shall have the right to terminate
14 their enrollment in a system: PROVIDED, That the authority may limit
15 recipient termination of enrollment without cause to the first month
16 of a period of enrollment, which period shall not exceed twelve
17 months: AND PROVIDED FURTHER, That the authority shall not restrict a
18 recipient's right to terminate enrollment in a system for good cause
19 as established by the authority by rule;

20 (d) To the extent that this provision is consistent with section
21 1903(m) of Title XIX of the federal social security act,
22 participating managed health care systems shall not enroll a
23 disproportionate number of medical assistance recipients within the
24 total numbers of persons served by the managed health care systems,
25 except as authorized by the authority under federal demonstration
26 waivers granted under section 1115(a) of Title XI of the federal
27 social security act;

28 (e)(i) In negotiating with managed health care systems the
29 authority shall adopt a uniform procedure to enter into contractual
30 arrangements, to be included in contracts issued or renewed on or
31 after January 1, 2015, including:

32 (A) Standards regarding the quality of services to be provided;

33 (B) The financial integrity of the responding system;

34 (C) Provider reimbursement methods that incentivize chronic care
35 management within health homes, including comprehensive medication
36 management services for patients with multiple chronic conditions
37 consistent with the findings and goals established in RCW 74.09.5223;

38 (D) Provider reimbursement methods that reward health homes that,
39 by using chronic care management, reduce emergency department and
40 inpatient use;

1 (E) Promoting provider participation in the program of training
2 and technical assistance regarding care of people with chronic
3 conditions described in RCW 43.70.533, including allocation of funds
4 to support provider participation in the training, unless the managed
5 care system is an integrated health delivery system that has programs
6 in place for chronic care management;

7 (F) Provider reimbursement methods within the medical billing
8 processes that incentivize pharmacists or other qualified providers
9 licensed in Washington state to provide comprehensive medication
10 management services consistent with the findings and goals
11 established in RCW 74.09.5223;

12 (G) Evaluation and reporting on the impact of comprehensive
13 medication management services on patient clinical outcomes and total
14 health care costs, including reductions in emergency department
15 utilization, hospitalization, and drug costs; and

16 (H) Established consistent processes to incentivize integration
17 of behavioral health services in the primary care setting, promoting
18 care that is integrated, collaborative, colocated, and preventive.

19 (ii)(A) Health home services contracted for under this subsection
20 may be prioritized to enrollees with complex, high cost, or multiple
21 chronic conditions.

22 (B) Contracts that include the items in (e)(i)(C) through (G) of
23 this subsection must not exceed the rates that would be paid in the
24 absence of these provisions;

25 (f) The authority shall seek waivers from federal requirements as
26 necessary to implement this chapter;

27 (g) The authority shall, wherever possible, enter into prepaid
28 capitation contracts that include inpatient care. However, if this is
29 not possible or feasible, the authority may enter into prepaid
30 capitation contracts that do not include inpatient care;

31 (h) The authority shall define those circumstances under which a
32 managed health care system is responsible for out-of-plan services
33 and assure that recipients shall not be charged for such services;

34 (i) Nothing in this section prevents the authority from entering
35 into similar agreements for other groups of people eligible to
36 receive services under this chapter; and

37 (j) The authority must consult with the federal center for
38 medicare and medicaid innovation and seek funding opportunities to
39 support health homes.

1 (3) The authority shall ensure that publicly supported community
2 health centers and providers in rural areas, who show serious intent
3 and apparent capability to participate as managed health care systems
4 are seriously considered as contractors. The authority shall
5 coordinate its managed care activities with activities under chapter
6 70.47 RCW.

7 (4) The authority shall work jointly with the state of Oregon and
8 other states in this geographical region in order to develop
9 recommendations to be presented to the appropriate federal agencies
10 and the United States congress for improving health care of the poor,
11 while controlling related costs.

12 (5) The legislature finds that competition in the managed health
13 care marketplace is enhanced, in the long term, by the existence of a
14 large number of managed health care system options for medicaid
15 clients. In a managed care delivery system, whose goal is to focus on
16 prevention, primary care, and improved enrollee health status,
17 continuity in care relationships is of substantial importance, and
18 disruption to clients and health care providers should be minimized.
19 To help ensure these goals are met, the following principles shall
20 guide the authority in its healthy options managed health care
21 purchasing efforts:

22 (a) All managed health care systems should have an opportunity to
23 contract with the authority to the extent that minimum contracting
24 requirements defined by the authority are met, at payment rates that
25 enable the authority to operate as far below appropriated spending
26 levels as possible, consistent with the principles established in
27 this section.

28 (b) Managed health care systems should compete for the award of
29 contracts and assignment of medicaid beneficiaries who do not
30 voluntarily select a contracting system, based upon:

31 (i) Demonstrated commitment to or experience in serving low-
32 income populations;

33 (ii) Quality of services provided to enrollees;

34 (iii) Accessibility, including appropriate utilization, of
35 services offered to enrollees;

36 (iv) Demonstrated capability to perform contracted services,
37 including ability to supply an adequate provider network;

38 (v) Payment rates; and

39 (vi) The ability to meet other specifically defined contract
40 requirements established by the authority, including consideration of

1 past and current performance and participation in other state or
2 federal health programs as a contractor.

3 (c) Consideration should be given to using multiple year
4 contracting periods.

5 (d) Quality, accessibility, and demonstrated commitment to
6 serving low-income populations shall be given significant weight in
7 the contracting, evaluation, and assignment process.

8 (e) All contractors that are regulated health carriers must meet
9 state minimum net worth requirements as defined in applicable state
10 laws. The authority shall adopt rules establishing the minimum net
11 worth requirements for contractors that are not regulated health
12 carriers. This subsection does not limit the authority of the
13 Washington state health care authority to take action under a
14 contract upon finding that a contractor's financial status seriously
15 jeopardizes the contractor's ability to meet its contract
16 obligations.

17 (f) Procedures for resolution of disputes between the authority
18 and contract bidders or the authority and contracting carriers
19 related to the award of, or failure to award, a managed care contract
20 must be clearly set out in the procurement document.

21 (6) The authority may apply the principles set forth in
22 subsection (5) of this section to its managed health care purchasing
23 efforts on behalf of clients receiving supplemental security income
24 benefits to the extent appropriate.

25 (7) By April 1, 2016, any contract with a managed health care
26 system to provide services to medical assistance enrollees shall
27 require that managed health care systems offer contracts to
28 behavioral health organizations, mental health providers, or chemical
29 dependency treatment providers to provide access to primary care
30 services integrated into behavioral health clinical settings, for
31 individuals with behavioral health and medical comorbidities.

32 (8) Managed health care system contracts effective on or after
33 April 1, 2016, shall serve geographic areas that correspond to the
34 regional service areas established in RCW 43.20A.893 (as recodified
35 by this act).

36 (9) A managed health care system shall pay a nonparticipating
37 provider that provides a service covered under this chapter or other
38 applicable law to the system's enrollee no more than the lowest
39 amount paid for that service under the managed health care system's
40 contracts with similar providers in the state if the managed health

1 care system has made good faith efforts to contract with the
2 nonparticipating provider.

3 (10) For services covered under this chapter or other applicable
4 law to medical assistance or medical care services enrollees and
5 provided on or after August 24, 2011, nonparticipating providers must
6 accept as payment in full the amount paid by the managed health care
7 system under subsection (9) of this section in addition to any
8 deductible, coinsurance, or copayment that is due from the enrollee
9 for the service provided. An enrollee is not liable to any
10 nonparticipating provider for covered services, except for amounts
11 due for any deductible, coinsurance, or copayment under the terms and
12 conditions set forth in the managed health care system contract to
13 provide services under this section.

14 (11) Pursuant to federal managed care access standards, 42 C.F.R.
15 Sec. 438, managed health care systems must maintain a network of
16 appropriate providers that is supported by written agreements
17 sufficient to provide adequate access to all services covered under
18 the contract with the authority, including hospital-based physician
19 services. The authority will monitor and periodically report on the
20 proportion of services provided by contracted providers and
21 nonparticipating providers, by county, for each managed health care
22 system to ensure that managed health care systems are meeting network
23 adequacy requirements. No later than January 1st of each year, the
24 authority will review and report its findings to the appropriate
25 policy and fiscal committees of the legislature for the preceding
26 state fiscal year.

27 (12) Payments under RCW 74.60.130 are exempt from this section.

28 (13) Subsections (9) through (11) of this section expire July 1,
29 2021.

30 **Sec. 7018.** RCW 74.09.530 and 2011 1st sp.s. c 15 s 32 are each
31 amended to read as follows:

32 (1)(a) The authority is designated as the single state agency for
33 purposes of Title XIX of the federal social security act.

34 (b) The amount and nature of medical assistance and the
35 determination of eligibility of recipients for medical assistance
36 shall be the responsibility of the authority.

37 (c) The authority shall establish reasonable standards of
38 assistance and resource and income exemptions which shall be
39 consistent with the provisions of the social security act and federal

1 regulations for determining eligibility of individuals for medical
2 assistance and the extent of such assistance to the extent that funds
3 are available from the state and federal government. The authority
4 shall not consider resources in determining continuing eligibility
5 for recipients eligible under section 1931 of the social security
6 act.

7 (d) The authority is authorized to collaborate with other state
8 or local agencies and nonprofit organizations in carrying out its
9 duties under this chapter or other applicable law and, to the extent
10 appropriate, may enter into agreements with such other entities.

11 (2) Individuals eligible for medical assistance under RCW
12 74.09.510(3) shall be transitioned into coverage under that
13 subsection immediately upon their termination from coverage under RCW
14 74.09.510(2)(a). The authority shall use income eligibility standards
15 and eligibility determinations applicable to children placed in
16 foster care. The authority shall provide information regarding basic
17 health plan enrollment and shall offer assistance with the
18 application and enrollment process to individuals covered under RCW
19 74.09.510(3) who are approaching their twenty-first birthday.

20 **Sec. 7019.** RCW 74.09.540 and 2011 1st sp.s. c 15 s 33 are each
21 amended to read as follows:

22 (1) It is the intent of the legislature to remove barriers to
23 employment for individuals with disabilities by providing medical
24 assistance to working individuals with disabilities through a buy-in
25 program in accordance with section 1902(a)(10)(A)(ii) of the social
26 security act and eligibility and cost-sharing requirements
27 established by the authority.

28 (2) The authority shall establish income, resource, and cost-
29 sharing requirements for the buy-in program in accordance with
30 federal law and any conditions or limitations specified in the
31 omnibus appropriations act. The authority shall establish and modify
32 eligibility and cost-sharing requirements in order to administer the
33 program within available funds. The authority shall make every effort
34 to coordinate benefits with employer-sponsored coverage available to
35 the working individuals with disabilities receiving benefits under
36 this chapter or other applicable law.

37 **Sec. 7020.** RCW 74.09.730 and 2011 1st sp.s. c 15 s 47 are each
38 amended to read as follows:

1 (1) In establishing Title XIX payments for inpatient hospital
2 services:

3 ((+1)) (a) To the extent funds are appropriated specifically for
4 this purpose, and subject to any conditions placed on appropriations
5 made for this purpose, the authority shall provide a disproportionate
6 share hospital adjustment considering the following components:

7 ((+a)) (i) A low-income care component based on a hospital's
8 medicaid utilization rate, its low-income utilization rate, its
9 provision of obstetric services, and other factors authorized by
10 federal law;

11 ((+b)) (ii) A medical indigency care component based on a
12 hospital's services to persons who are medically indigent; and

13 ((+c)) (iii) A state-only component, to be paid from available
14 state funds to hospitals that do not qualify for federal payments
15 under ((+b)) (a)(ii) of this subsection, based on a hospital's
16 services to persons who are medically indigent;

17 ((+2)) (b) The payment methodology for disproportionate share
18 hospitals shall be specified by the authority in regulation.

19 ((+3)) (2) Nothing in this section shall be construed as a right
20 or an entitlement by any hospital to any payment from the authority.

21 **Sec. 7021.** RCW 74.09.780 and 1989 1st ex.s. c 10 s 3 are each
22 amended to read as follows:

23 The legislature reserves the right to amend or repeal all or any
24 part of this ((chapter-[subchapter])) subchapter at any time and
25 there shall be no vested private right of any kind against such
26 amendment or repeal. All rights, privileges, or immunities conferred
27 by this ((chapter-[subchapter])) subchapter or any acts done pursuant
28 thereto shall exist subject to the power of the legislature to amend
29 or repeal this ((chapter-[subchapter])) subchapter at any time.

30 **Sec. 7022.** RCW 74.64.010 and 2012 c 234 s 2 are each amended to
31 read as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1) "Authority" means the Washington state health care authority.

35 (2) "Enrollee" means an individual who receives benefits through
36 a medical services program.

37 (3) "Medical services programs" means those medical programs
38 established under chapter 74.09 RCW or other applicable law,

1 including medical assistance, the limited casualty program,
2 children's health program, medical care services, and state
3 children's health insurance program.

4 **Sec. 7023.** RCW 74.66.010 and 2012 c 241 s 201 are each amended
5 to read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter:

8 (1)(a) "Claim" means any request or demand made for a medicaid
9 payment under chapter 74.09 RCW or other applicable law, whether
10 under a contract or otherwise, for money or property and whether or
11 not a government entity has title to the money or property, that:

12 (i) Is presented to an officer, employee, or agent of a
13 government entity; or

14 (ii) Is made to a contractor, grantee, or other recipient, if the
15 money or property is to be spent or used on the government entity's
16 behalf or to advance a government entity program or interest, and the
17 government entity:

18 (A) Provides or has provided any portion of the money or property
19 requested or demanded; or

20 (B) Will reimburse such contractor, grantee, or other recipient
21 for any portion of the money or property which is requested or
22 demanded.

23 (b) A "claim" does not include requests or demands for money or
24 property that the government entity has paid to an individual as
25 compensation for employment or as an income subsidy with no
26 restrictions on that individual's use of the money or property.

27 (2) "Custodian" means the custodian, or any deputy custodian,
28 designated by the attorney general.

29 (3) "Documentary material" includes the original or any copy of
30 any book, record, report, memorandum, paper, communication,
31 tabulation, chart, or other document, or data compilations stored in
32 or accessible through computer or other information retrieval
33 systems, together with instructions and all other materials necessary
34 to use or interpret the data compilations, and any product of
35 discovery.

36 (4) "False claims act investigation" means any inquiry conducted
37 by any false claims act investigator for the purpose of ascertaining
38 whether any person is or has been engaged in any violation of this
39 chapter.

1 (5) "False claims act investigator" means any attorney or
2 investigator employed by the state attorney general who is charged
3 with the duty of enforcing or carrying into effect any provision of
4 this chapter, or any officer or employee of the state of Washington
5 acting under the direction and supervision of the attorney or
6 investigator in connection with an investigation pursuant to this
7 chapter.

8 (6) "Government entity" means all Washington state agencies that
9 administer medicaid-funded programs under this title.

10 (7)(a) "Knowing" and "knowingly" mean that a person, with respect
11 to information:

12 (i) Has actual knowledge of the information;

13 (ii) Acts in deliberate ignorance of the truth or falsity of the
14 information; or

15 (iii) Acts in reckless disregard of the truth or falsity of the
16 information.

17 (b) "Knowing" and "knowingly" do not require proof of specific
18 intent to defraud.

19 (8) "Material" means having a natural tendency to influence, or
20 be capable of influencing, the payment or receipt of money or
21 property.

22 (9) "Obligation" means an established duty, whether or not fixed,
23 arising from an express or implied contractual, grantor-grantee, or
24 licensor-licensee relationship, from a fee-based or similar
25 relationship, from statute or rule, or from the retention of any
26 overpayment.

27 (10) "Official use" means any use that is consistent with the
28 law, and the rules and policies of the attorney general, including
29 use in connection with: Internal attorney general memoranda and
30 reports; communications between the attorney general and a federal,
31 state, or local government agency, or a contractor of a federal,
32 state, or local government agency, undertaken in furtherance of an
33 investigation or prosecution of a case; interviews of any qui tam
34 relator or other witness; oral examinations; depositions; preparation
35 for and response to civil discovery requests; introduction into the
36 record of a case or proceeding; applications, motions, memoranda, and
37 briefs submitted to a court or other tribunal; and communications
38 with attorney general investigators, auditors, consultants and
39 experts, the counsel of other parties, and arbitrators or mediators,
40 concerning an investigation, case, or proceeding.

1 (11) "Person" means any natural person, partnership, corporation,
2 association, or other legal entity, including any local or political
3 subdivision of a state.

4 (12) "Product of discovery" includes:

5 (a) The original or duplicate of any deposition, interrogatory,
6 document, thing, result of the inspection of land or other property,
7 examination, or admission, which is obtained by any method of
8 discovery in any judicial or administrative proceeding of an
9 adversarial nature;

10 (b) Any digest, analysis, selection, compilation, or derivation
11 of any item listed in (a) of this subsection; and

12 (c) Any index or other manner of access to any item listed in (a)
13 of this subsection.

14 (13) "Qui tam action" is an action brought by a person under RCW
15 74.66.050.

16 (14) "Qui tam relator" or "relator" is a person who brings an
17 action under RCW 74.66.050.

18 **PART 8**

19 **Sec. 8001.** RCW 70.02.010 and 2016 sp.s. c 29 s 416 are each
20 amended to read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (1) "Admission" has the same meaning as in RCW 71.05.020.

24 (2) "Audit" means an assessment, evaluation, determination, or
25 investigation of a health care provider by a person not employed by
26 or affiliated with the provider to determine compliance with:

27 (a) Statutory, regulatory, fiscal, medical, or scientific
28 standards;

29 (b) A private or public program of payments to a health care
30 provider; or

31 (c) Requirements for licensing, accreditation, or certification.

32 (3) "Authority" means the Washington state health care authority.

33 (4) "Commitment" has the same meaning as in RCW 71.05.020.

34 ~~((4))~~ (5) "Custody" has the same meaning as in RCW 71.05.020.

35 ~~((5))~~ (6) "Deidentified" means health information that does not
36 identify an individual and with respect to which there is no
37 reasonable basis to believe that the information can be used to
38 identify an individual.

1 ~~((6))~~ (7) "Department" means the department of social and
2 health services.

3 ~~((7))~~ (8) "Designated crisis responder" has the same meaning as
4 in RCW 71.05.020 or 71.34.020, as applicable.

5 ~~((8))~~ (9) "Detention" or "detain" has the same meaning as in
6 RCW 71.05.020.

7 ~~((9))~~ (10) "Directory information" means information disclosing
8 the presence, and for the purpose of identification, the name,
9 location within a health care facility, and the general health
10 condition of a particular patient who is a patient in a health care
11 facility or who is currently receiving emergency health care in a
12 health care facility.

13 ~~((10))~~ (11) "Discharge" has the same meaning as in RCW
14 71.05.020.

15 ~~((11))~~ (12) "Evaluation and treatment facility" has the same
16 meaning as in RCW 71.05.020 or 71.34.020, as applicable.

17 ~~((12))~~ (13) "Federal, state, or local law enforcement
18 authorities" means an officer of any agency or authority in the
19 United States, a state, a tribe, a territory, or a political
20 subdivision of a state, a tribe, or a territory who is empowered by
21 law to: (a) Investigate or conduct an official inquiry into a
22 potential criminal violation of law; or (b) prosecute or otherwise
23 conduct a criminal proceeding arising from an alleged violation of
24 law.

25 ~~((13))~~ (14) "General health condition" means the patient's
26 health status described in terms of "critical," "poor," "fair,"
27 "good," "excellent," or terms denoting similar conditions.

28 ~~((14))~~ (15) "Health care" means any care, service, or procedure
29 provided by a health care provider:

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

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

33 ~~((15))~~ (16) "Health care facility" means a hospital, clinic,
34 nursing home, laboratory, office, or similar place where a health
35 care provider provides health care to patients.

36 ~~((16))~~ (17) "Health care information" means any information,
37 whether oral or recorded in any form or medium, that identifies or
38 can readily be associated with the identity of a patient and directly
39 relates to the patient's health care, including a patient's
40 deoxyribonucleic acid and identified sequence of chemical base pairs.

1 The term includes any required accounting of disclosures of health
2 care information.

3 ~~((17))~~ (18) "Health care operations" means any of the following
4 activities of a health care provider, health care facility, or third-
5 party payor to the extent that the activities are related to
6 functions that make an entity a health care provider, a health care
7 facility, or a third-party payor:

8 (a) Conducting: Quality assessment and improvement activities,
9 including outcomes evaluation and development of clinical guidelines,
10 if the obtaining of generalizable knowledge is not the primary
11 purpose of any studies resulting from such activities; population-
12 based activities relating to improving health or reducing health care
13 costs, protocol development, case management and care coordination,
14 contacting of health care providers and patients with information
15 about treatment alternatives; and related functions that do not
16 include treatment;

17 (b) Reviewing the competence or qualifications of health care
18 professionals, evaluating practitioner and provider performance and
19 third-party payor performance, conducting training programs in which
20 students, trainees, or practitioners in areas of health care learn
21 under supervision to practice or improve their skills as health care
22 providers, training of nonhealth care professionals, accreditation,
23 certification, licensing, or credentialing activities;

24 (c) Underwriting, premium rating, and other activities relating
25 to the creation, renewal, or replacement of a contract of health
26 insurance or health benefits, and ceding, securing, or placing a
27 contract for reinsurance of risk relating to claims for health care,
28 including stop-loss insurance and excess of loss insurance, if any
29 applicable legal requirements are met;

30 (d) Conducting or arranging for medical review, legal services,
31 and auditing functions, including fraud and abuse detection and
32 compliance programs;

33 (e) Business planning and development, such as conducting cost-
34 management and planning-related analyses related to managing and
35 operating the health care facility or third-party payor, including
36 formulary development and administration, development, or improvement
37 of methods of payment or coverage policies; and

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

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

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

7 (iii) Resolution of internal grievances;

8 (iv) The sale, transfer, merger, or consolidation of all or part
9 of a health care provider, health care facility, or third-party payor
10 with another health care provider, health care facility, or third-
11 party payor or an entity that following such activity will become a
12 health care provider, health care facility, or third-party payor, and
13 due diligence related to such activity; and

14 (v) Consistent with applicable legal requirements, creating
15 deidentified health care information or a limited dataset for the
16 benefit of the health care provider, health care facility, or third-
17 party payor.

18 ~~((+18))~~ (19) "Health care provider" means a person who is
19 licensed, certified, registered, or otherwise authorized by the law
20 of this state to provide health care in the ordinary course of
21 business or practice of a profession.

22 ~~((+19))~~ (20) "Human immunodeficiency virus" or "HIV" has the
23 same meaning as in RCW 70.24.017.

24 ~~((+20))~~ (21) "Imminent" has the same meaning as in RCW
25 71.05.020.

26 ~~((+21))~~ (22) "Information and records related to mental health
27 services" means a type of health care information that relates to all
28 information and records compiled, obtained, or maintained in the
29 course of providing services by a mental health service agency or
30 mental health professional to persons who are receiving or have
31 received services for mental illness. The term includes mental health
32 information contained in a medical bill, registration records, as
33 defined in RCW 71.05.020, and all other records regarding the person
34 maintained by the department, by the authority, by ~~((regional support
35 networks))~~ behavioral health organizations and their staff, and by
36 treatment facilities. The term further includes documents of legal
37 proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic
38 health care information. For health care information maintained by a
39 hospital as defined in RCW 70.41.020 or a health care facility or
40 health care provider that participates with a hospital in an

1 organized health care arrangement defined under federal law,
2 "information and records related to mental health services" is
3 limited to information and records of services provided by a mental
4 health professional or information and records of services created by
5 a hospital-operated behavioral health program as defined in RCW
6 71.24.025. The term does not include psychotherapy notes.

7 ~~((+22))~~ (23) "Information and records related to sexually
8 transmitted diseases" means a type of health care information that
9 relates to the identity of any person upon whom an HIV antibody test
10 or other sexually transmitted infection test is performed, the
11 results of such tests, and any information relating to diagnosis of
12 or treatment for any confirmed sexually transmitted infections.

13 ~~((+23))~~ (24) "Institutional review board" means any board,
14 committee, or other group formally designated by an institution, or
15 authorized under federal or state law, to review, approve the
16 initiation of, or conduct periodic review of research programs to
17 assure the protection of the rights and welfare of human research
18 subjects.

19 ~~((+24))~~ (25) "Legal counsel" has the same meaning as in RCW
20 71.05.020.

21 ~~((+25))~~ (26) "Local public health officer" has the same meaning
22 as in RCW 70.24.017.

23 ~~((+26))~~ (27) "Maintain," as related to health care information,
24 means to hold, possess, preserve, retain, store, or control that
25 information.

26 ~~((+27))~~ (28) "Mental health professional" means a psychiatrist,
27 psychologist, psychiatric advanced registered nurse practitioner,
28 psychiatric nurse, or social worker, and such other mental health
29 professionals as may be defined by rules adopted by the secretary of
30 ~~((social and health services))~~ health under chapter 71.05 RCW,
31 whether that person works in a private or public setting.

32 ~~((+28))~~ (29) "Mental health service agency" means a public or
33 private agency that provides services to persons with mental
34 disorders as defined under RCW 71.05.020 or 71.34.020 and receives
35 funding from public sources. This includes evaluation and treatment
36 facilities as defined in RCW 71.34.020, community mental health
37 service delivery systems, or behavioral health programs, as defined
38 in RCW 71.24.025, and facilities conducting competency evaluations
39 and restoration under chapter 10.77 RCW.

40 ~~((+29))~~ (30) "Minor" has the same meaning as in RCW 71.34.020.

1 (~~(30)~~) (31) "Parent" has the same meaning as in RCW 71.34.020.
2 (~~(31)~~) (32) "Patient" means an individual who receives or has
3 received health care. The term includes a deceased individual who has
4 received health care.
5 (~~(32)~~) (33) "Payment" means:
6 (a) The activities undertaken by:
7 (i) A third-party payor to obtain premiums or to determine or
8 fulfill its responsibility for coverage and provision of benefits by
9 the third-party payor; or
10 (ii) A health care provider, health care facility, or third-party
11 payor, to obtain or provide reimbursement for the provision of health
12 care; and
13 (b) The activities in (a) of this subsection that relate to the
14 patient to whom health care is provided and that include, but are not
15 limited to:
16 (i) Determinations of eligibility or coverage, including
17 coordination of benefits or the determination of cost-sharing
18 amounts, and adjudication or subrogation of health benefit claims;
19 (ii) Risk adjusting amounts due based on enrollee health status
20 and demographic characteristics;
21 (iii) Billing, claims management, collection activities,
22 obtaining payment under a contract for reinsurance, including stop-
23 loss insurance and excess of loss insurance, and related health care
24 data processing;
25 (iv) Review of health care services with respect to medical
26 necessity, coverage under a health plan, appropriateness of care, or
27 justification of charges;
28 (v) Utilization review activities, including precertification and
29 preauthorization of services, and concurrent and retrospective review
30 of services; and
31 (vi) Disclosure to consumer reporting agencies of any of the
32 following health care information relating to collection of premiums
33 or reimbursement:
34 (A) Name and address;
35 (B) Date of birth;
36 (C) Social security number;
37 (D) Payment history;
38 (E) Account number; and
39 (F) Name and address of the health care provider, health care
40 facility, and/or third-party payor.

1 (~~(33)~~) (34) "Person" means an individual, corporation, business
2 trust, estate, trust, partnership, association, joint venture,
3 government, governmental subdivision or agency, or any other legal or
4 commercial entity.

5 (~~(34)~~) (35) "Professional person" has the same meaning as in
6 RCW 71.05.020.

7 (~~(35)~~) (36) "Psychiatric advanced registered nurse
8 practitioner" has the same meaning as in RCW 71.05.020.

9 (~~(36)~~) (37) "Psychotherapy notes" means notes recorded, in any
10 medium, by a mental health professional documenting or analyzing the
11 contents of conversations during a private counseling session or
12 group, joint, or family counseling session, and that are separated
13 from the rest of the individual's medical record. The term excludes
14 mediation prescription and monitoring, counseling session start and
15 stop times, the modalities and frequencies of treatment furnished,
16 results of clinical tests, and any summary of the following items:
17 Diagnosis, functional status, the treatment plan, symptoms,
18 prognosis, and progress to date.

19 (~~(37)~~) (38) "Reasonable fee" means the charges for duplicating
20 or searching the record, but shall not exceed sixty-five cents per
21 page for the first thirty pages and fifty cents per page for all
22 other pages. In addition, a clerical fee for searching and handling
23 may be charged not to exceed fifteen dollars. These amounts shall be
24 adjusted biennially in accordance with changes in the consumer price
25 index, all consumers, for Seattle-Tacoma metropolitan statistical
26 area as determined by the secretary of health. However, where editing
27 of records by a health care provider is required by statute and is
28 done by the provider personally, the fee may be the usual and
29 customary charge for a basic office visit.

30 (~~(38)~~) (39) "Release" has the same meaning as in RCW 71.05.020.

31 (~~(39)~~) (40) "Resource management services" has the same meaning
32 as in RCW 71.05.020.

33 (~~(40)~~) (41) "Serious violent offense" has the same meaning as
34 in RCW 71.05.020.

35 (~~(41)~~) (42) "Sexually transmitted infection" or "sexually
36 transmitted disease" has the same meaning as "sexually transmitted
37 disease" in RCW 70.24.017.

38 (~~(42)~~) (43) "Test for a sexually transmitted disease" has the
39 same meaning as in RCW 70.24.017.

1 (~~(43)~~) (44) "Third-party payor" means an insurer regulated
2 under Title 48 RCW authorized to transact business in this state or
3 other jurisdiction, including a health care service contractor, and
4 health maintenance organization; or an employee welfare benefit plan,
5 excluding fitness or wellness plans; or a state or federal health
6 benefit program.

7 (~~(44)~~) (45) "Treatment" means the provision, coordination, or
8 management of health care and related services by one or more health
9 care providers or health care facilities, including the coordination
10 or management of health care by a health care provider or health care
11 facility with a third party; consultation between health care
12 providers or health care facilities relating to a patient; or the
13 referral of a patient for health care from one health care provider
14 or health care facility to another.

15 **Sec. 8002.** RCW 70.02.230 and 2017 3rd sp.s. c 6 s 816 are each
16 amended to read as follows:

17 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
18 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or
19 pursuant to a valid authorization under RCW 70.02.030, the fact of
20 admission to a provider for mental health services and all
21 information and records compiled, obtained, or maintained in the
22 course of providing mental health services to either voluntary or
23 involuntary recipients of services at public or private agencies must
24 be confidential.

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

28 (a) In communications between qualified professional persons to
29 meet the requirements of chapter 71.05 RCW, in the provision of
30 services or appropriate referrals, or in the course of guardianship
31 proceedings if provided to a professional person:

32 (i) Employed by the facility;

33 (ii) Who has medical responsibility for the patient's care;

34 (iii) Who is a designated crisis responder;

35 (iv) Who is providing services under chapter 71.24 RCW;

36 (v) Who is employed by a state or local correctional facility
37 where the person is confined or supervised; or

38 (vi) Who is providing evaluation, treatment, or follow-up
39 services under chapter 10.77 RCW;

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

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

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

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

14 (B) A statement evaluating the mental and physical condition of
15 the patient, and a statement of the probable duration of the
16 patient's confinement, if such information is requested by the next
17 of kin, attorney, personal representative, guardian, or conservator;
18 and

19 (iii) Other information requested by the next of kin or attorney
20 as may be necessary to decide whether or not proceedings should be
21 instituted to appoint a guardian or conservator;

22 (d)(i) To the courts as necessary to the administration of
23 chapter 71.05 RCW or to a court ordering an evaluation or treatment
24 under chapter 10.77 RCW solely for the purpose of preventing the
25 entry of any evaluation or treatment order that is inconsistent with
26 any order entered under chapter 71.05 RCW.

27 (ii) To a court or its designee in which a motion under chapter
28 10.77 RCW has been made for involuntary medication of a defendant for
29 the purpose of competency restoration.

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

33 (e)(i) When a mental health professional or designated crisis
34 responder is requested by a representative of a law enforcement or
35 corrections agency, including a police officer, sheriff, community
36 corrections officer, a municipal attorney, or prosecuting attorney to
37 undertake an investigation or provide treatment under RCW 71.05.150,
38 10.31.110, or 71.05.153, the mental health professional or designated
39 crisis responder shall, if requested to do so, advise the
40 representative in writing of the results of the investigation

1 including a statement of reasons for the decision to detain or
2 release the person investigated. The written report must be submitted
3 within seventy-two hours of the completion of the investigation or
4 the request from the law enforcement or corrections representative,
5 whichever occurs later.

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

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

10 (g) To the prosecuting attorney as necessary to carry out the
11 responsibilities of the office under RCW 71.05.330(2),
12 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
13 access to records regarding the committed person's treatment and
14 prognosis, medication, behavior problems, and other records relevant
15 to the issue of whether treatment less restrictive than inpatient
16 treatment is in the best interest of the committed person or others.
17 Information must be disclosed only after giving notice to the
18 committed person and the person's counsel;

19 (h)(i) To appropriate law enforcement agencies and to a person,
20 when the identity of the person is known to the public or private
21 agency, whose health and safety has been threatened, or who is known
22 to have been repeatedly harassed, by the patient. The person may
23 designate a representative to receive the disclosure. The disclosure
24 must be made by the professional person in charge of the public or
25 private agency or his or her designee and must include the dates of
26 commitment, admission, discharge, or release, authorized or
27 unauthorized absence from the agency's facility, and only any other
28 information that is pertinent to the threat or harassment. The agency
29 or its employees are not civilly liable for the decision to disclose
30 or not, so long as the decision was reached in good faith and without
31 gross negligence.

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

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

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

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

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

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

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

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

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

31 (iii) Disclosure under this subsection is mandatory for the
32 purposes of the federal health insurance portability and
33 accountability act;

34 (n) When a patient would otherwise be subject to the provisions
35 of this section and disclosure is necessary for the protection of the
36 patient or others due to his or her unauthorized disappearance from
37 the facility, and his or her whereabouts is unknown, notice of the
38 disappearance, along with relevant information, may be made to
39 relatives, the department of corrections when the person is under the
40 supervision of the department, and governmental law enforcement

1 agencies designated by the physician or psychiatric advanced
2 registered nurse practitioner in charge of the patient or the
3 professional person in charge of the facility, or his or her
4 professional designee;

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

6 (p) To qualified staff members of the department, to the
7 authority, to the director of behavioral health organizations, to
8 resource management services responsible for serving a patient, or to
9 service providers designated by resource management services as
10 necessary to determine the progress and adequacy of treatment and to
11 determine whether the person should be transferred to a less
12 restrictive or more appropriate treatment modality or facility;

13 (q) Within the mental health service agency where the patient is
14 receiving treatment, confidential information may be disclosed to
15 persons employed, serving in bona fide training programs, or
16 participating in supervised volunteer programs, at the facility when
17 it is necessary to perform their duties;

18 (r) Within the department and the authority as necessary to
19 coordinate treatment for mental illness, developmental disabilities,
20 alcoholism, or (~~drug abuse~~) substance use disorder of persons who
21 are under the supervision of the department;

22 (s) Between the department of social and health services, the
23 department of children, youth, and families, and the health care
24 authority as necessary to coordinate treatment for mental illness,
25 developmental disabilities, alcoholism, or drug abuse of persons who
26 are under the supervision of the department of social and health
27 services or the department of children, youth, and families;

28 (t) To a licensed physician or psychiatric advanced registered
29 nurse practitioner who has determined that the life or health of the
30 person is in danger and that treatment without the information and
31 records related to mental health services could be injurious to the
32 patient's health. Disclosure must be limited to the portions of the
33 records necessary to meet the medical emergency;

34 (u)(i) Consistent with the requirements of the federal health
35 insurance portability and accountability act, to:

36 (A) A health care provider who is providing care to a patient, or
37 to whom a patient has been referred for evaluation or treatment; or

38 (B) Any other person who is working in a care coordinator role
39 for a health care facility or health care provider or is under an
40 agreement pursuant to the federal health insurance portability and

1 accountability act with a health care facility or a health care
2 provider and requires the information and records to assure
3 coordinated care and treatment of that patient.

4 (ii) A person authorized to use or disclose information and
5 records related to mental health services under this subsection
6 (2)(u) must take appropriate steps to protect the information and
7 records relating to mental health services.

8 (iii) Psychotherapy notes may not be released without
9 authorization of the patient who is the subject of the request for
10 release of information;

11 (v) To administrative and office support staff designated to
12 obtain medical records for those licensed professionals listed in (u)
13 of this subsection;

14 (w) To a facility that is to receive a person who is
15 involuntarily committed under chapter 71.05 RCW, or upon transfer of
16 the person from one evaluation and treatment facility to another. The
17 release of records under this subsection is limited to the
18 information and records related to mental health services required by
19 law, a record or summary of all somatic treatments, and a discharge
20 summary. The discharge summary may include a statement of the
21 patient's problem, the treatment goals, the type of treatment which
22 has been provided, and recommendation for future treatment, but may
23 not include the patient's complete treatment record;

24 (x) To the person's counsel or guardian ad litem, without
25 modification, at any time in order to prepare for involuntary
26 commitment or recommitment proceedings, reexaminations, appeals, or
27 other actions relating to detention, admission, commitment, or
28 patient's rights under chapter 71.05 RCW;

29 (y) To staff members of the protection and advocacy agency or to
30 staff members of a private, nonprofit corporation for the purpose of
31 protecting and advocating the rights of persons with mental disorders
32 or developmental disabilities. Resource management services may limit
33 the release of information to the name, birthdate, and county of
34 residence of the patient, information regarding whether the patient
35 was voluntarily admitted, or involuntarily committed, the date and
36 place of admission, placement, or commitment, the name and address of
37 a guardian of the patient, and the date and place of the guardian's
38 appointment. Any staff member who wishes to obtain additional
39 information must notify the patient's resource management services in
40 writing of the request and of the resource management services' right

1 to object. The staff member shall send the notice by mail to the
2 guardian's address. If the guardian does not object in writing within
3 fifteen days after the notice is mailed, the staff member may obtain
4 the additional information. If the guardian objects in writing within
5 fifteen days after the notice is mailed, the staff member may not
6 obtain the additional information;

7 (z) To all current treating providers of the patient with
8 prescriptive authority who have written a prescription for the
9 patient within the last twelve months. For purposes of coordinating
10 health care, the department or the authority may release without
11 written authorization of the patient, information acquired for
12 billing and collection purposes as described in RCW 70.02.050(1)(d).
13 The department, or the authority, if applicable, shall notify the
14 patient that billing and collection information has been released to
15 named providers, and provide the substance of the information
16 released and the dates of such release. Neither the department nor
17 the authority may (~~not~~) release counseling, inpatient psychiatric
18 hospitalization, or drug and alcohol treatment information without a
19 signed written release from the client;

20 (aa)(i) To the secretary of social and health services and the
21 director of the health care authority for either program evaluation
22 or research, or both so long as the secretary or director, where
23 applicable, adopts rules for the conduct of the evaluation or
24 research, or both. Such rules must include, but need not be limited
25 to, the requirement that all evaluators and researchers sign an oath
26 of confidentiality substantially as follows:

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

34 I recognize that unauthorized release of confidential information
35 may subject me to civil liability under the provisions of state law.
36 /s/"

37 (ii) Nothing in this chapter may be construed to prohibit the
38 compilation and publication of statistical data for use by government
39 or researchers under standards, including standards to assure

1 maintenance of confidentiality, set forth by the secretary, or
2 director, where applicable;

3 (bb) To any person if the conditions in RCW 70.02.205 are met.

4 (3) Whenever federal law or federal regulations restrict the
5 release of information contained in the information and records
6 related to mental health services of any patient who receives
7 treatment for chemical dependency, the department or the authority
8 may restrict the release of the information as necessary to comply
9 with federal law and regulations.

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

15 (5) The fact of admission to a provider of mental health
16 services, as well as all records, files, evidence, findings, or
17 orders made, prepared, collected, or maintained pursuant to chapter
18 71.05 RCW are not admissible as evidence in any legal proceeding
19 outside that chapter without the written authorization of the person
20 who was the subject of the proceeding except as provided in RCW
21 70.02.260, in a subsequent criminal prosecution of a person committed
22 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
23 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
24 trial, in a civil commitment proceeding pursuant to chapter 71.09
25 RCW, or, in the case of a minor, a guardianship or dependency
26 proceeding. The records and files maintained in any court proceeding
27 pursuant to chapter 71.05 RCW must be confidential and available
28 subsequent to such proceedings only to the person who was the subject
29 of the proceeding or his or her attorney. In addition, the court may
30 order the subsequent release or use of such records or files only
31 upon good cause shown if the court finds that appropriate safeguards
32 for strict confidentiality are and will be maintained.

33 (6)(a) Except as provided in RCW 4.24.550, any person may bring
34 an action against an individual who has willfully released
35 confidential information or records concerning him or her in
36 violation of the provisions of this section, for the greater of the
37 following amounts:

38 (i) One thousand dollars; or

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

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

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

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

11 (e) If an action is brought under this subsection, no action may
12 be brought under RCW 70.02.170.

13 **Sec. 8003.** RCW 70.02.240 and 2013 c 200 s 8 are each amended to
14 read as follows:

15 The fact of admission and all information and records related to
16 mental health services obtained through treatment under chapter 71.34
17 RCW is confidential, except as authorized in RCW 70.02.050,
18 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential
19 information may be disclosed only:

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

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

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

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

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

32 (6) To law enforcement officers, public health officers,
33 relatives, and other governmental law enforcement agencies, if a
34 minor has escaped from custody, disappeared from an evaluation and
35 treatment facility, violated conditions of a less restrictive
36 treatment order, or failed to return from an authorized leave, and
37 then only such information as may be necessary to provide for public
38 safety or to assist in the apprehension of the minor. The officers

1 are obligated to keep the information confidential in accordance with
2 this chapter;

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

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

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

19 /s/";

20 (8) To appropriate law enforcement agencies, upon request, all
21 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 (9) To appropriate law enforcement agencies and to a person, when
27 the identity of the person is known to the public or private agency,
28 whose health and safety has been threatened, or who is known to have
29 been repeatedly harassed, by the patient. The person may designate a
30 representative to receive the disclosure. The disclosure must be made
31 by the professional person in charge of the public or private agency
32 or his or her designee and must include the dates of admission,
33 discharge, authorized or unauthorized absence from the agency's
34 facility, and only any other information that is pertinent to the
35 threat or harassment. The agency or its employees are not civilly
36 liable for the decision to disclose or not, so long as the decision
37 was reached in good faith and without gross negligence;

38 (10) To a minor's next of kin, attorney, guardian, or
39 conservator, if any, the information that the minor is presently in

1 the facility or that the minor is seriously physically ill and a
2 statement evaluating the mental and physical condition of the minor
3 as well as a statement of the probable duration of the minor's
4 confinement;

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

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

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

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

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

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

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

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

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

38 **Sec. 8004.** RCW 70.02.250 and 2014 c 225 s 72 are each amended to
39 read as follows:

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

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

16 (3) The (~~department~~) authority shall, subject to available
17 resources, electronically, or by the most cost-effective means
18 available, provide the department of corrections with the names, last
19 dates of services, and addresses of specific behavioral health
20 organizations and mental health service agencies that delivered
21 mental health services to a person subject to chapter 9.94A or 9.95
22 RCW pursuant to an agreement between the authority and the
23 department(~~s~~) of corrections.

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

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

37 (b) Establish requirements for the notification of persons under
38 the supervision of the department of corrections regarding the
39 provisions of this section.

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

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

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

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

17 **Sec. 8005.** RCW 70.02.260 and 2013 c 200 s 10 are each amended to
18 read as follows:

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

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

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

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

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

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

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

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

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

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

21 (i) Completing presentence investigations or risk assessment
22 reports;

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

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

26 (iv) Planning for and provision of supervision of an offender,
27 including decisions related to sanctions for violations of conditions
28 of community supervision; and

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

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

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

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

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

4 (i) The information may be shared with other persons who have the
5 right to request similar information under subsection (2) of this
6 section, solely for the purpose of coordinating activities related to
7 the individual who is the subject of the information in a manner
8 consistent with the official responsibilities of the persons
9 involved;

10 (ii) The information may be shared with a prosecuting attorney
11 acting in an advisory capacity for a person who receives information
12 under this section. A prosecuting attorney under this subsection is
13 subject to the same restrictions and confidentiality limitations as
14 the person who requested the information; and

15 (iii) As provided in RCW 72.09.585.

16 (4) A request for information and records related to mental
17 health services under this section does not require the consent of
18 the subject of the records. The request must be provided in writing,
19 except to the extent authorized in subsection (5) of this section. A
20 written request may include requests made by email or facsimile so
21 long as the requesting person is clearly identified. The request must
22 specify the information being requested.

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

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

38 (7) Whenever federal law or federal regulations restrict the
39 release of information contained in the treatment records of any
40 patient who receives treatment for alcoholism or drug dependency, the

1 release of the information may be restricted as necessary to comply
2 with federal law and regulations.

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

6 (9) In collaboration with interested organizations, the
7 (~~department~~) authority shall develop a standard form for requests
8 for information related to mental health services made under this
9 section and a standard format for information provided in response to
10 the requests. Consistent with the goals of the health information
11 privacy provisions of the federal health insurance portability and
12 accountability act, in developing the standard form for responsive
13 information, the (~~department~~) authority shall design the form in
14 such a way that the information disclosed is limited to the minimum
15 necessary to serve the purpose for which the information is
16 requested.

17 **Sec. 8006.** RCW 70.02.340 and 2014 c 220 s 13 are each amended to
18 read as follows:

19 The (~~department of social and health services~~) authority shall
20 adopt rules related to the disclosure of information and records
21 related to mental health services (~~in this chapter~~).

22 **Sec. 8007.** RCW 70.02.350 and 2013 c 200 s 19 are each amended to
23 read as follows:

24 In addition to any other information required to be released
25 under this chapter, the department of social and health services
26 (~~is~~) and the authority are authorized, pursuant to RCW 4.24.550, to
27 release relevant information that is necessary to protect the public,
28 concerning a specific person committed under RCW 71.05.280(3) or
29 71.05.320(3)(c) following dismissal of a sex offense as defined in
30 RCW 9.94A.030.

31 **Sec. 8008.** RCW 42.56.270 and 2017 c 317 s 17 are each amended to
32 read as follows:

33 The following financial, commercial, and proprietary information
34 is exempt from disclosure under this chapter:

35 (1) Valuable formulae, designs, drawings, computer source code or
36 object code, and research data obtained by any agency within five

1 years of the request for disclosure when disclosure would produce
2 private gain and public loss;

3 (2) Financial information supplied by or on behalf of a person,
4 firm, or corporation for the purpose of qualifying to submit a bid or
5 proposal for (a) a ferry system construction or repair contract as
6 required by RCW 47.60.680 through 47.60.750 or (b) highway
7 construction or improvement as required by RCW 47.28.070;

8 (3) Financial and commercial information and records supplied by
9 private persons pertaining to export services provided under chapters
10 43.163 and 53.31 RCW, and by persons pertaining to export projects
11 under RCW 43.23.035;

12 (4) Financial and commercial information and records supplied by
13 businesses or individuals during application for loans or program
14 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
15 43.168 RCW, or during application for economic development loans or
16 program services provided by any local agency;

17 (5) Financial information, business plans, examination reports,
18 and any information produced or obtained in evaluating or examining a
19 business and industrial development corporation organized or seeking
20 certification under chapter 31.24 RCW;

21 (6) Financial and commercial information supplied to the state
22 investment board by any person when the information relates to the
23 investment of public trust or retirement funds and when disclosure
24 would result in loss to such funds or in private loss to the
25 providers of this information;

26 (7) Financial and valuable trade information under RCW 51.36.120;

27 (8) Financial, commercial, operations, and technical and research
28 information and data submitted to or obtained by the clean Washington
29 center in applications for, or delivery of, program services under
30 chapter 70.95H RCW;

31 (9) Financial and commercial information requested by the public
32 stadium authority from any person or organization that leases or uses
33 the stadium and exhibition center as defined in RCW 36.102.010;

34 (10)(a) Financial information, including but not limited to
35 account numbers and values, and other identification numbers supplied
36 by or on behalf of a person, firm, corporation, limited liability
37 company, partnership, or other entity related to an application for a
38 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
39 marijuana producer, processor, or retailer license, liquor license,
40 gambling license, or lottery retail license;

1 (b) Internal control documents, independent auditors' reports and
2 financial statements, and supporting documents: (i) Of house-banked
3 social card game licensees required by the gambling commission
4 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
5 by tribes with an approved tribal/state compact for class III gaming;

6 (11) Proprietary data, trade secrets, or other information that
7 relates to: (a) A vendor's unique methods of conducting business; (b)
8 data unique to the product or services of the vendor; or (c)
9 determining prices or rates to be charged for services, submitted by
10 any vendor to the department of social and health services or the
11 health care authority for purposes of the development, acquisition,
12 or implementation of state purchased health care as defined in RCW
13 41.05.011;

14 (12)(a) When supplied to and in the records of the department of
15 commerce:

16 (i) Financial and proprietary information collected from any
17 person and provided to the department of commerce pursuant to RCW
18 43.330.050(8); and

19 (ii) Financial or proprietary information collected from any
20 person and provided to the department of commerce or the office of
21 the governor in connection with the siting, recruitment, expansion,
22 retention, or relocation of that person's business and until a siting
23 decision is made, identifying information of any person supplying
24 information under this subsection and the locations being considered
25 for siting, relocation, or expansion of a business;

26 (b) When developed by the department of commerce based on
27 information as described in (a)(i) of this subsection, any work
28 product is not exempt from disclosure;

29 (c) For the purposes of this subsection, "siting decision" means
30 the decision to acquire or not to acquire a site;

31 (d) If there is no written contact for a period of sixty days to
32 the department of commerce from a person connected with siting,
33 recruitment, expansion, retention, or relocation of that person's
34 business, information described in (a)(ii) of this subsection will be
35 available to the public under this chapter;

36 (13) Financial and proprietary information submitted to or
37 obtained by the department of ecology or the authority created under
38 chapter 70.95N RCW to implement chapter 70.95N RCW;

39 (14) Financial, commercial, operations, and technical and
40 research information and data submitted to or obtained by the life

1 sciences discovery fund authority in applications for, or delivery
2 of, grants under chapter 43.350 RCW, to the extent that such
3 information, if revealed, would reasonably be expected to result in
4 private loss to the providers of this information;

5 (15) Financial and commercial information provided as evidence to
6 the department of licensing as required by RCW 19.112.110 or
7 19.112.120, except information disclosed in aggregate form that does
8 not permit the identification of information related to individual
9 fuel licensees;

10 (16) Any production records, mineral assessments, and trade
11 secrets submitted by a permit holder, mine operator, or landowner to
12 the department of natural resources under RCW 78.44.085;

13 (17)(a) Farm plans developed by conservation districts, unless
14 permission to release the farm plan is granted by the landowner or
15 operator who requested the plan, or the farm plan is used for the
16 application or issuance of a permit;

17 (b) Farm plans developed under chapter 90.48 RCW and not under
18 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
19 to RCW 42.56.610 and 90.64.190;

20 (18) Financial, commercial, operations, and technical and
21 research information and data submitted to or obtained by a health
22 sciences and services authority in applications for, or delivery of,
23 grants under RCW 35.104.010 through 35.104.060, to the extent that
24 such information, if revealed, would reasonably be expected to result
25 in private loss to providers of this information;

26 (19) Information gathered under chapter 19.85 RCW or RCW
27 34.05.328 that can be identified to a particular business;

28 (20) Financial and commercial information submitted to or
29 obtained by the University of Washington, other than information the
30 university is required to disclose under RCW 28B.20.150, when the
31 information relates to investments in private funds, to the extent
32 that such information, if revealed, would reasonably be expected to
33 result in loss to the University of Washington consolidated endowment
34 fund or to result in private loss to the providers of this
35 information;

36 (21) Market share data submitted by a manufacturer under RCW
37 70.95N.190(4);

38 (22) Financial information supplied to the department of
39 financial institutions or to a portal under RCW 21.20.883, when filed
40 by or on behalf of an issuer of securities for the purpose of

1 obtaining the exemption from state securities registration for small
2 securities offerings provided under RCW 21.20.880 or when filed by or
3 on behalf of an investor for the purpose of purchasing such
4 securities;

5 (23) Unaggregated or individual notices of a transfer of crude
6 oil that is financial, proprietary, or commercial information,
7 submitted to the department of ecology pursuant to RCW
8 90.56.565(1)(a), and that is in the possession of the department of
9 ecology or any entity with which the department of ecology has shared
10 the notice pursuant to RCW 90.56.565;

11 (24) Financial institution and retirement account information,
12 and building security plan information, supplied to the liquor and
13 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
14 69.50.345, when filed by or on behalf of a licensee or prospective
15 licensee for the purpose of obtaining, maintaining, or renewing a
16 license to produce, process, transport, or sell marijuana as allowed
17 under chapter 69.50 RCW;

18 (25) Marijuana transport information, vehicle and driver
19 identification data, and account numbers or unique access identifiers
20 issued to private entities for traceability system access, submitted
21 by an individual or business to the liquor and cannabis board under
22 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
23 69.50.345 for the purpose of marijuana product traceability.
24 Disclosure to local, state, and federal officials is not considered
25 public disclosure for purposes of this section;

26 (26) Financial and commercial information submitted to or
27 obtained by the retirement board of any city that is responsible for
28 the management of an employees' retirement system pursuant to the
29 authority of chapter 35.39 RCW, when the information relates to
30 investments in private funds, to the extent that such information, if
31 revealed, would reasonably be expected to result in loss to the
32 retirement fund or to result in private loss to the providers of this
33 information except that (a) the names and commitment amounts of the
34 private funds in which retirement funds are invested and (b) the
35 aggregate quarterly performance results for a retirement fund's
36 portfolio of investments in such funds are subject to disclosure;

37 (27) Proprietary financial, commercial, operations, and technical
38 and research information and data submitted to or obtained by the
39 liquor and cannabis board in applications for marijuana research
40 licenses under RCW 69.50.372, or in reports submitted by marijuana

1 research licensees in accordance with rules adopted by the liquor and
2 cannabis board under RCW 69.50.372; and

3 (28) Trade secrets, technology, proprietary information, and
4 financial considerations contained in any agreements or contracts,
5 entered into by a licensed marijuana business under RCW 69.50.395,
6 which may be submitted to or obtained by the state liquor and
7 cannabis board.

8 **Sec. 8009.** RCW 43.70.080 and 1989 1st ex.s. c 9 s 201 are each
9 amended to read as follows:

10 The powers and duties of the department of social and health
11 services and the secretary of social and health services under the
12 following statutes are hereby transferred to the department of health
13 and the secretary of health: Chapters 16.70, (~~(18.207)~~) 18.46, 18.71,
14 18.73, 18.76, 69.30, 70.28, 70.30, (~~(70.32, 70.33)~~) 70.50, 70.58,
15 70.62, 70.83, (~~(70.83B)~~) 70.90, 70.98, 70.104, 70.116, 70.118,
16 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More
17 specifically, the following programs and services presently
18 administered by the department of social and health services are
19 hereby transferred to the department of health:

20 (1) Personal health and protection programs and related
21 management and support services, including, but not limited to:
22 Immunizations; tuberculosis; sexually transmitted diseases; AIDS;
23 diabetes control; primary health care; cardiovascular risk reduction;
24 kidney disease; regional genetic services; newborn metabolic
25 screening; sentinel birth defects; cytogenetics; communicable disease
26 epidemiology; and chronic disease epidemiology;

27 (2) Environmental health protection services and related
28 management and support services, including, but not limited to:
29 Radiation, including X-ray control, radioactive materials, uranium
30 mills, low-level waste, emergency response and reactor safety, and
31 environmental radiation protection; drinking water; toxic substances;
32 on-site sewage; recreational water contact facilities; food services
33 sanitation; shellfish; and general environmental health services,
34 including schools, vectors, parks, and camps;

35 (3) Public health laboratory;

36 (4) Public health support services, including, but not limited
37 to: Vital records; health data; local public health services support;
38 and health education and information;

1 (5) Licensing and certification services including, but not
2 limited to: Behavioral health agencies, agencies providing problem
3 and pathological gambling treatment, health and personal care
4 facility survey, construction review, emergency medical services,
5 laboratory quality assurance, and accommodations surveys; and

6 (6) Effective January 1, 1991, parent and child health services
7 and related management support services, including, but not limited
8 to: Maternal and infant health; child health; parental health;
9 nutrition; (~~handicapped children's~~) services for children with
10 disabilities; family planning; adolescent pregnancy services; high
11 priority infant tracking; early intervention; parenting education;
12 prenatal regionalization; and power and duties under RCW 43.20A.635.
13 The director of the office of financial management may recommend to
14 the legislature a delay in this transfer, if it is determined that
15 this time frame is not adequate.

16 **Sec. 8010.** RCW 43.59.030 and 2016 c 206 s 2 are each amended to
17 read as follows:

18 The governor shall be assisted in his or her duties and
19 responsibilities by the Washington state traffic safety commission.
20 The Washington traffic safety commission shall be composed of the
21 governor as chair, the superintendent of public instruction, the
22 director of licensing, the secretary of transportation, the chief of
23 the state patrol, the secretary of health, the (~~secretary of social~~
24 ~~and health services~~) director of the health care authority, a
25 representative of the association of Washington cities to be
26 appointed by the governor, a member of the association of counties to
27 be appointed by the governor, and a representative of the judiciary
28 to be appointed by the governor. Appointments to any vacancies among
29 appointee members shall be as in the case of original appointment.

30 The governor may designate an employee of the governor's office
31 familiar with the traffic safety commission to act on behalf of the
32 governor during the absence of the governor at one or more of the
33 meetings of the commission. The vote of the designee shall have the
34 same effect as if cast by the governor if the designation is in
35 writing and is presented to the person presiding at the meetings
36 included within the designation.

37 The governor may designate a member, other than the governor's
38 designee, to preside during the governor's absence.

1 **Sec. 8011.** RCW 48.21.180 and 2003 c 248 s 9 are each amended to
2 read as follows:

3 Each group disability insurance contract which is delivered or
4 issued for delivery or renewed, on or after January 1, 1988, and
5 which insures for hospital or medical care must contain provisions
6 providing benefits for the treatment of chemical dependency rendered
7 to the insured by a provider which is an "approved substance use
8 disorder treatment program" under RCW 70.96A.020(~~(+3)~~) (2).

9 **Sec. 8012.** RCW 48.44.240 and 2005 c 223 s 25 are each amended to
10 read as follows:

11 Each group contract for health care services that is delivered or
12 issued for delivery or renewed, on or after January 1, 1988, must
13 contain provisions providing benefits for the treatment of chemical
14 dependency rendered to covered persons by a provider that is an
15 "approved substance use disorder treatment program" under RCW
16 70.96A.020(~~(+3)~~) (2).

17 **Sec. 8013.** RCW 48.46.350 and 2003 c 248 s 19 are each amended to
18 read as follows:

19 Each group agreement for health care services that is delivered
20 or issued for delivery or renewed on or after January 1, 1988, must
21 contain provisions providing benefits for the treatment of chemical
22 dependency rendered to covered persons by a provider which is an
23 "approved substance use disorder treatment program" under RCW
24 70.96A.020(~~(+3)~~) (2). However, this section does not apply to any
25 agreement written as supplemental coverage to any federal or state
26 programs of health care including, but not limited to, Title XVIII
27 health insurance for the aged, which is commonly referred to as
28 Medicare, Parts A&B, and amendments thereto. Treatment must be
29 covered under the chemical dependency coverage if treatment is
30 rendered by the health maintenance organization or if the health
31 maintenance organization refers the enrolled participant or the
32 enrolled participant's dependents to a physician licensed under
33 chapter 18.57 or 18.71 RCW, or to a qualified counselor employed by
34 an approved substance use disorder treatment program described in RCW
35 70.96A.020(~~(+3)~~) (2). In all cases, a health maintenance
36 organization retains the right to diagnose the presence of chemical
37 dependency and select the modality of treatment that best serves the

1 interest of the health maintenance organization's enrolled
2 participant, or the enrolled participant's covered dependent.

3 **Sec. 8014.** RCW 69.50.540 and 2017 3rd sp.s. c 1 s 979 are each
4 amended to read as follows:

5 The legislature must annually appropriate moneys in the dedicated
6 marijuana account created in RCW 69.50.530 as follows:

7 (1) For the purposes listed in this subsection (1), the
8 legislature must appropriate to the respective agencies amounts
9 sufficient to make the following expenditures on a quarterly basis:

10 (a) Beginning July 1, ((2015)) 2017, one hundred twenty-five
11 thousand dollars to the ((department of social and health services))
12 health care authority to design and administer the Washington state
13 healthy youth survey, analyze the collected data, and produce
14 reports, in collaboration with the office of the superintendent of
15 public instruction, department of health, department of commerce,
16 family policy council, and state liquor and cannabis board. The
17 survey must be conducted at least every two years and include
18 questions regarding, but not necessarily limited to, academic
19 achievement, age at time of substance use initiation, antisocial
20 behavior of friends, attitudes toward antisocial behavior, attitudes
21 toward substance use, laws and community norms regarding antisocial
22 behavior, family conflict, family management, parental attitudes
23 toward substance use, peer rewarding of antisocial behavior,
24 perceived risk of substance use, and rebelliousness. Funds disbursed
25 under this subsection may be used to expand administration of the
26 healthy youth survey to student populations attending institutions of
27 higher education in Washington;

28 (b) Beginning July 1, ((2015)) 2017, fifty thousand dollars to
29 the ((department of social and health services)) health care
30 authority for the purpose of contracting with the Washington state
31 institute for public policy to conduct the cost-benefit evaluation
32 and produce the reports described in RCW 69.50.550. This
33 appropriation ends after production of the final report required by
34 RCW 69.50.550;

35 (c) Beginning July 1, ((2015)) 2017, five thousand dollars to the
36 University of Washington alcohol and drug abuse institute for the
37 creation, maintenance, and timely updating of web-based public
38 education materials providing medically and scientifically accurate
39 information about the health and safety risks posed by marijuana use;

1 (d)(i) An amount not less than one million two hundred fifty
2 thousand dollars to the state liquor and cannabis board for
3 administration of this chapter as appropriated in the omnibus
4 appropriations act; and

5 (ii) Three hundred fifty-one thousand seven hundred fifty dollars
6 for fiscal year 2018 and three hundred fifty-one thousand seven
7 hundred fifty dollars for fiscal year 2019 to the health professions
8 account established under RCW 43.70.320 for the development and
9 administration of the marijuana authorization database by the
10 department of health. It is the intent of the legislature that this
11 policy will be continued in the 2019-2021 fiscal biennium;

12 (e) Twenty-three thousand seven hundred fifty dollars to the
13 department of enterprise services provided solely for the state
14 building code council established under RCW 19.27.070, to develop and
15 adopt fire and building code provisions related to marijuana
16 processing and extraction facilities. The distribution under this
17 subsection (1)(e) is for fiscal year 2016 only;

18 (2) From the amounts in the dedicated marijuana account after
19 appropriation of the amounts identified in subsection (1) of this
20 section, the legislature must appropriate for the purposes listed in
21 this subsection (2) as follows:

22 (a)(i) Up to fifteen percent to the (~~department of social and~~
23 ~~health services division of behavioral health and recovery~~) health
24 care authority for the development, implementation, maintenance, and
25 evaluation of programs and practices aimed at the prevention or
26 reduction of maladaptive substance use, substance use disorder,
27 substance abuse or substance dependence, as these terms are defined
28 in the Diagnostic and Statistical Manual of Mental Disorders, among
29 middle school and high school-age students, whether as an explicit
30 goal of a given program or practice or as a consistently
31 corresponding effect of its implementation, mental health services
32 for children and youth, and services for pregnant and parenting
33 women; PROVIDED, That:

34 (A) Of the funds appropriated under (a)(i) of this subsection for
35 new programs and new services, at least eighty-five percent must be
36 directed to evidence-based or research-based programs and practices
37 that produce objectively measurable results and, by September 1,
38 2020, are cost-beneficial; and

39 (B) Up to fifteen percent of the funds appropriated under (a)(i)
40 of this subsection for new programs and new services may be directed

1 to proven and tested practices, emerging best practices, or promising
2 practices.

3 (ii) In deciding which programs and practices to fund, the
4 (~~secretary of the department of social and health services~~)
5 director of the health care authority must consult, at least
6 annually, with the University of Washington's social development
7 research group and the University of Washington's alcohol and drug
8 abuse institute.

9 (iii) For the fiscal year beginning July 1, 2016, the legislature
10 must appropriate a minimum of twenty-seven million seven hundred
11 eighty-six thousand dollars, and for each subsequent fiscal year
12 thereafter, the legislature must appropriate a minimum of twenty-five
13 million five hundred thirty-six thousand dollars under this
14 subsection (2)(a);

15 (b)(i) Up to ten percent to the department of health for the
16 following, subject to (b)(ii) of this subsection (2):

17 (A) Creation, implementation, operation, and management of a
18 marijuana education and public health program that contains the
19 following:

20 (I) A marijuana use public health hotline that provides referrals
21 to substance abuse treatment providers, utilizes evidence-based or
22 research-based public health approaches to minimizing the harms
23 associated with marijuana use, and does not solely advocate an
24 abstinence-only approach;

25 (II) A grants program for local health departments or other local
26 community agencies that supports development and implementation of
27 coordinated intervention strategies for the prevention and reduction
28 of marijuana use by youth; and

29 (III) Media-based education campaigns across television,
30 internet, radio, print, and out-of-home advertising, separately
31 targeting youth and adults, that provide medically and scientifically
32 accurate information about the health and safety risks posed by
33 marijuana use;

34 (B) The Washington poison control center; and

35 (C) During the 2015-2017 fiscal biennium, the funds appropriated
36 under this subsection (2)(b) may be used for prevention activities
37 that target youth and populations with a high incidence of tobacco
38 use.

39 (ii) For the fiscal year beginning July 1, 2016, the legislature
40 must appropriate a minimum of seven million five hundred thousand

1 dollars and for each subsequent fiscal year thereafter, the
2 legislature must appropriate a minimum of nine million seven hundred
3 fifty thousand dollars under this subsection (2)(b);

4 (c)(i) Up to six-tenths of one percent to the University of
5 Washington and four-tenths of one percent to Washington State
6 University for research on the short and long-term effects of
7 marijuana use, to include but not be limited to formal and informal
8 methods for estimating and measuring intoxication and impairment, and
9 for the dissemination of such research.

10 (ii) For the fiscal year beginning July 1, 2016, the legislature
11 must appropriate a minimum of two hundred seven thousand dollars and
12 for each subsequent fiscal year, except for the 2017-2019 fiscal
13 biennium, the legislature must appropriate a minimum of one million
14 twenty-one thousand dollars to the University of Washington. For the
15 fiscal year beginning July 1, 2016, the legislature must appropriate
16 a minimum of one hundred thirty-eight thousand dollars and for each
17 subsequent fiscal year thereafter, except for the 2017-2019 fiscal
18 biennium, a minimum of six hundred eighty-one thousand dollars to
19 Washington State University under this subsection (2)(c). It is the
20 intent of the legislature that this policy will be continued in the
21 2019-2021 fiscal biennium;

22 (d) Fifty percent to the state basic health plan trust account to
23 be administered by the Washington basic health plan administrator and
24 used as provided under chapter 70.47 RCW;

25 (e) Five percent to the Washington state health care authority to
26 be expended exclusively through contracts with community health
27 centers to provide primary health and dental care services, migrant
28 health services, and maternity health care services as provided under
29 RCW 41.05.220;

30 (f)(i) Up to three-tenths of one percent to the office of the
31 superintendent of public instruction to fund grants to building
32 bridges programs under chapter 28A.175 RCW.

33 (ii) For the fiscal year beginning July 1, 2016, and each
34 subsequent fiscal year, the legislature must appropriate a minimum of
35 five hundred eleven thousand dollars to the office of the
36 superintendent of public instruction under this subsection (2)(f);
37 and

38 (g) At the end of each fiscal year, the treasurer must transfer
39 any amounts in the dedicated marijuana account that are not
40 appropriated pursuant to subsection (1) of this section and this

1 subsection (2) into the general fund, except as provided in (g)(i) of
2 this subsection (2).

3 (i) Beginning in fiscal year 2018, if marijuana excise tax
4 collections deposited into the general fund in the prior fiscal year
5 exceed twenty-five million dollars, then each fiscal year the
6 legislature must appropriate an amount equal to thirty percent of all
7 marijuana excise taxes deposited into the general fund the prior
8 fiscal year to the treasurer for distribution to counties, cities,
9 and towns as follows:

10 (A) Thirty percent must be distributed to counties, cities, and
11 towns where licensed marijuana retailers are physically located. Each
12 jurisdiction must receive a share of the revenue distribution under
13 this subsection (2)(g)(i)(A) based on the proportional share of the
14 total revenues generated in the individual jurisdiction from the
15 taxes collected under RCW 69.50.535, from licensed marijuana
16 retailers physically located in each jurisdiction. For purposes of
17 this subsection (2)(g)(i)(A), one hundred percent of the proportional
18 amount attributed to a retailer physically located in a city or town
19 must be distributed to the city or town.

20 (B) Seventy percent must be distributed to counties, cities, and
21 towns ratably on a per capita basis. Counties must receive sixty
22 percent of the distribution, which must be disbursed based on each
23 county's total proportional population. Funds may only be distributed
24 to jurisdictions that do not prohibit the siting of any state
25 licensed marijuana producer, processor, or retailer.

26 (ii) Distribution amounts allocated to each county, city, and
27 town must be distributed in four installments by the last day of each
28 fiscal quarter.

29 (iii) By September 15th of each year, the state liquor and
30 cannabis board must provide the state treasurer the annual
31 distribution amount, if any, for each county and city as determined
32 in (g)(i) of this subsection (2).

33 (iv) The total share of marijuana excise tax revenues distributed
34 to counties and cities in (g)(i) of this subsection (2) may not
35 exceed six million dollars in fiscal years 2018 and 2019 and twenty
36 million dollars per fiscal year thereafter. However, if the February
37 2018 forecast of state revenues for the general fund in the 2017-2019
38 fiscal biennium exceeds the amount estimated in the June 2017 revenue
39 forecast by over eighteen million dollars after adjusting for changes
40 directly related to legislation adopted in the 2017 legislative

1 session, the total share of marijuana excise tax revenue distributed
2 to counties and cities in (g)(i) of this subsection (2) may not
3 exceed fifteen million dollars in fiscal years 2018 and 2019. It is
4 the intent of the legislature that the policy for the maximum
5 distributions in the subsequent fiscal biennia will be no more than
6 (~~(\$6)~~) six million dollars per fiscal year.

7 For the purposes of this section, "marijuana products" means
8 "useable marijuana," "marijuana concentrates," and "marijuana-infused
9 products" as those terms are defined in RCW 69.50.101.

10 **PART 9**

11 **Sec. 9001.** RCW 2.30.020 and 2015 c 291 s 2 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Emerging best practice" or "promising practice" means a
16 program or practice that, based on statistical analyses or a well-
17 established theory of change, shows potential for meeting the
18 evidence-based or research-based criteria, which may include the use
19 of a program that is evidence-based for outcomes other than those
20 listed in this section.

21 (2) "Evidence-based" means a program or practice that: (a) Has
22 been tested in heterogeneous or intended populations with multiple
23 randomized, or statistically controlled evaluations, or both; or one
24 large multiple site randomized, or statistically controlled
25 evaluation, or both, where the weight of the evidence from a systemic
26 review demonstrates sustained improvements in at least one outcome;
27 or (b) may be implemented with a set of procedures to allow
28 successful replication in Washington and, when possible, is
29 determined to be cost-beneficial.

30 (3) "Government authority" means prosecutor or other
31 representative initiating action leading to a proceeding in
32 therapeutic court.

33 (4) "Participant" means an accused person, offender, or
34 respondent in the judicial proceeding.

35 (5) "Research-based" means a program or practice that has been
36 tested with a single randomized, or statistically controlled
37 evaluation, or both, demonstrating sustained desirable outcomes; or
38 where the weight of the evidence from a systemic review supports

1 sustained outcomes as described in this subsection but does not meet
2 the full criteria for evidence-based.

3 (6) "Specialty court" and "therapeutic court" both mean a court
4 utilizing a program or programs structured to achieve both a
5 reduction in recidivism and an increase in the likelihood of
6 rehabilitation, or to reduce child abuse and neglect, out-of-home
7 placements of children, termination of parental rights, and substance
8 abuse and mental health symptoms among parents or guardians and their
9 children through continuous and intense judicially supervised
10 treatment and the appropriate use of services, sanctions, and
11 incentives.

12 (7) "Therapeutic court personnel" means the staff of a
13 therapeutic court including, but not limited to: Court and clerk
14 personnel with therapeutic court duties, prosecuting attorneys, the
15 attorney general or his or her representatives, defense counsel,
16 monitoring personnel, and others acting within the scope of
17 therapeutic court duties.

18 (8) "Trial court" means a superior court authorized under this
19 title ((~~2-RCW~~)) or a district or municipal court authorized under
20 Title 3 or 35 RCW.

21 **Sec. 9002.** RCW 2.30.030 and 2015 c 291 s 3 are each amended to
22 read as follows:

23 (1) Every trial and juvenile court in the state of Washington is
24 authorized and encouraged to establish and operate therapeutic
25 courts. Therapeutic courts, in conjunction with the government
26 authority and subject matter experts specific to the focus of the
27 therapeutic court, develop and process cases in ways that depart from
28 traditional judicial processes to allow defendants or respondents the
29 opportunity to obtain treatment services to address particular issues
30 that may have contributed to the conduct that led to their arrest or
31 involvement in the child welfare system in exchange for resolution of
32 the case or charges. In criminal cases, the consent of the prosecutor
33 is required.

34 (2) While a therapeutic court judge retains the discretion to
35 decline to accept a case into the therapeutic court, and while a
36 therapeutic court retains discretion to establish processes and
37 determine eligibility for admission to the therapeutic court process
38 unique to their community and jurisdiction, the effectiveness and
39 credibility of any therapeutic court will be enhanced when the court

1 implements evidence-based practices, research-based practices,
2 emerging best practices, or promising practices that have been
3 identified and accepted at the state and national levels. Promising
4 practices, emerging best practices, and/or research-based programs
5 are authorized where determined by the court to be appropriate. As
6 practices evolve, the trial court shall regularly assess the
7 effectiveness of its program and the methods by which it implements
8 and adopts new best practices.

9 (3) Except under special findings by the court, the following
10 individuals are not eligible for participation in therapeutic courts:

11 (a) Individuals who are currently charged or who have been
12 previously convicted of a serious violent offense or sex offense as
13 defined in RCW 9.94A.030;

14 (b) Individuals who are currently charged with an offense
15 alleging intentional discharge, threat to discharge, or attempt to
16 discharge a firearm in furtherance of the offense;

17 (c) Individuals who are currently charged with or who have been
18 previously convicted of vehicular homicide or an equivalent out-of-
19 state offense; or

20 (d) Individuals who are currently charged with or who have been
21 previously convicted of: An offense alleging substantial bodily harm
22 or great bodily harm as defined in RCW 9A.04.110, or death of another
23 person.

24 (4) Any jurisdiction establishing a therapeutic court shall
25 endeavor to incorporate the therapeutic court principles of best
26 practices as recognized by state and national therapeutic court
27 organizations in structuring a particular program, which may include:

28 (a) Determining the population;

29 (b) Performing a clinical assessment;

30 (c) Developing the treatment plan;

31 (d) Monitoring the participant, including any appropriate
32 testing;

33 (e) Forging agency, organization, and community partnerships;

34 (f) Taking a judicial leadership role;

35 (g) Developing case management strategies;

36 (h) Addressing transportation, housing, and subsistence issues;

37 (i) Evaluating the program;

38 (j) Ensuring a sustainable program.

39 (5) Upon a showing of indigence under RCW 10.101.010, fees may be
40 reduced or waived.

1 (6) The (~~department of social and health services~~) health care
2 authority shall furnish services to therapeutic courts addressing
3 dependency matters where substance abuse or mental health are an
4 issue unless the court contracts with providers outside of the
5 (~~department~~) health care authority.

6 (7) Any jurisdiction that has established more than one
7 therapeutic court under this chapter may combine the functions of
8 these courts into a single therapeutic court.

9 (8) Nothing in this section prohibits a district or municipal
10 court from ordering treatment or other conditions of sentence or
11 probation following a conviction, without the consent of either the
12 prosecutor or defendant.

13 (9) No therapeutic or specialty court may be established
14 specifically for the purpose of applying foreign law, including
15 foreign criminal, civil, or religious law, that is otherwise not
16 required by treaty.

17 (10) No therapeutic or specialty court established by court rule
18 shall enforce a foreign law, if doing so would violate a right
19 guaranteed by the Constitution of this state or of the United States.

20 **Sec. 9003.** RCW 9.41.300 and 2011 c 221 s 2 are each amended to
21 read as follows:

22 (1) It is unlawful for any person to enter the following places
23 when he or she knowingly possesses or knowingly has under his or her
24 control a weapon:

25 (a) The restricted access areas of a jail, or of a law
26 enforcement facility, or any place used for the confinement of a
27 person (i) arrested for, charged with, or convicted of an offense,
28 (ii) held for extradition or as a material witness, or (iii)
29 otherwise confined pursuant to an order of a court, except an order
30 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
31 include common areas of egress or ingress open to the general public;

32 (b) Those areas in any building which are used in connection with
33 court proceedings, including courtrooms, jury rooms, judge's
34 chambers, offices and areas used to conduct court business, waiting
35 areas, and corridors adjacent to areas used in connection with court
36 proceedings. The restricted areas do not include common areas of
37 ingress and egress to the building that is used in connection with
38 court proceedings, when it is possible to protect court areas without
39 restricting ingress and egress to the building. The restricted areas

1 shall be the minimum necessary to fulfill the objective of this
2 subsection (1)(b).

3 For purposes of this subsection (1)(b), "weapon" means any
4 firearm, explosive as defined in RCW 70.74.010, or any weapon of the
5 kind usually known as slung shot, sand club, or metal knuckles, or
6 any knife, dagger, dirk, or other similar weapon that is capable of
7 causing death or bodily injury and is commonly used with the intent
8 to cause death or bodily injury.

9 In addition, the local legislative authority shall provide either
10 a stationary locked box sufficient in size for pistols and key to a
11 weapon owner for weapon storage, or shall designate an official to
12 receive weapons for safekeeping, during the owner's visit to
13 restricted areas of the building. The locked box or designated
14 official shall be located within the same building used in connection
15 with court proceedings. The local legislative authority shall be
16 liable for any negligence causing damage to or loss of a weapon
17 either placed in a locked box or left with an official during the
18 owner's visit to restricted areas of the building.

19 The local judicial authority shall designate and clearly mark
20 those areas where weapons are prohibited, and shall post notices at
21 each entrance to the building of the prohibition against weapons in
22 the restricted areas;

23 (c) The restricted access areas of a public mental health
24 facility licensed or certified by the department of (~~social and~~
25 ~~health services~~) health for inpatient hospital care and state
26 institutions for the care of the mentally ill, excluding those
27 facilities solely for evaluation and treatment. Restricted access
28 areas do not include common areas of egress and ingress open to the
29 general public;

30 (d) That portion of an establishment classified by the state
31 liquor (~~control~~) and cannabis board as off-limits to persons under
32 twenty-one years of age; or

33 (e) The restricted access areas of a commercial service airport
34 designated in the airport security plan approved by the federal
35 transportation security administration, including passenger screening
36 checkpoints at or beyond the point at which a passenger initiates the
37 screening process. These areas do not include airport drives, general
38 parking areas and walkways, and shops and areas of the terminal that
39 are outside the screening checkpoints and that are normally open to
40 unscreened passengers or visitors to the airport. Any restricted

1 access area shall be clearly indicated by prominent signs indicating
2 that firearms and other weapons are prohibited in the area.

3 (2) Cities, towns, counties, and other municipalities may enact
4 laws and ordinances:

5 (a) Restricting the discharge of firearms in any portion of their
6 respective jurisdictions where there is a reasonable likelihood that
7 humans, domestic animals, or property will be jeopardized. Such laws
8 and ordinances shall not abridge the right of the individual
9 guaranteed by Article I, section 24 of the state Constitution to bear
10 arms in defense of self or others; and

11 (b) Restricting the possession of firearms in any stadium or
12 convention center, operated by a city, town, county, or other
13 municipality, except that such restrictions shall not apply to:

14 (i) Any pistol in the possession of a person licensed under RCW
15 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

16 (ii) Any showing, demonstration, or lecture involving the
17 exhibition of firearms.

18 (3)(a) Cities, towns, and counties may enact ordinances
19 restricting the areas in their respective jurisdictions in which
20 firearms may be sold, but, except as provided in (b) of this
21 subsection, a business selling firearms may not be treated more
22 restrictively than other businesses located within the same zone. An
23 ordinance requiring the cessation of business within a zone shall not
24 have a shorter grandfather period for businesses selling firearms
25 than for any other businesses within the zone.

26 (b) Cities, towns, and counties may restrict the location of a
27 business selling firearms to not less than five hundred feet from
28 primary or secondary school grounds, if the business has a
29 storefront, has hours during which it is open for business, and posts
30 advertisements or signs observable to passersby that firearms are
31 available for sale. A business selling firearms that exists as of the
32 date a restriction is enacted under this subsection (3)(b) shall be
33 grandfathered according to existing law.

34 (4) Violations of local ordinances adopted under subsection (2)
35 of this section must have the same penalty as provided for by state
36 law.

37 (5) The perimeter of the premises of any specific location
38 covered by subsection (1) of this section shall be posted at
39 reasonable intervals to alert the public as to the existence of any
40 law restricting the possession of firearms on the premises.

1 (6) Subsection (1) of this section does not apply to:

2 (a) A person engaged in military activities sponsored by the
3 federal or state governments, while engaged in official duties;

4 (b) Law enforcement personnel, except that subsection (1)(b) of
5 this section does apply to a law enforcement officer who is present
6 at a courthouse building as a party to an action under chapter 10.14,
7 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
8 has alleged the existence of domestic violence as defined in RCW
9 26.50.010; or

10 (c) Security personnel while engaged in official duties.

11 (7) Subsection (1)(a), (b), (c), and (e) of this section does not
12 apply to correctional personnel or community corrections officers, as
13 long as they are employed as such, who have completed government-
14 sponsored law enforcement firearms training, except that subsection
15 (1)(b) of this section does apply to a correctional employee or
16 community corrections officer who is present at a courthouse building
17 as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or
18 an action under Title 26 RCW where any party has alleged the
19 existence of domestic violence as defined in RCW 26.50.010.

20 (8) Subsection (1)(a) of this section does not apply to a person
21 licensed pursuant to RCW 9.41.070 who, upon entering the place or
22 facility, directly and promptly proceeds to the administrator of the
23 facility or the administrator's designee and obtains written
24 permission to possess the firearm while on the premises or checks his
25 or her firearm. The person may reclaim the firearms upon leaving but
26 must immediately and directly depart from the place or facility.

27 (9) Subsection (1)(c) of this section does not apply to any
28 administrator or employee of the facility or to any person who, upon
29 entering the place or facility, directly and promptly proceeds to the
30 administrator of the facility or the administrator's designee and
31 obtains written permission to possess the firearm while on the
32 premises.

33 (10) Subsection (1)(d) of this section does not apply to the
34 proprietor of the premises or his or her employees while engaged in
35 their employment.

36 (11) Government-sponsored law enforcement firearms training must
37 be training that correctional personnel and community corrections
38 officers receive as part of their job requirement and reference to
39 such training does not constitute a mandate that it be provided by
40 the correctional facility.

1 (12) Any person violating subsection (1) of this section is
2 guilty of a gross misdemeanor.

3 (13) "Weapon" as used in this section means any firearm,
4 explosive as defined in RCW 70.74.010, or instrument or weapon listed
5 in RCW 9.41.250.

6 **Sec. 9004.** RCW 9.94A.703 and 2015 c 81 s 3 are each amended to
7 read as follows:

8 When a court sentences a person to a term of community custody,
9 the court shall impose conditions of community custody as provided in
10 this section.

11 (1) **Mandatory conditions.** As part of any term of community
12 custody, the court shall:

13 (a) Require the offender to inform the department of court-
14 ordered treatment upon request by the department;

15 (b) Require the offender to comply with any conditions imposed by
16 the department under RCW 9.94A.704;

17 (c) If the offender was sentenced under RCW 9.94A.507 for an
18 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense
19 was under eighteen years of age at the time of the offense, prohibit
20 the offender from residing in a community protection zone;

21 (d) If the offender was sentenced under RCW 9A.36.120, prohibit
22 the offender from serving in any paid or volunteer capacity where he
23 or she has control or supervision of minors under the age of
24 thirteen.

25 (2) **Waivable conditions.** Unless waived by the court, as part of
26 any term of community custody, the court shall order an offender to:

27 (a) Report to and be available for contact with the assigned
28 community corrections officer as directed;

29 (b) Work at department-approved education, employment, or
30 community restitution, or any combination thereof;

31 (c) Refrain from possessing or consuming controlled substances
32 except pursuant to lawfully issued prescriptions;

33 (d) Pay supervision fees as determined by the department; and

34 (e) Obtain prior approval of the department for the offender's
35 residence location and living arrangements.

36 (3) **Discretionary conditions.** As part of any term of community
37 custody, the court may order an offender to:

38 (a) Remain within, or outside of, a specified geographical
39 boundary;

1 (b) Refrain from direct or indirect contact with the victim of
2 the crime or a specified class of individuals;

3 (c) Participate in crime-related treatment or counseling
4 services;

5 (d) Participate in rehabilitative programs or otherwise perform
6 affirmative conduct reasonably related to the circumstances of the
7 offense, the offender's risk of reoffending, or the safety of the
8 community;

9 (e) Refrain from possessing or consuming alcohol; or

10 (f) Comply with any crime-related prohibitions.

11 (4) **Special conditions.**

12 (a) In sentencing an offender convicted of a crime of domestic
13 violence, as defined in RCW 10.99.020, if the offender has a minor
14 child, or if the victim of the offense for which the offender was
15 convicted has a minor child, the court may order the offender to
16 participate in a domestic violence perpetrator program approved under
17 RCW 26.50.150.

18 (b)(i) In sentencing an offender convicted of an alcohol or drug-
19 related traffic offense, the court shall require the offender to
20 complete a diagnostic evaluation by (~~an alcohol or drug dependency~~
21 ~~agency~~) a substance use disorder treatment program approved by the
22 department of social and health services or a qualified probation
23 department, defined under RCW 46.61.516, that has been approved by
24 the department of social and health services. If the offense was
25 pursuant to chapter 46.61 RCW, the report shall be forwarded to the
26 department of licensing. If the offender is found to have an alcohol
27 or drug problem that requires treatment, the offender shall complete
28 treatment in (~~a program approved by the department of social and~~
29 ~~health services under chapter 70.96A RCW~~) an approved substance use
30 disorder treatment program as defined in chapter 71.24 RCW. If the
31 offender is found not to have an alcohol or drug problem that
32 requires treatment, the offender shall complete a course in an
33 alcohol and drug information school (~~approved~~) licensed or
34 certified by the department of (~~social and health services~~) health
35 under chapter 70.96A RCW. The offender shall pay all costs for any
36 evaluation, education, or treatment required by this section, unless
37 the offender is eligible for an existing program offered or approved
38 by the department of social and health services.

39 (ii) For purposes of this section, "alcohol or drug-related
40 traffic offense" means the following: Driving while under the

1 influence as defined by RCW 46.61.502, actual physical control while
2 under the influence as defined by RCW 46.61.504, vehicular homicide
3 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by
4 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW
5 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

6 (iii) This subsection (4)(b) does not require the department of
7 social and health services to add new treatment or assessment
8 facilities nor affect its use of existing programs and facilities
9 authorized by law.

10 **Sec. 9005.** RCW 10.05.040 and 2002 c 219 s 9 are each amended to
11 read as follows:

12 The ((~~facility~~)) program to which such person is referred, or the
13 department of social and health services if the petition is brought
14 under RCW 10.05.020(2), shall conduct an investigation and
15 examination to determine:

- 16 (1) Whether the person suffers from the problem described;
- 17 (2) Whether the problem is such that if not treated, or if no
18 child welfare services are provided, there is a probability that
19 similar misconduct will occur in the future;
- 20 (3) Whether extensive and long term treatment is required;
- 21 (4) Whether effective treatment or child welfare services for the
22 person's problem are available; and
- 23 (5) Whether the person is amenable to treatment or willing to
24 cooperate with child welfare services.

25 **Sec. 9006.** RCW 10.05.050 and 2002 c 219 s 10 are each amended to
26 read as follows:

27 (1) The ((~~facility~~)) program, or the department of social and
28 health services if the petition is brought under RCW 10.05.020(2),
29 shall make a written report to the court stating its findings and
30 recommendations after the examination required by RCW 10.05.040. If
31 its findings and recommendations support treatment or the
32 implementation of a child welfare service plan, it shall also
33 recommend a treatment or service plan setting out:

- 34 (a) The type;
- 35 (b) Nature;
- 36 (c) Length;
- 37 (d) A treatment or service time schedule; and
- 38 (e) Approximate cost of the treatment or child welfare services.

1 (2) In the case of a child welfare service plan, the plan shall
2 be designed in a manner so that a parent who successfully completes
3 the plan will not be likely to withhold the basic necessities of life
4 from his or her child.

5 (3) The report with the treatment or service plan shall be filed
6 with the court and a copy given to the petitioner and petitioner's
7 counsel. A copy of the treatment or service plan shall be given to
8 the prosecutor by petitioner's counsel at the request of the
9 prosecutor. The evaluation facility, or the department of social and
10 health services if the petition is brought under RCW 10.05.020(2),
11 making the written report shall append to the report a commitment by
12 the treatment ((~~facility~~)) program or the department of social and
13 health services that it will provide the treatment or child welfare
14 services in accordance with this chapter. The facility or the service
15 provider shall agree to provide the court with a statement every
16 three months for the first year and every six months for the second
17 year regarding (a) the petitioner's cooperation with the treatment or
18 child welfare service plan proposed and (b) the petitioner's progress
19 or failure in treatment or child welfare services. These statements
20 shall be made as a declaration by the person who is personally
21 responsible for providing the treatment or services.

22 **Sec. 9007.** RCW 18.205.080 and 1998 c 243 s 8 are each amended to
23 read as follows:

24 (1) The secretary shall appoint a chemical dependency
25 certification advisory committee to further the purposes of this
26 chapter. The committee shall be composed of seven members, one member
27 initially appointed for a term of one year, three for a term of two
28 years, and three for a term of three years. Subsequent appointments
29 shall be for terms of three years. No person may serve as a member of
30 the committee for more than two consecutive terms. Members of the
31 committee shall be residents of this state. The committee shall be
32 composed of four certified chemical dependency professionals; one
33 chemical dependency treatment program director; one physician
34 licensed under chapter 18.71 or 18.57 RCW who is certified in
35 addiction medicine or a licensed or certified mental health
36 practitioner; and one member of the public who has received chemical
37 dependency counseling.

38 (2) The secretary may remove any member of the committee for
39 cause as specified by rule. In the case of a vacancy, the secretary

1 shall appoint a person to serve for the remainder of the unexpired
2 term.

3 (3) The committee shall meet at the times and places designated
4 by the secretary and shall hold meetings during the year as necessary
5 to provide advice to the director. The committee may elect a chair
6 and a vice chair. A majority of the members currently serving shall
7 constitute a quorum.

8 (4) Each member of the committee shall be reimbursed for travel
9 expenses as authorized in RCW 43.03.050 and 43.03.060. In addition,
10 members of the committee shall be compensated in accordance with RCW
11 43.03.240 when engaged in the authorized business of the committee.

12 (5) The director of the (~~department of social and health~~
13 ~~services division of alcohol and substance abuse or the director's~~)
14 health care authority, or his or her designee, shall serve as an ex
15 officio member of the committee.

16 (6) The secretary, members of the committee, or individuals
17 acting on their behalf are immune from suit in any action, civil or
18 criminal, based on any certification or disciplinary proceedings or
19 other official acts performed in the course of their duties.

20 **Sec. 9008.** RCW 18.88A.020 and 2015 c 158 s 1 are each amended to
21 read as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

24 (1) "Alternative training" means a nursing assistant-certified
25 program meeting criteria adopted by the commission under RCW
26 18.88A.087 to meet the requirements of a state-approved nurse aide
27 competency evaluation program consistent with 42 U.S.C. Sec.
28 1395i-3(e) and (f) of the federal social security act.

29 (2) "Approved training program" means a nursing assistant-
30 certified training program approved by the commission to meet the
31 requirements of a state-approved nurse aide training and competency
32 evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f)
33 of the federal social security act. For community college,
34 vocational-technical institutes, skill centers, and secondary school
35 as defined in chapter 28B.50 RCW, nursing assistant-certified
36 training programs shall be approved by the commission in cooperation
37 with the board for community and technical colleges or the
38 superintendent of public instruction.

1 (3) "Commission" means the Washington nursing care quality
2 assurance commission.

3 (4) "Competency evaluation" means the measurement of an
4 individual's knowledge and skills as related to safe, competent
5 performance as a nursing assistant.

6 (5) "Department" means the department of health.

7 (6) "Health care facility" means a nursing home, hospital
8 licensed under chapter 70.41 or 71.12 RCW, hospice care facility,
9 home health care agency, hospice agency, licensed or certified
10 service provider under chapter 71.24 RCW other than an individual
11 health care provider, or other entity for delivery of health care
12 services as defined by the commission.

13 (7) "Medication assistant" means a nursing assistant-certified
14 with a medication assistant endorsement issued under RCW 18.88A.082
15 who is authorized, in addition to his or her duties as a nursing
16 assistant-certified, to administer certain medications and perform
17 certain treatments in a nursing home under the supervision of a
18 registered nurse under RCW 18.88A.082.

19 (8) "Nursing assistant" means an individual, regardless of title,
20 who, under the direction and supervision of a registered nurse or
21 licensed practical nurse, assists in the delivery of nursing and
22 nursing-related activities to patients in a health care facility. The
23 two levels of nursing assistants are:

24 (a) "Nursing assistant-certified," an individual certified under
25 this chapter; and

26 (b) "Nursing assistant-registered," an individual registered
27 under this chapter.

28 (9) "Nursing home" means a nursing home licensed under chapter
29 18.51 RCW.

30 (10) "Secretary" means the secretary of health.

31 **Sec. 9009.** RCW 46.61.5055 and 2017 c 336 s 6 and 2017 c 335 s 3
32 are each reenacted and amended to read as follows:

33 (1) **No prior offenses in seven years.** Except as provided in RCW
34 46.61.502(6) or 46.61.504(6), a person who is convicted of a
35 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
36 within seven years shall be punished as follows:

37 (a) **Penalty for alcohol concentration less than 0.15.** In the case
38 of a person whose alcohol concentration was less than 0.15, or for
39 whom for reasons other than the person's refusal to take a test

1 offered pursuant to RCW 46.20.308 there is no test result indicating
2 the person's alcohol concentration:

3 (i) By imprisonment for not less than one day nor more than three
4 hundred sixty-four days. Twenty-four consecutive hours of the
5 imprisonment may not be suspended unless the court finds that the
6 imposition of this mandatory minimum sentence would impose a
7 substantial risk to the offender's physical or mental well-being.
8 Whenever the mandatory minimum sentence is suspended, the court shall
9 state in writing the reason for granting the suspension and the facts
10 upon which the suspension is based. In lieu of the mandatory minimum
11 term of imprisonment required under this subsection (1)(a)(i), the
12 court may order not less than fifteen days of electronic home
13 monitoring or a ninety-day period of 24/7 sobriety program
14 monitoring. The court may consider the offender's pretrial 24/7
15 sobriety program monitoring as fulfilling a portion of posttrial
16 sentencing. The offender shall pay the cost of electronic home
17 monitoring. The county or municipality in which the penalty is being
18 imposed shall determine the cost. The court may also require the
19 offender's electronic home monitoring device or other separate
20 alcohol monitoring device to include an alcohol detection
21 breathalyzer, and the court may restrict the amount of alcohol the
22 offender may consume during the time the offender is on electronic
23 home monitoring; and

24 (ii) By a fine of not less than three hundred fifty dollars nor
25 more than five thousand dollars. Three hundred fifty dollars of the
26 fine may not be suspended unless the court finds the offender to be
27 indigent; or

28 (b) **Penalty for alcohol concentration at least 0.15.** In the case
29 of a person whose alcohol concentration was at least 0.15, or for
30 whom by reason of the person's refusal to take a test offered
31 pursuant to RCW 46.20.308 there is no test result indicating the
32 person's alcohol concentration:

33 (i) By imprisonment for not less than two days nor more than
34 three hundred sixty-four days. Forty-eight consecutive hours of the
35 imprisonment may not be suspended unless the court finds that the
36 imposition of this mandatory minimum sentence would impose a
37 substantial risk to the offender's physical or mental well-being.
38 Whenever the mandatory minimum sentence is suspended, the court shall
39 state in writing the reason for granting the suspension and the facts
40 upon which the suspension is based. In lieu of the mandatory minimum

1 term of imprisonment required under this subsection (1)(b)(i), the
2 court may order not less than thirty days of electronic home
3 monitoring or a one hundred twenty day period of 24/7 sobriety
4 program monitoring. The court may consider the offender's pretrial
5 24/7 sobriety program testing as fulfilling a portion of posttrial
6 sentencing. The offender shall pay the cost of electronic home
7 monitoring. The county or municipality in which the penalty is being
8 imposed shall determine the cost. The court may also require the
9 offender's electronic home monitoring device to include an alcohol
10 detection breathalyzer or other separate alcohol monitoring device,
11 and the court may restrict the amount of alcohol the offender may
12 consume during the time the offender is on electronic home
13 monitoring; and

14 (ii) By a fine of not less than five hundred dollars nor more
15 than five thousand dollars. Five hundred dollars of the fine may not
16 be suspended unless the court finds the offender to be indigent.

17 (2) **One prior offense in seven years.** Except as provided in RCW
18 46.61.502(6) or 46.61.504(6), a person who is convicted of a
19 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
20 within seven years shall be punished as follows:

21 (a) **Penalty for alcohol concentration less than 0.15.** In the case
22 of a person whose alcohol concentration was less than 0.15, or for
23 whom for reasons other than the person's refusal to take a test
24 offered pursuant to RCW 46.20.308 there is no test result indicating
25 the person's alcohol concentration:

26 (i) By imprisonment for not less than thirty days nor more than
27 three hundred sixty-four days and sixty days of electronic home
28 monitoring. In lieu of the mandatory term of imprisonment and
29 electronic home monitoring under this subsection (2)(a)(i), the court
30 may order a minimum of four days in jail and either one hundred
31 eighty days of electronic home monitoring or a one hundred twenty-day
32 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300
33 through 36.28A.390. The court may consider the offender's pretrial
34 24/7 sobriety program monitoring as fulfilling a portion of posttrial
35 sentencing. The court shall order an expanded alcohol assessment and
36 treatment, if deemed appropriate by the assessment. The offender
37 shall pay for the cost of the electronic monitoring. The county or
38 municipality where the penalty is being imposed shall determine the
39 cost. The court may also require the offender's electronic home
40 monitoring device include an alcohol detection breathalyzer or other

1 separate alcohol monitoring device, and may restrict the amount of
2 alcohol the offender may consume during the time the offender is on
3 electronic home monitoring. Thirty days of imprisonment and sixty
4 days of electronic home monitoring may not be suspended unless the
5 court finds that the imposition of this mandatory minimum sentence
6 would impose a substantial risk to the offender's physical or mental
7 well-being. Whenever the mandatory minimum sentence is suspended, the
8 court shall state in writing the reason for granting the suspension
9 and the facts upon which the suspension is based; and

10 (ii) By a fine of not less than five hundred dollars nor more
11 than five thousand dollars. Five hundred dollars of the fine may not
12 be suspended unless the court finds the offender to be indigent; or

13 (b) **Penalty for alcohol concentration at least 0.15.** In the case
14 of a person whose alcohol concentration was at least 0.15, or for
15 whom by reason of the person's refusal to take a test offered
16 pursuant to RCW 46.20.308 there is no test result indicating the
17 person's alcohol concentration:

18 (i) By imprisonment for not less than forty-five days nor more
19 than three hundred sixty-four days and ninety days of electronic home
20 monitoring. In lieu of the mandatory minimum term of imprisonment and
21 electronic home monitoring under this subsection (2)(b)(i), the court
22 may order a minimum of six days in jail and either six months of
23 electronic home monitoring or a one hundred twenty-day period of 24/7
24 sobriety program monitoring pursuant to RCW 36.28A.300 through
25 36.28A.390. The court may consider the offender's pretrial 24/7
26 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. Forty-five days of imprisonment and
36 ninety days of electronic home monitoring may not be suspended unless
37 the court finds that the imposition of this mandatory minimum
38 sentence would impose a substantial risk to the offender's physical
39 or mental well-being. Whenever the mandatory minimum sentence is

1 suspended, the court shall state in writing the reason for granting
2 the suspension and the facts upon which the suspension is based; and

3 (ii) By a fine of not less than seven hundred fifty dollars nor
4 more than five thousand dollars. Seven hundred fifty dollars of the
5 fine may not be suspended unless the court finds the offender to be
6 indigent.

7 (3) **Two prior offenses in seven years.** Except as provided in RCW
8 46.61.502(6) or 46.61.504(6), a person who is convicted of a
9 violation of RCW 46.61.502 or 46.61.504 and who has two prior
10 offenses within seven years shall be punished as follows:

11 (a) **Penalty for alcohol concentration less than 0.15.** In the case
12 of a person whose alcohol concentration was less than 0.15, or for
13 whom for reasons other than the person's refusal to take a test
14 offered pursuant to RCW 46.20.308 there is no test result indicating
15 the person's alcohol concentration:

16 (i) By imprisonment for not less than ninety days nor more than
17 three hundred sixty-four days, if available in that county or city, a
18 six-month period of 24/7 sobriety program monitoring pursuant to RCW
19 36.28A.300 through 36.28A.390, and one hundred twenty days of
20 electronic home monitoring. In lieu of the mandatory minimum term of
21 one hundred twenty days of electronic home monitoring, the court may
22 order at least an additional eight days in jail. The court shall
23 order an expanded alcohol assessment and treatment, if deemed
24 appropriate by the assessment. The offender shall pay for the cost of
25 the electronic monitoring. The county or municipality where the
26 penalty is being imposed shall determine the cost. The court may also
27 require the offender's electronic home monitoring device include an
28 alcohol detection breathalyzer or other separate alcohol monitoring
29 device, and may restrict the amount of alcohol the offender may
30 consume during the time the offender is on electronic home
31 monitoring. Ninety days of imprisonment and one hundred twenty days
32 of electronic home monitoring may not be suspended unless the court
33 finds that the imposition of this mandatory minimum sentence would
34 impose a substantial risk to the offender's physical or mental well-
35 being. Whenever the mandatory minimum sentence is suspended, the
36 court shall state in writing the reason for granting the suspension
37 and the facts upon which the suspension is based; and

38 (ii) By a fine of not less than one thousand dollars nor more
39 than five thousand dollars. One thousand dollars of the fine may not
40 be suspended unless the court finds the offender to be indigent; or

1 (b) **Penalty for alcohol concentration at least 0.15.** In the case
2 of a person whose alcohol concentration was at least 0.15, or for
3 whom by reason of the person's refusal to take a test offered
4 pursuant to RCW 46.20.308 there is no test result indicating the
5 person's alcohol concentration:

6 (i) By imprisonment for not less than one hundred twenty days nor
7 more than three hundred sixty-four days, if available in that county
8 or city, a six-month period of 24/7 sobriety program monitoring
9 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
10 days of electronic home monitoring. In lieu of the mandatory minimum
11 term of one hundred fifty days of electronic home monitoring, the
12 court may order at least an additional ten days in jail. The offender
13 shall pay for the cost of the electronic monitoring. The court shall
14 order an expanded alcohol assessment and treatment, if deemed
15 appropriate by the assessment. The county or municipality where the
16 penalty is being imposed shall determine the cost. The court may also
17 require the offender's electronic home monitoring device include an
18 alcohol detection breathalyzer or other separate alcohol monitoring
19 device, and may restrict the amount of alcohol the offender may
20 consume during the time the offender is on electronic home
21 monitoring. One hundred twenty days of imprisonment and one hundred
22 fifty days of electronic home monitoring may not be suspended unless
23 the court finds that the imposition of this mandatory minimum
24 sentence would impose a substantial risk to the offender's physical
25 or mental well-being. Whenever the mandatory minimum sentence is
26 suspended, the court shall state in writing the reason for granting
27 the suspension and the facts upon which the suspension is based; and

28 (ii) By a fine of not less than one thousand five hundred dollars
29 nor more than five thousand dollars. One thousand five hundred
30 dollars of the fine may not be suspended unless the court finds the
31 offender to be indigent.

32 (4) **Three or more prior offenses in ten years.** A person who is
33 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be
34 punished under chapter 9.94A RCW if:

35 (a) The person has three or more prior offenses within ten years;
36 or

37 (b) The person has ever previously been convicted of:

38 (i) A violation of RCW 46.61.520 committed while under the
39 influence of intoxicating liquor or any drug;

1 (ii) A violation of RCW 46.61.522 committed while under the
2 influence of intoxicating liquor or any drug;

3 (iii) An out-of-state offense comparable to the offense specified
4 in (b)(i) or (ii) of this subsection; or

5 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

6 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
7 require any person convicted of a violation of RCW 46.61.502 or
8 46.61.504 or an equivalent local ordinance to comply with the rules
9 and requirements of the department regarding the installation and use
10 of a functioning ignition interlock device installed on all motor
11 vehicles operated by the person.

12 (b) **Monitoring devices.** If the court orders that a person refrain
13 from consuming any alcohol, the court may order the person to submit
14 to alcohol monitoring through an alcohol detection breathalyzer
15 device, transdermal sensor device, or other technology designed to
16 detect alcohol in a person's system. The person shall pay for the
17 cost of the monitoring, unless the court specifies that the cost of
18 monitoring will be paid with funds that are available from an
19 alternative source identified by the court. The county or
20 municipality where the penalty is being imposed shall determine the
21 cost.

22 (c) **24/7 sobriety program monitoring.** In any county or city where
23 a 24/7 sobriety program is available and verified by the Washington
24 association of sheriffs and police chiefs, the court shall:

25 (i) Order the person to install and use a functioning ignition
26 interlock or other device in lieu of such period of 24/7 sobriety
27 program monitoring;

28 (ii) Order the person to a period of 24/7 sobriety program
29 monitoring pursuant to subsections (1) through (3) of this section;
30 or

31 (iii) Order the person to install and use a functioning ignition
32 interlock or other device in addition to a period of 24/7 sobriety
33 program monitoring pursuant to subsections (1) through (3) of this
34 section.

35 (6) **Penalty for having a minor passenger in vehicle.** If a person
36 who is convicted of a violation of RCW 46.61.502 or 46.61.504
37 committed the offense while a passenger under the age of sixteen was
38 in the vehicle, the court shall:

39 (a) Order the use of an ignition interlock or other device for an
40 additional six months;

1 (b) In any case in which the person has no prior offenses within
2 seven years, and except as provided in RCW 46.61.502(6) or
3 46.61.504(6), order an additional twenty-four hours of imprisonment
4 and a fine of not less than one thousand dollars and not more than
5 five thousand dollars. One thousand dollars of the fine may not be
6 suspended unless the court finds the offender to be indigent;

7 (c) In any case in which the person has one prior offense within
8 seven years, and except as provided in RCW 46.61.502(6) or
9 46.61.504(6), order an additional five days of imprisonment and a
10 fine of not less than two thousand dollars and not more than five
11 thousand dollars. One thousand dollars of the fine may not be
12 suspended unless the court finds the offender to be indigent;

13 (d) In any case in which the person has two prior offenses within
14 seven years, and except as provided in RCW 46.61.502(6) or
15 46.61.504(6), order an additional ten days of imprisonment and a fine
16 of not less than three thousand dollars and not more than ten
17 thousand dollars. One thousand dollars of the fine may not be
18 suspended unless the court finds the offender to be indigent.

19 (7) **Other items courts must consider while setting penalties.** In
20 exercising its discretion in setting penalties within the limits
21 allowed by this section, the court shall particularly consider the
22 following:

23 (a) Whether the person's driving at the time of the offense was
24 responsible for injury or damage to another or another's property;

25 (b) Whether at the time of the offense the person was driving or
26 in physical control of a vehicle with one or more passengers;

27 (c) Whether the driver was driving in the opposite direction of
28 the normal flow of traffic on a multiple lane highway, as defined by
29 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
30 or greater; and

31 (d) Whether a child passenger under the age of sixteen was an
32 occupant in the driver's vehicle.

33 (8) **Treatment and information school.** An offender punishable
34 under this section is subject to the alcohol assessment and treatment
35 provisions of RCW 46.61.5056.

36 (9) **Driver's license privileges of the defendant.** The license,
37 permit, or nonresident privilege of a person convicted of driving or
38 being in physical control of a motor vehicle while under the
39 influence of intoxicating liquor or drugs must:

1 (a) **Penalty for alcohol concentration less than 0.15.** If the
2 person's alcohol concentration was less than 0.15, or if for reasons
3 other than the person's refusal to take a test offered under RCW
4 46.20.308 there is no test result indicating the person's alcohol
5 concentration:

6 (i) Where there has been no prior offense within seven years, be
7 suspended or denied by the department for ninety days or until the
8 person is evaluated by an alcoholism agency or probation department
9 pursuant to RCW 46.20.311 and the person completes or is enrolled in
10 a ninety-day period of 24/7 sobriety program monitoring. In no
11 circumstances shall the license suspension be for fewer than two
12 days;

13 (ii) Where there has been one prior offense within seven years,
14 be revoked or denied by the department for two years or until the
15 person is evaluated by an alcoholism agency or probation department
16 pursuant to RCW 46.20.311 and the person completes or is enrolled in
17 a six-month period of 24/7 sobriety program monitoring. In no
18 circumstances shall the license suspension be for less than one year;
19 or

20 (iii) Where there have been two or more prior offenses within
21 seven years, be revoked or denied by the department for three years;

22 (b) **Penalty for alcohol concentration at least 0.15.** If the
23 person's alcohol concentration was at least 0.15:

24 (i) Where there has been no prior offense within seven years, be
25 revoked or denied by the department for one year or until the person
26 is evaluated by an alcoholism agency or probation department pursuant
27 to RCW 46.20.311 and the person completes or is enrolled in a one
28 hundred twenty day period of 24/7 sobriety program monitoring. In no
29 circumstances shall the license revocation be for fewer than four
30 days;

31 (ii) Where there has been one prior offense within seven years,
32 be revoked or denied by the department for nine hundred days; or

33 (iii) Where there have been two or more prior offenses within
34 seven years, be revoked or denied by the department for four years;
35 or

36 (c) **Penalty for refusing to take test.** If by reason of the
37 person's refusal to take a test offered under RCW 46.20.308, there is
38 no test result indicating the person's alcohol concentration:

39 (i) Where there have been no prior offenses within seven years,
40 be revoked or denied by the department for two years;

1 (ii) Where there has been one prior offense within seven years,
2 be revoked or denied by the department for three years; or

3 (iii) Where there have been two or more previous offenses within
4 seven years, be revoked or denied by the department for four years.

5 The department shall grant credit on a day-for-day basis for any
6 portion of a suspension, revocation, or denial already served under
7 this subsection for a suspension, revocation, or denial imposed under
8 RCW 46.20.3101 arising out of the same incident.

9 Upon receipt of a notice from the court under RCW 36.28A.390 that
10 a participant has been removed from a 24/7 sobriety program, the
11 department must resume any suspension, revocation, or denial that had
12 been terminated early under this subsection due to participation in
13 the program, granting credit on a day-for-day basis for any portion
14 of a suspension, revocation, or denial already served under RCW
15 46.20.3101 or this section arising out of the same incident.

16 Upon its own motion or upon motion by a person, a court may find,
17 on the record, that notice to the department under RCW 46.20.270 has
18 been delayed for three years or more as a result of a clerical or
19 court error. If so, the court may order that the person's license,
20 permit, or nonresident privilege shall not be revoked, suspended, or
21 denied for that offense. The court shall send notice of the finding
22 and order to the department and to the person. Upon receipt of the
23 notice from the court, the department shall not revoke, suspend, or
24 deny the license, permit, or nonresident privilege of the person for
25 that offense.

26 For purposes of this subsection (9), the department shall refer
27 to the driver's record maintained under RCW 46.52.120 when
28 determining the existence of prior offenses.

29 **(10) Probation of driving privilege.** After expiration of any
30 period of suspension, revocation, or denial of the offender's
31 license, permit, or privilege to drive required by this section, the
32 department shall place the offender's driving privilege in
33 probationary status pursuant to RCW 46.20.355.

34 **(11) Conditions of probation.** (a) In addition to any
35 nonsuspendable and nondeferrable jail sentence required by this
36 section, whenever the court imposes up to three hundred sixty-four
37 days in jail, the court shall also suspend but shall not defer a
38 period of confinement for a period not exceeding five years. The
39 court shall impose conditions of probation that include: (i) Not
40 driving a motor vehicle within this state without a valid license to

1 drive; (ii) not driving a motor vehicle within this state without
2 proof of liability insurance or other financial responsibility for
3 the future pursuant to RCW 46.30.020; (iii) not driving or being in
4 physical control of a motor vehicle within this state while having an
5 alcohol concentration of 0.08 or more or a THC concentration of 5.00
6 nanograms per milliliter of whole blood or higher, within two hours
7 after driving; (iv) not refusing to submit to a test of his or her
8 breath or blood to determine alcohol or drug concentration upon
9 request of a law enforcement officer who has reasonable grounds to
10 believe the person was driving or was in actual physical control of a
11 motor vehicle within this state while under the influence of
12 intoxicating liquor or drug; and (v) not driving a motor vehicle in
13 this state without a functioning ignition interlock device as
14 required by the department under RCW 46.20.720. The court may impose
15 conditions of probation that include nonrepetition, installation of
16 an ignition interlock device on the probationer's motor vehicle,
17 alcohol or drug treatment, supervised probation, or other conditions
18 that may be appropriate. The sentence may be imposed in whole or in
19 part upon violation of a condition of probation during the suspension
20 period.

21 (b) For each violation of mandatory conditions of probation under
22 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
23 order the convicted person to be confined for thirty days, which
24 shall not be suspended or deferred.

25 (c) For each incident involving a violation of a mandatory
26 condition of probation imposed under this subsection, the license,
27 permit, or privilege to drive of the person shall be suspended by the
28 court for thirty days or, if such license, permit, or privilege to
29 drive already is suspended, revoked, or denied at the time the
30 finding of probation violation is made, the suspension, revocation,
31 or denial then in effect shall be extended by thirty days. The court
32 shall notify the department of any suspension, revocation, or denial
33 or any extension of a suspension, revocation, or denial imposed under
34 this subsection.

35 (12) **Waiver of electronic home monitoring.** A court may waive the
36 electronic home monitoring requirements of this chapter when:

37 (a) The offender does not have a dwelling, telephone service, or
38 any other necessity to operate an electronic home monitoring system.
39 However, if a court determines that an alcohol monitoring device
40 utilizing wireless reporting technology is reasonably available, the

1 court may require the person to obtain such a device during the
2 period of required electronic home monitoring;

3 (b) The offender does not reside in the state of Washington; or

4 (c) The court determines that there is reason to believe that the
5 offender would violate the conditions of the electronic home
6 monitoring penalty.

7 Whenever the mandatory minimum term of electronic home monitoring
8 is waived, the court shall state in writing the reason for granting
9 the waiver and the facts upon which the waiver is based, and shall
10 impose an alternative sentence with similar punitive consequences.
11 The alternative sentence may include, but is not limited to, use of
12 an ignition interlock device, the 24/7 sobriety program monitoring,
13 additional jail time, work crew, or work camp.

14 Whenever the combination of jail time and electronic home
15 monitoring or alternative sentence would exceed three hundred sixty-
16 four days, the offender shall serve the jail portion of the sentence
17 first, and the electronic home monitoring or alternative portion of
18 the sentence shall be reduced so that the combination does not exceed
19 three hundred sixty-four days.

20 (13) **Extraordinary medical placement.** An offender serving a
21 sentence under this section, whether or not a mandatory minimum term
22 has expired, may be granted an extraordinary medical placement by the
23 jail administrator subject to the standards and limitations set forth
24 in RCW 9.94A.728(1)(c).

25 (14) **Definitions.** For purposes of this section and RCW 46.61.502
26 and 46.61.504:

27 (a) A "prior offense" means any of the following:

28 (i) A conviction for a violation of RCW 46.61.502 or an
29 equivalent local ordinance;

30 (ii) A conviction for a violation of RCW 46.61.504 or an
31 equivalent local ordinance;

32 (iii) A conviction for a violation of RCW 46.25.110 or an
33 equivalent local ordinance;

34 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
35 equivalent local ordinance;

36 (v) A conviction for a violation of RCW 79A.60.040(1) or an
37 equivalent local ordinance committed in a reckless manner if the
38 conviction is the result of a charge that was originally filed as a
39 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

1 (vi) A conviction for a violation of RCW 47.68.220 or an
2 equivalent local ordinance committed while under the influence of
3 intoxicating liquor or any drug;

4 (vii) A conviction for a violation of RCW 47.68.220 or an
5 equivalent local ordinance committed in a careless or reckless manner
6 if the conviction is the result of a charge that was originally filed
7 as a violation of RCW 47.68.220 or an equivalent local ordinance
8 while under the influence of intoxicating liquor or any drug;

9 (viii) A conviction for a violation of RCW 46.09.470(2) or an
10 equivalent local ordinance;

11 (ix) A conviction for a violation of RCW 46.10.490(2) or an
12 equivalent local ordinance;

13 (x) A conviction for a violation of RCW 46.61.520 committed while
14 under the influence of intoxicating liquor or any drug, or a
15 conviction for a violation of RCW 46.61.520 committed in a reckless
16 manner or with the disregard for the safety of others if the
17 conviction is the result of a charge that was originally filed as a
18 violation of RCW 46.61.520 committed while under the influence of
19 intoxicating liquor or any drug;

20 (xi) A conviction for a violation of RCW 46.61.522 committed
21 while under the influence of intoxicating liquor or any drug, or a
22 conviction for a violation of RCW 46.61.522 committed in a reckless
23 manner or with the disregard for the safety of others if the
24 conviction is the result of a charge that was originally filed as a
25 violation of RCW 46.61.522 committed while under the influence of
26 intoxicating liquor or any drug;

27 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
28 or 9A.36.050 or an equivalent local ordinance, if the conviction is
29 the result of a charge that was originally filed as a violation of
30 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
31 RCW 46.61.520 or 46.61.522;

32 (xiii) An out-of-state conviction for a violation that would have
33 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
34 subsection if committed in this state;

35 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a
36 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
37 equivalent local ordinance;

38 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
39 prosecution for a violation of RCW 46.61.5249, or an equivalent local
40 ordinance, if the charge under which the deferred prosecution was

1 granted was originally filed as a violation of RCW 46.61.502 or
2 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
3 46.61.522;

4 (xvi) A deferred prosecution granted in another state for a
5 violation of driving or having physical control of a vehicle while
6 under the influence of intoxicating liquor or any drug if the out-of-
7 state deferred prosecution is equivalent to the deferred prosecution
8 under chapter 10.05 RCW, including a requirement that the defendant
9 participate in a chemical dependency treatment program; or

10 (xvii) A deferred sentence imposed in a prosecution for a
11 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
12 equivalent local ordinance, if the charge under which the deferred
13 sentence was imposed was originally filed as a violation of RCW
14 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
15 violation of RCW 46.61.520 or 46.61.522;

16 If a deferred prosecution is revoked based on a subsequent
17 conviction for an offense listed in this subsection (14)(a), the
18 subsequent conviction shall not be treated as a prior offense of the
19 revoked deferred prosecution for the purposes of sentencing;

20 (b) "Treatment" means substance use disorder treatment
21 (~~(approved)~~) licensed or certified by the department of (~~social and~~
22 ~~health services~~) health;

23 (c) "Within seven years" means that the arrest for a prior
24 offense occurred within seven years before or after the arrest for
25 the current offense; and

26 (d) "Within ten years" means that the arrest for a prior offense
27 occurred within ten years before or after the arrest for the current
28 offense.

29 (15) All fines imposed by this section apply to adult offenders
30 only.

31 **Sec. 9010.** RCW 46.61.5056 and 2016 sp.s. c 29 s 531 are each
32 amended to read as follows:

33 (1) A person subject to alcohol assessment and treatment under
34 RCW 46.61.5055 shall be required by the court to complete a course in
35 an alcohol and drug information school (~~(approved)~~) licensed or
36 certified by the department of (~~social and~~) health (~~(services)~~) or
37 to complete more intensive treatment in a substance use disorder
38 treatment program (~~(approved)~~) licensed or certified by the
39 department of (~~social and~~) health (~~(services)~~), as determined by

1 the court. The court shall notify the department of licensing
2 whenever it orders a person to complete a course or treatment program
3 under this section.

4 (2) A diagnostic evaluation and treatment recommendation shall be
5 prepared under the direction of the court by ~~((an alcoholism agency
6 approved))~~ a substance use disorder treatment program licensed or
7 certified by the department of ~~((social and))~~ health ~~((services))~~ or
8 a qualified probation department approved by the department of social
9 and health services. A copy of the report shall be forwarded to the
10 court and the department of licensing. Based on the diagnostic
11 evaluation, the court shall determine whether the person shall be
12 required to complete a course in an alcohol and drug information
13 school ~~((approved))~~ licensed or certified by the department of
14 ~~((social and))~~ health ~~((services))~~ or more intensive treatment in
15 ~~((a))~~ an approved substance use disorder treatment program
16 ~~((approved))~~ licensed or certified by the department of ~~((social
17 and))~~ health ~~((services))~~.

18 (3) Standards for approval for alcohol treatment programs shall
19 be prescribed by the department of ~~((social and))~~ health
20 ~~((services))~~. The department of ~~((social and))~~ health ~~((services))~~
21 shall periodically review the costs of alcohol and drug information
22 schools and treatment programs.

23 (4) Any agency that provides treatment ordered under RCW
24 46.61.5055, shall immediately report to the appropriate probation
25 department where applicable, otherwise to the court, and to the
26 department of licensing any noncompliance by a person with the
27 conditions of his or her ordered treatment. The court shall notify
28 the department of licensing and the department of ~~((social and))~~
29 health ~~((services))~~ of any failure by an agency to so report
30 noncompliance. Any agency with knowledge of noncompliance that fails
31 to so report shall be fined two hundred fifty dollars by the
32 department of ~~((social and))~~ health ~~((services))~~. Upon three such
33 failures by an agency within one year, the department of ~~((social
34 and))~~ health ~~((services))~~ shall revoke the agency's ~~((approval))~~
35 license or certification under this section.

36 (5) The department of licensing and the department of ~~((social
37 and))~~ health ~~((services))~~ may adopt such rules as are necessary to
38 carry out this section.

1 **Sec. 9011.** RCW 72.09.350 and 2014 c 225 s 94 are each amended to
2 read as follows:

3 (1) The department of corrections and the University of
4 Washington may enter into a collaborative arrangement to provide
5 improved services for offenders with mental illness with a focus on
6 prevention, treatment, and reintegration into society. The
7 participants in the collaborative arrangement may develop a strategic
8 plan within sixty days after May 17, 1993, to address the management
9 of offenders with mental illness within the correctional system,
10 facilitating their reentry into the community and the mental health
11 system, and preventing the inappropriate incarceration of individuals
12 with mental illness. The collaborative arrangement may also specify
13 the establishment and maintenance of a corrections mental health
14 center located at McNeil Island corrections center. The collaborative
15 arrangement shall require that an advisory panel of key stakeholders
16 be established and consulted throughout the development and
17 implementation of the center. The stakeholders advisory panel shall
18 include a broad array of interest groups drawn from representatives
19 of mental health, criminal justice, and correctional systems. The
20 stakeholders advisory panel shall include, but is not limited to,
21 membership from: The department of corrections, the department of
22 social and health services mental health division and division of
23 juvenile rehabilitation, the health care authority, behavioral health
24 organizations, local and regional law enforcement agencies, the
25 sentencing guidelines commission, county and city jails, mental
26 health advocacy groups for individuals with mental illness or
27 developmental disabilities, ~~((and))~~ the traumatically brain-injured,
28 and the general public. The center established by the department of
29 corrections and University of Washington, in consultation with the
30 stakeholder advisory groups, shall have the authority to:

31 (a) Develop new and innovative treatment approaches for
32 corrections mental health clients;

33 (b) Improve the quality of mental health services within the
34 department and throughout the corrections system;

35 (c) Facilitate mental health staff recruitment and training to
36 meet departmental, county, and municipal needs;

37 (d) Expand research activities within the department in the area
38 of treatment services, the design of delivery systems, the
39 development of organizational models, and training for corrections
40 mental health care professionals;

1 (e) Improve the work environment for correctional employees by
2 developing the skills, knowledge, and understanding of how to work
3 with offenders with special chronic mental health challenges;

4 (f) Establish a more positive rehabilitative environment for
5 offenders;

6 (g) Strengthen multidisciplinary mental health collaboration
7 between the University of Washington, other groups committed to the
8 intent of this section, and the department of corrections;

9 (h) Strengthen department linkages between institutions of higher
10 education, public sector mental health systems, and county and
11 municipal corrections;

12 (i) Assist in the continued formulation of corrections mental
13 health policies;

14 (j) Develop innovative and effective recruitment and training
15 programs for correctional personnel working with offenders with
16 mental illness;

17 (k) Assist in the development of a coordinated continuum of
18 mental health care capable of providing services from corrections
19 entry to community return; and

20 (l) Evaluate all current and innovative approaches developed
21 within this center in terms of their effective and efficient
22 achievement of improved mental health of inmates, development and
23 utilization of personnel, the impact of these approaches on the
24 functioning of correctional institutions, and the relationship of the
25 corrections system to mental health and criminal justice systems.
26 Specific attention should be paid to evaluating the effects of
27 programs on the reintegration of offenders with mental illness into
28 the community and the prevention of inappropriate incarceration of
29 persons with mental illness.

30 (2) The corrections mental health center may conduct research,
31 training, and treatment activities for the offender with mental
32 illness within selected sites operated by the department. The
33 department shall provide support services for the center such as food
34 services, maintenance, perimeter security, classification, offender
35 supervision, and living unit functions. The University of Washington
36 may develop, implement, and evaluate the clinical, treatment,
37 research, and evaluation components of the mentally ill offender
38 center. The institute of for public policy and management may be
39 consulted regarding the development of the center and in the
40 recommendations regarding public policy. As resources permit,

1 training within the center shall be available to state, county, and
2 municipal agencies requiring the services. Other state colleges,
3 state universities, and mental health providers may be involved in
4 activities as required on a subcontract basis. Community mental
5 health organizations, research groups, and community advocacy groups
6 may be critical components of the center's operations and involved as
7 appropriate to annual objectives. Clients with mental illness may be
8 drawn from throughout the department's population and transferred to
9 the center as clinical need, available services, and department
10 jurisdiction permits.

11 (3) The department shall prepare a report of the center's
12 progress toward the attainment of stated goals and provide the report
13 to the legislature annually.

14 **Sec. 9012.** RCW 72.09.370 and 2016 sp.s. c 29 s 427 are each
15 amended to read as follows:

16 (1) The offender reentry community safety program is established
17 to provide intensive services to offenders identified under this
18 subsection and to thereby promote public safety. The secretary shall
19 identify offenders in confinement or partial confinement who: (a) Are
20 reasonably believed to be dangerous to themselves or others; and (b)
21 have a mental disorder. In determining an offender's dangerousness,
22 the secretary shall consider behavior known to the department and
23 factors, based on research, that are linked to an increased risk for
24 dangerousness of offenders with mental illnesses and shall include
25 consideration of an offender's chemical dependency or abuse.

26 (2) Prior to release of an offender identified under this
27 section, a team consisting of representatives of the department of
28 corrections, the ~~((division of mental health))~~ health care authority,
29 and, as necessary, the indeterminate sentence review board, ~~((other))~~
30 divisions or administrations within the department of social and
31 health services, specifically including ~~((the division of alcohol and
32 substance abuse and))~~ the division of developmental disabilities, the
33 appropriate behavioral health organization, and the providers, as
34 appropriate, shall develop a plan, as determined necessary by the
35 team, for delivery of treatment and support services to the offender
36 upon release. In developing the plan, the offender shall be offered
37 assistance in executing a mental health directive under chapter 71.32
38 RCW, after being fully informed of the benefits, scope, and purposes
39 of such directive. The team may include a school district

1 representative for offenders under the age of twenty-one. The team
2 shall consult with the offender's counsel, if any, and, as
3 appropriate, the offender's family and community. The team shall
4 notify the crime victim/witness program, which shall provide notice
5 to all people registered to receive notice under RCW 72.09.712 of the
6 proposed release plan developed by the team. Victims, witnesses, and
7 other interested people notified by the department may provide
8 information and comments to the department on potential safety risk
9 to specific individuals or classes of individuals posed by the
10 specific offender. The team may recommend: (a) That the offender be
11 evaluated by the designated crisis responder, as defined in chapter
12 71.05 RCW; (b) department-supervised community treatment; or (c)
13 voluntary community mental health or chemical dependency or abuse
14 treatment.

15 (3) Prior to release of an offender identified under this
16 section, the team shall determine whether or not an evaluation by a
17 designated crisis responder is needed. If an evaluation is
18 recommended, the supporting documentation shall be immediately
19 forwarded to the appropriate designated crisis responder. The
20 supporting documentation shall include the offender's criminal
21 history, history of judicially required or administratively ordered
22 involuntary antipsychotic medication while in confinement, and any
23 known history of involuntary civil commitment.

24 (4) If an evaluation by a designated crisis responder is
25 recommended by the team, such evaluation shall occur not more than
26 ten days, nor less than five days, prior to release.

27 (5) A second evaluation by a designated crisis responder shall
28 occur on the day of release if requested by the team, based upon new
29 information or a change in the offender's mental condition, and the
30 initial evaluation did not result in an emergency detention or a
31 summons under chapter 71.05 RCW.

32 (6) If the designated crisis responder determines an emergency
33 detention under chapter 71.05 RCW is necessary, the department shall
34 release the offender only to a state hospital or to a consenting
35 evaluation and treatment facility. The department shall arrange
36 transportation of the offender to the hospital or facility.

37 (7) If the designated crisis responder believes that a less
38 restrictive alternative treatment is appropriate, he or she shall
39 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to
40 require the offender to appear at an evaluation and treatment

1 facility. If a summons is issued, the offender shall remain within
2 the corrections facility until completion of his or her term of
3 confinement and be transported, by corrections personnel on the day
4 of completion, directly to the identified evaluation and treatment
5 facility.

6 (8) The secretary shall adopt rules to implement this section.

7 **Sec. 9013.** RCW 72.09.380 and 1999 c 214 s 3 are each amended to
8 read as follows:

9 The (~~secretaries~~) secretary of the department of corrections
10 and the (~~department of social and health services~~) director of the
11 health care authority shall adopt rules and develop working
12 agreements which will ensure that offenders identified under RCW
13 72.09.370(1) will be assisted in making application for medicaid to
14 facilitate a decision regarding their eligibility for such
15 entitlements prior to the end of their term of confinement in a
16 correctional facility.

17 **Sec. 9014.** RCW 72.09.381 and 2014 c 225 s 96 are each amended to
18 read as follows:

19 The secretary of the department of corrections and the
20 (~~secretary of the department of social and health services~~)
21 director of the health care authority shall, in consultation with the
22 behavioral health organizations and provider representatives, each
23 adopt rules as necessary to implement chapter 214, Laws of 1999.

24 **Sec. 9015.** RCW 72.09.585 and 2013 c 200 s 32 are each amended to
25 read as follows:

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

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

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

16 (3) The information received by the department under RCW
17 71.05.445 or 70.02.250 may be released to the indeterminate sentence
18 review board as relevant to carry out its responsibility of planning
19 and ensuring community protection with respect to persons under its
20 jurisdiction. Further disclosure by the indeterminate sentence review
21 board is subject to the limitations set forth in subsections (5) and
22 (6) of this section and must be consistent with the written policy of
23 the indeterminate sentence review board. The decision to disclose or
24 not shall not result in civil liability for the indeterminate
25 sentence review board or staff assigned to perform board-related
26 duties provided that the decision was reached in good faith and
27 without gross negligence.

28 (4) The information received by the department under RCW
29 71.05.445 or 70.02.250 may be used to meet the statutory duties of
30 the department to provide evidence or report to the court. Disclosure
31 to the public of information provided to the court by the department
32 related to mental health services shall be limited in accordance with
33 RCW 9.94A.500 or this section.

34 (5) The information received by the department under RCW
35 71.05.445 or 70.02.250 may be disclosed by the department to other
36 state and local agencies as relevant to plan for and provide
37 offenders transition, treatment, and supervision services, or as
38 relevant and necessary to protect the public and counteract the
39 danger created by a particular offender, and in a manner consistent
40 with the written policy established by the secretary. The decision to

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

9 (6) The information received by the department under RCW
10 71.05.445 or 70.02.250 may be disclosed by the department to
11 individuals only with respect to offenders who have been determined
12 by the department to have a high risk of reoffending by a risk
13 assessment, as defined in RCW 9.94A.030, only as relevant and
14 necessary for those individuals to take reasonable steps for the
15 purpose of self-protection, or as provided in RCW 72.09.370(2). The
16 information may not be disclosed for the purpose of engaging the
17 public in a system of supervision, monitoring, and reporting offender
18 behavior to the department. The department must limit the disclosure
19 of information related to mental health services to the public to
20 descriptions of an offender's behavior, risk he or she may present to
21 the community, and need for mental health treatment, including
22 medications, and shall not disclose or release to the public copies
23 of treatment documents or records, except as otherwise provided by
24 law. All disclosure of information to the public must be done in a
25 manner consistent with the written policy established by the
26 secretary. The decision to disclose or not shall not result in civil
27 liability for the department or its employees so long as the decision
28 was reached in good faith and without gross negligence. Nothing in
29 this subsection prevents any person from reporting to law enforcement
30 or the department behavior that he or she believes creates a public
31 safety risk.

32 **Sec. 9016.** RCW 74.34.020 and 2017 c 268 s 2 and 2017 c 266 s 12
33 are each reenacted and amended to read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Abandonment" means action or inaction by a person or entity
37 with a duty of care for a vulnerable adult that leaves the vulnerable
38 person without the means or ability to obtain necessary food,
39 clothing, shelter, or health care.

1 (2) "Abuse" means the willful action or inaction that inflicts
2 injury, unreasonable confinement, intimidation, or punishment on a
3 vulnerable adult. In instances of abuse of a vulnerable adult who is
4 unable to express or demonstrate physical harm, pain, or mental
5 anguish, the abuse is presumed to cause physical harm, pain, or
6 mental anguish. Abuse includes sexual abuse, mental abuse, physical
7 abuse, and personal exploitation of a vulnerable adult, and improper
8 use of restraint against a vulnerable adult which have the following
9 meanings:

10 (a) "Sexual abuse" means any form of nonconsensual sexual
11 conduct, including but not limited to unwanted or inappropriate
12 touching, rape, sodomy, sexual coercion, sexually explicit
13 photographing, and sexual harassment. Sexual abuse also includes any
14 sexual conduct between a staff person, who is not also a resident or
15 client, of a facility or a staff person of a program authorized under
16 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
17 receiving service from a program authorized under chapter 71A.12 RCW,
18 whether or not it is consensual.

19 (b) "Physical abuse" means the willful action of inflicting
20 bodily injury or physical mistreatment. Physical abuse includes, but
21 is not limited to, striking with or without an object, slapping,
22 pinching, choking, kicking, shoving, or prodding.

23 (c) "Mental abuse" means a willful verbal or nonverbal action
24 that threatens, humiliates, harasses, coerces, intimidates, isolates,
25 unreasonably confines, or punishes a vulnerable adult. Mental abuse
26 may include ridiculing, yelling, or swearing.

27 (d) "Personal exploitation" means an act of forcing, compelling,
28 or exerting undue influence over a vulnerable adult causing the
29 vulnerable adult to act in a way that is inconsistent with relevant
30 past behavior, or causing the vulnerable adult to perform services
31 for the benefit of another.

32 (e) "Improper use of restraint" means the inappropriate use of
33 chemical, physical, or mechanical restraints for convenience or
34 discipline or in a manner that: (i) Is inconsistent with federal or
35 state licensing or certification requirements for facilities,
36 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is
37 not medically authorized; or (iii) otherwise constitutes abuse under
38 this section.

39 (3) "Chemical restraint" means the administration of any drug to
40 manage a vulnerable adult's behavior in a way that reduces the safety

1 risk to the vulnerable adult or others, has the temporary effect of
2 restricting the vulnerable adult's freedom of movement, and is not
3 standard treatment for the vulnerable adult's medical or psychiatric
4 condition.

5 (4) "Consent" means express written consent granted after the
6 vulnerable adult or his or her legal representative has been fully
7 informed of the nature of the services to be offered and that the
8 receipt of services is voluntary.

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

11 (6) "Facility" means a residence licensed or required to be
12 licensed under chapter 18.20 RCW, assisted living facilities; chapter
13 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
14 chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW,
15 residential habilitation centers; or any other facility licensed or
16 certified by the department or the department of health.

17 (7) "Financial exploitation" means the illegal or improper use,
18 control over, or withholding of the property, income, resources, or
19 trust funds of the vulnerable adult by any person or entity for any
20 person's or entity's profit or advantage other than for the
21 vulnerable adult's profit or advantage. "Financial exploitation"
22 includes, but is not limited to:

23 (a) The use of deception, intimidation, or undue influence by a
24 person or entity in a position of trust and confidence with a
25 vulnerable adult to obtain or use the property, income, resources, or
26 trust funds of the vulnerable adult for the benefit of a person or
27 entity other than the vulnerable adult;

28 (b) The breach of a fiduciary duty, including, but not limited
29 to, the misuse of a power of attorney, trust, or a guardianship
30 appointment, that results in the unauthorized appropriation, sale, or
31 transfer of the property, income, resources, or trust funds of the
32 vulnerable adult for the benefit of a person or entity other than the
33 vulnerable adult; or

34 (c) Obtaining or using a vulnerable adult's property, income,
35 resources, or trust funds without lawful authority, by a person or
36 entity who knows or clearly should know that the vulnerable adult
37 lacks the capacity to consent to the release or use of his or her
38 property, income, resources, or trust funds.

39 (8) "Financial institution" has the same meaning as in RCW
40 30A.22.040 and 30A.22.041. For purposes of this chapter only,

1 "financial institution" also means a "broker-dealer" or "investment
2 adviser" as defined in RCW 21.20.005.

3 (9) "Hospital" means a facility licensed under chapter 70.41((~~7~~))
4 or 71.12((~~7~~)) RCW or a state hospital defined in chapter 72.23 RCW
5 and any employee, agent, officer, director, or independent contractor
6 thereof.

7 (10) "Incapacitated person" means a person who is at a
8 significant risk of personal or financial harm under RCW 11.88.010(1)
9 (a), (b), (c), or (d).

10 (11) "Individual provider" means a person under contract with the
11 department to provide services in the home under chapter 74.09 or
12 74.39A RCW.

13 (12) "Interested person" means a person who demonstrates to the
14 court's satisfaction that the person is interested in the welfare of
15 the vulnerable adult, that the person has a good faith belief that
16 the court's intervention is necessary, and that the vulnerable adult
17 is unable, due to incapacity, undue influence, or duress at the time
18 the petition is filed, to protect his or her own interests.

19 (13)(a) "Isolate" or "isolation" means to restrict a vulnerable
20 adult's ability to communicate, visit, interact, or otherwise
21 associate with persons of his or her choosing. Isolation may be
22 evidenced by acts including but not limited to:

23 (i) Acts that prevent a vulnerable adult from sending, making, or
24 receiving his or her personal mail, electronic communications, or
25 telephone calls; or

26 (ii) Acts that prevent or obstruct the vulnerable adult from
27 meeting with others, such as telling a prospective visitor or caller
28 that a vulnerable adult is not present, or does not wish contact,
29 where the statement is contrary to the express wishes of the
30 vulnerable adult.

31 (b) The term "isolate" or "isolation" may not be construed in a
32 manner that prevents a guardian or limited guardian from performing
33 his or her fiduciary obligations under chapter 11.92 RCW or prevents
34 a hospital or facility from providing treatment consistent with the
35 standard of care for delivery of health services.

36 (14) "Mandated reporter" is an employee of the department; law
37 enforcement officer; social worker; professional school personnel;
38 individual provider; an employee of a facility; an operator of a
39 facility; an employee of a social service, welfare, mental health,
40 adult day health, adult day care, home health, home care, or hospice

1 agency; county coroner or medical examiner; Christian Science
2 practitioner; or health care provider subject to chapter 18.130 RCW.

3 (15) "Mechanical restraint" means any device attached or adjacent
4 to the vulnerable adult's body that he or she cannot easily remove
5 that restricts freedom of movement or normal access to his or her
6 body. "Mechanical restraint" does not include the use of devices,
7 materials, or equipment that are (a) medically authorized, as
8 required, and (b) used in a manner that is consistent with federal or
9 state licensing or certification requirements for facilities,
10 hospitals, or programs authorized under chapter 71A.12 RCW.

11 (16) "Neglect" means (a) a pattern of conduct or inaction by a
12 person or entity with a duty of care that fails to provide the goods
13 and services that maintain physical or mental health of a vulnerable
14 adult, or that fails to avoid or prevent physical or mental harm or
15 pain to a vulnerable adult; or (b) an act or omission by a person or
16 entity with a duty of care that demonstrates a serious disregard of
17 consequences of such a magnitude as to constitute a clear and present
18 danger to the vulnerable adult's health, welfare, or safety,
19 including but not limited to conduct prohibited under RCW 9A.42.100.

20 (17) "Permissive reporter" means any person, including, but not
21 limited to, an employee of a financial institution, attorney, or
22 volunteer in a facility or program providing services for vulnerable
23 adults.

24 (18) "Physical restraint" means the application of physical force
25 without the use of any device, for the purpose of restraining the
26 free movement of a vulnerable adult's body. "Physical restraint" does
27 not include (a) briefly holding without undue force a vulnerable
28 adult in order to calm or comfort him or her, or (b) holding a
29 vulnerable adult's hand to safely escort him or her from one area to
30 another.

31 (19) "Protective services" means any services provided by the
32 department to a vulnerable adult with the consent of the vulnerable
33 adult, or the legal representative of the vulnerable adult, who has
34 been abandoned, abused, financially exploited, neglected, or in a
35 state of self-neglect. These services may include, but are not
36 limited to case management, social casework, home care, placement,
37 arranging for medical evaluations, psychological evaluations, day
38 care, or referral for legal assistance.

39 (20) "Self-neglect" means the failure of a vulnerable adult, not
40 living in a facility, to provide for himself or herself the goods and

1 services necessary for the vulnerable adult's physical or mental
2 health, and the absence of which impairs or threatens the vulnerable
3 adult's well-being. This definition may include a vulnerable adult
4 who is receiving services through home health, hospice, or a home
5 care agency, or an individual provider when the neglect is not a
6 result of inaction by that agency or individual provider.

7 (21) "Social worker" means:

8 (a) A social worker as defined in RCW 18.320.010(2); or

9 (b) Anyone engaged in a professional capacity during the regular
10 course of employment in encouraging or promoting the health, welfare,
11 support, or education of vulnerable adults, or providing social
12 services to vulnerable adults, whether in an individual capacity or
13 as an employee or agent of any public or private organization or
14 institution.

15 (22) "Vulnerable adult" includes a person:

16 (a) Sixty years of age or older who has the functional, mental,
17 or physical inability to care for himself or herself; or

18 (b) Found incapacitated under chapter 11.88 RCW; or

19 (c) Who has a developmental disability as defined under RCW
20 71A.10.020; or

21 (d) Admitted to any facility; or

22 (e) Receiving services from home health, hospice, or home care
23 agencies licensed or required to be licensed under chapter 70.127
24 RCW; or

25 (f) Receiving services from an individual provider; or

26 (g) Who self-directs his or her own care and receives services
27 from a personal aide under chapter 74.39 RCW.

28 (23) "Vulnerable adult advocacy team" means a team of three or
29 more persons who coordinate a multidisciplinary process, in
30 compliance with chapter 266, Laws of 2017 and the protocol governed
31 by RCW 74.34.320, for preventing, identifying, investigating,
32 prosecuting, and providing services related to abuse, neglect, or
33 financial exploitation of vulnerable adults.

34 **PART 10**

35 NEW SECTION. **Sec. 10001.** A new section is added to chapter
36 41.05 RCW to read as follows:

37 (1) The powers, duties, and functions of the department of social
38 and health services pertaining to the behavioral health system and

1 purchasing function of the behavioral health administration, except
2 for oversight and management of state-run mental health institutions
3 and licensing and certification activities, are hereby transferred to
4 the Washington state health care authority to the extent necessary to
5 carry out the purposes of this act. All references to the secretary
6 or the department of social and health services in the Revised Code
7 of Washington shall be construed to mean the director of the health
8 care authority or the health care authority when referring to the
9 functions transferred in this section.

10 (2)(a) All reports, documents, surveys, books, records, files,
11 papers, or written material in the possession of the department of
12 social and health services pertaining to the powers, duties, and
13 functions transferred shall be delivered to the custody of the health
14 care authority. All cabinets, furniture, office equipment, motor
15 vehicles, and other tangible property employed by the department of
16 social and health services in carrying out the powers, duties, and
17 functions transferred shall be made available to the health care
18 authority. All funds, credits, or other assets held by the department
19 of social and health services in connection with the powers, duties,
20 and functions transferred shall be assigned to the health care
21 authority.

22 (b) Any appropriations made to the department of social and
23 health services for carrying out the powers, functions, and duties
24 transferred shall, on the effective date of this section, be
25 transferred and credited to the health care authority.

26 (c) Whenever any question arises as to the transfer of any
27 personnel, funds, books, documents, records, papers, files,
28 equipment, or other tangible property used or held in the exercise of
29 the powers and the performance of the duties and functions
30 transferred, the director of financial management shall make a
31 determination as to the proper allocation and certify the same to the
32 state agencies concerned.

33 (3) All rules and all pending business before the department of
34 social and health services pertaining to the powers, duties, and
35 functions transferred shall be continued and acted upon by the health
36 care authority. All existing contracts and obligations shall remain
37 in full force and shall be performed by the health care authority.

38 (4) The transfer of the powers, duties, functions, and personnel
39 of the department of social and health services shall not affect the

1 validity of any act performed before the effective date of this
2 section.

3 (5) If apportionments of budgeted funds are required because of
4 the transfers directed by this section, the director of financial
5 management shall certify the apportionments to the agencies affected,
6 the state auditor, and the state treasurer. Each of these shall make
7 the appropriate transfer and adjustments in funds and appropriation
8 accounts and equipment records in accordance with the certification.

9 (6) On July 1, 2018, all employees of the department of social
10 and health services engaged in performing the powers, functions, and
11 duties transferred to the health care authority are transferred to
12 the health care authority. All employees classified under chapter
13 41.06 RCW, the state civil service law, are assigned to the health
14 care authority to perform their usual duties upon the same terms as
15 formerly, without any loss of rights, subject to any action that may
16 be appropriate thereafter in accordance with the laws and rules
17 governing state civil service law.

18 (7) Positions in any bargaining unit within the health care
19 authority existing on the effective date of this section will not be
20 removed from an existing bargaining unit as a result of this section
21 unless and until the existing bargaining unit is modified by the
22 public employment relations commission pursuant to Title 391 WAC. The
23 portions of any bargaining units of employees at the department of
24 social and health services existing on the effective date of this
25 section that are transferred to the health care authority shall be
26 considered separate appropriate units within the health care
27 authority unless and until modified by the public employment
28 relations commission pursuant to Title 391 WAC. The exclusive
29 bargaining representatives recognized as representing the portions of
30 the bargaining units of employees at the department of social and
31 health services existing on the effective date of this section shall
32 continue as the exclusive bargaining representatives of the
33 transferred bargaining units without the necessity of an election.

34 (8) The public employment relations commission may review the
35 appropriateness of the collective bargaining units that are a result
36 of the transfer from the department of social and health services to
37 the health care authority under this act. The employer or the
38 exclusive bargaining representative may petition the public
39 employment relations commission to review the bargaining units in
40 accordance with this section.

1 (9) On July 1, 2018, the health care authority must enter into an
2 agreement with the department of health to ensure coordination of
3 preventative behavioral health services or other necessary agreements
4 to carry out the intent of this act.

5 (10) The health care authority may enter into agreements as
6 necessary with the department of social and health services to carry
7 out the transfer of duties as set forth in this act.

8 NEW SECTION. **Sec. 10002.** A new section is added to chapter
9 43.70 RCW to read as follows:

10 (1) The powers, duties, and functions of the department of social
11 and health services pertaining to licensing and certification of
12 behavioral health provider agencies and facilities, except for state-
13 run mental health institutions, are hereby transferred to the
14 department of health to the extent necessary to carry out the
15 purposes of this act. All references to the secretary or the
16 department of social and health services in the Revised Code of
17 Washington shall be construed to mean the secretary of the department
18 of health or the department of health when referring to the functions
19 transferred in this section.

20 (2)(a) All reports, documents, surveys, books, records, files,
21 papers, or written material in the possession of the department of
22 social and health services pertaining to the powers, duties, and
23 functions transferred shall be delivered to the custody of the
24 department of health. All cabinets, furniture, office equipment,
25 motor vehicles, and other tangible property employed by the
26 department of social and health services in carrying out the powers,
27 duties, and functions transferred shall be made available to the
28 department of health. All funds, credits, or other assets held by the
29 department of social and health services in connection with the
30 powers, duties, and functions transferred shall be assigned to the
31 department of health.

32 (b) Any appropriations made to the department of social and
33 health services for carrying out the powers, functions, and duties
34 transferred shall, on the effective date of this section, be
35 transferred and credited to the department of health.

36 (c) If any question arises as to the transfer of any personnel,
37 funds, books, documents, records, papers, files, equipment, or other
38 tangible property used or held in the exercise of the powers and the
39 performance of the duties and functions transferred, the director of

1 financial management shall make a determination as to the proper
2 allocation and certify the same to the state agencies concerned.

3 (3) All rules and all pending business before the department of
4 social and health services pertaining to the powers, duties, and
5 functions transferred shall be continued and acted upon by the
6 department of health. All existing contracts and obligations shall
7 remain in full force and shall be performed by the department of
8 health.

9 (4) The transfer of the powers, duties, functions, and personnel
10 of the department of social and health services shall not affect the
11 validity of any act performed before the effective date of this
12 section.

13 (5) If apportionments of budgeted funds are required because of
14 the transfers directed by this section, the director of financial
15 management shall certify the apportionments to the agencies affected,
16 the state auditor, and the state treasurer. Each of these shall make
17 the appropriate transfer and adjustments in funds and appropriation
18 accounts and equipment records in accordance with the certification.

19 (6) On July 1, 2018, all employees of the department of social
20 and health services engaged in performing the powers, functions, and
21 duties transferred to the department of health are transferred to the
22 department of health. All employees classified under chapter 41.06
23 RCW, the state civil service law, are assigned to the department of
24 health to perform their usual duties upon the same terms as formerly,
25 without any loss of rights, subject to any action that may be
26 appropriate thereafter in accordance with the laws and rules
27 governing state civil service law.

28 (7) Positions in any bargaining unit within the department of
29 health existing on the effective date of this section will not be
30 removed from an existing bargaining unit as a result of this section
31 unless and until the existing bargaining unit is modified by the
32 public employment relations commission pursuant to Title 391 WAC.
33 Nonsupervisory civil service employees of the department of social
34 and health services assigned to the department of health under this
35 section whose positions are within the existing bargaining unit
36 description at the department of health shall become a part of that
37 unit under the provision of chapter 41.80 RCW. The existing
38 bargaining representative of the existing bargaining unit at the
39 department of health shall continue to be certified as the exclusive
40 bargaining representative without the necessity of an election.

1 (8) The department of health 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. 10003.** The code reviser shall note wherever
5 the secretary or department of any agency or agency's duties
6 transferred or consolidated under this act is used or referred to in
7 statute that the name of the secretary or department has changed. The
8 code reviser shall prepare legislation for the 2019 regular session
9 that: (1) Changes all statutory references to the secretary or
10 department of any agency transferred or consolidated under this act;
11 and (2) changes statutory references to sections recodified by this
12 act but not amended in this act.

13 **PART 11**

14 NEW SECTION. **Sec. 11001.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 11002.** RCW 71.24.065 (Wraparound model of
19 integrated children's mental health services delivery—Contracts—
20 Evaluation—Report) is decodified.

21 NEW SECTION. **Sec. 11003.** (1) RCW 43.20A.025 is recodified as a
22 section in chapter 71.34 RCW.

23 (2) RCW 43.20A.065 and 43.20A.433 are each recodified as sections
24 in chapter 71.24 RCW.

25 (3) RCW 43.20A.890 and 43.20A.892 are each recodified as sections
26 in chapter 41.05 RCW.

27 (4) RCW 43.20A.893, 43.20A.894, 43.20A.896, and 43.20A.897 are
28 each recodified as sections in chapter 74.09 RCW.

29 NEW SECTION. **Sec. 11004.** Sections 3009, 3012, 3026, 5017, and
30 5020 of this act expire July 1, 2026.

31 NEW SECTION. **Sec. 11005.** Sections 3010, 3013, 3027, 5018, and
32 5021 of this act take effect July 1, 2026.

1 NEW SECTION. **Sec. 11006.** Except as provided in section 11005 of
2 this act, this act takes effect July 1, 2018.

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