
HOUSE BILL 1388

State of Washington**65th Legislature****2017 Regular Session**

By Representatives Cody, Rodne, Harris, Macri, and Frame; by request of Governor Inslee

Read first time 01/18/17. Referred to Committee on Health Care & Wellness.

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.025,
6 43.20A.065, 43.20A.433, 43.20A.890, 43.20A.892, 43.20A.893,
7 43.20A.894, 43.20A.896, 43.20A.897, 74.04.015, 71.05.026, 71.05.026,
8 71.05.027, 71.05.040, 71.05.100, 71.05.203, 71.05.203, 71.05.214,
9 71.05.214, 71.05.215, 71.05.240, 71.05.285, 71.05.320, 71.05.320,
10 71.05.325, 71.05.325, 71.05.330, 71.05.335, 71.05.340, 71.05.340,
11 71.05.350, 71.05.380, 71.05.435, 71.05.435, 71.05.510, 71.05.520,
12 71.05.525, 71.05.560, 71.05.560, 71.05.590, 71.05.590, 71.05.590,
13 71.05.620, 71.05.620, 71.05.720, 71.05.732, 71.05.740, 71.05.745,
14 71.05.745, 71.05.750, 71.05.750, 71.05.755, 71.05.760, 71.05.801,
15 71.05.940, 71.24.015, 71.24.030, 71.24.035, 71.24.037, 71.24.045,
16 71.24.045, 71.24.061, 71.24.100, 71.24.155, 71.24.160, 71.24.215,
17 71.24.220, 71.24.240, 71.24.300, 71.24.310, 71.24.320, 71.24.330,
18 71.24.330, 71.24.340, 71.24.350, 71.24.360, 71.24.370, 71.24.380,
19 71.24.385, 71.24.400, 71.24.405, 71.24.415, 71.24.420, 71.24.430,
20 71.24.455, 71.24.460, 71.24.470, 71.24.480, 71.24.490, 71.24.500,
21 71.24.515, 71.24.520, 71.24.525, 71.24.530, 71.24.535, 71.24.540,
22 71.24.545, 71.24.555, 71.24.565, 71.24.580, 71.24.590, 71.24.595,
23 71.24.605, 71.24.610, 71.24.615, 71.24.620, 71.24.625, 71.24.630,

1 71.24.640, 71.24.645, 71.24.650, 71.24.805, 71.24.810, 71.24.850,
2 71.24.860, 71.24.902, 71.34.010, 71.34.300, 71.34.365, 71.34.375,
3 71.34.375, 71.34.380, 71.34.385, 71.34.385, 71.34.390, 71.34.395,
4 71.34.400, 71.34.400, 71.34.405, 71.34.420, 71.34.420, 71.34.600,
5 71.34.600, 71.34.610, 71.34.630, 71.34.630, 71.34.640, 71.34.720,
6 71.34.720, 71.34.760, 71.34.760, 71.34.780, 71.34.780, 71.34.780,
7 71.34.790, 71.36.025, 71.36.040, 71.36.060, 70.96A.011, 70.96A.020,
8 70.96A.095, 70.96A.097, 70.96A.110, 70.96A.120, 70.96A.140,
9 70.96A.148, 70.96A.160, 70.96A.180, 70.96A.235, 70.96A.240,
10 70.96A.245, 70.96A.260, 70.96A.265, 70.96A.915, 70.96B.010,
11 70.96B.020, 70.96B.030, 70.96B.045, 70.96B.050, 70.96B.070,
12 70.96B.090, 70.96B.140, 41.05.015, 41.05.021, 41.05A.005, 74.09.050,
13 74.09.055, 74.09.080, 74.09.120, 74.09.160, 74.09.210, 74.09.220,
14 74.09.230, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.315,
15 74.09.325, 74.09.522, 74.09.530, 74.09.540, 74.09.730, 74.09.780,
16 74.09A.030, 74.64.010, 74.66.010, 70.02.010, 70.02.230, 70.02.240,
17 70.02.250, 70.02.260, 70.02.340, 70.02.350, 43.70.080, 43.59.030,
18 48.21.180, 48.44.240, 48.46.350, 69.50.540, 2.30.020, 2.30.030,
19 9.41.300, 9.94A.703, 10.05.040, 10.05.050, 18.205.080, 18.88A.020,
20 46.61.5056, 72.09.350, 72.09.370, 72.09.370, 72.09.380, 72.09.381,
21 72.09.585, and 74.34.020; reenacting and amending RCW 71.05.020,
22 71.05.020, 71.05.215, 71.05.240, 71.05.320, 71.05.425, 71.05.445,
23 71.24.025, 71.24.025, 71.24.600, 71.34.020, 71.34.020, 71.34.720,
24 71.36.010, 70.02.010, 70.02.230, 42.56.270, and 46.61.5055; adding
25 new sections to chapter 41.05 RCW; adding a new section to chapter
26 43.70 RCW; adding a new section to chapter 71.34 RCW; adding new
27 sections to chapter 71.24 RCW; adding new sections to chapter 74.09
28 RCW; creating new sections; recodifying RCW 43.20A.025, 43.20A.065,
29 43.20A.433, 43.20A.890, 43.20A.892, 43.20A.893, 43.20A.894,
30 43.20A.896, and 43.20A.897; decodifying RCW 71.24.065; providing
31 effective dates; providing expiration dates; and declaring an
32 emergency.

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

34 **PART 1**

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

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

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

9 (3) The responsibility for oversight, purchasing, and management
10 of Washington state's community behavioral health system is currently
11 split between the department of social and health services, which is
12 the state's behavioral health authority, and the health care
13 authority, which is the single state medicaid agency responsible for
14 state health care purchasing.

15 (4) The health care authority is the state's primary health care
16 purchaser. Integrating and consolidating the oversight and purchasing
17 of state behavioral health care into a single state agency at the
18 health care authority will align core operations and provide better,
19 coordinated, and more cost-effective services, with the ultimate goal
20 of achieving whole person care.

21 (5) The legislature therefore intends to consolidate state
22 behavioral health care purchasing and oversight within the health
23 care authority, positioning the state to use its full purchasing
24 power to get the greatest value for its investment. The department of
25 social and health services will continue to operate the state mental
26 health institutions, with the intent of further analyzing the future
27 proper alignment of these services.

28 (6) Similar to the issues with our disparate purchasing programs,
29 the responsibility for licensing and certification of behavioral
30 health providers and facilities is currently spread across multiple
31 agencies, with the department of social and health services
32 regulating some behavioral health providers and the department of
33 health regulating others.

34 (7) The department of health is responsible for the majority of
35 licensing and certification of health care providers and facilities.
36 The state will best be able to ensure patient safety and reduce
37 administrative burdens of licensing and certification of behavioral
38 health providers and facilities by consolidating those functions
39 within a single agency at the department of health. This change will
40 streamline processes leading to improved patient safety outcomes.

1 (8) The legislature therefore intends to integrate and
2 consolidate the behavioral health licensing and certification
3 functions within the department of health.

4 **PART 2**

5 **Sec. 2001.** RCW 43.20A.025 and 1998 c 296 s 34 are each amended
6 to read as follows:

7 The (~~department of social and health services~~) authority shall
8 adopt rules defining "appropriately trained professional person" for
9 the purposes of conducting mental health and (~~chemical dependency~~)
10 substance use disorder evaluations under RCW (~~71.34.052~~)
11 71.34.600(3), (~~71.34.054~~) 71.34.650(1), 70.96A.245(3), and
12 70.96A.250(1).

13 **Sec. 2002.** RCW 43.20A.025 and 2016 sp.s. c 29 s 415 are each
14 amended to read as follows:

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

19 **Sec. 2003.** RCW 43.20A.065 and 2002 c 290 s 6 are each amended to
20 read as follows:

21 The (~~department of social and health services~~) authority shall
22 annually review and monitor the expenditures made by any county or
23 group of counties which is funded, in whole or in part, with funds
24 provided by chapter 290, Laws of 2002. Counties shall repay any funds
25 that are not spent in accordance with the requirements of chapter
26 290, Laws of 2002.

27 **Sec. 2004.** RCW 43.20A.433 and 2005 c 504 s 802 are each amended
28 to read as follows:

29 (~~Beginning July 1, 2007,~~) The (~~secretary~~) director shall
30 require, in the contracts the (~~department~~) authority negotiates
31 pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate
32 increases provided for mental health and chemical dependency
33 treatment providers or programs who are parties to the contract or
34 subcontractors of any party to the contract shall be prioritized to
35 those providers and programs that maximize the use of evidence-based

1 and research-based practices(~~(, as those terms are defined in section~~
2 ~~603 of this act,~~) unless otherwise designated by the legislature.

3 **Sec. 2005.** RCW 43.20A.890 and 2010 c 171 s 1 are each amended to
4 read as follows:

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

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

18 (a) Need treatment for problem or pathological gambling, or
19 because of the problem or pathological gambling of a family member,
20 but be unable to afford treatment; and

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

23 (3) Treatment under this section is available only to the extent
24 of the funds appropriated or otherwise made available to the
25 (~~department of social and health services~~) authority for this
26 purpose. The (~~department~~) authority may solicit and accept for use
27 any gift of money or property made by will or otherwise, and any
28 grant of money, services, or property from the federal government,
29 any tribal 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 or any
32 tribal government in making an application for any grant.

33 (~~(4) (The department may adopt rules establishing standards for~~
34 ~~the review and certification of treatment facilities under this~~
35 ~~program.~~

36 ~~(5))~~) The (~~department of social and health services~~) authority
37 shall establish an advisory committee to assist it in designing,
38 managing, and evaluating the effectiveness of the program established
39 in this section. The advisory committee shall give due consideration

1 in the design and management of the program that persons who hold
2 licenses or contracts issued by the gambling commission, horse racing
3 commission, and lottery commission are not excluded from, or
4 discouraged from, applying to participate in the program. The
5 committee shall include, at a minimum, persons knowledgeable in the
6 field of problem and pathological gambling and persons representing
7 tribal gambling, privately owned nontribal gambling, and the state
8 lottery.

9 ((+6)) (5) For purposes of this section, "pathological gambling"
10 is a mental disorder characterized by loss of control over gambling,
11 progression in preoccupation with gambling and in obtaining money to
12 gamble, and continuation of gambling despite adverse consequences.
13 "Problem gambling" is an earlier stage of pathological gambling which
14 compromises, disrupts, or damages family or personal relationships or
15 vocational pursuits.

16 **Sec. 2006.** RCW 43.20A.892 and 2005 c 369 s 3 are each amended to
17 read as follows:

18 The problem gambling account is created in the state treasury.
19 Money in the account may be spent only after appropriation.
20 Expenditures from the account may be used only for the purposes of
21 the program established under RCW 43.20A.890 (as recodified by this
22 act).

23 **Sec. 2007.** RCW 43.20A.893 and 2014 c 225 s 2 are each amended to
24 read as follows:

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

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

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

36 (b) Include full counties that are contiguous with one another;
37 and

1 (c) Reflect natural medical and behavioral health service
2 referral patterns and shared clinical, health care service,
3 behavioral health service, and behavioral health crisis response
4 resources.

5 (3) The Washington state association of counties must submit
6 their recommendations to the department, the ((health—care))
7 authority, and the task force described in section 1, chapter 225,
8 Laws of 2014 on or before August 1, 2014.

9 **Sec. 2008.** RCW 43.20A.894 and 2014 c 225 s 3 are each amended to
10 read as follows:

11 (1) Any agreement or contract by the ((department or the health
12 care)) authority to provide behavioral health services as defined
13 under RCW 71.24.025 to persons eligible for benefits under medicaid,
14 Title XIX of the social security act, and to persons not eligible for
15 medicaid must include the following:

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

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

21 (c) Accountability for the client outcomes established in RCW
22 43.20A.895, 70.320.020, and 71.36.025 and performance measures linked
23 to those outcomes;

24 (d) Standards requiring behavioral health organizations to
25 maintain a network of appropriate providers that is supported by
26 written agreements sufficient to provide adequate access to all
27 services covered under the contract with the department or the
28 ((health—care)) authority and to protect essential existing
29 behavioral health system infrastructure and capacity, including a
30 continuum of chemical dependency services;

31 (e) Provisions to require that medically necessary chemical
32 dependency and mental health treatment services be available to
33 clients;

34 (f) Standards requiring the use of behavioral health service
35 provider reimbursement methods that incentivize improved performance
36 with respect to the client outcomes established in RCW 43.20A.895 and
37 71.36.025, integration of behavioral health and primary care services
38 at the clinical level, and improved care coordination for individuals
39 with complex care needs;

1 (g) Standards related to the financial integrity of the
2 responding organization. The ((department)) authority shall adopt
3 rules establishing the solvency requirements and other financial
4 integrity standards for behavioral health organizations. This
5 subsection does not limit the authority of the ((department))
6 authority to take action under a contract upon finding that a
7 behavioral health organization's financial status jeopardizes the
8 organization's ability to meet its contractual obligations;

9 (h) Mechanisms for monitoring performance under the contract and
10 remedies for failure to substantially comply with the requirements of
11 the contract including, but not limited to, financial deductions,
12 termination of the contract, receivership, reprocurement of the
13 contract, and injunctive remedies;

14 (i) Provisions to maintain the decision-making independence of
15 designated mental health professionals or designated chemical
16 dependency specialists; and

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

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

23 (a) Demonstrated commitment and experience in serving low-income
24 populations;

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

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

31 (d) Recognition that meeting enrollees' physical and behavioral
32 health care needs is a shared responsibility of contracted behavioral
33 health organizations, managed health care systems, service providers,
34 the state, and communities;

35 (e) Consideration of past and current performance and
36 participation in other state or federal behavioral health programs as
37 a contractor; and

38 (f) The ability to meet requirements established by the
39 ((department)) authority.

1 (3) For purposes of purchasing behavioral health services and
2 medical care services for persons eligible for benefits under
3 medicaid, Title XIX of the social security act and for persons not
4 eligible for medicaid, the ((~~department and the health care~~))
5 authority must use ((~~common~~)) regional service areas. The regional
6 service areas must be established by the ((~~department and the health~~
7 ~~care~~)) authority as provided in RCW 43.20A.893 (as recodified by this
8 act).

9 (4) Consideration must be given to using multiple-biennia
10 contracting periods.

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

16 **Sec. 2009.** RCW 43.20A.896 and 2014 c 225 s 4 are each amended to
17 read as follows:

18 The ((~~secretary~~)) director shall require that behavioral health
19 organizations offer contracts to managed health care systems under
20 chapter 74.09 RCW or primary care practice settings to promote access
21 to the services of chemical dependency professionals under chapter
22 18.205 RCW and mental health professionals, as defined by the
23 department of health in rule, for the purposes of integrating such
24 services into primary care settings for individuals with behavioral
25 health and medical comorbidities.

26 **Sec. 2010.** RCW 43.20A.897 and 2014 c 225 s 65 are each amended
27 to read as follows:

28 (1) By November 30, 2013, the department and the ((~~health care~~))
29 authority must report to the governor and the relevant fiscal and
30 policy committees of the legislature, consistent with RCW 43.01.036,
31 a plan that establishes a tribal-centric behavioral health system
32 incorporating both mental health and chemical dependency services.
33 The plan must assure that child, adult, and older adult American
34 Indians and Alaskan Natives eligible for medicaid have increased
35 access to culturally appropriate mental health and chemical
36 dependency services. The plan must:

37 (a) Include implementation dates, major milestones, and fiscal
38 estimates as needed;

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

3 (c) Address equitable access to crisis services, outpatient care,
4 voluntary and involuntary hospitalization, and behavioral health care
5 coordination;

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

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

11 (2) The (~~department~~) authority shall enter into agreements with
12 the tribes and urban Indian health programs and modify behavioral
13 health organization contracts as necessary to develop a tribal-
14 centric behavioral health system that better serves the needs of the
15 tribes.

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

18 (1) The secretary of social and health services shall be the
19 responsible state officer for the administration and disbursement of
20 all funds, goods, commodities, and services, which may be received by
21 the state in connection with programs of public assistance or
22 services related directly or indirectly to assistance programs, and
23 all other matters included in the federal social security act as
24 amended, or any other federal act or as the same may be amended
25 except as otherwise provided by law.

26 (2) The director shall be the responsible state officer for the
27 administration and disbursement of funds that the state receives in
28 connection with the medical services programs established under
29 chapter 74.09 RCW, including the state children's health insurance
30 program, Titles XIX and XXI of the social security act of 1935, as
31 amended, and programs established under chapter 71.05, 71.24, and
32 71.34 RCW that are under the director's authority.

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

36 **PART 3**

1 **Sec. 3001.** RCW 71.05.020 and 2016 c 155 s 1 are each reenacted
2 and amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Admission" or "admit" means a decision by a physician,
6 physician assistant, or psychiatric advanced registered nurse
7 practitioner that a person should be examined or treated as a patient
8 in a hospital;

9 (2) "Antipsychotic medications" means that class of drugs
10 primarily used to treat serious manifestations of mental illness
11 associated with thought disorders, which includes, but is not limited
12 to atypical antipsychotic medications;

13 (3) "Attending staff" means any person on the staff of a public
14 or private agency having responsibility for the care and treatment of
15 a patient;

16 (4) "Authority" means the Washington state health care authority;

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

20 ~~((+5))~~ (6) "Conditional release" means a revocable modification
21 of a commitment, which may be revoked upon violation of any of its
22 terms;

23 ~~((+6))~~ (7) "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 ~~((+7))~~ (8) "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 ~~((+8))~~ (9) "Department" means the department of ~~((social and))~~
35 health ~~((services))~~;

36 ~~((+9))~~ (10) "Designated chemical dependency specialist" means a
37 person designated by the county alcoholism and other drug addiction
38 program coordinator designated under RCW 70.96A.310 to perform the
39 commitment duties described in chapters 70.96A and 70.96B RCW;

1 ~~((10))~~ (11) "Designated crisis responder" means a mental health
2 professional appointed by the county or the behavioral health
3 organization to perform the duties specified in this chapter;

4 ~~((11))~~ (12) "Designated mental health professional" means a
5 mental health professional designated by the county or other
6 authority authorized in rule to perform the duties specified in this
7 chapter;

8 ~~((12))~~ (13) "Detention" or "detain" means the lawful
9 confinement of a person, under the provisions of this chapter;

10 ~~((13))~~ (14) "Developmental disabilities professional" means a
11 person who has specialized training and three years of experience in
12 directly treating or working with persons with developmental
13 disabilities and is a psychiatrist, physician assistant working with
14 a supervising psychiatrist, psychologist, psychiatric advanced
15 registered nurse practitioner, or social worker, and such other
16 developmental disabilities professionals as may be defined by rules
17 adopted by the secretary;

18 ~~((14))~~ (15) "Developmental disability" means that condition
19 defined in RCW 71A.10.020(5);

20 ~~((15))~~ (16) "Director" means the director of the authority;

21 (17) "Discharge" means the termination of hospital medical
22 authority. The commitment may remain in place, be terminated, or be
23 amended by court order;

24 ~~((16))~~ (18) "Evaluation and treatment facility" means any
25 facility which can provide directly, or by direct arrangement with
26 other public or private agencies, emergency evaluation and treatment,
27 outpatient care, and timely and appropriate inpatient care to persons
28 suffering from a mental disorder, and which is licensed or certified
29 as such by the department. The ~~((department))~~ authority may certify
30 single beds as temporary evaluation and treatment beds under RCW
31 71.05.745. A physically separate and separately operated portion of a
32 state hospital may be designated as an evaluation and treatment
33 facility. A facility which is part of, or operated by, the department
34 of social and health services or any federal agency will not require
35 certification. No correctional institution or facility, or jail,
36 shall be an evaluation and treatment facility within the meaning of
37 this chapter;

38 ~~((17))~~ (19) "Gravely disabled" means a condition in which a
39 person, as a result of a mental disorder: (a) Is in danger of serious
40 physical harm resulting from a failure to provide for his or her

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

6 ~~((18))~~ (20) "Habilitative services" means those services
7 provided by program personnel to assist persons in acquiring and
8 maintaining life skills and in raising their levels of physical,
9 mental, social, and vocational functioning. Habilitative services
10 include education, training for employment, and therapy. The
11 habilitative process shall be undertaken with recognition of the risk
12 to the public safety presented by the person being assisted as
13 manifested by prior charged criminal conduct;

14 ~~((19))~~ (21) "History of one or more violent acts" refers to the
15 period of time ten years prior to the filing of a petition under this
16 chapter, excluding any time spent, but not any violent acts
17 committed, in a mental health facility or in confinement as a result
18 of a criminal conviction;

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

1 criminal conviction is excluded from the thirty-six month
2 calculation;

3 ~~((+22+))~~ (24) "Individualized service plan" means a plan prepared
4 by a developmental disabilities professional with other professionals
5 as a team, for a person with developmental disabilities, which shall
6 state:

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

9 (b) The conditions and strategies necessary to achieve the
10 purposes of habilitation;

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

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

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

16 (f) Where relevant in light of past criminal behavior and due
17 consideration for public safety, the criteria for proposed movement
18 to less-restrictive settings, criteria for proposed eventual
19 discharge or release, and a projected possible date for discharge or
20 release; and

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

23 ~~((+23+))~~ (25) "Information related to mental health services"
24 means all information and records compiled, obtained, or maintained
25 in the course of providing services to either voluntary or
26 involuntary recipients of services by a mental health service
27 provider. This may include documents of legal proceedings under this
28 chapter or chapter 71.34 or 10.77 RCW, or somatic health care
29 information;

30 ~~((+24+))~~ (26) "Judicial commitment" means a commitment by a court
31 pursuant to the provisions of this chapter;

32 ~~((+25+))~~ (27) "Legal counsel" means attorneys and staff employed
33 by county prosecutor offices or the state attorney general acting in
34 their capacity as legal representatives of public mental health
35 service providers under RCW 71.05.130;

36 ~~((+26+))~~ (28) "Less restrictive alternative treatment" means a
37 program of individualized treatment in a less restrictive setting
38 than inpatient treatment that includes the services described in RCW
39 71.05.585;

40 ~~((+27+))~~ (29) "Likelihood of serious harm" means:

1 (a) A substantial risk that: (i) Physical harm will be inflicted
2 by a person upon his or her own person, as evidenced by threats or
3 attempts to commit suicide or inflict physical harm on oneself; (ii)
4 physical harm will be inflicted by a person upon another, as
5 evidenced by behavior which has caused such harm or which places
6 another person or persons in reasonable fear of sustaining such harm;
7 or (iii) physical harm will be inflicted by a person upon the
8 property of others, as evidenced by behavior which has caused
9 substantial loss or damage to the property of others; or

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

12 ~~((+28+))~~ (30) "Medical clearance" means a physician or other
13 health care provider has determined that a person is medically stable
14 and ready for referral to the designated mental health professional;

15 ~~((+29+))~~ (31) "Mental disorder" means any organic, mental, or
16 emotional impairment which has substantial adverse effects on a
17 person's cognitive or volitional functions;

18 ~~((+30+))~~ (32) "Mental health professional" means a psychiatrist,
19 psychologist, physician assistant working with a supervising
20 psychiatrist, psychiatric advanced registered nurse practitioner,
21 psychiatric nurse, or social worker, and such other mental health
22 professionals as may be defined by rules adopted by the secretary
23 pursuant to the provisions of this chapter;

24 ~~((+31+))~~ (33) "Mental health service provider" means a public or
25 private agency that provides mental health services to persons with
26 mental disorders as defined under this section and receives funding
27 from public sources. This includes, but is not limited to, hospitals
28 licensed under chapter 70.41 RCW, evaluation and treatment facilities
29 as defined in this section, community mental health service delivery
30 systems or community mental health programs as defined in RCW
31 71.24.025, facilities conducting competency evaluations and
32 restoration under chapter 10.77 RCW, and correctional facilities
33 operated by state and local governments;

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

38 ~~((+33+))~~ (35) "Physician assistant" means a person licensed as a
39 physician assistant under chapter 18.57A or 18.71A RCW;

1 ~~((34))~~ (36) "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, which constitutes
4 an evaluation and treatment facility or private institution, or
5 hospital, which is conducted for, or includes a department or ward
6 conducted for, the care and treatment of persons who are mentally
7 ill;

8 ~~((35))~~ (37) "Professional person" means a mental health
9 professional and shall also mean a physician, physician assistant,
10 psychiatric advanced registered nurse practitioner, registered nurse,
11 and such others as may be defined by rules adopted by the secretary
12 pursuant to the provisions of this chapter;

13 ~~((36))~~ (38) "Psychiatric advanced registered nurse
14 practitioner" means a person who is licensed as an advanced
15 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
16 is board certified in advanced practice psychiatric and mental health
17 nursing;

18 ~~((37))~~ (39) "Psychiatrist" means a person having a license as a
19 physician and surgeon in this state who has in addition completed
20 three years of graduate training in psychiatry in a program approved
21 by the American medical association or the American osteopathic
22 association and is certified or eligible to be certified by the
23 American board of psychiatry and neurology;

24 ~~((38))~~ (40) "Psychologist" means a person who has been licensed
25 as a psychologist pursuant to chapter 18.83 RCW;

26 ~~((39))~~ (41) "Public agency" means any evaluation and treatment
27 facility or institution, or hospital which is conducted for, or
28 includes a department or ward conducted for, the care and treatment
29 of persons with mental illness, if the agency is operated directly
30 by, federal, state, county, or municipal government, or a combination
31 of such governments;

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

37 ~~(41))~~ (42) "Release" means legal termination of the commitment
38 under the provisions of this chapter;

39 ~~((42))~~ (43) "Resource management services" has the meaning
40 given in chapter 71.24 RCW;

1 ~~((43))~~ (44) "Secretary" means the secretary of the department
2 of ~~((social and))~~ health ~~((services))~~, or his or her designee;

3 ~~((44))~~ (45) "Serious violent offense" has the same meaning as
4 provided in RCW 9.94A.030;

5 ~~((45))~~ (46) "Social worker" means a person with a master's or
6 further advanced degree from a social work educational program
7 accredited and approved as provided in RCW 18.320.010;

8 ~~((46))~~ (47) "Therapeutic court personnel" means the staff of a
9 mental health court or other therapeutic court which has jurisdiction
10 over defendants who are dually diagnosed with mental disorders,
11 including court personnel, probation officers, a court monitor,
12 prosecuting attorney, or defense counsel acting within the scope of
13 therapeutic court duties;

14 ~~((47))~~ (48) "Treatment records" include registration and all
15 other records concerning persons who are receiving or who at any time
16 have received services for mental illness, which are maintained by
17 the department of social and health services, ~~((by))~~ the department,
18 the authority, behavioral health organizations and their staffs, and
19 ~~((by))~~ treatment facilities. Treatment records include mental health
20 information contained in a medical bill including but not limited to
21 mental health drugs, a mental health diagnosis, provider name, and
22 dates of service stemming from a medical service. Treatment records
23 do not include notes or records maintained for personal use by a
24 person providing treatment services for the department of social and
25 health services, the department, the authority, behavioral health
26 organizations, or a treatment facility if the notes or records are
27 not available to others;

28 ~~((48))~~ (49) "Triage facility" means a short-term facility or a
29 portion of a facility licensed or certified by the department ~~((of~~
30 ~~health and certified by the department of social and health~~
31 ~~services))~~ under RCW 71.24.035, which is designed as a facility to
32 assess and stabilize an individual or determine the need for
33 involuntary commitment of an individual, and must meet department of
34 health residential treatment facility standards. A triage facility
35 may be structured as a voluntary or involuntary placement facility;

36 ~~((49))~~ (50) "Violent act" means behavior that resulted in
37 homicide, attempted suicide, nonfatal injuries, or substantial damage
38 to property.

1 **Sec. 3002.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c
2 155 s 1 are each reenacted and amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Admission" or "admit" means a decision by a physician,
6 physician assistant, or psychiatric advanced registered nurse
7 practitioner that a person should be examined or treated as a patient
8 in a hospital;

9 (2) "Alcoholism" means a disease, characterized by a dependency
10 on alcoholic beverages, loss of control over the amount and
11 circumstances of use, symptoms of tolerance, physiological or
12 psychological withdrawal, or both, if use is reduced or discontinued,
13 and impairment of health or disruption of social or economic
14 functioning;

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

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

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

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

27 (7) "Chemical dependency" means:

28 (a) Alcoholism;

29 (b) Drug addiction; or

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

32 (~~(7)~~) (8) "Chemical dependency professional" means a person
33 certified as a chemical dependency professional by the department of
34 health under chapter 18.205 RCW;

35 (~~(8)~~) (9) "Commitment" means the determination by a court that
36 a person should be detained for a period of either evaluation or
37 treatment, or both, in an inpatient or a less restrictive setting;

38 (~~(9)~~) (10) "Conditional release" means a revocable modification
39 of a commitment, which may be revoked upon violation of any of its
40 terms;

1 ~~((10))~~ (11) "Crisis stabilization unit" means a short-term
2 facility or a portion of a facility licensed or certified by the
3 department of health ~~((and certified by the department of social and~~
4 ~~health services))~~ under RCW 71.24.035, such as an evaluation and
5 treatment facility or a hospital, which has been designed to assess,
6 diagnose, and treat individuals experiencing an acute crisis without
7 the use of long-term hospitalization;

8 ~~((11))~~ (12) "Custody" means involuntary detention under the
9 provisions of this chapter or chapter 10.77 RCW, uninterrupted by any
10 period of unconditional release from commitment from a facility
11 providing involuntary care and treatment;

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

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

17 ~~((14))~~ (15) "Detention" or "detain" means the lawful
18 confinement of a person, under the provisions of this chapter;

19 ~~((15))~~ (16) "Developmental disabilities professional" means a
20 person who has specialized training and three years of experience in
21 directly treating or working with persons with developmental
22 disabilities and is a psychiatrist, physician assistant working with
23 a supervising psychiatrist, psychologist, psychiatric advanced
24 registered nurse practitioner, or social worker, and such other
25 developmental disabilities professionals as may be defined by rules
26 adopted by the secretary;

27 ~~((16))~~ (17) "Developmental disability" means that condition
28 defined in RCW 71A.10.020(5);

29 ~~((17))~~ (18) "Director" means the director of the authority;

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

33 ~~((18))~~ (20) "Drug addiction" means a disease, characterized by
34 a dependency on psychoactive chemicals, loss of control over the
35 amount and circumstances of use, symptoms of tolerance, physiological
36 or psychological withdrawal, or both, if use is reduced or
37 discontinued, and impairment of health or disruption of social or
38 economic functioning;

39 ~~((19))~~ (21) "Evaluation and treatment facility" means any
40 facility which can provide directly, or by direct arrangement with

1 other public or private agencies, emergency evaluation and treatment,
2 outpatient care, and timely and appropriate inpatient care to persons
3 suffering from a mental disorder, and which is licensed or certified
4 as such by the department. The (~~department~~) authority may certify
5 single beds as temporary evaluation and treatment beds under RCW
6 71.05.745. A physically separate and separately operated portion of a
7 state hospital may be designated as an evaluation and treatment
8 facility. A facility which is part of, or operated by, the department
9 of social and health services or any federal agency will not require
10 certification. No correctional institution or facility, or jail,
11 shall be an evaluation and treatment facility within the meaning of
12 this chapter;

13 (~~(+20)~~) (22) "Gravely disabled" means a condition in which a
14 person, as a result of a mental disorder, or as a result of the use
15 of alcohol or other psychoactive chemicals: (a) Is in danger of
16 serious physical harm resulting from a failure to provide for his or
17 her essential human needs of health or safety; or (b) manifests
18 severe deterioration in routine functioning evidenced by repeated and
19 escalating loss of cognitive or volitional control over his or her
20 actions and is not receiving such care as is essential for his or her
21 health or safety;

22 (~~(+21)~~) (23) "Habilitative services" means those services
23 provided by program personnel to assist persons in acquiring and
24 maintaining life skills and in raising their levels of physical,
25 mental, social, and vocational functioning. Habilitative services
26 include education, training for employment, and therapy. The
27 habilitative process shall be undertaken with recognition of the risk
28 to the public safety presented by the person being assisted as
29 manifested by prior charged criminal conduct;

30 (~~(+22)~~) (24) "History of one or more violent acts" refers to the
31 period of time ten years prior to the filing of a petition under this
32 chapter, excluding any time spent, but not any violent acts
33 committed, in a mental health facility, a long-term alcoholism or
34 drug treatment facility, or in confinement as a result of a criminal
35 conviction;

36 (~~(+23)~~) (25) "Imminent" means the state or condition of being
37 likely to occur at any moment or near at hand, rather than distant or
38 remote;

39 (~~(+24)~~) (26) "Individualized service plan" means a plan prepared
40 by a developmental disabilities professional with other professionals

1 as a team, for a person with developmental disabilities, which shall
2 state:

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

5 (b) The conditions and strategies necessary to achieve the
6 purposes of habilitation;

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

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

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

12 (f) Where relevant in light of past criminal behavior and due
13 consideration for public safety, the criteria for proposed movement
14 to less-restrictive settings, criteria for proposed eventual
15 discharge or release, and a projected possible date for discharge or
16 release; and

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

19 ~~((+25+))~~ (27) "Information related to mental health services"
20 means all information and records compiled, obtained, or maintained
21 in the course of providing services to either voluntary or
22 involuntary recipients of services by a mental health service
23 provider. This may include documents of legal proceedings under this
24 chapter or chapter 71.34 or 10.77 RCW, or somatic health care
25 information;

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

29 ~~((+27+))~~ (29) "In need of assisted outpatient mental health
30 treatment" means that a person, as a result of a mental disorder: (a)
31 Has been committed by a court to detention for involuntary mental
32 health treatment at least twice during the preceding thirty-six
33 months, or, if the person is currently committed for involuntary
34 mental health treatment, the person has been committed to detention
35 for involuntary mental health treatment at least once during the
36 thirty-six months preceding the date of initial detention of the
37 current commitment cycle; (b) is unlikely to voluntarily participate
38 in outpatient treatment without an order for less restrictive
39 alternative treatment, in view of the person's treatment history or
40 current behavior; (c) is unlikely to survive safely in the community

1 without supervision; (d) is likely to benefit from less restrictive
2 alternative treatment; and (e) requires less restrictive alternative
3 treatment to prevent a relapse, decompensation, or deterioration that
4 is likely to result in the person presenting a likelihood of serious
5 harm or the person becoming gravely disabled within a reasonably
6 short period of time. For purposes of (a) of this subsection, time
7 spent in a mental health facility or in confinement as a result of a
8 criminal conviction is excluded from the thirty-six month
9 calculation;

10 ~~((+28+))~~ (30) "Judicial commitment" means a commitment by a court
11 pursuant to the provisions of this chapter;

12 ~~((+29+))~~ (31) "Legal counsel" means attorneys and staff employed
13 by county prosecutor offices or the state attorney general acting in
14 their capacity as legal representatives of public mental health and
15 substance use disorder service providers under RCW 71.05.130;

16 ~~((+30+))~~ (32) "Less restrictive alternative treatment" means a
17 program of individualized treatment in a less restrictive setting
18 than inpatient treatment that includes the services described in RCW
19 71.05.585;

20 ~~((+31+))~~ (33) "Licensed physician" means a person licensed to
21 practice medicine or osteopathic medicine and surgery in the state of
22 Washington;

23 ~~((+32+))~~ (34) "Likelihood of serious harm" means:

24 (a) A substantial risk that: (i) Physical harm will be inflicted
25 by a person upon his or her own person, as evidenced by threats or
26 attempts to commit suicide or inflict physical harm on oneself; (ii)
27 physical harm will be inflicted by a person upon another, as
28 evidenced by behavior which has caused such harm or which places
29 another person or persons in reasonable fear of sustaining such harm;
30 or (iii) physical harm will be inflicted by a person upon the
31 property of others, as evidenced by behavior which has caused
32 substantial loss or damage to the property of others; or

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

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

38 ~~((+34+))~~ (36) "Mental disorder" means any organic, mental, or
39 emotional impairment which has substantial adverse effects on a
40 person's cognitive or volitional functions;

1 ~~((35))~~ (37) "Mental health professional" means a psychiatrist,
2 psychologist, physician assistant working with a supervising
3 psychiatrist, psychiatric advanced registered nurse practitioner,
4 psychiatric nurse, or social worker, and such other mental health
5 professionals as may be defined by rules adopted by the secretary
6 pursuant to the provisions of this chapter;

7 ~~((36))~~ (38) "Mental health service provider" means a public or
8 private agency that provides mental health services to persons with
9 mental disorders or substance use disorders as defined under this
10 section and receives funding from public sources. This includes, but
11 is not limited to, hospitals licensed under chapter 70.41 RCW,
12 evaluation and treatment facilities as defined in this section,
13 community mental health service delivery systems or behavioral health
14 programs as defined in RCW 71.24.025, facilities conducting
15 competency evaluations and restoration under chapter 10.77 RCW,
16 approved substance use disorder treatment programs as defined in this
17 section, secure detoxification facilities as defined in this section,
18 and correctional facilities operated by state and local governments;

19 ~~((37))~~ (39) "Peace officer" means a law enforcement official of
20 a public agency or governmental unit, and includes persons
21 specifically given peace officer powers by any state law, local
22 ordinance, or judicial order of appointment;

23 ~~((38))~~ (40) "Physician assistant" means a person licensed as a
24 physician assistant under chapter 18.57A or 18.71A RCW;

25 ~~((39))~~ (41) "Private agency" means any person, partnership,
26 corporation, or association that is not a public agency, whether or
27 not financed in whole or in part by public funds, which constitutes
28 an evaluation and treatment facility or private institution, or
29 hospital, or approved substance use disorder treatment program, which
30 is conducted for, or includes a department or ward conducted for, the
31 care and treatment of persons with mental illness, substance use
32 disorders, or both mental illness and substance use disorders;

33 ~~((40))~~ (42) "Professional person" means a mental health
34 professional or designated crisis responder and shall also mean a
35 physician, physician assistant, psychiatric advanced registered nurse
36 practitioner, registered nurse, and such others as may be defined by
37 rules adopted by the secretary pursuant to the provisions of this
38 chapter;

39 ~~((41))~~ (43) "Psychiatric advanced registered nurse
40 practitioner" means a person who is licensed as an advanced

1 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
2 is board certified in advanced practice psychiatric and mental health
3 nursing;

4 ~~((42))~~ (44) "Psychiatrist" means a person having a license as a
5 physician and surgeon in this state who has in addition completed
6 three years of graduate training in psychiatry in a program approved
7 by the American medical association or the American osteopathic
8 association and is certified or eligible to be certified by the
9 American board of psychiatry and neurology;

10 ~~((43))~~ (45) "Psychologist" means a person who has been licensed
11 as a psychologist pursuant to chapter 18.83 RCW;

12 ~~((44))~~ (46) "Public agency" means any evaluation and treatment
13 facility or institution, secure detoxification facility, approved
14 substance use disorder treatment program, or hospital which is
15 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, if the
18 agency is operated directly by federal, state, county, or municipal
19 government, or a combination of such governments;

20 ~~((45) "Registration records" include all the records of the
21 department, behavioral health organizations, treatment facilities,
22 and other persons providing services to the department, county
23 departments, or facilities which identify persons who are receiving
24 or who at any time have received services for mental illness or
25 substance use disorders;~~

26 ~~(46))~~ (47) "Release" means legal termination of the commitment
27 under the provisions of this chapter;

28 ~~((47))~~ (48) "Resource management services" has the meaning
29 given in chapter 71.24 RCW;

30 ~~((48))~~ (49) "Secretary" means the secretary of the department
31 of ~~((social and))~~ health ~~((services))~~, or his or her designee;

32 ~~((49))~~ (50) "Secure detoxification facility" means a facility
33 operated by either a public or private agency or by the program of an
34 agency that:

35 (a) Provides for intoxicated persons:

36 (i) Evaluation and assessment, provided by certified chemical
37 dependency professionals;

38 (ii) Acute or subacute detoxification services; and

39 (iii) Discharge assistance provided by certified chemical
40 dependency professionals, including facilitating transitions to

1 appropriate voluntary or involuntary inpatient services or to less
2 restrictive alternatives as appropriate for the individual;

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

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

6 ~~((+50+))~~ (51) "Serious violent offense" has the same meaning as
7 provided in RCW 9.94A.030;

8 ~~((+51+))~~ (52) "Social worker" means a person with a master's or
9 further advanced degree from a social work educational program
10 accredited and approved as provided in RCW 18.320.010;

11 ~~((+52+))~~ (53) "Substance use disorder" means a cluster of
12 cognitive, behavioral, and physiological symptoms indicating that an
13 individual continues using the substance despite significant
14 substance-related problems. The diagnosis of a substance use disorder
15 is based on a pathological pattern of behaviors related to the use of
16 the substances;

17 ~~((+53+))~~ (54) "Therapeutic court personnel" means the staff of a
18 mental health court or other therapeutic court which has jurisdiction
19 over defendants who are dually diagnosed with mental disorders,
20 including court personnel, probation officers, a court monitor,
21 prosecuting attorney, or defense counsel acting within the scope of
22 therapeutic court duties;

23 ~~((+54+))~~ (55) "Treatment records" include registration and all
24 other records concerning persons who are receiving or who at any time
25 have received services for mental illness, which are maintained by
26 the department of social and health services, ~~((by))~~ the department,
27 the authority, behavioral health organizations and their staffs, and
28 by treatment facilities. Treatment records include mental health
29 information contained in a medical bill including but not limited to
30 mental health drugs, a mental health diagnosis, provider name, and
31 dates of service stemming from a medical service. Treatment records
32 do not include notes or records maintained for personal use by a
33 person providing treatment services for the department of social and
34 health services, the department, the authority, behavioral health
35 organizations, or a treatment facility if the notes or records are
36 not available to others;

37 ~~((+55+))~~ (56) "Triage facility" means a short-term facility or a
38 portion of a facility licensed or certified by the department ~~((of~~
39 ~~health and certified by the department of social and health~~
40 ~~services))~~ under RCW 71.24.035, which is designed as a facility to

1 assess and stabilize an individual or determine the need for
2 involuntary commitment of an individual, and must meet department of
3 health residential treatment facility standards. A triage facility
4 may be structured as a voluntary or involuntary placement facility;
5 ~~((+56+))~~ (57) "Violent act" means behavior that resulted in
6 homicide, attempted suicide, nonfatal injuries, or substantial damage
7 to property.

8 **Sec. 3003.** RCW 71.05.026 and 2014 c 225 s 81 are each amended to
9 read as follows:

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

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

25 (3) This section applies to counties, behavioral health
26 organizations, and entities which contract to provide behavioral
27 health organization services and their subcontractors, agents, or
28 employees.

29 **Sec. 3004.** RCW 71.05.026 and 2016 sp.s. c 29 s 206 are each
30 amended to read as follows:

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

35 (2) Except as expressly provided in contracts entered into
36 between the ~~((department))~~ authority and the behavioral health
37 organizations after March 29, 2006, the entities identified in
38 subsection (3) of this section shall have no claim for declaratory

1 relief, injunctive relief, judicial review under chapter 34.05 RCW,
2 or civil liability against the state or state agencies for actions or
3 inactions performed pursuant to the administration of this chapter
4 with regard to the following: (a) The allocation or payment of
5 federal or state funds; (b) the use or allocation of state hospital
6 beds; or (c) financial responsibility for the provision of inpatient
7 mental health care or inpatient substance use disorder treatment.

8 (3) This section applies to counties, behavioral health
9 organizations, and entities which contract to provide behavioral
10 health organization services and their subcontractors, agents, or
11 employees.

12 **Sec. 3005.** RCW 71.05.027 and 2014 c 225 s 82 are each amended to
13 read as follows:

14 (1) Not later than January 1, 2007, all persons providing
15 treatment under this chapter shall also implement the integrated
16 comprehensive screening and assessment process for chemical
17 dependency and mental disorders adopted pursuant to RCW
18 ((70.96C.010)) 71.24.630 and shall document the numbers of clients
19 with co-occurring mental and substance abuse disorders based on a
20 quadrant system of low and high needs.

21 (2) Treatment providers and behavioral health organizations who
22 fail to implement the integrated comprehensive screening and
23 assessment process for chemical dependency and mental disorders by
24 July 1, 2007, shall be subject to contractual penalties established
25 under RCW ((70.96C.010)) 71.24.630.

26 **Sec. 3006.** RCW 71.05.040 and 2004 c 166 s 2 are each amended to
27 read as follows:

28 Persons ((who are developmentally disabled)) with developmental
29 disabilities, impaired by ((chronic alcoholism or drug abuse))
30 substance use disorder, or suffering from dementia shall not be
31 detained for evaluation and treatment or judicially committed solely
32 by reason of that condition unless such condition causes a person to
33 be gravely disabled or as a result of a mental disorder such
34 condition exists that constitutes a likelihood of serious harm((-
35 Provided)). However, ((That)) persons ((who are developmentally
36 disabled)) with developmental disabilities, impaired by ((chronic
37 alcoholism or drug abuse)) substance use disorder, or suffering from
38 dementia and who otherwise meet the criteria for detention or

1 judicial commitment are not ineligible for detention or commitment
2 based on this condition alone.

3 **Sec. 3007.** RCW 71.05.100 and 1997 c 112 s 6 are each amended to
4 read as follows:

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

26 **Sec. 3008.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to
27 read as follows:

28 (1) The (~~department~~) authority and each (~~regional support~~
29 ~~network~~) behavioral health organization or agency employing
30 designated mental health professionals shall publish information in
31 an easily accessible format describing the process for an immediate
32 family member, guardian, or conservator to petition for court review
33 of a detention decision under RCW 71.05.201.

34 (2) A designated mental health professional or designated mental
35 health professional agency that receives a request for investigation
36 for possible detention under this chapter must inquire whether the
37 request comes from an immediate family member, guardian, or
38 conservator who would be eligible to petition under RCW 71.05.201. If

1 the designated mental health professional decides not to detain the
2 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
3 or forty-eight hours have elapsed since the request for investigation
4 was received and the designated mental health professional has not
5 taken action to have the person detained, the designated mental
6 health professional or designated mental health professional agency
7 must inform the immediate family member, guardian, or conservator who
8 made the request for investigation about the process to petition for
9 court review under RCW 71.05.201.

10 **Sec. 3009.** RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each
11 amended to read as follows:

12 (1) The ((department)) authority and each behavioral health
13 organization or agency employing designated crisis responders shall
14 publish information in an easily accessible format describing the
15 process for an immediate family member, guardian, or conservator to
16 petition for court review of a detention decision under RCW
17 71.05.201.

18 (2) A designated crisis responder or designated crisis responder
19 agency that receives a request for investigation for possible
20 detention under this chapter must inquire whether the request comes
21 from an immediate family member, guardian, or conservator who would
22 be eligible to petition under RCW 71.05.201. If the designated crisis
23 responder decides not to detain the person for evaluation and
24 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have
25 elapsed since the request for investigation was received and the
26 designated crisis responder has not taken action to have the person
27 detained, the designated crisis responder or designated crisis
28 responder agency must inform the immediate family member, guardian,
29 or conservator who made the request for investigation about the
30 process to petition for court review under RCW 71.05.201.

31 **Sec. 3010.** RCW 71.05.214 and 1998 c 297 s 26 are each amended to
32 read as follows:

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

1 have, or are alleged to have, mental disorders and are subject to
2 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 ((~~county~~))
6 designated mental health professionals, the department of social and
7 health services, local government, law enforcement, county and city
8 prosecutors, public defenders, and groups concerned with mental
9 illness. The protocols shall be submitted to the governor and
10 legislature upon adoption by the ((~~department~~)) authority.

11 **Sec. 3011.** RCW 71.05.214 and 2016 sp.s. c 29 s 227 are each
12 amended to read as follows:

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

21 The initial protocols shall be developed not later than September
22 1, 1999. The ((~~department~~)) authority shall develop and update the
23 protocols in consultation with representatives of designated crisis
24 responders, the department of social and health services, local
25 government, law enforcement, county and city prosecutors, public
26 defenders, and groups concerned with mental illness and substance use
27 disorders. The protocols shall be submitted to the governor and
28 legislature upon adoption by the ((~~department~~)) authority.

29 **Sec. 3012.** RCW 71.05.215 and 2016 c 155 s 3 are each amended to
30 read as follows:

31 (1) A person found to be gravely disabled or presents a
32 likelihood of serious harm as a result of a mental disorder has a
33 right to refuse antipsychotic medication unless it is determined that
34 the failure to medicate may result in a likelihood of serious harm or
35 substantial deterioration or substantially prolong the length of
36 involuntary commitment and there is no less intrusive course of
37 treatment than medication in the best interest of that person.

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

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

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

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

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

25 (e) Documentation in the medical record of the attempt by the
26 physician, physician assistant, or psychiatric advanced registered
27 nurse practitioner to obtain informed consent and the reasons why
28 antipsychotic medication is being administered over the person's
29 objection or lack of consent.

30 **Sec. 3013.** RCW 71.05.215 and 2016 sp.s. c 29 s 228 and 2016 c
31 155 s 3 are each reenacted and amended to read as follows:

32 (1) A person found to be gravely disabled or presents a
33 likelihood of serious harm as a result of a mental disorder or
34 substance use disorder has a right to refuse antipsychotic medication
35 unless it is determined that the failure to medicate may result in a
36 likelihood of serious harm or substantial deterioration or
37 substantially prolong the length of involuntary commitment and there
38 is no less intrusive course of treatment than medication in the best
39 interest of that person.

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

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

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

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

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

25 (e) Documentation in the medical record of the attempt by the
26 physician, physician assistant, or psychiatric advanced registered
27 nurse practitioner to obtain informed consent and the reasons why
28 antipsychotic medication is being administered over the person's
29 objection or lack of consent.

30 **Sec. 3014.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45
31 s 2 are each reenacted and amended to read as follows:

32 (1) If a petition is filed for fourteen day involuntary treatment
33 or ninety days of less restrictive alternative treatment, the court
34 shall hold a probable cause hearing within seventy-two hours of the
35 initial detention or involuntary outpatient evaluation of such person
36 as determined in RCW 71.05.180. If requested by the person or his or
37 her attorney, the hearing may be postponed for a period not to exceed
38 forty-eight hours. The hearing may also be continued subject to the

1 conditions set forth in RCW 71.05.210 or subject to the petitioner's
2 showing of good cause for a period not to exceed twenty-four hours.

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

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

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

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

34 (d) If the court finds by a preponderance of the evidence that
35 such person, as the result of a mental disorder, is in need of
36 assisted outpatient mental health treatment, and that the person does
37 not present a likelihood of serious harm or grave disability, the
38 court shall order an appropriate less restrictive alternative course
39 of treatment not to exceed ninety days, and may not order inpatient
40 treatment.

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

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

16 **Sec. 3015.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each
17 amended to read as follows:

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

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

34 (3)(a) Subject to (b) of this subsection, at the conclusion of
35 the probable cause hearing, if the court finds by a preponderance of
36 the evidence that such person, as the result of a mental disorder or
37 substance use disorder, presents a likelihood of serious harm, or is
38 gravely disabled, and, after considering less restrictive
39 alternatives to involuntary detention and treatment, finds that no

1 such alternatives are in the best interests of such person or others,
2 the court shall order that such person be detained for involuntary
3 treatment not to exceed fourteen days in a facility licensed or
4 certified to provide treatment by the department.

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

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

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

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

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

38 **Sec. 3016.** RCW 71.05.285 and 2001 c 12 s 1 are each amended to
39 read as follows:

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

11 **Sec. 3017.** RCW 71.05.320 and 2016 c 45 s 4 are each amended to
12 read as follows:

13 (1) If the court or jury finds that grounds set forth in RCW
14 71.05.280 have been proven and that the best interests of the person
15 or others will not be served by a less restrictive treatment which is
16 an alternative to detention, the court shall remand him or her to the
17 custody of the department of social and health services or to a
18 facility certified for ninety day treatment by the department for a
19 further period of intensive treatment not to exceed ninety days from
20 the date of judgment. If the grounds set forth in RCW 71.05.280(3)
21 are the basis of commitment, then the period of treatment may be up
22 to but not exceed one hundred eighty days from the date of judgment
23 (~~(in)~~) to the custody of the department of social and health services
24 or to a facility certified for one hundred eighty day treatment by
25 the department.

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

1 restrictive alternative treatment for up to ninety days from the date
2 of judgment and may not order 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 mental
14 health professional, files a new petition for involuntary treatment
15 on the 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 mental disorder or developmental disability presents a
20 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 or
24 developmental disability a likelihood of serious harm; or

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

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

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

5 (d) Continues to be gravely disabled; or

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

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

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

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

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

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

1 permissible on the same grounds and pursuant to the same procedures
2 as the original one hundred eighty day commitment.

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

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

11 **Sec. 3018.** RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45
12 s 4 are each reenacted and amended to read as follows:

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

21 (b) If the order for inpatient treatment is based on a substance
22 use disorder, treatment must take place at an approved substance use
23 disorder treatment program. The court may only enter an order for
24 commitment based on a substance use disorder if there is an available
25 approved substance use disorder treatment program with adequate space
26 for the person.

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

33 (2) If the court or jury finds that grounds set forth in RCW
34 71.05.280 have been proven, but finds that treatment less restrictive
35 than detention will be in the best interest of the person or others,
36 then the court shall remand him or her to the custody of the
37 department of social and health services or to a facility certified
38 for ninety day treatment by the department or to a less restrictive
39 alternative for a further period of less restrictive treatment not to

1 exceed ninety days from the date of judgment. If the order for less
2 restrictive treatment is based on a substance use disorder, treatment
3 must be provided by an approved substance use disorder treatment
4 program. If the grounds set forth in RCW 71.05.280(3) are the basis
5 of commitment, then the period of treatment may be up to but not
6 exceed one hundred eighty days from the date of judgment. If the
7 court or jury finds that the grounds set forth in RCW 71.05.280(5)
8 have been proven, and provide the only basis for commitment, the
9 court must enter an order for less restrictive alternative treatment
10 for up to ninety days from the date of judgment and may not order
11 inpatient treatment.

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

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

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

30 (b) Was taken into custody as a result of conduct in which he or
31 she attempted or inflicted serious physical harm upon the person of
32 another, and continues to present, as a result of mental disorder,
33 substance use disorder, or developmental disability a likelihood of
34 serious harm; or

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

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

16 (d) Continues to be gravely disabled; or

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

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

21 If less restrictive alternative treatment is sought, the petition
22 shall set forth any recommendations for less restrictive alternative
23 treatment services.

24 (5) A new petition for involuntary treatment filed under
25 subsection (4) of this section shall be filed and heard in the
26 superior court of the county of the facility which is filing the new
27 petition for involuntary treatment unless good cause is shown for a
28 change of venue. The cost of the proceedings shall be borne by the
29 state.

30 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
31 and if the court or jury finds that the grounds for additional
32 confinement as set forth in this section are present, subject to
33 subsection (1)(b) of this section, the court may order the committed
34 person returned for an additional period of treatment not to exceed
35 one hundred eighty days from the date of judgment, except as provided
36 in subsection (7) of this section. If the court's order is based
37 solely on the grounds identified in subsection (4)(e) of this
38 section, the court may enter an order for less restrictive
39 alternative treatment not to exceed one hundred eighty days from the
40 date of judgment, and may not enter an order for inpatient treatment.

1 An order for less restrictive alternative treatment must name the
2 mental health service provider responsible for identifying the
3 services the person will receive in accordance with RCW 71.05.585,
4 and must include a requirement that the person cooperate with the
5 services planned by the mental health service provider.

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

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

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

22 **Sec. 3019.** RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each
23 amended to read as follows:

24 (1) If the court or jury finds that grounds set forth in RCW
25 71.05.280 have been proven and that the best interests of the person
26 or others will not be served by a less restrictive treatment which is
27 an alternative to detention, the court shall remand him or her to the
28 custody of the department of social and health services or to a
29 facility certified for ninety day treatment by the department for a
30 further period of intensive treatment not to exceed ninety days from
31 the date of judgment.

32 If the order for inpatient treatment is based on a substance use
33 disorder, treatment must take place at an approved substance use
34 disorder treatment program. If the grounds set forth in RCW
35 71.05.280(3) are the basis of commitment, then the period of
36 treatment may be up to but not exceed one hundred eighty days from
37 the date of judgment ~~((in))~~ to the custody of the department of
38 social and health services or to a facility certified for one hundred
39 eighty day treatment by the department.

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

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

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

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

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

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

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

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

23 (d) Continues to be gravely disabled; or

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

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

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

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

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

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

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

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

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

29 **Sec. 3020.** RCW 71.05.325 and 2000 c 94 s 7 are each amended to
30 read as follows:

31 (1) Before a person committed under grounds set forth in RCW
32 71.05.280(3) is released because a new petition for involuntary
33 treatment has not been filed under RCW 71.05.320(~~(+2)~~) (4), the
34 superintendent, professional person, or designated mental health
35 professional responsible for the decision whether to file a new
36 petition shall in writing notify the prosecuting attorney of the
37 county in which the criminal charges against the committed person
38 were dismissed, of the decision not to file a new petition for

1 involuntary treatment. Notice shall be provided at least forty-five
2 days before the period of commitment expires.

3 (2)(a) Before a person committed under grounds set forth in RCW
4 71.05.280(3) is permitted temporarily to leave a treatment facility
5 pursuant to RCW 71.05.270 for any period of time without constant
6 accompaniment by facility staff, the superintendent, professional
7 person in charge of a treatment facility, or his or her professional
8 designee shall in writing notify the prosecuting attorney of any
9 county of the person's destination and the prosecuting attorney of
10 the county in which the criminal charges against the committed person
11 were dismissed. The notice shall be provided at least forty-five days
12 before the anticipated leave and shall describe the conditions under
13 which the leave is to occur.

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

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

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

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

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

27 **Sec. 3021.** RCW 71.05.325 and 2016 sp.s. c 29 s 239 are each
28 amended to read as follows:

29 (1) Before a person committed under grounds set forth in RCW
30 71.05.280(3) is released because a new petition for involuntary
31 treatment has not been filed under RCW 71.05.320(~~(+3)~~) (4), the
32 superintendent, professional person, or designated crisis responder
33 responsible for the decision whether to file a new petition shall in
34 writing notify the prosecuting attorney of the county in which the
35 criminal charges against the committed person were dismissed, of the
36 decision not to file a new petition for involuntary treatment. Notice
37 shall be provided at least forty-five days before the period of
38 commitment expires.

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

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

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

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

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

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

25 **Sec. 3022.** RCW 71.05.330 and 1998 c 297 s 20 are each amended to
26 read as follows:

27 (1) Nothing in this chapter shall prohibit the superintendent or
28 professional person in charge of the hospital or facility in which
29 the person is being involuntarily treated from releasing him or her
30 prior to the expiration of the commitment period when, in the opinion
31 of the superintendent or professional person in charge, the person
32 being involuntarily treated no longer presents a likelihood of
33 serious harm.

34 Whenever the superintendent or professional person in charge of a
35 hospital or facility providing involuntary treatment pursuant to this
36 chapter releases a person prior to the expiration of the period of
37 commitment, the superintendent or professional person in charge shall
38 in writing notify the court which committed the person for treatment.

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

29 **Sec. 3023.** RCW 71.05.335 and 1986 c 67 s 7 are each amended to
30 read as follows:

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

1 **Sec. 3024.** RCW 71.05.340 and 2015 c 250 s 12 are each amended to
2 read as follows:

3 (1)(a) When, in the opinion of the superintendent or the
4 professional person in charge of the hospital or facility providing
5 involuntary treatment, the committed person can be appropriately
6 served by outpatient treatment prior to or at the expiration of the
7 period of commitment, then such outpatient care may be required as a
8 term of conditional release for a period which, when added to the
9 inpatient treatment period, shall not exceed the period of
10 commitment. If the facility or agency designated to provide
11 outpatient treatment is other than the facility providing involuntary
12 treatment, the outpatient facility so designated must agree in
13 writing to assume such responsibility. A copy of the terms of
14 conditional release shall be given to the patient, the designated
15 mental health professional in the county in which the patient is to
16 receive outpatient treatment, and to the court of original
17 commitment.

18 (b) Before a person committed under grounds set forth in RCW
19 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a)
20 of this subsection, the superintendent or professional person in
21 charge of the hospital or facility providing involuntary treatment
22 shall in writing notify the prosecuting attorney of the county in
23 which the criminal charges against the committed person were
24 dismissed, of the decision to conditionally release the person.
25 Notice and a copy of the terms of conditional release shall be
26 provided at least thirty days before the person is released from
27 inpatient care. Within twenty days after receiving notice, the
28 prosecuting attorney may petition the court in the county that issued
29 the commitment order to hold a hearing to determine whether the
30 person may be conditionally released and the terms of the conditional
31 release. The prosecuting attorney shall provide a copy of the
32 petition to the superintendent or professional person in charge of
33 the hospital or facility providing involuntary treatment, the
34 attorney, if any, and guardian or conservator of the committed
35 person, and the court of original commitment. If the county in which
36 the committed person is to receive outpatient treatment is the same
37 county in which the criminal charges against the committed person
38 were dismissed, then the court shall, upon the motion of the
39 prosecuting attorney, transfer the proceeding to the court in that
40 county. The court shall conduct a hearing on the petition within ten

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

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

24 **Sec. 3025.** RCW 71.05.340 and 2016 sp.s. c 29 s 240 are each
25 amended to read as follows:

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

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

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

8 **Sec. 3026.** RCW 71.05.350 and 1997 c 112 s 29 are each amended to
9 read as follows:

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

22 **Sec. 3027.** RCW 71.05.380 and 1973 1st ex.s. c 142 s 43 are each
23 amended to read as follows:

24 All persons voluntarily entering or remaining in any facility,
25 institution, or hospital providing evaluation and treatment for
26 mental disorder shall have no less than all rights secured to
27 involuntarily detained persons by RCW 71.05.360 and ~~((71.05.370))~~
28 71.05.217.

29 **Sec. 3028.** RCW 71.05.425 and 2013 c 289 s 6 and 2013 c 200 s 30
30 are each reenacted and amended to read as follows:

31 (1)(a) Except as provided in subsection (2) of this section, at
32 the earliest possible date, and in no event later than thirty days
33 before conditional release, final release, authorized leave under RCW
34 71.05.325(2), or transfer to a facility other than a state mental
35 hospital, the superintendent shall send written notice of conditional
36 release, release, authorized leave, or transfer of a person committed
37 under RCW 71.05.280(3) or 71.05.320(~~((+3))~~) (4)(c) following dismissal

1 of a sex, violent, or felony harassment offense pursuant to RCW
2 10.77.086(4) to the following:

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

5 (ii) The sheriff of the county in which the person will reside;
6 and

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

9 (b) The same notice as required by (a) of this subsection shall
10 be sent to the following, if such notice has been requested in
11 writing about a specific person committed under RCW 71.05.280(3) or
12 71.05.320(~~(+3)~~) (4)(c) following dismissal of a sex, violent, or
13 felony harassment offense pursuant to RCW 10.77.086(4):

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

18 (ii) Any witnesses who testified against the person in any court
19 proceedings;

20 (iii) Any person specified in writing by the prosecuting
21 attorney. Information regarding victims, next of kin, or witnesses
22 requesting the notice, information regarding any other person
23 specified in writing by the prosecuting attorney to receive the
24 notice, and the notice are confidential and shall not be available to
25 the person committed under this chapter; and

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

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

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

34 (2) If a person committed under RCW 71.05.280(3) or
35 71.05.320(~~(+3)~~) (4)(c) following dismissal of a sex, violent, or
36 felony harassment offense pursuant to RCW 10.77.086(4) escapes, the
37 superintendent shall immediately notify, by the most reasonable and
38 expedient means available, the chief of police of the city and the
39 sheriff of the county in which the person escaped and in which the
40 person resided immediately before the person's arrest and the

1 prosecuting attorney of the county in which the criminal charges
2 against the committed person were dismissed. If previously requested,
3 the superintendent shall also notify the witnesses and the victim of
4 the sex, violent, or felony harassment offense that was dismissed
5 pursuant to RCW 10.77.086(4) preceding commitment under RCW
6 71.05.280(3) or 71.05.320(~~(3)~~) (4) or the victim's next of kin if
7 the crime was a homicide. In addition, the secretary shall also
8 notify appropriate parties pursuant to RCW 70.02.230(2)(n). If the
9 person is recaptured, the superintendent shall send notice to the
10 persons designated in this subsection as soon as possible but in no
11 event later than two working days after the department of social and
12 health services learns of such recapture.

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

16 (4) The superintendent shall send the notices required by this
17 chapter to the last address provided to the department of social and
18 health services by the requesting party. The requesting party shall
19 furnish the department of social and health services with a current
20 address.

21 (5) For purposes of this section the following terms have the
22 following meanings:

23 (a) "Violent offense" means a violent offense under RCW
24 9.94A.030;

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

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

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

30 **Sec. 3029.** RCW 71.05.435 and 2010 c 280 s 4 are each amended to
31 read as follows:

32 (1) Whenever a person who is the subject of an involuntary
33 commitment order under this chapter is discharged from an evaluation
34 and treatment facility or state hospital, the evaluation and
35 treatment facility or state hospital shall provide notice of the
36 person's discharge to the designated mental health professional
37 office responsible for the initial commitment and the designated
38 mental health professional office that serves the county in which the
39 person is expected to reside. The evaluation and treatment facility

1 or state hospital must also provide these offices with a copy of any
2 less restrictive order or conditional release order entered in
3 conjunction with the discharge of the person, unless the evaluation
4 and treatment facility or state hospital has entered into a
5 memorandum of understanding obligating another entity to provide
6 these documents.

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

13 (3) The ((department)) authority shall maintain and make
14 available an updated list of contact information for designated
15 mental health professional offices around the state.

16 **Sec. 3030.** RCW 71.05.435 and 2016 sp.s. c 29 s 246 are each
17 amended to read as follows:

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

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

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

4 **Sec. 3031.** RCW 71.05.445 and 2014 c 225 s 86 and 2014 c 220 s 14
5 are each reenacted and amended to read as follows:

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

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

31 (2) The information to be released to the department of
32 corrections shall include all relevant records and reports, as
33 defined by rule, necessary for the department of corrections to carry
34 out its duties.

35 (3) The ((department)) authority and the department of
36 corrections, in consultation with behavioral health organizations,
37 mental health service providers as defined in RCW 71.05.020, mental
38 health consumers, and advocates for persons with mental illness,
39 shall adopt rules to implement the provisions of this section related

1 to the type and scope of information to be released. These rules
2 shall:

3 (a) Enhance and facilitate the ability of the department of
4 corrections to carry out its responsibility of planning and ensuring
5 community protection with respect to persons subject to sentencing
6 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
7 disclosing information of persons who received mental health services
8 as a minor; and

9 (b) Establish requirements for the notification of persons under
10 the supervision of the department of corrections regarding the
11 provisions of this section.

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

16 (5) No mental health service provider or individual employed by a
17 mental health service provider shall be held responsible for
18 information released to or used by the department of corrections
19 under the provisions of this section or rules adopted under this
20 section.

21 (6) Whenever federal law or federal regulations restrict the
22 release of information and records related to mental health services
23 for any patient who receives treatment for alcoholism or drug
24 dependency, the release of the information may be restricted as
25 necessary to comply with federal law and regulations.

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

29 (8) The (~~department~~) authority shall, subject to available
30 resources, electronically, or by the most cost-effective means
31 available, provide the department of corrections with the names, last
32 dates of services, and addresses of specific behavioral health
33 organizations and mental health service providers that delivered
34 mental health services to a person subject to chapter 9.94A or 9.95
35 RCW pursuant to an agreement between the authority and the
36 department(~~(s)~~) of corrections.

37 **Sec. 3032.** RCW 71.05.510 and 1974 ex.s. c 145 s 30 are each
38 amended to read as follows:

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

8 **Sec. 3033.** RCW 71.05.520 and 1973 1st ex.s. c 142 s 57 are each
9 amended to read as follows:

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

27 **Sec. 3034.** RCW 71.05.525 and 1997 c 112 s 36 are each amended to
28 read as follows:

29 When, in the judgment of the department of social and health
30 services, the welfare of any person committed to or confined in any
31 state juvenile correctional institution or facility necessitates that
32 such a person be transferred or moved for observation, diagnosis or
33 treatment to any state institution or facility for the care of
34 (~~mentally ill~~) juveniles with mental illness the secretary of the
35 department of social and health services, or his or her designee, is
36 authorized to order and effect such move or transfer: PROVIDED,
37 HOWEVER, That the secretary of the department of social and health
38 services shall adopt and implement procedures to assure that persons

1 so transferred shall, while detained or confined in such institution
2 or facility for the care of (~~mentally ill~~) juveniles with mental
3 illness, be provided with substantially similar opportunities for
4 parole or early release evaluation and determination as persons
5 detained or confined in state juvenile correctional institutions or
6 facilities: PROVIDED, FURTHER, That the secretary of the department
7 of social and health services shall notify the original committing
8 court of such transfer.

9 **Sec. 3035.** RCW 71.05.560 and 1998 c 297 s 24 are each amended to
10 read as follows:

11 The department, the department of social and health services, and
12 the authority shall adopt such rules as may be necessary to
13 effectuate the intent and purposes of this chapter, which shall
14 include but not be limited to evaluation of the quality of the
15 program and facilities operating pursuant to this chapter, evaluation
16 of the effectiveness and cost effectiveness of such programs and
17 facilities, and procedures and standards for licensing or
18 certification and other action relevant to evaluation and treatment
19 facilities.

20 **Sec. 3036.** RCW 71.05.560 and 2016 sp.s. c 29 s 248 are each
21 amended to read as follows:

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

32 **Sec. 3037.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to
33 read as follows:

34 (1) An agency or facility designated to monitor or provide
35 services under a less restrictive alternative or conditional release
36 order or a designated mental health professional may take action to
37 enforce, modify, or revoke a less restrictive alternative or

1 conditional release order if the agency, facility, or designated
2 mental health professional determines that:

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

5 (b) Substantial deterioration in the person's functioning has
6 occurred;

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

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

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

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

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

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

34 (d) To cause the person to be transported by a peace officer,
35 designated mental health professional, or other means to the agency
36 or facility monitoring or providing services under the court order,
37 or to a triage facility, crisis stabilization unit, emergency
38 department, or evaluation and treatment facility for up to twelve
39 hours for the purpose of an evaluation to determine whether
40 modification, revocation, or commitment proceedings are necessary and

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

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

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

21 (4)(a) A designated mental health professional or the secretary
22 of the department of social and health services may upon their own
23 motion or notification by the facility or agency designated to
24 provide outpatient care order a person subject to a court order under
25 this section to be apprehended and taken into custody and temporary
26 detention in an evaluation and treatment facility in or near the
27 county in which he or she is receiving outpatient treatment, or
28 initiate proceedings under this subsection (4) without ordering the
29 apprehension and detention of the person.

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

39 (c) The designated mental health professional or secretary of the
40 department of social and health services shall notify the court that

1 originally ordered commitment within two judicial days of a person's
2 detention and file a revocation petition and order of apprehension
3 and detention with the court and serve the person and their attorney,
4 guardian, and conservator, if any. The person has the same rights
5 with respect to notice, hearing, and counsel as in any involuntary
6 treatment proceeding, except as specifically set forth in this
7 section. There is no right to jury trial. The venue for proceedings
8 regarding a petition for modification or revocation must be in the
9 county in which the petition was filed.

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

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

30 (5) In determining whether or not to take action under this
31 section the designated mental health professional, agency, or
32 facility must consider the factors specified under RCW 71.05.212 and
33 the court must consider the factors specified under RCW 71.05.245 as
34 they apply to the question of whether to enforce, modify, or revoke a
35 court order for involuntary treatment.

36 **Sec. 3038.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each
37 amended to read as follows:

38 (1) An agency or facility designated to monitor or provide
39 services under a less restrictive alternative or conditional release

1 order or a designated crisis responder may take action to enforce,
2 modify, or revoke a less restrictive alternative or conditional
3 release order if the agency, facility, or designated crisis responder
4 determines that:

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

7 (b) Substantial deterioration in the person's functioning has
8 occurred;

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

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

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

19 (a) To counsel, advise, or admonish the person as to their rights
20 and responsibilities under the court order, and to offer appropriate
21 incentives to motivate compliance;

22 (b) To increase the intensity of outpatient services provided to
23 the person by increasing the frequency of contacts with the provider,
24 referring the person for an assessment for assertive community
25 services, or by other means;

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

36 (d) To cause the person to be transported by a peace officer,
37 designated crisis responder, or other means to the agency or facility
38 monitoring or providing services under the court order, or to a
39 triage facility, crisis stabilization unit, emergency department, or
40 to an evaluation and treatment facility if the person is committed

1 for mental health treatment, or to a secure detoxification facility
2 with available space or an approved substance use disorder treatment
3 program with available space if the person is committed for substance
4 use disorder treatment. The person may be detained at the facility
5 for up to twelve hours for the purpose of an evaluation to determine
6 whether modification, revocation, or commitment proceedings are
7 necessary and appropriate to stabilize the person and prevent
8 decompensation, deterioration, or physical harm. Temporary detention
9 for evaluation under this subsection is intended to occur only
10 following a pattern of noncompliance or the failure of reasonable
11 attempts at outreach and engagement, and may occur only when in the
12 clinical judgment of a designated crisis responder or the
13 professional person in charge of an agency or facility designated to
14 monitor less restrictive alternative services temporary detention is
15 appropriate. This subsection does not limit the ability or obligation
16 to pursue revocation procedures under subsection (4) of this section
17 in appropriate circumstances; and

18 (e) To initiate revocation procedures under subsection (4) of
19 this section.

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

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

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

10 (c) The designated crisis responder or secretary of the
11 department of social and health services shall notify the court that
12 originally ordered commitment within two judicial days of a person's
13 detention and file a revocation petition and order of apprehension
14 and detention with the court and serve the person and their attorney,
15 guardian, and conservator, if any. The person has the same rights
16 with respect to notice, hearing, and counsel as in any involuntary
17 treatment proceeding, except as specifically set forth in this
18 section. There is no right to jury trial. The venue for proceedings
19 regarding a petition for modification or revocation must be in the
20 county in which the petition was filed.

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

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

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

13 **Sec. 3039.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each
14 amended to read as follows:

15 (1) An agency or facility designated to monitor or provide
16 services under a less restrictive alternative or conditional release
17 order or a designated crisis responder may take action to enforce,
18 modify, or revoke a less restrictive alternative or conditional
19 release order if the agency, facility, or designated crisis responder
20 determines that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (d) The issues for the court to determine are whether: (i) The
38 person adhered to the terms and conditions of the court order; (ii)
39 substantial deterioration in the person's functioning has occurred;
40 (iii) there is evidence of substantial decompensation with a

1 reasonable probability that the decompensation can be reversed by
2 further inpatient treatment; or (iv) there is a likelihood of serious
3 harm; and, if any of the above conditions apply, whether the court
4 should reinstate or modify the person's less restrictive alternative
5 or conditional release order or order the person's detention for
6 inpatient treatment. The person may waive the court hearing and allow
7 the court to enter a stipulated order upon the agreement of all
8 parties. If the court orders detention for inpatient treatment, the
9 treatment period may be for no longer than the period authorized in
10 the original court order.

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

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

23 **Sec. 3040.** RCW 71.05.620 and 2015 c 269 s 16 are each amended to
24 read as follows:

25 (1) The files and records of court proceedings under this chapter
26 and chapters 70.96A, 71.34, and 70.96B RCW shall be closed but shall
27 be accessible to:

- 28 (a) The department;
29 (b) The department of social and health services;
30 (c) The authority;
31 (d) The state hospitals as defined in RCW 72.23.010;
32 ~~((e))~~ (e) Any person who is the subject of a petition;
33 ~~((d))~~ (f) The person's attorney or guardian;
34 ~~((e))~~ (g) Resource management services for that person; and
35 ~~((f))~~ (h) Service providers authorized to receive such
36 information by resource management services.

37 (2) The ~~((department))~~ authority shall adopt rules to implement
38 this section.

1 **Sec. 3041.** RCW 71.05.620 and 2016 sp.s. c 29 s 249 are each
2 amended to read as follows:

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

5 (a) The department;

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

7 (c) The authority;

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

9 ((+e)) (e) Any person who is the subject of a petition;

10 ((+d)) (f) The attorney or guardian of the person;

11 ((+e)) (g) Resource management services for that person; and

12 ((+f)) (h) Service providers authorized to receive such
13 information by resource management services.

14 (2) The ((department)) authority shall adopt rules to implement
15 this section.

16 **Sec. 3042.** RCW 71.05.720 and 2007 c 360 s 6 are each amended to
17 read as follows:

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

25 **Sec. 3043.** RCW 71.05.732 and 2011 c 343 s 3 are each amended to
26 read as follows:

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

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

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

4 **Sec. 3044.** RCW 71.05.740 and 2014 c 225 s 88 are each amended to
5 read as follows:

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

17 **Sec. 3045.** RCW 71.05.745 and 2015 c 269 s 2 are each amended to
18 read as follows:

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

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

29 (3) A designated mental health professional who submits an
30 application for a single bed certification for treatment at a
31 facility that is willing and able to provide timely and appropriate
32 mental health treatment in good faith belief that the single bed
33 certification is appropriate may presume that the single bed
34 certification will be approved for the purpose of completing the
35 detention process and responding to other emergency calls.

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

1 **Sec. 3046.** RCW 71.05.745 and 2016 sp.s. c 29 s 252 are each
2 amended to read as follows:

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

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

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

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

23 **Sec. 3047.** RCW 71.05.750 and 2015 c 269 s 3 are each amended to
24 read as follows:

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

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

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

1 (b) The identity of the responsible regional support network or
2 behavioral health organization;

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

4 (d) A list of facilities which refused to admit the person; and

5 (e) Identifying information for the person, including age or date
6 of birth.

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

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

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

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

33 (a) Not licensed or certified as an inpatient evaluation and
34 treatment facility; or

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

37 **Sec. 3048.** RCW 71.05.750 and 2016 sp.s. c 29 s 253 are each
38 amended to read as follows:

1 (1) A designated crisis responder shall make a report to the
2 ((~~department~~)) authority when he or she determines a person meets
3 detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or
4 71.34.710 and there are not any beds available at an evaluation and
5 treatment facility, the person has not been provisionally accepted
6 for admission by a facility, and the person cannot be served on a
7 single bed certification or less restrictive alternative. Starting at
8 the time when the designated crisis responder determines a person
9 meets detention criteria and the investigation has been completed,
10 the designated crisis responder has twenty-four hours to submit a
11 completed report to the ((~~department~~)) authority.

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

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

15 (b) The identity of the responsible behavioral health
16 organization;

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

18 (d) A list of facilities which refused to admit the person; and

19 (e) Identifying information for the person, including age or date
20 of birth.

21 (3) The ((~~department~~)) authority shall develop a standardized
22 reporting form or modify the current form used for single bed
23 certifications for the report required under subsection (2) of this
24 section and may require additional reporting elements as it
25 determines are necessary or supportive. The ((~~department~~)) authority
26 shall also determine the method for the transmission of the completed
27 report from the designated crisis responder to the ((~~department~~))
28 authority.

29 (4) The ((~~department~~)) authority shall create quarterly reports
30 displayed on its web site that summarize the information reported
31 under subsection (2) of this section. At a minimum, the reports must
32 display data by county and by month. The reports must also include
33 the number of single bed certifications granted by category. The
34 categories must include all of the reasons that the ((~~department~~))
35 authority recognizes for issuing a single bed certification, as
36 identified in rule.

37 (5) The reports provided according to this section may not
38 display "protected health information" as that term is used in the
39 federal health insurance portability and accountability act of 1996,
40 nor information contained in "mental health treatment records" as

1 that term is used in chapter 70.02 RCW or elsewhere in state law, and
2 must otherwise be compliant with state and federal privacy laws.

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

7 (a) Not licensed or certified as an inpatient evaluation and
8 treatment facility; or

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

11 **Sec. 3049.** RCW 71.05.755 and 2015 c 269 s 4 are each amended to
12 read as follows:

13 (1) The ((~~department~~)) authority shall promptly share reports it
14 receives under RCW 71.05.750 with the responsible regional support
15 network or behavioral health organization. The regional support
16 network or behavioral health organization receiving this notification
17 must attempt to engage the person in appropriate services for which
18 the person is eligible and report back within seven days to the
19 ((~~department~~)) authority.

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

32 **Sec. 3050.** RCW 71.05.760 and 2016 sp.s. c 29 s 201 are each
33 amended to read as follows:

34 (1)(a) By April 1, 2018, the ((~~department~~)) authority, by rule,
35 must combine the functions of a designated mental health professional
36 and designated chemical dependency specialist by establishing a
37 designated crisis responder who is authorized to conduct
38 investigations, detain persons up to seventy-two hours to the proper

1 facility, and carry out the other functions identified in this
2 chapter and chapter 71.34 RCW. The behavioral health organizations
3 shall provide training to the designated crisis responders as
4 required by the (~~department~~) authority.

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

8 (A) Psychiatrist, psychologist, psychiatric advanced registered
9 nurse practitioner, or social worker;

10 (B) Person who is licensed by the department as a mental health
11 counselor or mental health counselor associate, or marriage and
12 family therapist or marriage and family therapist associate;

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

19 (~~(C)~~) (D) Person who meets the waiver criteria of RCW
20 71.24.260, which waiver was granted before 1986;

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

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

28 (ii) Training must include chemical dependency training specific
29 to the duties of a designated crisis responder, including diagnosis
30 of substance abuse and dependence and assessment of risk associated
31 with substance use.

32 (c) The (~~department~~) authority must develop a transition
33 process for any person who has been designated as a designated mental
34 health professional or a designated chemical dependency specialist
35 before April 1, 2018, to be converted to a designated crisis
36 responder. The behavioral health organizations shall provide
37 training, as required by the (~~department~~) authority, to persons
38 converting to designated crisis responders, which must include both
39 mental health and chemical dependency training applicable to the
40 designated crisis responder role.

1 (2)(a) The ((department)) authority must ensure that at least one
2 sixteen-bed secure detoxification facility is operational by April 1,
3 2018, and that at least two sixteen-bed secure detoxification
4 facilities are operational by April 1, 2019.

5 (b) If, at any time during the implementation of secure
6 detoxification facility capacity, federal funding becomes unavailable
7 for federal match for services provided in secure detoxification
8 facilities, then the ((department)) authority must cease any
9 expansion of secure detoxification facilities until further direction
10 is provided by the legislature.

11 **Sec. 3051.** RCW 71.05.801 and 2009 c 323 s 3 are each amended to
12 read as follows:

13 When appropriate and subject to available funds, the treatment
14 and training of a person with a developmental disability who is
15 committed to the custody of the department of social and health
16 services or to a facility certified for ninety day treatment by the
17 department for a further period of intensive treatment under RCW
18 71.05.320 must be provided in a program specifically reserved for the
19 treatment and training of persons with developmental disabilities. A
20 person so committed shall receive habilitation services pursuant to
21 an individualized service plan specifically developed to treat the
22 behavior which was the subject of the criminal proceedings. The
23 treatment program shall be administered by developmental disabilities
24 professionals and others trained specifically in the needs of persons
25 with developmental disabilities. The department of social and health
26 services may limit admissions to this specialized program in order to
27 ensure that expenditures for services do not exceed amounts
28 appropriated by the legislature and allocated by the department of
29 social and health services for such services. The department of
30 social and health services may establish admission priorities in the
31 event that the number of eligible persons exceeds the limits set by
32 the department of social and health services.

33 **Sec. 3052.** RCW 71.05.940 and 1999 c 13 s 13 are each amended to
34 read as follows:

35 The provisions of chapter 420, Laws of 1989 shall apply equally
36 to persons in the custody of the department of social and health
37 services on May 13, 1989, who were found by a court to be not guilty
38 by reason of insanity or incompetent to stand trial, or who have been

1 found to have committed acts constituting a felony pursuant to RCW
2 71.05.280(3) and present a substantial likelihood of repeating
3 similar acts, and the secretary of the department of social and
4 health services shall cause such persons to be evaluated to ascertain
5 if such persons (~~are developmentally disabled~~) have a developmental
6 disability for placement in a program specifically reserved for the
7 treatment and training of persons with developmental disabilities.

8 **PART 4**

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

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

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

35 (2) The involvement of persons with mental illness, their family
36 members, and advocates in designing and implementing mental health
37 services that reduce unnecessary hospitalization and incarceration
38 and promote the recovery and employment of persons with mental

1 illness. To improve the quality of services available and promote the
2 rehabilitation, recovery, and reintegration of persons with mental
3 illness, consumer and advocate participation in mental health
4 services is an integral part of the community mental health system
5 and shall be supported;

6 (3) Accountability of efficient and effective services through
7 state-of-the-art outcome and performance measures and statewide
8 standards for monitoring client and system outcomes, performance, and
9 reporting of client and system outcome information. These processes
10 shall be designed so as to maximize the use of available resources
11 for direct care of people with a mental illness and to assure uniform
12 data collection across the state;

13 (4) Minimum service delivery standards;

14 (5) Priorities for the use of available resources for the care of
15 individuals with mental illness consistent with the priorities
16 defined in the statute;

17 (6) Coordination of services within the department of social and
18 health services, including those divisions within the department of
19 social and health services that provide services to children, between
20 the authority, department of social and health services, and the
21 office of the superintendent of public instruction, and among state
22 mental hospitals, county authorities, behavioral health
23 organizations, community mental health services, and other support
24 services, which shall to the maximum extent feasible also include the
25 families of individuals with mental illness, and other service
26 providers; and

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

30 It is the policy of the state to encourage the provision of a
31 full range of treatment and rehabilitation services in the state for
32 mental disorders including services operated by consumers and
33 advocates. The legislature intends to encourage the development of
34 regional mental health services with adequate local flexibility to
35 assure eligible people in need of care access to the least-
36 restrictive treatment alternative appropriate to their needs, and the
37 availability of treatment components to assure continuity of care. To
38 this end, counties must enter into joint operating agreements with
39 other counties to form regional systems of care that are consistent
40 with the regional service areas established under RCW 43.20A.893 (as

1 recodified by this act). Regional systems of care, whether operated
2 by a county, group of counties, or another entity shall integrate
3 planning, administration, and service delivery duties under
4 chapter((§)) 71.05 ((and 71.24)) RCW and this chapter to consolidate
5 administration, reduce administrative layering, and reduce
6 administrative costs. The legislature hereby finds and declares that
7 sound fiscal management requires vigilance to ensure that funds
8 appropriated by the legislature for the provision of needed community
9 mental health programs and services are ultimately expended solely
10 for the purpose for which they were appropriated, and not for any
11 other purpose.

12 It is further the intent of the legislature to integrate the
13 provision of services to provide continuity of care through all
14 phases of treatment. To this end, the legislature intends to promote
15 active engagement with persons with mental illness and collaboration
16 between families and service providers.

17 **Sec. 4002.** RCW 71.24.025 and 2016 sp.s. c 29 s 501 and 2016 c
18 155 s 12 are each reenacted and amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

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

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

25 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
26 case of a child, a gravely disabled minor as defined in RCW
27 71.34.020; or

28 (c) Presenting a likelihood of serious harm as defined in RCW
29 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

36 (3) "Approved substance use disorder treatment program" means a
37 program for persons with a substance use disorder provided by a
38 treatment program licensed or certified by the department ((of social

1 ~~and health services~~) as meeting standards adopted under this
2 chapter.

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

4 (5) "Available resources" means funds appropriated for the
5 purpose of providing community mental health programs, federal funds,
6 except those provided according to Title XIX of the Social Security
7 Act, and state funds appropriated under this chapter or chapter 71.05
8 RCW by the legislature during any biennium for the purpose of
9 providing residential services, resource management services,
10 community support services, and other mental health services. This
11 does not include funds appropriated for the purpose of operating and
12 administering the state psychiatric hospitals.

13 ((+5)) (6) "Behavioral health organization" means any county
14 authority or group of county authorities or other entity recognized
15 by the secretary in contract in a defined region.

16 ((+6)) (7) "Behavioral health program" means all expenditures,
17 services, activities, or programs, including reasonable
18 administration and overhead, designed and conducted to prevent or
19 treat chemical dependency and mental illness.

20 ((+7)) (8) "Behavioral health services" means mental health
21 services as described in this chapter and chapter 71.36 RCW and
22 substance use disorder treatment services as described in this
23 chapter and chapter 70.96A RCW.

24 ((+8)) (9) "Child" means a person under the age of eighteen
25 years.

26 ((+9)) (10) "Chronically mentally ill adult" or "adult who is
27 chronically mentally ill" means an adult who has a mental disorder
28 and meets at least one of the following criteria:

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

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

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

1 ~~((10))~~ (11) "Clubhouse" means a community-based program that
2 provides rehabilitation services and is licensed or certified by the
3 department ~~((of social and health services))~~.

4 ~~((11))~~ (12) "Community mental health service delivery system"
5 means public, private, or tribal agencies that provide services
6 specifically to persons with mental disorders as defined under RCW
7 71.05.020 and receive funding from public sources.

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

24 ~~((13))~~ (14) "Consensus-based" means a program or practice that
25 has general support among treatment providers and experts, based on
26 experience or professional literature, and may have anecdotal or case
27 study support, or that is agreed but not possible to perform studies
28 with random assignment and controlled groups.

29 ~~((14))~~ (15) "County authority" means the board of county
30 commissioners, county council, or county executive having authority
31 to establish a community mental health program, or two or more of the
32 county authorities specified in this subsection which have entered
33 into an agreement to provide a community mental health program.

34 ~~((15))~~ (16) "Department" means the department of ~~((social and))~~
35 health ~~((services))~~.

36 ~~((16))~~ (17) "Designated chemical dependency specialist" means a
37 person designated by the behavioral health organization or by the
38 county alcoholism and other drug addiction program coordinator
39 designated by the behavioral health organization to perform the

1 commitment duties described in RCW 70.96A.140 and qualified to do so
2 by meeting standards adopted by the department.

3 ~~((17))~~ (18) "Designated mental health professional" means a
4 mental health professional designated by the county or other
5 authority authorized in rule to perform the duties specified in this
6 chapter.

7 ~~((18))~~ (19) "Director" means the director of the authority.

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

14 ~~((19))~~ (21) "Early adopter" means a regional service area for
15 which all of the county authorities have requested that the
16 ~~((department and the health care))~~ authority ~~((jointly))~~ purchase
17 medical and behavioral health services through a managed care health
18 system as defined under RCW 71.24.380(6).

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

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

35 ~~((22))~~ (24) "Licensed physician" means a person licensed to
36 practice medicine or osteopathic medicine and surgery in the state of
37 Washington.

38 ~~((23))~~ (25) "Licensed or certified service provider" means an
39 entity licensed or certified according to this chapter or chapter
40 71.05 or 70.96A RCW or an entity deemed to meet state minimum

1 standards as a result of accreditation by a recognized behavioral
2 health accrediting body recognized and having a current agreement
3 with the department, or tribal attestation that meets state minimum
4 standards, or persons licensed under chapter 18.57, 18.57A, 18.71,
5 18.71A, 18.83, or 18.79 RCW, as it applies to registered nurses and
6 advanced registered nurse practitioners.

7 ~~((24))~~ (26) "Long-term inpatient care" means inpatient services
8 for persons committed for, or voluntarily receiving intensive
9 treatment for, periods of ninety days or greater under chapter 71.05
10 RCW. "Long-term inpatient care" as used in this chapter does not
11 include: (a) Services for individuals committed under chapter 71.05
12 RCW who are receiving services pursuant to a conditional release or a
13 court-ordered less restrictive alternative to detention; or (b)
14 services for individuals voluntarily receiving less restrictive
15 alternative treatment on the grounds of the state hospital.

16 ~~((25))~~ (27) "Mental health services" means all services
17 provided by behavioral health organizations and other services
18 provided by the state for persons who are mentally ill.

19 ~~((26))~~ (28) Mental health "treatment records" include
20 registration and all other records concerning persons who are
21 receiving or who at any time have received services for mental
22 illness, which are maintained by the department of social and health
23 services or the authority, by behavioral health organizations and
24 their staffs, and by treatment facilities. "Treatment records" do not
25 include notes or records maintained for personal use by a person
26 providing treatment services for the department of social and health
27 services, behavioral health organizations, or a treatment facility if
28 the notes or records are not available to others.

29 ~~((27))~~ (29) "Mentally ill persons," "persons who are mentally
30 ill," and "the mentally ill" mean persons and conditions defined in
31 subsections (1), ~~((9), (35), and (36))~~ (10), (37), and (38) of this
32 section.

33 ~~((28))~~ (30) "Recovery" means the process in which people are
34 able to live, work, learn, and participate fully in their
35 communities.

36 ~~((29))~~ (31) "Registration records" include all the records of
37 the department of social and health services, the authority,
38 behavioral health organizations, treatment facilities, and other
39 persons providing services ~~((to))~~ for the department of social and
40 health services, the authority, county departments, or facilities

1 which identify persons who are receiving or who at any time have
2 received services for mental illness.

3 ~~((+30+))~~ (32) "Research-based" means a program or practice that
4 has been tested with a single randomized, or statistically controlled
5 evaluation, or both, demonstrating sustained desirable outcomes; or
6 where the weight of the evidence from a systemic review supports
7 sustained outcomes as described in subsection ~~((+21+))~~ (23) of this
8 section but does not meet the full criteria for evidence-based.

9 ~~((+31+))~~ (33) "Residential services" means a complete range of
10 residences and supports authorized by resource management services
11 and which may involve a facility, a distinct part thereof, or
12 services which support community living, for persons who are acutely
13 mentally ill, adults who are chronically mentally ill, children who
14 are severely emotionally disturbed, or adults who are seriously
15 disturbed and determined by the behavioral health organization to be
16 at risk of becoming acutely or chronically mentally ill. The services
17 shall include at least evaluation and treatment services as defined
18 in chapter 71.05 RCW, acute crisis respite care, long-term adaptive
19 and rehabilitative care, and supervised and supported living
20 services, and shall also include any residential services developed
21 to service persons who are mentally ill in nursing homes, residential
22 treatment facilities, assisted living facilities, and adult family
23 homes, and may include outpatient services provided as an element in
24 a package of services in a supported housing model. Residential
25 services for children in out-of-home placements related to their
26 mental disorder shall not include the costs of food and shelter,
27 except for children's long-term residential facilities existing prior
28 to January 1, 1991.

29 ~~((+32+))~~ (34) "Resilience" means the personal and community
30 qualities that enable individuals to rebound from adversity, trauma,
31 tragedy, threats, or other stresses, and to live productive lives.

32 ~~((+33+))~~ (35) "Resource management services" mean the planning,
33 coordination, and authorization of residential services and community
34 support services administered pursuant to an individual service plan
35 for: (a) Adults and children who are acutely mentally ill; (b) adults
36 who are chronically mentally ill; (c) children who are severely
37 emotionally disturbed; or (d) adults who are seriously disturbed and
38 determined solely by a behavioral health organization to be at risk
39 of becoming acutely or chronically mentally ill. Such planning,
40 coordination, and authorization shall include mental health screening

1 for children eligible under the federal Title XIX early and periodic
2 screening, diagnosis, and treatment program. Resource management
3 services include seven day a week, twenty-four hour a day
4 availability of information regarding enrollment of adults and
5 children who are mentally ill in services and their individual
6 service plan to designated mental health professionals, evaluation
7 and treatment facilities, and others as determined by the behavioral
8 health organization.

9 ~~((34))~~ (36) "Secretary" means the secretary of ~~((social and~~
10 ~~health services))~~ the department of health.

11 ~~((35))~~ (37) "Seriously disturbed person" means a person who:

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

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

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

21 (d) Exhibits suicidal preoccupation or attempts; or

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

27 ~~((36))~~ (38) "Severely emotionally disturbed child" or "child
28 who is severely emotionally disturbed" means a child who has been
29 determined by the behavioral health organization to be experiencing a
30 mental disorder as defined in chapter 71.34 RCW, including those
31 mental disorders that result in a behavioral or conduct disorder,
32 that is clearly interfering with the child's functioning in family or
33 school or with peers and who meets at least one of the following
34 criteria:

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

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

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

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

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

7 (ii) Changes in custodial adult;

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

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

13 (v) Drug or alcohol abuse; or

14 (vi) Homelessness.

15 (~~(37)~~) (39) "State minimum standards" means minimum
16 requirements established by rules adopted (~~by the secretary~~) and
17 necessary to implement this chapter (~~for~~) by:

18 (a) The authority for:

19 (i) Delivery of mental health services; and

20 (~~(b) licensed service providers for the provision of mental~~
21 ~~health services; (c) residential services; and (d)~~) (ii) Community
22 support services and resource management services;

23 (b) The department of health for:

24 (i) Licensed service providers for the provision of mental health
25 services; and

26 (ii) Residential services.

27 (~~(38)~~) (40) "Substance use disorder" means a cluster of
28 cognitive, behavioral, and physiological symptoms indicating that an
29 individual continues using the substance despite significant
30 substance-related problems. The diagnosis of a substance use disorder
31 is based on a pathological pattern of behaviors related to the use of
32 the substances.

33 (~~(39)~~) (41) "Tribal authority," for the purposes of this
34 section and RCW 71.24.300 only, means: The federally recognized
35 Indian tribes and the major Indian organizations recognized by the
36 (~~secretary~~) director insofar as these organizations do not have a
37 financial relationship with any behavioral health organization that
38 would present a conflict of interest.

1 **Sec. 4003.** RCW 71.24.025 and 2016 sp.s. c 29 s 502 are each
2 reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

35 ~~((+5))~~ (6) "Behavioral health organization" means any county
36 authority or group of county authorities or other entity recognized
37 by the secretary in contract in a defined region.

38 ~~((+6))~~ (7) "Behavioral health program" means all expenditures,
39 services, activities, or programs, including reasonable

1 administration and overhead, designed and conducted to prevent or
2 treat chemical dependency and mental illness.

3 ~~((+7))~~ (8) "Behavioral health services" means mental health
4 services as described in this chapter and chapter 71.36 RCW and
5 substance use disorder treatment services as described in this
6 chapter.

7 ~~((+8))~~ (9) "Child" means a person under the age of eighteen
8 years.

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

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

14 (b) Has experienced a continuous psychiatric hospitalization or
15 residential treatment exceeding six months' duration within the
16 preceding year; or

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

22 ~~((+10))~~ (11) "Clubhouse" means a community-based program that
23 provides rehabilitation services and is licensed or certified by the
24 department ~~((of social and health services))~~.

25 ~~((+11))~~ (12) "Community mental health service delivery system"
26 means public, private, or tribal agencies that provide services
27 specifically to persons with mental disorders as defined under RCW
28 71.05.020 and receive funding from public sources.

29 ~~((+12))~~ (13) "Community support services" means services
30 authorized, planned, and coordinated through resource management
31 services including, at a minimum, assessment, diagnosis, emergency
32 crisis intervention available twenty-four hours, seven days a week,
33 prescreening determinations for persons who are mentally ill being
34 considered for placement in nursing homes as required by federal law,
35 screening for patients being considered for admission to residential
36 services, diagnosis and treatment for children who are acutely
37 mentally ill or severely emotionally disturbed discovered under
38 screening through the federal Title XIX early and periodic screening,
39 diagnosis, and treatment program, investigation, legal, and other
40 nonresidential services under chapter 71.05 RCW, case management

1 services, psychiatric treatment including medication supervision,
2 counseling, psychotherapy, assuring transfer of relevant patient
3 information between service providers, recovery services, and other
4 services determined by behavioral health organizations.

5 ~~((13))~~ (14) "Consensus-based" means a program or practice that
6 has general support among treatment providers and experts, based on
7 experience or professional literature, and may have anecdotal or case
8 study support, or that is agreed but not possible to perform studies
9 with random assignment and controlled groups.

10 ~~((14))~~ (15) "County authority" means the board of county
11 commissioners, county council, or county executive having authority
12 to establish a community mental health program, or two or more of the
13 county authorities specified in this subsection which have entered
14 into an agreement to provide a community mental health program.

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

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

20 ~~((17))~~ (18) "Director" means the director of the authority.

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

27 ~~((18))~~ (20) "Early adopter" means a regional service area for
28 which all of the county authorities have requested that the
29 ~~((department and the health care))~~ authority ~~((jointly))~~ purchase
30 medical and behavioral health services through a managed care health
31 system as defined under RCW 71.24.380(6).

32 ~~((19))~~ (21) "Emerging best practice" or "promising practice"
33 means a program or practice that, based on statistical analyses or a
34 well established theory of change, shows potential for meeting the
35 evidence-based or research-based criteria, which may include the use
36 of a program that is evidence-based for outcomes other than those
37 listed in subsection ~~((20))~~ (22) of this section.

38 ~~((20))~~ (22) "Evidence-based" means a program or practice that
39 has been tested in heterogeneous or intended populations with
40 multiple randomized, or statistically controlled evaluations, or

1 both; or one large multiple site randomized, or statistically
2 controlled evaluation, or both, where the weight of the evidence from
3 a systemic review demonstrates sustained improvements in at least one
4 outcome. "Evidence-based" also means a program or practice that can
5 be implemented with a set of procedures to allow successful
6 replication in Washington and, when possible, is determined to be
7 cost-beneficial.

8 ~~((+21+))~~ (23) "Licensed physician" means a person licensed to
9 practice medicine or osteopathic medicine and surgery in the state of
10 Washington.

11 ~~((+22+))~~ (24) "Licensed or certified service provider" means an
12 entity licensed or certified according to this chapter or chapter
13 71.05 RCW or an entity deemed to meet state minimum standards as a
14 result of accreditation by a recognized behavioral health accrediting
15 body recognized and having a current agreement with the department,
16 or tribal attestation that meets state minimum standards, or persons
17 licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79
18 RCW, as it applies to registered nurses and advanced registered nurse
19 practitioners.

20 ~~((+23+))~~ (25) "Long-term inpatient care" means inpatient services
21 for persons committed for, or voluntarily receiving intensive
22 treatment for, periods of ninety days or greater under chapter 71.05
23 RCW. "Long-term inpatient care" as used in this chapter does not
24 include: (a) Services for individuals committed under chapter 71.05
25 RCW who are receiving services pursuant to a conditional release or a
26 court-ordered less restrictive alternative to detention; or (b)
27 services for individuals voluntarily receiving less restrictive
28 alternative treatment on the grounds of the state hospital.

29 ~~((+24+))~~ (26) "Mental health services" means all services
30 provided by behavioral health organizations and other services
31 provided by the state for persons who are mentally ill.

32 ~~((+25+))~~ (27) Mental health "treatment records" include
33 registration and all other records concerning persons who are
34 receiving or who at any time have received services for mental
35 illness, which are maintained by the department of social and health
36 services or the authority, by behavioral health organizations and
37 their staffs, and by treatment facilities. "Treatment records" do not
38 include notes or records maintained for personal use by a person
39 providing treatment services for the department of social and health

1 services, behavioral health organizations, or a treatment facility if
2 the notes or records are not available to others.

3 ~~((+26))~~ (28) "Mentally ill persons," "persons who are mentally
4 ill," and "the mentally ill" mean persons and conditions defined in
5 subsections (1), ~~((+9), (34), and (35))~~ (10), (36), and (37) of this
6 section.

7 ~~((+27))~~ (29) "Recovery" means the process in which people are
8 able to live, work, learn, and participate fully in their
9 communities.

10 ~~((+28))~~ (30) "Registration records" include all the records of
11 the department of social and health services, the authority,
12 behavioral health organizations, treatment facilities, and other
13 persons providing services ~~((+28))~~ for the department of social and
14 health services, the authority, county departments, or facilities
15 which identify persons who are receiving or who at any time have
16 received services for mental illness.

17 ~~((+29))~~ (31) "Research-based" means a program or practice that
18 has been tested with a single randomized, or statistically controlled
19 evaluation, or both, demonstrating sustained desirable outcomes; or
20 where the weight of the evidence from a systemic review supports
21 sustained outcomes as described in subsection ~~((+20))~~ (22) of this
22 section but does not meet the full criteria for evidence-based.

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

1 except for children's long-term residential facilities existing prior
2 to January 1, 1991.

3 ~~((+31+))~~ (33) "Resilience" means the personal and community
4 qualities that enable individuals to rebound from adversity, trauma,
5 tragedy, threats, or other stresses, and to live productive lives.

6 ~~((+32+))~~ (34) "Resource management services" mean the planning,
7 coordination, and authorization of residential services and community
8 support services administered pursuant to an individual service plan
9 for: (a) Adults and children who are acutely mentally ill; (b) adults
10 who are chronically mentally ill; (c) children who are severely
11 emotionally disturbed; or (d) adults who are seriously disturbed and
12 determined solely by a behavioral health organization to be at risk
13 of becoming acutely or chronically mentally ill. Such planning,
14 coordination, and authorization shall include mental health screening
15 for children eligible under the federal Title XIX early and periodic
16 screening, diagnosis, and treatment program. Resource management
17 services include seven day a week, twenty-four hour a day
18 availability of information regarding enrollment of adults and
19 children who are mentally ill in services and their individual
20 service plan to designated crisis responders, evaluation and
21 treatment facilities, and others as determined by the behavioral
22 health organization.

23 ~~((+33+))~~ (35) "Secretary" means the secretary of ~~((social and~~
24 ~~health services))~~ the department of health.

25 ~~((+34+))~~ (36) "Seriously disturbed person" means a person who:

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

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

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

35 (d) Exhibits suicidal preoccupation or attempts; or

36 (e) Is a child diagnosed by a mental health professional, as
37 defined in chapter 71.34 RCW, as experiencing a mental disorder which
38 is clearly interfering with the child's functioning in family or
39 school or with peers or is clearly interfering with the child's
40 personality development and learning.

1 (~~(35)~~) (37) "Severely emotionally disturbed child" or "child
2 who is severely emotionally disturbed" means a child who has been
3 determined by the behavioral health organization to be experiencing a
4 mental disorder as defined in chapter 71.34 RCW, including those
5 mental disorders that result in a behavioral or conduct disorder,
6 that is clearly interfering with the child's functioning in family or
7 school or with peers and who meets at least one of the following
8 criteria:

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

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

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

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

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

19 (ii) Changes in custodial adult;

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

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

25 (v) Drug or alcohol abuse; or

26 (vi) Homelessness.

27 (~~(36)~~) (38) "State minimum standards" means minimum
28 requirements established by rules adopted (~~(by the secretary)~~) and
29 necessary to implement this chapter (~~(for)~~) by:

30 (a) The authority for:

31 (i) Delivery of mental health services; and (~~(b) licensed~~
32 ~~service providers for the provision of mental health services; (c)~~
33 ~~residential services; and (d)~~)

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

35 (b) The department of health for:

36 (i) Licensed or certified service providers for the provision of
37 mental health services; and

38 (ii) Residential services.

39 (~~(37)~~) (39) "Substance use disorder" means a cluster of
40 cognitive, behavioral, and physiological symptoms indicating that an

1 individual continues using the substance despite significant
2 substance-related problems. The diagnosis of a substance use disorder
3 is based on a pathological pattern of behaviors related to the use of
4 the substances.

5 ~~((38))~~ (40) "Tribal authority," for the purposes of this
6 section and RCW 71.24.300 only, means: The federally recognized
7 Indian tribes and the major Indian organizations recognized by the
8 ~~((secretary))~~ director insofar as these organizations do not have a
9 financial relationship with any behavioral health organization that
10 would present a conflict of interest.

11 **Sec. 4004.** RCW 71.24.030 and 2005 c 503 s 3 are each amended to
12 read as follows:

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

16 **Sec. 4005.** RCW 71.24.035 and 2016 sp.s. c 29 s 503 are each
17 amended to read as follows:

18 (1) The ~~((department))~~ authority is designated as the state
19 behavioral health authority which includes recognition as the single
20 state authority for substance use disorders and state mental health
21 authority.

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

27 (3) The ~~((secretary))~~ director shall provide for participation in
28 developing the state behavioral health program for children and other
29 underserved populations, by including representatives on any
30 committee established to provide oversight to the state behavioral
31 health program.

32 (4) The ~~((secretary))~~ director shall be designated as the
33 behavioral health organization if the behavioral health organization
34 fails to meet state minimum standards or refuses to exercise
35 responsibilities under its contract or RCW 71.24.045, until such time
36 as a new behavioral health organization is designated.

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

1 (a) Develop a biennial state behavioral health program that
2 incorporates regional biennial needs assessments and regional mental
3 health service plans and state services for adults and children with
4 mental disorders or substance use disorders or both;

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

11 (c) Develop and adopt rules establishing state minimum standards
12 for the delivery of behavioral health services pursuant to RCW
13 71.24.037 including, but not limited to:

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

21 (ii) Inpatient services, an adequate network of evaluation and
22 treatment services and facilities under chapter 71.05 RCW to ensure
23 access to treatment, resource management services, and community
24 support services;

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

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

34 (f) Make contracts necessary or incidental to the performance of
35 its duties and the execution of its powers, including managed care
36 contracts for behavioral health services, contracts entered into
37 under RCW 74.09.522, and contracts with public and private agencies,
38 organizations, and individuals to pay them for behavioral health
39 services;

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

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

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

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

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

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

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

32 ~~(o))~~ ~~License or certify clubhouses that meet state minimum~~
33 ~~standards;~~

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

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

1 (6) The ((secretary)) director shall use available resources only
2 for behavioral health organizations, except:

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

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

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

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

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

34 ~~((10))~~ (9) Upon petition by the secretary of the department of
35 health or the director, and after hearing held upon reasonable notice
36 to the facility, the superior court may issue a warrant to an officer
37 or employee of the secretary of the department of health or the
38 director authorizing him or her to enter at reasonable times, and
39 examine the records, books, and accounts of any behavioral health

1 organization or service provider refusing to consent to inspection or
2 examination by the authority.

3 ~~((11))~~ (10) Notwithstanding the existence or pursuit of any
4 other remedy, the secretary of the department of health or the
5 director may file an action for an injunction or other process
6 against any person or governmental unit to restrain or prevent the
7 establishment, conduct, or operation of a behavioral health
8 organization or service provider without a contract, certification,
9 or a license under this chapter.

10 ~~((12))~~ (11) The ~~((department))~~ authority shall distribute
11 appropriated state and federal funds in accordance with any
12 priorities, terms, or conditions specified in the appropriations act.

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

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

26 ~~((14))~~ (13) The ~~((secretary))~~ director shall:

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

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

37 (c) Notify behavioral health organizations of their allocation of
38 available resources at least sixty days prior to the start of a new
39 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
14 certified under chapter 71.05 RCW. The ~~((department))~~ authority shall
15 periodically report its efforts to the appropriate committees of the
16 senate and the house of representatives.

17 ~~((16))~~ (15) The ~~((department))~~ authority may:

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

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

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

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

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

37 **Sec. 4006.** RCW 71.24.037 and 2016 sp.s. c 29 s 505 are each
38 amended to 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 **Sec. 4007.** RCW 71.24.045 and 2014 c 225 s 13 are each amended to
7 read as follows:

8 The behavioral health organization shall:

9 (1) Contract as needed with licensed or certified service
10 providers. The behavioral health organization may, in the absence of
11 a licensed or certified service provider entity, become a licensed or
12 certified service provider entity pursuant to minimum standards
13 required for licensing or certification by the department for the
14 purpose of providing services not available from licensed or
15 certified service providers;

16 (2) Operate as a licensed or certified service provider if it
17 deems that doing so is more efficient and cost effective than
18 contracting for services. When doing so, the behavioral health
19 organization shall comply with rules (~~promulgated~~) adopted by the
20 (~~secretary~~) director that shall provide measurements to determine
21 when a behavioral health organization provided service is more
22 efficient and cost effective;

23 (3) Monitor and perform biennial fiscal audits of licensed or
24 certified service providers who have contracted with the behavioral
25 health organization to provide services required by this chapter. The
26 monitoring and audits shall be performed by means of a formal process
27 which insures that the licensed or certified service providers and
28 professionals designated in this subsection meet the terms of their
29 contracts;

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

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

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

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

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

7 (9) Work closely with the (~~county~~) designated mental health
8 professional or (~~county~~) designated crisis responder to maximize
9 appropriate placement of persons into community services; and

10 (10) Coordinate services for individuals who have received
11 services through the community mental health system and who become
12 patients at a state psychiatric hospital to ensure they are
13 transitioned into the community in accordance with mutually agreed
14 upon discharge plans and upon determination by the medical director
15 of the state psychiatric hospital that they no longer need intensive
16 inpatient care.

17 **Sec. 4008.** RCW 71.24.045 and 2016 sp.s. c 29 s 421 are each
18 amended to read as follows:

19 The behavioral health organization shall:

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

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

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

1 professionals designated in this subsection meet the terms of their
2 contracts;

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

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

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

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

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

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

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

26 **Sec. 4009.** RCW 71.24.061 and 2014 c 225 s 35 are each amended to
27 read as follows:

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

37 (2) To the extent that funds are specifically appropriated for
38 this purpose or that nonstate funds are available, a children's
39 mental health evidence-based practice institute shall be established

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

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

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

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

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

39 (e) Serve as a statewide resource to the ((department)) authority
40 and other entities on child and adolescent evidence-based, research-

1 based, promising, or consensus-based practices for children's mental
2 health treatment, maintaining a working knowledge through ongoing
3 review of academic and professional literature, and knowledge of
4 other evidence-based practice implementation efforts in Washington
5 and other states.

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

16 **Sec. 4010.** RCW 71.24.100 and 2014 c 225 s 14 are each amended to
17 read as follows:

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

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

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

32 **Sec. 4011.** RCW 71.24.155 and 2014 c 225 s 36 are each amended to
33 read as follows:

34 Grants shall be made by the ((department)) authority to
35 behavioral health organizations for community mental health programs
36 totaling not less than ninety-five percent of available resources.
37 The ((department)) authority may use up to forty percent of the
38 remaining five percent to provide community demonstration projects,

1 including early intervention or primary prevention programs for
2 children, and the remainder shall be for emergency needs and
3 technical assistance under this chapter.

4 **Sec. 4012.** RCW 71.24.160 and 2014 c 225 s 37 are each amended to
5 read as follows:

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

14 **Sec. 4013.** RCW 71.24.215 and 1982 c 204 s 11 are each amended to
15 read as follows:

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

21 **Sec. 4014.** RCW 71.24.220 and 1999 c 10 s 8 are each amended to
22 read as follows:

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

27 **Sec. 4015.** RCW 71.24.240 and 2014 c 225 s 49 are each amended to
28 read as follows:

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

1 **Sec. 4016.** RCW 71.24.300 and 2016 sp.s. c 29 s 522 are each
2 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **Sec. 4017.** RCW 71.24.310 and 2014 c 225 s 40 are each amended to
23 read as follows:

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

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

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

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

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

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

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

29 (6) If a behavioral health organization uses more state hospital
30 patient days of care than it has been allocated under subsection (3)
31 or (4) of this section, or than it has contracted to use under
32 subsection (5) of this section, whichever is less, it shall reimburse
33 the ((department)) authority for that care(~~(, except during the~~
34 ~~period of July 1, 2012, through December 31, 2013, where~~
35 ~~reimbursements may be temporarily altered per section 204, chapter 4,~~
36 ~~Laws of 2013 2nd sp. sess)).~~ The reimbursement rate per day shall be
37 the hospital's total annual budget for long-term inpatient care,
38 divided by the total patient days of care assumed in development of
39 that budget.

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

11 **Sec. 4018.** RCW 71.24.320 and 2014 c 225 s 50 are each amended to
12 read as follows:

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

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

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

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

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

1 applicable, signs a contract with the entity that will serve as the
2 behavioral health organization.

3 **Sec. 4019.** RCW 71.24.330 and 2015 c 250 s 19 are each amended to
4 read as follows:

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

11 (b) The ((~~department~~)) authority shall incorporate the criteria
12 to measure the performance of service coordination organizations into
13 contracts with behavioral health organizations as provided in chapter
14 70.320 RCW.

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

28 (3) In addition to the requirements of RCW 71.24.035, contracts
29 shall:

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

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

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

1 (d) Maintain the decision-making independence of designated
2 mental health professionals;

3 (e) Except at the discretion of the secretary of the department
4 of social and health services in consultation with the director or as
5 specified in the biennial budget, require behavioral health
6 organizations to pay the state for the costs associated with
7 individuals who are being served on the grounds of the state
8 hospitals and who are not receiving long-term inpatient care as
9 defined in RCW 71.24.025;

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

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

19 (h) Require behavioral health organizations to provide services
20 as identified in RCW 71.05.585 to individuals committed for
21 involuntary commitment under less restrictive alternative court
22 orders when:

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

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

29 (i) Establish caseload guidelines for care coordinators who
30 supervise less restrictive alternative orders and guidelines for
31 response times during and immediately following periods of
32 hospitalization or incarceration.

33 **Sec. 4020.** RCW 71.24.330 and 2016 sp.s. c 29 s 422 are each
34 amended to read as follows:

35 (1)(a) Contracts between a behavioral health organization and the
36 (~~department~~) authority shall include mechanisms for monitoring
37 performance under the contract and remedies for failure to
38 substantially comply with the requirements of the contract including,

1 but not limited to, financial penalties, termination of the contract,
2 and reprocurement of the contract.

3 (b) The ((department)) authority shall incorporate the criteria
4 to measure the performance of service coordination organizations into
5 contracts with behavioral health organizations as provided in chapter
6 70.320 RCW.

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

20 (3) In addition to the requirements of RCW 71.24.035, contracts
21 shall:

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

25 (b) Require effective collaboration with law enforcement,
26 criminal justice agencies, and the chemical dependency treatment
27 system;

28 (c) Require substantial implementation of ((department))
29 authority adopted integrated screening and assessment process and
30 matrix of best practices;

31 (d) Maintain the decision-making independence of designated
32 crisis responders;

33 (e) Except at the discretion of the secretary of the department
34 of social and health services in consultation with the director or as
35 specified in the biennial budget, require behavioral health
36 organizations to pay the state for the costs associated with
37 individuals who are being served on the grounds of the state
38 hospitals and who are not receiving long-term inpatient care as
39 defined in RCW 71.24.025;

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

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

9 (h) Require behavioral health organizations to provide services
10 as identified in RCW 71.05.585 to individuals committed for
11 involuntary commitment under less restrictive alternative court
12 orders when:

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

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

19 (i) Establish caseload guidelines for care coordinators who
20 supervise less restrictive alternative orders and guidelines for
21 response times during and immediately following periods of
22 hospitalization or incarceration.

23 **Sec. 4021.** RCW 71.24.340 and 2014 c 225 s 16 are each amended to
24 read as follows:

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

29 **Sec. 4022.** RCW 71.24.350 and 2016 sp.s. c 29 s 523 are each
30 amended to read as follows:

31 The ((~~department~~)) authority shall require each behavioral health
32 organization to provide for a separately funded behavioral health
33 ombuds office in each behavioral health organization that is
34 independent of the behavioral health organization. The ombuds office
35 shall maximize the use of consumer advocates.

36 **Sec. 4023.** RCW 71.24.360 and 2014 c 225 s 52 are each amended to
37 read as follows:

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

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

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

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

12 (2) The ((~~department~~)) authority may establish no fewer than six
13 and no more than fourteen behavioral health organizations under this
14 chapter. No entity shall be responsible for more than three
15 behavioral health organizations.

16 **Sec. 4024.** RCW 71.24.370 and 2014 c 225 s 42 are each amended to
17 read as follows:

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

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

33 (3) This section applies to counties, behavioral health
34 organizations, and entities which contract to provide behavioral
35 health organization services and their subcontractors, agents, or
36 employees.

37 **Sec. 4025.** RCW 71.24.380 and 2014 c 225 s 5 are each amended to
38 read as follows:

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

5 (2)(a) The (~~secretary~~) director shall request a detailed plan
6 from the entities identified in (b) of this subsection that
7 demonstrates compliance with the contractual elements of RCW
8 43.20A.894 (as recodified by this act) and federal regulations
9 related to medicaid managed care contracting(~~(7)~~) including, but not
10 limited to: Having a sufficient network of providers to provide
11 adequate access to mental health and chemical dependency services for
12 residents of the regional service area that meet eligibility criteria
13 for services, ability to maintain and manage adequate reserves, and
14 maintenance of quality assurance processes. Any responding entity
15 that submits a detailed plan that demonstrates that it can meet the
16 requirements of this section must be awarded the contract to serve as
17 the behavioral health organization.

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

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

23 (B) In the event that a county has made a decision prior to
24 January 1, 2014, not to contract as a regional support network, any
25 private entity that serves as the regional support network for that
26 area;

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

32 (ii) In the event that a regional service area is comprised of
33 multiple counties including one that has made a decision prior to
34 January 1, 2014, not to contract as a regional support network the
35 counties shall adopt an interlocal agreement and may respond to the
36 request for a detailed plan under (a) of this subsection and the
37 private entity may also respond to the request for a detailed plan.
38 If both responding entities meet the requirements of this section,
39 the responding entities shall follow the (~~department's~~) authority's
40 procurement process established in subsection (3) of this section.

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

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

12 (5) Upon request of all of the county authorities in a regional
13 service area, the ~~((department and the health care))~~ authority may
14 ~~((jointly))~~ purchase behavioral health services through an integrated
15 medical and behavioral health services contract with a behavioral
16 health organization or a managed health care system as defined in RCW
17 74.09.522, pursuant to standards to be developed ~~((jointly))~~ by the
18 ~~((secretary and the health care))~~ authority. Any contract for such a
19 purchase must comply with all federal medicaid and state law
20 requirements related to managed health care contracting.

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

37 **Sec. 4026.** RCW 71.24.385 and 2016 sp.s. c 29 s 510 are each
38 amended to read as follows:

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

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

6 (i) Crisis diversion services;

7 (ii) Evaluation and treatment and community hospital beds;

8 (iii) Residential treatment;

9 (iv) Programs for intensive community treatment;

10 (v) Outpatient services;

11 (vi) Peer support services;

12 (vii) Community support services;

13 (viii) Resource management services; and

14 (ix) Supported housing and supported employment services.

15 (b) With substance use disorders and their families, people
16 incapacitated by alcohol or other psychoactive chemicals, and
17 intoxicated people.

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

21 (A) Withdrawal management;

22 (B) Residential treatment; and

23 (C) Outpatient treatment.

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

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

30 (2) The behavioral health organization shall have the
31 flexibility, within the funds appropriated by the legislature for
32 this purpose and the terms of their contract, to design the mix of
33 services that will be most effective within their service area of
34 meeting the needs of people with behavioral health disorders and
35 avoiding placement of such individuals at the state mental hospital.
36 Behavioral health organizations are encouraged to maximize the use of
37 evidence-based practices and alternative resources with the goal of
38 substantially reducing and potentially eliminating the use of
39 institutions for mental diseases.

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

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

6 **Sec. 4027.** RCW 71.24.400 and 2001 c 323 s 18 are each amended to
7 read as follows:

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

19 **Sec. 4028.** RCW 71.24.405 and 2014 c 225 s 53 are each amended to
20 read as follows:

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

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

29 (1) Identification, review, and cataloging of all rules,
30 regulations, duplicative administrative and monitoring functions, and
31 other requirements that currently lead to inefficiencies in the
32 community mental health service delivery system and, if possible,
33 eliminate the requirements;

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

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

11 (4) Evaluation of the feasibility of contractual agreements
12 between the (~~department of social and health services~~) authority
13 and behavioral health organizations and mental health service
14 providers that link financial incentives to the success or failure of
15 mental health service providers and behavioral health organizations
16 to meet outcomes established for mental health service clients;

17 (5) The involvement of mental health consumers and their
18 representatives. Mental health consumers and their representatives
19 will be involved in the development of outcome standards for mental
20 health clients under section 5 of this act; and

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

24 **Sec. 4029.** RCW 71.24.415 and 1999 c 10 s 12 are each amended to
25 read as follows:

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

35 **Sec. 4030.** RCW 71.24.420 and 2014 c 225 s 17 are each amended to
36 read as follows:

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

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

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

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

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

21 **Sec. 4031.** RCW 71.24.430 and 2014 c 225 s 54 are each amended to
22 read as follows:

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

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

37 **Sec. 4032.** RCW 71.24.455 and 2014 c 225 s 43 are each amended to
38 read as follows:

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

12 (2) Criteria shall include a determination by department of
13 corrections staff that:

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

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

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

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

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

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

1 provider shall implement the policies and service contracts. The
2 following services shall be provided:

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

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

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

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

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

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

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

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

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

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

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

12 **Sec. 4033.** RCW 71.24.460 and 1999 c 10 s 13 are each amended to
13 read as follows:

14 The ((department)) authority, in collaboration with the
15 department of corrections and the oversight committee created in RCW
16 71.24.455, shall track outcomes and submit to the legislature annual
17 reports regarding services and outcomes. The reports shall include
18 the following: (1) A statistical analysis regarding the reoffense and
19 reinstitutionalization rate by the enrollees in the program set forth
20 in RCW 71.24.455; (2) a quantitative description of the services
21 provided in the program set forth in RCW 71.24.455; and (3)
22 recommendations for any needed modifications in the services and
23 funding levels to increase the effectiveness of the program set forth
24 in RCW 71.24.455. By December 1, 2003, the department shall certify
25 the reoffense rate for enrollees in the program authorized by RCW
26 71.24.455 to the office of financial management and the appropriate
27 legislative committees. If the reoffense rate exceeds fifteen
28 percent, the authorization for the department to conduct the program
29 under RCW 71.24.455 is terminated on January 1, 2004.

30 **Sec. 4034.** RCW 71.24.470 and 2014 c 225 s 44 are each amended to
31 read as follows:

32 (1) The ((secretary)) director shall contract, to the extent that
33 funds are appropriated for this purpose, for case management services
34 and such other services as the ((secretary)) director deems necessary
35 to assist offenders identified under RCW 72.09.370 for participation
36 in the offender reentry community safety program. The contracts may
37 be with behavioral health organizations or any other qualified and
38 appropriate entities.

1 (2) The case manager has the authority to assist these offenders
2 in obtaining the services, as set forth in the plan created under RCW
3 72.09.370(2), for up to five years. The services may include
4 coordination of mental health services, assistance with unfunded
5 medical expenses, obtaining chemical dependency treatment, housing,
6 employment services, educational or vocational training, independent
7 living skills, parenting education, anger management services, and
8 such other services as the case manager deems necessary.

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

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

19 **Sec. 4035.** RCW 71.24.480 and 2014 c 225 s 45 are each amended to
20 read as follows:

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

28 (a) Gross negligence;

29 (b) Willful or wanton misconduct; or

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

34 (2) In addition to any other requirements to report violations,
35 the licensed or certified service provider and behavioral health
36 organization shall report an offender's expressions of intent to harm
37 or other predatory behavior, regardless of whether there is an
38 ascertainable victim, in progress reports and other established

1 processes that enable courts and supervising entities to assess and
2 address the progress and appropriateness of treatment.

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

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

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

18 **Sec. 4036.** RCW 71.24.490 and 2015 c 269 s 11 are each amended to
19 read as follows:

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

30 **Sec. 4037.** RCW 71.24.500 and 2016 c 154 s 3 are each amended to
31 read as follows:

32 The department of social and health services and the (~~Washington~~
33 ~~state health care~~) authority shall publish written guidance and
34 provide trainings to behavioral health organizations, managed care
35 organizations, and behavioral health providers related to how these
36 organizations may provide outreach, assistance, transition planning,
37 and rehabilitation case management reimbursable under federal law to
38 persons who are incarcerated, involuntarily hospitalized, or in the

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

13 **Sec. 4038.** RCW 71.24.515 and 2016 sp.s. c 29 s 514 are each
14 amended to read as follows:

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

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

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

32 **Sec. 4039.** RCW 71.24.520 and 2014 c 225 s 22 are each amended to
33 read as follows:

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

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

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

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

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

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

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

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

32 (8) Keep records and engage in research and the gathering of
33 relevant statistics;

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

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

1 **Sec. 4040.** RCW 71.24.525 and 1989 c 270 s 7 are each amended to
2 read as follows:

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

6 **Sec. 4041.** RCW 71.24.530 and 2016 sp.s. c 29 s 515 are each
7 amended to read as follows:

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

20 **Sec. 4042.** RCW 71.24.535 and 2016 sp.s. c 29 s 504 are each
21 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **Sec. 4043.** RCW 71.24.540 and 2016 sp.s. c 29 s 516 are each
38 amended to read as follows:

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

5 **Sec. 4044.** RCW 71.24.545 and 2014 c 225 s 25 are each amended to
6 read as follows:

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

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

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

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

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

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

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

32 **Sec. 4045.** RCW 71.24.555 and 2016 sp.s. c 29 s 517 are each
33 amended to read as follows:

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

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

3 **Sec. 4046.** RCW 71.24.565 and 2014 c 225 s 27 are each amended to
4 read as follows:

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

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

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

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

20 (4) An individualized treatment plan shall be prepared and
21 maintained on a current basis for each patient.

22 (5) Provision shall be made for a continuum of coordinated
23 treatment services, so that a person who leaves a facility or a form
24 of treatment will have available and use other appropriate treatment.

25 **Sec. 4047.** RCW 71.24.580 and 2016 sp.s. c 29 s 511 are each
26 amended to read as follows:

27 (1) The criminal justice treatment account is created in the
28 state treasury. Moneys in the account may be expended solely for: (a)
29 Substance use disorder treatment and treatment support services for
30 offenders with a substance use disorder that, if not treated, would
31 result in addiction, against whom charges are filed by a prosecuting
32 attorney in Washington state; (b) the provision of substance use
33 disorder treatment services and treatment support services for
34 nonviolent offenders within a drug court program; and (c) the
35 administrative and overhead costs associated with the operation of a
36 drug court. During the 2015-2017 fiscal biennium, the legislature may
37 transfer from the criminal justice treatment account to the state
38 general fund amounts as reflect the state savings associated with the

1 implementation of the medicaid expansion of the federal affordable
2 care act and the excess fund balance of the account. Moneys in the
3 account may be spent only after appropriation.

4 (2) For purposes of this section:

5 (a) "Treatment" means services that are critical to a
6 participant's successful completion of his or her substance use
7 disorder treatment program, but does not include the following
8 services: Housing other than that provided as part of an inpatient
9 substance use disorder treatment program, vocational training, and
10 mental health counseling; and

11 (b) "Treatment support" means transportation to or from inpatient
12 or outpatient treatment services when no viable alternative exists,
13 and child care services that are necessary to ensure a participant's
14 ability to attend outpatient treatment sessions.

15 (3) Revenues to the criminal justice treatment account consist
16 of: (a) Funds transferred to the account pursuant to this section;
17 and (b) any other revenues appropriated to or deposited in the
18 account.

19 (4)(a) For the fiscal year beginning July 1, 2006, and each
20 subsequent fiscal year, the amount transferred shall be increased on
21 an annual basis by the implicit price deflator as published by the
22 federal bureau of labor statistics.

23 (b) In each odd-numbered year, the legislature shall appropriate
24 the amount transferred to the criminal justice treatment account in
25 (a) of this subsection to the department for the purposes of
26 subsection (5) of this section.

27 (5) Moneys appropriated to the (~~department~~) authority from the
28 criminal justice treatment account shall be distributed as specified
29 in this subsection. The (~~department~~) authority may retain up to
30 three percent of the amount appropriated under subsection (4)(b) of
31 this section for its administrative costs.

32 (a) Seventy percent of amounts appropriated to the (~~department~~)
33 authority from the account shall be distributed to counties pursuant
34 to the distribution formula adopted under this section. The
35 (~~division of alcohol and substance abuse~~) authority, in
36 consultation with the department of corrections, the Washington state
37 association of counties, the Washington state association of drug
38 court professionals, the superior court judges' association, the
39 Washington association of prosecuting attorneys, representatives of
40 the criminal defense bar, representatives of substance use disorder

1 treatment providers, and any other person deemed by the
2 ((department)) authority to be necessary, shall establish a fair and
3 reasonable methodology for distribution to counties of moneys in the
4 criminal justice treatment account. County or regional plans
5 submitted for the expenditure of formula funds must be approved by
6 the panel established in (b) of this subsection.

7 (b) Thirty percent of the amounts appropriated to the
8 ((department)) authority from the account shall be distributed as
9 grants for purposes of treating offenders against whom charges are
10 filed by a county prosecuting attorney. The ((department)) authority
11 shall appoint a panel of representatives from the Washington
12 association of prosecuting attorneys, the Washington association of
13 sheriffs and police chiefs, the superior court judges' association,
14 the Washington state association of counties, the Washington
15 defender's association or the Washington association of criminal
16 defense lawyers, the department of corrections, the Washington state
17 association of drug court professionals, and substance use disorder
18 treatment providers(~~(, and the division)~~). The panel shall review
19 county or regional plans for funding under (a) of this subsection and
20 grants approved under this subsection. The panel shall attempt to
21 ensure that treatment as funded by the grants is available to
22 offenders statewide.

23 (6) The county alcohol and drug coordinator, county prosecutor,
24 county sheriff, county superior court, a substance abuse treatment
25 provider appointed by the county legislative authority, a member of
26 the criminal defense bar appointed by the county legislative
27 authority, and, in counties with a drug court, a representative of
28 the drug court shall jointly submit a plan, approved by the county
29 legislative authority or authorities, to the panel established in
30 subsection (5)(b) of this section, for disposition of all the funds
31 provided from the criminal justice treatment account within that
32 county. The funds shall be used solely to provide approved alcohol
33 and substance abuse treatment pursuant to RCW 71.24.560, treatment
34 support services, and for the administrative and overhead costs
35 associated with the operation of a drug court.

36 (a) No more than ten percent of the total moneys received under
37 subsections (4) and (5) of this section by a county or group of
38 counties participating in a regional agreement shall be spent on the
39 administrative and overhead costs associated with the operation of a
40 drug court.

1 (b) No more than ten percent of the total moneys received under
2 subsections (4) and (5) of this section by a county or group of
3 counties participating in a regional agreement shall be spent for
4 treatment support services.

5 (7) Counties are encouraged to consider regional agreements and
6 submit regional plans for the efficient delivery of treatment under
7 this section.

8 (8) Moneys allocated under this section shall be used to
9 supplement, not supplant, other federal, state, and local funds used
10 for substance abuse treatment.

11 (9) Counties must meet the criteria established in RCW
12 2.30.030(3).

13 (10) The authority under this section to use funds from the
14 criminal justice treatment account for the administrative and
15 overhead costs associated with the operation of a drug court expires
16 June 30, 2015.

17 **Sec. 4048.** RCW 71.24.590 and 2001 c 242 s 2 are each amended to
18 read as follows:

19 (1) For purposes of this section, "area" means the county in
20 which an applicant proposes to locate a licensed or certified program
21 and counties adjacent, or near to, the county in which the program is
22 proposed to be located.

23 When making a decision on an application for licensing or
24 certification of a program, the department shall:

25 (a) Consult with the county legislative authorities in the area
26 in which an applicant proposes to locate a program and the city
27 legislative authority in any city in which an applicant proposes to
28 locate a program;

29 (b) License or certify only programs that will be sited in
30 accordance with the appropriate county or city land use ordinances.
31 Counties and cities may require conditional or special use permits
32 with reasonable conditions for the siting of programs. Pursuant to
33 RCW 36.70A.200, no local comprehensive plan or development regulation
34 may preclude the siting of essential public facilities;

35 (c) Not discriminate in its licensing or certification decision
36 on the basis of the corporate structure of the applicant;

37 (d) Consider the size of the population in need of treatment in
38 the area in which the program would be located and license or certify

1 only applicants whose programs meet the necessary treatment needs of
2 that population;

3 (e) Demonstrate a need in the community for opiate substitution
4 treatment and not certify more program slots than justified by the
5 need in that community. No program shall exceed three hundred fifty
6 participants unless specifically authorized by the county in which
7 the program is certified;

8 (f) Consider the availability of other licensed or certified
9 programs near the area in which the applicant proposes to locate the
10 program;

11 (g) Consider the transportation systems that would provide
12 service to the program and whether the systems will provide
13 reasonable opportunities to access the program for persons in need of
14 treatment;

15 (h) Consider whether the applicant has, or has demonstrated in
16 the past, the capability to provide the appropriate services to
17 assist the persons who utilize the program in meeting goals
18 established by the legislature, including abstinence from opiates and
19 opiate substitutes, obtaining mental health treatment, improving
20 economic independence, and reducing adverse consequences associated
21 with illegal use of controlled substances. The department shall
22 prioritize licensing or certification to applicants who have
23 demonstrated such capability;

24 (i) Hold at least one public hearing in the county in which the
25 facility is proposed to be located and one hearing in the area in
26 which the facility is proposed to be located. The hearing shall be
27 held at a time and location that are most likely to permit the
28 largest number of interested persons to attend and present testimony.
29 The department shall notify all appropriate media outlets of the
30 time, date, and location of the hearing at least three weeks in
31 advance of the hearing.

32 (2) A program applying for licensing or certification from the
33 department and a program applying for a contract from a state agency
34 that has been denied the licensing or certification or contract shall
35 be provided with a written notice specifying the rationale and
36 reasons for the denial.

37 (3) For the purpose of this chapter, opiate substitution
38 treatment means:

1 (a) Dispensing an opiate substitution drug approved by the
2 federal drug administration for the treatment of opiate addiction;
3 and

4 (b) Providing a comprehensive range of medical and rehabilitative
5 services.

6 **Sec. 4049.** RCW 71.24.595 and 2003 c 207 s 6 are each amended to
7 read as follows:

8 (1) The department, in consultation with opiate substitution
9 treatment service providers and counties and cities, shall establish
10 statewide treatment standards for licensed or certified opiate
11 substitution treatment programs. The department shall enforce these
12 treatment standards. The treatment standards shall include, but not
13 be limited to, reasonable provisions for all appropriate and
14 necessary medical procedures, counseling requirements, urinalysis,
15 and other suitable tests as needed to ensure compliance with this
16 chapter.

17 (2) The department, in consultation with opiate substitution
18 treatment programs and counties, shall establish statewide operating
19 standards for certified opiate substitution treatment programs. The
20 department shall enforce these operating standards. The operating
21 standards shall include, but not be limited to, reasonable provisions
22 necessary to enable the department and counties to monitor certified
23 or licensed opiate substitution treatment programs for compliance
24 with this chapter and the treatment standards authorized by this
25 chapter and to minimize the impact of the opiate substitution
26 treatment programs upon the business and residential neighborhoods in
27 which the program is located.

28 (3) The department shall establish criteria for evaluating the
29 compliance of opiate substitution treatment programs with the goals
30 and standards established under this chapter. As a condition of
31 licensing or certification, opiate substitution programs shall submit
32 an annual report to the department and county legislative authority,
33 including data as specified by the department necessary for outcome
34 analysis. The department shall analyze and evaluate the data
35 submitted by each treatment program and take corrective action where
36 necessary to ensure compliance with the goals and standards
37 enumerated under this chapter.

1 **Sec. 4050.** RCW 71.24.600 and 1989 c 271 s 308 are each reenacted
2 and amended to read as follows:

3 The ((~~department~~)) authority shall not refuse admission for
4 diagnosis, evaluation, guidance or treatment to any applicant because
5 it is determined that the applicant is financially unable to
6 contribute fully or in part to the cost of any services or facilities
7 available under the program on alcoholism.

8 The ((~~department~~)) authority may limit admissions of such
9 applicants or modify its programs in order to ensure that
10 expenditures for services or programs do not exceed amounts
11 appropriated by the legislature and are allocated by the
12 ((~~department~~)) authority for such services or programs. The
13 ((~~department~~)) authority may establish admission priorities in the
14 event that the number of eligible applicants exceeds the limits set
15 by the ((~~department~~)) authority.

16 **Sec. 4051.** RCW 71.24.605 and 1998 c 245 s 136 are each amended
17 to read as follows:

18 The ((~~department~~)) authority shall contract with the University
19 of Washington fetal alcohol syndrome clinic to provide fetal alcohol
20 exposure screening and assessment services. The University indirect
21 charges shall not exceed ten percent of the total contract amount.
22 The contract shall require the University of Washington fetal alcohol
23 syndrome clinic to provide the following services:

24 (1) Training for health care staff in community-based fetal
25 alcohol exposure clinics to ensure the accurate diagnosis of
26 individuals with fetal alcohol exposure and the development and
27 implementation of appropriate service referral plans;

28 (2) Development of written or visual educational materials for
29 the individuals diagnosed with fetal alcohol exposure and their
30 families or caregivers;

31 (3) Systematic information retrieval from each community clinic
32 to (a) maintain diagnostic accuracy and reliability across all
33 community clinics, (b) facilitate the development of effective and
34 efficient screening tools for population-based identification of
35 individuals with fetal alcohol exposure, (c) facilitate
36 identification of the most clinically efficacious and cost-effective
37 educational, social, vocational, and health service interventions for
38 individuals with fetal alcohol exposure;

1 (4) Based on available funds, establishment of a network of
2 community-based fetal alcohol exposure clinics across the state to
3 meet the demand for fetal alcohol exposure diagnostic and referral
4 services; and

5 (5) Preparation of an annual report for submission to the
6 authority, the department of health, the department of social and
7 health services, the department of corrections, and the office of the
8 superintendent of public instruction which includes the information
9 retrieved under subsection (3) of this section.

10 **Sec. 4052.** RCW 71.24.610 and 1995 c 54 s 3 are each amended to
11 read as follows:

12 The authority, the department of social and health services, the
13 department of health, the department of corrections, and the office
14 of the superintendent of public instruction shall execute an
15 interagency agreement to ensure the coordination of identification,
16 prevention, and intervention programs for children who have fetal
17 alcohol exposure, and for women who are at high risk of having
18 children with fetal alcohol exposure.

19 The interagency agreement shall provide a process for community
20 advocacy groups to participate in the review and development of
21 identification, prevention, and intervention programs administered or
22 contracted for by the agencies executing this agreement.

23 **Sec. 4053.** RCW 71.24.615 and 2003 c 207 s 7 are each amended to
24 read as follows:

25 The ((~~department~~)) authority shall prioritize expenditures for
26 treatment provided under RCW 13.40.165. The ((~~department~~)) authority
27 shall provide funds for inpatient and outpatient treatment providers
28 that are the most successful, using the standards developed by the
29 University of Washington under section 27, chapter 338, Laws of 1997.
30 The ((~~department~~)) authority may consider variations between the
31 nature of the programs provided and clients served but must provide
32 funds first for those programs that demonstrate the greatest success
33 in treatment within categories of treatment and the nature of the
34 persons receiving treatment.

35 **Sec. 4054.** RCW 71.24.620 and 2016 sp.s. c 29 s 520 are each
36 amended to read as follows:

1 (1) Subject to funds appropriated for this specific purpose, the
2 ((secretary)) director shall select and contract with behavioral
3 health organizations to provide intensive case management for persons
4 with substance use disorders and histories of high utilization of
5 crisis services at two sites. In selecting the two sites, the
6 ((secretary)) director shall endeavor to site one in an urban county,
7 and one in a rural county; and to site them in counties other than
8 those selected pursuant to RCW 70.96B.020, to the extent necessary to
9 facilitate evaluation of pilot project results. Subject to funds
10 appropriated for this specific purpose, the secretary may contract
11 with additional counties to provide intensive case management.

12 (2) The contracted sites shall implement the pilot programs by
13 providing intensive case management to persons with a primary
14 substance use disorder diagnosis or dual primary substance use
15 disorder and mental health diagnoses, through the employment of
16 substance use disorder case managers. The substance use disorder case
17 managers shall:

18 (a) Be trained in and use the integrated, comprehensive screening
19 and assessment process adopted under RCW 71.24.630;

20 (b) Reduce the use of crisis medical, substance use disorder
21 treatment and mental health services, including but not limited
22 to((~~7~~)) emergency room admissions, hospitalizations, withdrawal
23 management programs, inpatient psychiatric admissions, involuntary
24 treatment petitions, emergency medical services, and ambulance
25 services;

26 (c) Reduce the use of emergency first responder services
27 including police, fire, emergency medical, and ambulance services;

28 (d) Reduce the number of criminal justice interventions including
29 arrests, violations of conditions of supervision, bookings, jail
30 days, prison sanction day for violations, court appearances, and
31 prosecutor and defense costs;

32 (e) Where appropriate and available, work with therapeutic courts
33 including drug courts and mental health courts to maximize the
34 outcomes for the individual and reduce the likelihood of reoffense;

35 (f) Coordinate with local offices of the economic services
36 administration to assist the person in accessing and remaining
37 enrolled in those programs to which the person may be entitled;

38 (g) Where appropriate and available, coordinate with primary care
39 and other programs operated through the federal government including
40 federally qualified health centers, Indian health programs, and

1 veterans' health programs for which the person is eligible to reduce
2 duplication of services and conflicts in case approach;

3 (h) Where appropriate, advocate for the client's needs to assist
4 the person in achieving and maintaining stability and progress toward
5 recovery;

6 (i) Document the numbers of persons with co-occurring mental and
7 substance use disorders and the point of determination of the co-
8 occurring disorder by quadrant of intensity of need; and

9 (j) Where a program participant is under supervision by the
10 department of corrections, collaborate with the department of
11 corrections to maximize treatment outcomes and reduce the likelihood
12 of reoffense.

13 (3) The pilot programs established by this section shall begin
14 providing services by March 1, 2006.

15 **Sec. 4055.** RCW 71.24.625 and 2016 sp.s. c 29 s 521 are each
16 amended to read as follows:

17 The (~~department~~) authority shall ensure that the provisions of
18 this chapter are applied by the behavioral health organizations in a
19 consistent and uniform manner. The (~~department~~) authority shall
20 also ensure that, to the extent possible within available funds, the
21 behavioral health organization-designated chemical dependency
22 specialists are specifically trained in adolescent chemical
23 dependency issues, the chemical dependency commitment laws, and the
24 criteria for commitment, as specified in this chapter and chapter
25 70.96A RCW.

26 **Sec. 4056.** RCW 71.24.630 and 2016 sp.s. c 29 s 513 are each
27 amended to read as follows:

28 (1) The (~~department of social and health services~~) authority
29 shall maintain an integrated and comprehensive screening and
30 assessment process for substance use and mental disorders and co-
31 occurring substance use and mental disorders.

32 (a) The process adopted shall include, at a minimum:

33 (i) An initial screening tool that can be used by intake
34 personnel system-wide and which will identify the most common types
35 of co-occurring disorders;

36 (ii) An assessment process for those cases in which assessment is
37 indicated that provides an appropriate degree of assessment for most
38 situations, which can be expanded for complex situations;

1 (iii) Identification of triggers in the screening that indicate
2 the need to begin an assessment;

3 (iv) Identification of triggers after or outside the screening
4 that indicate a need to begin or resume an assessment;

5 (v) The components of an assessment process and a protocol for
6 determining whether part or all of the assessment is necessary, and
7 at what point; and

8 (vi) Emphasis that the process adopted under this section is to
9 replace and not to duplicate existing intake, screening, and
10 assessment tools and processes.

11 (b) The ((department)) authority shall consider existing models,
12 including those already adopted by other states, and to the extent
13 possible, adopt an established, proven model.

14 (c) The integrated, comprehensive screening and assessment
15 process shall be implemented statewide by all substance use disorder
16 and mental health treatment providers as well as all designated
17 mental health professionals, designated chemical dependency
18 specialists, and designated crisis responders.

19 (2) The ((department)) authority shall provide adequate training
20 to effect statewide implementation by the dates designated in this
21 section and shall report the rates of co-occurring disorders and the
22 stage of screening or assessment at which the co-occurring disorder
23 was identified to the appropriate committees of the legislature.

24 (3) The ((department)) authority shall establish contractual
25 penalties to contracted treatment providers, the behavioral health
26 organizations, and their contracted providers for failure to
27 implement the integrated screening and assessment process.

28 **Sec. 4057.** RCW 71.24.640 and 2016 sp.s. c 29 s 507 are each
29 amended to read as follows:

30 The secretary shall license or certify evaluation and treatment
31 facilities that meet state minimum standards. The standards for
32 certification or licensure of evaluation and treatment facilities by
33 the department must include standards relating to maintenance of good
34 physical and mental health and other services to be afforded persons
35 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and must
36 otherwise assure the effectuation of the purposes of these chapters.

37 **Sec. 4058.** RCW 71.24.645 and 2016 sp.s. c 29 s 508 are each
38 amended to read as follows:

1 The secretary shall license or certify crisis stabilization units
2 that meet state minimum standards. The standards for certification or
3 licensure of crisis stabilization units by the department must
4 include standards that:

5 (1) Permit location of the units at a jail facility if the unit
6 is physically separate from the general population of the jail;

7 (2) Require administration of the unit by mental health
8 professionals who direct the stabilization and rehabilitation
9 efforts; and

10 (3) Provide an environment affording security appropriate with
11 the alleged criminal behavior and necessary to protect the public
12 safety.

13 **Sec. 4059.** RCW 71.24.650 and 2016 sp.s. c 29 s 509 are each
14 amended to read as follows:

15 The secretary shall license or certify clubhouses that meet state
16 minimum standards. The standards for certification or licensure of a
17 clubhouse by the department must at a minimum include:

18 (1) The facilities may be peer-operated and must be
19 recovery-focused;

20 (2) Members and employees must work together;

21 (3) Members must have the opportunity to participate in all the
22 work of the clubhouse, including administration, research, intake and
23 orientation, outreach, hiring, training and evaluation of staff,
24 public relations, advocacy, and evaluation of clubhouse
25 effectiveness;

26 (4) Members and staff and ultimately the clubhouse director must
27 be responsible for the operation of the clubhouse, central to this
28 responsibility is the engagement of members and staff in all aspects
29 of clubhouse operations;

30 (5) Clubhouse programs must be comprised of structured activities
31 including but not limited to social skills training, vocational
32 rehabilitation, employment training and job placement, and community
33 resource development;

34 (6) Clubhouse programs must provide in-house educational programs
35 that significantly utilize the teaching and tutoring skills of
36 members and assist members by helping them to take advantage of adult
37 education opportunities in the community;

38 (7) Clubhouse programs must focus on strengths, talents, and
39 abilities of its members;

1 (8) The work-ordered day may not include medication clinics, day
2 treatment, or other therapy programs within the clubhouse.

3 **Sec. 4060.** RCW 71.24.805 and 2001 c 334 s 1 are each amended to
4 read as follows:

5 The legislature affirms its support for those recommendations of
6 the performance audit of the public mental health system conducted by
7 the joint legislative audit and review committee relating to:
8 Improving the coordination of services for clients with multiple
9 needs; improving the consistency of client, service, and fiscal data
10 collected by the (~~mental health division~~) authority; replacing
11 process-oriented accountability activities with a uniform statewide
12 outcome measurement system; and using outcome information to identify
13 and provide incentives for best practices in the provision of public
14 mental health services.

15 **Sec. 4061.** RCW 71.24.810 and 2001 c 334 s 2 are each amended to
16 read as follows:

17 The legislature supports recommendations 1 through 10 and 12
18 through 14 of the mental health system performance audit conducted by
19 the joint legislative audit and review committee. The legislature
20 expects the (~~department of social and health services~~) authority to
21 work diligently within available funds to implement these
22 recommendations.

23 **Sec. 4062.** RCW 71.24.850 and 2014 c 225 s 8 are each amended to
24 read as follows:

25 (1) By December 1, 2018, the department of social and health
26 services and the (~~health care~~) authority shall report to the
27 governor and the legislature regarding the preparedness of each
28 regional service area to provide mental health services, chemical
29 dependency services, and medical care services to medicaid clients
30 under a fully integrated managed care health system.

31 (2) By January 1, 2020, the community behavioral health program
32 must be fully integrated in a managed care health system that
33 provides mental health services, chemical dependency services, and
34 medical care services to medicaid clients.

35 **Sec. 4063.** RCW 71.24.860 and 2016 sp.s. c 29 s 533 are each
36 amended to read as follows:

1 (1) The department of social and health services and the
2 (~~Washington state health care~~) authority shall convene a task force
3 including participation by a representative cross-section of
4 behavioral health organizations and behavioral health providers to
5 align regulations between behavioral health and primary health care
6 settings and simplify regulations for behavioral health providers.
7 The alignment must support clinical integration from the standpoint
8 of standardizing practices and culture in a manner that to the extent
9 practicable reduces barriers to access, including reducing the
10 paperwork burden for patients and providers. Brief integrated
11 behavioral health services must not, in general, take longer to
12 document than to provide. Regulations should emphasize the desired
13 outcome rather than how they should be achieved. The task force may
14 also make recommendations to the department of social and health
15 services concerning subsections (2) and (3) of this section.

16 (2) The department of social and health services shall
17 collaborate with the department of health, the Washington state
18 health care authority, and other appropriate government partners to
19 reduce unneeded costs and burdens to health plans and providers
20 associated with excessive audits, the licensing process, and
21 contracting. In pursuit of this goal, the department of social and
22 health services shall consider steps such as cooperating across
23 divisions and agencies to combine audit functions when multiple
24 audits of an agency or site are scheduled, sharing audit information
25 across divisions and agencies to reduce redundancy of audits, and
26 treating organizations with multiple sites and programs as single
27 entities instead of as multiple agencies.

28 (3) The department of social and health services shall review its
29 practices under RCW 71.24.035(5)(c)(i) to determine whether its
30 practices comply with the statutory mandate to deem accreditation by
31 recognized behavioral health accrediting bodies as equivalent to
32 meeting licensure requirements, comport with standard practices used
33 by other state divisions or agencies, and properly incentivize
34 voluntary accreditation to the highest industry standards.

35 (4) The task force described in subsection (1) of this section
36 must consider means to provide notice to parents when a minor
37 requests chemical dependency treatment, which are consistent with
38 federal privacy laws and consistent with the best interests of the
39 minor and the minor's family. The department of social and health

1 services must provide a report to the relevant committees of the
2 legislature by December 1, 2016.

3 **Sec. 4064.** RCW 71.24.902 and 1986 c 274 s 7 are each amended to
4 read as follows:

5 Nothing in this chapter shall be construed as prohibiting the
6 secretary of the department of social and health services from
7 consolidating (~~(within the department)~~) children's mental health
8 services with other (~~(departmental)~~) services related to children.

9 **PART 5**

10 **Sec. 5001.** RCW 71.34.010 and 1998 c 296 s 7 are each amended to
11 read as follows:

12 It is the purpose of this chapter to assure that minors in need
13 of mental health care and treatment receive an appropriate continuum
14 of culturally relevant care and treatment, including prevention and
15 early intervention, self-directed care, parent-directed care, and
16 involuntary treatment. To facilitate the continuum of care and
17 treatment to minors in out-of-home placements, all divisions of the
18 authority and the department that provide mental health services to
19 minors shall jointly plan and deliver those services.

20 It is also the purpose of this chapter to protect the rights of
21 minors against needless hospitalization and deprivations of liberty
22 and to enable treatment decisions to be made in response to clinical
23 needs in accordance with sound professional judgment. The mental
24 health care and treatment providers shall encourage the use of
25 voluntary services and, whenever clinically appropriate, the
26 providers shall offer less restrictive alternatives to inpatient
27 treatment. Additionally, all mental health care and treatment
28 providers shall assure that minors' parents are given an opportunity
29 to participate in the treatment decisions for their minor children.
30 The mental health care and treatment providers shall, to the extent
31 possible, offer services that involve minors' parents or family.

32 It is also the purpose of this chapter to assure the ability of
33 parents to exercise reasonable, compassionate care and control of
34 their minor children when there is a medical necessity for treatment
35 and without the requirement of filing a petition under this chapter.

1 **Sec. 5002.** RCW 71.34.020 and 2016 c 155 s 17 are each reenacted
2 and amended to read as follows:

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

5 (1) "Authority" means the Washington state health care authority.

6 (2) "Child psychiatrist" means a person having a license as a
7 physician and surgeon in this state, who has had graduate training in
8 child psychiatry in a program approved by the American Medical
9 Association or the American Osteopathic Association, and who is board
10 eligible or board certified in child psychiatry.

11 ~~((+2))~~ (3) "Children's mental health specialist" means:

12 (a) A mental health professional who has completed a minimum of
13 one hundred actual hours, not quarter or semester hours, of
14 specialized training devoted to the study of child development and
15 the treatment of children; and

16 (b) A mental health professional who has the equivalent of one
17 year of full-time experience in the treatment of children under the
18 supervision of a children's mental health specialist.

19 ~~((+3))~~ (4) "Commitment" means a determination by a judge or
20 court commissioner, made after a commitment hearing, that the minor
21 is in need of inpatient diagnosis, evaluation, or treatment or that
22 the minor is in need of less restrictive alternative treatment.

23 ~~((+4))~~ (5) "Department" means the department of social and
24 health services.

25 ~~((+5))~~ (6) "Designated mental health professional" means a
26 mental health professional designated by one or more counties to
27 perform the functions of a designated mental health professional
28 described in this chapter.

29 ~~((+6))~~ (7) "Director" means the director of the authority.

30 (8) "Evaluation and treatment facility" means a public or private
31 facility or unit that is licensed or certified by the department of
32 health to provide emergency, inpatient, residential, or outpatient
33 mental health evaluation and treatment services for minors. A
34 physically separate and separately-operated portion of a state
35 hospital may be designated as an evaluation and treatment facility
36 for minors. A facility which is part of or operated by the
37 ~~((department))~~ state or federal agency does not require licensure or
38 certification. No correctional institution or facility, juvenile
39 court detention facility, or jail may be an evaluation and treatment
40 facility within the meaning of this chapter.

1 (~~(7)~~) (9) "Evaluation and treatment program" means the total
2 system of services and facilities coordinated and approved by a
3 county or combination of counties for the evaluation and treatment of
4 minors under this chapter.

5 (~~(8)~~) (10) "Gravely disabled minor" means a minor who, as a
6 result of a mental disorder, is in danger of serious physical harm
7 resulting from a failure to provide for his or her essential human
8 needs of health or safety, or manifests severe deterioration in
9 routine functioning evidenced by repeated and escalating loss of
10 cognitive or volitional control over his or her actions and is not
11 receiving such care as is essential for his or her health or safety.

12 (~~(9)~~) (11) "Inpatient treatment" means twenty-four-hour-per-day
13 mental health care provided within a general hospital, psychiatric
14 hospital, or residential treatment facility licensed or certified by
15 the department of health as an evaluation and treatment facility for
16 minors.

17 (~~(10)~~) (12) "Less restrictive alternative" or "less restrictive
18 setting" means outpatient treatment provided to a minor who is not
19 residing in a facility providing inpatient treatment as defined in
20 this chapter.

21 (~~(11)~~) (13) "Likelihood of serious harm" means either: (a) A
22 substantial risk that physical harm will be inflicted by an
23 individual upon his or her own person, as evidenced by threats or
24 attempts to commit suicide or inflict physical harm on oneself; (b) a
25 substantial risk that physical harm will be inflicted by an
26 individual upon another, as evidenced by behavior which has caused
27 such harm or which places another person or persons in reasonable
28 fear of sustaining such harm; or (c) a substantial risk that physical
29 harm will be inflicted by an individual upon the property of others,
30 as evidenced by behavior which has caused substantial loss or damage
31 to the property of others.

32 (~~(12)~~) (14) "Medical necessity" for inpatient care means a
33 requested service which is reasonably calculated to: (a) Diagnose,
34 correct, cure, or alleviate a mental disorder; or (b) prevent the
35 worsening of mental conditions that endanger life or cause suffering
36 and pain, or result in illness or infirmity or threaten to cause or
37 aggravate a handicap, or cause physical deformity or malfunction, and
38 there is no adequate less restrictive alternative available.

39 (~~(13)~~) (15) "Mental disorder" means any organic, mental, or
40 emotional impairment that has substantial adverse effects on an

1 individual's cognitive or volitional functions. The presence of
2 alcohol abuse, drug abuse, juvenile criminal history, antisocial
3 behavior, or intellectual disabilities alone is insufficient to
4 justify a finding of "mental disorder" within the meaning of this
5 section.

6 ~~((14))~~ (16) "Mental health professional" means a psychiatrist,
7 physician assistant working with a supervising psychiatrist,
8 psychologist, psychiatric nurse, or social worker, and such other
9 mental health professionals as may be defined by rules adopted by the
10 secretary of the department of health under this chapter.

11 ~~((15))~~ (17) "Minor" means any person under the age of eighteen
12 years.

13 ~~((16))~~ (18) "Outpatient treatment" means any of the
14 nonresidential services mandated under chapter 71.24 RCW and provided
15 by licensed or certified services providers as identified by RCW
16 71.24.025.

17 ~~((17))~~ (19) "Parent" means:

18 (a) A biological or adoptive parent who has legal custody of the
19 child, including either parent if custody is shared under a joint
20 custody agreement; or

21 (b) A person or agency judicially appointed as legal guardian or
22 custodian of the child.

23 ~~((18))~~ (20) "Physician assistant" means a person licensed as a
24 physician assistant under chapter 18.57A or 18.71A RCW.

25 ~~((19))~~ (21) "Professional person in charge" or "professional
26 person" means a physician or other mental health professional
27 empowered by an evaluation and treatment facility with authority to
28 make admission and discharge decisions on behalf of that facility.

29 ~~((20))~~ (22) "Psychiatric nurse" means a registered nurse who
30 has a bachelor's degree from an accredited college or university, and
31 who has had, in addition, at least two years' experience in the
32 direct treatment of persons who have a mental illness or who are
33 emotionally disturbed, such experience gained under the supervision
34 of a mental health professional. "Psychiatric nurse" shall also mean
35 any other registered nurse who has three years of such experience.

36 ~~((21))~~ (23) "Psychiatrist" means a person having a license as a
37 physician in this state who has completed residency training in
38 psychiatry in a program approved by the American Medical Association
39 or the American Osteopathic Association, and is board eligible or
40 board certified in psychiatry.

1 ~~((+22+))~~ (24) "Psychologist" means a person licensed as a
2 psychologist under chapter 18.83 RCW.

3 ~~((+23+))~~ (25) "Responsible other" means the minor, the minor's
4 parent or estate, or any other person legally responsible for support
5 of the minor.

6 ~~((+24+))~~ (26) "Secretary" means the secretary of the department
7 or secretary's designee.

8 ~~((+25+))~~ (27) "Social worker" means a person with a master's or
9 further advanced degree from a social work educational program
10 accredited and approved as provided in RCW 18.320.010.

11 ~~((+26+))~~ (28) "Start of initial detention" means the time of
12 arrival of the minor at the first evaluation and treatment facility
13 offering inpatient treatment if the minor is being involuntarily
14 detained at the time. With regard to voluntary patients, "start of
15 initial detention" means the time at which the minor gives notice of
16 intent to leave under the provisions of this chapter.

17 **Sec. 5003.** RCW 71.34.020 and 2016 sp.s. c 29 s 254 and 2016 c
18 155 s 17 are each reenacted and amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

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

27 (2) "Approved substance use disorder treatment program" means a
28 program for minors with substance use disorders provided by a
29 treatment program licensed or certified by the department of health
30 as meeting standards adopted under chapter 71.24 RCW.

31 (3) "Authority" means the Washington state health care authority.

32 (4) "Chemical dependency" means:

33 (a) Alcoholism;

34 (b) Drug addiction; or

35 (c) Dependence on alcohol and one or more other psychoactive
36 chemicals, as the context requires.

37 ~~((+4+))~~ (5) "Chemical dependency professional" means a person
38 certified as a chemical dependency professional by the department of
39 health under chapter 18.205 RCW.

1 ~~((+5))~~ (6) "Child psychiatrist" means a person having a license
2 as a physician and surgeon in this state, who has had graduate
3 training in child psychiatry in a program approved by the American
4 Medical Association or the American Osteopathic Association, and who
5 is board eligible or board certified in child psychiatry.

6 ~~((+6))~~ (7) "Children's mental health specialist" means:

7 (a) A mental health professional who has completed a minimum of
8 one hundred actual hours, not quarter or semester hours, of
9 specialized training devoted to the study of child development and
10 the treatment of children; and

11 (b) A mental health professional who has the equivalent of one
12 year of full-time experience in the treatment of children under the
13 supervision of a children's mental health specialist.

14 ~~((+7))~~ (8) "Commitment" means a determination by a judge or
15 court commissioner, made after a commitment hearing, that the minor
16 is in need of inpatient diagnosis, evaluation, or treatment or that
17 the minor is in need of less restrictive alternative treatment.

18 ~~((+8))~~ (9) "Department" means the department of social and
19 health services.

20 ~~((+9))~~ (10) "Designated crisis responder" means a person
21 designated by a behavioral health organization to perform the duties
22 specified in this chapter.

23 ~~((+10))~~ (11) "Director" means the director of the authority.

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

30 ~~((+11))~~ (13) "Evaluation and treatment facility" means a public
31 or private facility or unit that is licensed or certified by the
32 department of health to provide emergency, inpatient, residential, or
33 outpatient mental health evaluation and treatment services for
34 minors. A physically separate and separately-operated portion of a
35 state hospital may be designated as an evaluation and treatment
36 facility for minors. A facility which is part of or operated by the
37 ~~((department))~~ state or federal agency does not require licensure or
38 certification. No correctional institution or facility, juvenile
39 court detention facility, or jail may be an evaluation and treatment
40 facility within the meaning of this chapter.

1 ~~((12))~~ (14) "Evaluation and treatment program" means the total
2 system of services and facilities coordinated and approved by a
3 county or combination of counties for the evaluation and treatment of
4 minors under this chapter.

5 ~~((13))~~ (15) "Gravely disabled minor" means a minor who, as a
6 result of a mental disorder, or as a result of the use of alcohol or
7 other psychoactive chemicals, is in danger of serious physical harm
8 resulting from a failure to provide for his or her essential human
9 needs of health or safety, or manifests severe deterioration in
10 routine functioning evidenced by repeated and escalating loss of
11 cognitive or volitional control over his or her actions and is not
12 receiving such care as is essential for his or her health or safety.

13 ~~((14))~~ (16) "Inpatient treatment" means twenty-four-hour-per-
14 day mental health care provided within a general hospital,
15 psychiatric hospital, residential treatment facility licensed or
16 certified by the department of health as an evaluation and treatment
17 facility for minors, secure detoxification facility for minors, or
18 approved substance use disorder treatment program for minors.

19 ~~((15))~~ (17) "Intoxicated minor" means a minor whose mental or
20 physical functioning is substantially impaired as a result of the use
21 of alcohol or other psychoactive chemicals.

22 ~~((16))~~ (18) "Less restrictive alternative" or "less restrictive
23 setting" means outpatient treatment provided to a minor who is not
24 residing in a facility providing inpatient treatment as defined in
25 this chapter.

26 ~~((17))~~ (19) "Likelihood of serious harm" means either: (a) A
27 substantial risk that physical harm will be inflicted by an
28 individual upon his or her own person, as evidenced by threats or
29 attempts to commit suicide or inflict physical harm on oneself; (b) a
30 substantial risk that physical harm will be inflicted by an
31 individual upon another, as evidenced by behavior which has caused
32 such harm or which places another person or persons in reasonable
33 fear of sustaining such harm; or (c) a substantial risk that physical
34 harm will be inflicted by an individual upon the property of others,
35 as evidenced by behavior which has caused substantial loss or damage
36 to the property of others.

37 ~~((18))~~ (20) "Medical necessity" for inpatient care means a
38 requested service which is reasonably calculated to: (a) Diagnose,
39 correct, cure, or alleviate a mental disorder or substance use
40 disorder; or (b) prevent the progression of a substance use disorder

1 that endangers life or causes suffering and pain, or results in
2 illness or infirmity or threatens to cause or aggravate a handicap,
3 or causes physical deformity or malfunction, and there is no adequate
4 less restrictive alternative available.

5 ~~((19))~~ (21) "Mental disorder" means any organic, mental, or
6 emotional impairment that has substantial adverse effects on an
7 individual's cognitive or volitional functions. The presence of
8 alcohol abuse, drug abuse, juvenile criminal history, antisocial
9 behavior, or intellectual disabilities alone is insufficient to
10 justify a finding of "mental disorder" within the meaning of this
11 section.

12 ~~((20))~~ (22) "Mental health professional" means a psychiatrist,
13 physician assistant working with a supervising psychiatrist,
14 psychologist, psychiatric nurse, or social worker, and such other
15 mental health professionals as may be defined by rules adopted by the
16 secretary of the department of health under this chapter.

17 ~~((21))~~ (23) "Minor" means any person under the age of eighteen
18 years.

19 ~~((22))~~ (24) "Outpatient treatment" means any of the
20 nonresidential services mandated under chapter 71.24 RCW and provided
21 by licensed or certified service providers as identified by RCW
22 71.24.025.

23 ~~((23))~~ (25) "Parent" means:

24 (a) A biological or adoptive parent who has legal custody of the
25 child, including either parent if custody is shared under a joint
26 custody agreement; or

27 (b) A person or agency judicially appointed as legal guardian or
28 custodian of the child.

29 ~~((24))~~ (26) "Private agency" means any person, partnership,
30 corporation, or association that is not a public agency, whether or
31 not financed in whole or in part by public funds, that constitutes an
32 evaluation and treatment facility or private institution, or
33 hospital, or approved substance use disorder treatment program, that
34 is conducted for, or includes a ~~((department))~~ distinct unit, floor,
35 or ward conducted for, the care and treatment of persons with mental
36 illness, substance use disorders, or both mental illness and
37 substance use disorders.

38 ~~((25))~~ (27) "Physician assistant" means a person licensed as a
39 physician assistant under chapter 18.57A or 18.71A RCW.

1 ~~((+26+))~~ (28) "Professional person in charge" or "professional
2 person" means a physician, other mental health professional, or other
3 person empowered by an evaluation and treatment facility, secure
4 detoxification facility, or approved substance use disorder treatment
5 program with authority to make admission and discharge decisions on
6 behalf of that facility.

7 ~~((+27+))~~ (29) "Psychiatric nurse" means a registered nurse who
8 has a bachelor's degree from an accredited college or university, and
9 who has had, in addition, at least two years' experience in the
10 direct treatment of persons who have a mental illness or who are
11 emotionally disturbed, such experience gained under the supervision
12 of a mental health professional. "Psychiatric nurse" shall also mean
13 any other registered nurse who has three years of such experience.

14 ~~((+28+))~~ (30) "Psychiatrist" means a person having a license as a
15 physician in this state who has completed residency training in
16 psychiatry in a program approved by the American Medical Association
17 or the American Osteopathic Association, and is board eligible or
18 board certified in psychiatry.

19 ~~((+29+))~~ (31) "Psychologist" means a person licensed as a
20 psychologist under chapter 18.83 RCW.

21 ~~((+30+))~~ (32) "Public agency" means any evaluation and treatment
22 facility or institution, or hospital, or approved substance use
23 disorder treatment program that is conducted for, or includes a
24 ~~((department))~~ distinct unit, floor, or ward conducted for, the care
25 and treatment of persons with mental illness, substance use
26 disorders, or both mental illness and substance use disorders if the
27 agency is operated directly by federal, state, county, or municipal
28 government, or a combination of such governments.

29 ~~((+31+))~~ (33) "Responsible other" means the minor, the minor's
30 parent or estate, or any other person legally responsible for support
31 of the minor.

32 ~~((+32+))~~ (34) "Secretary" means the secretary of the department
33 or secretary's designee.

34 ~~((+33+))~~ (35) "Secure detoxification facility" means a facility
35 operated by either a public or private agency or by the program of an
36 agency that:

37 (a) Provides for intoxicated minors:

38 (i) Evaluation and assessment, provided by certified chemical
39 dependency professionals;

40 (ii) Acute or subacute detoxification services; and

1 (iii) Discharge assistance provided by certified chemical
2 dependency professionals, including facilitating transitions to
3 appropriate voluntary or involuntary inpatient services or to less
4 restrictive alternatives as appropriate for the minor;

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

7 (c) Is licensed or certified as such by the department of health.

8 ((+34+)) (36) "Social worker" means a person with a master's or
9 further advanced degree from a social work educational program
10 accredited and approved as provided in RCW 18.320.010.

11 ((+35+)) (37) "Start of initial detention" means the time of
12 arrival of the minor at the first evaluation and treatment facility,
13 secure detoxification facility, or approved substance use disorder
14 treatment program offering inpatient treatment if the minor is being
15 involuntarily detained at the time. With regard to voluntary
16 patients, "start of initial detention" means the time at which the
17 minor gives notice of intent to leave under the provisions of this
18 chapter.

19 ((+36+)) (38) "Substance use disorder" means a cluster of
20 cognitive, behavioral, and physiological symptoms indicating that an
21 individual continues using the substance despite significant
22 substance-related problems. The diagnosis of a substance use disorder
23 is based on a pathological pattern of behaviors related to the use of
24 the substances.

25 **Sec. 5004.** RCW 71.34.300 and 2011 c 343 s 7 are each amended to
26 read as follows:

27 (1) The county or combination of counties is responsible for
28 development and coordination of the evaluation and treatment program
29 for minors, for incorporating the program into the ((county)) mental
30 health plan, and for coordination of evaluation and treatment
31 services and resources with the community mental health program
32 required under chapter 71.24 RCW.

33 (2) The county shall be responsible for maintaining its support
34 of involuntary treatment services for minors at its 1984 level,
35 adjusted for inflation, with the ((department)) authority responsible
36 for additional costs to the county resulting from this chapter.
37 Maintenance of effort funds devoted to judicial services related to
38 involuntary commitment reimbursed under RCW 71.05.730 must be

1 expended for other purposes that further treatment for mental health
2 and chemical dependency disorders.

3 **Sec. 5005.** RCW 71.34.365 and 1985 c 354 s 17 are each amended to
4 read as follows:

5 (1) If a minor is not accepted for admission or is released by an
6 inpatient evaluation and treatment facility, the facility shall
7 release the minor to the custody of the minor's parent or other
8 responsible person. If not otherwise available, the facility shall
9 furnish transportation for the minor to the minor's residence or
10 other appropriate place.

11 (2) If the minor is released to someone other than the minor's
12 parent, the facility shall make every effort to notify the minor's
13 parent of the release as soon as possible.

14 (3) No indigent minor may be released to less restrictive
15 alternative treatment or setting or discharged from inpatient
16 treatment without suitable clothing, and the ((department)) authority
17 shall furnish this clothing. As funds are available, the
18 ((secretary)) director may provide necessary funds for the immediate
19 welfare of indigent minors upon discharge or release to less
20 restrictive alternative treatment.

21 **Sec. 5006.** RCW 71.34.375 and 2011 c 302 s 1 are each amended to
22 read as follows:

23 (1) If a parent or guardian, for the purpose of mental health
24 treatment or evaluation, brings his or her minor child to an
25 evaluation and treatment facility, a hospital emergency room, an
26 inpatient facility licensed under chapter 72.23 RCW, or an inpatient
27 facility licensed under chapter 70.41 or 71.12 RCW operating
28 inpatient psychiatric beds for minors, the facility is required to
29 promptly provide written and verbal notice of all statutorily
30 available treatment options contained in this chapter. The notice
31 need not be given more than once if written and verbal notice has
32 already been provided and documented by the facility.

33 (2) The provision of notice must be documented by the facilities
34 required to give notice under subsection (1) of this section and must
35 be accompanied by a signed acknowledgment of receipt by the parent or
36 guardian. The notice must contain the following information:

37 (a) All current statutorily available treatment options including
38 but not limited to those provided in this chapter; and

1 (b) The procedures to be followed to utilize the treatment
2 options described in this chapter.

3 (3) The department of health shall produce, and make available,
4 the written notification that must include, at a minimum, the
5 information contained in subsection (2) of this section. The
6 department of health must revise the written notification as
7 necessary to reflect changes in the law.

8 **Sec. 5007.** RCW 71.34.375 and 2016 sp.s. c 29 s 256 are each
9 amended to read as follows:

10 (1) If a parent or guardian, for the purpose of mental health
11 treatment, substance use disorder treatment, or evaluation, brings
12 his or her minor child to an evaluation and treatment facility, a
13 hospital emergency room, an inpatient facility licensed under chapter
14 72.23 RCW, an inpatient facility licensed under chapter 70.41 or
15 71.12 RCW operating inpatient psychiatric beds for minors, a secure
16 detoxification facility, or an approved substance use disorder
17 treatment program, the facility is required to promptly provide
18 written and verbal notice of all statutorily available treatment
19 options contained in this chapter. The notice need not be given more
20 than once if written and verbal notice has already been provided and
21 documented by the facility.

22 (2) The provision of notice must be documented by the facilities
23 required to give notice under subsection (1) of this section and must
24 be accompanied by a signed acknowledgment of receipt by the parent or
25 guardian. The notice must contain the following information:

26 (a) All current statutorily available treatment options including
27 but not limited to those provided in this chapter; and

28 (b) The procedures to be followed to utilize the treatment
29 options described in this chapter.

30 (3) The department of health shall produce, and make available,
31 the written notification that must include, at a minimum, the
32 information contained in subsection (2) of this section. The
33 department of health must revise the written notification as
34 necessary to reflect changes in the law.

35 **Sec. 5008.** RCW 71.34.380 and 1985 c 354 s 25 are each amended to
36 read as follows:

37 (1) The department, department of health, and the authority shall
38 adopt such rules pursuant to chapter 34.05 RCW as may be necessary to

1 effectuate the intent and purposes of this chapter(~~(, which shall~~
2 ~~include but not be limited to evaluation of)~~).

3 (2) The authority shall evaluate the quality, effectiveness,
4 efficiency, and use of services ((and facilities operating under this
5 chapter)), procedures and standards for commitment, and ((other
6 action relevant to)) establish criteria and procedures for placement
7 and transfer of committed minors.

8 (3) The department of health shall regulate the evaluation and
9 treatment facilities(~~(, and establishment of criteria and procedures~~
10 for placement and transfer of committed minors)) and programs.

11 (4) The department shall operate and maintain the child study and
12 treatment center.

13 **Sec. 5009.** RCW 71.34.385 and 1992 c 205 s 304 are each amended
14 to read as follows:

15 The (~~department~~) authority shall ensure that the provisions of
16 this chapter are applied by the counties in a consistent and uniform
17 manner. The (~~department~~) authority shall also ensure that, to the
18 extent possible within available funds, the (~~county~~) designated
19 mental health professionals are specifically trained in adolescent
20 mental health issues, the mental health civil commitment laws, and
21 the criteria for civil commitment.

22 **Sec. 5010.** RCW 71.34.385 and 2016 sp.s. c 29 s 257 are each
23 amended to read as follows:

24 The (~~department~~) authority shall ensure that the provisions of
25 this chapter are applied by the counties in a consistent and uniform
26 manner. The (~~department~~) authority shall also ensure that, to the
27 extent possible within available funds, the designated crisis
28 responders are specifically trained in adolescent mental health
29 issues, the mental health and substance use disorder civil commitment
30 laws, and the criteria for civil commitment.

31 **Sec. 5011.** RCW 71.34.390 and 1992 c 205 s 303 are each amended
32 to read as follows:

33 For the purpose of encouraging the expansion of existing
34 evaluation and treatment facilities and the creation of new
35 facilities, the (~~department~~) authority shall endeavor to redirect
36 federal Title XIX funds which are expended on out-of-state placements
37 to fund placements within the state.

1 **Sec. 5012.** RCW 71.34.395 and 1998 c 296 s 21 are each amended to
2 read as follows:

3 The ability of a parent to bring his or her minor child to a
4 licensed or certified evaluation and treatment program for evaluation
5 and treatment does not create a right to obtain or benefit from any
6 funds or resources of the state. The state may provide services for
7 indigent minors to the extent that funds are available.

8 **Sec. 5013.** RCW 71.34.400 and 1998 c 296 s 11 are each amended to
9 read as follows:

10 For purposes of eligibility for medical assistance under chapter
11 74.09 RCW, minors in inpatient mental health treatment shall be
12 considered to be part of their parent's or legal guardian's
13 household, unless the minor has been assessed by the ((~~department~~))
14 authority or its designee as likely to require such treatment for at
15 least ninety consecutive days, or is in out-of-home care in
16 accordance with chapter 13.34 RCW, or the parents are found to not be
17 exercising responsibility for care and control of the minor. Payment
18 for such care by the ((~~department~~)) authority shall be made only in
19 accordance with rules, guidelines, and clinical criteria applicable
20 to inpatient treatment of minors established by the ((~~department~~))
21 authority.

22 **Sec. 5014.** RCW 71.34.400 and 2016 sp.s. c 29 s 258 are each
23 amended to read as follows:

24 For purposes of eligibility for medical assistance under chapter
25 74.09 RCW, minors in inpatient mental health or inpatient substance
26 use disorder treatment shall be considered to be part of their
27 parent's or legal guardian's household, unless the minor has been
28 assessed by the ((~~department~~)) authority or its designee as likely to
29 require such treatment for at least ninety consecutive days, or is in
30 out-of-home care in accordance with chapter 13.34 RCW, or the parents
31 are found to not be exercising responsibility for care and control of
32 the minor. Payment for such care by the ((~~department~~)) authority
33 shall be made only in accordance with rules, guidelines, and clinical
34 criteria applicable to inpatient treatment of minors established by
35 the ((~~department~~)) authority.

36 **Sec. 5015.** RCW 71.34.405 and 1985 c 354 s 13 are each amended to
37 read as follows:

1 (1) A minor receiving treatment under the provisions of this
2 chapter and responsible others shall be liable for the costs of
3 treatment, care, and transportation to the extent of available
4 resources and ability to pay.

5 (2) The secretary or director, as appropriate, shall establish
6 rules to implement this section and to define income, resources, and
7 exemptions to determine the responsible person's or persons' ability
8 to pay.

9 **Sec. 5016.** RCW 71.34.420 and 2015 c 269 s 12 are each amended to
10 read as follows:

11 (1) The (~~department~~) authority may use a single bed
12 certification process as outlined in rule to provide additional
13 treatment capacity for a minor suffering from a mental disorder for
14 whom an evaluation and treatment bed is not available. The facility
15 that is the proposed site of the single bed certification must be a
16 facility that is willing and able to provide the person with timely
17 and appropriate treatment either directly or by arrangement with
18 other public or private agencies.

19 (2) A single bed certification must be specific to the minor
20 receiving treatment.

21 (3) A designated mental health professional who submits an
22 application for a single bed certification for treatment at a
23 facility that is willing and able to provide timely and appropriate
24 mental health treatment in good faith belief that the single bed
25 certification is appropriate may presume that the single bed
26 certification will be approved for the purpose of completing the
27 detention process and responding to other emergency calls.

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

31 **Sec. 5017.** RCW 71.34.420 and 2016 sp.s. c 29 s 260 are each
32 amended to read as follows:

33 (1) The (~~department~~) authority may use a single bed
34 certification process as outlined in rule to provide additional
35 treatment capacity for a minor suffering from a mental disorder for
36 whom an evaluation and treatment bed is not available. The facility
37 that is the proposed site of the single bed certification must be a
38 facility that is willing and able to provide the person with timely

1 and appropriate treatment either directly or by arrangement with
2 other public or private agencies.

3 (2) A single bed certification must be specific to the minor
4 receiving treatment.

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

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

15 **Sec. 5018.** RCW 71.34.600 and 2007 c 375 s 11 are each amended to
16 read as follows:

17 (1) A parent may bring, or authorize the bringing of, his or her
18 minor child to an evaluation and treatment facility or an inpatient
19 facility licensed under chapter 70.41, 71.12, or 72.23 RCW and
20 request that the professional person examine the minor to determine
21 whether the minor has a mental disorder and is in need of inpatient
22 treatment.

23 (2) The consent of the minor is not required for admission,
24 evaluation, and treatment if the parent brings the minor to the
25 facility.

26 (3) An appropriately trained professional person may evaluate
27 whether the minor has a mental disorder. The evaluation shall be
28 completed within twenty-four hours of the time the minor was brought
29 to the facility, unless the professional person determines that the
30 condition of the minor necessitates additional time for evaluation.
31 In no event shall a minor be held longer than seventy-two hours for
32 evaluation. If, in the judgment of the professional person, it is
33 determined it is a medical necessity for the minor to receive
34 inpatient treatment, the minor may be held for treatment. The
35 facility shall limit treatment to that which the professional person
36 determines is medically necessary to stabilize the minor's condition
37 until the evaluation has been completed. Within twenty-four hours of
38 completion of the evaluation, the professional person shall notify

1 the (~~department~~) authority if the child is held for treatment and
2 of the date of admission.

3 (4) No provider is obligated to provide treatment to a minor
4 under the provisions of this section except that no provider may
5 refuse to treat a minor under the provisions of this section solely
6 on the basis that the minor has not consented to the treatment. No
7 provider may admit a minor to treatment under this section unless it
8 is medically necessary.

9 (5) No minor receiving inpatient treatment under this section may
10 be discharged from the facility based solely on his or her request.

11 (6) Prior to the review conducted under RCW 71.34.610, the
12 professional person shall notify the minor of his or her right to
13 petition superior court for release from the facility.

14 (7) For the purposes of this section "professional person" means
15 "professional person" as defined in RCW 71.05.020.

16 **Sec. 5019.** RCW 71.34.600 and 2016 sp.s. c 29 s 263 are each
17 amended to read as follows:

18 (1) A parent may bring, or authorize the bringing of, his or her
19 minor child to:

20 (a) An evaluation and treatment facility or an inpatient facility
21 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that
22 the professional person examine the minor to determine whether the
23 minor has a mental disorder and is in need of inpatient treatment; or

24 (b) A secure detoxification facility or approved substance use
25 disorder treatment program and request that a substance use disorder
26 assessment be conducted by a professional person to determine whether
27 the minor has a substance use disorder and is in need of inpatient
28 treatment.

29 (2) The consent of the minor is not required for admission,
30 evaluation, and treatment if the parent brings the minor to the
31 facility.

32 (3) An appropriately trained professional person may evaluate
33 whether the minor has a mental disorder or has a substance use
34 disorder. The evaluation shall be completed within twenty-four hours
35 of the time the minor was brought to the facility, unless the
36 professional person determines that the condition of the minor
37 necessitates additional time for evaluation. In no event shall a
38 minor be held longer than seventy-two hours for evaluation. If, in
39 the judgment of the professional person, it is determined it is a

1 medical necessity for the minor to receive inpatient treatment, the
2 minor may be held for treatment. The facility shall limit treatment
3 to that which the professional person determines is medically
4 necessary to stabilize the minor's condition until the evaluation has
5 been completed. Within twenty-four hours of completion of the
6 evaluation, the professional person shall notify the ((department))
7 authority if the child is held for treatment and of the date of
8 admission.

9 (4) No provider is obligated to provide treatment to a minor
10 under the provisions of this section except that no provider may
11 refuse to treat a minor under the provisions of this section solely
12 on the basis that the minor has not consented to the treatment. No
13 provider may admit a minor to treatment under this section unless it
14 is medically necessary.

15 (5) No minor receiving inpatient treatment under this section may
16 be discharged from the facility based solely on his or her request.

17 (6) Prior to the review conducted under RCW 71.34.610, the
18 professional person shall notify the minor of his or her right to
19 petition superior court for release from the facility.

20 (7) For the purposes of this section "professional person" means
21 "professional person" as defined in RCW 71.05.020.

22 **Sec. 5020.** RCW 71.34.610 and 1998 c 296 s 9 are each amended to
23 read as follows:

24 (1) The ((department)) authority shall assure that, for any minor
25 admitted to inpatient treatment under RCW 71.34.600, a review is
26 conducted by a physician or other mental health professional who is
27 employed by the ((department)) authority, or an agency under contract
28 with the ((department)) authority, and who neither has a financial
29 interest in continued inpatient treatment of the minor nor is
30 affiliated with the facility providing the treatment. The physician
31 or other mental health professional shall conduct the review not less
32 than seven nor more than fourteen days following the date the minor
33 was brought to the facility under RCW 71.34.600 to determine whether
34 it is a medical necessity to continue the minor's treatment on an
35 inpatient basis.

36 (2) In making a determination under subsection (1) of this
37 section, the ((department)) authority shall consider the opinion of
38 the treatment provider, the safety of the minor, and the likelihood
39 the minor's mental health will deteriorate if released from inpatient

1 treatment. The ((department)) authority shall consult with the parent
2 in advance of making its determination.

3 (3) If, after any review conducted by the ((department))
4 authority under this section, the ((department)) authority determines
5 it is no longer a medical necessity for a minor to receive inpatient
6 treatment, the ((department)) authority shall immediately notify the
7 parents and the facility. The facility shall release the minor to the
8 parents within twenty-four hours of receiving notice. If the
9 professional person in charge and the parent believe that it is a
10 medical necessity for the minor to remain in inpatient treatment, the
11 minor shall be released to the parent on the second judicial day
12 following the ((department's)) authority's determination in order to
13 allow the parent time to file an at-risk youth petition under chapter
14 13.32A RCW. If the ((department)) authority determines it is a
15 medical necessity for the minor to receive outpatient treatment and
16 the minor declines to obtain such treatment, such refusal shall be
17 grounds for the parent to file an at-risk youth petition.

18 (4) If the evaluation conducted under RCW 71.34.600 is done by
19 the ((department)) authority, the reviews required by subsection (1)
20 of this section shall be done by contract with an independent agency.

21 (5) The ((department)) authority may, subject to available funds,
22 contract with other governmental agencies to conduct the reviews
23 under this section. The ((department)) authority may seek
24 reimbursement from the parents, their insurance, or medicaid for the
25 expense of any review conducted by an agency under contract.

26 (6) In addition to the review required under this section, the
27 ((department)) authority may periodically determine and redetermine
28 the medical necessity of treatment for purposes of payment with
29 public funds.

30 **Sec. 5021.** RCW 71.34.630 and 1998 c 296 s 20 are each amended to
31 read as follows:

32 If the minor is not released as a result of the petition filed
33 under RCW 71.34.620, he or she shall be released not later than
34 thirty days following the later of: (1) The date of the
35 ((department's)) authority's determination under RCW 71.34.610(2); or
36 (2) the filing of a petition for judicial review under RCW 71.34.620,
37 unless a professional person or the ((county)) designated mental
38 health professional initiates proceedings under this chapter.

1 **Sec. 5022.** RCW 71.34.630 and 2016 sp.s. c 29 s 264 are each
2 amended to read as follows:

3 If the minor is not released as a result of the petition filed
4 under RCW 71.34.620, he or she shall be released not later than
5 thirty days following the later of: (1) The date of the
6 (~~department's~~) authority's determination under RCW 71.34.610(2); or
7 (2) the filing of a petition for judicial review under RCW 71.34.620,
8 unless a professional person or the designated crisis responder
9 initiates proceedings under this chapter.

10 **Sec. 5023.** RCW 71.34.640 and 1996 c 133 s 36 are each amended to
11 read as follows:

12 The (~~department~~) authority shall randomly select and review the
13 information on children who are admitted to inpatient treatment on
14 application of the child's parent regardless of the source of
15 payment, if any. The review shall determine whether the children
16 reviewed were appropriately admitted into treatment based on an
17 objective evaluation of the child's condition and the outcome of the
18 child's treatment.

19 **Sec. 5024.** RCW 71.34.720 and 2016 c 155 s 19 are each amended to
20 read as follows:

21 (1) Each minor approved by the facility for inpatient admission
22 shall be examined and evaluated by a children's mental health
23 specialist as to the child's mental condition and by a physician,
24 physician assistant, or psychiatric advanced registered nurse
25 practitioner as to the child's physical condition within twenty-four
26 hours of admission. Reasonable measures shall be taken to ensure
27 medical treatment is provided for any condition requiring immediate
28 medical attention.

29 (2) If, after examination and evaluation, the children's mental
30 health specialist and the physician, physician assistant, or
31 psychiatric advanced registered nurse practitioner determine that the
32 initial needs of the minor would be better served by placement in a
33 chemical dependency treatment facility, then the minor shall be
34 referred to an approved substance use disorder treatment program
35 defined under RCW 70.96A.020.

36 (3) The admitting facility shall take reasonable steps to notify
37 immediately the minor's parent of the admission.

1 (4) During the initial seventy-two hour treatment period, the
2 minor has a right to associate or receive communications from parents
3 or others unless the professional person in charge determines that
4 such communication would be seriously detrimental to the minor's
5 condition or treatment and so indicates in the minor's clinical
6 record, and notifies the minor's parents of this determination. In no
7 event may the minor be denied the opportunity to consult an attorney.

8 (5) If the evaluation and treatment facility admits the minor, it
9 may detain the minor for evaluation and treatment for a period not to
10 exceed seventy-two hours from the time of provisional acceptance. The
11 computation of such seventy-two hour period shall exclude Saturdays,
12 Sundays, and holidays. This initial treatment period shall not exceed
13 seventy-two hours except when an application for voluntary inpatient
14 treatment is received or a petition for fourteen-day commitment is
15 filed.

16 (6) Within twelve hours of the admission, the facility shall
17 advise the minor of his or her rights as set forth in this chapter.

18 **Sec. 5025.** RCW 71.34.720 and 2016 sp.s. c 29 s 271 and 2016 c
19 155 s 19 are each reenacted and amended to read as follows:

20 (1) Each minor approved by the facility for inpatient admission
21 shall be examined and evaluated by a children's mental health
22 specialist, for minors admitted as a result of a mental disorder, or
23 by a chemical dependency professional, for minors admitted as a
24 result of a substance use disorder, as to the child's mental
25 condition and by a physician, physician assistant, or psychiatric
26 advanced registered nurse practitioner as to the child's physical
27 condition within twenty-four hours of admission. Reasonable measures
28 shall be taken to ensure medical treatment is provided for any
29 condition requiring immediate medical attention.

30 (2) If, after examination and evaluation, the children's mental
31 health specialist or substance use disorder specialist and the
32 physician, physician assistant, or psychiatric advanced registered
33 nurse practitioner determine that the initial needs of the minor, if
34 detained to an evaluation and treatment facility, would be better
35 served by placement in a substance use disorder treatment
36 ((~~facility~~)) program or, if detained to a secure detoxification
37 facility or approved substance use disorder treatment program, would
38 be better served in an evaluation and treatment facility, then the
39 minor shall be referred to the more appropriate placement; however a

1 minor may only be referred to a secure detoxification facility or
2 approved substance use disorder treatment program if there is a
3 secure detoxification facility or approved substance use disorder
4 treatment program available and that has adequate space for the
5 minor.

6 (3) The admitting facility shall take reasonable steps to notify
7 immediately the minor's parent of the admission.

8 (4) During the initial seventy-two hour treatment period, the
9 minor has a right to associate or receive communications from parents
10 or others unless the professional person in charge determines that
11 such communication would be seriously detrimental to the minor's
12 condition or treatment and so indicates in the minor's clinical
13 record, and notifies the minor's parents of this determination. In no
14 event may the minor be denied the opportunity to consult an attorney.

15 (5) If the evaluation and treatment facility, secure
16 detoxification facility, or approved substance use disorder treatment
17 program admits the minor, it may detain the minor for evaluation and
18 treatment for a period not to exceed seventy-two hours from the time
19 of provisional acceptance. The computation of such seventy-two hour
20 period shall exclude Saturdays, Sundays, and holidays. This initial
21 treatment period shall not exceed seventy-two hours except when an
22 application for voluntary inpatient treatment is received or a
23 petition for fourteen-day commitment is filed.

24 (6) Within twelve hours of the admission, the facility shall
25 advise the minor of his or her rights as set forth in this chapter.

26 **Sec. 5026.** RCW 71.34.720 and 2016 sp.s. c 29 s 272 are each
27 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.

38 (2) If, after examination and evaluation, the children's mental
39 health specialist or substance use disorder specialist and the

1 physician, physician assistant, or psychiatric advanced registered
2 nurse practitioner determine that the initial needs of the minor, if
3 detained to an evaluation and treatment facility, would be better
4 served by placement in a substance use disorder treatment
5 ((facility)) program or, if detained to a secure detoxification
6 facility or approved substance use disorder treatment program, would
7 be better served in an evaluation and treatment facility, then the
8 minor shall be referred to the more appropriate placement.

9 (3) The admitting facility shall take reasonable steps to notify
10 immediately the minor's parent of the admission.

11 (4) During the initial seventy-two hour treatment period, the
12 minor has a right to associate or receive communications from parents
13 or others unless the professional person in charge determines that
14 such communication would be seriously detrimental to the minor's
15 condition or treatment and so indicates in the minor's clinical
16 record, and notifies the minor's parents of this determination. In no
17 event may the minor be denied the opportunity to consult an attorney.

18 (5) If the evaluation and treatment facility, secure
19 detoxification facility, or approved substance use disorder treatment
20 program admits the minor, it may detain the minor for evaluation and
21 treatment for a period not to exceed seventy-two hours from the time
22 of provisional acceptance. The computation of such seventy-two hour
23 period shall exclude Saturdays, Sundays, and holidays. This initial
24 treatment period shall not exceed seventy-two hours except when an
25 application for voluntary inpatient treatment is received or a
26 petition for fourteen-day commitment is filed.

27 (6) Within twelve hours of the admission, the facility shall
28 advise the minor of his or her rights as set forth in this chapter.

29 **Sec. 5027.** RCW 71.34.760 and 1985 c 354 s 10 are each amended to
30 read as follows:

31 (1) If a minor is committed for one hundred eighty-day inpatient
32 treatment and is to be placed in a state-supported program, the
33 ((secretary)) director shall accept immediately and place the minor
34 in a state-funded long-term evaluation and treatment facility.

35 (2) The ((secretary's)) director's placement authority shall be
36 exercised through a designated placement committee appointed by the
37 ((secretary)) director and composed of children's mental health
38 specialists, including at least one child psychiatrist who represents

1 the state-funded, long-term, evaluation and treatment facility for
2 minors. The responsibility of the placement committee will be to:

3 (a) Make the long-term placement of the minor in the most
4 appropriate, available state-funded evaluation and treatment
5 facility, having carefully considered factors including the treatment
6 needs of the minor, the most appropriate facility able to respond to
7 the minor's identified treatment needs, the geographic proximity of
8 the facility to the minor's family, the immediate availability of bed
9 space, and the probable impact of the placement on other residents of
10 the facility;

11 (b) Approve or deny requests from treatment facilities for
12 transfer of a minor to another facility;

13 (c) Receive and monitor reports required under this section;

14 (d) Receive and monitor reports of all discharges.

15 (3) The ((~~secretary~~)) director may authorize transfer of minors
16 among treatment facilities if the transfer is in the best interests
17 of the minor or due to treatment priorities.

18 (4) The responsible state-funded evaluation and treatment
19 facility shall submit a report to the ((~~department's~~)) authority's
20 designated placement committee within ninety days of admission and no
21 less than every one hundred eighty days thereafter, setting forth
22 such facts as the ((~~department~~)) authority requires, including the
23 minor's individual treatment plan and progress, recommendations for
24 future treatment, and possible less restrictive treatment.

25 **Sec. 5028.** RCW 71.34.760 and 2016 sp.s. c 29 s 278 are each
26 amended to read as follows:

27 (1) If a minor is committed for one hundred eighty-day inpatient
28 treatment and is to be placed in a state-supported program, the
29 ((~~secretary~~)) director shall accept immediately and place the minor
30 in a state-funded long-term evaluation and treatment facility or
31 state-funded approved substance use disorder treatment program.

32 (2) The ((~~secretary's~~)) director's placement authority shall be
33 exercised through a designated placement committee appointed by the
34 ((~~secretary~~)) director and composed of children's mental health
35 specialists and chemical dependency professionals, including at least
36 one child psychiatrist who represents the state-funded, long-term,
37 evaluation and treatment facility for minors and one chemical
38 dependency professional who represents the state-funded approved

1 substance use disorder treatment program. The responsibility of the
2 placement committee will be to:

3 (a) Make the long-term placement of the minor in the most
4 appropriate, available state-funded evaluation and treatment facility
5 or approved substance use disorder treatment program, having
6 carefully considered factors including the treatment needs of the
7 minor, the most appropriate facility able to respond to the minor's
8 identified treatment needs, the geographic proximity of the facility
9 to the minor's family, the immediate availability of bed space, and
10 the probable impact of the placement on other residents of the
11 facility;

12 (b) Approve or deny requests from treatment facilities for
13 transfer of a minor to another facility;

14 (c) Receive and monitor reports required under this section;

15 (d) Receive and monitor reports of all discharges.

16 (3) The (~~secretary~~) director may authorize transfer of minors
17 among treatment facilities if the transfer is in the best interests
18 of the minor or due to treatment priorities.

19 (4) The responsible state-funded evaluation and treatment
20 facility or approved substance use disorder treatment program shall
21 submit a report to the (~~department's~~) authority's designated
22 placement committee within ninety days of admission and no less than
23 every one hundred eighty days thereafter, setting forth such facts as
24 the (~~department~~) authority requires, including the minor's
25 individual treatment plan and progress, recommendations for future
26 treatment, and possible less restrictive treatment.

27 **Sec. 5029.** RCW 71.34.780 and 1985 c 354 s 11 are each amended to
28 read as follows:

29 (1) If the professional person in charge of an outpatient
30 treatment program, a (~~county~~) designated mental health
31 professional, or the director or secretary, as appropriate,
32 determines that a minor is failing to adhere to the conditions of the
33 court order for less restrictive alternative treatment or the
34 conditions for the conditional release, or that substantial
35 deterioration in the minor's functioning has occurred, the
36 (~~county~~) designated mental health professional, or the director or
37 secretary, as appropriate, may order that the minor be taken into
38 custody and transported to an inpatient evaluation and treatment
39 facility.

1 (2) The ((~~county~~))designated mental health professional or the
2 director or secretary, as appropriate, shall file the order of
3 apprehension and detention and serve it upon the minor and notify the
4 minor's parent and the minor's attorney, if any, of the detention
5 within two days of return. At the time of service the minor shall be
6 informed of the right to a hearing and to representation by an
7 attorney. The ((~~county~~))designated mental health professional or the
8 director or secretary, as appropriate, may modify or rescind the
9 order of apprehension and detention at any time prior to the hearing.

10 (3) A petition for revocation of less restrictive alternative
11 treatment shall be filed by the ((~~county~~))designated mental health
12 professional or the director or secretary, as appropriate, with the
13 court in the county ordering the less restrictive alternative
14 treatment. The court shall conduct the hearing in that county. A
15 petition for revocation of conditional release may be filed with the
16 court in the county ordering inpatient treatment or the county where
17 the minor on conditional release is residing. A petition shall
18 describe the behavior of the minor indicating violation of the
19 conditions or deterioration of routine functioning and a
20 dispositional recommendation. Upon motion for good cause, the hearing
21 may be transferred to the county of the minor's residence or to the
22 county in which the alleged violations occurred. The hearing shall be
23 held within seven days of the minor's return. The issues to be
24 determined are whether the minor did or did not adhere to the
25 conditions of the less restrictive alternative treatment or
26 conditional release, or whether the minor's routine functioning has
27 substantially deteriorated, and, if so, whether the conditions of
28 less restrictive alternative treatment or conditional release should
29 be modified or whether the minor should be returned to inpatient
30 treatment. Pursuant to the determination of the court, the minor
31 shall be returned to less restrictive alternative treatment or
32 conditional release on the same or modified conditions or shall be
33 returned to inpatient treatment. If the minor is returned to
34 inpatient treatment, RCW 71.34.760 regarding the ((~~secretary's~~))
35 director's placement responsibility shall apply. The hearing may be
36 waived by the minor and the minor returned to inpatient treatment or
37 to less restrictive alternative treatment or conditional release on
38 the same or modified conditions.

1 **Sec. 5030.** 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. 5031.** 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. 5032.** 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. 5033.** 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. 5034.** 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. 5035.** 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. 5036.** 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 70.96A.011 and 2014 c 225 s 19 are each amended
29 to read as follows:

30 The legislature finds that the use of alcohol and other drugs has
31 become a serious threat to the health of the citizens of the state of
32 Washington. The use of psychoactive chemicals has been found to be a
33 prime factor in the current AIDS epidemic. Therefore, a comprehensive
34 statute to deal with alcoholism and other drug addiction is
35 necessary.

36 The legislature agrees with the 1987 resolution of the American
37 Medical Association that endorses the proposition that all chemical

1 dependencies, including alcoholism, are diseases. It is the intent of
2 the legislature to recognize that chemical dependency is a disease,
3 and to insure that prevention and treatment services are available
4 and are of high quality. It is the purpose of this chapter to provide
5 the financial assistance necessary to enable the (~~department of~~
6 ~~social and health services~~) health care authority to provide a
7 program of alcoholism and other drug addiction services.

8 **Sec. 6002.** RCW 70.96A.020 and 2016 sp.s. c 29 s 101 are each
9 amended to read as follows:

10 For the purposes of this chapter the following words and phrases
11 shall have the following meanings unless the context clearly requires
12 otherwise:

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

19 (2) "Approved substance use disorder treatment program" means a
20 program for persons with a substance use disorder provided by a
21 treatment program licensed or certified by the department of (~~social~~
22 ~~and health services~~) health as meeting standards adopted under this
23 chapter.

24 (3) "Authority" means the health care authority.

25 (4) "Behavioral health organization" means a county authority or
26 group of county authorities or other entity recognized by the
27 (~~secretary~~) director in contract in a defined regional service
28 area.

29 (~~(4)~~) (5) "Behavioral health program" has the same meaning as
30 in RCW 71.24.025.

31 (~~(5)~~) (6) "Behavioral health services" means mental health
32 services as described in chapters 71.24 and 71.36 RCW and chemical
33 dependency treatment services as described in this chapter.

34 (~~(6)~~) (7) "Chemical dependency" means: (a) Alcoholism; (b) drug
35 addiction; or (c) dependence on alcohol and one or more other
36 psychoactive chemicals, as the context requires.

37 (~~(7)~~) (8) "Commitment" means the determination by a court that
38 a person should be detained for a period of either evaluation or
39 treatment, or both, in an inpatient or a less restrictive setting.

1 ~~((8))~~ (9) "Department" means the department of social and
2 health services.

3 ~~((9))~~ (10) "Designated chemical dependency specialist" or
4 "specialist" means a person designated by the behavioral health
5 organization or by the county substance use disorder treatment
6 program coordinator designated by the behavioral health organization
7 to perform the commitment duties described in RCW 70.96A.140 and
8 qualified to do so by meeting standards adopted by the ~~((department))~~
9 authority.

10 ~~((10))~~ (11) "Director" means the director of the authority.

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

17 ~~((11))~~ (13) "Gravely disabled by alcohol or other psychoactive
18 chemicals" or "gravely disabled" means that a person, as a result of
19 the use of alcohol or other psychoactive chemicals: (a) Is in danger
20 of serious physical harm resulting from a failure to provide for his
21 or her essential human needs of health or safety; or (b) manifests
22 severe deterioration in routine functioning evidenced by a repeated
23 and escalating loss of cognition or volitional control over his or
24 her actions and is not receiving care as essential for his or her
25 health or safety.

26 ~~((12))~~ (14) "History of one or more violent acts" refers to the
27 period of time ten years prior to the filing of a petition under this
28 chapter, excluding any time spent, but not any violent acts
29 committed, in a mental health facility, or a long-term alcoholism or
30 drug treatment facility, or in confinement.

31 ~~((13))~~ (15) "Incapacitated by alcohol or other psychoactive
32 chemicals" means that a person, as a result of the use of alcohol or
33 other psychoactive chemicals, is gravely disabled or presents a
34 likelihood of serious harm to himself or herself, to any other
35 person, or to property.

36 ~~((14))~~ (16) "Incompetent person" means a person who has been
37 adjudged incompetent by the superior court.

38 ~~((15))~~ (17) "Intoxicated person" means a person whose mental or
39 physical functioning is substantially impaired as a result of the use
40 of alcohol or other psychoactive chemicals.

1 (~~(16)~~) (18) "Licensed physician" means a person licensed to
2 practice medicine or osteopathic medicine and surgery in the state of
3 Washington.

4 (~~(17)~~) (19) "Likelihood of serious harm" means:

5 (a) A substantial risk that: (i) Physical harm will be inflicted
6 by an individual upon his or her own person, as evidenced by threats
7 or attempts to commit suicide or inflict physical harm on one's self;
8 (ii) physical harm will be inflicted by an individual upon another,
9 as evidenced by behavior that has caused the harm or that places
10 another person or persons in reasonable fear of sustaining the harm;
11 or (iii) physical harm will be inflicted by an individual upon the
12 property of others, as evidenced by behavior that has caused
13 substantial loss or damage to the property of others; or

14 (b) The individual has threatened the physical safety of another
15 and has a history of one or more violent acts.

16 (~~(18)~~) (20) "Medical necessity" for inpatient care of a minor
17 means a requested licensed or certified inpatient service that is
18 reasonably calculated to: (a) Diagnose, arrest, or alleviate a
19 chemical dependency; or (b) prevent the progression of substance use
20 disorders that endanger life or cause suffering and pain, or result
21 in illness or infirmity or threaten to cause or aggravate a handicap,
22 or cause physical deformity or malfunction, and there is no adequate
23 less restrictive alternative available.

24 (~~(19)~~) (21) "Mental health professional" means a psychiatrist,
25 psychologist, physician assistant working with a supervising
26 psychiatrist, psychiatric advanced registered nurse practitioner,
27 psychiatric nurse, or social worker, and such other mental health
28 professionals as may be defined by rules adopted by the secretary of
29 health pursuant to the provisions of chapter 71.05 RCW.

30 (~~(20)~~) (22) "Minor" means a person less than eighteen years of
31 age.

32 (~~(21)~~) (23) "Parent" means the parent or parents who have the
33 legal right to custody of the child. Parent includes custodian or
34 guardian.

35 (~~(22)~~) (24) "Peace officer" means a law enforcement official of
36 a public agency or governmental unit, and includes persons
37 specifically given peace officer powers by any state law, local
38 ordinance, or judicial order of appointment.

39 (~~(23)~~) (25) "Person" means an individual, including a minor.

1 ~~((24))~~ (26) "Physician assistant" means a person licensed as a
2 physician assistant under chapter 18.57A or 18.71A RCW.

3 ~~((25))~~ (27) "Professional person in charge" or "professional
4 person" means a physician or chemical dependency counselor as defined
5 in rule by the department of health, who is empowered by a licensed
6 or certified treatment program with authority to make assessment,
7 admission, continuing care, and discharge decisions on behalf of the
8 licensed or certified program.

9 ~~((26))~~ (28) "Psychiatric advanced registered nurse
10 practitioner" means a person who is licensed as an advanced
11 registered nurse practitioner pursuant to chapter 18.79 RCW; and who
12 is board certified in advanced practice psychiatric and mental health
13 nursing.

14 ~~((27))~~ (29) "Secretary" means the secretary of the department
15 of social and health services.

16 ~~((28))~~ (30) "Substance use disorder" means a cluster of
17 cognitive, behavioral, and physiological symptoms indicating that an
18 individual continues using the substance despite significant
19 substance-related problems. The diagnosis of a substance use disorder
20 is based on a pathological pattern of behaviors related to the use of
21 the substances.

22 ~~((29))~~ (31) "Substance use disorder treatment program" means an
23 organization, institution, or corporation, public or private, engaged
24 in the care, treatment, or rehabilitation of persons with substance
25 use disorders.

26 ~~((30))~~ (32) "Treatment" means the broad range of emergency,
27 withdrawal management, residential, and outpatient services and care,
28 including diagnostic evaluation, substance use disorder education and
29 counseling, medical, psychiatric, psychological, and social service
30 care, vocational rehabilitation and career counseling, which may be
31 extended to persons with substance use disorders and their families,
32 persons incapacitated by alcohol or other psychoactive chemicals, and
33 intoxicated persons.

34 ~~((31))~~ (33) "Violent act" means behavior that resulted in
35 homicide, attempted suicide, nonfatal injuries, or substantial damage
36 to property.

37 **Sec. 6003.** RCW 70.96A.095 and 1998 c 296 s 23 are each amended
38 to read as follows:

1 Any person thirteen years of age or older may give consent for
2 himself or herself to the furnishing of outpatient treatment by a
3 chemical dependency treatment program licensed or certified by the
4 department of health. Parental authorization is required for any
5 treatment of a minor under the age of thirteen.

6 **Sec. 6004.** RCW 70.96A.097 and 1998 c 296 s 28 are each amended
7 to read as follows:

8 (1) The ((~~department~~)) authority shall ensure that, for any minor
9 admitted to inpatient treatment under RCW 70.96A.245, a review is
10 conducted by a physician or chemical dependency counselor, as defined
11 in rule by the department of health, who is employed by the authority
12 or an agency under contract with the ((~~department~~)) authority and who
13 neither has a financial interest in continued inpatient treatment of
14 the minor nor is affiliated with the program providing the treatment.
15 The physician or chemical dependency counselor shall conduct the
16 review not less than seven nor more than fourteen days following the
17 date the minor was brought to the facility under RCW 70.96A.245(1) to
18 determine whether it is a medical necessity to continue the minor's
19 treatment on an inpatient basis.

20 (2) In making a determination under subsection (1) of this
21 section whether it is a medical necessity to release the minor from
22 inpatient treatment, the ((~~department~~)) authority shall consider the
23 opinion of the treatment provider, the safety of the minor, the
24 likelihood the minor's chemical dependency recovery will deteriorate
25 if released from inpatient treatment, and the wishes of the parent.

26 (3) If, after any review conducted by the ((~~department~~))
27 authority under this section, the ((~~department~~)) authority determines
28 it is no longer a medical necessity for a minor to receive inpatient
29 treatment, the ((~~department~~)) authority shall immediately notify the
30 parents and the professional person in charge. The professional
31 person in charge shall release the minor to the parents within
32 twenty-four hours of receiving notice. If the professional person in
33 charge and the parent believe that it is a medical necessity for the
34 minor to remain in inpatient treatment, the minor shall be released
35 to the parent on the second judicial day following the
36 ((~~department's~~)) authority's determination in order to allow the
37 parent time to file an at-risk youth petition under chapter 13.32A
38 RCW. If the ((~~department~~)) authority determines it is a medical
39 necessity for the minor to receive outpatient treatment and the minor

1 declines to obtain such treatment, such refusal shall be grounds for
2 the parent to file an at-risk youth petition.

3 (4) The ((~~department~~)) authority may, subject to available funds,
4 contract with other governmental agencies for the conduct of the
5 reviews conducted under this section and may seek reimbursement from
6 the parents, their insurance, or medicaid for the expense of any
7 review conducted by an agency under contract.

8 (5) In addition to the review required under this section, the
9 ((~~department~~)) authority may periodically determine and redetermine
10 the medical necessity of treatment for purposes of payment with
11 public funds.

12 **Sec. 6005.** RCW 70.96A.110 and 2014 c 225 s 28 are each amended
13 to read as follows:

14 (1) An individual with a substance use disorder may apply for
15 voluntary treatment directly to an approved treatment program. If the
16 proposed patient is a minor or an incompetent person, he or she, a
17 parent, a legal guardian, or other legal representative may make the
18 application.

19 (2) Subject to rules adopted by the ((~~secretary~~)) director, the
20 administrator in charge of an approved treatment program may
21 determine who shall be admitted for treatment. If a person is refused
22 admission to an approved treatment program, the administrator,
23 subject to rules adopted by the ((~~secretary~~)) director, shall refer
24 the person to another approved treatment program for treatment if
25 possible and appropriate.

26 (3) If a patient receiving inpatient care leaves an approved
27 treatment program, he or she shall be encouraged to consent to
28 appropriate outpatient treatment. If it appears to the administrator
29 in charge of the treatment program that the patient is an individual
30 with a substance use disorder who requires help, the ((~~department~~))
31 authority may arrange for assistance in obtaining supportive services
32 and residential programs.

33 (4) If a patient leaves an approved public treatment program,
34 with or against the advice of the administrator in charge of the
35 program, the ((~~department~~)) authority may make reasonable provisions
36 for his or her transportation to another program or to his or her
37 home. If the patient has no home he or she should be assisted in
38 obtaining shelter. If the patient is less than fourteen years of age
39 or an incompetent person the request for discharge from an inpatient

1 program shall be made by a parent, legal guardian, or other legal
2 representative or by the minor or incompetent if he or she was the
3 original applicant.

4 **Sec. 6006.** RCW 70.96A.120 and 1991 c 290 s 6 are each amended to
5 read as follows:

6 (1) An intoxicated person may come voluntarily to an approved
7 treatment program for treatment. A person who appears to be
8 intoxicated in a public place and to be in need of help, if he or she
9 consents to the proffered help, may be assisted to his or her home,
10 an approved treatment program or other health facility.

11 (2) Except for a person who may be apprehended for possible
12 violation of laws not relating to alcoholism, drug addiction, or
13 intoxication and except for a person who may be apprehended for
14 possible violation of laws relating to driving or being in physical
15 control of a vehicle while under the influence of intoxicating liquor
16 or any drug and except for a person who may wish to avail himself or
17 herself of the provisions of RCW 46.20.308, a person who appears to
18 be incapacitated or gravely disabled by alcohol or other drugs and
19 who is in a public place or who has threatened, attempted, or
20 inflicted physical harm on himself, herself, or another, shall be
21 taken into protective custody by a peace officer or staff designated
22 by the county or behavioral health organization and as soon as
23 practicable, but in no event beyond eight hours brought to an
24 approved treatment program for treatment. If no approved treatment
25 program is readily available he or she shall be taken to an emergency
26 medical service customarily used for incapacitated persons. The peace
27 officer or staff designated by the county or behavioral health
28 organization, in detaining the person and in taking him or her to an
29 approved treatment program, is taking him or her into protective
30 custody and shall make every reasonable effort to protect his or her
31 health and safety. In taking the person into protective custody, the
32 detaining peace officer or staff designated by the county or
33 behavioral health organization may take reasonable steps including
34 reasonable force if necessary to protect himself or herself or effect
35 the custody. A taking into protective custody under this section is
36 not an arrest. No entry or other record shall be made to indicate
37 that the person has been arrested or charged with a crime.

38 (3) A person who comes voluntarily or is brought to an approved
39 treatment program shall be examined by a qualified person. He or she

1 may then be admitted as a patient or referred to another health
2 facility, which provides emergency medical treatment, where it
3 appears that such treatment may be necessary. The referring approved
4 treatment program shall arrange for his or her transportation.

5 (4) A person who is found to be incapacitated or gravely disabled
6 by alcohol or other drugs at the time of his or her admission or to
7 have become incapacitated or gravely disabled at any time after his
8 or her admission, may not be detained at the program for more than
9 seventy-two hours after admission as a patient, unless a petition is
10 filed under RCW 70.96A.140, as now or hereafter amended: PROVIDED,
11 That the treatment personnel at an approved treatment program are
12 authorized to use such reasonable physical restraint as may be
13 necessary to retain an incapacitated or gravely disabled person for
14 up to seventy-two hours from the time of admission. The seventy-two
15 hour periods specified in this section shall be computed by excluding
16 Saturdays, Sundays, and holidays. A person may consent to remain in
17 the program as long as the physician in charge believes appropriate.

18 (5) A person who is not admitted to an approved treatment
19 program, is not referred to another health facility, and has no
20 funds, may be taken to his or her home, if any. If he or she has no
21 home, the approved treatment program shall provide him or her with
22 information and assistance to access available community shelter
23 resources.

24 (6) If a patient is admitted to an approved treatment program,
25 his or her family or next of kin shall be notified as promptly as
26 possible by the treatment program. If an adult patient who is not
27 incapacitated requests that there be no notification, his or her
28 request shall be respected.

29 (7) The peace officer, staff designated by the county or
30 behavioral health organization, or treatment facility personnel, who
31 act in compliance with this chapter and are performing in the course
32 of their official duty are not criminally or civilly liable therefor.

33 (8) If the person in charge of the approved treatment program
34 determines that appropriate treatment is available, the patient shall
35 be encouraged to agree to further diagnosis and appropriate voluntary
36 treatment.

37 **Sec. 6007.** RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each
38 amended to read as follows:

1 (1)(a) When a designated chemical dependency specialist receives
2 information alleging that a person presents a likelihood of serious
3 harm or is gravely disabled as a result of chemical dependency, the
4 designated chemical dependency specialist, after investigation and
5 evaluation of the specific facts alleged and of the reliability and
6 credibility of the information, may file a petition for commitment of
7 such person with the superior court, district court, or in another
8 court permitted by court rule.

9 If a petition for commitment is not filed in the case of a minor,
10 the parent, guardian, or custodian who has custody of the minor may
11 seek review of that decision made by the designated chemical
12 dependency specialist in superior or district court. The parent,
13 guardian, or custodian shall file notice with the court and provide a
14 copy of the designated chemical dependency specialist's report.

15 If the designated chemical dependency specialist finds that the
16 initial needs of such person would be better served by placement
17 within the mental health system, the person shall be referred to
18 either a designated mental health professional or an evaluation and
19 treatment facility as defined in RCW 71.05.020 or 71.34.020.

20 (b) If placement in a chemical dependency program is available
21 and deemed appropriate, the petition shall allege that: The person is
22 chemically dependent and presents a likelihood of serious harm or is
23 gravely disabled by alcohol or drug addiction, or that the person has
24 twice before in the preceding twelve months been admitted for
25 withdrawal management, sobering services, or chemical dependency
26 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of
27 a more sustained treatment program, or that the person is chemically
28 dependent and has threatened, attempted, or inflicted physical harm
29 on another and is likely to inflict physical harm on another unless
30 committed. A refusal to undergo treatment, by itself, does not
31 constitute evidence of lack of judgment as to the need for treatment.

32 (c) If involuntary detention is sought, the petition must state
33 facts that support a finding of the grounds identified in (b) of this
34 subsection and that there are no less restrictive alternatives to
35 detention in the best interest of such person or others. The petition
36 must state specifically that less restrictive alternative treatment
37 was considered and specify why treatment less restrictive than
38 detention is not appropriate. If an involuntary less restrictive
39 alternative is sought, the petition must state facts that support a

1 finding of the grounds for commitment identified in (b) of this
2 subsection and set forth the proposed less restrictive alternative.

3 (d)(i) The petition must be signed by:

4 (A) Two physicians;

5 (B) One physician and a mental health professional;

6 (C) One physician assistant and a mental health professional; or

7 (D) One psychiatric advanced registered nurse practitioner and a
8 mental health professional.

9 (ii) The persons signing the petition must have examined the
10 person.

11 (2) Upon filing the petition, the court shall fix a date for a
12 hearing no less than two and no more than seven days after the date
13 the petition was filed unless the person petitioned against is
14 presently being detained in a program, pursuant to RCW 70.96A.120,
15 71.05.210, or 71.34.710, in which case the hearing shall be held
16 within seventy-two hours of the filing of the petition: PROVIDED,
17 HOWEVER, That the above specified seventy-two hours shall be computed
18 by excluding Saturdays, Sundays, and holidays: PROVIDED FURTHER,
19 That, the court may, upon motion of the person whose commitment is
20 sought, or upon motion of petitioner with written permission of the
21 person whose commitment is sought, or his or her counsel and, upon
22 good cause shown, extend the date for the hearing. A copy of the
23 petition and of the notice of the hearing, including the date fixed
24 by the court, shall be served by the designated chemical dependency
25 specialist on the person whose commitment is sought, his or her next
26 of kin, a parent or his or her legal guardian if he or she is a
27 minor, and any other person the court believes advisable. A copy of
28 the petition and certificate shall be delivered to each person
29 notified.

30 (3) At the hearing the court shall hear all relevant testimony
31 including, if possible, the testimony, which may be telephonic, of at
32 least one licensed physician, psychiatric advanced registered nurse
33 practitioner, physician assistant, or mental health professional who
34 has examined the person whose commitment is sought. Communications
35 otherwise deemed privileged under the laws of this state are deemed
36 to be waived in proceedings under this chapter when a court of
37 competent jurisdiction in its discretion determines that the waiver
38 is necessary to protect either the detained person or the public. The
39 waiver of a privilege under this section is limited to records or
40 testimony relevant to evaluation of the detained person for purposes

1 of a proceeding under this chapter. Upon motion by the detained
2 person, or on its own motion, the court shall examine a record or
3 testimony sought by a petitioner to determine whether it is within
4 the scope of the waiver.

5 The record maker shall not be required to testify in order to
6 introduce medical, nursing, or psychological records of detained
7 persons so long as the requirements of RCW 5.45.020 are met, except
8 that portions of the record that contain opinions as to whether the
9 detained person is chemically dependent shall be deleted from the
10 records unless the person offering the opinions is available for
11 cross-examination. The person shall be present unless the court
12 believes that his or her presence is likely to be injurious to him or
13 her; in this event the court may deem it appropriate to appoint a
14 guardian ad litem to represent him or her throughout the proceeding.
15 If deemed advisable, the court may examine the person out of
16 courtroom. If the person has refused to be examined by a licensed
17 physician, psychiatric advanced registered nurse practitioner,
18 physician assistant, or mental health professional, he or she shall
19 be given an opportunity to be examined by a court appointed licensed
20 physician, psychiatric advanced registered nurse practitioner,
21 physician assistant, or other professional person qualified to
22 provide such services. If he or she refuses and there is sufficient
23 evidence to believe that the allegations of the petition are true, or
24 if the court believes that more medical evidence is necessary, the
25 court may make a temporary order committing him or her to the
26 (~~department~~) authority for a period of not more than five days for
27 purposes of a diagnostic examination.

28 (4)(a) If, after hearing all relevant evidence, including the
29 results of any diagnostic examination, the court finds that grounds
30 for involuntary commitment have been established by a preponderance
31 of the evidence and, after considering less restrictive alternatives
32 to involuntary detention and treatment, finds that no such
33 alternatives are in the best interest of the person or others, it
34 shall make an order of commitment to an approved substance use
35 disorder treatment program. It shall not order commitment of a person
36 unless it determines that an approved substance use disorder
37 treatment program is available and able to provide adequate and
38 appropriate treatment for him or her.

39 (b) If the court finds that the grounds for commitment have been
40 established by a preponderance of the evidence, but that treatment in

1 a less restrictive setting than detention is in the best interest of
2 such person or others, the court shall order an appropriate less
3 restrictive course of treatment. The less restrictive order may
4 impose treatment conditions and other conditions that are in the best
5 interest of the respondent and others. A copy of the less restrictive
6 order must be given to the respondent, the designated chemical
7 dependency specialist, and any program designated to provide less
8 restrictive treatment. If the program designated to provide the less
9 restrictive treatment is other than the program providing the initial
10 involuntary treatment, the program so designated must agree in
11 writing to assume such responsibility. The court may not order
12 commitment of a person to a less restrictive course of treatment
13 unless it determines that an approved substance use disorder
14 treatment program is available and able to provide adequate and
15 appropriate treatment for him or her.

16 (5) A person committed to inpatient treatment under this section
17 shall remain in the program for treatment for a period of fourteen
18 days unless sooner discharged. A person committed to a less
19 restrictive course of treatment under this section shall remain in
20 the program of treatment for a period of ninety days unless sooner
21 discharged. At the end of the fourteen-day period, or ninety-day
22 period in the case of a less restrictive alternative to inpatient
23 treatment, he or she shall be discharged automatically unless the
24 program or the designated chemical dependency specialist, before
25 expiration of the period, files a petition for his or her
26 recommitment upon the grounds set forth in subsection (1) of this
27 section for a further period of ninety days of inpatient treatment or
28 ninety days of less restrictive alternative treatment unless sooner
29 discharged. The petition for ninety-day inpatient or less restrictive
30 alternative treatment must be filed with the clerk of the court at
31 least three days before expiration of the fourteen-day period of
32 intensive treatment.

33 If a petition for recommitment is not filed in the case of a
34 minor, the parent, guardian, or custodian who has custody of the
35 minor may seek review of that decision made by the designated
36 chemical dependency specialist in superior or district court. The
37 parent, guardian, or custodian shall file notice with the court and
38 provide a copy of the treatment progress report.

39 If a person has been committed because he or she is chemically
40 dependent and likely to inflict physical harm on another, the program

1 or designated chemical dependency specialist shall apply for
2 recommitment if after examination it is determined that the
3 likelihood still exists.

4 (6) Upon the filing of a petition for recommitment under
5 subsection (5) of this section, the court shall fix a date for
6 hearing no less than two and no more than seven days after the date
7 the petition was filed: PROVIDED, That, the court may, upon motion of
8 the person whose commitment is sought and upon good cause shown,
9 extend the date for the hearing. A copy of the petition and of the
10 notice of hearing, including the date fixed by the court, shall be
11 served by the treatment program on the person whose commitment is
12 sought, his or her next of kin, the original petitioner under
13 subsection (1) of this section if different from the petitioner for
14 recommitment, one of his or her parents or his or her legal guardian
15 if he or she is a minor, and his or her attorney and any other person
16 the court believes advisable. At the hearing the court shall proceed
17 as provided in subsections (3) and (4) of this section, except that
18 the burden of proof upon a hearing for recommitment must be proof by
19 clear, cogent, and convincing evidence.

20 (7) The approved substance use disorder treatment program shall
21 provide for adequate and appropriate treatment of a person committed
22 to its custody on an inpatient or outpatient basis. A person
23 committed under this section may be transferred from one approved
24 public treatment program to another if transfer is medically
25 advisable.

26 (8) A person committed to a program for treatment shall be
27 discharged at any time before the end of the period for which he or
28 she has been committed and he or she shall be discharged by order of
29 the court if either of the following conditions are met:

30 (a) In case of a chemically dependent person committed on the
31 grounds of likelihood of infliction of physical harm upon himself,
32 herself, or another, the likelihood no longer exists; or further
33 treatment will not be likely to bring about significant improvement
34 in the person's condition, or treatment is no longer adequate or
35 appropriate.

36 (b) In case of a chemically dependent person committed on the
37 grounds of the need of treatment and incapacity, that the incapacity
38 no longer exists.

39 (9) The court shall inform the person whose commitment or
40 recommitment is sought of his or her right to contest the

1 application, be represented by counsel at every stage of any
2 proceedings relating to his or her commitment and recommitment, and
3 have counsel appointed by the court or provided by the court, if he
4 or she wants the assistance of counsel and is unable to obtain
5 counsel. If the court believes that the person needs the assistance
6 of counsel, the court shall require, by appointment if necessary,
7 counsel for him or her regardless of his or her wishes. The person
8 shall, if he or she is financially able, bear the costs of such legal
9 service; otherwise such legal service shall be at public expense. The
10 person whose commitment or recommitment is sought shall be informed
11 of his or her right to be examined by a licensed physician,
12 psychiatric advanced registered nurse practitioner, physician
13 assistant, or other professional person of his or her choice who is
14 qualified to provide such services. If the person is unable to obtain
15 a qualified person and requests an examination, the court shall
16 employ a licensed physician, psychiatric advanced registered nurse
17 practitioner, physician assistant, or other professional person to
18 conduct an examination and testify on behalf of the person.

19 (10) A person committed under this chapter may at any time seek
20 to be discharged from commitment by writ of habeas corpus in a court
21 of competent jurisdiction.

22 (11) The venue for proceedings under this section is the county
23 in which person to be committed resides or is present.

24 (12) When in the opinion of the professional person in charge of
25 the program providing involuntary inpatient treatment under this
26 chapter, the committed patient can be appropriately served by less
27 restrictive treatment before expiration of the period of commitment,
28 then the less restrictive care may be required as a condition for
29 early release for a period which, when added to the initial treatment
30 period, does not exceed the period of commitment. If the program
31 designated to provide the less restrictive treatment is other than
32 the program providing the initial involuntary treatment, the program
33 so designated must agree in writing to assume such responsibility. A
34 copy of the conditions for early release shall be given to the
35 patient, the designated chemical dependency specialist of original
36 commitment, and the court of original commitment. The program
37 designated to provide less restrictive care may modify the conditions
38 for continued release when the modifications are in the best
39 interests of the patient. If the program providing less restrictive
40 care and the designated chemical dependency specialist determine that

1 a conditionally released patient is failing to adhere to the terms
2 and conditions of his or her release, or that substantial
3 deterioration in the patient's functioning has occurred, then the
4 designated chemical dependency specialist shall notify the court of
5 original commitment and request a hearing to be held no less than two
6 and no more than seven days after the date of the request to
7 determine whether or not the person should be returned to more
8 restrictive care. The designated chemical dependency specialist shall
9 file a petition with the court stating the facts substantiating the
10 need for the hearing along with the treatment recommendations. The
11 patient shall have the same rights with respect to notice, hearing,
12 and counsel as for the original involuntary treatment proceedings.
13 The issues to be determined at the hearing are whether the
14 conditionally released patient did or did not adhere to the terms and
15 conditions of his or her release to less restrictive care or that
16 substantial deterioration of the patient's functioning has occurred
17 and whether the conditions of release should be modified or the
18 person should be returned to a more restrictive program. The hearing
19 may be waived by the patient and his or her counsel and his or her
20 guardian or conservator, if any, but may not be waived unless all
21 such persons agree to the waiver. Upon waiver, the person may be
22 returned for involuntary treatment or continued on conditional
23 release on the same or modified conditions. The grounds and
24 procedures for revocation of less restrictive alternative treatment
25 ordered by the court must be the same as those set forth in this
26 section for less restrictive care arranged by an approved substance
27 use disorder treatment program as a condition for early release.

28 **Sec. 6008.** RCW 70.96A.148 and 2001 c 13 s 4 are each amended to
29 read as follows:

30 The county alcoholism and other drug addiction program
31 coordinator or behavioral health organization may designate the
32 ((~~county~~)) designated mental health professional to perform the
33 detention and commitment duties described in RCW 70.96A.120 and
34 70.96A.140.

35 **Sec. 6009.** RCW 70.96A.160 and 1989 c 270 s 29 are each amended
36 to read as follows:

37 (1) Subject to reasonable rules regarding hours of visitation
38 which the secretary of health may adopt, patients in any approved

1 treatment program shall be granted opportunities for adequate
2 consultation with counsel, and for continuing contact with family and
3 friends consistent with an effective treatment program.

4 (2) Neither mail nor other communication to or from a patient in
5 any approved treatment program may be intercepted, read, or censored.
6 The secretary of health may adopt reasonable rules regarding the use
7 of telephone by patients in approved treatment programs.

8 **Sec. 6010.** RCW 70.96A.180 and 2012 c 117 s 413 are each amended
9 to read as follows:

10 (1) If treatment is provided by an approved treatment program and
11 the patient has not paid or is unable to pay the charge therefor, the
12 program is entitled to any payment (a) received by the patient or to
13 which he or she may be entitled because of the services rendered, and
14 (b) from any public or private source available to the program
15 because of the treatment provided to the patient.

16 (2) A patient in a program, or the estate of the patient, or a
17 person obligated to provide for the cost of treatment and having
18 sufficient financial ability, is liable to the program for cost of
19 maintenance and treatment of the patient therein in accordance with
20 rates established.

21 (3) The (~~secretary~~) director shall adopt rules governing
22 financial ability that take into consideration the income, savings,
23 and other personal and real property of the person required to pay,
24 and any support being furnished by him or her to any person he or she
25 is required by law to support.

26 **Sec. 6011.** RCW 70.96A.235 and 1998 c 296 s 25 are each amended
27 to read as follows:

28 Parental consent is required for inpatient chemical dependency
29 treatment of a minor, unless the child meets the definition of a
30 child in need of services in RCW 13.32A.030(~~(+4)~~) (5)(c) as
31 determined by the department: PROVIDED, That parental consent is
32 required for any treatment of a minor under the age of thirteen.

33 This section does not apply to petitions filed under this
34 chapter.

35 **Sec. 6012.** RCW 70.96A.240 and 1998 c 296 s 26 are each amended
36 to read as follows:

1 (1) The parent of a minor is not liable for payment of inpatient
2 or outpatient chemical dependency treatment unless the parent has
3 joined in the consent to the treatment.

4 (2) The ability of a parent to apply to a licensed or certified
5 treatment program for the admission of his or her minor child does
6 not create a right to obtain or benefit from any funds or resources
7 of the state. However, the state may provide services for indigent
8 minors to the extent that funds are available therefor.

9 **Sec. 6013.** RCW 70.96A.245 and 1998 c 296 s 27 are each amended
10 to read as follows:

11 (1) A parent may bring, or authorize the bringing of, his or her
12 minor child to a licensed or certified treatment program and request
13 that a chemical dependency assessment be conducted by a professional
14 person to determine whether the minor is chemically dependent and in
15 need of inpatient treatment.

16 (2) The consent of the minor is not required for admission,
17 evaluation, and treatment if the parent brings the minor to the
18 program.

19 (3) An appropriately trained professional person may evaluate
20 whether the minor is chemically dependent. The evaluation shall be
21 completed within twenty-four hours of the time the minor was brought
22 to the program, unless the professional person determines that the
23 condition of the minor necessitates additional time for evaluation.
24 In no event shall a minor be held longer than seventy-two hours for
25 evaluation. If, in the judgment of the professional person, it is
26 determined it is a medical necessity for the minor to receive
27 inpatient treatment, the minor may be held for treatment. The
28 facility shall limit treatment to that which the professional person
29 determines is medically necessary to stabilize the minor's condition
30 until the evaluation has been completed. Within twenty-four hours of
31 completion of the evaluation, the professional person shall notify
32 the ((~~department~~)) authority if the child is held for treatment and
33 of the date of admission.

34 (4) No provider is obligated to provide treatment to a minor
35 under the provisions of this section. No provider may admit a minor
36 to treatment under this section unless it is medically necessary.

37 (5) No minor receiving inpatient treatment under this section may
38 be discharged from the program based solely on his or her request.

1 **Sec. 6014.** RCW 70.96A.260 and 1998 c 296 s 31 are each amended
2 to read as follows:

3 If the minor is not released as a result of the petition filed
4 under RCW 70.96A.255, he or she shall be released not later than
5 thirty days following the later of: (1) The date of the
6 ((~~department's~~)) authority's determination under RCW 70.96A.097(2);
7 or (2) the filing of a petition for judicial review under RCW
8 70.96A.255, unless a professional person or the designated chemical
9 dependency specialist initiates proceedings under this chapter.

10 **Sec. 6015.** RCW 70.96A.265 and 1998 c 296 s 32 are each amended
11 to read as follows:

12 For purposes of eligibility for medical assistance under chapter
13 74.09 RCW, minors in inpatient chemical dependency treatment shall be
14 considered to be part of their parent's or legal guardian's
15 household, unless the minor has been assessed by the ((~~department~~))
16 authority or its designee as likely to require such treatment for at
17 least ninety consecutive days, or is in out-of-home care in
18 accordance with chapter 13.34 RCW, or the parents are found to not be
19 exercising responsibility for care and control of the minor. Payment
20 for such care by the ((~~department~~)) authority shall be made only in
21 accordance with rules, guidelines, and clinical criteria applicable
22 to inpatient treatment of minors established by the department.

23 **Sec. 6016.** RCW 70.96A.915 and 1989 c 271 s 309 are each amended
24 to read as follows:

25 The ((~~department~~)) authority is authorized to allocate
26 appropriated funds in the manner that it determines best meets the
27 purposes of this chapter. Nothing in this chapter shall be construed
28 to entitle any individual to services authorized in this chapter, or
29 to require the ((~~department~~)) authority or its contractors to
30 reallocate funds in order to ensure that services are available to
31 any eligible person upon demand.

32 **Sec. 6017.** RCW 70.96B.010 and 2014 c 225 s 74 are each amended
33 to read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Admission" or "admit" means a decision by a physician that a
37 person should be examined or treated as a patient in a hospital, an

1 evaluation and treatment facility, or other inpatient facility, or a
2 decision by a professional person in charge or his or her designee
3 that a person should be detained as a patient for evaluation and
4 treatment in a secure detoxification facility or other licensed or
5 certified chemical dependency provider.

6 (2) "Antipsychotic medications" means that class of drugs
7 primarily used to treat serious manifestations of mental illness
8 associated with thought disorders, which includes but is not limited
9 to atypical antipsychotic medications.

10 (3) "Approved treatment program" means a discrete program of
11 chemical dependency treatment provided by a treatment program
12 licensed or certified by the department of health as meeting
13 standards adopted under chapter 70.96A RCW.

14 (4) "Attending staff" means any person on the staff of a public
15 or private agency having responsibility for the care and treatment of
16 a patient.

17 (5) "Authority" means the health care authority.

18 (6) "Chemical dependency" means:

19 (a) Alcoholism;

20 (b) Drug addiction; or

21 (c) Dependence on alcohol and one or more other psychoactive
22 chemicals, as the context requires.

23 ~~((+6))~~ (7) "Chemical dependency professional" means a person
24 certified as a chemical dependency professional by the department of
25 health under chapter 18.205 RCW.

26 ~~((+7))~~ (8) "Commitment" means the determination by a court that
27 a person should be detained for a period of either evaluation or
28 treatment, or both, in an inpatient or a less restrictive setting.

29 ~~((+8))~~ (9) "Conditional release" means a revocable modification
30 of a commitment that may be revoked upon violation of any of its
31 terms.

32 ~~((+9))~~ (10) "Custody" means involuntary detention under either
33 chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any
34 period of unconditional release from commitment from a facility
35 providing involuntary care and treatment.

36 ~~((+10))~~ (11) "Department" means the department of social and
37 health services.

38 ~~((+11))~~ (12) "Designated chemical dependency specialist" or
39 "specialist" means a person designated by the county alcoholism and
40 other drug addiction program coordinator designated under RCW

1 70.96A.310 to perform the commitment duties described in RCW
2 70.96A.140 and this chapter, and qualified to do so by meeting
3 standards adopted by the (~~department~~) authority.

4 (~~(12)~~) (13) "Designated crisis responder" means a person
5 designated by the county or behavioral health organization to perform
6 the duties specified in this chapter.

7 (~~(13)~~) (14) "Designated mental health professional" means a
8 mental health professional designated by the county or (~~other~~
9 ~~authority authorized in rule~~) behavioral health organization to
10 perform the duties specified in this chapter.

11 (~~(14)~~) (15) "Detention" or "detain" means the lawful
12 confinement of a person under this chapter, or chapter 70.96A or
13 71.05 RCW.

14 (~~(15)~~) (16) "Developmental disabilities professional" means a
15 person who has specialized training and three years of experience in
16 directly treating or working with individuals with developmental
17 disabilities and is a psychiatrist, psychologist, or social worker,
18 and such other developmental disabilities professionals as may be
19 defined by rules adopted by the secretary of health.

20 (~~(16)~~) (17) "Developmental disability" means that condition
21 defined in RCW 71A.10.020.

22 (~~(17)~~) (18) "Director" means the director of the health care
23 authority.

24 (19) "Discharge" means the termination of facility authority. The
25 commitment may remain in place, be terminated, or be amended by court
26 order.

27 (~~(18)~~) (20) "Evaluation and treatment facility" means any
28 facility that can provide directly, or by direct arrangement with
29 other public or private agencies, emergency evaluation and treatment,
30 outpatient care, and timely and appropriate inpatient care to persons
31 suffering from a mental disorder, and that is licensed or certified
32 as such by the department of health. A physically separate and
33 separately operated portion of a state hospital may be designated as
34 an evaluation and treatment facility. A facility that is part of, or
35 operated by, the department or any federal agency does not require
36 certification. No correctional institution or facility, or jail, may
37 be an evaluation and treatment facility within the meaning of this
38 chapter.

39 (~~(19)~~) (21) "Facility" means either an evaluation and treatment
40 facility or a secure detoxification facility.

1 (~~(20)~~) (22) "Gravely disabled" means a condition in which a
2 person, as a result of a mental disorder, or as a result of the use
3 of alcohol or other psychoactive chemicals:

4 (a) Is in danger of serious physical harm resulting from a
5 failure to provide for his or her essential human needs of health or
6 safety; or

7 (b) Manifests severe deterioration in routine functioning
8 evidenced by repeated and escalating loss of cognitive or volitional
9 control over his or her actions and is not receiving such care as is
10 essential for his or her health or safety.

11 (~~(21)~~) (23) "History of one or more violent acts" refers to the
12 period of time ten years before the filing of a petition under this
13 chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent,
14 but not any violent acts committed, in a mental health facility or a
15 long-term alcoholism or drug treatment facility, or in confinement as
16 a result of a criminal conviction.

17 (~~(22)~~) (24) "Imminent" means the state or condition of being
18 likely to occur at any moment or near at hand, rather than distant or
19 remote.

20 (~~(23)~~) (25) "Intoxicated person" means a person whose mental or
21 physical functioning is substantially impaired as a result of the use
22 of alcohol or other psychoactive chemicals.

23 (~~(24)~~) (26) "Judicial commitment" means a commitment by a court
24 under this chapter.

25 (~~(25)~~) (27) "Licensed physician" means a person licensed to
26 practice medicine or osteopathic medicine and surgery in the state of
27 Washington.

28 (~~(26)~~) (28) "Likelihood of serious harm" means:

29 (a) A substantial risk that:

30 (i) Physical harm will be inflicted by a person upon his or her
31 own person, as evidenced by threats or attempts to commit suicide or
32 inflict physical harm on oneself;

33 (ii) Physical harm will be inflicted by a person upon another, as
34 evidenced by behavior that has caused such harm or that places
35 another person or persons in reasonable fear of sustaining such harm;
36 or

37 (iii) Physical harm will be inflicted by a person upon the
38 property of others, as evidenced by behavior that has caused
39 substantial loss or damage to the property of others; or

1 (b) The person has threatened the physical safety of another and
2 has a history of one or more violent acts.

3 ~~((27))~~ (29) "Mental disorder" means any organic, mental, or
4 emotional impairment that has substantial adverse effects on a
5 person's cognitive or volitional functions.

6 ~~((28))~~ (30) "Mental health professional" means a psychiatrist,
7 psychologist, psychiatric nurse, or social worker, and such other
8 mental health professionals as may be defined by rules adopted by the
9 secretary of health under the authority of chapter 71.05 RCW.

10 ~~((29))~~ (31) "Peace officer" means a law enforcement official of
11 a public agency or governmental unit, and includes persons
12 specifically given peace officer powers by any state law, local
13 ordinance, or judicial order of appointment.

14 ~~((30))~~ (32) "Person in charge" means a physician or chemical
15 dependency counselor as defined in rule by the department of health,
16 who is empowered by a licensed or certified treatment program with
17 authority to make assessment, admission, continuing care, and
18 discharge decisions on behalf of the licensed or certified program.

19 ~~((31))~~ (33) "Private agency" means any person, partnership,
20 corporation, or association that is not a public agency, whether or
21 not financed in whole or in part by public funds, that constitutes an
22 evaluation and treatment facility or private institution, or
23 hospital, or approved treatment program, that is conducted for, or
24 includes a department or ward conducted for, the care and treatment
25 of persons who are mentally ill and/or chemically dependent.

26 ~~((32))~~ (34) "Professional person" means a mental health
27 professional or chemical dependency professional and shall also mean
28 a physician, registered nurse, and such others as may be defined by
29 rules adopted by the secretary of health pursuant to the provisions
30 of this chapter.

31 ~~((33))~~ (35) "Psychiatrist" means a person having a license as a
32 physician and surgeon in this state who has in addition completed
33 three years of graduate training in psychiatry in a program approved
34 by the American medical association or the American osteopathic
35 association and is certified or eligible to be certified by the
36 American board of psychiatry and neurology.

37 ~~((34))~~ (36) "Psychologist" means a person who has been licensed
38 as a psychologist under chapter 18.83 RCW.

39 ~~((35))~~ (37) "Public agency" means any evaluation and treatment
40 facility or institution, or hospital, or approved treatment program

1 that is conducted for, or includes a department or ward conducted
2 for, the care and treatment of persons who are mentally ill and/or
3 chemically dependent, if the agency is operated directly by federal,
4 state, county, or municipal government, or a combination of such
5 governments.

6 ~~((+36+))~~ (38) "Registration records" means all the records of the
7 department, the authority, behavioral health organizations, treatment
8 facilities, and other persons providing services to the department,
9 the authority, county departments, or facilities which identify
10 persons who are receiving or who at any time have received services
11 for mental illness.

12 ~~((+37+))~~ (39) "Release" means legal termination of the commitment
13 under chapter 70.96A or 71.05 RCW or this chapter.

14 ~~((+38+))~~ (40) "Secretary" means the secretary of the department
15 or the secretary's designee.

16 ~~((+39+))~~ (41) "Secure detoxification facility" means a facility
17 operated by either a public or private agency or by the program of an
18 agency that serves the purpose of providing evaluation and
19 assessment, and acute and/or subacute detoxification services for
20 intoxicated persons and includes security measures sufficient to
21 protect the patients, staff, and community.

22 ~~((+40+))~~ (42) "Social worker" means a person with a master's or
23 further advanced degree from a social work educational program
24 accredited and approved as provided in RCW 18.320.010.

25 ~~((+41+))~~ (43) "Treatment records" means registration records and
26 all other records concerning persons who are receiving or who at any
27 time have received services for mental illness or chemical
28 dependency, which are maintained by the department, by the authority,
29 by behavioral health organizations and their staffs, and by treatment
30 facilities. Treatment records do not include notes or records
31 maintained for personal use by a person providing treatment services
32 for the department, the authority, behavioral health organizations,
33 or a treatment facility if the notes or records are not available to
34 others.

35 ~~((+42+))~~ (44) "Violent act" means behavior that resulted in
36 homicide, attempted suicide, nonfatal injuries, or substantial damage
37 to property.

38 **Sec. 6018.** RCW 70.96B.020 and 2014 c 225 s 75 are each amended
39 to read as follows:

1 (1) The ((~~secretary~~)) director, after consulting with the
2 Washington state association of counties, shall select and contract
3 with behavioral health organizations or counties to provide two
4 integrated crisis response and involuntary treatment pilot programs
5 for adults and shall allocate resources for both integrated services
6 and secure detoxification services in the pilot areas. In selecting
7 the two behavioral health organizations or counties, the
8 ((~~secretary~~)) director shall endeavor to site one in an urban and one
9 in a rural behavioral health organization or county; and to site them
10 in counties other than those selected pursuant to RCW ((~~70.96A.800~~))
11 71.24.620, to the extent necessary to facilitate evaluation of pilot
12 project results.

13 (2) The behavioral health organizations or counties shall
14 implement the pilot programs by providing integrated crisis response
15 and involuntary treatment to persons with a chemical dependency, a
16 mental disorder, or both, consistent with this chapter. The pilot
17 programs shall:

18 (a) Combine the crisis responder functions of a designated mental
19 health professional under chapter 71.05 RCW and a designated chemical
20 dependency specialist under chapter 70.96A RCW by establishing a new
21 designated crisis responder who is authorized to conduct
22 investigations and detain persons up to seventy-two hours to the
23 proper facility;

24 (b) Provide training to the crisis responders as required by the
25 ((~~department~~)) authority;

26 (c) Provide sufficient staff and resources to ensure availability
27 of an adequate number of crisis responders twenty-four hours a day,
28 seven days a week;

29 (d) Provide the administrative and court-related staff,
30 resources, and processes necessary to facilitate the legal
31 requirements of the initial detention and the commitment hearings for
32 persons with a chemical dependency;

33 (e) Participate in the evaluation and report to assess the
34 outcomes of the pilot programs including providing data and
35 information as requested;

36 (f) Provide the other services necessary to the implementation of
37 the pilot programs, consistent with this chapter as determined by the
38 ((~~secretary~~)) director in contract; and

1 (g) Collaborate with the department of corrections where persons
2 detained or committed are also subject to supervision by the
3 department of corrections.

4 (3) The pilot programs established by this section shall begin
5 providing services by March 1, 2006.

6 **Sec. 6019.** RCW 70.96B.030 and 2014 c 225 s 76 are each amended
7 to read as follows:

8 To qualify as a designated crisis responder, a person must have
9 received chemical dependency training as determined by the
10 ((department)) authority and be a:

11 (1) Psychiatrist, psychologist, psychiatric nurse, or social
12 worker;

13 (2) Person with a master's degree or further advanced degree in
14 counseling or one of the social sciences from an accredited college
15 or university and who have, in addition, at least two years of
16 experience in direct treatment of persons with mental illness or
17 emotional disturbance, such experience gained under the direction of
18 a mental health professional;

19 (3) Person who meets the waiver criteria of RCW 71.24.260, which
20 waiver was granted before 1986;

21 (4) Person who had an approved waiver to perform the duties of a
22 mental health professional that was requested by the behavioral
23 health organization and granted by the department before July 1,
24 2001; or

25 (5) Person who has been granted a time-limited exception of the
26 minimum requirements of a mental health professional by the
27 department of health consistent with rules adopted by the secretary
28 of health.

29 **Sec. 6020.** RCW 70.96B.045 and 2007 c 120 s 2 are each amended to
30 read as follows:

31 (1) If a designated crisis responder receives information
32 alleging that a person, as the result of:

33 (a) A mental disorder, presents an imminent likelihood of serious
34 harm, or is in imminent danger because of being gravely disabled,
35 after investigation and evaluation of the specific facts alleged and
36 of the reliability and credibility of the person or persons providing
37 the information if any, the designated crisis responder may take the
38 person, or cause by oral or written order the person to be taken into

1 emergency custody in an evaluation and treatment facility for not
2 more than seventy-two hours as described in this chapter; or

3 (b) Chemical dependency, presents an imminent likelihood of
4 serious harm, or is in imminent danger because of being gravely
5 disabled, after investigation and evaluation of the specific facts
6 alleged and of the reliability and credibility of the person or
7 persons providing the information if any, the designated crisis
8 responder may take the person, or cause by oral or written order the
9 person to be taken into emergency custody in a secure detoxification
10 facility for not more than seventy-two hours as described in this
11 chapter.

12 (2) The evaluation and treatment facility, the secure
13 detoxification facility, or other licensed or certified chemical
14 dependency provider shall then evaluate the person's condition and
15 admit, detain, transfer, or discharge such person in accordance with
16 this chapter. The facility shall notify in writing the court and the
17 designated crisis responder of the date and time of the initial
18 detention of each person involuntarily detained so that a probable
19 cause hearing will be held no later than seventy-two hours after
20 detention.

21 (3) A peace officer may take or cause the person to be taken into
22 custody and immediately delivered to an evaluation and treatment
23 facility, secure detoxification facility, or other licensed or
24 certified chemical dependency treatment provider: (a) Pursuant to
25 this section; or (b) when he or she has reasonable cause to believe
26 that such person, as a result of a mental disorder or chemical
27 dependency, presents an imminent likelihood of serious harm, or is in
28 imminent danger because of being gravely disabled. An individual
29 brought to a facility by a peace officer may be held for up to twelve
30 hours: PROVIDED, That the individual is examined by a designated
31 crisis responder within three hours of arrival. Within twelve hours
32 of arrival the designated crisis responder must determine whether the
33 individual meets detention criteria. If the individual is detained,
34 the designated mental health professional shall file a petition for
35 detention or supplemental petition as appropriate and commence
36 service on the designated attorney for the detained person.

37 (4) Nothing in this chapter limits the power of a peace officer
38 to take a person into custody and immediately deliver the person to
39 the emergency department of a local hospital or to a detoxification
40 facility.

1 **Sec. 6021.** RCW 70.96B.050 and 2008 c 320 s 5 are each amended to
2 read as follows:

3 (1) When a designated crisis responder receives information
4 alleging that a person, as a result of a mental disorder, chemical
5 dependency disorder, or both, presents a likelihood of serious harm
6 or is gravely disabled, the designated crisis responder may, after
7 investigation and evaluation of the specific facts alleged and of the
8 reliability and credibility of any person providing information to
9 initiate detention, if satisfied that the allegations are true and
10 that the person will not voluntarily seek appropriate treatment, file
11 a petition for initial detention. Before filing the petition, the
12 designated crisis responder must personally interview the person,
13 unless the person refuses an interview, and determine whether the
14 person will voluntarily receive appropriate evaluation and treatment
15 at either an evaluation and treatment facility, a detoxification
16 facility, or other licensed or certified chemical dependency
17 provider.

18 (2)(a) An order to detain to an evaluation and treatment
19 facility, a detoxification facility, or other licensed or certified
20 chemical dependency provider for not more than a seventy-two hour
21 evaluation and treatment period may be issued by a judge upon request
22 of a designated crisis responder: (i) Whenever it appears to the
23 satisfaction of a judge of the superior court, district court, or
24 other court permitted by court rule, that there is probable cause to
25 support the petition, and (ii) that the person has refused or failed
26 to accept appropriate evaluation and treatment voluntarily.

27 (b) The petition for initial detention, signed under penalty of
28 perjury or sworn telephonic testimony, may be considered by the court
29 in determining whether there are sufficient grounds for issuing the
30 order.

31 (c) The order shall designate retained counsel or, if counsel is
32 appointed from a list provided by the court, the name, business
33 address, and telephone number of the attorney appointed to represent
34 the person.

35 (3) The designated crisis responder shall then serve or cause to
36 be served on such person, his or her guardian, and conservator, if
37 any, a copy of the order to appear, together with a notice of rights
38 and a petition for initial detention. After service on the person,
39 the designated crisis responder shall file the return of service in
40 court and provide copies of all papers in the court file to the

1 evaluation and treatment facility or secure detoxification facility
2 and the designated attorney. The designated crisis responder shall
3 notify the court and the prosecuting attorney that a probable cause
4 hearing will be held within seventy-two hours of the date and time of
5 outpatient evaluation or admission to the evaluation and treatment
6 facility, secure detoxification facility, or other licensed or
7 certified chemical dependency provider. If requested by the detained
8 person or his or her attorney, the hearing may be postponed for a
9 period not to exceed forty-eight hours. The hearing may be continued
10 subject to the petitioner's showing of good cause for a period not to
11 exceed twenty-four hours. The person may be accompanied by one or
12 more of his or her relatives, friends, an attorney, a personal
13 physician, or other professional or religious advisor to the place of
14 evaluation. An attorney accompanying the person to the place of
15 evaluation shall be permitted to be present during the admission
16 evaluation. Any other person accompanying the person may be present
17 during the admission evaluation. The facility may exclude the person
18 if his or her presence would present a safety risk, delay the
19 proceedings, or otherwise interfere with the evaluation.

20 (4) The designated crisis responder may notify a peace officer to
21 take the person or cause the person to be taken into custody and
22 placed in an evaluation and treatment facility, a secure
23 detoxification facility, or other licensed or certified chemical
24 dependency provider. At the time the person is taken into custody
25 there shall commence to be served on the person, his or her guardian,
26 and conservator, if any, a copy of the original order together with a
27 notice of detention, a notice of rights, and a petition for initial
28 detention.

29 **Sec. 6022.** RCW 70.96B.070 and 2005 c 504 s 208 are each amended
30 to read as follows:

31 If the evaluation and treatment facility, secure detoxification
32 facility, or other licensed or certified chemical dependency provider
33 admits the person, it may detain the person for evaluation and
34 treatment for a period not to exceed seventy-two hours from the time
35 of acceptance. The computation of the seventy-two hour period
36 excludes Saturdays, Sundays, and holidays.

37 **Sec. 6023.** RCW 70.96B.090 and 2005 c 504 s 210 are each amended
38 to read as follows:

1 (1) A person detained for seventy-two hour evaluation and
2 treatment under RCW 70.96B.050 or 70.96A.120 may be detained for not
3 more than fourteen additional days of involuntary chemical dependency
4 treatment if there are beds available at the secure detoxification
5 facility and the following conditions are met:

6 (a) The professional person in charge of the agency or facility
7 or the person's designee providing evaluation and treatment services
8 in a secure detoxification facility has assessed the person's
9 condition and finds that the condition is caused by chemical
10 dependency and either results in a likelihood of serious harm or in
11 the detained person being gravely disabled, and the professional
12 person or his or her designee is prepared to testify those conditions
13 are met;

14 (b) The person has been advised of the need for voluntary
15 treatment and the professional person in charge of the agency or
16 facility or his or her designee has evidence that he or she has not
17 in good faith volunteered for treatment; and

18 (c) The professional person in charge of the agency or facility
19 or the person's designee has filed a petition for fourteen-day
20 involuntary detention with the superior court, district court, or
21 other court permitted by court rule. The petition must be signed by
22 the chemical dependency professional who has examined the person.

23 (2) The petition under subsection (1)(c) of this section shall be
24 accompanied by a certificate of a licensed physician who has examined
25 the person, unless the person whose commitment is sought has refused
26 to submit to a medical examination, in which case the fact of refusal
27 shall be alleged in the petition. The certificate shall set forth the
28 licensed physician's findings in support of the allegations of the
29 petition. A physician employed by the petitioning program or the
30 (~~department~~) authority is eligible to be the certifying physician.

31 (3) The petition shall state facts that support the finding that
32 the person, as a result of chemical dependency, presents a likelihood
33 of serious harm or is gravely disabled, and that there are no less
34 restrictive alternatives to detention in the best interest of the
35 person or others. The petition shall state specifically that less
36 restrictive alternative treatment was considered and specify why
37 treatment less restrictive than detention is not appropriate.

38 (4) A copy of the petition shall be served on the detained
39 person, his or her attorney, and his or her guardian or conservator,
40 if any, before the probable cause hearing.

1 (5)(a) The court shall inform the person whose commitment is
2 sought of his or her right to contest the petition, be represented by
3 counsel at every stage of any proceedings relating to his or her
4 commitment, and have counsel appointed by the court or provided by
5 the court, if he or she wants the assistance of counsel and is unable
6 to obtain counsel. If the court believes that the person needs the
7 assistance of counsel, the court shall require, by appointment if
8 necessary, counsel for him or her regardless of his or her wishes.
9 The person shall, if he or she is financially able, bear the costs of
10 such legal service; otherwise such legal service shall be at public
11 expense. The person whose commitment is sought shall be informed of
12 his or her right to be examined by a licensed physician of his or her
13 choice. If the person is unable to obtain a licensed physician and
14 requests examination by a physician, the court shall appoint a
15 reasonably available licensed physician designated by the person.

16 (b) At the conclusion of the probable cause hearing, if the court
17 finds by a preponderance of the evidence that the person, as the
18 result of chemical dependency, presents a likelihood of serious harm
19 or is gravely disabled and, after considering less restrictive
20 alternatives to involuntary detention and treatment, finds that no
21 such alternatives are in the best interest of such person or others,
22 the court shall order that the person be detained for involuntary
23 chemical dependency treatment not to exceed fourteen days in a secure
24 detoxification facility.

25 **Sec. 6024.** RCW 70.96B.140 and 2005 c 504 s 215 are each amended
26 to read as follows:

27 The ((secretary)) director may adopt rules to implement this
28 chapter.

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 2012 c 87 s 23 are each amended to
4 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 state employees' insurance benefits and retired or
17 disabled school employees' insurance benefits; administer the basic
18 health plan pursuant to chapter 70.47 RCW; administer the children's
19 health program pursuant to chapter 74.09 RCW; study state purchased
20 health care programs in order to maximize cost containment in these
21 programs while ensuring access to quality health care; implement
22 state initiatives, joint purchasing strategies, and techniques for
23 efficient administration that have potential application to all
24 state-purchased health services; and administer grants that further
25 the mission and goals of the authority. The authority's duties
26 include, but are not limited to, the following:

27 (a) To administer health care benefit programs for employees and
28 retired or disabled school employees as specifically authorized in
29 RCW 41.05.065 and in accordance with the methods described in RCW
30 41.05.075, 41.05.140, and other provisions of this chapter;

31 (b) To analyze state purchased health care programs and to
32 explore options for cost containment and delivery alternatives for
33 those programs that are consistent with the purposes of those
34 programs, including, but not limited to:

35 (i) Creation of economic incentives for the persons for whom the
36 state purchases health care to appropriately utilize and purchase
37 health care services, including the development of flexible benefit
38 plans to offset increases in individual financial responsibility;

1 (ii) Utilization of provider arrangements that encourage cost
2 containment, including but not limited to prepaid delivery systems,
3 utilization review, and prospective payment methods, and that ensure
4 access to quality care, including assuring reasonable access to local
5 providers, especially for employees residing in rural areas;

6 (iii) Coordination of state agency efforts to purchase drugs
7 effectively as provided in RCW 70.14.050;

8 (iv) Development of recommendations and methods for purchasing
9 medical equipment and supporting services on a volume discount basis;

10 (v) Development of data systems to obtain utilization data from
11 state purchased health care programs in order to identify cost
12 centers, utilization patterns, provider and hospital practice
13 patterns, and procedure costs, utilizing the information obtained
14 pursuant to RCW 41.05.031; and

15 (vi) In collaboration with other state agencies that administer
16 state purchased health care programs, private health care purchasers,
17 health care facilities, providers, and carriers:

18 (A) Use evidence-based medicine principles to develop common
19 performance measures and implement financial incentives in contracts
20 with insuring entities, health care facilities, and providers that:

21 (I) Reward improvements in health outcomes for individuals with
22 chronic diseases, increased utilization of appropriate preventive
23 health services, and reductions in medical errors; and

24 (II) Increase, through appropriate incentives to insuring
25 entities, health care facilities, and providers, the adoption and use
26 of information technology that contributes to improved health
27 outcomes, better coordination of care, and decreased medical errors;

28 (B) Through state health purchasing, reimbursement, or pilot
29 strategies, promote and increase the adoption of health information
30 technology systems, including electronic medical records, by
31 hospitals as defined in RCW 70.41.020(~~(+4)~~) (7), integrated delivery
32 systems, and providers that:

33 (I) Facilitate diagnosis or treatment;

34 (II) Reduce unnecessary duplication of medical tests;

35 (III) Promote efficient electronic physician order entry;

36 (IV) Increase access to health information for consumers and
37 their providers; and

38 (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;

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) To publish and distribute to nonparticipating school
5 districts and educational service districts by October 1st of each
6 year a description of health care benefit plans available through the
7 authority and the estimated cost if school districts and educational
8 service district employees were enrolled;

9 (j) To apply for, receive, and accept grants, gifts, and other
10 payments, including property and service, from any governmental or
11 other public or private entity or person, and make arrangements as to
12 the use of these receipts to implement initiatives and strategies
13 developed under this section;

14 (k) To issue, distribute, and administer grants that further the
15 mission and goals of the authority;

16 (l) To adopt rules consistent with this chapter as described in
17 RCW 41.05.160 including, but not limited to:

18 (i) Setting forth the criteria established by the board under RCW
19 41.05.065 for determining whether an employee is eligible for
20 benefits;

21 (ii) Establishing an appeal process in accordance with chapter
22 34.05 RCW by which an employee may appeal an eligibility
23 determination;

24 (iii) Establishing a process to assure that the eligibility
25 determinations of an employing agency comply with the criteria under
26 this chapter, including the imposition of penalties as may be
27 authorized by the board;

28 (m)(i) To administer the medical services programs established
29 under chapter 74.09 RCW as the designated single state agency for
30 purposes of Title XIX of the federal social security act;

31 (ii) To administer the state children's health insurance program
32 under chapter 74.09 RCW for purposes of Title XXI of the federal
33 social security act;

34 (iii) To enter into agreements with the department of social and
35 health services for administration of medical care services programs
36 under Titles XIX and XXI of the social security act and programs
37 under chapters 71.05, 71.24, and 71.34 RCW. The agreements shall
38 establish the division of responsibilities between the authority and
39 the department with respect to mental health, chemical dependency,
40 and long-term care services, including services for persons with

1 developmental disabilities. The agreements shall be revised as
2 necessary, to comply with the final implementation plan adopted under
3 section 116, chapter 15, Laws of 2011 1st sp. sess.;

4 (iv) To adopt rules to carry out the purposes of chapter 74.09
5 RCW;

6 (v) To appoint such advisory committees or councils as may be
7 required by any federal statute or regulation as a condition to the
8 receipt of federal funds by the authority. The director may appoint
9 statewide committees or councils in the following subject areas: (A)
10 Health facilities; (B) children and youth services; (C) blind
11 services; (D) medical and health care; (E) drug abuse and alcoholism;
12 (F) rehabilitative services; and (G) such other subject matters as
13 are or come within the authority's responsibilities. The statewide
14 councils shall have representation from both major political parties
15 and shall have substantial consumer representation. Such committees
16 or councils shall be constituted as required by federal law or as the
17 director in his or her discretion may determine. The members of the
18 committees or councils shall hold office for three years except in
19 the case of a vacancy, in which event appointment shall be only for
20 the remainder of the unexpired term for which the vacancy occurs. No
21 member shall serve more than two consecutive terms. Members of such
22 state advisory committees or councils may be paid their travel
23 expenses in accordance with RCW 43.03.050 and 43.03.060 as now
24 existing or hereafter amended;

25 (n) To review and approve or deny the application from the
26 governing board of the Washington health benefit exchange to provide
27 state-sponsored insurance or self-insurance programs to employees of
28 the exchange. The authority shall (i) establish the conditions for
29 participation; (ii) have the sole right to reject an application; and
30 (iii) set the premium contribution for approved groups as outlined in
31 RCW 41.05.050.

32 (2) On and after January 1, 1996, the public employees' benefits
33 board may implement strategies to promote managed competition among
34 employee health benefit plans. Strategies may include but are not
35 limited to:

36 (a) Standardizing the benefit package;

37 (b) Soliciting competitive bids for the benefit package;

38 (c) Limiting the state's contribution to a percent of the lowest
39 priced qualified plan within a geographical area;

1 (d) Monitoring the impact of the approach under this subsection
2 with regards to: Efficiencies in health service delivery, cost shifts
3 to subscribers, access to and choice of managed care plans statewide,
4 and quality of health services. The health care authority shall also
5 advise on the value of administering a benchmark employer-managed
6 plan to promote competition among managed care plans.

7 **Sec. 7003.** RCW 41.05A.005 and 2011 1st sp.s. c 15 s 88 are each
8 amended to read as follows:

9 The purpose of this chapter is to provide the health care
10 authority with the powers, duties, and authority with respect to the
11 collection of overpayments and the coordination of benefits that are
12 currently provided to the department of social and health services in
13 chapter 43.20B RCW. Providing the health care authority with these
14 powers is necessary for the authority to administer medical services
15 programs established under chapter 74.09 RCW currently administered
16 by the department of social and health services programs but
17 transferred to the authority under chapter 15, Laws of 2011 1st sp.
18 sess., and programs transferred to the authority under chapter . . . ,
19 Laws of 2017 (this act). The authority is authorized to collaborate
20 with other state agencies in carrying out its duties under this
21 chapter and, to the extent appropriate, may enter into agreements
22 with such other agencies. Nothing in this chapter may be construed as
23 diminishing the powers, duties, and authority granted to the
24 department of social and health services in chapter 43.20B RCW with
25 respect to the programs that will remain under its jurisdiction
26 following enactment of chapter 15, Laws of 2011 1st sp. sess. and
27 chapter . . . , Laws of 2017 (this act).

28 **Sec. 7004.** RCW 74.09.050 and 2011 1st sp.s. c 15 s 5 are each
29 amended to read as follows:

30 (1) The director shall appoint such professional personnel and
31 other assistants and employees, including professional medical
32 screeners, as may be reasonably necessary to carry out the provisions
33 of this chapter or other applicable law. The medical screeners shall
34 be supervised by one or more physicians who shall be appointed by the
35 director or his or her designee. The director shall appoint a medical
36 director who is licensed under chapter 18.57 or 18.71 RCW.

37 (2) Whenever the director's authority is not specifically limited
38 by law, he or she has complete charge and supervisory powers over the

1 authority. The director is authorized to create such administrative
2 structures as deemed appropriate, except as otherwise specified by
3 law. The director has the power to employ such assistants and
4 personnel as may be necessary for the general administration of the
5 authority. Except as elsewhere specified, such employment must be in
6 accordance with the rules of the state civil service law, chapter
7 41.06 RCW.

8 **Sec. 7005.** RCW 74.09.055 and 2011 1st sp.s. c 15 s 6 are each
9 amended to read as follows:

10 The authority is authorized to establish copayment, deductible,
11 or coinsurance, or other cost-sharing requirements for recipients of
12 any medical programs defined in RCW 74.09.010 or other applicable
13 law, except that premiums shall not be imposed on children in
14 households at or below two hundred percent of the federal poverty
15 level.

16 **Sec. 7006.** RCW 74.09.080 and 2011 1st sp.s. c 15 s 8 are each
17 amended to read as follows:

18 In carrying out the administrative responsibility of this chapter
19 or other applicable law, the department or authority, as appropriate:

20 (1) May contract with an individual or a group, may utilize
21 existing local state public assistance offices, or establish separate
22 welfare medical care offices on a county or multicounty unit basis as
23 found necessary; and

24 (2) Shall determine both financial and functional eligibility for
25 persons applying for long-term care services under chapter 74.39 or
26 74.39A RCW as a unified process in a single long-term care
27 organizational unit.

28 **Sec. 7007.** RCW 74.09.120 and 2012 c 10 s 60 are each amended to
29 read as follows:

30 (1) The department shall purchase nursing home care by contract
31 and payment for the care shall be in accordance with the provisions
32 of chapter 74.46 RCW and rules adopted by the department. No payment
33 shall be made to a nursing home which does not permit inspection by
34 the authority and the department of every part of its premises and an
35 examination of all records, including financial records, methods of
36 administration, general and special dietary programs, the
37 disbursement of drugs and methods of supply, and any other records

1 the authority or the department deems relevant to the regulation of
2 nursing home operations, enforcement of standards for resident care,
3 and payment for nursing home services.

4 (2) The department may purchase nursing home care by contract in
5 veterans' homes operated by the state department of veterans affairs
6 and payment for the care shall be in accordance with the provisions
7 of chapter 74.46 RCW and rules adopted by the department under the
8 authority of RCW 74.46.800.

9 (3) The department may purchase care in institutions for persons
10 with intellectual disabilities, also known as intermediate care
11 facilities for persons with intellectual disabilities. The department
12 shall establish rules for reasonable accounting and reimbursement
13 systems for such care. Institutions for persons with intellectual
14 disabilities include licensed nursing homes, public institutions,
15 licensed assisted living facilities with fifteen beds or less, and
16 hospital facilities certified as intermediate care facilities for
17 persons with intellectual disabilities under the federal medicaid
18 program to provide health, habilitative, or rehabilitative services
19 and twenty-four hour supervision for persons with intellectual
20 disabilities or related conditions and includes in the program
21 "active treatment" as federally defined.

22 (4) The department may purchase care in institutions for mental
23 diseases by contract. The department shall establish rules for
24 reasonable accounting and reimbursement systems for such care.
25 Institutions for mental diseases are certified under the federal
26 medicaid program and primarily engaged in providing diagnosis,
27 treatment, or care to persons with mental diseases, including medical
28 attention, nursing care, and related services.

29 (5) Both the department and the authority may each purchase all
30 other services provided under this chapter or other applicable law by
31 contract or at rates established by the department or the authority
32 respectively.

33 **Sec. 7008.** RCW 74.09.160 and 2011 1st sp.s. c 15 s 10 are each
34 amended to read as follows:

35 Each vendor or group who has a contract and is rendering service
36 to eligible persons as defined in this chapter or other applicable
37 law shall submit such charges as agreed upon between the department
38 or authority, as appropriate, and the individual or group no later
39 than twelve months from the date of service. If the final charges are

1 not presented within the twelve-month period, they shall not be a
2 charge against the state. Said twelve-month period may also be
3 extended by regulation, but only if required by applicable federal
4 law or regulation, and to no more than the extension of time so
5 required.

6 **Sec. 7009.** RCW 74.09.210 and 2013 c 23 s 202 are each amended to
7 read as follows:

8 (1) No person, firm, corporation, partnership, association,
9 agency, institution, or other legal entity, but not including an
10 individual public assistance recipient of health care, shall, on
11 behalf of himself or herself or others, obtain or attempt to obtain
12 benefits or payments under this chapter or other applicable law in a
13 greater amount than that to which entitled by means of:

14 (a) A willful false statement;

15 (b) By willful misrepresentation, or by concealment of any
16 material facts; or

17 (c) By other fraudulent scheme or device, including, but not
18 limited to:

19 (i) Billing for services, drugs, supplies, or equipment that were
20 unfurnished, of lower quality, or a substitution or misrepresentation
21 of items billed; or

22 (ii) Repeated billing for purportedly covered items, which were
23 not in fact so covered.

24 (2) Any person or entity knowingly violating any of the
25 provisions of subsection (1) of this section shall be liable for
26 repayment of any excess benefits or payments received, plus interest
27 at the rate and in the manner provided in RCW 43.20B.695. Such person
28 or other entity shall further, in addition to any other penalties
29 provided by law, be subject to civil penalties. The director or the
30 attorney general may assess civil penalties in an amount not to
31 exceed three times the amount of such excess benefits or payments:
32 PROVIDED, That these civil penalties shall not apply to any acts or
33 omissions occurring prior to September 1, 1979. RCW 43.20A.215
34 governs notice of a civil fine assessed by the director and provides
35 the right to an adjudicative proceeding.

36 (3) A criminal action need not be brought against a person for
37 that person to be civilly liable under this section.

38 (4) In all administrative proceedings under this section,
39 service, adjudicative proceedings, and judicial review of such

1 determinations shall be in accordance with chapter 34.05 RCW, the
2 administrative procedure act.

3 (5) Civil penalties shall be deposited upon their receipt into
4 the medicaid fraud penalty account established in RCW 74.09.215.

5 (6) The attorney general may contract with private attorneys and
6 local governments in bringing actions under this section as
7 necessary.

8 **Sec. 7010.** RCW 74.09.220 and 1987 c 283 s 8 are each amended to
9 read as follows:

10 Any person, firm, corporation, partnership, association, agency,
11 institution or other legal entity, but not including an individual
12 public assistance recipient of health care, that, without intent to
13 violate this chapter or other applicable law, obtains benefits or
14 payments under this code to which such person or entity is not
15 entitled, or in a greater amount than that to which entitled, shall
16 be liable for (1) any excess benefits or payments received, and (2)
17 interest calculated at the rate and in the manner provided in RCW
18 43.20B.695. Whenever a penalty is due under RCW 74.09.210 or interest
19 is due under RCW 43.20B.695, such penalty or interest shall not be
20 reimbursable by the state as an allowable cost under any of the
21 provisions of this chapter or other applicable law.

22 **Sec. 7011.** RCW 74.09.230 and 2013 c 23 s 203 are each amended to
23 read as follows:

24 Any person, including any corporation, that

25 (1) knowingly makes or causes to be made any false statement or
26 representation of a material fact in any application for any payment
27 under any medical care program authorized under this chapter or other
28 applicable law, or

29 (2) at any time knowingly makes or causes to be made any false
30 statement or representation of a material fact for use in determining
31 rights to such payment, or knowingly falsifies, conceals, or covers
32 up by any trick, scheme, or device a material fact in connection with
33 such application or payment, or

34 (3) having knowledge of the occurrence of any event affecting (a)
35 the initial or continued right to any payment, or (b) the initial or
36 continued right to any such payment of any other individual in whose
37 behalf he or she has applied for or is receiving such payment,
38 conceals or fails to disclose such event with an intent fraudulently

1 to secure such payment either in a greater amount or quantity than is
2 due or when no such payment is authorized,
3 shall be guilty of a class C felony: PROVIDED, That the fine, if
4 imposed, shall not be in an amount more than twenty-five thousand
5 dollars, except as authorized by RCW 9A.20.030.

6 **Sec. 7012.** RCW 74.09.240 and 2011 1st sp.s. c 15 s 16 are each
7 amended to read as follows:

8 (1) Any person, including any corporation, that solicits or
9 receives any remuneration (including any kickback, bribe, or rebate)
10 directly or indirectly, overtly or covertly, in cash or in kind

11 (a) in return for referring an individual to a person for the
12 furnishing or arranging for the furnishing of any item or service for
13 which payment may be made in whole or in part under this chapter or
14 other applicable law, or

15 (b) in return for purchasing, leasing, ordering, or arranging for
16 or recommending purchasing, leasing, or ordering any goods, facility,
17 service, or item for which payment may be made in whole or in part
18 under this chapter or other applicable law,
19 shall be guilty of a class C felony; however, the fine, if imposed,
20 shall not be in an amount more than twenty-five thousand dollars,
21 except as authorized by RCW 9A.20.030.

22 (2) Any person, including any corporation, that offers or pays
23 any remuneration (including any kickback, bribe, or rebate) directly
24 or indirectly, overtly or covertly, in cash or in kind to any person
25 to induce such person

26 (a) to refer an individual to a person for the furnishing or
27 arranging for the furnishing of any item or service for which payment
28 may be made, in whole or in part, under this chapter or other
29 applicable law, or

30 (b) to purchase, lease, order, or arrange for or recommend
31 purchasing, leasing, or ordering any goods, facility, service, or
32 item for which payment may be made in whole or in part under this
33 chapter or other applicable law,
34 shall be guilty of a class C felony; however, the fine, if imposed,
35 shall not be in an amount more than twenty-five thousand dollars,
36 except as authorized by RCW 9A.20.030.

37 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are
38 prohibited from self-referring any client eligible under this chapter
39 for the following designated health services to a facility in which

1 the physician or an immediate family member has a financial
2 relationship:

- 3 (i) Clinical laboratory services;
- 4 (ii) Physical therapy services;
- 5 (iii) Occupational therapy services;
- 6 (iv) Radiology including magnetic resonance imaging, computerized
7 axial tomography, and ultrasound services;
- 8 (v) Durable medical equipment and supplies;
- 9 (vi) Parenteral and enteral nutrients equipment and supplies;
- 10 (vii) Prosthetics, orthotics, and prosthetic devices;
- 11 (viii) Home health services;
- 12 (ix) Outpatient prescription drugs;
- 13 (x) Inpatient and outpatient hospital services;
- 14 (xi) Radiation therapy services and supplies.

15 (b) For purposes of this subsection, "financial relationship"
16 means the relationship between a physician and an entity that
17 includes either:

- 18 (i) An ownership or investment interest; or
- 19 (ii) A compensation arrangement.

20 For purposes of this subsection, "compensation arrangement" means
21 an arrangement involving remuneration between a physician, or an
22 immediate family member of a physician, and an entity.

23 (c) The department or authority, as appropriate, is authorized to
24 adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23,
25 1995.

26 (d) This section shall not apply in any case covered by a general
27 exception specified in 42 U.S.C. Sec. 1395 nn.

28 (4) Subsections (1) and (2) of this section shall not apply to:

29 (a) A discount or other reduction in price obtained by a provider
30 of services or other entity under this chapter or other applicable
31 law if the reduction in price is properly disclosed and appropriately
32 reflected in the costs claimed or charges made by the provider or
33 entity under this chapter or other applicable law; and

34 (b) Any amount paid by an employer to an employee (who has a bona
35 fide employment relationship with such employer) for employment in
36 the provision of covered items or services.

37 (5) Subsections (1) and (2) of this section, if applicable to the
38 conduct involved, shall supersede the criminal provisions of chapter
39 19.68 RCW, but shall not preclude administrative proceedings
40 authorized by chapter 19.68 RCW.

1 **Sec. 7013.** RCW 74.09.260 and 2011 1st sp.s. c 15 s 17 are each
2 amended to read as follows:

3 Any person, including any corporation, that knowingly:

4 (1) Charges, for any service provided to a patient under any
5 medical care plan authorized under this chapter or other applicable
6 law, money or other consideration at a rate in excess of the rates
7 established by the department or authority, as appropriate; or

8 (2) Charges, solicits, accepts, or receives, in addition to any
9 amount otherwise required to be paid under such plan, any gift,
10 money, donation, or other consideration (other than a charitable,
11 religious, or philanthropic contribution from an organization or from
12 a person unrelated to the patient):

13 (a) As a precondition of admitting a patient to a hospital or
14 nursing facility; or

15 (b) As a requirement for the patient's continued stay in such
16 facility,
17 when the cost of the services provided therein to the patient is paid
18 for, in whole or in part, under such plan, shall be guilty of a class
19 C felony: PROVIDED, That the fine, if imposed, shall not be in an
20 amount more than twenty-five thousand dollars, except as authorized
21 by RCW 9A.20.030.

22 **Sec. 7014.** RCW 74.09.280 and 2011 1st sp.s. c 15 s 18 are each
23 amended to read as follows:

24 The secretary or director may by rule require that any
25 application, statement, or form filled out by suppliers of medical
26 care under this chapter or other applicable law shall contain or be
27 verified by a written statement that it is made under the penalties
28 of perjury and such declaration shall be in lieu of any oath
29 otherwise required, and each such paper shall in such event so state.
30 The making or subscribing of any such papers or forms containing any
31 false or misleading information may be prosecuted and punished under
32 chapter 9A.72 RCW.

33 **Sec. 7015.** RCW 74.09.290 and 2011 1st sp.s. c 15 s 19 are each
34 amended to read as follows:

35 The secretary or director shall have the authority to:

36 (1) Conduct audits and investigations of providers of medical and
37 other services furnished pursuant to this chapter or other applicable
38 law, except that the Washington state medical quality assurance

1 commission shall generally serve in an advisory capacity to the
2 secretary or director in the conduct of audits or investigations of
3 physicians. Any overpayment discovered as a result of an audit of a
4 provider under this authority shall be offset by any underpayments
5 discovered in that same audit sample. In order to determine the
6 provider's actual, usual, customary, or prevailing charges, the
7 secretary or director may examine such random representative records
8 as necessary to show accounts billed and accounts received except
9 that in the conduct of such examinations, patient names, other than
10 public assistance applicants or recipients, shall not be noted,
11 copied, or otherwise made available to the department or authority.
12 In order to verify costs incurred by the department or authority for
13 treatment of public assistance applicants or recipients, the
14 secretary or director may examine patient records or portions thereof
15 in connection with services to such applicants or recipients rendered
16 by a health care provider, notwithstanding the provisions of RCW
17 5.60.060, 18.53.200, 18.83.110, or any other statute which may make
18 or purport to make such records privileged or confidential: PROVIDED,
19 That no original patient records shall be removed from the premises
20 of the health care provider, and that the disclosure of any records
21 or information by the department or the authority is prohibited and
22 shall be punishable as a class C felony according to chapter 9A.20
23 RCW, unless such disclosure is directly connected to the official
24 purpose for which the records or information were obtained: PROVIDED
25 FURTHER, That the disclosure of patient information as required under
26 this section shall not subject any physician or other health services
27 provider to any liability for breach of any confidential relationship
28 between the provider and the patient, but no evidence resulting from
29 such disclosure may be used in any civil, administrative, or criminal
30 proceeding against the patient unless a waiver of the applicable
31 evidentiary privilege is obtained: PROVIDED FURTHER, That the
32 secretary or director shall destroy all copies of patient medical
33 records in their possession upon completion of the audit,
34 investigation or proceedings;

35 (2) Approve or deny applications to participate as a provider of
36 services furnished pursuant to this chapter or other applicable law;

37 (3) Terminate or suspend eligibility to participate as a provider
38 of services furnished pursuant to this chapter or other applicable
39 law; and

1 (4) Adopt, promulgate, amend, and repeal administrative rules, in
2 accordance with the administrative procedure act, chapter 34.05 RCW,
3 to carry out the policies and purposes of this section and RCW
4 74.09.200 through (~~74.09.290~~) 74.09.280.

5 **Sec. 7016.** RCW 74.09.315 and 2012 c 241 s 104 are each amended
6 to read as follows:

7 (1) For the purposes of this section:

8 (a) "Employer" means any person, firm, corporation, partnership,
9 association, agency, institution, or other legal entity.

10 (b) "Whistleblower" means an employee of an employer that obtains
11 or attempts to obtain benefits or payments under this chapter or
12 other applicable law in violation of RCW 74.09.210, who in good faith
13 reports a violation of RCW 74.09.210 to the authority.

14 (c) "Workplace reprisal or retaliatory action" includes, but is
15 not limited to: Denial of adequate staff to fulfill duties; frequent
16 staff changes; frequent and undesirable office changes; refusal to
17 assign meaningful work; unwarranted and unsubstantiated report of
18 misconduct under Title 18 RCW; unwarranted and unsubstantiated
19 letters of reprimand or unsatisfactory performance evaluations;
20 demotion; reduction in pay; denial of promotion; suspension;
21 dismissal; denial of employment; (~~or~~) a supervisor or superior
22 behaving in or encouraging coworkers to behave in a hostile manner
23 toward the whistleblower; or a change in the physical location of the
24 employee's workplace or a change in the basic nature of the
25 employee's job, if either are in opposition to the employee's
26 expressed wish.

27 (2) A whistleblower who has been subjected to workplace reprisal
28 or retaliatory action has the remedies provided under chapter 49.60
29 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to
30 persons who communicate to government agencies, apply to complaints
31 made under this section. The identity of a whistleblower who
32 complains, in good faith, to the authority about a suspected
33 violation of RCW 74.09.210 may remain confidential if requested. The
34 identity of the whistleblower must subsequently remain confidential
35 unless the authority determines that the complaint was not made in
36 good faith.

37 (3) This section does not prohibit an employer from exercising
38 its authority to terminate, suspend, or discipline an employee who
39 engages in workplace reprisal or retaliatory action against a

1 whistleblower. The protections provided to whistleblowers under this
2 chapter do not prevent an employer from: (a) Terminating, suspending,
3 or disciplining a whistleblower for other lawful purposes; or (b)
4 reducing the hours of employment or terminating employment as a
5 result of the demonstrated inability to meet payroll requirements.
6 The authority shall determine if the employer cannot meet payroll in
7 cases where a whistleblower has been terminated or had hours of
8 employment reduced due to the inability of a facility to meet
9 payroll.

10 (4) The authority shall adopt rules to implement procedures for
11 filing, investigation, and resolution of whistleblower complaints
12 that are integrated with complaint procedures under this chapter. The
13 authority shall adopt rules designed to discourage whistleblower
14 complaints made in bad faith or for retaliatory purposes.

15 **Sec. 7017.** RCW 74.09.325 and 2015 c 23 s 4 are each amended to
16 read as follows:

17 (1) Upon initiation or renewal of a contract with the Washington
18 state health care authority to administer a medicaid managed care
19 plan, a managed health care system shall reimburse a provider for a
20 health care service provided to a covered person through telemedicine
21 (~~(for)~~) or store and forward technology if:

22 (a) The medicaid managed care plan in which the covered person is
23 enrolled provides coverage of the health care service when provided
24 in person by the provider;

25 (b) The health care service is medically necessary; and

26 (c) The health care service is a service recognized as an
27 essential health benefit under section 1302(b) of the federal patient
28 protection and affordable care act in effect on January 1, 2017.

29 (2)(a) If the service is provided through store and forward
30 technology there must be an associated visit between the covered
31 person and the referring health care provider. Nothing in this
32 section prohibits the use of telemedicine for the associated office
33 visit.

34 (b) For purposes of this section, reimbursement of store and
35 forward technology is available only for those services specified in
36 the negotiated agreement between the managed health care system and
37 health care provider.

38 (3) An originating site for a telemedicine health care service
39 subject to subsection (1) of this section includes a:

- 1 (a) Hospital;
- 2 (b) Rural health clinic;
- 3 (c) Federally qualified health center;
- 4 (d) Physician's or other health care provider's office;
- 5 (e) Community mental health center;
- 6 (f) Skilled nursing facility; or
- 7 (g) Renal dialysis center, except an independent renal dialysis
- 8 center.

9 (4) Any originating site under subsection (3) of this section may
10 charge a facility fee for infrastructure and preparation of the
11 patient. Reimbursement must be subject to a negotiated agreement
12 between the originating site and the managed health care system. A
13 distant site or any other site not identified in subsection (3) of
14 this section may not charge a facility fee.

15 (5) A managed health care system may not distinguish between
16 originating sites that are rural and urban in providing the coverage
17 required in subsection (1) of this section.

18 (6) A managed health care system may subject coverage of a
19 telemedicine or store and forward technology health service under
20 subsection (1) of this section to all terms and conditions of the
21 plan in which the covered person is enrolled, including, but not
22 limited to, utilization review, prior authorization, deductible,
23 copayment, or coinsurance requirements that are applicable to
24 coverage of a comparable health care service provided in person.

25 (7) This section does not require a managed health care system to
26 reimburse:

- 27 (a) An originating site for professional fees;
- 28 (b) A provider for a health care service that is not a covered
- 29 benefit under the plan; or
- 30 (c) An originating site or health care provider when the site or
- 31 provider is not a contracted provider under the plan.

32 (8) For purposes of this section:

33 (a) "Distant site" means the site at which a physician or other
34 licensed provider, delivering a professional service, is physically
35 located at the time the service is provided through telemedicine;

36 (b) "Health care service" has the same meaning as in RCW
37 48.43.005;

38 (c) "Hospital" means a facility licensed under chapter 70.41,
39 71.12, or 72.23 RCW;

1 (d) "Managed health care system" means any health care
2 organization, including health care providers, insurers, health care
3 service contractors, health maintenance organizations, health
4 insuring organizations, or any combination thereof, that provides
5 directly or by contract health care services covered under this
6 chapter and rendered by licensed providers, on a prepaid capitated
7 basis and that meets the requirements of section 1903(m)(1)(A) of
8 Title XIX of the federal social security act or federal demonstration
9 waivers granted under section 1115(a) of Title XI of the federal
10 social security act;

11 (e) "Originating site" means the physical location of a patient
12 receiving health care services through telemedicine;

13 (f) "Provider" has the same meaning as in RCW 48.43.005;

14 (g) "Store and forward technology" means use of an asynchronous
15 transmission of a covered person's medical information from an
16 originating site to the health care provider at a distant site which
17 results in medical diagnosis and management of the covered person,
18 and does not include the use of audio-only telephone, facsimile, or
19 email; and

20 (h) "Telemedicine" means the delivery of health care services
21 through the use of interactive audio and video technology, permitting
22 real-time communication between the patient at the originating site
23 and the provider, for the purpose of diagnosis, consultation, or
24 treatment. For purposes of this section only, "telemedicine" does not
25 include the use of audio-only telephone, facsimile, or email.

26 (9) To measure the impact on access to care for underserved
27 communities and costs to the state and the medicaid managed health
28 care system for reimbursement of telemedicine services, the
29 Washington state health care authority, using existing data and
30 resources, shall provide a report to the appropriate policy and
31 fiscal committees of the legislature no later than December 31, 2018.

32 **Sec. 7018.** RCW 74.09.522 and 2015 c 256 s 1 are each amended to
33 read as follows:

34 (1) For the purposes of this section:

35 (a) "Managed health care system" means any health care
36 organization, including health care providers, insurers, health care
37 service contractors, health maintenance organizations, health
38 insuring organizations, or any combination thereof, that provides
39 directly or by contract health care services covered under this

1 chapter or other applicable law and rendered by licensed providers,
2 on a prepaid capitated basis and that meets the requirements of
3 section 1903(m)(1)(A) of Title XIX of the federal social security act
4 or federal demonstration waivers granted under section 1115(a) of
5 Title XI of the federal social security act;

6 (b) "Nonparticipating provider" means a person, health care
7 provider, practitioner, facility, or entity, acting within their
8 scope of practice, that does not have a written contract to
9 participate in a managed health care system's provider network, but
10 provides health care services to enrollees of programs authorized
11 under this chapter or other applicable law whose health care services
12 are provided by the managed health care system.

13 (2) The authority shall enter into agreements with managed health
14 care systems to provide health care services to recipients of
15 temporary assistance for needy families under the following
16 conditions:

17 (a) Agreements shall be made for at least thirty thousand
18 recipients statewide;

19 (b) Agreements in at least one county shall include enrollment of
20 all recipients of temporary assistance for needy families;

21 (c) To the extent that this provision is consistent with section
22 1903(m) of Title XIX of the federal social security act or federal
23 demonstration waivers granted under section 1115(a) of Title XI of
24 the federal social security act, recipients shall have a choice of
25 systems in which to enroll and shall have the right to terminate
26 their enrollment in a system: PROVIDED, That the authority may limit
27 recipient termination of enrollment without cause to the first month
28 of a period of enrollment, which period shall not exceed twelve
29 months: AND PROVIDED FURTHER, That the authority shall not restrict a
30 recipient's right to terminate enrollment in a system for good cause
31 as established by the authority by rule;

32 (d) To the extent that this provision is consistent with section
33 1903(m) of Title XIX of the federal social security act,
34 participating managed health care systems shall not enroll a
35 disproportionate number of medical assistance recipients within the
36 total numbers of persons served by the managed health care systems,
37 except as authorized by the authority under federal demonstration
38 waivers granted under section 1115(a) of Title XI of the federal
39 social security act;

1 (e)(i) In negotiating with managed health care systems the
2 authority shall adopt a uniform procedure to enter into contractual
3 arrangements, to be included in contracts issued or renewed on or
4 after January 1, 2015, including:

5 (A) Standards regarding the quality of services to be provided;

6 (B) The financial integrity of the responding system;

7 (C) Provider reimbursement methods that incentivize chronic care
8 management within health homes, including comprehensive medication
9 management services for patients with multiple chronic conditions
10 consistent with the findings and goals established in RCW 74.09.5223;

11 (D) Provider reimbursement methods that reward health homes that,
12 by using chronic care management, reduce emergency department and
13 inpatient use;

14 (E) Promoting provider participation in the program of training
15 and technical assistance regarding care of people with chronic
16 conditions described in RCW 43.70.533, including allocation of funds
17 to support provider participation in the training, unless the managed
18 care system is an integrated health delivery system that has programs
19 in place for chronic care management;

20 (F) Provider reimbursement methods within the medical billing
21 processes that incentivize pharmacists or other qualified providers
22 licensed in Washington state to provide comprehensive medication
23 management services consistent with the findings and goals
24 established in RCW 74.09.5223;

25 (G) Evaluation and reporting on the impact of comprehensive
26 medication management services on patient clinical outcomes and total
27 health care costs, including reductions in emergency department
28 utilization, hospitalization, and drug costs; and

29 (H) Established consistent processes to incentivize integration
30 of behavioral health services in the primary care setting, promoting
31 care that is integrated, collaborative, colocated, and preventive.

32 (ii)(A) Health home services contracted for under this subsection
33 may be prioritized to enrollees with complex, high cost, or multiple
34 chronic conditions.

35 (B) Contracts that include the items in (e)(i)(C) through (G) of
36 this subsection must not exceed the rates that would be paid in the
37 absence of these provisions;

38 (f) The authority shall seek waivers from federal requirements as
39 necessary to implement this chapter;

1 (g) The authority shall, wherever possible, enter into prepaid
2 capitation contracts that include inpatient care. However, if this is
3 not possible or feasible, the authority may enter into prepaid
4 capitation contracts that do not include inpatient care;

5 (h) The authority shall define those circumstances under which a
6 managed health care system is responsible for out-of-plan services
7 and assure that recipients shall not be charged for such services;

8 (i) Nothing in this section prevents the authority from entering
9 into similar agreements for other groups of people eligible to
10 receive services under this chapter; and

11 (j) The authority must consult with the federal center for
12 medicare and medicaid innovation and seek funding opportunities to
13 support health homes.

14 (3) The authority shall ensure that publicly supported community
15 health centers and providers in rural areas, who show serious intent
16 and apparent capability to participate as managed health care systems
17 are seriously considered as contractors. The authority shall
18 coordinate its managed care activities with activities under chapter
19 70.47 RCW.

20 (4) The authority shall work jointly with the state of Oregon and
21 other states in this geographical region in order to develop
22 recommendations to be presented to the appropriate federal agencies
23 and the United States congress for improving health care of the poor,
24 while controlling related costs.

25 (5) The legislature finds that competition in the managed health
26 care marketplace is enhanced, in the long term, by the existence of a
27 large number of managed health care system options for medicaid
28 clients. In a managed care delivery system, whose goal is to focus on
29 prevention, primary care, and improved enrollee health status,
30 continuity in care relationships is of substantial importance, and
31 disruption to clients and health care providers should be minimized.
32 To help ensure these goals are met, the following principles shall
33 guide the authority in its healthy options managed health care
34 purchasing efforts:

35 (a) All managed health care systems should have an opportunity to
36 contract with the authority to the extent that minimum contracting
37 requirements defined by the authority are met, at payment rates that
38 enable the authority to operate as far below appropriated spending
39 levels as possible, consistent with the principles established in
40 this section.

1 (b) Managed health care systems should compete for the award of
2 contracts and assignment of medicaid beneficiaries who do not
3 voluntarily select a contracting system, based upon:

4 (i) Demonstrated commitment to or experience in serving low-
5 income populations;

6 (ii) Quality of services provided to enrollees;

7 (iii) Accessibility, including appropriate utilization, of
8 services offered to enrollees;

9 (iv) Demonstrated capability to perform contracted services,
10 including ability to supply an adequate provider network;

11 (v) Payment rates; and

12 (vi) The ability to meet other specifically defined contract
13 requirements established by the authority, including consideration of
14 past and current performance and participation in other state or
15 federal health programs as a contractor.

16 (c) Consideration should be given to using multiple year
17 contracting periods.

18 (d) Quality, accessibility, and demonstrated commitment to
19 serving low-income populations shall be given significant weight in
20 the contracting, evaluation, and assignment process.

21 (e) All contractors that are regulated health carriers must meet
22 state minimum net worth requirements as defined in applicable state
23 laws. The authority shall adopt rules establishing the minimum net
24 worth requirements for contractors that are not regulated health
25 carriers. This subsection does not limit the authority of the
26 Washington state health care authority to take action under a
27 contract upon finding that a contractor's financial status seriously
28 jeopardizes the contractor's ability to meet its contract
29 obligations.

30 (f) Procedures for resolution of disputes between the authority
31 and contract bidders or the authority and contracting carriers
32 related to the award of, or failure to award, a managed care contract
33 must be clearly set out in the procurement document.

34 (6) The authority may apply the principles set forth in
35 subsection (5) of this section to its managed health care purchasing
36 efforts on behalf of clients receiving supplemental security income
37 benefits to the extent appropriate.

38 (7) By April 1, 2016, any contract with a managed health care
39 system to provide services to medical assistance enrollees shall
40 require that managed health care systems offer contracts to

1 behavioral health organizations, mental health providers, or chemical
2 dependency treatment providers to provide access to primary care
3 services integrated into behavioral health clinical settings, for
4 individuals with behavioral health and medical comorbidities.

5 (8) Managed health care system contracts effective on or after
6 April 1, 2016, shall serve geographic areas that correspond to the
7 regional service areas established in RCW 43.20A.893 (as recodified
8 by this act).

9 (9) A managed health care system shall pay a nonparticipating
10 provider that provides a service covered under this chapter or other
11 applicable law to the system's enrollee no more than the lowest
12 amount paid for that service under the managed health care system's
13 contracts with similar providers in the state if the managed health
14 care system has made good faith efforts to contract with the
15 nonparticipating provider.

16 (10) For services covered under this chapter or other applicable
17 law to medical assistance or medical care services enrollees and
18 provided on or after August 24, 2011, nonparticipating providers must
19 accept as payment in full the amount paid by the managed health care
20 system under subsection (9) of this section in addition to any
21 deductible, coinsurance, or copayment that is due from the enrollee
22 for the service provided. An enrollee is not liable to any
23 nonparticipating provider for covered services, except for amounts
24 due for any deductible, coinsurance, or copayment under the terms and
25 conditions set forth in the managed health care system contract to
26 provide services under this section.

27 (11) Pursuant to federal managed care access standards, 42 C.F.R.
28 Sec. 438, managed health care systems must maintain a network of
29 appropriate providers that is supported by written agreements
30 sufficient to provide adequate access to all services covered under
31 the contract with the authority, including hospital-based physician
32 services. The authority will monitor and periodically report on the
33 proportion of services provided by contracted providers and
34 nonparticipating providers, by county, for each managed health care
35 system to ensure that managed health care systems are meeting network
36 adequacy requirements. No later than January 1st of each year, the
37 authority will review and report its findings to the appropriate
38 policy and fiscal committees of the legislature for the preceding
39 state fiscal year.

40 (12) Payments under RCW 74.60.130 are exempt from this section.

1 (13) Subsections (9) through (11) of this section expire July 1,
2 2021.

3 **Sec. 7019.** RCW 74.09.530 and 2011 1st sp.s. c 15 s 32 are each
4 amended to read as follows:

5 (1)(a) The authority is designated as the single state agency for
6 purposes of Title XIX of the federal social security act.

7 (b) The amount and nature of medical assistance and the
8 determination of eligibility of recipients for medical assistance
9 shall be the responsibility of the authority.

10 (c) The authority shall establish reasonable standards of
11 assistance and resource and income exemptions which shall be
12 consistent with the provisions of the social security act and federal
13 regulations for determining eligibility of individuals for medical
14 assistance and the extent of such assistance to the extent that funds
15 are available from the state and federal government. The authority
16 shall not consider resources in determining continuing eligibility
17 for recipients eligible under section 1931 of the social security
18 act.

19 (d) The authority is authorized to collaborate with other state
20 or local agencies and nonprofit organizations in carrying out its
21 duties under this chapter or other applicable law and, to the extent
22 appropriate, may enter into agreements with such other entities.

23 (2) Individuals eligible for medical assistance under RCW
24 74.09.510(3) shall be transitioned into coverage under that
25 subsection immediately upon their termination from coverage under RCW
26 74.09.510(2)(a). The authority shall use income eligibility standards
27 and eligibility determinations applicable to children placed in
28 foster care. The authority shall provide information regarding basic
29 health plan enrollment and shall offer assistance with the
30 application and enrollment process to individuals covered under RCW
31 74.09.510(3) who are approaching their twenty-first birthday.

32 **Sec. 7020.** RCW 74.09.540 and 2011 1st sp.s. c 15 s 33 are each
33 amended to read as follows:

34 (1) It is the intent of the legislature to remove barriers to
35 employment for individuals with disabilities by providing medical
36 assistance to working individuals with disabilities through a buy-in
37 program in accordance with section 1902(a)(10)(A)(ii) of the social

1 security act and eligibility and cost-sharing requirements
2 established by the authority.

3 (2) The authority shall establish income, resource, and cost-
4 sharing requirements for the buy-in program in accordance with
5 federal law and any conditions or limitations specified in the
6 omnibus appropriations act. The authority shall establish and modify
7 eligibility and cost-sharing requirements in order to administer the
8 program within available funds. The authority shall make every effort
9 to coordinate benefits with employer-sponsored coverage available to
10 the working individuals with disabilities receiving benefits under
11 this chapter or other applicable law.

12 **Sec. 7021.** RCW 74.09.730 and 2011 1st sp.s. c 15 s 47 are each
13 amended to read as follows:

14 (1) In establishing Title XIX payments for inpatient hospital
15 services:

16 ~~((1))~~ (a) To the extent funds are appropriated specifically for
17 this purpose, and subject to any conditions placed on appropriations
18 made for this purpose, the authority shall provide a disproportionate
19 share hospital adjustment considering the following components:

20 ~~((a))~~ (i) A low-income care component based on a hospital's
21 medicaid utilization rate, its low-income utilization rate, its
22 provision of obstetric services, and other factors authorized by
23 federal law;

24 ~~((b))~~ (ii) A medical indigency care component based on a
25 hospital's services to persons who are medically indigent; and

26 ~~((c))~~ (iii) A state-only component, to be paid from available
27 state funds to hospitals that do not qualify for federal payments
28 under ~~((b))~~ (a)(ii) of this subsection, based on a hospital's
29 services to persons who are medically indigent;

30 ~~((2))~~ (b) The payment methodology for disproportionate share
31 hospitals shall be specified by the authority in regulation.

32 ~~((3))~~ (2) Nothing in this section shall be construed as a right
33 or an entitlement by any hospital to any payment from the authority.

34 **Sec. 7022.** RCW 74.09.780 and 1989 1st ex.s. c 10 s 3 are each
35 amended to read as follows:

36 The legislature reserves the right to amend or repeal all or any
37 part of this ~~((chapter—[subchapter]))~~ subchapter at any time and
38 there shall be no vested private right of any kind against such

1 amendment or repeal. All rights, privileges, or immunities conferred
2 by this ((chapter [subchapter])) subchapter or any acts done pursuant
3 thereto shall exist subject to the power of the legislature to amend
4 or repeal this ((chapter [subchapter])) subchapter at any time.

5 **Sec. 7023.** RCW 74.09A.030 and 2011 1st sp.s. c 15 s 120 are each
6 amended to read as follows:

7 Health insurers, as a condition of doing business in Washington,
8 must:

9 (1) Provide, with respect to individuals who are eligible for, or
10 are provided, medical assistance under chapter 74.09 RCW or other
11 applicable law, upon the request of the authority, information to
12 determine during what period the individual or their spouses or their
13 dependents may be, or may have been, covered by a health insurer and
14 the nature of coverage that is or was provided by the health insurer,
15 including the name, address, and identifying number of the plan, in a
16 manner prescribed by the authority;

17 (2) Accept the authority's right to recovery and the assignment
18 to the authority of any right of an individual or other entity to
19 payment from the party for an item or service for which payment has
20 been made under chapter 74.09 RCW or other applicable law;

21 (3) Respond to any inquiry by the authority regarding a claim for
22 payment for any health care item or service that is submitted not
23 later than three years after the date of the provision of such health
24 care item or service;

25 (4) Agree not to deny a claim submitted by the authority solely
26 on the basis of the date of submission of the claim, the type or
27 format of the claim form, or a failure to present proper
28 documentation at the point-of-sale that is the basis of the claim,
29 if:

30 (a) The claim is submitted by the authority within the three-year
31 period beginning on the date the item or service was furnished; and

32 (b) Any action by the authority to enforce its rights with
33 respect to such claim is commenced within six years of the
34 authority's submission of such claim; and

35 (5) Agree that the prevailing party in any legal action to
36 enforce this section receives reasonable attorneys' fees as well as
37 related collection fees and costs incurred in the enforcement of this
38 section.

1 **Sec. 7024.** RCW 74.64.010 and 2012 c 234 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Authority" means the Washington state health care authority.

6 (2) "Enrollee" means an individual who receives benefits through
7 a medical services program.

8 (3) "Medical services programs" means those medical programs
9 established under chapter 74.09 RCW or other applicable law,
10 including medical assistance, the limited casualty program,
11 children's health program, medical care services, and state
12 children's health insurance program.

13 **Sec. 7025.** RCW 74.66.010 and 2012 c 241 s 201 are each amended
14 to read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter:

17 (1)(a) "Claim" means any request or demand made for a medicaid
18 payment under chapter 74.09 RCW or other applicable law, whether
19 under a contract or otherwise, for money or property and whether or
20 not a government entity has title to the money or property, that:

21 (i) Is presented to an officer, employee, or agent of a
22 government entity; or

23 (ii) Is made to a contractor, grantee, or other recipient, if the
24 money or property is to be spent or used on the government entity's
25 behalf or to advance a government entity program or interest, and the
26 government entity:

27 (A) Provides or has provided any portion of the money or property
28 requested or demanded; or

29 (B) Will reimburse such contractor, grantee, or other recipient
30 for any portion of the money or property which is requested or
31 demanded.

32 (b) A "claim" does not include requests or demands for money or
33 property that the government entity has paid to an individual as
34 compensation for employment or as an income subsidy with no
35 restrictions on that individual's use of the money or property.

36 (2) "Custodian" means the custodian, or any deputy custodian,
37 designated by the attorney general.

38 (3) "Documentary material" includes the original or any copy of
39 any book, record, report, memorandum, paper, communication,

1 tabulation, chart, or other document, or data compilations stored in
2 or accessible through computer or other information retrieval
3 systems, together with instructions and all other materials necessary
4 to use or interpret the data compilations, and any product of
5 discovery.

6 (4) "False claims act investigation" means any inquiry conducted
7 by any false claims act investigator for the purpose of ascertaining
8 whether any person is or has been engaged in any violation of this
9 chapter.

10 (5) "False claims act investigator" means any attorney or
11 investigator employed by the state attorney general who is charged
12 with the duty of enforcing or carrying into effect any provision of
13 this chapter, or any officer or employee of the state of Washington
14 acting under the direction and supervision of the attorney or
15 investigator in connection with an investigation pursuant to this
16 chapter.

17 (6) "Government entity" means all Washington state agencies that
18 administer medicaid-funded programs under this title.

19 (7)(a) "Knowing" and "knowingly" mean that a person, with respect
20 to information:

21 (i) Has actual knowledge of the information;

22 (ii) Acts in deliberate ignorance of the truth or falsity of the
23 information; or

24 (iii) Acts in reckless disregard of the truth or falsity of the
25 information.

26 (b) "Knowing" and "knowingly" do not require proof of specific
27 intent to defraud.

28 (8) "Material" means having a natural tendency to influence, or
29 be capable of influencing, the payment or receipt of money or
30 property.

31 (9) "Obligation" means an established duty, whether or not fixed,
32 arising from an express or implied contractual, grantor-grantee, or
33 licensor-licensee relationship, from a fee-based or similar
34 relationship, from statute or rule, or from the retention of any
35 overpayment.

36 (10) "Official use" means any use that is consistent with the
37 law, and the rules and policies of the attorney general, including
38 use in connection with: Internal attorney general memoranda and
39 reports; communications between the attorney general and a federal,
40 state, or local government agency, or a contractor of a federal,

1 state, or local government agency, undertaken in furtherance of an
2 investigation or prosecution of a case; interviews of any qui tam
3 relator or other witness; oral examinations; depositions; preparation
4 for and response to civil discovery requests; introduction into the
5 record of a case or proceeding; applications, motions, memoranda, and
6 briefs submitted to a court or other tribunal; and communications
7 with attorney general investigators, auditors, consultants and
8 experts, the counsel of other parties, and arbitrators or mediators,
9 concerning an investigation, case, or proceeding.

10 (11) "Person" means any natural person, partnership, corporation,
11 association, or other legal entity, including any local or political
12 subdivision of a state.

13 (12) "Product of discovery" includes:

14 (a) The original or duplicate of any deposition, interrogatory,
15 document, thing, result of the inspection of land or other property,
16 examination, or admission, which is obtained by any method of
17 discovery in any judicial or administrative proceeding of an
18 adversarial nature;

19 (b) Any digest, analysis, selection, compilation, or derivation
20 of any item listed in (a) of this subsection; and

21 (c) Any index or other manner of access to any item listed in (a)
22 of this subsection.

23 (13) "Qui tam action" is an action brought by a person under RCW
24 74.66.050.

25 (14) "Qui tam relator" or "relator" is a person who brings an
26 action under RCW 74.66.050.

27 PART 8

28 **Sec. 8001.** RCW 70.02.010 and 2014 c 225 s 70 and 2014 c 220 s 4
29 are each reenacted and amended to read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Admission" has the same meaning as in RCW 71.05.020.

33 (2) "Audit" means an assessment, evaluation, determination, or
34 investigation of a health care provider by a person not employed by
35 or affiliated with the provider to determine compliance with:

36 (a) Statutory, regulatory, fiscal, medical, or scientific
37 standards;

1 (b) A private or public program of payments to a health care
2 provider; or

3 (c) Requirements for licensing, accreditation, or certification.

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

5 (4) "Commitment" has the same meaning as in RCW 71.05.020.

6 ~~((4))~~ (5) "Custody" has the same meaning as in RCW 71.05.020.

7 ~~((5))~~ (6) "Deidentified" means health information that does not
8 identify an individual and with respect to which there is no
9 reasonable basis to believe that the information can be used to
10 identify an individual.

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

13 ~~((7))~~ (8) "Designated mental health professional" has the same
14 meaning as in RCW 71.05.020 or 71.34.020, as applicable.

15 ~~((8))~~ (9) "Detention" or "detain" has the same meaning as in
16 RCW 71.05.020.

17 ~~((9))~~ (10) "Directory information" means information disclosing
18 the presence, and for the purpose of identification, the name,
19 location within a health care facility, and the general health
20 condition of a particular patient who is a patient in a health care
21 facility or who is currently receiving emergency health care in a
22 health care facility.

23 ~~((10))~~ (11) "Discharge" has the same meaning as in RCW
24 71.05.020.

25 ~~((11))~~ (12) "Evaluation and treatment facility" has the same
26 meaning as in RCW 71.05.020 or 71.34.020, as applicable.

27 ~~((12))~~ (13) "Federal, state, or local law enforcement
28 authorities" means an officer of any agency or authority in the
29 United States, a state, a tribe, a territory, or a political
30 subdivision of a state, a tribe, or a territory who is empowered by
31 law to: (a) Investigate or conduct an official inquiry into a
32 potential criminal violation of law; or (b) prosecute or otherwise
33 conduct a criminal proceeding arising from an alleged violation of
34 law.

35 ~~((13))~~ (14) "General health condition" means the patient's
36 health status described in terms of "critical," "poor," "fair,"
37 "good," "excellent," or terms denoting similar conditions.

38 ~~((14))~~ (15) "Health care" means any care, service, or procedure
39 provided by a health care provider:

1 (a) To diagnose, treat, or maintain a patient's physical or
2 mental condition; or

3 (b) That affects the structure or any function of the human body.

4 ~~((15))~~ (16) "Health care facility" means a hospital, clinic,
5 nursing home, laboratory, office, or similar place where a health
6 care provider provides health care to patients.

7 ~~((16))~~ (17) "Health care information" means any information,
8 whether oral or recorded in any form or medium, that identifies or
9 can readily be associated with the identity of a patient and directly
10 relates to the patient's health care, including a patient's
11 deoxyribonucleic acid and identified sequence of chemical base pairs.
12 The term includes any required accounting of disclosures of health
13 care information.

14 ~~((17))~~ (18) "Health care operations" means any of the following
15 activities of a health care provider, health care facility, or third-
16 party payor to the extent that the activities are related to
17 functions that make an entity a health care provider, a health care
18 facility, or a third-party payor:

19 (a) Conducting: Quality assessment and improvement activities,
20 including outcomes evaluation and development of clinical guidelines,
21 if the obtaining of generalizable knowledge is not the primary
22 purpose of any studies resulting from such activities; population-
23 based activities relating to improving health or reducing health care
24 costs, protocol development, case management and care coordination,
25 contacting of health care providers and patients with information
26 about treatment alternatives; and related functions that do not
27 include treatment;

28 (b) Reviewing the competence or qualifications of health care
29 professionals, evaluating practitioner and provider performance and
30 third-party payor performance, conducting training programs in which
31 students, trainees, or practitioners in areas of health care learn
32 under supervision to practice or improve their skills as health care
33 providers, training of nonhealth care professionals, accreditation,
34 certification, licensing, or credentialing activities;

35 (c) Underwriting, premium rating, and other activities relating
36 to the creation, renewal, or replacement of a contract of health
37 insurance or health benefits, and ceding, securing, or placing a
38 contract for reinsurance of risk relating to claims for health care,
39 including stop-loss insurance and excess of loss insurance, if any
40 applicable legal requirements are met;

1 (d) Conducting or arranging for medical review, legal services,
2 and auditing functions, including fraud and abuse detection and
3 compliance programs;

4 (e) Business planning and development, such as conducting cost-
5 management and planning-related analyses related to managing and
6 operating the health care facility or third-party payor, including
7 formulary development and administration, development, or improvement
8 of methods of payment or coverage policies; and

9 (f) Business management and general administrative activities of
10 the health care facility, health care provider, or third-party payor
11 including, but not limited to:

12 (i) Management activities relating to implementation of and
13 compliance with the requirements of this chapter;

14 (ii) Customer service, including the provision of data analyses
15 for policy holders, plan sponsors, or other customers, provided that
16 health care information is not disclosed to such policy holder, plan
17 sponsor, or customer;

18 (iii) Resolution of internal grievances;

19 (iv) The sale, transfer, merger, or consolidation of all or part
20 of a health care provider, health care facility, or third-party payor
21 with another health care provider, health care facility, or third-
22 party payor or an entity that following such activity will become a
23 health care provider, health care facility, or third-party payor, and
24 due diligence related to such activity; and

25 (v) Consistent with applicable legal requirements, creating
26 deidentified health care information or a limited dataset for the
27 benefit of the health care provider, health care facility, or third-
28 party payor.

29 ~~((18))~~ (19) "Health care provider" means a person who is
30 licensed, certified, registered, or otherwise authorized by the law
31 of this state to provide health care in the ordinary course of
32 business or practice of a profession.

33 ~~((19))~~ (20) "Human immunodeficiency virus" or "HIV" has the
34 same meaning as in RCW 70.24.017.

35 ~~((20))~~ (21) "Imminent" has the same meaning as in RCW
36 71.05.020.

37 ~~((21))~~ (22) "Information and records related to mental health
38 services" means a type of health care information that relates to all
39 information and records compiled, obtained, or maintained in the
40 course of providing services by a mental health service agency or

1 mental health professional to persons who are receiving or have
2 received services for mental illness. The term includes mental health
3 information contained in a medical bill, registration records, as
4 defined in RCW 71.05.020, and all other records regarding the person
5 maintained by the department, by the authority, by ~~((regional support
6 networks))~~ behavioral health organizations and their staff, and by
7 treatment facilities. The term further includes documents of legal
8 proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic
9 health care information. For health care information maintained by a
10 hospital as defined in RCW 70.41.020 or a health care facility or
11 health care provider that participates with a hospital in an
12 organized health care arrangement defined under federal law,
13 "information and records related to mental health services" is
14 limited to information and records of services provided by a mental
15 health professional or information and records of services created by
16 a hospital-operated community mental health program as defined in RCW
17 71.24.025~~((+6))~~ (7). The term does not include psychotherapy notes.

18 ~~((+22))~~ (23) "Information and records related to sexually
19 transmitted diseases" means a type of health care information that
20 relates to the identity of any person upon whom an HIV antibody test
21 or other sexually transmitted infection test is performed, the
22 results of such tests, and any information relating to diagnosis of
23 or treatment for any confirmed sexually transmitted infections.

24 ~~((+23))~~ (24) "Institutional review board" means any board,
25 committee, or other group formally designated by an institution, or
26 authorized under federal or state law, to review, approve the
27 initiation of, or conduct periodic review of research programs to
28 assure the protection of the rights and welfare of human research
29 subjects.

30 ~~((+24))~~ (25) "Legal counsel" has the same meaning as in RCW
31 71.05.020.

32 ~~((+25))~~ (26) "Local public health officer" has the same meaning
33 as in RCW 70.24.017.

34 ~~((+26))~~ (27) "Maintain," as related to health care information,
35 means to hold, possess, preserve, retain, store, or control that
36 information.

37 ~~((+27))~~ (28) "Mental health professional" means a psychiatrist,
38 psychologist, psychiatric advanced registered nurse practitioner,
39 psychiatric nurse, or social worker, and such other mental health
40 professionals as may be defined by rules adopted by the secretary of

1 ((social and health services)) health under chapter 71.05 RCW,
2 whether that person works in a private or public setting.

3 ((+28+)) (29) "Mental health service agency" means a public or
4 private agency that provides services to persons with mental
5 disorders as defined under RCW 71.05.020 or 71.34.020 and receives
6 funding from public sources. This includes evaluation and treatment
7 facilities as defined in RCW 71.34.020, community mental health
8 service delivery systems, or community mental health programs, as
9 defined in RCW 71.24.025, and facilities conducting competency
10 evaluations and restoration under chapter 10.77 RCW.

11 ((+29+)) (30) "Minor" has the same meaning as in RCW 71.34.020.

12 ((+30+)) (31) "Parent" has the same meaning as in RCW 71.34.020.

13 ((+31+)) (32) "Patient" means an individual who receives or has
14 received health care. The term includes a deceased individual who has
15 received health care.

16 ((+32+)) (33) "Payment" means:

17 (a) The activities undertaken by:

18 (i) A third-party payor to obtain premiums or to determine or
19 fulfill its responsibility for coverage and provision of benefits by
20 the third-party payor; or

21 (ii) A health care provider, health care facility, or third-party
22 payor, to obtain or provide reimbursement for the provision of health
23 care; and

24 (b) The activities in (a) of this subsection that relate to the
25 patient to whom health care is provided and that include, but are not
26 limited to:

27 (i) Determinations of eligibility or coverage, including
28 coordination of benefits or the determination of cost-sharing
29 amounts, and adjudication or subrogation of health benefit claims;

30 (ii) Risk adjusting amounts due based on enrollee health status
31 and demographic characteristics;

32 (iii) Billing, claims management, collection activities,
33 obtaining payment under a contract for reinsurance, including stop-
34 loss insurance and excess of loss insurance, and related health care
35 data processing;

36 (iv) Review of health care services with respect to medical
37 necessity, coverage under a health plan, appropriateness of care, or
38 justification of charges;

1 (v) Utilization review activities, including precertification and
2 preauthorization of services, and concurrent and retrospective review
3 of services; and

4 (vi) Disclosure to consumer reporting agencies of any of the
5 following health care information relating to collection of premiums
6 or reimbursement:

7 (A) Name and address;

8 (B) Date of birth;

9 (C) Social security number;

10 (D) Payment history;

11 (E) Account number; and

12 (F) Name and address of the health care provider, health care
13 facility, and/or third-party payor.

14 (~~(33)~~) (34) "Person" means an individual, corporation, business
15 trust, estate, trust, partnership, association, joint venture,
16 government, governmental subdivision or agency, or any other legal or
17 commercial entity.

18 (~~(34)~~) (35) "Professional person" has the same meaning as in
19 RCW 71.05.020.

20 (~~(35)~~) (36) "Psychiatric advanced registered nurse
21 practitioner" has the same meaning as in RCW 71.05.020.

22 (~~(36)~~) (37) "Psychotherapy notes" means notes recorded, in any
23 medium, by a mental health professional documenting or analyzing the
24 contents of conversations during a private counseling session or
25 group, joint, or family counseling session, and that are separated
26 from the rest of the individual's medical record. The term excludes
27 mediation prescription and monitoring, counseling session start and
28 stop times, the modalities and frequencies of treatment furnished,
29 results of clinical tests, and any summary of the following items:
30 Diagnosis, functional status, the treatment plan, symptoms,
31 prognosis, and progress to date.

32 (~~(37)~~) (38) "Reasonable fee" means the charges for duplicating
33 or searching the record, but shall not exceed sixty-five cents per
34 page for the first thirty pages and fifty cents per page for all
35 other pages. In addition, a clerical fee for searching and handling
36 may be charged not to exceed fifteen dollars. These amounts shall be
37 adjusted biennially in accordance with changes in the consumer price
38 index, all consumers, for Seattle-Tacoma metropolitan statistical
39 area as determined by the secretary of health. However, where editing
40 of records by a health care provider is required by statute and is

1 done by the provider personally, the fee may be the usual and
2 customary charge for a basic office visit.

3 ~~((+38+))~~ (39) "Release" has the same meaning as in RCW 71.05.020.

4 ~~((+39+))~~ (40) "Resource management services" has the same meaning
5 as in RCW 71.05.020.

6 ~~((+40+))~~ (41) "Serious violent offense" has the same meaning as
7 in RCW 71.05.020.

8 ~~((+41+))~~ (42) "Sexually transmitted infection" or "sexually
9 transmitted disease" has the same meaning as "sexually transmitted
10 disease" in RCW 70.24.017.

11 ~~((+42+))~~ (43) "Test for a sexually transmitted disease" has the
12 same meaning as in RCW 70.24.017.

13 ~~((+43+))~~ (44) "Third-party payor" means an insurer regulated
14 under Title 48 RCW authorized to transact business in this state or
15 other jurisdiction, including a health care service contractor, and
16 health maintenance organization; or an employee welfare benefit plan,
17 excluding fitness or wellness plans; or a state or federal health
18 benefit program.

19 ~~((+44+))~~ (45) "Treatment" means the provision, coordination, or
20 management of health care and related services by one or more health
21 care providers or health care facilities, including the coordination
22 or management of health care by a health care provider or health care
23 facility with a third party; consultation between health care
24 providers or health care facilities relating to a patient; or the
25 referral of a patient for health care from one health care provider
26 or health care facility to another.

27 **Sec. 8002.** RCW 70.02.010 and 2016 sp.s. c 29 s 416 are each
28 amended to read as follows:

29 The definitions in this section apply throughout this chapter
30 unless the context clearly requires otherwise.

31 (1) "Admission" has the same meaning as in RCW 71.05.020.

32 (2) "Audit" means an assessment, evaluation, determination, or
33 investigation of a health care provider by a person not employed by
34 or affiliated with the provider to determine compliance with:

35 (a) Statutory, regulatory, fiscal, medical, or scientific
36 standards;

37 (b) A private or public program of payments to a health care
38 provider; or

39 (c) Requirements for licensing, accreditation, or certification.

1 (3) "Authority" means the Washington state health care authority.
2 ~~(4)~~ "Commitment" has the same meaning as in RCW 71.05.020.
3 ~~((4))~~ (5) "Custody" has the same meaning as in RCW 71.05.020.
4 ~~((5))~~ (6) "Deidentified" means health information that does not
5 identify an individual and with respect to which there is no
6 reasonable basis to believe that the information can be used to
7 identify an individual.
8 ~~((6))~~ (7) "Department" means the department of social and
9 health services.
10 ~~((7))~~ (8) "Designated crisis responder" has the same meaning as
11 in RCW 71.05.020 or 71.34.020, as applicable.
12 ~~((8))~~ (9) "Detention" or "detain" has the same meaning as in
13 RCW 71.05.020.
14 ~~((9))~~ (10) "Directory information" means information disclosing
15 the presence, and for the purpose of identification, the name,
16 location within a health care facility, and the general health
17 condition of a particular patient who is a patient in a health care
18 facility or who is currently receiving emergency health care in a
19 health care facility.
20 ~~((10))~~ (11) "Discharge" has the same meaning as in RCW
21 71.05.020.
22 ~~((11))~~ (12) "Evaluation and treatment facility" has the same
23 meaning as in RCW 71.05.020 or 71.34.020, as applicable.
24 ~~((12))~~ (13) "Federal, state, or local law enforcement
25 authorities" means an officer of any agency or authority in the
26 United States, a state, a tribe, a territory, or a political
27 subdivision of a state, a tribe, or a territory who is empowered by
28 law to: (a) Investigate or conduct an official inquiry into a
29 potential criminal violation of law; or (b) prosecute or otherwise
30 conduct a criminal proceeding arising from an alleged violation of
31 law.
32 ~~((13))~~ (14) "General health condition" means the patient's
33 health status described in terms of "critical," "poor," "fair,"
34 "good," "excellent," or terms denoting similar conditions.
35 ~~((14))~~ (15) "Health care" means any care, service, or procedure
36 provided by a health care provider:
37 (a) To diagnose, treat, or maintain a patient's physical or
38 mental condition; or
39 (b) That affects the structure or any function of the human body.

1 (~~(15)~~) (16) "Health care facility" means a hospital, clinic,
2 nursing home, laboratory, office, or similar place where a health
3 care provider provides health care to patients.

4 (~~(16)~~) (17) "Health care information" means any information,
5 whether oral or recorded in any form or medium, that identifies or
6 can readily be associated with the identity of a patient and directly
7 relates to the patient's health care, including a patient's
8 deoxyribonucleic acid and identified sequence of chemical base pairs.
9 The term includes any required accounting of disclosures of health
10 care information.

11 (~~(17)~~) (18) "Health care operations" means any of the following
12 activities of a health care provider, health care facility, or third-
13 party payor to the extent that the activities are related to
14 functions that make an entity a health care provider, a health care
15 facility, or a third-party payor:

16 (a) Conducting: Quality assessment and improvement activities,
17 including outcomes evaluation and development of clinical guidelines,
18 if the obtaining of generalizable knowledge is not the primary
19 purpose of any studies resulting from such activities; population-
20 based activities relating to improving health or reducing health care
21 costs, protocol development, case management and care coordination,
22 contacting of health care providers and patients with information
23 about treatment alternatives; and related functions that do not
24 include treatment;

25 (b) Reviewing the competence or qualifications of health care
26 professionals, evaluating practitioner and provider performance and
27 third-party payor performance, conducting training programs in which
28 students, trainees, or practitioners in areas of health care learn
29 under supervision to practice or improve their skills as health care
30 providers, training of nonhealth care professionals, accreditation,
31 certification, licensing, or credentialing activities;

32 (c) Underwriting, premium rating, and other activities relating
33 to the creation, renewal, or replacement of a contract of health
34 insurance or health benefits, and ceding, securing, or placing a
35 contract for reinsurance of risk relating to claims for health care,
36 including stop-loss insurance and excess of loss insurance, if any
37 applicable legal requirements are met;

38 (d) Conducting or arranging for medical review, legal services,
39 and auditing functions, including fraud and abuse detection and
40 compliance programs;

1 (e) Business planning and development, such as conducting cost-
2 management and planning-related analyses related to managing and
3 operating the health care facility or third-party payor, including
4 formulary development and administration, development, or improvement
5 of methods of payment or coverage policies; and

6 (f) Business management and general administrative activities of
7 the health care facility, health care provider, or third-party payor
8 including, but not limited to:

9 (i) Management activities relating to implementation of and
10 compliance with the requirements of this chapter;

11 (ii) Customer service, including the provision of data analyses
12 for policy holders, plan sponsors, or other customers, provided that
13 health care information is not disclosed to such policy holder, plan
14 sponsor, or customer;

15 (iii) Resolution of internal grievances;

16 (iv) The sale, transfer, merger, or consolidation of all or part
17 of a health care provider, health care facility, or third-party payor
18 with another health care provider, health care facility, or third-
19 party payor or an entity that following such activity will become a
20 health care provider, health care facility, or third-party payor, and
21 due diligence related to such activity; and

22 (v) Consistent with applicable legal requirements, creating
23 deidentified health care information or a limited dataset for the
24 benefit of the health care provider, health care facility, or third-
25 party payor.

26 ~~((+18+))~~ (19) "Health care provider" means a person who is
27 licensed, certified, registered, or otherwise authorized by the law
28 of this state to provide health care in the ordinary course of
29 business or practice of a profession.

30 ~~((+19+))~~ (20) "Human immunodeficiency virus" or "HIV" has the
31 same meaning as in RCW 70.24.017.

32 ~~((+20+))~~ (21) "Imminent" has the same meaning as in RCW
33 71.05.020.

34 ~~((+21+))~~ (22) "Information and records related to mental health
35 services" means a type of health care information that relates to all
36 information and records compiled, obtained, or maintained in the
37 course of providing services by a mental health service agency or
38 mental health professional to persons who are receiving or have
39 received services for mental illness. The term includes mental health
40 information contained in a medical bill, registration records, as

1 defined in RCW 71.05.020, and all other records regarding the person
2 maintained by the department, by the authority, by (~~regional support~~
3 ~~networks~~) behavioral health organizations and their staff, and by
4 treatment facilities. The term further includes documents of legal
5 proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic
6 health care information. For health care information maintained by a
7 hospital as defined in RCW 70.41.020 or a health care facility or
8 health care provider that participates with a hospital in an
9 organized health care arrangement defined under federal law,
10 "information and records related to mental health services" is
11 limited to information and records of services provided by a mental
12 health professional or information and records of services created by
13 a hospital-operated behavioral health program as defined in RCW
14 71.24.025. The term does not include psychotherapy notes.

15 ~~((+22))~~ (23) "Information and records related to sexually
16 transmitted diseases" means a type of health care information that
17 relates to the identity of any person upon whom an HIV antibody test
18 or other sexually transmitted infection test is performed, the
19 results of such tests, and any information relating to diagnosis of
20 or treatment for any confirmed sexually transmitted infections.

21 ~~((+23))~~ (24) "Institutional review board" means any board,
22 committee, or other group formally designated by an institution, or
23 authorized under federal or state law, to review, approve the
24 initiation of, or conduct periodic review of research programs to
25 assure the protection of the rights and welfare of human research
26 subjects.

27 ~~((+24))~~ (25) "Legal counsel" has the same meaning as in RCW
28 71.05.020.

29 ~~((+25))~~ (26) "Local public health officer" has the same meaning
30 as in RCW 70.24.017.

31 ~~((+26))~~ (27) "Maintain," as related to health care information,
32 means to hold, possess, preserve, retain, store, or control that
33 information.

34 ~~((+27))~~ (28) "Mental health professional" means a psychiatrist,
35 psychologist, psychiatric advanced registered nurse practitioner,
36 psychiatric nurse, or social worker, and such other mental health
37 professionals as may be defined by rules adopted by the secretary of
38 (~~social and health services~~) health under chapter 71.05 RCW,
39 whether that person works in a private or public setting.

1 ~~((28))~~ (29) "Mental health service agency" means a public or
2 private agency that provides services to persons with mental
3 disorders as defined under RCW 71.05.020 or 71.34.020 and receives
4 funding from public sources. This includes evaluation and treatment
5 facilities as defined in RCW 71.34.020, community mental health
6 service delivery systems, or behavioral health programs, as defined
7 in RCW 71.24.025, and facilities conducting competency evaluations
8 and restoration under chapter 10.77 RCW.

9 ~~((29))~~ (30) "Minor" has the same meaning as in RCW 71.34.020.

10 ~~((30))~~ (31) "Parent" has the same meaning as in RCW 71.34.020.

11 ~~((31))~~ (32) "Patient" means an individual who receives or has
12 received health care. The term includes a deceased individual who has
13 received health care.

14 ~~((32))~~ (33) "Payment" means:

15 (a) The activities undertaken by:

16 (i) A third-party payor to obtain premiums or to determine or
17 fulfill its responsibility for coverage and provision of benefits by
18 the third-party payor; or

19 (ii) A health care provider, health care facility, or third-party
20 payor, to obtain or provide reimbursement for the provision of health
21 care; and

22 (b) The activities in (a) of this subsection that relate to the
23 patient to whom health care is provided and that include, but are not
24 limited to:

25 (i) Determinations of eligibility or coverage, including
26 coordination of benefits or the determination of cost-sharing
27 amounts, and adjudication or subrogation of health benefit claims;

28 (ii) Risk adjusting amounts due based on enrollee health status
29 and demographic characteristics;

30 (iii) Billing, claims management, collection activities,
31 obtaining payment under a contract for reinsurance, including stop-
32 loss insurance and excess of loss insurance, and related health care
33 data processing;

34 (iv) Review of health care services with respect to medical
35 necessity, coverage under a health plan, appropriateness of care, or
36 justification of charges;

37 (v) Utilization review activities, including precertification and
38 preauthorization of services, and concurrent and retrospective review
39 of services; and

1 (vi) Disclosure to consumer reporting agencies of any of the
2 following health care information relating to collection of premiums
3 or reimbursement:

4 (A) Name and address;

5 (B) Date of birth;

6 (C) Social security number;

7 (D) Payment history;

8 (E) Account number; and

9 (F) Name and address of the health care provider, health care
10 facility, and/or third-party payor.

11 (~~(33)~~) (34) "Person" means an individual, corporation, business
12 trust, estate, trust, partnership, association, joint venture,
13 government, governmental subdivision or agency, or any other legal or
14 commercial entity.

15 (~~(34)~~) (35) "Professional person" has the same meaning as in
16 RCW 71.05.020.

17 (~~(35)~~) (36) "Psychiatric advanced registered nurse
18 practitioner" has the same meaning as in RCW 71.05.020.

19 (~~(36)~~) (37) "Psychotherapy notes" means notes recorded, in any
20 medium, by a mental health professional documenting or analyzing the
21 contents of conversations during a private counseling session or
22 group, joint, or family counseling session, and that are separated
23 from the rest of the individual's medical record. The term excludes
24 medication prescription and monitoring, counseling session start and
25 stop times, the modalities and frequencies of treatment furnished,
26 results of clinical tests, and any summary of the following items:
27 Diagnosis, functional status, the treatment plan, symptoms,
28 prognosis, and progress to date.

29 (~~(37)~~) (38) "Reasonable fee" means the charges for duplicating
30 or searching the record, but shall not exceed sixty-five cents per
31 page for the first thirty pages and fifty cents per page for all
32 other pages. In addition, a clerical fee for searching and handling
33 may be charged not to exceed fifteen dollars. These amounts shall be
34 adjusted biennially in accordance with changes in the consumer price
35 index, all consumers, for Seattle-Tacoma metropolitan statistical
36 area as determined by the secretary of health. However, where editing
37 of records by a health care provider is required by statute and is
38 done by the provider personally, the fee may be the usual and
39 customary charge for a basic office visit.

40 (~~(38)~~) (39) "Release" has the same meaning as in RCW 71.05.020.

1 (~~(39)~~) (40) "Resource management services" has the same meaning
2 as in RCW 71.05.020.

3 (~~(40)~~) (41) "Serious violent offense" has the same meaning as
4 in RCW 71.05.020.

5 (~~(41)~~) (42) "Sexually transmitted infection" or "sexually
6 transmitted disease" has the same meaning as "sexually transmitted
7 disease" in RCW 70.24.017.

8 (~~(42)~~) (43) "Test for a sexually transmitted disease" has the
9 same meaning as in RCW 70.24.017.

10 (~~(43)~~) (44) "Third-party payor" means an insurer regulated
11 under Title 48 RCW authorized to transact business in this state or
12 other jurisdiction, including a health care service contractor, and
13 health maintenance organization; or an employee welfare benefit plan,
14 excluding fitness or wellness plans; or a state or federal health
15 benefit program.

16 (~~(44)~~) (45) "Treatment" means the provision, coordination, or
17 management of health care and related services by one or more health
18 care providers or health care facilities, including the coordination
19 or management of health care by a health care provider or health care
20 facility with a third party; consultation between health care
21 providers or health care facilities relating to a patient; or the
22 referral of a patient for health care from one health care provider
23 or health care facility to another.

24 **Sec. 8003.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9
25 are each reenacted and amended to read as follows:

26 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
27 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and
28 70.02.260, or pursuant to a valid authorization under RCW 70.02.030,
29 the fact of admission to a provider for mental health services and
30 all information and records compiled, obtained, or maintained in the
31 course of providing mental health services to either voluntary or
32 involuntary recipients of services at public or private agencies must
33 be confidential.

34 (2) Information and records related to mental health services,
35 other than those obtained through treatment under chapter 71.34 RCW,
36 may be disclosed only:

37 (a) In communications between qualified professional persons to
38 meet the requirements of chapter 71.05 RCW, in the provision of

1 services or appropriate referrals, or in the course of guardianship
2 proceedings if provided to a professional person:

3 (i) Employed by the facility;

4 (ii) Who has medical responsibility for the patient's care;

5 (iii) Who is a designated mental health professional;

6 (iv) Who is providing services under chapter 71.24 RCW;

7 (v) Who is employed by a state or local correctional facility
8 where the person is confined or supervised; or

9 (vi) Who is providing evaluation, treatment, or follow-up
10 services under chapter 10.77 RCW;

11 (b) When the communications regard the special needs of a patient
12 and the necessary circumstances giving rise to such needs and the
13 disclosure is made by a facility providing services to the operator
14 of a facility in which the patient resides or will reside;

15 (c)(i) When the person receiving services, or his or her
16 guardian, designates persons to whom information or records may be
17 released, or if the person is a minor, when his or her parents make
18 such a designation;

19 (ii) A public or private agency shall release to a person's next
20 of kin, attorney, personal representative, guardian, or conservator,
21 if any:

22 (A) The information that the person is presently a patient in the
23 facility or that the person is seriously physically ill;

24 (B) A statement evaluating the mental and physical condition of
25 the patient, and a statement of the probable duration of the
26 patient's confinement, if such information is requested by the next
27 of kin, attorney, personal representative, guardian, or conservator;
28 and

29 (iii) Other information requested by the next of kin or attorney
30 as may be necessary to decide whether or not proceedings should be
31 instituted to appoint a guardian or conservator;

32 (d)(i) To the courts as necessary to the administration of
33 chapter 71.05 RCW or to a court ordering an evaluation or treatment
34 under chapter 10.77 RCW solely for the purpose of preventing the
35 entry of any evaluation or treatment order that is inconsistent with
36 any order entered under chapter 71.05 RCW.

37 (ii) To a court or its designee in which a motion under chapter
38 10.77 RCW has been made for involuntary medication of a defendant for
39 the purpose of competency restoration.

1 (iii) Disclosure under this subsection is mandatory for the
2 purpose of the federal health insurance portability and
3 accountability act;

4 (e)(i) When a mental health professional is requested by a
5 representative of a law enforcement or corrections agency, including
6 a police officer, sheriff, community corrections officer, a municipal
7 attorney, or prosecuting attorney to undertake an investigation or
8 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
9 mental health professional shall, if requested to do so, advise the
10 representative in writing of the results of the investigation
11 including a statement of reasons for the decision to detain or
12 release the person investigated. The written report must be submitted
13 within seventy-two hours of the completion of the investigation or
14 the request from the law enforcement or corrections representative,
15 whichever occurs later.

16 (ii) Disclosure under this subsection is mandatory for the
17 purposes of the federal health insurance portability and
18 accountability act;

19 (f) To the attorney of the detained person;

20 (g) To the prosecuting attorney as necessary to carry out the
21 responsibilities of the office under RCW 71.05.330(2),
22 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
23 access to records regarding the committed person's treatment and
24 prognosis, medication, behavior problems, and other records relevant
25 to the issue of whether treatment less restrictive than inpatient
26 treatment is in the best interest of the committed person or others.
27 Information must be disclosed only after giving notice to the
28 committed person and the person's counsel;

29 (h)(i) To appropriate law enforcement agencies and to a person,
30 when the identity of the person is known to the public or private
31 agency, whose health and safety has been threatened, or who is known
32 to have been repeatedly harassed, by the patient. The person may
33 designate a representative to receive the disclosure. The disclosure
34 must be made by the professional person in charge of the public or
35 private agency or his or her designee and must include the dates of
36 commitment, admission, discharge, or release, authorized or
37 unauthorized absence from the agency's facility, and only any other
38 information that is pertinent to the threat or harassment. The agency
39 or its employees are not civilly liable for the decision to disclose

1 or not, so long as the decision was reached in good faith and without
2 gross negligence.

3 (ii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (i)(i) To appropriate corrections and law enforcement agencies
7 all necessary and relevant information in the event of a crisis or
8 emergent situation that poses a significant and imminent risk to the
9 public. The mental health service agency or its employees are not
10 civilly liable for the decision to disclose or not so long as the
11 decision was reached in good faith and without gross negligence.

12 (ii) Disclosure under this subsection is mandatory for the
13 purposes of the health insurance portability and accountability act;

14 (j) To the persons designated in RCW 71.05.425 for the purposes
15 described in those sections;

16 (k) Upon the death of a person. The person's next of kin,
17 personal representative, guardian, or conservator, if any, must be
18 notified. Next of kin who are of legal age and competent must be
19 notified under this section in the following order: Spouse, parents,
20 children, brothers and sisters, and other relatives according to the
21 degree of relation. Access to all records and information compiled,
22 obtained, or maintained in the course of providing services to a
23 deceased patient are governed by RCW 70.02.140;

24 (l) To mark headstones or otherwise memorialize patients interred
25 at state hospital cemeteries. The department of social and health
26 services shall make available the name, date of birth, and date of
27 death of patients buried in state hospital cemeteries fifty years
28 after the death of a patient;

29 (m) To law enforcement officers and to prosecuting attorneys as
30 are necessary to enforce RCW 9.41.040(2)(a)(~~(ii)~~) (iii). The extent
31 of information that may be released is limited as follows:

32 (i) Only the fact, place, and date of involuntary commitment, an
33 official copy of any order or orders of commitment, and an official
34 copy of any written or oral notice of ineligibility to possess a
35 firearm that was provided to the person pursuant to RCW 9.41.047(1),
36 must be disclosed upon request;

37 (ii) The law enforcement and prosecuting attorneys may only
38 release the information obtained to the person's attorney as required
39 by court rule and to a jury or judge, if a jury is waived, that

1 presides over any trial at which the person is charged with violating
2 RCW 9.41.040(2)(a)((~~ii~~)) (iii);

3 (iii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (n) When a patient would otherwise be subject to the provisions
7 of this section and disclosure is necessary for the protection of the
8 patient or others due to his or her unauthorized disappearance from
9 the facility, and his or her whereabouts is unknown, notice of the
10 disappearance, along with relevant information, may be made to
11 relatives, the department of corrections when the person is under the
12 supervision of the department, and governmental law enforcement
13 agencies designated by the physician or psychiatric advanced
14 registered nurse practitioner in charge of the patient or the
15 professional person in charge of the facility, or his or her
16 professional designee;

17 (o) Pursuant to lawful order of a court;

18 (p) To qualified staff members of the department, the authority,
19 to the director of behavioral health organizations, to resource
20 management services responsible for serving a patient, or to service
21 providers designated by resource management services as necessary to
22 determine the progress and adequacy of treatment and to determine
23 whether the person should be transferred to a less restrictive or
24 more appropriate treatment modality or facility;

25 (q) Within the mental health service agency where the patient is
26 receiving treatment, confidential information may be disclosed to
27 persons employed, serving in bona fide training programs, or
28 participating in supervised volunteer programs, at the facility when
29 it is necessary to perform their duties;

30 (r) Within the department and the authority as necessary to
31 coordinate treatment for mental illness, developmental disabilities,
32 alcoholism, or ((~~drug abuse~~)) substance use disorder of persons who
33 are under the supervision of the department;

34 (s) To a licensed physician or psychiatric advanced registered
35 nurse practitioner who has determined that the life or health of the
36 person is in danger and that treatment without the information and
37 records related to mental health services could be injurious to the
38 patient's health. Disclosure must be limited to the portions of the
39 records necessary to meet the medical emergency;

1 (t) Consistent with the requirements of the federal health
2 information portability and accountability act, to a licensed mental
3 health professional or a health care professional licensed under
4 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
5 providing care to a person, or to whom a person has been referred for
6 evaluation or treatment, to assure coordinated care and treatment of
7 that person. Psychotherapy notes may not be released without
8 authorization of the person who is the subject of the request for
9 release of information;

10 (u) To administrative and office support staff designated to
11 obtain medical records for those licensed professionals listed in (t)
12 of this subsection;

13 (v) To a facility that is to receive a person who is
14 involuntarily committed under chapter 71.05 RCW, or upon transfer of
15 the person from one evaluation and treatment facility to another. The
16 release of records under this subsection is limited to the
17 information and records related to mental health services required by
18 law, a record or summary of all somatic treatments, and a discharge
19 summary. The discharge summary may include a statement of the
20 patient's problem, the treatment goals, the type of treatment which
21 has been provided, and recommendation for future treatment, but may
22 not include the patient's complete treatment record;

23 (w) To the person's counsel or guardian ad litem, without
24 modification, at any time in order to prepare for involuntary
25 commitment or recommitment proceedings, reexaminations, appeals, or
26 other actions relating to detention, admission, commitment, or
27 patient's rights under chapter 71.05 RCW;

28 (x) To staff members of the protection and advocacy agency or to
29 staff members of a private, nonprofit corporation for the purpose of
30 protecting and advocating the rights of persons with mental disorders
31 or developmental disabilities. Resource management services may limit
32 the release of information to the name, birthdate, and county of
33 residence of the patient, information regarding whether the patient
34 was voluntarily admitted, or involuntarily committed, the date and
35 place of admission, placement, or commitment, the name and address of
36 a guardian of the patient, and the date and place of the guardian's
37 appointment. Any staff member who wishes to obtain additional
38 information must notify the patient's resource management services in
39 writing of the request and of the resource management services' right
40 to object. The staff member shall send the notice by mail to the

1 guardian's address. If the guardian does not object in writing within
2 fifteen days after the notice is mailed, the staff member may obtain
3 the additional information. If the guardian objects in writing within
4 fifteen days after the notice is mailed, the staff member may not
5 obtain the additional information;

6 (y) To all current treating providers of the patient with
7 prescriptive authority who have written a prescription for the
8 patient within the last twelve months. For purposes of coordinating
9 health care, the department or the authority may release without
10 written authorization of the patient, information acquired for
11 billing and collection purposes as described in RCW 70.02.050(1)(d).
12 The department, or the authority, if applicable, shall notify the
13 patient that billing and collection information has been released to
14 named providers, and provide the substance of the information
15 released and the dates of such release. Neither the department nor
16 the authority may (~~not~~) release counseling, inpatient psychiatric
17 hospitalization, or drug and alcohol treatment information without a
18 signed written release from the client;

19 (z)(i) To the secretary of social and health services and the
20 director of the health care authority for either program evaluation
21 or research, or both so long as the secretary or director, where
22 applicable, adopts rules for the conduct of the evaluation or
23 research, or both. Such rules must include, but need not be limited
24 to, the requirement that all evaluators and researchers sign an oath
25 of confidentiality substantially as follows:

26 "As a condition of conducting evaluation or research concerning
27 persons who have received services from (fill in the facility,
28 agency, or person) I,, agree not to divulge, publish, or
29 otherwise make known to unauthorized persons or the public any
30 information obtained in the course of such evaluation or research
31 regarding persons who have received services such that the person who
32 received such services is identifiable.

33 I recognize that unauthorized release of confidential information
34 may subject me to civil liability under the provisions of state law.
35 /s/"

36 (ii) Nothing in this chapter may be construed to prohibit the
37 compilation and publication of statistical data for use by government
38 or researchers under standards, including standards to assure

1 maintenance of confidentiality, set forth by the secretary, or
2 director, where applicable.

3 (3) Whenever federal law or federal regulations restrict the
4 release of information contained in the information and records
5 related to mental health services of any patient who receives
6 treatment for chemical dependency, the department or the authority
7 may restrict the release of the information as necessary to comply
8 with federal law and regulations.

9 (4) Civil liability and immunity for the release of information
10 about a particular person who is committed to the department of
11 social and health services or the authority under RCW 71.05.280(3)
12 and 71.05.320(3)(c) after dismissal of a sex offense as defined in
13 RCW 9.94A.030, is governed by RCW 4.24.550.

14 (5) The fact of admission to a provider of mental health
15 services, as well as all records, files, evidence, findings, or
16 orders made, prepared, collected, or maintained pursuant to chapter
17 71.05 RCW are not admissible as evidence in any legal proceeding
18 outside that chapter without the written authorization of the person
19 who was the subject of the proceeding except as provided in RCW
20 70.02.260, in a subsequent criminal prosecution of a person committed
21 pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were
22 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
23 trial, in a civil commitment proceeding pursuant to chapter 71.09
24 RCW, or, in the case of a minor, a guardianship or dependency
25 proceeding. The records and files maintained in any court proceeding
26 pursuant to chapter 71.05 RCW must be confidential and available
27 subsequent to such proceedings only to the person who was the subject
28 of the proceeding or his or her attorney. In addition, the court may
29 order the subsequent release or use of such records or files only
30 upon good cause shown if the court finds that appropriate safeguards
31 for strict confidentiality are and will be maintained.

32 (6)(a) Except as provided in RCW 4.24.550, any person may bring
33 an action against an individual who has willfully released
34 confidential information or records concerning him or her in
35 violation of the provisions of this section, for the greater of the
36 following amounts:

37 (i) One thousand dollars; or

38 (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. 8004.** RCW 70.02.230 and 2016 sp.s. c 29 s 417 are each
14 amended to read as follows:

15 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
16 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or
17 pursuant to a valid authorization under RCW 70.02.030, the fact of
18 admission to a provider for mental health services and all
19 information and records compiled, obtained, or maintained in the
20 course of providing mental health services to either voluntary or
21 involuntary recipients of services at public or private agencies must
22 be confidential.

23 (2) Information and records related to mental health services,
24 other than those obtained through treatment under chapter 71.34 RCW,
25 may be disclosed only:

26 (a) In communications between qualified professional persons to
27 meet the requirements of chapter 71.05 RCW, in the provision of
28 services or appropriate referrals, or in the course of guardianship
29 proceedings if provided to a professional person:

30 (i) Employed by the facility;

31 (ii) Who has medical responsibility for the patient's care;

32 (iii) Who is a designated crisis responder;

33 (iv) Who is providing services under chapter 71.24 RCW;

34 (v) Who is employed by a state or local correctional facility
35 where the person is confined or supervised; or

36 (vi) Who is providing evaluation, treatment, or follow-up
37 services under chapter 10.77 RCW;

38 (b) When the communications regard the special needs of a patient
39 and the necessary circumstances giving rise to such needs and the

1 disclosure is made by a facility providing services to the operator
2 of a facility in which the patient resides or will reside;

3 (c)(i) When the person receiving services, or his or her
4 guardian, designates persons to whom information or records may be
5 released, or if the person is a minor, when his or her parents make
6 such a designation;

7 (ii) A public or private agency shall release to a person's next
8 of kin, attorney, personal representative, guardian, or conservator,
9 if any:

10 (A) The information that the person is presently a patient in the
11 facility or that the person is seriously physically ill;

12 (B) A statement evaluating the mental and physical condition of
13 the patient, and a statement of the probable duration of the
14 patient's confinement, if such information is requested by the next
15 of kin, attorney, personal representative, guardian, or conservator;
16 and

17 (iii) Other information requested by the next of kin or attorney
18 as may be necessary to decide whether or not proceedings should be
19 instituted to appoint a guardian or conservator;

20 (d)(i) To the courts as necessary to the administration of
21 chapter 71.05 RCW or to a court ordering an evaluation or treatment
22 under chapter 10.77 RCW solely for the purpose of preventing the
23 entry of any evaluation or treatment order that is inconsistent with
24 any order entered under chapter 71.05 RCW.

25 (ii) To a court or its designee in which a motion under chapter
26 10.77 RCW has been made for involuntary medication of a defendant for
27 the purpose of competency restoration.

28 (iii) Disclosure under this subsection is mandatory for the
29 purpose of the federal health insurance portability and
30 accountability act;

31 (e)(i) When a mental health professional or designated crisis
32 responder is requested by a representative of a law enforcement or
33 corrections agency, including a police officer, sheriff, community
34 corrections officer, a municipal attorney, or prosecuting attorney to
35 undertake an investigation or provide treatment under RCW 71.05.150,
36 10.31.110, or 71.05.153, the mental health professional or designated
37 crisis responder shall, if requested to do so, advise the
38 representative in writing of the results of the investigation
39 including a statement of reasons for the decision to detain or
40 release the person investigated. The written report must be submitted

1 within seventy-two hours of the completion of the investigation or
2 the request from the law enforcement or corrections representative,
3 whichever occurs later.

4 (ii) Disclosure under this subsection is mandatory for the
5 purposes of the federal health insurance portability and
6 accountability act;

7 (f) To the attorney of the detained person;

8 (g) To the prosecuting attorney as necessary to carry out the
9 responsibilities of the office under RCW 71.05.330(2),
10 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
11 access to records regarding the committed person's treatment and
12 prognosis, medication, behavior problems, and other records relevant
13 to the issue of whether treatment less restrictive than inpatient
14 treatment is in the best interest of the committed person or others.
15 Information must be disclosed only after giving notice to the
16 committed person and the person's counsel;

17 (h)(i) To appropriate law enforcement agencies and to a person,
18 when the identity of the person is known to the public or private
19 agency, whose health and safety has been threatened, or who is known
20 to have been repeatedly harassed, by the patient. The person may
21 designate a representative to receive the disclosure. The disclosure
22 must be made by the professional person in charge of the public or
23 private agency or his or her designee and must include the dates of
24 commitment, admission, discharge, or release, authorized or
25 unauthorized absence from the agency's facility, and only any other
26 information that is pertinent to the threat or harassment. The agency
27 or its employees are not civilly liable for the decision to disclose
28 or not, so long as the decision was reached in good faith and without
29 gross negligence.

30 (ii) Disclosure under this subsection is mandatory for the
31 purposes of the federal health insurance portability and
32 accountability act;

33 (i)(i) To appropriate corrections and law enforcement agencies
34 all necessary and relevant information in the event of a crisis or
35 emergent situation that poses a significant and imminent risk to the
36 public. The mental health service agency or its employees are not
37 civilly liable for the decision to disclose or not so long as the
38 decision was reached in good faith and without gross negligence.

39 (ii) Disclosure under this subsection is mandatory for the
40 purposes of the health insurance portability and accountability act;

1 (j) To the persons designated in RCW 71.05.425 for the purposes
2 described in those sections;

3 (k) Upon the death of a person. The person's next of kin,
4 personal representative, guardian, or conservator, if any, must be
5 notified. Next of kin who are of legal age and competent must be
6 notified under this section in the following order: Spouse, parents,
7 children, brothers and sisters, and other relatives according to the
8 degree of relation. Access to all records and information compiled,
9 obtained, or maintained in the course of providing services to a
10 deceased patient are governed by RCW 70.02.140;

11 (l) To mark headstones or otherwise memorialize patients interred
12 at state hospital cemeteries. The department of social and health
13 services shall make available the name, date of birth, and date of
14 death of patients buried in state hospital cemeteries fifty years
15 after the death of a patient;

16 (m) To law enforcement officers and to prosecuting attorneys as
17 are necessary to enforce RCW 9.41.040(2)(a)(iii). The extent of
18 information that may be released is limited as follows:

19 (i) Only the fact, place, and date of involuntary commitment, an
20 official copy of any order or orders of commitment, and an official
21 copy of any written or oral notice of ineligibility to possess a
22 firearm that was provided to the person pursuant to RCW 9.41.047(1),
23 must be disclosed upon request;

24 (ii) The law enforcement and prosecuting attorneys may only
25 release the information obtained to the person's attorney as required
26 by court rule and to a jury or judge, if a jury is waived, that
27 presides over any trial at which the person is charged with violating
28 RCW 9.41.040(2)(a)(iii);

29 (iii) Disclosure under this subsection is mandatory for the
30 purposes of the federal health insurance portability and
31 accountability act;

32 (n) When a patient would otherwise be subject to the provisions
33 of this section and disclosure is necessary for the protection of the
34 patient or others due to his or her unauthorized disappearance from
35 the facility, and his or her whereabouts is unknown, notice of the
36 disappearance, along with relevant information, may be made to
37 relatives, the department of corrections when the person is under the
38 supervision of the department, and governmental law enforcement
39 agencies designated by the physician or psychiatric advanced
40 registered nurse practitioner in charge of the patient or the

1 professional person in charge of the facility, or his or her
2 professional designee;

3 (o) Pursuant to lawful order of a court;

4 (p) To qualified staff members of the department, the authority,
5 to the director of behavioral health organizations, to resource
6 management services responsible for serving a patient, or to service
7 providers designated by resource management services as necessary to
8 determine the progress and adequacy of treatment and to determine
9 whether the person should be transferred to a less restrictive or
10 more appropriate treatment modality or facility;

11 (q) Within the mental health service agency where the patient is
12 receiving treatment, confidential information may be disclosed to
13 persons employed, serving in bona fide training programs, or
14 participating in supervised volunteer programs, at the facility when
15 it is necessary to perform their duties;

16 (r) Within the department and the authority as necessary to
17 coordinate treatment for mental illness, developmental disabilities,
18 alcoholism, or (~~drug abuse~~) substance use disorder of persons who
19 are under the supervision of the department;

20 (s) To a licensed physician or psychiatric advanced registered
21 nurse practitioner who has determined that the life or health of the
22 person is in danger and that treatment without the information and
23 records related to mental health services could be injurious to the
24 patient's health. Disclosure must be limited to the portions of the
25 records necessary to meet the medical emergency;

26 (t) Consistent with the requirements of the federal health
27 information portability and accountability act, to a licensed mental
28 health professional or a health care professional licensed under
29 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
30 providing care to a person, or to whom a person has been referred for
31 evaluation or treatment, to assure coordinated care and treatment of
32 that person. Psychotherapy notes may not be released without
33 authorization of the person who is the subject of the request for
34 release of information;

35 (u) To administrative and office support staff designated to
36 obtain medical records for those licensed professionals listed in (t)
37 of this subsection;

38 (v) To a facility that is to receive a person who is
39 involuntarily committed under chapter 71.05 RCW, or upon transfer of
40 the person from one evaluation and treatment facility to another. The

1 release of records under this subsection is limited to the
2 information and records related to mental health services required by
3 law, a record or summary of all somatic treatments, and a discharge
4 summary. The discharge summary may include a statement of the
5 patient's problem, the treatment goals, the type of treatment which
6 has been provided, and recommendation for future treatment, but may
7 not include the patient's complete treatment record;

8 (w) To the person's counsel or guardian ad litem, without
9 modification, at any time in order to prepare for involuntary
10 commitment or recommitment proceedings, reexaminations, appeals, or
11 other actions relating to detention, admission, commitment, or
12 patient's rights under chapter 71.05 RCW;

13 (x) To staff members of the protection and advocacy agency or to
14 staff members of a private, nonprofit corporation for the purpose of
15 protecting and advocating the rights of persons with mental disorders
16 or developmental disabilities. Resource management services may limit
17 the release of information to the name, birthdate, and county of
18 residence of the patient, information regarding whether the patient
19 was voluntarily admitted, or involuntarily committed, the date and
20 place of admission, placement, or commitment, the name and address of
21 a guardian of the patient, and the date and place of the guardian's
22 appointment. Any staff member who wishes to obtain additional
23 information must notify the patient's resource management services in
24 writing of the request and of the resource management services' right
25 to object. The staff member shall send the notice by mail to the
26 guardian's address. If the guardian does not object in writing within
27 fifteen days after the notice is mailed, the staff member may obtain
28 the additional information. If the guardian objects in writing within
29 fifteen days after the notice is mailed, the staff member may not
30 obtain the additional information;

31 (y) To all current treating providers of the patient with
32 prescriptive authority who have written a prescription for the
33 patient within the last twelve months. For purposes of coordinating
34 health care, the department or the authority may release without
35 written authorization of the patient, information acquired for
36 billing and collection purposes as described in RCW 70.02.050(1)(d).
37 The department, or the authority if applicable, shall notify the
38 patient that billing and collection information has been released to
39 named providers, and provide the substance of the information
40 released and the dates of such release. Neither the department nor

1 the authority may (~~not~~) release counseling, inpatient psychiatric
2 hospitalization, or drug and alcohol treatment information without a
3 signed written release from the client;

4 (z)(i) To the secretary of social and health services and the
5 director of the health care authority for either program evaluation
6 or research, or both so long as the secretary or director, where
7 applicable, adopts rules for the conduct of the evaluation or
8 research, or both. Such rules must include, but need not be limited
9 to, the requirement that all evaluators and researchers sign an oath
10 of confidentiality substantially as follows:

11 "As a condition of conducting evaluation or research concerning
12 persons who have received services from (fill in the facility,
13 agency, or person) I,, agree not to divulge, publish, or
14 otherwise make known to unauthorized persons or the public any
15 information obtained in the course of such evaluation or research
16 regarding persons who have received services such that the person who
17 received such services is identifiable.

18 I recognize that unauthorized release of confidential information
19 may subject me to civil liability under the provisions of state law.

20 /s/"

21 (ii) Nothing in this chapter may be construed to prohibit the
22 compilation and publication of statistical data for use by government
23 or researchers under standards, including standards to assure
24 maintenance of confidentiality, set forth by the secretary or
25 director, where applicable.

26 (3) Whenever federal law or federal regulations restrict the
27 release of information contained in the information and records
28 related to mental health services of any patient who receives
29 treatment for chemical dependency, the department or the authority
30 may restrict the release of the information as necessary to comply
31 with federal law and regulations.

32 (4) Civil liability and immunity for the release of information
33 about a particular person who is committed to the department of
34 social and health services or the authority under RCW 71.05.280(3)
35 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
36 RCW 9.94A.030, is governed by RCW 4.24.550.

37 (5) The fact of admission to a provider of mental health
38 services, as well as all records, files, evidence, findings, or
39 orders made, prepared, collected, or maintained pursuant to chapter

1 71.05 RCW are not admissible as evidence in any legal proceeding
2 outside that chapter without the written authorization of the person
3 who was the subject of the proceeding except as provided in RCW
4 70.02.260, in a subsequent criminal prosecution of a person committed
5 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
6 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
7 trial, in a civil commitment proceeding pursuant to chapter 71.09
8 RCW, or, in the case of a minor, a guardianship or dependency
9 proceeding. The records and files maintained in any court proceeding
10 pursuant to chapter 71.05 RCW must be confidential and available
11 subsequent to such proceedings only to the person who was the subject
12 of the proceeding or his or her attorney. In addition, the court may
13 order the subsequent release or use of such records or files only
14 upon good cause shown if the court finds that appropriate safeguards
15 for strict confidentiality are and will be maintained.

16 (6)(a) Except as provided in RCW 4.24.550, any person may bring
17 an action against an individual who has willfully released
18 confidential information or records concerning him or her in
19 violation of the provisions of this section, for the greater of the
20 following amounts:

21 (i) One thousand dollars; or

22 (ii) Three times the amount of actual damages sustained, if any.

23 (b) It is not a prerequisite to recovery under this subsection
24 that the plaintiff suffered or was threatened with special, as
25 contrasted with general, damages.

26 (c) Any person may bring an action to enjoin the release of
27 confidential information or records concerning him or her or his or
28 her ward, in violation of the provisions of this section, and may in
29 the same action seek damages as provided in this subsection.

30 (d) The court may award to the plaintiff, should he or she
31 prevail in any action authorized by this subsection, reasonable
32 attorney fees in addition to those otherwise provided by law.

33 (e) If an action is brought under this subsection, no action may
34 be brought under RCW 70.02.170.

35 **Sec. 8005.** RCW 70.02.240 and 2013 c 200 s 8 are each amended to
36 read as follows:

37 The fact of admission and all information and records related to
38 mental health services obtained through treatment under chapter 71.34
39 RCW is confidential, except as authorized in RCW 70.02.050,

1 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential
2 information may be disclosed only:

3 (1) In communications between mental health professionals to meet
4 the requirements of chapter 71.34 RCW, in the provision of services
5 to the minor, or in making appropriate referrals;

6 (2) In the course of guardianship or dependency proceedings;

7 (3) To the minor, the minor's parent, and the minor's attorney,
8 subject to RCW 13.50.100;

9 (4) To the courts as necessary to administer chapter 71.34 RCW;

10 (5) To law enforcement officers or public health officers as
11 necessary to carry out the responsibilities of their office. However,
12 only the fact and date of admission, and the date of discharge, the
13 name and address of the treatment provider, if any, and the last
14 known address must be disclosed upon request;

15 (6) To law enforcement officers, public health officers,
16 relatives, and other governmental law enforcement agencies, if a
17 minor has escaped from custody, disappeared from an evaluation and
18 treatment facility, violated conditions of a less restrictive
19 treatment order, or failed to return from an authorized leave, and
20 then only such information as may be necessary to provide for public
21 safety or to assist in the apprehension of the minor. The officers
22 are obligated to keep the information confidential in accordance with
23 this chapter;

24 (7) To the secretary of social and health services and the
25 director of the health care authority for assistance in data
26 collection and program evaluation or research so long as the
27 secretary or director, where applicable, adopts rules for the conduct
28 of such evaluation and research. The rules must include, but need not
29 be limited to, the requirement that all evaluators and researchers
30 sign an oath of confidentiality substantially as follows:

31 "As a condition of conducting evaluation or research concerning
32 persons who have received services from (fill in the facility,
33 agency, or person) I,, agree not to divulge, publish, or
34 otherwise make known to unauthorized persons or the public any
35 information obtained in the course of such evaluation or research
36 regarding minors who have received services in a manner such that the
37 minor is identifiable.

38 I recognize that unauthorized release of confidential information
39 may subject me to civil liability under state law.

1
2 (8) To appropriate law enforcement agencies, upon request, all
3 necessary and relevant information in the event of a crisis or
4 emergent situation that poses a significant and imminent risk to the
5 public. The mental health service agency or its employees are not
6 civilly liable for the decision to disclose or not, so long as the
7 decision was reached in good faith and without gross negligence;

8 (9) To appropriate law enforcement agencies and to a person, when
9 the identity of the person is known to the public or private agency,
10 whose health and safety has been threatened, or who is known to have
11 been repeatedly harassed, by the patient. The person may designate a
12 representative to receive the disclosure. The disclosure must be made
13 by the professional person in charge of the public or private agency
14 or his or her designee and must include the dates of admission,
15 discharge, authorized or unauthorized absence from the agency's
16 facility, and only any other information that is pertinent to the
17 threat or harassment. The agency or its employees are not civilly
18 liable for the decision to disclose or not, so long as the decision
19 was reached in good faith and without gross negligence;

20 (10) To a minor's next of kin, attorney, guardian, or
21 conservator, if any, the information that the minor is presently in
22 the facility or that the minor is seriously physically ill and a
23 statement evaluating the mental and physical condition of the minor
24 as well as a statement of the probable duration of the minor's
25 confinement;

26 (11) Upon the death of a minor, to the minor's next of kin;

27 (12) To a facility in which the minor resides or will reside;

28 (13) To law enforcement officers and to prosecuting attorneys as
29 are necessary to enforce RCW 9.41.040(2)(a)((~~ii~~)) (iii). The extent
30 of information that may be released is limited as follows:

31 (a) Only the fact, place, and date of involuntary commitment, an
32 official copy of any order or orders of commitment, and an official
33 copy of any written or oral notice of ineligibility to possess a
34 firearm that was provided to the person pursuant to RCW 9.41.047(1),
35 must be disclosed upon request;

36 (b) The law enforcement and prosecuting attorneys may only
37 release the information obtained to the person's attorney as required
38 by court rule and to a jury or judge, if a jury is waived, that

1 presides over any trial at which the person is charged with violating
2 RCW 9.41.040(2)(a)((~~ii~~)) (iii);

3 (c) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (14) This section may not be construed to prohibit the
7 compilation and publication of statistical data for use by government
8 or researchers under standards, including standards to assure
9 maintenance of confidentiality, set forth by the director of the
10 health care authority or the secretary of the department of social
11 and health services, where applicable. The fact of admission and all
12 information obtained pursuant to chapter 71.34 RCW are not admissible
13 as evidence in any legal proceeding outside chapter 71.34 RCW, except
14 guardianship or dependency, without the written consent of the minor
15 or the minor's parent;

16 (15) For the purpose of a correctional facility participating in
17 the postinstitutional medical assistance system supporting the
18 expedited medical determinations and medical suspensions as provided
19 in RCW 74.09.555 and 74.09.295;

20 (16) Pursuant to a lawful order of a court.

21 **Sec. 8006.** RCW 70.02.250 and 2014 c 225 s 72 are each amended to
22 read as follows:

23 (1) Information and records related to mental health services
24 delivered to a person subject to chapter 9.94A or 9.95 RCW must be
25 released, upon request, by a mental health service agency to
26 department of corrections personnel for whom the information is
27 necessary to carry out the responsibilities of their office. The
28 information must be provided only for the purpose of completing
29 presentence investigations, supervision of an incarcerated person,
30 planning for and provision of supervision of a person, or assessment
31 of a person's risk to the community. The request must be in writing
32 and may not require the consent of the subject of the records.

33 (2) The information to be released to the department of
34 corrections must include all relevant records and reports, as defined
35 by rule, necessary for the department of corrections to carry out its
36 duties, including those records and reports identified in subsection
37 (1) of this section.

38 (3) The ~~((department))~~ authority shall, subject to available
39 resources, electronically, or by the most cost-effective means

1 available, provide the department of corrections with the names, last
2 dates of services, and addresses of specific behavioral health
3 organizations and mental health service agencies that delivered
4 mental health services to a person subject to chapter 9.94A or 9.95
5 RCW pursuant to an agreement between the authority and the
6 department(~~(s)~~) of corrections.

7 (4) The (~~department and the department of corrections~~)
8 authority, in consultation with the department, the department of
9 corrections, behavioral health organizations, mental health service
10 agencies as defined in RCW 70.02.010, mental health consumers, and
11 advocates for persons with mental illness, shall adopt rules to
12 implement the provisions of this section related to the type and
13 scope of information to be released. These rules must:

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

20 (b) Establish requirements for the notification of persons under
21 the supervision of the department of corrections regarding the
22 provisions of this section.

23 (5) The information received by the department of corrections
24 under this section must remain confidential and subject to the
25 limitations on disclosure outlined in chapter 71.34 RCW, except as
26 provided in RCW 72.09.585.

27 (6) No mental health service agency or individual employed by a
28 mental health service agency may be held responsible for information
29 released to or used by the department of corrections under the
30 provisions of this section or rules adopted under this section.

31 (7) Whenever federal law or federal regulations restrict the
32 release of information contained in the treatment records of any
33 patient who receives treatment for alcoholism or drug dependency, the
34 release of the information may be restricted as necessary to comply
35 with federal law and regulations.

36 (8) This section does not modify the terms and conditions of
37 disclosure of information related to sexually transmitted diseases
38 under this chapter.

1 **Sec. 8007.** RCW 70.02.260 and 2013 c 200 s 10 are each amended to
2 read as follows:

3 (1)(a) A mental health service agency shall release to the
4 persons authorized under subsection (2) of this section, upon
5 request:

6 (i) The fact, place, and date of an involuntary commitment, the
7 fact and date of discharge or release, and the last known address of
8 a person who has been committed under chapter 71.05 RCW.

9 (ii) Information and records related to mental health services,
10 in the format determined under subsection (9) of this section,
11 concerning a person who:

12 (A) Is currently committed to the custody or supervision of the
13 department of corrections or the indeterminate sentence review board
14 under chapter 9.94A or 9.95 RCW;

15 (B) Has been convicted or found not guilty by reason of insanity
16 of a serious violent offense; or

17 (C) Was charged with a serious violent offense and the charges
18 were dismissed under RCW 10.77.086.

19 (b) Legal counsel may release such information to the persons
20 authorized under subsection (2) of this section on behalf of the
21 mental health service agency, so long as nothing in this subsection
22 requires the disclosure of attorney work product or attorney-client
23 privileged information.

24 (2) The information subject to release under subsection (1) of
25 this section must be released to law enforcement officers, personnel
26 of a county or city jail, designated mental health professionals or
27 designated crisis responders, as appropriate, public health officers,
28 therapeutic court personnel as defined in RCW 71.05.020, or personnel
29 of the department of corrections, including the indeterminate
30 sentence review board and personnel assigned to perform board-related
31 duties, when such information is requested during the course of
32 business and for the purpose of carrying out the responsibilities of
33 the requesting person's office. No mental health service agency or
34 person employed by a mental health service agency, or its legal
35 counsel, may be liable for information released to or used under the
36 provisions of this section or rules adopted under this section except
37 under RCW 71.05.680.

38 (3) A person who requests information under subsection (1)(a)(ii)
39 of this section must comply with the following restrictions:

1 (a) Information must be requested only for the purposes permitted
2 by this subsection and for the purpose of carrying out the
3 responsibilities of the requesting person's office. Appropriate
4 purposes for requesting information under this section include:

5 (i) Completing presentence investigations or risk assessment
6 reports;

7 (ii) Assessing a person's risk to the community;

8 (iii) Assessing a person's risk of harm to self or others when
9 confined in a city or county jail;

10 (iv) Planning for and provision of supervision of an offender,
11 including decisions related to sanctions for violations of conditions
12 of community supervision; and

13 (v) Responding to an offender's failure to report for department
14 of corrections supervision;

15 (b) Information may not be requested under this section unless
16 the requesting person has reasonable suspicion that the individual
17 who is the subject of the information:

18 (i) Has engaged in activity indicating that a crime or a
19 violation of community custody or parole has been committed or, based
20 upon his or her current or recent past behavior, is likely to be
21 committed in the near future; or

22 (ii) Is exhibiting signs of a deterioration in mental functioning
23 which may make the individual appropriate for civil commitment under
24 chapter 71.05 RCW; and

25 (c) Any information received under this section must be held
26 confidential and subject to the limitations on disclosure outlined in
27 this chapter, except:

28 (i) The information may be shared with other persons who have the
29 right to request similar information under subsection (2) of this
30 section, solely for the purpose of coordinating activities related to
31 the individual who is the subject of the information in a manner
32 consistent with the official responsibilities of the persons
33 involved;

34 (ii) The information may be shared with a prosecuting attorney
35 acting in an advisory capacity for a person who receives information
36 under this section. A prosecuting attorney under this subsection is
37 subject to the same restrictions and confidentiality limitations as
38 the person who requested the information; and

39 (iii) As provided in RCW 72.09.585.

1 (4) A request for information and records related to mental
2 health services under this section does not require the consent of
3 the subject of the records. The request must be provided in writing,
4 except to the extent authorized in subsection (5) of this section. A
5 written request may include requests made by email or facsimile so
6 long as the requesting person is clearly identified. The request must
7 specify the information being requested.

8 (5) In the event of an emergency situation that poses a
9 significant risk to the public or the offender, a mental health
10 service agency, or its legal counsel, shall release information
11 related to mental health services delivered to the offender and, if
12 known, information regarding where the offender is likely to be found
13 to the department of corrections or law enforcement upon request. The
14 initial request may be written or oral. All oral requests must be
15 subsequently confirmed in writing. Information released in response
16 to an oral request is limited to a statement as to whether the
17 offender is or is not being treated by the mental health service
18 agency and the address or information about the location or
19 whereabouts of the offender.

20 (6) Disclosure under this section to state or local law
21 enforcement authorities is mandatory for the purposes of the federal
22 health insurance portability and accountability act.

23 (7) Whenever federal law or federal regulations restrict the
24 release of information contained in the treatment records of any
25 patient who receives treatment for alcoholism or drug dependency, the
26 release of the information may be restricted as necessary to comply
27 with federal law and regulations.

28 (8) This section does not modify the terms and conditions of
29 disclosure of information related to sexually transmitted diseases
30 under this chapter.

31 (9) In collaboration with interested organizations, the
32 (~~department~~) authority shall develop a standard form for requests
33 for information related to mental health services made under this
34 section and a standard format for information provided in response to
35 the requests. Consistent with the goals of the health information
36 privacy provisions of the federal health insurance portability and
37 accountability act, in developing the standard form for responsive
38 information, the (~~department~~) authority shall design the form in
39 such a way that the information disclosed is limited to the minimum

1 necessary to serve the purpose for which the information is
2 requested.

3 **Sec. 8008.** RCW 70.02.340 and 2014 c 220 s 13 are each amended to
4 read as follows:

5 The (~~department of social and health services~~) authority shall
6 adopt rules related to the disclosure of information and records
7 related to mental health services (~~in this chapter~~).

8 **Sec. 8009.** RCW 70.02.350 and 2013 c 200 s 19 are each amended to
9 read as follows:

10 In addition to any other information required to be released
11 under this chapter, the department of social and health services
12 (~~is~~) and the authority are authorized, pursuant to RCW 4.24.550, to
13 release relevant information that is necessary to protect the public,
14 concerning a specific person committed under RCW 71.05.280(3) or
15 71.05.320(3)(c) following dismissal of a sex offense as defined in
16 RCW 9.94A.030.

17 **Sec. 8010.** RCW 42.56.270 and 2016 sp.s. c 9 s 3, 2016 sp.s. c 8
18 s 1, and 2016 c 178 s 1 are each reenacted and amended to read as
19 follows:

20 The following financial, commercial, and proprietary information
21 is exempt from disclosure under this chapter:

22 (1) Valuable formulae, designs, drawings, computer source code or
23 object code, and research data obtained by any agency within five
24 years of the request for disclosure when disclosure would produce
25 private gain and public loss;

26 (2) Financial information supplied by or on behalf of a person,
27 firm, or corporation for the purpose of qualifying to submit a bid or
28 proposal for (a) a ferry system construction or repair contract as
29 required by RCW 47.60.680 through 47.60.750 or (b) highway
30 construction or improvement as required by RCW 47.28.070;

31 (3) Financial and commercial information and records supplied by
32 private persons pertaining to export services provided under chapters
33 43.163 and 53.31 RCW, and by persons pertaining to export projects
34 under RCW 43.23.035;

35 (4) Financial and commercial information and records supplied by
36 businesses or individuals during application for loans or program
37 services provided by chapters 43.325, 43.163, 43.160, 43.330, and

1 43.168 RCW, or during application for economic development loans or
2 program services provided by any local agency;

3 (5) Financial information, business plans, examination reports,
4 and any information produced or obtained in evaluating or examining a
5 business and industrial development corporation organized or seeking
6 certification under chapter 31.24 RCW;

7 (6) Financial and commercial information supplied to the state
8 investment board by any person when the information relates to the
9 investment of public trust or retirement funds and when disclosure
10 would result in loss to such funds or in private loss to the
11 providers of this information;

12 (7) Financial and valuable trade information under RCW 51.36.120;

13 (8) Financial, commercial, operations, and technical and research
14 information and data submitted to or obtained by the clean Washington
15 center in applications for, or delivery of, program services under
16 chapter 70.95H RCW;

17 (9) Financial and commercial information requested by the public
18 stadium authority from any person or organization that leases or uses
19 the stadium and exhibition center as defined in RCW 36.102.010;

20 (10)(a) Financial information, including but not limited to
21 account numbers and values, and other identification numbers supplied
22 by or on behalf of a person, firm, corporation, limited liability
23 company, partnership, or other entity related to an application for a
24 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
25 marijuana producer, processor, or retailer license, liquor license,
26 gambling license, or lottery retail license;

27 (b) Internal control documents, independent auditors' reports and
28 financial statements, and supporting documents: (i) Of house-banked
29 social card game licensees required by the gambling commission
30 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
31 by tribes with an approved tribal/state compact for class III gaming;

32 (11) Proprietary data, trade secrets, or other information that
33 relates to: (a) A vendor's unique methods of conducting business; (b)
34 data unique to the product or services of the vendor; or (c)
35 determining prices or rates to be charged for services, submitted by
36 any vendor to the department of social and health services or the
37 health care authority for purposes of the development, acquisition,
38 or implementation of state purchased health care as defined in RCW
39 41.05.011;

1 (12)(a) When supplied to and in the records of the department of
2 commerce:

3 (i) Financial and proprietary information collected from any
4 person and provided to the department of commerce pursuant to RCW
5 43.330.050(8); and

6 (ii) Financial or proprietary information collected from any
7 person and provided to the department of commerce or the office of
8 the governor in connection with the siting, recruitment, expansion,
9 retention, or relocation of that person's business and until a siting
10 decision is made, identifying information of any person supplying
11 information under this subsection and the locations being considered
12 for siting, relocation, or expansion of a business;

13 (b) When developed by the department of commerce based on
14 information as described in (a)(i) of this subsection, any work
15 product is not exempt from disclosure;

16 (c) For the purposes of this subsection, "siting decision" means
17 the decision to acquire or not to acquire a site;

18 (d) If there is no written contact for a period of sixty days to
19 the department of commerce from a person connected with siting,
20 recruitment, expansion, retention, or relocation of that person's
21 business, information described in (a)(ii) of this subsection will be
22 available to the public under this chapter;

23 (13) Financial and proprietary information submitted to or
24 obtained by the department of ecology or the authority created under
25 chapter 70.95N RCW to implement chapter 70.95N RCW;

26 (14) Financial, commercial, operations, and technical and
27 research information and data submitted to or obtained by the life
28 sciences discovery fund authority in applications for, or delivery
29 of, grants under chapter 43.350 RCW, to the extent that such
30 information, if revealed, would reasonably be expected to result in
31 private loss to the providers of this information;

32 (15) Financial and commercial information provided as evidence to
33 the department of licensing as required by RCW 19.112.110 or
34 19.112.120, except information disclosed in aggregate form that does
35 not permit the identification of information related to individual
36 fuel licensees;

37 (16) Any production records, mineral assessments, and trade
38 secrets submitted by a permit holder, mine operator, or landowner to
39 the department of natural resources under RCW 78.44.085;

1 (17)(a) Farm plans developed by conservation districts, unless
2 permission to release the farm plan is granted by the landowner or
3 operator who requested the plan, or the farm plan is used for the
4 application or issuance of a permit;

5 (b) Farm plans developed under chapter 90.48 RCW and not under
6 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
7 to RCW 42.56.610 and 90.64.190;

8 (18) Financial, commercial, operations, and technical and
9 research information and data submitted to or obtained by a health
10 sciences and services authority in applications for, or delivery of,
11 grants under RCW 35.104.010 through 35.104.060, to the extent that
12 such information, if revealed, would reasonably be expected to result
13 in private loss to providers of this information;

14 (19) Information gathered under chapter 19.85 RCW or RCW
15 34.05.328 that can be identified to a particular business;

16 (20) Financial and commercial information submitted to or
17 obtained by the University of Washington, other than information the
18 university is required to disclose under RCW 28B.20.150, when the
19 information relates to investments in private funds, to the extent
20 that such information, if revealed, would reasonably be expected to
21 result in loss to the University of Washington consolidated endowment
22 fund or to result in private loss to the providers of this
23 information;

24 (21) Market share data submitted by a manufacturer under RCW
25 70.95N.190(4);

26 (22) Financial information supplied to the department of
27 financial institutions or to a portal under RCW 21.20.883, when filed
28 by or on behalf of an issuer of securities for the purpose of
29 obtaining the exemption from state securities registration for small
30 securities offerings provided under RCW 21.20.880 or when filed by or
31 on behalf of an investor for the purpose of purchasing such
32 securities;

33 (23) Unaggregated or individual notices of a transfer of crude
34 oil that is financial, proprietary, or commercial information,
35 submitted to the department of ecology pursuant to RCW
36 90.56.565(1)(a), and that is in the possession of the department of
37 ecology or any entity with which the department of ecology has shared
38 the notice pursuant to RCW 90.56.565;

39 (24) Financial institution and retirement account information,
40 and building security plan information, supplied to the liquor and

1 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
2 69.50.345, when filed by or on behalf of a licensee or prospective
3 licensee for the purpose of obtaining, maintaining, or renewing a
4 license to produce, process, transport, or sell marijuana as allowed
5 under chapter 69.50 RCW; (~~and~~)

6 (25) Marijuana transport information, vehicle and driver
7 identification data, and account numbers or unique access identifiers
8 issued to private entities for traceability system access, submitted
9 by an individual or business to the liquor and cannabis board under
10 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
11 69.50.345 for the purpose of marijuana product traceability.
12 Disclosure to local, state, and federal officials is not considered
13 public disclosure for purposes of this section; (~~and~~)

14 (26) Financial and commercial information submitted to or
15 obtained by the retirement board of any city that is responsible for
16 the management of an employees' retirement system pursuant to the
17 authority of chapter 35.39 RCW, when the information relates to
18 investments in private funds, to the extent that such information, if
19 revealed, would reasonably be expected to result in loss to the
20 retirement fund or to result in private loss to the providers of this
21 information except that (a) the names and commitment amounts of the
22 private funds in which retirement funds are invested and (b) the
23 aggregate quarterly performance results for a retirement fund's
24 portfolio of investments in such funds are subject to disclosure; and

25 (27) Proprietary financial, commercial, operations, and technical
26 and research information and data submitted to or obtained by the
27 liquor and cannabis board in applications for marijuana research
28 licenses under RCW 69.50.372, or in reports submitted by marijuana
29 research licensees in accordance with rules adopted by the liquor and
30 cannabis board under RCW 69.50.372.

31 **Sec. 8011.** RCW 43.70.080 and 1989 1st ex.s. c 9 s 201 are each
32 amended to read as follows:

33 The powers and duties of the department of social and health
34 services and the secretary of social and health services under the
35 following statutes are hereby transferred to the department of health
36 and the secretary of health: Chapters 16.70, 18.20, 18.46, 18.71,
37 18.73, 18.76, 69.30, 70.28, 70.30, (~~(70.32, 70.33,)~~) 70.50, 70.58,
38 70.62, 70.83, (~~(70.83B,)~~) 70.90, 70.98, 70.104, 70.116, 70.118,
39 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More

1 specifically, the following programs and services presently
2 administered by the department of social and health services are
3 hereby transferred to the department of health:

4 (1) Personal health and protection programs and related
5 management and support services, including, but not limited to:
6 Immunizations; tuberculosis; sexually transmitted diseases; AIDS;
7 diabetes control; primary health care; cardiovascular risk reduction;
8 kidney disease; regional genetic services; newborn metabolic
9 screening; sentinel birth defects; cytogenetics; communicable disease
10 epidemiology; and chronic disease epidemiology;

11 (2) Environmental health protection services and related
12 management and support services, including, but not limited to:
13 Radiation, including X-ray control, radioactive materials, uranium
14 mills, low-level waste, emergency response and reactor safety, and
15 environmental radiation protection; drinking water; toxic substances;
16 on-site sewage; recreational water contact facilities; food services
17 sanitation; shellfish; and general environmental health services,
18 including schools, vectors, parks, and camps;

19 (3) Public health laboratory;

20 (4) Public health support services, including, but not limited
21 to: Vital records; health data; local public health services support;
22 and health education and information;

23 (5) Licensing and certification services including, but not
24 limited to: Behavioral health agencies, agencies providing problem
25 and pathological gambling treatment, health and personal care
26 facility survey, construction review, emergency medical services,
27 laboratory quality assurance, and accommodations surveys; and

28 (6) Effective January 1, 1991, parent and child health services
29 and related management support services, including, but not limited
30 to: Maternal and infant health; child health; parental health;
31 nutrition; (~~handicapped children's~~) services for children with
32 disabilities; family planning; adolescent pregnancy services; high
33 priority infant tracking; early intervention; parenting education;
34 prenatal regionalization; and power and duties under RCW 43.20A.635.
35 The director of the office of financial management may recommend to
36 the legislature a delay in this transfer, if it is determined that
37 this time frame is not adequate.

38 **Sec. 8012.** RCW 43.59.030 and 2016 c 206 s 2 are each amended to
39 read as follows:

1 The governor shall be assisted in his or her duties and
2 responsibilities by the Washington state traffic safety commission.
3 The Washington traffic safety commission shall be composed of the
4 governor as chair, the superintendent of public instruction, the
5 director of licensing, the secretary of transportation, the chief of
6 the state patrol, the secretary of health, the (~~secretary of social
7 and health services~~) director of the health care authority, a
8 representative of the association of Washington cities to be
9 appointed by the governor, a member of the association of counties to
10 be appointed by the governor, and a representative of the judiciary
11 to be appointed by the governor. Appointments to any vacancies among
12 appointee members shall be as in the case of original appointment.

13 The governor may designate an employee of the governor's office
14 familiar with the traffic safety commission to act on behalf of the
15 governor during the absence of the governor at one or more of the
16 meetings of the commission. The vote of the designee shall have the
17 same effect as if cast by the governor if the designation is in
18 writing and is presented to the person presiding at the meetings
19 included within the designation.

20 The governor may designate a member, other than the governor's
21 designee, to preside during the governor's absence.

22 **Sec. 8013.** RCW 48.21.180 and 2003 c 248 s 9 are each amended to
23 read as follows:

24 Each group disability insurance contract which is delivered or
25 issued for delivery or renewed, on or after January 1, 1988, and
26 which insures for hospital or medical care must contain provisions
27 providing benefits for the treatment of chemical dependency rendered
28 to the insured by a provider which is an "approved substance use
29 disorder treatment program" under RCW 70.96A.020(~~(+3+)~~) (2).

30 **Sec. 8014.** RCW 48.44.240 and 2005 c 223 s 25 are each amended to
31 read as follows:

32 Each group contract for health care services that is delivered or
33 issued for delivery or renewed, on or after January 1, 1988, must
34 contain provisions providing benefits for the treatment of chemical
35 dependency rendered to covered persons by a provider that is an
36 "approved substance use disorder treatment program" under RCW
37 70.96A.020(~~(+3+)~~) (2).

1 **Sec. 8015.** RCW 48.46.350 and 2003 c 248 s 19 are each amended to
2 read as follows:

3 Each group agreement for health care services that is delivered
4 or issued for delivery or renewed on or after January 1, 1988, must
5 contain provisions providing benefits for the treatment of chemical
6 dependency rendered to covered persons by a provider which is an
7 "approved substance use disorder treatment program" under RCW
8 70.96A.020(~~((3))~~) (2). However, this section does not apply to any
9 agreement written as supplemental coverage to any federal or state
10 programs of health care including, but not limited to, Title XVIII
11 health insurance for the aged, which is commonly referred to as
12 Medicare, Parts A&B, and amendments thereto. Treatment must be
13 covered under the chemical dependency coverage if treatment is
14 rendered by the health maintenance organization or if the health
15 maintenance organization refers the enrolled participant or the
16 enrolled participant's dependents to a physician licensed under
17 chapter 18.57 or 18.71 RCW, or to a qualified counselor employed by
18 an approved substance use disorder treatment program described in RCW
19 70.96A.020(~~((3))~~) (2). In all cases, a health maintenance
20 organization retains the right to diagnose the presence of chemical
21 dependency and select the modality of treatment that best serves the
22 interest of the health maintenance organization's enrolled
23 participant, or the enrolled participant's covered dependent.

24 **Sec. 8016.** RCW 69.50.540 and 2015 3rd sp.s. c 4 s 967 are each
25 amended to read as follows:

26 The legislature must annually appropriate moneys in the dedicated
27 marijuana account created in RCW 69.50.530 as follows:

28 (1) For the purposes listed in this subsection (1), the
29 legislature must appropriate to the respective agencies amounts
30 sufficient to make the following expenditures on a quarterly basis:

31 (a) Beginning July 1, (~~(2015))~~ 2017, one hundred twenty-five
32 thousand dollars to the (~~department of social and health services~~)
33 health care authority to design and administer the Washington state
34 healthy youth survey, analyze the collected data, and produce
35 reports, in collaboration with the office of the superintendent of
36 public instruction, department of health, department of commerce,
37 family policy council, and state liquor and cannabis board. The
38 survey must be conducted at least every two years and include
39 questions regarding, but not necessarily limited to, academic

1 achievement, age at time of substance use initiation, antisocial
2 behavior of friends, attitudes toward antisocial behavior, attitudes
3 toward substance use, laws and community norms regarding antisocial
4 behavior, family conflict, family management, parental attitudes
5 toward substance use, peer rewarding of antisocial behavior,
6 perceived risk of substance use, and rebelliousness. Funds disbursed
7 under this subsection may be used to expand administration of the
8 healthy youth survey to student populations attending institutions of
9 higher education in Washington;

10 (b) Beginning July 1, (~~(2015)~~) 2017, fifty thousand dollars to
11 the (~~department of social and health services~~) health care
12 authority for the purpose of contracting with the Washington state
13 institute for public policy to conduct the cost-benefit evaluation
14 and produce the reports described in RCW 69.50.550. This
15 appropriation ends after production of the final report required by
16 RCW 69.50.550;

17 (c) Beginning July 1, (~~(2015)~~) 2017, five thousand dollars to the
18 University of Washington alcohol and drug abuse institute for the
19 creation, maintenance, and timely updating of web-based public
20 education materials providing medically and scientifically accurate
21 information about the health and safety risks posed by marijuana use;

22 (d) An amount not less than one million two hundred fifty
23 thousand dollars to the state liquor and cannabis board for
24 administration of this chapter as appropriated in the omnibus
25 appropriations act;

26 (e) Twenty-three thousand seven hundred fifty dollars to the
27 department of enterprise services provided solely for the state
28 building code council established under RCW 19.27.070, to develop and
29 adopt fire and building code provisions related to marijuana
30 processing and extraction facilities. The distribution under this
31 subsection (1)(e) is for fiscal year 2016 only;

32 (2) From the amounts in the dedicated marijuana account after
33 appropriation of the amounts identified in subsection (1) of this
34 section, the legislature must appropriate for the purposes listed in
35 this subsection (2) as follows:

36 (a)(i) Up to fifteen percent to the (~~department of social and~~
37 ~~health services division of behavioral health and recovery~~) health
38 care authority for the development, implementation, maintenance, and
39 evaluation of programs and practices aimed at the prevention or
40 reduction of maladaptive substance use, substance use disorder,

1 substance abuse or substance dependence, as these terms are defined
2 in the Diagnostic and Statistical Manual of Mental Disorders, among
3 middle school and high school-age students, whether as an explicit
4 goal of a given program or practice or as a consistently
5 corresponding effect of its implementation, mental health services
6 for children and youth, and services for pregnant and parenting
7 women; PROVIDED, That:

8 (A) Of the funds appropriated under (a)(i) of this subsection for
9 new programs and new services, at least eighty-five percent must be
10 directed to evidence-based or research-based programs and practices
11 that produce objectively measurable results and, by September 1,
12 2020, are cost-beneficial; and

13 (B) Up to fifteen percent of the funds appropriated under (a)(i)
14 of this subsection for new programs and new services may be directed
15 to proven and tested practices, emerging best practices, or promising
16 practices.

17 (ii) In deciding which programs and practices to fund, the
18 (~~secretary of the department of social and health services~~)
19 director of the health care authority must consult, at least
20 annually, with the University of Washington's social development
21 research group and the University of Washington's alcohol and drug
22 abuse institute.

23 (iii) For the fiscal year beginning July 1, 2016, the legislature
24 must appropriate a minimum of twenty-seven million seven hundred
25 eighty-six thousand dollars, and for each subsequent fiscal year
26 thereafter, the legislature must appropriate a minimum of twenty-five
27 million five hundred thirty-six thousand dollars under this
28 subsection (2)(a);

29 (b)(i) Up to ten percent to the department of health for the
30 following, subject to (b)(ii) of this subsection (2):

31 (A) Creation, implementation, operation, and management of a
32 marijuana education and public health program that contains the
33 following:

34 (I) A marijuana use public health hotline that provides referrals
35 to substance abuse treatment providers, utilizes evidence-based or
36 research-based public health approaches to minimizing the harms
37 associated with marijuana use, and does not solely advocate an
38 abstinence-only approach;

39 (II) A grants program for local health departments or other local
40 community agencies that supports development and implementation of

1 coordinated intervention strategies for the prevention and reduction
2 of marijuana use by youth; and

3 (III) Media-based education campaigns across television,
4 internet, radio, print, and out-of-home advertising, separately
5 targeting youth and adults, that provide medically and scientifically
6 accurate information about the health and safety risks posed by
7 marijuana use;

8 (B) The Washington poison control center; and

9 (C) During the 2015-2017 fiscal biennium, the funds appropriated
10 under this subsection (2)(b) may be used for prevention activities
11 that target youth and populations with a high incidence of tobacco
12 use.

13 (ii) For the fiscal year beginning July 1, 2016, the legislature
14 must appropriate a minimum of seven million five hundred thousand
15 dollars and for each subsequent fiscal year thereafter, the
16 legislature must appropriate a minimum of nine million seven hundred
17 fifty thousand dollars under this subsection (2)(b);

18 (c)(i) Up to six-tenths of one percent to the University of
19 Washington and four-tenths of one percent to Washington State
20 University for research on the short and long-term effects of
21 marijuana use, to include but not be limited to formal and informal
22 methods for estimating and measuring intoxication and impairment, and
23 for the dissemination of such research.

24 (ii) For the fiscal year beginning July 1, 2016, the legislature
25 must appropriate a minimum of two hundred seven thousand dollars and
26 for each subsequent fiscal year, the legislature must appropriate a
27 minimum of one million twenty-one thousand dollars to the University
28 of Washington. For the fiscal year beginning July 1, 2016, the
29 legislature must appropriate a minimum of one hundred thirty-eight
30 thousand dollars and for each subsequent fiscal year thereafter, a
31 minimum of six hundred eighty-one thousand dollars to Washington
32 State University under this subsection (2)(c);

33 (d) Fifty percent to the state basic health plan trust account to
34 be administered by the Washington basic health plan administrator and
35 used as provided under chapter 70.47 RCW;

36 (e) Five percent to the Washington state health care authority to
37 be expended exclusively through contracts with community health
38 centers to provide primary health and dental care services, migrant
39 health services, and maternity health care services as provided under
40 RCW 41.05.220;

1 (f)(i) Up to three-tenths of one percent to the office of the
2 superintendent of public instruction to fund grants to building
3 bridges programs under chapter 28A.175 RCW.

4 (ii) For the fiscal year beginning July 1, 2016, and each
5 subsequent fiscal year, the legislature must appropriate a minimum of
6 five hundred eleven thousand dollars to the office of the
7 superintendent of public instruction under this subsection (2)(f);
8 and

9 (g) At the end of each fiscal year, the treasurer must transfer
10 any amounts in the dedicated marijuana account that are not
11 appropriated pursuant to subsection (1) of this section and this
12 subsection (2) into the general fund, except as provided in (g)(i) of
13 this subsection (2).

14 (i) Beginning in fiscal year 2018, if marijuana excise tax
15 collections deposited into the general fund in the prior fiscal year
16 exceed twenty-five million dollars, then each fiscal year the
17 legislature must appropriate an amount equal to thirty percent of all
18 marijuana excise taxes deposited into the general fund the prior
19 fiscal year to the treasurer for distribution to counties, cities,
20 and towns as follows:

21 (A) Thirty percent must be distributed to counties, cities, and
22 towns where licensed marijuana retailers are physically located. Each
23 jurisdiction must receive a share of the revenue distribution under
24 this subsection (2)(g)(i)(A) based on the proportional share of the
25 total revenues generated in the individual jurisdiction from the
26 taxes collected under RCW 69.50.535, from licensed marijuana
27 retailers physically located in each jurisdiction. For purposes of
28 this subsection (2)(g)(i)(A), one hundred percent of the proportional
29 amount attributed to a retailer physically located in a city or town
30 must be distributed to the city or town.

31 (B) Seventy percent must be distributed to counties, cities, and
32 towns ratably on a per capita basis. Counties must receive sixty
33 percent of the distribution, which must be disbursed based on each
34 county's total proportional population. Funds may only be distributed
35 to jurisdictions that do not prohibit the siting of any state
36 licensed marijuana producer, processor, or retailer.

37 (ii) Distribution amounts allocated to each county, city, and
38 town must be distributed in four installments by the last day of each
39 fiscal quarter.

1 (iii) By September 15th of each year, the state liquor and
2 cannabis board must provide the state treasurer the annual
3 distribution amount, if any, for each county and city as determined
4 in (g)(i) of this subsection (2).

5 (iv) The total share of marijuana excise tax revenues distributed
6 to counties and cities in (g)(i) of this subsection (2) may not
7 exceed fifteen million dollars in fiscal years 2018 and 2019 and
8 twenty million dollars per fiscal year thereafter.

9 For the purposes of this section, "marijuana products" means
10 "useable marijuana," "marijuana concentrates," and "marijuana-infused
11 products" as those terms are defined in RCW 69.50.101.

12 **PART 9**

13 **Sec. 9001.** RCW 2.30.020 and 2015 c 291 s 2 are each amended to
14 read as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

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

23 (2) "Evidence-based" means a program or practice that: (a) Has
24 been tested in heterogeneous or intended populations with multiple
25 randomized, or statistically controlled evaluations, or both; or one
26 large multiple site randomized, or statistically controlled
27 evaluation, or both, where the weight of the evidence from a systemic
28 review demonstrates sustained improvements in at least one outcome;
29 or (b) may be implemented with a set of procedures to allow
30 successful replication in Washington and, when possible, is
31 determined to be cost-beneficial.

32 (3) "Government authority" means prosecutor or other
33 representative initiating action leading to a proceeding in
34 therapeutic court.

35 (4) "Participant" means an accused person, offender, or
36 respondent in the judicial proceeding.

37 (5) "Research-based" means a program or practice that has been
38 tested with a single randomized, or statistically controlled

1 evaluation, or both, demonstrating sustained desirable outcomes; or
2 where the weight of the evidence from a systemic review supports
3 sustained outcomes as described in this subsection but does not meet
4 the full criteria for evidence-based.

5 (6) "Specialty court" and "therapeutic court" both mean a court
6 utilizing a program or programs structured to achieve both a
7 reduction in recidivism and an increase in the likelihood of
8 rehabilitation, or to reduce child abuse and neglect, out-of-home
9 placements of children, termination of parental rights, and substance
10 abuse and mental health symptoms among parents or guardians and their
11 children through continuous and intense judicially supervised
12 treatment and the appropriate use of services, sanctions, and
13 incentives.

14 (7) "Therapeutic court personnel" means the staff of a
15 therapeutic court including, but not limited to: Court and clerk
16 personnel with therapeutic court duties, prosecuting attorneys, the
17 attorney general or his or her representatives, defense counsel,
18 monitoring personnel, and others acting within the scope of
19 therapeutic court duties.

20 (8) "Trial court" means a superior court authorized under this
21 title ((2-RCW)) or a district or municipal court authorized under
22 Title 3 or 35 RCW.

23 **Sec. 9002.** RCW 2.30.030 and 2015 c 291 s 3 are each amended to
24 read as follows:

25 (1) Every trial and juvenile court in the state of Washington is
26 authorized and encouraged to establish and operate therapeutic
27 courts. Therapeutic courts, in conjunction with the government
28 authority and subject matter experts specific to the focus of the
29 therapeutic court, develop and process cases in ways that depart from
30 traditional judicial processes to allow defendants or respondents the
31 opportunity to obtain treatment services to address particular issues
32 that may have contributed to the conduct that led to their arrest or
33 involvement in the child welfare system in exchange for resolution of
34 the case or charges. In criminal cases, the consent of the prosecutor
35 is required.

36 (2) While a therapeutic court judge retains the discretion to
37 decline to accept a case into the therapeutic court, and while a
38 therapeutic court retains discretion to establish processes and
39 determine eligibility for admission to the therapeutic court process

1 unique to their community and jurisdiction, the effectiveness and
2 credibility of any therapeutic court will be enhanced when the court
3 implements evidence-based practices, research-based practices,
4 emerging best practices, or promising practices that have been
5 identified and accepted at the state and national levels. Promising
6 practices, emerging best practices, and/or research-based programs
7 are authorized where determined by the court to be appropriate. As
8 practices evolve, the trial court shall regularly assess the
9 effectiveness of its program and the methods by which it implements
10 and adopts new best practices.

11 (3) Except under special findings by the court, the following
12 individuals are not eligible for participation in therapeutic courts:

13 (a) Individuals who are currently charged or who have been
14 previously convicted of a serious violent offense or sex offense as
15 defined in RCW 9.94A.030;

16 (b) Individuals who are currently charged with an offense
17 alleging intentional discharge, threat to discharge, or attempt to
18 discharge a firearm in furtherance of the offense;

19 (c) Individuals who are currently charged with or who have been
20 previously convicted of vehicular homicide or an equivalent out-of-
21 state offense; or

22 (d) Individuals who are currently charged with or who have been
23 previously convicted of: An offense alleging substantial bodily harm
24 or great bodily harm as defined in RCW 9A.04.110, or death of another
25 person.

26 (4) Any jurisdiction establishing a therapeutic court shall
27 endeavor to incorporate the therapeutic court principles of best
28 practices as recognized by state and national therapeutic court
29 organizations in structuring a particular program, which may include:

30 (a) Determining the population;

31 (b) Performing a clinical assessment;

32 (c) Developing the treatment plan;

33 (d) Monitoring the participant, including any appropriate
34 testing;

35 (e) Forging agency, organization, and community partnerships;

36 (f) Taking a judicial leadership role;

37 (g) Developing case management strategies;

38 (h) Addressing transportation, housing, and subsistence issues;

39 (i) Evaluating the program;

40 (j) Ensuring a sustainable program.

1 (5) Upon a showing of indigence under RCW 10.101.010, fees may be
2 reduced or waived.

3 (6) The (~~department of social and health services~~) health care
4 authority shall furnish services to therapeutic courts addressing
5 dependency matters where substance abuse or mental health are an
6 issue unless the court contracts with providers outside of the
7 (~~department~~) health care authority.

8 (7) Any jurisdiction that has established more than one
9 therapeutic court under this chapter may combine the functions of
10 these courts into a single therapeutic court.

11 (8) Nothing in this section prohibits a district or municipal
12 court from ordering treatment or other conditions of sentence or
13 probation following a conviction, without the consent of either the
14 prosecutor or defendant.

15 (9) No therapeutic or specialty court may be established
16 specifically for the purpose of applying foreign law, including
17 foreign criminal, civil, or religious law, that is otherwise not
18 required by treaty.

19 (10) No therapeutic or specialty court established by court rule
20 shall enforce a foreign law, if doing so would violate a right
21 guaranteed by the Constitution of this state or of the United States.

22 **Sec. 9003.** RCW 9.41.300 and 2011 c 221 s 2 are each amended to
23 read as follows:

24 (1) It is unlawful for any person to enter the following places
25 when he or she knowingly possesses or knowingly has under his or her
26 control a weapon:

27 (a) The restricted access areas of a jail, or of a law
28 enforcement facility, or any place used for the confinement of a
29 person (i) arrested for, charged with, or convicted of an offense,
30 (ii) held for extradition or as a material witness, or (iii)
31 otherwise confined pursuant to an order of a court, except an order
32 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
33 include common areas of egress or ingress open to the general public;

34 (b) Those areas in any building which are used in connection with
35 court proceedings, including courtrooms, jury rooms, judge's
36 chambers, offices and areas used to conduct court business, waiting
37 areas, and corridors adjacent to areas used in connection with court
38 proceedings. The restricted areas do not include common areas of
39 ingress and egress to the building that is used in connection with

1 court proceedings, when it is possible to protect court areas without
2 restricting ingress and egress to the building. The restricted areas
3 shall be the minimum necessary to fulfill the objective of this
4 subsection (1)(b).

5 For purposes of this subsection (1)(b), "weapon" means any
6 firearm, explosive as defined in RCW 70.74.010, or any weapon of the
7 kind usually known as slung shot, sand club, or metal knuckles, or
8 any knife, dagger, dirk, or other similar weapon that is capable of
9 causing death or bodily injury and is commonly used with the intent
10 to cause death or bodily injury.

11 In addition, the local legislative authority shall provide either
12 a stationary locked box sufficient in size for pistols and key to a
13 weapon owner for weapon storage, or shall designate an official to
14 receive weapons for safekeeping, during the owner's visit to
15 restricted areas of the building. The locked box or designated
16 official shall be located within the same building used in connection
17 with court proceedings. The local legislative authority shall be
18 liable for any negligence causing damage to or loss of a weapon
19 either placed in a locked box or left with an official during the
20 owner's visit to restricted areas of the building.

21 The local judicial authority shall designate and clearly mark
22 those areas where weapons are prohibited, and shall post notices at
23 each entrance to the building of the prohibition against weapons in
24 the restricted areas;

25 (c) The restricted access areas of a public mental health
26 facility licensed or certified by the department of (~~social and~~
27 ~~health services~~) health for inpatient hospital care and state
28 institutions for the care of the mentally ill, excluding those
29 facilities solely for evaluation and treatment. Restricted access
30 areas do not include common areas of egress and ingress open to the
31 general public;

32 (d) That portion of an establishment classified by the state
33 liquor (~~control~~) and cannabis board as off-limits to persons under
34 twenty-one years of age; or

35 (e) The restricted access areas of a commercial service airport
36 designated in the airport security plan approved by the federal
37 transportation security administration, including passenger screening
38 checkpoints at or beyond the point at which a passenger initiates the
39 screening process. These areas do not include airport drives, general
40 parking areas and walkways, and shops and areas of the terminal that

1 are outside the screening checkpoints and that are normally open to
2 unscreened passengers or visitors to the airport. Any restricted
3 access area shall be clearly indicated by prominent signs indicating
4 that firearms and other weapons are prohibited in the area.

5 (2) Cities, towns, counties, and other municipalities may enact
6 laws and ordinances:

7 (a) Restricting the discharge of firearms in any portion of their
8 respective jurisdictions where there is a reasonable likelihood that
9 humans, domestic animals, or property will be jeopardized. Such laws
10 and ordinances shall not abridge the right of the individual
11 guaranteed by Article I, section 24 of the state Constitution to bear
12 arms in defense of self or others; and

13 (b) Restricting the possession of firearms in any stadium or
14 convention center, operated by a city, town, county, or other
15 municipality, except that such restrictions shall not apply to:

16 (i) Any pistol in the possession of a person licensed under RCW
17 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

18 (ii) Any showing, demonstration, or lecture involving the
19 exhibition of firearms.

20 (3)(a) Cities, towns, and counties may enact ordinances
21 restricting the areas in their respective jurisdictions in which
22 firearms may be sold, but, except as provided in (b) of this
23 subsection, a business selling firearms may not be treated more
24 restrictively than other businesses located within the same zone. An
25 ordinance requiring the cessation of business within a zone shall not
26 have a shorter grandfather period for businesses selling firearms
27 than for any other businesses within the zone.

28 (b) Cities, towns, and counties may restrict the location of a
29 business selling firearms to not less than five hundred feet from
30 primary or secondary school grounds, if the business has a
31 storefront, has hours during which it is open for business, and posts
32 advertisements or signs observable to passersby that firearms are
33 available for sale. A business selling firearms that exists as of the
34 date a restriction is enacted under this subsection (3)(b) shall be
35 grandfathered according to existing law.

36 (4) Violations of local ordinances adopted under subsection (2)
37 of this section must have the same penalty as provided for by state
38 law.

39 (5) The perimeter of the premises of any specific location
40 covered by subsection (1) of this section shall be posted at

1 reasonable intervals to alert the public as to the existence of any
2 law restricting the possession of firearms on the premises.

3 (6) Subsection (1) of this section does not apply to:

4 (a) A person engaged in military activities sponsored by the
5 federal or state governments, while engaged in official duties;

6 (b) Law enforcement personnel, except that subsection (1)(b) of
7 this section does apply to a law enforcement officer who is present
8 at a courthouse building as a party to an action under chapter 10.14,
9 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
10 has alleged the existence of domestic violence as defined in RCW
11 26.50.010; or

12 (c) Security personnel while engaged in official duties.

13 (7) Subsection (1)(a), (b), (c), and (e) of this section does not
14 apply to correctional personnel or community corrections officers, as
15 long as they are employed as such, who have completed government-
16 sponsored law enforcement firearms training, except that subsection
17 (1)(b) of this section does apply to a correctional employee or
18 community corrections officer who is present at a courthouse building
19 as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or
20 an action under Title 26 RCW where any party has alleged the
21 existence of domestic violence as defined in RCW 26.50.010.

22 (8) Subsection (1)(a) of this section does not apply to a person
23 licensed pursuant to RCW 9.41.070 who, upon entering the place or
24 facility, directly and promptly proceeds to the administrator of the
25 facility or the administrator's designee and obtains written
26 permission to possess the firearm while on the premises or checks his
27 or her firearm. The person may reclaim the firearms upon leaving but
28 must immediately and directly depart from the place or facility.

29 (9) Subsection (1)(c) of this section does not apply to any
30 administrator or employee of the facility or to any person who, upon
31 entering the place or facility, directly and promptly proceeds to the
32 administrator of the facility or the administrator's designee and
33 obtains written permission to possess the firearm while on the
34 premises.

35 (10) Subsection (1)(d) of this section does not apply to the
36 proprietor of the premises or his or her employees while engaged in
37 their employment.

38 (11) Government-sponsored law enforcement firearms training must
39 be training that correctional personnel and community corrections
40 officers receive as part of their job requirement and reference to

1 such training does not constitute a mandate that it be provided by
2 the correctional facility.

3 (12) Any person violating subsection (1) of this section is
4 guilty of a gross misdemeanor.

5 (13) "Weapon" as used in this section means any firearm,
6 explosive as defined in RCW 70.74.010, or instrument or weapon listed
7 in RCW 9.41.250.

8 **Sec. 9004.** RCW 9.94A.703 and 2015 c 81 s 3 are each amended to
9 read as follows:

10 When a court sentences a person to a term of community custody,
11 the court shall impose conditions of community custody as provided in
12 this section.

13 (1) **Mandatory conditions.** As part of any term of community
14 custody, the court shall:

15 (a) Require the offender to inform the department of court-
16 ordered treatment upon request by the department;

17 (b) Require the offender to comply with any conditions imposed by
18 the department under RCW 9.94A.704;

19 (c) If the offender was sentenced under RCW 9.94A.507 for an
20 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense
21 was under eighteen years of age at the time of the offense, prohibit
22 the offender from residing in a community protection zone;

23 (d) If the offender was sentenced under RCW 9A.36.120, prohibit
24 the offender from serving in any paid or volunteer capacity where he
25 or she has control or supervision of minors under the age of
26 thirteen.

27 (2) **Waivable conditions.** Unless waived by the court, as part of
28 any term of community custody, the court shall order an offender to:

29 (a) Report to and be available for contact with the assigned
30 community corrections officer as directed;

31 (b) Work at department-approved education, employment, or
32 community restitution, or any combination thereof;

33 (c) Refrain from possessing or consuming controlled substances
34 except pursuant to lawfully issued prescriptions;

35 (d) Pay supervision fees as determined by the department; and

36 (e) Obtain prior approval of the department for the offender's
37 residence location and living arrangements.

38 (3) **Discretionary conditions.** As part of any term of community
39 custody, the court may order an offender to:

1 (a) Remain within, or outside of, a specified geographical
2 boundary;

3 (b) Refrain from direct or indirect contact with the victim of
4 the crime or a specified class of individuals;

5 (c) Participate in crime-related treatment or counseling
6 services;

7 (d) Participate in rehabilitative programs or otherwise perform
8 affirmative conduct reasonably related to the circumstances of the
9 offense, the offender's risk of reoffending, or the safety of the
10 community;

11 (e) Refrain from possessing or consuming alcohol; or

12 (f) Comply with any crime-related prohibitions.

13 (4) **Special conditions.**

14 (a) In sentencing an offender convicted of a crime of domestic
15 violence, as defined in RCW 10.99.020, if the offender has a minor
16 child, or if the victim of the offense for which the offender was
17 convicted has a minor child, the court may order the offender to
18 participate in a domestic violence perpetrator program approved under
19 RCW 26.50.150.

20 (b)(i) In sentencing an offender convicted of an alcohol or drug-
21 related traffic offense, the court shall require the offender to
22 complete a diagnostic evaluation by ~~((an alcohol or drug dependency
23 agency))~~ a substance use disorder treatment program approved by the
24 department of social and health services or a qualified probation
25 department, defined under RCW 46.61.516, that has been approved by
26 the department of social and health services. If the offense was
27 pursuant to chapter 46.61 RCW, the report shall be forwarded to the
28 department of licensing. If the offender is found to have an alcohol
29 or drug problem that requires treatment, the offender shall complete
30 treatment in ~~((a program approved by the department of social and
31 health services under chapter 70.96A RCW))~~ an approved substance use
32 disorder treatment program as defined in chapter 71.24 RCW. If the
33 offender is found not to have an alcohol or drug problem that
34 requires treatment, the offender shall complete a course in an
35 alcohol and drug information school ~~((approved))~~ licensed or
36 certified by the department of ~~((social and health services))~~ health
37 under chapter 70.96A RCW. The offender shall pay all costs for any
38 evaluation, education, or treatment required by this section, unless
39 the offender is eligible for an existing program offered or approved
40 by the department of social and health services.

1 (ii) For purposes of this section, "alcohol or drug-related
2 traffic offense" means the following: Driving while under the
3 influence as defined by RCW 46.61.502, actual physical control while
4 under the influence as defined by RCW 46.61.504, vehicular homicide
5 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by
6 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW
7 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

8 (iii) This subsection (4)(b) does not require the department of
9 social and health services to add new treatment or assessment
10 facilities nor affect its use of existing programs and facilities
11 authorized by law.

12 **Sec. 9005.** RCW 10.05.040 and 2002 c 219 s 9 are each amended to
13 read as follows:

14 The ((~~facility~~)) program to which such person is referred, or the
15 department of social and health services if the petition is brought
16 under RCW 10.05.020(2), shall conduct an investigation and
17 examination to determine:

18 (1) Whether the person suffers from the problem described;

19 (2) Whether the problem is such that if not treated, or if no
20 child welfare services are provided, there is a probability that
21 similar misconduct will occur in the future;

22 (3) Whether extensive and long term treatment is required;

23 (4) Whether effective treatment or child welfare services for the
24 person's problem are available; and

25 (5) Whether the person is amenable to treatment or willing to
26 cooperate with child welfare services.

27 **Sec. 9006.** RCW 10.05.050 and 2002 c 219 s 10 are each amended to
28 read as follows:

29 (1) The ((~~facility~~)) program, or the department of social and
30 health services if the petition is brought under RCW 10.05.020(2),
31 shall make a written report to the court stating its findings and
32 recommendations after the examination required by RCW 10.05.040. If
33 its findings and recommendations support treatment or the
34 implementation of a child welfare service plan, it shall also
35 recommend a treatment or service plan setting out:

36 (a) The type;

37 (b) Nature;

38 (c) Length;

1 (d) A treatment or service time schedule; and

2 (e) Approximate cost of the treatment or child welfare services.

3 (2) In the case of a child welfare service plan, the plan shall
4 be designed in a manner so that a parent who successfully completes
5 the plan will not be likely to withhold the basic necessities of life
6 from his or her child.

7 (3) The report with the treatment or service plan shall be filed
8 with the court and a copy given to the petitioner and petitioner's
9 counsel. A copy of the treatment or service plan shall be given to
10 the prosecutor by petitioner's counsel at the request of the
11 prosecutor. The evaluation facility, or the department of social and
12 health services if the petition is brought under RCW 10.05.020(2),
13 making the written report shall append to the report a commitment by
14 the treatment ((~~facility~~)) program or the department of social and
15 health services that it will provide the treatment or child welfare
16 services in accordance with this chapter. The facility or the service
17 provider shall agree to provide the court with a statement every
18 three months for the first year and every six months for the second
19 year regarding (a) the petitioner's cooperation with the treatment or
20 child welfare service plan proposed and (b) the petitioner's progress
21 or failure in treatment or child welfare services. These statements
22 shall be made as a declaration by the person who is personally
23 responsible for providing the treatment or services.

24 **Sec. 9007.** RCW 18.205.080 and 1998 c 243 s 8 are each amended to
25 read as follows:

26 (1) The secretary shall appoint a chemical dependency
27 certification advisory committee to further the purposes of this
28 chapter. The committee shall be composed of seven members, one member
29 initially appointed for a term of one year, three for a term of two
30 years, and three for a term of three years. Subsequent appointments
31 shall be for terms of three years. No person may serve as a member of
32 the committee for more than two consecutive terms. Members of the
33 committee shall be residents of this state. The committee shall be
34 composed of four certified chemical dependency professionals; one
35 chemical dependency treatment program director; one physician
36 licensed under chapter 18.71 or 18.57 RCW who is certified in
37 addiction medicine or a licensed or certified mental health
38 practitioner; and one member of the public who has received chemical
39 dependency counseling.

1 (2) The secretary may remove any member of the committee for
2 cause as specified by rule. In the case of a vacancy, the secretary
3 shall appoint a person to serve for the remainder of the unexpired
4 term.

5 (3) The committee shall meet at the times and places designated
6 by the secretary and shall hold meetings during the year as necessary
7 to provide advice to the director. The committee may elect a chair
8 and a vice chair. A majority of the members currently serving shall
9 constitute a quorum.

10 (4) Each member of the committee shall be reimbursed for travel
11 expenses as authorized in RCW 43.03.050 and 43.03.060. In addition,
12 members of the committee shall be compensated in accordance with RCW
13 43.03.240 when engaged in the authorized business of the committee.

14 (5) The director of the (~~department of social and health~~
15 ~~services division of alcohol and substance abuse or the director's~~)
16 health care authority, or his or her designee, shall serve as an ex
17 officio member of the committee.

18 (6) The secretary, members of the committee, or individuals
19 acting on their behalf are immune from suit in any action, civil or
20 criminal, based on any certification or disciplinary proceedings or
21 other official acts performed in the course of their duties.

22 **Sec. 9008.** RCW 18.88A.020 and 2015 c 158 s 1 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Alternative training" means a nursing assistant-certified
27 program meeting criteria adopted by the commission under RCW
28 18.88A.087 to meet the requirements of a state-approved nurse aide
29 competency evaluation program consistent with 42 U.S.C. Sec.
30 1395i-3(e) and (f) of the federal social security act.

31 (2) "Approved training program" means a nursing assistant-
32 certified training program approved by the commission to meet the
33 requirements of a state-approved nurse aide training and competency
34 evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f)
35 of the federal social security act. For community college,
36 vocational-technical institutes, skill centers, and secondary school
37 as defined in chapter 28B.50 RCW, nursing assistant-certified
38 training programs shall be approved by the commission in cooperation

1 with the board for community and technical colleges or the
2 superintendent of public instruction.

3 (3) "Commission" means the Washington nursing care quality
4 assurance commission.

5 (4) "Competency evaluation" means the measurement of an
6 individual's knowledge and skills as related to safe, competent
7 performance as a nursing assistant.

8 (5) "Department" means the department of health.

9 (6) "Health care facility" means a nursing home, hospital
10 licensed under chapter 70.41 or 71.12 RCW, hospice care facility,
11 home health care agency, hospice agency, licensed or certified
12 service provider under chapter 71.24 RCW other than an individual
13 health care provider, or other entity for delivery of health care
14 services as defined by the commission.

15 (7) "Medication assistant" means a nursing assistant-certified
16 with a medication assistant endorsement issued under RCW 18.88A.082
17 who is authorized, in addition to his or her duties as a nursing
18 assistant-certified, to administer certain medications and perform
19 certain treatments in a nursing home under the supervision of a
20 registered nurse under RCW 18.88A.082.

21 (8) "Nursing assistant" means an individual, regardless of title,
22 who, under the direction and supervision of a registered nurse or
23 licensed practical nurse, assists in the delivery of nursing and
24 nursing-related activities to patients in a health care facility. The
25 two levels of nursing assistants are:

26 (a) "Nursing assistant-certified," an individual certified under
27 this chapter; and

28 (b) "Nursing assistant-registered," an individual registered
29 under this chapter.

30 (9) "Nursing home" means a nursing home licensed under chapter
31 18.51 RCW.

32 (10) "Secretary" means the secretary of health.

33 **Sec. 9009.** RCW 46.61.5055 and 2016 sp.s. c 29 s 530 and 2016 c
34 203 s 17 are each reenacted and amended to read as follows:

35 (1) **No prior offenses in seven years.** Except as provided in RCW
36 46.61.502(6) or 46.61.504(6), a person who is convicted of a
37 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
38 within seven years shall be punished as follows:

1 (a) **Penalty for alcohol concentration less than 0.15.** In the case
2 of a person whose alcohol concentration was less than 0.15, or for
3 whom for reasons other than the person's refusal to take a test
4 offered pursuant to RCW 46.20.308 there is no test result indicating
5 the person's alcohol concentration:

6 (i) By imprisonment for not less than one day nor more than three
7 hundred sixty-four days. Twenty-four consecutive hours of the
8 imprisonment may not be suspended unless the court finds that the
9 imposition of this mandatory minimum sentence would impose a
10 substantial risk to the offender's physical or mental well-being.
11 Whenever the mandatory minimum sentence is suspended, the court shall
12 state in writing the reason for granting the suspension and the facts
13 upon which the suspension is based. In lieu of the mandatory minimum
14 term of imprisonment required under this subsection (1)(a)(i), the
15 court may order not less than fifteen days of electronic home
16 monitoring or a ninety-day period of 24/7 sobriety program
17 monitoring. The court may consider the offender's pretrial 24/7
18 sobriety program monitoring as fulfilling a portion of posttrial
19 sentencing. The offender shall pay the cost of electronic home
20 monitoring. The county or municipality in which the penalty is being
21 imposed shall determine the cost. The court may also require the
22 offender's electronic home monitoring device or other separate
23 alcohol monitoring device to include an alcohol detection
24 breathalyzer, and the court may restrict the amount of alcohol the
25 offender may consume during the time the offender is on electronic
26 home monitoring; and

27 (ii) By a fine of not less than three hundred fifty dollars nor
28 more than five thousand dollars. Three hundred fifty dollars of the
29 fine may not be suspended unless the court finds the offender to be
30 indigent; or

31 (b) **Penalty for alcohol concentration at least 0.15.** In the case
32 of a person whose alcohol concentration was at least 0.15, or for
33 whom by reason of the person's refusal to take a test offered
34 pursuant to RCW 46.20.308 there is no test result indicating the
35 person's alcohol concentration:

36 (i) By imprisonment for not less than two days nor more than
37 three hundred sixty-four days. Forty-eight consecutive hours of the
38 imprisonment may not be suspended unless the court finds that the
39 imposition of this mandatory minimum sentence would impose a
40 substantial risk to the offender's physical or mental well-being.

1 Whenever the mandatory minimum sentence is suspended, the court shall
2 state in writing the reason for granting the suspension and the facts
3 upon which the suspension is based. In lieu of the mandatory minimum
4 term of imprisonment required under this subsection (1)(b)(i), the
5 court may order not less than thirty days of electronic home
6 monitoring or a one hundred twenty day period of 24/7 sobriety
7 program monitoring. The court may consider the offender's pretrial
8 24/7 sobriety program testing as fulfilling a portion of posttrial
9 sentencing. The offender shall pay the cost of electronic home
10 monitoring. The county or municipality in which the penalty is being
11 imposed shall determine the cost. The court may also require the
12 offender's electronic home monitoring device to include an alcohol
13 detection breathalyzer or other separate alcohol monitoring device,
14 and the court may restrict the amount of alcohol the offender may
15 consume during the time the offender is on electronic home
16 monitoring; and

17 (ii) By a fine of not less than five hundred dollars nor more
18 than five thousand dollars. Five hundred dollars of the fine may not
19 be suspended unless the court finds the offender to be indigent.

20 (2) **One prior offense in seven years.** Except as provided in RCW
21 46.61.502(6) or 46.61.504(6), a person who is convicted of a
22 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
23 within seven years shall be punished as follows:

24 (a) **Penalty for alcohol concentration less than 0.15.** In the case
25 of a person whose alcohol concentration was less than 0.15, or for
26 whom for reasons other than the person's refusal to take a test
27 offered pursuant to RCW 46.20.308 there is no test result indicating
28 the person's alcohol concentration:

29 (i) By imprisonment for not less than thirty days nor more than
30 three hundred sixty-four days and sixty days of electronic home
31 monitoring. In lieu of the mandatory minimum term of sixty days
32 electronic home monitoring, the court may order at least an
33 additional four days in jail or, if available in that county or city,
34 a six-month period of 24/7 sobriety program monitoring pursuant to
35 RCW 36.28A.300 through 36.28A.390, and the court shall order an
36 expanded alcohol assessment and treatment, if deemed appropriate by
37 the assessment. The offender shall pay for the cost of the electronic
38 monitoring. The county or municipality where the penalty is being
39 imposed shall determine the cost. The court may also require the
40 offender's electronic home monitoring device include an alcohol

1 detection breathalyzer or other separate alcohol monitoring device,
2 and may restrict the amount of alcohol the offender may consume
3 during the time the offender is on electronic home monitoring. Thirty
4 days of imprisonment and sixty days of electronic home monitoring may
5 not be suspended unless the court finds that the imposition of this
6 mandatory minimum sentence would impose a substantial risk to the
7 offender's physical or mental well-being. Whenever the mandatory
8 minimum sentence is suspended, the court shall state in writing the
9 reason for granting the suspension and the facts upon which the
10 suspension is based; and

11 (ii) By a fine of not less than five hundred dollars nor more
12 than five thousand dollars. Five hundred dollars of the fine may not
13 be suspended unless the court finds the offender to be indigent; or

14 (b) **Penalty for alcohol concentration at least 0.15.** In the case
15 of a person whose alcohol concentration was at least 0.15, or for
16 whom by reason of the person's refusal to take a test offered
17 pursuant to RCW 46.20.308 there is no test result indicating the
18 person's alcohol concentration:

19 (i) By imprisonment for not less than forty-five days nor more
20 than three hundred sixty-four days and ninety days of electronic home
21 monitoring. In lieu of the mandatory minimum term of ninety days
22 electronic home monitoring, the court may order at least an
23 additional six days in jail or, if available in that county or city,
24 a six-month period of 24/7 sobriety program monitoring pursuant to
25 RCW 36.28A.300 through 36.28A.390, and the court shall order an
26 expanded alcohol assessment and treatment, if deemed appropriate by
27 the assessment. The offender shall pay for the cost of the electronic
28 monitoring. The county or municipality where the penalty is being
29 imposed shall determine the cost. The court may also require the
30 offender's electronic home monitoring device include an alcohol
31 detection breathalyzer or other separate alcohol monitoring device,
32 and may restrict the amount of alcohol the offender may consume
33 during the time the offender is on electronic home monitoring. Forty-
34 five days of imprisonment and ninety days of electronic home
35 monitoring 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; and

1 (ii) By a fine of not less than seven hundred fifty dollars nor
2 more than five thousand dollars. Seven hundred fifty dollars of the
3 fine may not be suspended unless the court finds the offender to be
4 indigent.

5 (3) **Two or three prior offenses in seven years.** Except as
6 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is
7 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has
8 two or three prior offenses within seven years shall be punished as
9 follows:

10 (a) **Penalty for alcohol concentration less than 0.15.** In the case
11 of a person whose alcohol concentration was less than 0.15, or for
12 whom for reasons other than the person's refusal to take a test
13 offered pursuant to RCW 46.20.308 there is no test result indicating
14 the person's alcohol concentration:

15 (i) By imprisonment for not less than ninety days nor more than
16 three hundred sixty-four days, if available in that county or city, a
17 six-month period of 24/7 sobriety program monitoring pursuant to RCW
18 36.28A.300 through 36.28A.390, and one hundred twenty days of
19 electronic home monitoring. In lieu of the mandatory minimum term of
20 one hundred twenty days of electronic home monitoring, the court may
21 order at least an additional eight days in jail. The court shall
22 order an expanded alcohol assessment and treatment, if deemed
23 appropriate by the assessment. The offender shall pay for the cost of
24 the electronic monitoring. The county or municipality where the
25 penalty is being imposed shall determine the cost. The court may also
26 require the offender's electronic home monitoring device include an
27 alcohol detection breathalyzer or other separate alcohol monitoring
28 device, and may restrict the amount of alcohol the offender may
29 consume during the time the offender is on electronic home
30 monitoring. Ninety days of imprisonment and one hundred twenty days
31 of electronic home monitoring may not be suspended unless the court
32 finds that the imposition of this mandatory minimum sentence would
33 impose a substantial risk to the offender's physical or mental well-
34 being. Whenever the mandatory minimum sentence is suspended, the
35 court shall state in writing the reason for granting the suspension
36 and the facts upon which the suspension is based; and

37 (ii) By a fine of not less than one thousand dollars nor more
38 than five thousand dollars. One thousand dollars of the fine may not
39 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) **Four 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 four 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 or three prior
14 offenses within seven years, and except as provided in RCW
15 46.61.502(6) or 46.61.504(6), order an additional ten days of
16 imprisonment and a fine of not less than three thousand dollars and
17 not more than ten thousand dollars. One thousand dollars of the fine
18 may not be suspended unless the court finds the offender to be
19 indigent.

20 (7) **Other items courts must consider while setting penalties.** In
21 exercising its discretion in setting penalties within the limits
22 allowed by this section, the court shall particularly consider the
23 following:

24 (a) Whether the person's driving at the time of the offense was
25 responsible for injury or damage to another or another's property;

26 (b) Whether at the time of the offense the person was driving or
27 in physical control of a vehicle with one or more passengers;

28 (c) Whether the driver was driving in the opposite direction of
29 the normal flow of traffic on a multiple lane highway, as defined by
30 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
31 or greater; and

32 (d) Whether a child passenger under the age of sixteen was an
33 occupant in the driver's vehicle.

34 (8) **Treatment and information school.** An offender punishable
35 under this section is subject to the alcohol assessment and treatment
36 provisions of RCW 46.61.5056.

37 (9) **Driver's license privileges of the defendant.** The license,
38 permit, or nonresident privilege of a person convicted of driving or
39 being in physical control of a motor vehicle while under the
40 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

15 (iii) Where there have been two or more prior offenses within
16 seven years, be revoked or denied by the department for three years;

17 (b) **Penalty for alcohol concentration at least 0.15.** If the
18 person's alcohol concentration was at least 0.15:

19 (i) Where there has been no prior offense within seven years, be
20 revoked or denied by the department for one year or until the person
21 is evaluated by an alcoholism agency or probation department pursuant
22 to RCW 46.20.311 and the person completes or is enrolled in a one
23 hundred twenty day period of 24/7 sobriety program monitoring. In no
24 circumstances shall the license revocation be for fewer than four
25 days;

26 (ii) Where there has been one prior offense within seven years,
27 be revoked or denied by the department for nine hundred days; or

28 (iii) Where there have been two or more prior offenses within
29 seven years, be revoked or denied by the department for four years;

30 or

31 (c) **Penalty for refusing to take test.** If by reason of the
32 person's refusal to take a test offered under RCW 46.20.308, there is
33 no test result indicating the person's alcohol concentration:

34 (i) Where there have been no prior offenses within seven years,
35 be revoked or denied by the department for two years;

36 (ii) Where there has been one prior offense within seven years,
37 be revoked or denied by the department for three years; or

38 (iii) Where there have been two or more previous offenses within
39 seven years, be revoked or denied by the department for four years.

1 The department shall grant credit on a day-for-day basis for any
2 portion of a suspension, revocation, or denial already served under
3 this subsection for a suspension, revocation, or denial imposed under
4 RCW 46.20.3101 arising out of the same incident.

5 Upon receipt of a notice from the court under RCW 36.28A.390 that
6 a participant has been removed from a 24/7 sobriety program, the
7 department must resume any suspension, revocation, or denial that had
8 been terminated early under this subsection due to participation in
9 the program, granting credit on a day-for-day basis for any portion
10 of a suspension, revocation, or denial already served under RCW
11 46.20.3101 or this section arising out of the same incident.

12 Upon its own motion or upon motion by a person, a court may find,
13 on the record, that notice to the department under RCW 46.20.270 has
14 been delayed for three years or more as a result of a clerical or
15 court error. If so, the court may order that the person's license,
16 permit, or nonresident privilege shall not be revoked, suspended, or
17 denied for that offense. The court shall send notice of the finding
18 and order to the department and to the person. Upon receipt of the
19 notice from the court, the department shall not revoke, suspend, or
20 deny the license, permit, or nonresident privilege of the person for
21 that offense.

22 For purposes of this subsection (9), the department shall refer
23 to the driver's record maintained under RCW 46.52.120 when
24 determining the existence of prior offenses.

25 **(10) Probation of driving privilege.** After expiration of any
26 period of suspension, revocation, or denial of the offender's
27 license, permit, or privilege to drive required by this section, the
28 department shall place the offender's driving privilege in
29 probationary status pursuant to RCW 46.20.355.

30 **(11) Conditions of probation.** (a) In addition to any
31 nonsuspendable and nondeferrable jail sentence required by this
32 section, whenever the court imposes up to three hundred sixty-four
33 days in jail, the court shall also suspend but shall not defer a
34 period of confinement for a period not exceeding five years. The
35 court shall impose conditions of probation that include: (i) Not
36 driving a motor vehicle within this state without a valid license to
37 drive; (ii) not driving a motor vehicle within this state without
38 proof of liability insurance or other financial responsibility for
39 the future pursuant to RCW 46.30.020; (iii) not driving or being in
40 physical control of a motor vehicle within this state while having an

1 alcohol concentration of 0.08 or more or a THC concentration of 5.00
2 nanograms per milliliter of whole blood or higher, within two hours
3 after driving; (iv) not refusing to submit to a test of his or her
4 breath or blood to determine alcohol or drug concentration upon
5 request of a law enforcement officer who has reasonable grounds to
6 believe the person was driving or was in actual physical control of a
7 motor vehicle within this state while under the influence of
8 intoxicating liquor or drug; and (v) not driving a motor vehicle in
9 this state without a functioning ignition interlock device as
10 required by the department under RCW 46.20.720. The court may impose
11 conditions of probation that include nonrepetition, installation of
12 an ignition interlock device on the probationer's motor vehicle,
13 alcohol or drug treatment, supervised probation, or other conditions
14 that may be appropriate. The sentence may be imposed in whole or in
15 part upon violation of a condition of probation during the suspension
16 period.

17 (b) For each violation of mandatory conditions of probation under
18 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
19 order the convicted person to be confined for thirty days, which
20 shall not be suspended or deferred.

21 (c) For each incident involving a violation of a mandatory
22 condition of probation imposed under this subsection, the license,
23 permit, or privilege to drive of the person shall be suspended by the
24 court for thirty days or, if such license, permit, or privilege to
25 drive already is suspended, revoked, or denied at the time the
26 finding of probation violation is made, the suspension, revocation,
27 or denial then in effect shall be extended by thirty days. The court
28 shall notify the department of any suspension, revocation, or denial
29 or any extension of a suspension, revocation, or denial imposed under
30 this subsection.

31 (12) **Waiver of electronic home monitoring.** A court may waive the
32 electronic home monitoring requirements of this chapter when:

33 (a) The offender does not have a dwelling, telephone service, or
34 any other necessity to operate an electronic home monitoring system.
35 However, if a court determines that an alcohol monitoring device
36 utilizing wireless reporting technology is reasonably available, the
37 court may require the person to obtain such a device during the
38 period of required electronic home monitoring;

39 (b) The offender does not reside in the state of Washington; or

1 (c) The court determines that there is reason to believe that the
2 offender would violate the conditions of the electronic home
3 monitoring penalty.

4 Whenever the mandatory minimum term of electronic home monitoring
5 is waived, the court shall state in writing the reason for granting
6 the waiver and the facts upon which the waiver is based, and shall
7 impose an alternative sentence with similar punitive consequences.
8 The alternative sentence may include, but is not limited to, use of
9 an ignition interlock device, the 24/7 sobriety program monitoring,
10 additional jail time, work crew, or work camp.

11 Whenever the combination of jail time and electronic home
12 monitoring or alternative sentence would exceed three hundred sixty-
13 four days, the offender shall serve the jail portion of the sentence
14 first, and the electronic home monitoring or alternative portion of
15 the sentence shall be reduced so that the combination does not exceed
16 three hundred sixty-four days.

17 (13) **Extraordinary medical placement.** An offender serving a
18 sentence under this section, whether or not a mandatory minimum term
19 has expired, may be granted an extraordinary medical placement by the
20 jail administrator subject to the standards and limitations set forth
21 in RCW 9.94A.728(1)(c).

22 (14) **Definitions.** For purposes of this section and RCW 46.61.502
23 and 46.61.504:

24 (a) A "prior offense" means any of the following:

25 (i) A conviction for a violation of RCW 46.61.502 or an
26 equivalent local ordinance;

27 (ii) A conviction for a violation of RCW 46.61.504 or an
28 equivalent local ordinance;

29 (iii) A conviction for a violation of RCW 46.25.110 or an
30 equivalent local ordinance;

31 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
32 equivalent local ordinance;

33 (v) A conviction for a violation of RCW 79A.60.040(1) or an
34 equivalent local ordinance committed in a reckless manner if the
35 conviction is the result of a charge that was originally filed as a
36 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

37 (vi) A conviction for a violation of RCW 47.68.220 or an
38 equivalent local ordinance committed while under the influence of
39 intoxicating liquor or any drug;

1 (vii) A conviction for a violation of RCW 47.68.220 or an
2 equivalent local ordinance committed in a careless or reckless manner
3 if the conviction is the result of a charge that was originally filed
4 as a violation of RCW 47.68.220 or an equivalent local ordinance
5 while under the influence of intoxicating liquor or any drug;

6 (viii) A conviction for a violation of RCW 46.09.470(2) or an
7 equivalent local ordinance;

8 (ix) A conviction for a violation of RCW 46.10.490(2) or an
9 equivalent local ordinance;

10 (x) A conviction for a violation of RCW 46.61.520 committed while
11 under the influence of intoxicating liquor or any drug, or a
12 conviction for a violation of RCW 46.61.520 committed in a reckless
13 manner or with the disregard for the safety of others if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 46.61.520 committed while under the influence of
16 intoxicating liquor or any drug;

17 (xi) A conviction for a violation of RCW 46.61.522 committed
18 while under the influence of intoxicating liquor or any drug, or a
19 conviction for a violation of RCW 46.61.522 committed in a reckless
20 manner or with the disregard for the safety of others if the
21 conviction is the result of a charge that was originally filed as a
22 violation of RCW 46.61.522 committed while under the influence of
23 intoxicating liquor or any drug;

24 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
25 or 9A.36.050 or an equivalent local ordinance, if the conviction is
26 the result of a charge that was originally filed as a violation of
27 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
28 RCW 46.61.520 or 46.61.522;

29 (xiii) An out-of-state conviction for a violation that would have
30 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
31 subsection if committed in this state;

32 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a
33 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
34 equivalent local ordinance;

35 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
36 prosecution for a violation of RCW 46.61.5249, or an equivalent local
37 ordinance, if the charge under which the deferred prosecution was
38 granted was originally filed as a violation of RCW 46.61.502 or
39 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
40 46.61.522;

1 (xvi) A deferred prosecution granted in another state for a
2 violation of driving or having physical control of a vehicle while
3 under the influence of intoxicating liquor or any drug if the out-of-
4 state deferred prosecution is equivalent to the deferred prosecution
5 under chapter 10.05 RCW, including a requirement that the defendant
6 participate in a chemical dependency treatment program; or

7 (xvii) A deferred sentence imposed in a prosecution for a
8 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
9 equivalent local ordinance, if the charge under which the deferred
10 sentence was imposed was originally filed as a violation of RCW
11 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
12 violation of RCW 46.61.520 or 46.61.522;

13 If a deferred prosecution is revoked based on a subsequent
14 conviction for an offense listed in this subsection (14)(a), the
15 subsequent conviction shall not be treated as a prior offense of the
16 revoked deferred prosecution for the purposes of sentencing;

17 (b) "Treatment" means substance use disorder treatment
18 ~~((approved))~~ licensed or certified by the department of ~~((social and~~
19 ~~health services))~~ health;

20 (c) "Within seven years" means that the arrest for a prior
21 offense occurred within seven years before or after the arrest for
22 the current offense; and

23 (d) "Within ten years" means that the arrest for a prior offense
24 occurred within ten years before or after the arrest for the current
25 offense.

26 (15) All fines imposed by this section apply to adult offenders
27 only.

28 **Sec. 9010.** RCW 46.61.5056 and 2016 sp.s. c 29 s 531 are each
29 amended to read as follows:

30 (1) A person subject to alcohol assessment and treatment under
31 RCW 46.61.5055 shall be required by the court to complete a course in
32 an alcohol and drug information school ~~((approved))~~ licensed or
33 certified by the department of ~~((social and))~~ health ~~((services))~~ or
34 to complete more intensive treatment in a substance use disorder
35 treatment program ~~((approved))~~ licensed or certified by the
36 department of ~~((social and))~~ health ~~((services))~~, as determined by
37 the court. The court shall notify the department of licensing
38 whenever it orders a person to complete a course or treatment program
39 under this section.

1 (2) A diagnostic evaluation and treatment recommendation shall be
2 prepared under the direction of the court by ~~((an alcoholism agency~~
3 ~~approved))~~ a substance use disorder treatment program licensed or
4 certified by the department of ~~((social and))~~ health ~~((services))~~ or
5 a qualified probation department approved by the department of social
6 and health services. A copy of the report shall be forwarded to the
7 court and the department of licensing. Based on the diagnostic
8 evaluation, the court shall determine whether the person shall be
9 required to complete a course in an alcohol and drug information
10 school ~~((approved))~~ licensed or certified by the department of
11 ~~((social and))~~ health ~~((services))~~ or more intensive treatment in
12 ~~((a))~~ an approved substance use disorder treatment program
13 ~~((approved))~~ licensed or certified by the department of ~~((social~~
14 ~~and))~~ health ~~((services))~~.

15 (3) Standards for approval for alcohol treatment programs shall
16 be prescribed by the department of ~~((social and))~~ health
17 ~~((services))~~. The department of ~~((social and))~~ health ~~((services))~~
18 shall periodically review the costs of alcohol and drug information
19 schools and treatment programs.

20 (4) Any agency that provides treatment ordered under RCW
21 46.61.5055, shall immediately report to the appropriate probation
22 department where applicable, otherwise to the court, and to the
23 department of licensing any noncompliance by a person with the
24 conditions of his or her ordered treatment. The court shall notify
25 the department of licensing and the department of ~~((social and))~~
26 health ~~((services))~~ of any failure by an agency to so report
27 noncompliance. Any agency with knowledge of noncompliance that fails
28 to so report shall be fined two hundred fifty dollars by the
29 department of ~~((social and))~~ health ~~((services))~~. Upon three such
30 failures by an agency within one year, the department of ~~((social~~
31 ~~and))~~ health ~~((services))~~ shall revoke the agency's ~~((approval))~~
32 license or certification under this section.

33 (5) The department of licensing and the department of ~~((social~~
34 ~~and))~~ health ~~((services))~~ may adopt such rules as are necessary to
35 carry out this section.

36 **Sec. 9011.** RCW 72.09.350 and 2014 c 225 s 94 are each amended to
37 read as follows:

38 (1) The department of corrections and the University of
39 Washington may enter into a collaborative arrangement to provide

1 improved services for offenders with mental illness with a focus on
2 prevention, treatment, and reintegration into society. The
3 participants in the collaborative arrangement may develop a strategic
4 plan within sixty days after May 17, 1993, to address the management
5 of offenders with mental illness within the correctional system,
6 facilitating their reentry into the community and the mental health
7 system, and preventing the inappropriate incarceration of individuals
8 with mental illness. The collaborative arrangement may also specify
9 the establishment and maintenance of a corrections mental health
10 center located at McNeil Island corrections center. The collaborative
11 arrangement shall require that an advisory panel of key stakeholders
12 be established and consulted throughout the development and
13 implementation of the center. The stakeholders advisory panel shall
14 include a broad array of interest groups drawn from representatives
15 of mental health, criminal justice, and correctional systems. The
16 stakeholders advisory panel shall include, but is not limited to,
17 membership from: The department of corrections, the department of
18 social and health services mental health division and division of
19 juvenile rehabilitation, the health care authority, behavioral health
20 organizations, local and regional law enforcement agencies, the
21 sentencing guidelines commission, county and city jails, mental
22 health advocacy groups for individuals with mental illness or
23 developmental disabilities, ~~((and))~~ the traumatically brain-injured,
24 and the general public. The center established by the department of
25 corrections and University of Washington, in consultation with the
26 stakeholder advisory groups, shall have the authority to:

27 (a) Develop new and innovative treatment approaches for
28 corrections mental health clients;

29 (b) Improve the quality of mental health services within the
30 department and throughout the corrections system;

31 (c) Facilitate mental health staff recruitment and training to
32 meet departmental, county, and municipal needs;

33 (d) Expand research activities within the department in the area
34 of treatment services, the design of delivery systems, the
35 development of organizational models, and training for corrections
36 mental health care professionals;

37 (e) Improve the work environment for correctional employees by
38 developing the skills, knowledge, and understanding of how to work
39 with offenders with special chronic mental health challenges;

1 (f) Establish a more positive rehabilitative environment for
2 offenders;

3 (g) Strengthen multidisciplinary mental health collaboration
4 between the University of Washington, other groups committed to the
5 intent of this section, and the department of corrections;

6 (h) Strengthen department linkages between institutions of higher
7 education, public sector mental health systems, and county and
8 municipal corrections;

9 (i) Assist in the continued formulation of corrections mental
10 health policies;

11 (j) Develop innovative and effective recruitment and training
12 programs for correctional personnel working with offenders with
13 mental illness;

14 (k) Assist in the development of a coordinated continuum of
15 mental health care capable of providing services from corrections
16 entry to community return; and

17 (l) Evaluate all current and innovative approaches developed
18 within this center in terms of their effective and efficient
19 achievement of improved mental health of inmates, development and
20 utilization of personnel, the impact of these approaches on the
21 functioning of correctional institutions, and the relationship of the
22 corrections system to mental health and criminal justice systems.
23 Specific attention should be paid to evaluating the effects of
24 programs on the reintegration of offenders with mental illness into
25 the community and the prevention of inappropriate incarceration of
26 persons with mental illness.

27 (2) The corrections mental health center may conduct research,
28 training, and treatment activities for the offender with mental
29 illness within selected sites operated by the department. The
30 department shall provide support services for the center such as food
31 services, maintenance, perimeter security, classification, offender
32 supervision, and living unit functions. The University of Washington
33 may develop, implement, and evaluate the clinical, treatment,
34 research, and evaluation components of the mentally ill offender
35 center. The institute of for public policy and management may be
36 consulted regarding the development of the center and in the
37 recommendations regarding public policy. As resources permit,
38 training within the center shall be available to state, county, and
39 municipal agencies requiring the services. Other state colleges,
40 state universities, and mental health providers may be involved in

1 activities as required on a subcontract basis. Community mental
2 health organizations, research groups, and community advocacy groups
3 may be critical components of the center's operations and involved as
4 appropriate to annual objectives. Clients with mental illness may be
5 drawn from throughout the department's population and transferred to
6 the center as clinical need, available services, and department
7 jurisdiction permits.

8 (3) The department shall prepare a report of the center's
9 progress toward the attainment of stated goals and provide the report
10 to the legislature annually.

11 **Sec. 9012.** RCW 72.09.370 and 2014 c 225 s 95 are each amended to
12 read as follows:

13 (1) The offender reentry community safety program is established
14 to provide intensive services to offenders identified under this
15 subsection and to thereby promote public safety. The secretary shall
16 identify offenders in confinement or partial confinement who: (a) Are
17 reasonably believed to be dangerous to themselves or others; and (b)
18 have a mental disorder. In determining an offender's dangerousness,
19 the secretary shall consider behavior known to the department and
20 factors, based on research, that are linked to an increased risk for
21 dangerousness of offenders with mental illnesses and shall include
22 consideration of an offender's chemical dependency or abuse.

23 (2) Prior to release of an offender identified under this
24 section, a team consisting of representatives of the department of
25 corrections, the ~~((division of mental health))~~ health care authority,
26 and, as necessary, the indeterminate sentence review board, ~~((other))~~
27 divisions or administrations within the department of social and
28 health services, specifically including ~~((the division of alcohol and
29 substance abuse and))~~ the division of developmental disabilities, the
30 appropriate behavioral health organization, and the providers, as
31 appropriate, shall develop a plan, as determined necessary by the
32 team, for delivery of treatment and support services to the offender
33 upon release. In developing the plan, the offender shall be offered
34 assistance in executing a mental health directive under chapter 71.32
35 RCW, after being fully informed of the benefits, scope, and purposes
36 of such directive. The team may include a school district
37 representative for offenders under the age of twenty-one. The team
38 shall consult with the offender's counsel, if any, and, as
39 appropriate, the offender's family and community. The team shall

1 notify the crime victim/witness program, which shall provide notice
2 to all people registered to receive notice under RCW 72.09.712 of the
3 proposed release plan developed by the team. Victims, witnesses, and
4 other interested people notified by the department may provide
5 information and comments to the department on potential safety risk
6 to specific individuals or classes of individuals posed by the
7 specific offender. The team may recommend: (a) That the offender be
8 evaluated by the designated mental health professional, as defined in
9 chapter 71.05 RCW; (b) department-supervised community treatment; or
10 (c) voluntary community mental health or chemical dependency or abuse
11 treatment.

12 (3) Prior to release of an offender identified under this
13 section, the team shall determine whether or not an evaluation by a
14 designated mental health professional is needed. If an evaluation is
15 recommended, the supporting documentation shall be immediately
16 forwarded to the appropriate designated mental health professional.
17 The supporting documentation shall include the offender's criminal
18 history, history of judicially required or administratively ordered
19 involuntary antipsychotic medication while in confinement, and any
20 known history of involuntary civil commitment.

21 (4) If an evaluation by a designated mental health professional
22 is recommended by the team, such evaluation shall occur not more than
23 ten days, nor less than five days, prior to release.

24 (5) A second evaluation by a designated mental health
25 professional shall occur on the day of release if requested by the
26 team, based upon new information or a change in the offender's mental
27 condition, and the initial evaluation did not result in an emergency
28 detention or a summons under chapter 71.05 RCW.

29 (6) If the designated mental health professional determines an
30 emergency detention under chapter 71.05 RCW is necessary, the
31 department shall release the offender only to a state hospital or to
32 a consenting evaluation and treatment facility. The department shall
33 arrange transportation of the offender to the hospital or facility.

34 (7) If the designated mental health professional believes that a
35 less restrictive alternative treatment is appropriate, he or she
36 shall seek a summons, pursuant to the provisions of chapter 71.05
37 RCW, to require the offender to appear at an evaluation and treatment
38 facility. If a summons is issued, the offender shall remain within
39 the corrections facility until completion of his or her term of
40 confinement and be transported, by corrections personnel on the day

1 of completion, directly to the identified evaluation and treatment
2 facility.

3 (8) The secretary shall adopt rules to implement this section.

4 **Sec. 9013.** RCW 72.09.370 and 2016 sp.s. c 29 s 427 are each
5 amended to read as follows:

6 (1) The offender reentry community safety program is established
7 to provide intensive services to offenders identified under this
8 subsection and to thereby promote public safety. The secretary shall
9 identify offenders in confinement or partial confinement who: (a) Are
10 reasonably believed to be dangerous to themselves or others; and (b)
11 have a mental disorder. In determining an offender's dangerousness,
12 the secretary shall consider behavior known to the department and
13 factors, based on research, that are linked to an increased risk for
14 dangerousness of offenders with mental illnesses and shall include
15 consideration of an offender's chemical dependency or abuse.

16 (2) Prior to release of an offender identified under this
17 section, a team consisting of representatives of the department of
18 corrections, the ~~((division of mental health))~~ health care authority,
19 and, as necessary, the indeterminate sentence review board, ~~((other))~~
20 divisions or administrations within the department of social and
21 health services, specifically including ~~((the division of alcohol and
22 substance abuse and))~~ the division of developmental disabilities, the
23 appropriate behavioral health organization, and the providers, as
24 appropriate, shall develop a plan, as determined necessary by the
25 team, for delivery of treatment and support services to the offender
26 upon release. In developing the plan, the offender shall be offered
27 assistance in executing a mental health directive under chapter 71.32
28 RCW, after being fully informed of the benefits, scope, and purposes
29 of such directive. The team may include a school district
30 representative for offenders under the age of twenty-one. The team
31 shall consult with the offender's counsel, if any, and, as
32 appropriate, the offender's family and community. The team shall
33 notify the crime victim/witness program, which shall provide notice
34 to all people registered to receive notice under RCW 72.09.712 of the
35 proposed release plan developed by the team. Victims, witnesses, and
36 other interested people notified by the department may provide
37 information and comments to the department on potential safety risk
38 to specific individuals or classes of individuals posed by the
39 specific offender. The team may recommend: (a) That the offender be

1 evaluated by the designated crisis responder, as defined in chapter
2 71.05 RCW; (b) department-supervised community treatment; or (c)
3 voluntary community mental health or chemical dependency or abuse
4 treatment.

5 (3) Prior to release of an offender identified under this
6 section, the team shall determine whether or not an evaluation by a
7 designated crisis responder is needed. If an evaluation is
8 recommended, the supporting documentation shall be immediately
9 forwarded to the appropriate designated crisis responder. The
10 supporting documentation shall include the offender's criminal
11 history, history of judicially required or administratively ordered
12 involuntary antipsychotic medication while in confinement, and any
13 known history of involuntary civil commitment.

14 (4) If an evaluation by a designated crisis responder is
15 recommended by the team, such evaluation shall occur not more than
16 ten days, nor less than five days, prior to release.

17 (5) A second evaluation by a designated crisis responder shall
18 occur on the day of release if requested by the team, based upon new
19 information or a change in the offender's mental condition, and the
20 initial evaluation did not result in an emergency detention or a
21 summons under chapter 71.05 RCW.

22 (6) If the designated crisis responder determines an emergency
23 detention under chapter 71.05 RCW is necessary, the department shall
24 release the offender only to a state hospital or to a consenting
25 evaluation and treatment facility. The department shall arrange
26 transportation of the offender to the hospital or facility.

27 (7) If the designated crisis responder believes that a less
28 restrictive alternative treatment is appropriate, he or she shall
29 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to
30 require the offender to appear at an evaluation and treatment
31 facility. If a summons is issued, the offender shall remain within
32 the corrections facility until completion of his or her term of
33 confinement and be transported, by corrections personnel on the day
34 of completion, directly to the identified evaluation and treatment
35 facility.

36 (8) The secretary shall adopt rules to implement this section.

37 **Sec. 9014.** RCW 72.09.380 and 1999 c 214 s 3 are each amended to
38 read as follows:

1 The (~~secretaries~~) secretary of the department of corrections
2 and the (~~department of social and health services~~) director of the
3 health care authority shall adopt rules and develop working
4 agreements which will ensure that offenders identified under RCW
5 72.09.370(1) will be assisted in making application for medicaid to
6 facilitate a decision regarding their eligibility for such
7 entitlements prior to the end of their term of confinement in a
8 correctional facility.

9 **Sec. 9015.** RCW 72.09.381 and 2014 c 225 s 96 are each amended to
10 read as follows:

11 The secretary of the department of corrections and the
12 (~~secretary of the department of social and health services~~)
13 director of the health care authority shall, in consultation with the
14 behavioral health organizations and provider representatives, each
15 adopt rules as necessary to implement chapter 214, Laws of 1999.

16 **Sec. 9016.** RCW 72.09.585 and 2013 c 200 s 32 are each amended to
17 read as follows:

18 (1) When the department is determining an offender's risk
19 management level, the department shall inquire of the offender and
20 shall be told whether the offender is subject to court-ordered
21 treatment for mental health services or chemical dependency services.
22 The department shall request and the offender shall provide an
23 authorization to release information form that meets applicable state
24 and federal requirements and shall provide the offender with written
25 notice that the department will request the offender's mental health
26 and substance (~~abuse~~) use disorder treatment information. An
27 offender's failure to inform the department of court-ordered
28 treatment is a violation of the conditions of supervision if the
29 offender is in the community and an infraction if the offender is in
30 confinement, and the violation or infraction is subject to sanctions.

31 (2) When an offender discloses that he or she is subject to
32 court-ordered mental health services or chemical dependency
33 treatment, the department shall provide the mental health services
34 provider or chemical dependency treatment provider with a written
35 request for information and any necessary authorization to release
36 information forms. The written request shall comply with rules
37 adopted by the (~~department of social and health services~~) health
38 care authority or protocols developed jointly by the department and

1 the (~~department of social and health services~~) health care
2 authority. A single request shall be valid for the duration of the
3 offender's supervision in the community. Disclosures of information
4 related to mental health services made pursuant to a department
5 request shall not require consent of the offender.

6 (3) The information received by the department under RCW
7 71.05.445 or 70.02.250 may be released to the indeterminate sentence
8 review board as relevant to carry out its responsibility of planning
9 and ensuring community protection with respect to persons under its
10 jurisdiction. Further disclosure by the indeterminate sentence review
11 board is subject to the limitations set forth in subsections (5) and
12 (6) of this section and must be consistent with the written policy of
13 the indeterminate sentence review board. The decision to disclose or
14 not shall not result in civil liability for the indeterminate
15 sentence review board or staff assigned to perform board-related
16 duties provided that the decision was reached in good faith and
17 without gross negligence.

18 (4) The information received by the department under RCW
19 71.05.445 or 70.02.250 may be used to meet the statutory duties of
20 the department to provide evidence or report to the court. Disclosure
21 to the public of information provided to the court by the department
22 related to mental health services shall be limited in accordance with
23 RCW 9.94A.500 or this section.

24 (5) The information received by the department under RCW
25 71.05.445 or 70.02.250 may be disclosed by the department to other
26 state and local agencies as relevant to plan for and provide
27 offenders transition, treatment, and supervision services, or as
28 relevant and necessary to protect the public and counteract the
29 danger created by a particular offender, and in a manner consistent
30 with the written policy established by the secretary. The decision to
31 disclose or not shall not result in civil liability for the
32 department or its employees so long as the decision was reached in
33 good faith and without gross negligence. The information received by
34 a state or local agency from the department shall remain confidential
35 and subject to the limitations on disclosure set forth in chapters
36 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be
37 released only as relevant and necessary to counteract the danger
38 created by a particular offender.

39 (6) The information received by the department under RCW
40 71.05.445 or 70.02.250 may be disclosed by the department to

1 individuals only with respect to offenders who have been determined
2 by the department to have a high risk of reoffending by a risk
3 assessment, as defined in RCW 9.94A.030, only as relevant and
4 necessary for those individuals to take reasonable steps for the
5 purpose of self-protection, or as provided in RCW 72.09.370(2). The
6 information may not be disclosed for the purpose of engaging the
7 public in a system of supervision, monitoring, and reporting offender
8 behavior to the department. The department must limit the disclosure
9 of information related to mental health services to the public to
10 descriptions of an offender's behavior, risk he or she may present to
11 the community, and need for mental health treatment, including
12 medications, and shall not disclose or release to the public copies
13 of treatment documents or records, except as otherwise provided by
14 law. All disclosure of information to the public must be done in a
15 manner consistent with the written policy established by the
16 secretary. The decision to disclose or not shall not result in civil
17 liability for the department or its employees so long as the decision
18 was reached in good faith and without gross negligence. Nothing in
19 this subsection prevents any person from reporting to law enforcement
20 or the department behavior that he or she believes creates a public
21 safety risk.

22 **Sec. 9017.** RCW 74.34.020 and 2015 c 268 s 1 are each amended to
23 read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Abandonment" means action or inaction by a person or entity
27 with a duty of care for a vulnerable adult that leaves the vulnerable
28 person without the means or ability to obtain necessary food,
29 clothing, shelter, or health care.

30 (2) "Abuse" means the willful action or inaction that inflicts
31 injury, unreasonable confinement, intimidation, or punishment on a
32 vulnerable adult. In instances of abuse of a vulnerable adult who is
33 unable to express or demonstrate physical harm, pain, or mental
34 anguish, the abuse is presumed to cause physical harm, pain, or
35 mental anguish. Abuse includes sexual abuse, mental abuse, physical
36 abuse, and personal exploitation of a vulnerable adult, and improper
37 use of restraint against a vulnerable adult which have the following
38 meanings:

1 (a) "Sexual abuse" means any form of nonconsensual sexual
2 conduct, including but not limited to unwanted or inappropriate
3 touching, rape, sodomy, sexual coercion, sexually explicit
4 photographing, and sexual harassment. Sexual abuse also includes any
5 sexual conduct between a staff person, who is not also a resident or
6 client, of a facility or a staff person of a program authorized under
7 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
8 receiving service from a program authorized under chapter 71A.12 RCW,
9 whether or not it is consensual.

10 (b) "Physical abuse" means the willful action of inflicting
11 bodily injury or physical mistreatment. Physical abuse includes, but
12 is not limited to, striking with or without an object, slapping,
13 pinching, choking, kicking, shoving, or prodding.

14 (c) "Mental abuse" means a willful verbal or nonverbal action
15 that threatens, humiliates, harasses, coerces, intimidates, isolates,
16 unreasonably confines, or punishes a vulnerable adult. Mental abuse
17 may include ridiculing, yelling, or swearing.

18 (d) "Personal exploitation" means an act of forcing, compelling,
19 or exerting undue influence over a vulnerable adult causing the
20 vulnerable adult to act in a way that is inconsistent with relevant
21 past behavior, or causing the vulnerable adult to perform services
22 for the benefit of another.

23 (e) "Improper use of restraint" means the inappropriate use of
24 chemical, physical, or mechanical restraints for convenience or
25 discipline or in a manner that: (i) Is inconsistent with federal or
26 state licensing or certification requirements for facilities,
27 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is
28 not medically authorized; or (iii) otherwise constitutes abuse under
29 this section.

30 (3) "Chemical restraint" means the administration of any drug to
31 manage a vulnerable adult's behavior in a way that reduces the safety
32 risk to the vulnerable adult or others, has the temporary effect of
33 restricting the vulnerable adult's freedom of movement, and is not
34 standard treatment for the vulnerable adult's medical or psychiatric
35 condition.

36 (4) "Consent" means express written consent granted after the
37 vulnerable adult or his or her legal representative has been fully
38 informed of the nature of the services to be offered and that the
39 receipt of services is voluntary.

1 (5) "Department" means the department of social and health
2 services.

3 (6) "Facility" means a residence licensed or required to be
4 licensed under chapter 18.20 RCW, assisted living facilities; chapter
5 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
6 chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW,
7 residential habilitation centers; or any other facility licensed or
8 certified by the department or the department of health.

9 (7) "Financial exploitation" means the illegal or improper use,
10 control over, or withholding of the property, income, resources, or
11 trust funds of the vulnerable adult by any person or entity for any
12 person's or entity's profit or advantage other than for the
13 vulnerable adult's profit or advantage. "Financial exploitation"
14 includes, but is not limited to:

15 (a) The use of deception, intimidation, or undue influence by a
16 person or entity in a position of trust and confidence with a
17 vulnerable adult to obtain or use the property, income, resources, or
18 trust funds of the vulnerable adult for the benefit of a person or
19 entity other than the vulnerable adult;

20 (b) The breach of a fiduciary duty, including, but not limited
21 to, the misuse of a power of attorney, trust, or a guardianship
22 appointment, that results in the unauthorized appropriation, sale, or
23 transfer of the property, income, resources, or trust funds of the
24 vulnerable adult for the benefit of a person or entity other than the
25 vulnerable adult; or

26 (c) Obtaining or using a vulnerable adult's property, income,
27 resources, or trust funds without lawful authority, by a person or
28 entity who knows or clearly should know that the vulnerable adult
29 lacks the capacity to consent to the release or use of his or her
30 property, income, resources, or trust funds.

31 (8) "Financial institution" has the same meaning as in RCW
32 30A.22.040 and 30A.22.041. For purposes of this chapter only,
33 "financial institution" also means a "broker-dealer" or "investment
34 adviser" as defined in RCW 21.20.005.

35 (9) "Hospital" means a facility licensed under chapter 70.41,
36 71.12, or 72.23 RCW and any employee, agent, officer, director, or
37 independent contractor thereof.

38 (10) "Incapacitated person" means a person who is at a
39 significant risk of personal or financial harm under RCW 11.88.010(1)
40 (a), (b), (c), or (d).

1 (11) "Individual provider" means a person under contract with the
2 department to provide services in the home under chapter 74.09 or
3 74.39A RCW.

4 (12) "Interested person" means a person who demonstrates to the
5 court's satisfaction that the person is interested in the welfare of
6 the vulnerable adult, that the person has a good faith belief that
7 the court's intervention is necessary, and that the vulnerable adult
8 is unable, due to incapacity, undue influence, or duress at the time
9 the petition is filed, to protect his or her own interests.

10 (13) "Mandated reporter" is an employee of the department; law
11 enforcement officer; social worker; professional school personnel;
12 individual provider; an employee of a facility; an operator of a
13 facility; an employee of a social service, welfare, mental health,
14 adult day health, adult day care, home health, home care, or hospice
15 agency; county coroner or medical examiner; Christian Science
16 practitioner; or health care provider subject to chapter 18.130 RCW.

17 (14) "Mechanical restraint" means any device attached or adjacent
18 to the vulnerable adult's body that he or she cannot easily remove
19 that restricts freedom of movement or normal access to his or her
20 body. "Mechanical restraint" does not include the use of devices,
21 materials, or equipment that are (a) medically authorized, as
22 required, and (b) used in a manner that is consistent with federal or
23 state licensing or certification requirements for facilities,
24 hospitals, or programs authorized under chapter 71A.12 RCW.

25 (15) "Neglect" means (a) a pattern of conduct or inaction by a
26 person or entity with a duty of care that fails to provide the goods
27 and services that maintain physical or mental health of a vulnerable
28 adult, or that fails to avoid or prevent physical or mental harm or
29 pain to a vulnerable adult; or (b) an act or omission by a person or
30 entity with a duty of care that demonstrates a serious disregard of
31 consequences of such a magnitude as to constitute a clear and present
32 danger to the vulnerable adult's health, welfare, or safety,
33 including but not limited to conduct prohibited under RCW 9A.42.100.

34 (16) "Permissive reporter" means any person, including, but not
35 limited to, an employee of a financial institution, attorney, or
36 volunteer in a facility or program providing services for vulnerable
37 adults.

38 (17) "Physical restraint" means the application of physical force
39 without the use of any device, for the purpose of restraining the
40 free movement of a vulnerable adult's body. "Physical restraint" does

1 not include (a) briefly holding without undue force a vulnerable
2 adult in order to calm or comfort him or her, or (b) holding a
3 vulnerable adult's hand to safely escort him or her from one area to
4 another.

5 (18) "Protective services" means any services provided by the
6 department to a vulnerable adult with the consent of the vulnerable
7 adult, or the legal representative of the vulnerable adult, who has
8 been abandoned, abused, financially exploited, neglected, or in a
9 state of self-neglect. These services may include, but are not
10 limited to case management, social casework, home care, placement,
11 arranging for medical evaluations, psychological evaluations, day
12 care, or referral for legal assistance.

13 (19) "Self-neglect" means the failure of a vulnerable adult, not
14 living in a facility, to provide for himself or herself the goods and
15 services necessary for the vulnerable adult's physical or mental
16 health, and the absence of which impairs or threatens the vulnerable
17 adult's well-being. This definition may include a vulnerable adult
18 who is receiving services through home health, hospice, or a home
19 care agency, or an individual provider when the neglect is not a
20 result of inaction by that agency or individual provider.

21 (20) "Social worker" means:

22 (a) A social worker as defined in RCW 18.320.010(2); or

23 (b) Anyone engaged in a professional capacity during the regular
24 course of employment in encouraging or promoting the health, welfare,
25 support, or education of vulnerable adults, or providing social
26 services to vulnerable adults, whether in an individual capacity or
27 as an employee or agent of any public or private organization or
28 institution.

29 (21) "Vulnerable adult" includes a person:

30 (a) Sixty years of age or older who has the functional, mental,
31 or physical inability to care for himself or herself; or

32 (b) Found incapacitated under chapter 11.88 RCW; or

33 (c) Who has a developmental disability as defined under RCW
34 71A.10.020; or

35 (d) Admitted to any facility; or

36 (e) Receiving services from home health, hospice, or home care
37 agencies licensed or required to be licensed under chapter 70.127
38 RCW; or

39 (f) Receiving services from an individual provider; or

1 (g) Who self-directs his or her own care and receives services
2 from a personal aide under chapter 74.39 RCW.

3 **PART 10**

4 NEW SECTION. **Sec. 10001.** A new section is added to chapter
5 41.05 RCW to read as follows:

6 (1) The powers, duties, and functions of the department of social
7 and health services pertaining to the behavioral health system and
8 purchasing function of the behavioral health administration, except
9 for oversight and management of state-run mental health institutions
10 and licensing and certification activities, are hereby transferred to
11 the Washington state health care authority to the extent necessary to
12 carry out the purposes of this act. All references to the secretary
13 or the department of social and health services in the Revised Code
14 of Washington shall be construed to mean the director of the health
15 care authority or the health care authority when referring to the
16 functions transferred in this section.

17 (2)(a) All reports, documents, surveys, books, records, files,
18 papers, or written material in the possession of the department of
19 social and health services pertaining to the powers, duties, and
20 functions transferred shall be delivered to the custody of the health
21 care authority. All cabinets, furniture, office equipment, motor
22 vehicles, and other tangible property employed by the department of
23 social and health services in carrying out the powers, duties, and
24 functions transferred shall be made available to the health care
25 authority. All funds, credits, or other assets held by the department
26 of social and health services in connection with the powers, duties,
27 and functions transferred shall be assigned to the health care
28 authority.

29 (b) Any appropriations made to the department of social and
30 health services for carrying out the powers, functions, and duties
31 transferred shall, on the effective date of this section, be
32 transferred and credited to the health care authority.

33 (c) Whenever any question arises as to the transfer of any
34 personnel, funds, books, documents, records, papers, files,
35 equipment, or other tangible property used or held in the exercise of
36 the powers and the performance of the duties and functions
37 transferred, the director of financial management shall make a

1 determination as to the proper allocation and certify the same to the
2 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 health
6 care authority. All existing contracts and obligations shall remain
7 in full force and shall be performed by the health care authority.

8 (4) The transfer of the powers, duties, functions, and personnel
9 of the department of social and health services shall not affect the
10 validity of any act performed before the effective date of this
11 section.

12 (5) If apportionments of budgeted funds are required because of
13 the transfers directed by this section, the director of financial
14 management shall certify the apportionments to the agencies affected,
15 the state auditor, and the state treasurer. Each of these shall make
16 the appropriate transfer and adjustments in funds and appropriation
17 accounts and equipment records in accordance with the certification.

18 (6) By January 1, 2018, all employees of the department of social
19 and health services engaged in performing the powers, functions, and
20 duties transferred to the health care authority are transferred to
21 the health care authority. All employees classified under chapter
22 41.06 RCW, the state civil service law, are assigned to the health
23 care authority to perform their usual duties upon the same terms as
24 formerly, without any loss of rights, subject to any action that may
25 be appropriate thereafter in accordance with the laws and rules
26 governing state civil service law.

27 (7) Positions in any bargaining unit within the health care
28 authority existing on the effective date of this section will not be
29 removed from an existing bargaining unit as a result of this section
30 unless and until the existing bargaining unit is modified by the
31 public employment relations commission pursuant to Title 391 WAC. The
32 portions of any bargaining units of employees at the department of
33 social and health services existing on the effective date of this
34 section that are transferred to the health care authority shall be
35 considered separate appropriate units within the health care
36 authority unless and until modified by the public employment
37 relations commission pursuant to Title 391 WAC. The exclusive
38 bargaining representatives recognized as representing the portions of
39 the bargaining units of employees at the department of social and
40 health services existing on the effective date of this section shall

1 continue as the exclusive bargaining representatives of the
2 transferred bargaining units without the necessity of an election.

3 (8) The public employment relations commission may review the
4 appropriateness of the collective bargaining units that are a result
5 of the transfer from the department of social and health services to
6 the health care authority under this act. The employer or the
7 exclusive bargaining representative may petition the public
8 employment relations commission to review the bargaining units in
9 accordance with this section.

10 (9) By July 1, 2017, the health care authority must enter into an
11 agreement with the department of social and health services. This
12 agreement will allow the department of social and health services to
13 continue to operate and administer the duties and obligations
14 transferred in this act to the health care authority until the staff
15 are fully transferred to the health care authority by January 1,
16 2018.

17 (10) By January 1, 2018, the health care authority must enter
18 into an agreement with the department of health to ensure
19 coordination of preventative behavioral health services.

20 NEW SECTION. **Sec. 10002.** A new section is added to chapter
21 43.70 RCW to read as follows:

22 (1) The powers, duties, and functions of the department of social
23 and health services pertaining to licensing and certification of
24 behavioral health provider agencies and facilities, except for state-
25 run mental health institutions, are hereby transferred to the
26 department of health to the extent necessary to carry out the
27 purposes of this act. All references to the secretary or the
28 department of social and health services in the Revised Code of
29 Washington shall be construed to mean the secretary of the department
30 of health or the department of health when referring to the functions
31 transferred in this section.

32 (2)(a) All reports, documents, surveys, books, records, files,
33 papers, or written material in the possession of the department of
34 social and health services pertaining to the powers, duties, and
35 functions transferred shall be delivered to the custody of the
36 department of health. All cabinets, furniture, office equipment,
37 motor vehicles, and other tangible property employed by the
38 department of social and health services in carrying out the powers,
39 duties, and functions transferred shall be made available to the

1 department of health. All funds, credits, or other assets held by the
2 department of social and health services in connection with the
3 powers, duties, and functions transferred shall be assigned to the
4 department of health.

5 (b) Any appropriations made to the department of social and
6 health services for carrying out the powers, functions, and duties
7 transferred shall, on the effective date of this section, be
8 transferred and credited to the department of health.

9 (c) If any question arises as to the transfer of any personnel,
10 funds, books, documents, records, papers, files, equipment, or other
11 tangible property used or held in the exercise of the powers and the
12 performance of the duties and functions transferred, the director of
13 financial management shall make a determination as to the proper
14 allocation and certify the same to the state agencies concerned.

15 (3) All rules and all pending business before the department of
16 social and health services pertaining to the powers, duties, and
17 functions transferred shall be continued and acted upon by the
18 department of health. All existing contracts and obligations shall
19 remain in full force and shall be performed by the department of
20 health.

21 (4) The transfer of the powers, duties, functions, and personnel
22 of the department of social and health services shall not affect the
23 validity of any act performed before the effective date of this
24 section.

25 (5) If apportionments of budgeted funds are required because of
26 the transfers directed by this section, the director of financial
27 management shall certify the apportionments to the agencies affected,
28 the state auditor, and the state treasurer. Each of these shall make
29 the appropriate transfer and adjustments in funds and appropriation
30 accounts and equipment records in accordance with the certification.

31 (6) By January 1, 2018, all employees of the department of social
32 and health services engaged in performing the powers, functions, and
33 duties transferred to the department of health are transferred to the
34 department of health. All employees classified under chapter 41.06
35 RCW, the state civil service law, are assigned to the department of
36 health to perform their usual duties upon the same terms as formerly,
37 without any loss of rights, subject to any action that may be
38 appropriate thereafter in accordance with the laws and rules
39 governing state civil service law.

1 (7) Positions in any bargaining unit within the department of
2 health existing on the effective date of this section will not be
3 removed from an existing bargaining unit as a result of this section
4 unless and until the existing bargaining unit is modified by the
5 public employment relations commission pursuant to Title 391 WAC.
6 Nonsupervisory civil service employees of the department of social
7 and health services assigned to the department of health under this
8 section whose positions are within the existing bargaining unit
9 description at the department of health shall become a part of that
10 unit under the provision of chapter 41.80 RCW. The existing
11 bargaining representative of the existing bargaining unit at the
12 department of health shall continue to be certified as the exclusive
13 bargaining representative without the necessity of an election.

14 (8) By July 1, 2017, the department of health must enter into an
15 agreement with the department of social and health services. This
16 agreement will allow the department of social and health services to
17 continue to operate and administer the duties and obligations
18 transferred in this act to the department of health until the staff
19 are fully transferred to the department of health by January 1, 2018.

20 NEW SECTION. **Sec. 10003.** The code reviser shall note wherever
21 the secretary or department of any agency or agency's duties
22 transferred or consolidated under this act is used or referred to in
23 statute that the name of the secretary or department has changed. The
24 code reviser shall prepare legislation for the 2018 regular session
25 that: (1) Changes all statutory references to the secretary or
26 department of any agency transferred or consolidated under this act;
27 and (2) changes statutory references to sections recodified by this
28 act but not amended in this act.

29 **PART 11**

30 NEW SECTION. **Sec. 11001.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 11002.** RCW 71.24.065 (Wraparound model of
35 integrated children's mental health services delivery—Contracts—
36 Evaluation—Report) is decodified.

1 NEW SECTION. **Sec. 11003.** (1) RCW 43.20A.025 is recodified as a
2 section in chapter 71.34 RCW.

3 (2) RCW 43.20A.065 and 43.20A.433 are each recodified as sections
4 in chapter 71.24 RCW.

5 (3) RCW 43.20A.890 and 43.20A.892 are each recodified as sections
6 in chapter 41.05 RCW.

7 (4) RCW 43.20A.893, 43.20A.894, 43.20A.896, and 43.20A.897 are
8 each recodified as sections in chapter 74.09 RCW.

9 NEW SECTION. **Sec. 11004.** Sections 2001, 3001, 3003, 3008, 3010,
10 3012, 3017, 3020, 3024, 3027, 3029, 3035, 3037, 3040, 3045, 3047,
11 4002, 4007, 4019, 5002, 5006, 5009, 5013, 5016, 5018, 5021, 5024,
12 5027, 5029, 6001 through 6024, 8001, 8003, and 9012 of this act
13 expire April 1, 2018.

14 NEW SECTION. **Sec. 11005.** Sections 2002, 3002, 3004, 3009, 3011,
15 3013, 3014, 3018, 3021, 3025, 3030, 3036, 3038, 3041, 3046, 3048,
16 3050, 4003, 4008, 4020, 5003, 5007, 5010, 5014, 5017, 5019, 5022,
17 5025, 5028, 5030, 8002, 8004, and 9013 of this act take effect April
18 1, 2018.

19 NEW SECTION. **Sec. 11006.** Section 7017 of this act expires
20 January 1, 2018.

21 NEW SECTION. **Sec. 11007.** Sections 3014, 3018, 3038, 5025, and
22 5030 of this act expire July 1, 2026.

23 NEW SECTION. **Sec. 11008.** Sections 3015, 3019, 3039, 5026, and
24 5031 of this act take effect July 1, 2026.

25 NEW SECTION. **Sec. 11009.** Except as provided in sections 11005
26 and 11008 of this act, this act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of
28 the state government and its existing public institutions, and takes
29 effect July 1, 2017.

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