
HOUSE BILL 2623

State of Washington

66th Legislature

2020 Regular Session

By Representatives Walen, Valdez, Macri, Chapman, Kilduff, and Senn

Read first time 01/16/20. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to prohibiting the possession of firearms by
2 persons convicted of certain criminal offenses; amending RCW
3 9.41.042, 13.40.0357, 13.40.160, 13.40.193, 13.40.265, and 70.02.240;
4 and reenacting and amending RCW 9.41.040 and 70.02.230.

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

6 **Sec. 1.** RCW 9.41.040 and 2019 c 248 s 2, 2019 c 245 s 3, and
7 2019 c 46 s 5003 are each reenacted and amended to read as follows:

8 (1)(a) A person, whether an adult or juvenile, is guilty of the
9 crime of unlawful possession of a firearm in the first degree, if the
10 person owns, has in his or her possession, or has in his or her
11 control any firearm after having previously been convicted or found
12 not guilty by reason of insanity in this state or elsewhere of any
13 serious offense as defined in this chapter.

14 (b) Unlawful possession of a firearm in the first degree is a
15 class B felony punishable according to chapter 9A.20 RCW.

16 (2)(a) A person, whether an adult or juvenile, is guilty of the
17 crime of unlawful possession of a firearm in the second degree, if
18 the person does not qualify under subsection (1) of this section for
19 the crime of unlawful possession of a firearm in the first degree and
20 the person owns, has in his or her possession, or has in his or her
21 control any firearm:

1 (i) After having previously been convicted or found not guilty by
2 reason of insanity in this state or elsewhere of any felony not
3 specifically listed as prohibiting firearm possession under
4 subsection (1) of this section, or any of the following crimes when
5 committed by one family or household member against another,
6 committed on or after July 1, 1993: Assault in the fourth degree,
7 coercion, stalking, reckless endangerment, criminal trespass in the
8 first degree, or violation of the provisions of a protection order or
9 no-contact order restraining the person or excluding the person from
10 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

11 (ii) After having previously been convicted or found not guilty
12 by reason of insanity in this state or elsewhere of harassment when
13 committed by one family or household member against another,
14 committed on or after June 7, 2018;

15 (iii) After having previously been convicted or found not guilty
16 by reason of insanity in this state or elsewhere of the following
17 crimes, committed on or after the effective date of this section:
18 Unlawful aiming or discharge of a firearm or dangerous weapon (RCW
19 9.41.230); and animal cruelty in the second degree (RCW 16.52.207);

20 (iv) During any period of time that the person is subject to a
21 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
22 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that:

23 (A) Was issued after a hearing of which the person received
24 actual notice, and at which the person had an opportunity to
25 participate;

26 (B) Restrains the person from harassing, stalking, or threatening
27 the person protected under the order or child of the person or
28 protected person, or engaging in other conduct that would place the
29 protected person in reasonable fear of bodily injury to the protected
30 person or child; and

31 (C) (I) Includes a finding that the person represents a credible
32 threat to the physical safety of the protected person or child and by
33 its terms explicitly prohibits the use, attempted use, or threatened
34 use of physical force against the protected person or child that
35 would reasonably be expected to cause bodily injury; or

36 (II) Includes an order under RCW 9.41.800 requiring the person to
37 surrender all firearms and prohibiting the person from accessing,
38 obtaining, or possessing firearms;

39 ~~((iv))~~ (v) After having previously been involuntarily committed
40 for mental health treatment under RCW 71.05.240, 71.05.320,

1 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of
2 another jurisdiction, unless his or her right to possess a firearm
3 has been restored as provided in RCW 9.41.047;

4 ~~((v))~~ (vi) After dismissal of criminal charges based on
5 incompetency to stand trial under RCW 10.77.088 when the court has
6 made a finding indicating that the defendant has a history of one or
7 more violent acts, unless his or her right to possess a firearm has
8 been restored as provided in RCW 9.41.047;

9 ~~((vi))~~ (vii) If the person is under eighteen years of age,
10 except as provided in RCW 9.41.042; and/or

11 ~~((vii))~~ (viii) If the person is free on bond or personal
12 recognizance pending trial, appeal, or sentencing for a serious
13 offense as defined in RCW 9.41.010.

14 (b) (a) ~~((iii))~~ (iv) of this subsection does not apply to a
15 sexual assault protection order under chapter 7.90 RCW if the order
16 has been modified pursuant to RCW 7.90.170 to remove any restrictions
17 on firearm purchase, transfer, or possession.

18 (c) Unlawful possession of a firearm in the second degree is a
19 class C felony punishable according to chapter 9A.20 RCW.

20 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
21 as used in this chapter, a person has been "convicted," whether in an
22 adult court or adjudicated in a juvenile court, at such time as a
23 plea of guilty has been accepted, or a verdict of guilty has been
24 filed, notwithstanding the pendency of any future proceedings
25 including, but not limited to, sentencing or disposition, posttrial
26 or postfact-finding motions, and appeals. Conviction includes a
27 dismissal entered after a period of probation, suspension or deferral
28 of sentence, and also includes equivalent dispositions by courts in
29 jurisdictions other than Washington state. A person shall not be
30 precluded from possession of a firearm if the conviction has been the
31 subject of a pardon, annulment, certificate of rehabilitation, or
32 other equivalent procedure based on a finding of the rehabilitation
33 of the person convicted or the conviction or disposition has been the
34 subject of a pardon, annulment, or other equivalent procedure based
35 on a finding of innocence. Where no record of the court's disposition
36 of the charges can be found, there shall be a rebuttable presumption
37 that the person was not convicted of the charge.

38 (4) (a) Notwithstanding subsection (1) or (2) of this section, a
39 person convicted or found not guilty by reason of insanity of an
40 offense prohibiting the possession of a firearm under this section

1 other than murder, manslaughter, robbery, rape, indecent liberties,
2 arson, assault, kidnapping, extortion, burglary, or violations with
3 respect to controlled substances under RCW 69.50.401 and 69.50.410,
4 who received a probationary sentence under RCW 9.95.200, and who
5 received a dismissal of the charge under RCW 9.95.240, shall not be
6 precluded from possession of a firearm as a result of the conviction
7 or finding of not guilty by reason of insanity. Notwithstanding any
8 other provisions of this section, if a person is prohibited from
9 possession of a firearm under subsection (1) or (2) of this section
10 and has not previously been convicted or found not guilty by reason
11 of insanity of a sex offense prohibiting firearm ownership under
12 subsection (1) or (2) of this section and/or any felony defined under
13 any law as a class A felony or with a maximum sentence of at least
14 twenty years, or both, the individual may petition a court of record
15 to have his or her right to possess a firearm restored:

16 (i) Under RCW 9.41.047; and/or

17 (ii)(A) If the conviction or finding of not guilty by reason of
18 insanity was for a felony offense, after five or more consecutive
19 years in the community without being convicted or found not guilty by
20 reason of insanity or currently charged with any felony, gross
21 misdemeanor, or misdemeanor crimes, if the individual has no prior
22 felony convictions that prohibit the possession of a firearm counted
23 as part of the offender score under RCW 9.94A.525; or

24 (B) If the conviction or finding of not guilty by reason of
25 insanity was for a nonfelony offense, after three or more consecutive
26 years in the community without being convicted or found not guilty by
27 reason of insanity or currently charged with any felony, gross
28 misdemeanor, or misdemeanor crimes, if the individual has no prior
29 felony convictions that prohibit the possession of a firearm counted
30 as part of the offender score under RCW 9.94A.525 and the individual
31 has completed all conditions of the sentence.

32 (b) An individual may petition a court of record to have his or
33 her right to possess a firearm restored under (a) of this subsection
34 (~~((4))~~) only at:

35 (i) The court of record that ordered the petitioner's prohibition
36 on possession of a firearm; or

37 (ii) The superior court in the county in which the petitioner
38 resides.

39 (5) In addition to any other penalty provided for by law, if a
40 person under the age of eighteen years is found by a court to have

1 possessed a firearm in a vehicle in violation of subsection (1) or
2 (2) of this section or to have committed an offense while armed with
3 a firearm during which offense a motor vehicle served an integral
4 function, the court shall notify the department of licensing within
5 twenty-four hours and the person's privilege to drive shall be
6 revoked under RCW 46.20.265, unless the offense is the juvenile's
7 first offense in violation of this section and has not committed an
8 offense while armed with a firearm, an unlawful possession of a
9 firearm offense, or an offense in violation of chapter 66.44, 69.52,
10 69.41, or 69.50 RCW.

11 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
12 or interpreted as preventing an offender from being charged and
13 subsequently convicted for the separate felony crimes of theft of a
14 firearm or possession of a stolen firearm, or both, in addition to
15 being charged and subsequently convicted under this section for
16 unlawful possession of a firearm in the first or second degree.
17 Notwithstanding any other law, if the offender is convicted under
18 this section for unlawful possession of a firearm in the first or
19 second degree and for the felony crimes of theft of a firearm or
20 possession of a stolen firearm, or both, then the offender shall
21 serve consecutive sentences for each of the felony crimes of
22 conviction listed in this subsection.

23 (7) Each firearm unlawfully possessed under this section shall be
24 a separate offense.

25 TECHNICAL AMENDMENTS TO CORRECT CITATIONS

26 **Sec. 2.** RCW 9.41.042 and 2003 c 53 s 27 are each amended to read
27 as follows:

28 RCW 9.41.040(2)(a) (~~((iii))~~) (vii) shall not apply to any person
29 under the age of eighteen years who is:

30 (1) In attendance at a hunter's safety course or a firearms
31 safety course;

32 (2) Engaging in practice in the use of a firearm or target
33 shooting at an established range authorized by the governing body of
34 the jurisdiction in which such range is located or any other area
35 where the discharge of a firearm is not prohibited;

36 (3) Engaging in an organized competition involving the use of a
37 firearm, or participating in, or practicing for, a performance by an
38 organized group that uses firearms as a part of the performance;

1 (4) Hunting or trapping under a valid license issued to the
2 person under Title 77 RCW;

3 (5) In an area where the discharge of a firearm is permitted, is
4 not trespassing, and the person either: (a) Is at least fourteen
5 years of age, has been issued a hunter safety certificate, and is
6 using a lawful firearm other than a pistol; or (b) is under the
7 supervision of a parent, guardian, or other adult approved for the
8 purpose by the parent or guardian;

9 (6) Traveling with any unloaded firearm in the person's
10 possession to or from any activity described in subsection (1), (2),
11 (3), (4), or (5) of this section;

12 (7) On real property under the control of his or her parent,
13 other relative, or legal guardian and who has the permission of the
14 parent or legal guardian to possess a firearm;

15 (8) At his or her residence and who, with the permission of his
16 or her parent or legal guardian, possesses a firearm for the purpose
17 of exercising the rights specified in RCW 9A.16.020(3); or

18 (9) Is a member of the armed forces of the United States,
19 national guard, or organized reserves, when on duty.

20 **Sec. 3.** RCW 13.40.0357 and 2019 c 322 s 8 are each amended to
21 read as follows:

22 **DESCRIPTION AND OFFENSE CATEGORY**

		JUVENILE DISPOSITION
JUVENILE		CATEGORY FOR
DISPOSITION		ATTEMPT, BAILJUMP,
OFFENSE		CONSPIRACY, OR
CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION

28 **Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E

1	E	Tampering with Fire Alarm Apparatus	E
2		with Intent to Commit Arson (9.40.105)	
3	A	Possession of Incendiary Device	B+
4		(9.40.120)	
5		Assault and Other Crimes Involving	
6		Physical Harm	
7	A	Assault 1 (9A.36.011)	B+
8	B+	Assault 2 (9A.36.021)	C+
9	C+	Assault 3 (9A.36.031)	D+
10	D+	Assault 4 (9A.36.041)	E
11	B+	Drive-By Shooting (9A.36.045)	C+
12		committed at age 15 or under	
13	A++	Drive-By Shooting (9A.36.045)	A
14		committed at age 16 or 17	
15	D+	Reckless Endangerment (9A.36.050)	E
16	C+	Promoting Suicide Attempt (9A.36.060)	D+
17	D+	Coercion (9A.36.070)	E
18	C+	Custodial Assault (9A.36.100)	D+
19		Burglary and Trespass	
20	B+	Burglary 1 (9A.52.020) committed at	C+
21		age 15 or under	
22	A-	Burglary 1 (9A.52.020) committed at	B+
23		age 16 or 17	
24	B	Residential Burglary (9A.52.025)	C
25	B	Burglary 2 (9A.52.030)	C
26	D	Burglary Tools (Possession of)	E
27		(9A.52.060)	
28	D	Criminal Trespass 1 (9A.52.070)	E
29	E	Criminal Trespass 2 (9A.52.080)	E
30	C	Mineral Trespass (78.44.330)	C
31	C	Vehicle Prowling 1 (9A.52.095)	D
32	D	Vehicle Prowling 2 (9A.52.100)	E
33		Drugs	
34	E	Possession/Consumption of Alcohol	E
35		(66.44.270)	

1	C	Illegally Obtaining Legend Drug	D
2		(69.41.020)	
3	C+	Sale, Delivery, Possession of Legend	D+
4		Drug with Intent to Sell (69.41.030(2)(a))	
5	E	Possession of Legend	E
6		Drug (69.41.030(2)(b))	
7	B+	Violation of Uniform Controlled	B+
8		Substances Act - Narcotic,	
9		Methamphetamine, or Flunitrazepam	
10		Sale (69.50.401(2) (a) or (b))	
11	C	Violation of Uniform Controlled	C
12		Substances Act - Nonnarcotic Sale	
13		(69.50.401(2)(c))	
14	E	Possession of Marihuana <40 grams	E
15		(69.50.4014)	
16	C	Fraudulently Obtaining Controlled	C
17		Substance (69.50.403)	
18	C+	Sale of Controlled Substance for Profit	C+
19		(69.50.410)	
20	E	Unlawful Inhalation (9.47A.020)	E
21	B	Violation of Uniform Controlled	B
22		Substances Act - Narcotic,	
23		Methamphetamine, or Flunitrazepam	
24		Counterfeit Substances (69.50.4011(2)	
25		(a) or (b))	
26	C	Violation of Uniform Controlled	C
27		Substances Act - Nonnarcotic Counterfeit	
28		Substances (69.50.4011(2) (c), (d), or (e))	
29	C	Violation of Uniform Controlled	C
30		Substances Act - Possession of a	
31		Controlled Substance (69.50.4013)	
32	C	Violation of Uniform Controlled	C
33		Substances Act - Possession of a	
34		Controlled Substance (69.50.4012)	
35		Firearms and Weapons	
36	B	Theft of Firearm (9A.56.300)	C
37	B	Possession of Stolen Firearm	C
38		(9A.56.310)	

1	E	Carrying Loaded Pistol Without Permit	E
2		(9.41.050)	
3	C	Possession of Firearms by Minor (<18)	C
4		(9.41.040(2)(a)((+)) (vii))	
5	D+	Possession of Dangerous Weapon	E
6		(9.41.250)	
7	D	Intimidating Another Person by use of	E
8		Weapon (9.41.270)	
9		Homicide	
10	A+	Murder 1 (9A.32.030)	A
11	A+	Murder 2 (9A.32.050)	B+
12	B+	Manslaughter 1 (9A.32.060)	C+
13	C+	Manslaughter 2 (9A.32.070)	D+
14	B+	Vehicular Homicide (46.61.520)	C+
15		Kidnapping	
16	A	Kidnap 1 (9A.40.020)	B+
17	B+	Kidnap 2 (9A.40.030)	C+
18	C+	Unlawful Imprisonment (9A.40.040)	D+
19		Obstructing Governmental Operation	
20	D	Obstructing a Law Enforcement Officer	E
21		(9A.76.020)	
22	E	Resisting Arrest (9A.76.040)	E
23	B	Introducing Contraband 1 (9A.76.140)	C
24	C	Introducing Contraband 2 (9A.76.150)	D
25	E	Introducing Contraband 3 (9A.76.160)	E
26	B+	Intimidating a Public Servant	C+
27		(9A.76.180)	
28	B+	Intimidating a Witness (9A.72.110)	C+
29		Public Disturbance	
30	C+	Criminal Mischief with Weapon	D+
31		(9A.84.010(2)(b))	
32	D+	Criminal Mischief Without Weapon	E
33		(9A.84.010(2)(a))	
34	E	Failure to Disperse (9A.84.020)	E
35	E	Disorderly Conduct (9A.84.030)	E
36		Sex Crimes	

1	A	Rape 1 (9A.44.040)	B+
2	B++	Rape 2 (9A.44.050) committed at age 14	B+
3		or under	
4	A-	Rape 2 (9A.44.050) committed at age 15	B+
5		through age 17	
6	C+	Rape 3 (9A.44.060)	D+
7	B++	Rape of a Child 1 (9A.44.073)	B+
8		committed at age 14 or under	
9	A-	Rape of a Child 1 (9A.44.073)	B+
10		committed at age 15	
11	B+	Rape of a Child 2 (9A.44.076)	C+
12	B	Incest 1 (9A.64.020(1))	C
13	C	Incest 2 (9A.64.020(2))	D
14	D+	Indecent Exposure (Victim <14)	E
15		(9A.88.010)	
16	E	Indecent Exposure (Victim 14 or over)	E
17		(9A.88.010)	
18	B+	Promoting Prostitution 1 (9A.88.070)	C+
19	C+	Promoting Prostitution 2 (9A.88.080)	D+
20	E	O & A (Prostitution) (9A.88.030)	E
21	B+	Indecent Liberties (9A.44.100)	C+
22	B++	Child Molestation 1 (9A.44.083)	B+
23		committed at age 14 or under	
24	A-	Child Molestation 1 (9A.44.083)	B+
25		committed at age 15 through age 17	
26	B	Child Molestation 2 (9A.44.086)	C+
27	C	Failure to Register as a Sex Offender	D
28		(9A.44.132)	
29		Theft, Robbery, Extortion, and	
30		Forgery	
31	B	Theft 1 (9A.56.030)	C
32	C	Theft 2 (9A.56.040)	D
33	D	Theft 3 (9A.56.050)	E
34	B	Theft of Livestock 1 and 2 (9A.56.080	C
35		and 9A.56.083)	
36	C	Forgery (9A.60.020)	D

1	A	Robbery 1 (9A.56.200) committed at	B+
2		age 15 or under	
3	A++	Robbery 1 (9A.56.200) committed at	A
4		age 16 or 17	
5	B+	Robbery 2 (9A.56.210)	C+
6	B+	Extortion 1 (9A.56.120)	C+
7	C+	Extortion 2 (9A.56.130)	D+
8	C	Identity Theft 1 (9.35.020(2))	D
9	D	Identity Theft 2 (9.35.020(3))	E
10	D	Improperly Obtaining Financial	E
11		Information (9.35.010)	
12	B	Possession of a Stolen Vehicle	C
13		(9A.56.068)	
14	B	Possession of Stolen Property 1	C
15		(9A.56.150)	
16	C	Possession of Stolen Property 2	D
17		(9A.56.160)	
18	D	Possession of Stolen Property 3	E
19		(9A.56.170)	
20	B	Taking Motor Vehicle Without	C
21		Permission 1 (9A.56.070)	
22	C	Taking Motor Vehicle Without	D
23		Permission 2 (9A.56.075)	
24	B	Theft of a Motor Vehicle (9A.56.065)	C
25		Motor Vehicle Related Crimes	
26	E	Driving Without a License (46.20.005)	E
27	B+	Hit and Run - Death (46.52.020(4)(a))	C+
28	C	Hit and Run - Injury (46.52.020(4)(b))	D
29	D	Hit and Run-Attended (46.52.020(5))	E
30	E	Hit and Run-Unattended (46.52.010)	E
31	C	Vehicular Assault (46.61.522)	D
32	C	Attempting to Elude Pursuing Police	D
33		Vehicle (46.61.024)	
34	E	Reckless Driving (46.61.500)	E
35	D	Driving While Under the Influence	E
36		(46.61.502 and 46.61.504)	

1	B+	Felony Driving While Under the	B
2		Influence (46.61.502(6))	
3	B+	Felony Physical Control of a Vehicle	B
4		While Under the Influence (46.61.504(6))	
5		Other	
6	B	Animal Cruelty 1 (16.52.205)	C
7	B	Bomb Threat (9.61.160)	C
8	C	Escape 1 ¹ (9A.76.110)	C
9	C	Escape 2 ¹ (9A.76.120)	C
10	D	Escape 3 (9A.76.130)	E
11	E	Obscene, Harassing, Etc., Phone Calls	E
12		(9.61.230)	
13	A	Other Offense Equivalent to an Adult	B+
14		Class A Felony	
15	B	Other Offense Equivalent to an Adult	C
16		Class B Felony	
17	C	Other Offense Equivalent to an Adult	D
18		Class C Felony	
19	D	Other Offense Equivalent to an Adult	E
20		Gross Misdemeanor	
21	E	Other Offense Equivalent to an Adult	E
22		Misdemeanor	
23	V	Violation of Order of Restitution,	V
24		Community Supervision, or Confinement	
25		(13.40.200) ²	

26 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
27 and the standard range is established as follows:

28 1st escape or attempted escape during 12-month period - 28 days
29 confinement

30 2nd escape or attempted escape during 12-month period - 8 weeks
31 confinement

32 3rd and subsequent escape or attempted escape during 12-month
33 period - 12 weeks confinement

34 ²If the court finds that a respondent has violated terms of an order,
35 it may impose a penalty of up to 30 days of confinement.

36 **JUVENILE SENTENCING STANDARDS**

1 This schedule must be used for juvenile offenders. The court may
 2 select sentencing option A, B, C, or D.

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OPTION A
 JUVENILE OFFENDER SENTENCING GRID
 STANDARD RANGE

6	A++	129 to 260 weeks for all category A++ offenses					
7	A+	180 weeks to age 21 for all category A+ offenses					
8	A	103-129 weeks for all category A offenses					
9	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
10	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
11	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
12	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
13	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
14		C	LS	LS	LS	LS	15-36 weeks
15		D+	LS	LS	LS	LS	LS
16		D	LS	LS	LS	LS	LS
17		E	LS	LS	LS	LS	LS
18	PRIOR		0	1	2	3	4 or more
19	ADJUDICATIONS						

20 NOTE: References in the grid to days or weeks mean periods of
 21 confinement. "LS" means "local sanctions" as defined in RCW
 22 13.40.020.

23 (1) The vertical axis of the grid is the current offense
 24 category. The current offense category is determined by the offense
 25 of adjudication.

26 (2) The horizontal axis of the grid is the number of prior
 27 adjudications included in the juvenile's criminal history. Each prior
 28 felony adjudication shall count as one point. Each prior violation,
 29 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
 30 point. Fractional points shall be rounded down.

31 (3) The standard range disposition for each offense is determined
 32 by the intersection of the column defined by the prior adjudications
 33 and the row defined by the current offense category.

1 (4) RCW 13.40.180 applies if the offender is being sentenced for
2 more than one offense.

3 (5) A current offense that is a violation is equivalent to an
4 offense category of E. However, a disposition for a violation shall
5 not include confinement.

6 **OR**

7 **OPTION B**

8 **SUSPENDED DISPOSITION ALTERNATIVE**

9 (1) If the offender is subject to a standard range disposition
10 involving confinement by the department, the court may impose the
11 standard range and suspend the disposition on condition that the
12 offender comply with one or more local sanctions and any educational
13 or treatment requirement. The treatment programs provided to the
14 offender must be either research-based best practice programs as
15 identified by the Washington state institute for public policy or the
16 joint legislative audit and review committee, or for chemical
17 dependency treatment programs or services, they must be evidence-
18 based or research-based best practice programs. For the purposes of
19 this subsection:

20 (a) "Evidence-based" means a program or practice that has had
21 multiple site random controlled trials across heterogeneous
22 populations demonstrating that the program or practice is effective
23 for the population; and

24 (b) "Research-based" means a program or practice that has some
25 research demonstrating effectiveness, but that does not yet meet the
26 standard of evidence-based practices.

27 (2) If the offender fails to comply with the suspended
28 disposition, the court may impose sanctions pursuant to RCW 13.40.200
29 or may revoke the suspended disposition and order the disposition's
30 execution.

31 (3) An offender is ineligible for the suspended disposition
32 option under this section if the offender:

33 (a) Is adjudicated of an A+ or A++ offense;

34 (b) Is fourteen years of age or older and is adjudicated of one
35 or more of the following offenses:

36 (i) A class A offense, or an attempt, conspiracy, or solicitation
37 to commit a class A offense;

38 (ii) Manslaughter in the first degree (RCW 9A.32.060);

1 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
2 the first degree (RCW 9A.56.120), kidnapping in the second degree
3 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular
4 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or
5 manslaughter 2 (RCW 9A.32.070); or

6 (iv) Violation of the uniform controlled substances act (RCW
7 69.50.401(2) (a) and (b)), when the offense includes infliction of
8 bodily harm upon another or when during the commission or immediate
9 withdrawal from the offense the respondent was armed with a deadly
10 weapon;

11 (c) Is ordered to serve a disposition for a firearm violation
12 under RCW 13.40.193;

13 (d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;
14 or

15 (e) Has a prior option B disposition.

16 **OR**

17 **OPTION C**

18 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

19 If the juvenile offender is subject to a standard range
20 disposition of local sanctions or 15 to 36 weeks of confinement and
21 has not committed a B++ or B+ offense, the court may impose a
22 disposition under RCW 13.40.160(4) and 13.40.165.

23 **OR**

24 **OPTION D**

25 **MANIFEST INJUSTICE**

26 If the court determines that a disposition under option A, B, or C
27 would effectuate a manifest injustice, the court shall impose a
28 disposition outside the standard range under RCW 13.40.160(2).

29 **Sec. 4.** RCW 13.40.160 and 2011 c 338 s 2 are each amended to
30 read as follows:

31 (1) The standard range disposition for a juvenile adjudicated of
32 an offense is determined according to RCW 13.40.0357.

33 (a) When the court sentences an offender to a local sanction as
34 provided in RCW 13.40.0357 option A, the court shall impose a
35 determinate disposition within the standard ranges, except as
36 provided in subsection (2), (3), (4), (5), or (6) of this section.
37 The disposition may be comprised of one or more local sanctions.

1 (b) When the court sentences an offender to a standard range as
2 provided in RCW 13.40.0357 option A that includes a term of
3 confinement exceeding thirty days, commitment shall be to the
4 department for the standard range of confinement, except as provided
5 in subsection (2), (3), (4), (5), or (6) of this section.

6 (2) If the court concludes, and enters reasons for its
7 conclusion, that disposition within the standard range would
8 effectuate a manifest injustice the court shall impose a disposition
9 outside the standard range, as indicated in option D of RCW
10 13.40.0357. The court's finding of manifest injustice shall be
11 supported by clear and convincing evidence.

12 A disposition outside the standard range shall be determinate and
13 shall be comprised of confinement or community supervision, or a
14 combination thereof. When a judge finds a manifest injustice and
15 imposes a sentence of confinement exceeding thirty days, the court
16 shall sentence the juvenile to a maximum term, and the provisions of
17 RCW 13.40.030(2) shall be used to determine the range. A disposition
18 outside the standard range is appealable under RCW 13.40.230 by the
19 state or the respondent. A disposition within the standard range is
20 not appealable under RCW 13.40.230.

21 (3) If a juvenile offender is found to have committed a sex
22 offense, other than a sex offense that is also a serious violent
23 offense as defined by RCW 9.94A.030, and has no history of a prior
24 sex offense, the court may impose the special sex offender
25 disposition alternative under RCW 13.40.162.

26 (4) If the juvenile offender is subject to a standard range
27 disposition of local sanctions or 15 to 36 weeks of confinement and
28 has not committed an A- or B+ offense, the court may impose the
29 disposition alternative under RCW 13.40.165.

30 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of
31 confinement, the court may impose the disposition alternative under
32 RCW 13.40.167.

33 (6) When the offender is subject to a standard range commitment
34 of 15 to 36 weeks and is ineligible for a suspended disposition
35 alternative, a manifest injustice disposition below the standard
36 range, special sex offender disposition alternative, chemical
37 dependency disposition alternative, or mental health disposition
38 alternative, the court in a county with a pilot program under RCW
39 13.40.169 may impose the disposition alternative under RCW 13.40.169.

1 (7) RCW 13.40.193 shall govern the disposition of any juvenile
2 adjudicated of possessing a firearm in violation of RCW
3 9.41.040(2)(a) (~~(iii)~~) (vii) or any crime in which a special finding
4 is entered that the juvenile was armed with a firearm.

5 (8) RCW 13.40.308 shall govern the disposition of any juvenile
6 adjudicated of theft of a motor vehicle as defined under RCW
7 9A.56.065, possession of a stolen motor vehicle as defined under RCW
8 9A.56.068, taking a motor vehicle without permission in the first
9 degree under RCW 9A.56.070, and taking a motor vehicle without
10 permission in the second degree under RCW 9A.56.075.

11 (9) Whenever a juvenile offender is entitled to credit for time
12 spent in detention prior to a dispositional order, the dispositional
13 order shall specifically state the number of days of credit for time
14 served.

15 (10) Except as provided under subsection (3), (4), (5), or (6) of
16 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the
17 court shall not suspend or defer the imposition or the execution of
18 the disposition.

19 (11) In no case shall the term of confinement imposed by the
20 court at disposition exceed that to which an adult could be subjected
21 for the same offense.

22 **Sec. 5.** RCW 13.40.193 and 2019 c 64 s 4 are each amended to read
23 as follows:

24 (1) If a respondent is found to have been in possession of a
25 firearm in violation of RCW 9.41.040(2)(a) (~~(v)~~) (vii), the court
26 shall impose a minimum disposition of ten days of confinement. If the
27 offender's standard range of disposition for the offense as indicated
28 in RCW 13.40.0357 is more than thirty days of confinement, the court
29 shall commit the offender to the department for the standard range
30 disposition. The offender shall not be released until the offender
31 has served a minimum of ten days in confinement.

32 (2)(a) If a respondent is found to have been in possession of a
33 firearm in violation of RCW 9.41.040, the disposition must include a
34 requirement that the respondent participate in a qualifying program
35 as described in (b) of this subsection, when available, unless the
36 court makes a written finding based on the outcome of the juvenile
37 court risk assessment that participation in a qualifying program
38 would not be appropriate.

1 (b) For purposes of this section, "qualifying program" means an
2 aggression replacement training program, a functional family therapy
3 program, or another program applicable to the juvenile firearm
4 offender population that has been identified as evidence-based or
5 research-based and cost-beneficial in the current list prepared at
6 the direction of the legislature by the Washington state institute
7 for public policy.

8 (3) If the court finds that the respondent or an accomplice was
9 armed with a firearm, the court shall determine the standard range
10 disposition for the offense pursuant to RCW 13.40.160. If the
11 offender or an accomplice was armed with a firearm when the offender
12 committed any felony other than possession of a machine gun or bump-
13 fire stock, possession of a stolen firearm, drive-by shooting, theft
14 of a firearm, unlawful possession of a firearm in the first and
15 second degree, or use of a machine gun or bump-fire stock in a
16 felony, the following periods of total confinement must be added to
17 the sentence: (a) Except for (b) of this subsection, for a class A
18 felony, six months; for a class B felony, four months; and for a
19 class C felony, two months; (b) for any violent offense as defined in
20 RCW 9.94A.030, committed by a respondent who is sixteen or seventeen
21 years old at the time of the offense, a period of twelve months. The
22 additional time shall be imposed regardless of the offense's juvenile
23 disposition offense category as designated in RCW 13.40.0357.

24 (4) (a) If the court finds that the respondent who is sixteen or
25 seventeen years old and committed the offense of robbery in the first
26 degree, drive-by shooting, rape of a child in the first degree,
27 burglary in the first degree, or any violent offense as defined in
28 RCW 9.94A.030 and was armed with a firearm, and the court finds that
29 the respondent's participation was related to membership in a
30 criminal street gang or advancing the benefit, aggrandizement, gain,
31 profit, or other advantage for a criminal street gang, a period of
32 three months total confinement must be added to the sentence. The
33 additional time must be imposed regardless of the offense's juvenile
34 disposition offense category as designated in RCW 13.40.0357 and must
35 be served consecutively with any other sentencing enhancement.

36 (b) For the purposes of this section, "criminal street gang"
37 means any ongoing organization, association, or group of three or
38 more persons, whether formal or informal, having a common name or
39 common identifying sign or symbol, having as one of its primary
40 activities the commission of criminal acts, and whose members or

1 associates individually or collectively engage in or have engaged in
2 a pattern of criminal street gang activity. This definition does not
3 apply to employees engaged in concerted activities for their mutual
4 aid and protection, or to the activities of labor and bona fide
5 nonprofit organizations or their members or agents.

6 (5) When a disposition under this section would effectuate a
7 manifest injustice, the court may impose another disposition. When a
8 judge finds a manifest injustice and imposes a disposition of
9 confinement exceeding thirty days, the court shall commit the
10 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)
11 shall be used to determine the range. When a judge finds a manifest
12 injustice and imposes a disposition of confinement less than thirty
13 days, the disposition shall be comprised of confinement or community
14 supervision or both.

15 (6) Any term of confinement ordered pursuant to this section
16 shall run consecutively to any term of confinement imposed in the
17 same disposition for other offenses.

18 **Sec. 6.** RCW 13.40.265 and 2016 c 136 s 6 are each amended to
19 read as follows:

20 (1) If a juvenile thirteen years of age or older is found by
21 juvenile court to have committed an offense while armed with a
22 firearm or an offense that is a violation of RCW 9.41.040(2)(a)
23 (~~((iv))~~) (vii) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the
24 court shall notify the department of licensing within twenty-four
25 hours after entry of the judgment, unless the offense is the
26 juvenile's first offense while armed with a firearm, first unlawful
27 possession of a firearm offense, or first offense in violation of
28 chapter 66.44, 69.41, 69.50, or 69.52 RCW.

29 (2) Except as otherwise provided in subsection (3) of this
30 section, upon petition of a juvenile who has been found by the court
31 to have committed an offense that is a violation of chapter 66.44,
32 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems
33 appropriate notify the department of licensing that the juvenile's
34 driving privileges should be reinstated.

35 (3) If the offense is the juvenile's second or subsequent
36 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile
37 may not petition the court for reinstatement of the juvenile's
38 privilege to drive revoked pursuant to RCW 46.20.265 until the date

1 the juvenile turns seventeen or one year after the date judgment was
2 entered, whichever is later.

3 **Sec. 7.** RCW 70.02.230 and 2019 c 381 s 19, 2019 c 325 s 5020,
4 and 2019 c 317 s 2 are each reenacted and amended to read as follows:

5 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
6 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265,
7 or pursuant to a valid authorization under RCW 70.02.030, the fact of
8 admission to a provider for mental health services and all
9 information and records compiled, obtained, or maintained in the
10 course of providing mental health services to either voluntary or
11 involuntary recipients of services at public or private agencies must
12 be confidential.

13 (2) Information and records related to mental health services,
14 other than those obtained through treatment under chapter 71.34 RCW,
15 may be disclosed only:

16 (a) In communications between qualified professional persons to
17 meet the requirements of chapter 71.05 RCW, in the provision of
18 services or appropriate referrals, or in the course of guardianship
19 proceedings if provided to a professional person:

- 20 (i) Employed by the facility;
21 (ii) Who has medical responsibility for the patient's care;
22 (iii) Who is a designated crisis responder;
23 (iv) Who is providing services under chapter 71.24 RCW;
24 (v) Who is employed by a state or local correctional facility
25 where the person is confined or supervised; or
26 (vi) Who is providing evaluation, treatment, or follow-up
27 services under chapter 10.77 RCW;

28 (b) When the communications regard the special needs of a patient
29 and the necessary circumstances giving rise to such needs and the
30 disclosure is made by a facility providing services to the operator
31 of a facility in which the patient resides or will reside;

32 (c) (i) When the person receiving services, or his or her
33 guardian, designates persons to whom information or records may be
34 released, or if the person is a minor, when his or her parents make
35 such a designation;

36 (ii) A public or private agency shall release to a person's next
37 of kin, attorney, personal representative, guardian, or conservator,
38 if any:

1 (A) The information that the person is presently a patient in the
2 facility or that the person is seriously physically ill;

3 (B) A statement evaluating the mental and physical condition of
4 the patient, and a statement of the probable duration of the
5 patient's confinement, if such information is requested by the next
6 of kin, attorney, personal representative, guardian, or conservator;
7 and

8 (iii) Other information requested by the next of kin or attorney
9 as may be necessary to decide whether or not proceedings should be
10 instituted to appoint a guardian or conservator;

11 (d)(i) To the courts as necessary to the administration of
12 chapter 71.05 RCW or to a court ordering an evaluation or treatment
13 under chapter 10.77 RCW solely for the purpose of preventing the
14 entry of any evaluation or treatment order that is inconsistent with
15 any order entered under chapter 71.05 RCW.

16 (ii) To a court or its designee in which a motion under chapter
17 10.77 RCW has been made for involuntary medication of a defendant for
18 the purpose of competency restoration.

19 (iii) Disclosure under this subsection is mandatory for the
20 purpose of the federal health insurance portability and
21 accountability act;

22 (e)(i) When a mental health professional or designated crisis
23 responder is requested by a representative of a law enforcement or
24 corrections agency, including a police officer, sheriff, community
25 corrections officer, a municipal attorney, or prosecuting attorney to
26 undertake an investigation or provide treatment under RCW 71.05.150,
27 10.31.110, or 71.05.153, the mental health professional or designated
28 crisis responder shall, if requested to do so, advise the
29 representative in writing of the results of the investigation
30 including a statement of reasons for the decision to detain or
31 release the person investigated. The written report must be submitted
32 within seventy-two hours of the completion of the investigation or
33 the request from the law enforcement or corrections representative,
34 whichever occurs later.

35 (ii) Disclosure under this subsection is mandatory for the
36 purposes of the federal health insurance portability and
37 accountability act;

38 (f) To the attorney of the detained person;

39 (g) To the prosecuting attorney as necessary to carry out the
40 responsibilities of the office under RCW 71.05.330(2),

1 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
2 access to records regarding the committed person's treatment and
3 prognosis, medication, behavior problems, and other records relevant
4 to the issue of whether treatment less restrictive than inpatient
5 treatment is in the best interest of the committed person or others.
6 Information must be disclosed only after giving notice to the
7 committed person and the person's counsel;

8 (h)(i) To appropriate law enforcement agencies and to a person,
9 when the identity of the person is known to the public or private
10 agency, whose health and safety has been threatened, or who is known
11 to have been repeatedly harassed, by the patient. The person may
12 designate a representative to receive the disclosure. The disclosure
13 must be made by the professional person in charge of the public or
14 private agency or his or her designee and must include the dates of
15 commitment, admission, discharge, or release, authorized or
16 unauthorized absence from the agency's facility, and only any other
17 information that is pertinent to the threat or harassment. The agency
18 or its employees are not civilly liable for the decision to disclose
19 or not, so long as the decision was reached in good faith and without
20 gross negligence.

21 (ii) Disclosure under this subsection is mandatory for the
22 purposes of the federal health insurance portability and
23 accountability act;

24 (i)(i) To appropriate corrections and law enforcement agencies
25 all necessary and relevant information in the event of a crisis or
26 emergent situation that poses a significant and imminent risk to the
27 public. The mental health service agency or its employees are not
28 civilly liable for the decision to disclose or not so long as the
29 decision was reached in good faith and without gross negligence.

30 (ii) Disclosure under this subsection is mandatory for the
31 purposes of the health insurance portability and accountability act;

32 (j) To the persons designated in RCW 71.05.425 for the purposes
33 described in those sections;

34 (k) Upon the death of a person. The person's next of kin,
35 personal representative, guardian, or conservator, if any, must be
36 notified. Next of kin who are of legal age and competent must be
37 notified under this section in the following order: Spouse, parents,
38 children, brothers and sisters, and other relatives according to the
39 degree of relation. Access to all records and information compiled,

1 obtained, or maintained in the course of providing services to a
2 deceased patient are governed by RCW 70.02.140;

3 (l) To mark headstones or otherwise memorialize patients interred
4 at state hospital cemeteries. The department of social and health
5 services shall make available the name, date of birth, and date of
6 death of patients buried in state hospital cemeteries fifty years
7 after the death of a patient;

8 (m) To law enforcement officers and to prosecuting attorneys as
9 are necessary to enforce RCW 9.41.040(2)(a)(~~(iv)~~) (v). The extent
10 of information that may be released is limited as follows:

11 (i) Only the fact, place, and date of involuntary commitment, an
12 official copy of any order or orders of commitment, and an official
13 copy of any written or oral notice of ineligibility to possess a
14 firearm that was provided to the person pursuant to RCW 9.41.047(1),
15 must be disclosed upon request;

16 (ii) The law enforcement and prosecuting attorneys may only
17 release the information obtained to the person's attorney as required
18 by court rule and to a jury or judge, if a jury is waived, that
19 presides over any trial at which the person is charged with violating
20 RCW 9.41.040(2)(a)(~~(iv)~~) (v);

21 (iii) Disclosure under this subsection is mandatory for the
22 purposes of the federal health insurance portability and
23 accountability act;

24 (n) When a patient would otherwise be subject to the provisions
25 of this section and disclosure is necessary for the protection of the
26 patient or others due to his or her unauthorized disappearance from
27 the facility, and his or her whereabouts is unknown, notice of the
28 disappearance, along with relevant information, may be made to
29 relatives, the department of corrections when the person is under the
30 supervision of the department, and governmental law enforcement
31 agencies designated by the physician or psychiatric advanced
32 registered nurse practitioner in charge of the patient or the
33 professional person in charge of the facility, or his or her
34 professional designee;

35 (o) Pursuant to lawful order of a court;

36 (p) To qualified staff members of the department, to the
37 authority, to behavioral health administrative services
38 organizations, to managed care organizations, to resource management
39 services responsible for serving a patient, or to service providers
40 designated by resource management services as necessary to determine

1 the progress and adequacy of treatment and to determine whether the
2 person should be transferred to a less restrictive or more
3 appropriate treatment modality or facility;

4 (q) Within the mental health service agency where the patient is
5 receiving treatment, confidential information may be disclosed to
6 persons employed, serving in bona fide training programs, or
7 participating in supervised volunteer programs, at the facility when
8 it is necessary to perform their duties;

9 (r) Within the department and the authority as necessary to
10 coordinate treatment for mental illness, developmental disabilities,
11 alcoholism, or substance use disorder of persons who are under the
12 supervision of the department;

13 (s) Between the department of social and health services, the
14 department of children, youth, and families, and the health care
15 authority as necessary to coordinate treatment for mental illness,
16 developmental disabilities, alcoholism, or drug abuse of persons who
17 are under the supervision of the department of social and health
18 services or the department of children, youth, and families;

19 (t) To a licensed physician or psychiatric advanced registered
20 nurse practitioner who has determined that the life or health of the
21 person is in danger and that treatment without the information and
22 records related to mental health services could be injurious to the
23 patient's health. Disclosure must be limited to the portions of the
24 records necessary to meet the medical emergency;

25 (u)(i) Consistent with the requirements of the federal health
26 insurance portability and accountability act, to:

27 (A) A health care provider who is providing care to a patient, or
28 to whom a patient has been referred for evaluation or treatment; or

29 (B) Any other person who is working in a care coordinator role
30 for a health care facility or health care provider or is under an
31 agreement pursuant to the federal health insurance portability and
32 accountability act with a health care facility or a health care
33 provider and requires the information and records to assure
34 coordinated care and treatment of that patient.

35 (ii) A person authorized to use or disclose information and
36 records related to mental health services under this subsection
37 (2)(u) must take appropriate steps to protect the information and
38 records relating to mental health services.

1 (iii) Psychotherapy notes may not be released without
2 authorization of the patient who is the subject of the request for
3 release of information;

4 (v) To administrative and office support staff designated to
5 obtain medical records for those licensed professionals listed in (u)
6 of this subsection;

7 (w) To a facility that is to receive a person who is
8 involuntarily committed under chapter 71.05 RCW, or upon transfer of
9 the person from one evaluation and treatment facility to another. The
10 release of records under this subsection is limited to the
11 information and records related to mental health services required by
12 law, a record or summary of all somatic treatments, and a discharge
13 summary. The discharge summary may include a statement of the
14 patient's problem, the treatment goals, the type of treatment which
15 has been provided, and recommendation for future treatment, but may
16 not include the patient's complete treatment record;

17 (x) To the person's counsel or guardian ad litem, without
18 modification, at any time in order to prepare for involuntary
19 commitment or recommitment proceedings, reexaminations, appeals, or
20 other actions relating to detention, admission, commitment, or
21 patient's rights under chapter 71.05 RCW;

22 (y) To staff members of the protection and advocacy agency or to
23 staff members of a private, nonprofit corporation for the purpose of
24 protecting and advocating the rights of persons with mental disorders
25 or developmental disabilities. Resource management services may limit
26 the release of information to the name, birthdate, and county of
27 residence of the patient, information regarding whether the patient
28 was voluntarily admitted, or involuntarily committed, the date and
29 place of admission, placement, or commitment, the name and address of
30 a guardian of the patient, and the date and place of the guardian's
31 appointment. Any staff member who wishes to obtain additional
32 information must notify the patient's resource management services in
33 writing of the request and of the resource management services' right
34 to object. The staff member shall send the notice by mail to the
35 guardian's address. If the guardian does not object in writing within
36 fifteen days after the notice is mailed, the staff member may obtain
37 the additional information. If the guardian objects in writing within
38 fifteen days after the notice is mailed, the staff member may not
39 obtain the additional information;

1 (z) To all current treating providers of the patient with
2 prescriptive authority who have written a prescription for the
3 patient within the last twelve months. For purposes of coordinating
4 health care, the department or the authority may release without
5 written authorization of the patient, information acquired for
6 billing and collection purposes as described in RCW 70.02.050(1)(d).
7 The department, or the authority, if applicable, shall notify the
8 patient that billing and collection information has been released to
9 named providers, and provide the substance of the information
10 released and the dates of such release. Neither the department nor
11 the authority may release counseling, inpatient psychiatric
12 hospitalization, or drug and alcohol treatment information without a
13 signed written release from the client;

14 (aa)(i) To the secretary of social and health services and the
15 director of the health care authority for either program evaluation
16 or research, or both so long as the secretary or director, where
17 applicable, adopts rules for the conduct of the evaluation or
18 research, or both. Such rules must include, but need not be limited
19 to, the requirement that all evaluators and researchers sign an oath
20 of confidentiality substantially as follows:

21 "As a condition of conducting evaluation or research concerning
22 persons who have received services from (fill in the facility,
23 agency, or person) I,, agree not to divulge, publish, or
24 otherwise make known to unauthorized persons or the public any
25 information obtained in the course of such evaluation or research
26 regarding persons who have received services such that the person who
27 received such services is identifiable.

28 I recognize that unauthorized release of confidential information
29 may subject me to civil liability under the provisions of state law.

30 /s/"

31 (ii) Nothing in this chapter may be construed to prohibit the
32 compilation and publication of statistical data for use by government
33 or researchers under standards, including standards to assure
34 maintenance of confidentiality, set forth by the secretary, or
35 director, where applicable;

36 (bb) To any person if the conditions in RCW 70.02.205 are met;

37 (cc) To the secretary of health for the purposes of the maternal
38 mortality review panel established in RCW 70.54.450.

1 (3) Whenever federal law or federal regulations restrict the
2 release of information contained in the information and records
3 related to mental health services of any patient who receives
4 treatment for a substance use disorder, the department or the
5 authority may restrict the release of the information as necessary to
6 comply with federal law and regulations.

7 (4) Civil liability and immunity for the release of information
8 about a particular person who is committed to the department of
9 social and health services or the authority under RCW 71.05.280(3)
10 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
11 RCW 9.94A.030, is governed by RCW 4.24.550.

12 (5) The fact of admission to a provider of mental health
13 services, as well as all records, files, evidence, findings, or
14 orders made, prepared, collected, or maintained pursuant to chapter
15 71.05 RCW are not admissible as evidence in any legal proceeding
16 outside that chapter without the written authorization of the person
17 who was the subject of the proceeding except as provided in RCW
18 70.02.260, in a subsequent criminal prosecution of a person committed
19 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
20 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
21 trial, in a civil commitment proceeding pursuant to chapter 71.09
22 RCW, or, in the case of a minor, a guardianship or dependency
23 proceeding. The records and files maintained in any court proceeding
24 pursuant to chapter 71.05 RCW must be confidential and available
25 subsequent to such proceedings only to the person who was the subject
26 of the proceeding or his or her attorney. In addition, the court may
27 order the subsequent release or use of such records or files only
28 upon good cause shown if the court finds that appropriate safeguards
29 for strict confidentiality are and will be maintained.

30 (6)(a) Except as provided in RCW 4.24.550, any person may bring
31 an action against an individual who has willfully released
32 confidential information or records concerning him or her in
33 violation of the provisions of this section, for the greater of the
34 following amounts:

35 (i) One thousand dollars; or

36 (ii) Three times the amount of actual damages sustained, if any.

37 (b) It is not a prerequisite to recovery under this subsection
38 that the plaintiff suffered or was threatened with special, as
39 contrasted with general, damages.

1 (c) Any person may bring an action to enjoin the release of
2 confidential information or records concerning him or her or his or
3 her ward, in violation of the provisions of this section, and may in
4 the same action seek damages as provided in this subsection.

5 (d) The court may award to the plaintiff, should he or she
6 prevail in any action authorized by this subsection, reasonable
7 attorney fees in addition to those otherwise provided by law.

8 (e) If an action is brought under this subsection, no action may
9 be brought under RCW 70.02.170.

10 **Sec. 8.** RCW 70.02.240 and 2019 c 381 s 20 are each amended to
11 read as follows:

12 The fact of admission and all information and records related to
13 mental health services obtained through inpatient or outpatient
14 treatment of a minor under chapter 71.34 RCW must be kept
15 confidential, except as authorized by this section or under RCW
16 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.
17 Confidential information under this section may be disclosed only:

18 (1) In communications between mental health professionals to meet
19 the requirements of chapter 71.34 RCW, in the provision of services
20 to the minor, or in making appropriate referrals;

21 (2) In the course of guardianship or dependency proceedings;

22 (3) To the minor, the minor's parent, including those acting as a
23 parent as defined in RCW 71.34.020 for purposes of family-initiated
24 treatment, and the minor's attorney, subject to RCW 13.50.100;

25 (4) To the courts as necessary to administer chapter 71.34 RCW;

26 (5) To law enforcement officers or public health officers as
27 necessary to carry out the responsibilities of their office. However,
28 only the fact and date of admission, and the date of discharge, the
29 name and address of the treatment provider, if any, and the last
30 known address must be disclosed upon request;

31 (6) To law enforcement officers, public health officers,
32 relatives, and other governmental law enforcement agencies, if a
33 minor has escaped from custody, disappeared from an evaluation and
34 treatment facility, violated conditions of a less restrictive
35 treatment order, or failed to return from an authorized leave, and
36 then only such information as may be necessary to provide for public
37 safety or to assist in the apprehension of the minor. The officers
38 are obligated to keep the information confidential in accordance with
39 this chapter;

1 (7) To the secretary of social and health services and the
2 director of the health care authority for assistance in data
3 collection and program evaluation or research so long as the
4 secretary or director, where applicable, adopts rules for the conduct
5 of such evaluation and research. The rules must include, but need not
6 be limited to, the requirement that all evaluators and researchers
7 sign an oath of confidentiality substantially as follows:

8 "As a condition of conducting evaluation or research concerning
9 persons who have received services from (fill in the facility,
10 agency, or person) I,, agree not to divulge, publish, or
11 otherwise make known to unauthorized persons or the public any
12 information obtained in the course of such evaluation or research
13 regarding minors who have received services in a manner such that the
14 minor is identifiable.

15 I recognize that unauthorized release of confidential information
16 may subject me to civil liability under state law.

17 /s/";

18 (8) To appropriate law enforcement agencies, upon request, all
19 necessary and relevant information in the event of a crisis or
20 emergent situation that poses a significant and imminent risk to the
21 public. The mental health service agency or its employees are not
22 civilly liable for the decision to disclose or not, so long as the
23 decision was reached in good faith and without gross negligence;

24 (9) To appropriate law enforcement agencies and to a person, when
25 the identity of the person is known to the public or private agency,
26 whose health and safety has been threatened, or who is known to have
27 been repeatedly harassed, by the patient. The person may designate a
28 representative to receive the disclosure. The disclosure must be made
29 by the professional person in charge of the public or private agency
30 or his or her designee and must include the dates of admission,
31 discharge, authorized or unauthorized absence from the agency's
32 facility, and only any other information that is pertinent to the
33 threat or harassment. The agency or its employees are not civilly
34 liable for the decision to disclose or not, so long as the decision
35 was reached in good faith and without gross negligence;

36 (10) To a minor's next of kin, attorney, guardian, or
37 conservator, if any, the information that the minor is presently in
38 the facility or that the minor is seriously physically ill and a
39 statement evaluating the mental and physical condition of the minor

1 as well as a statement of the probable duration of the minor's
2 confinement;

3 (11) Upon the death of a minor, to the minor's next of kin;

4 (12) To a facility in which the minor resides or will reside;

5 (13) To law enforcement officers and to prosecuting attorneys as
6 are necessary to enforce RCW 9.41.040(2)(a)(~~(iv)~~) (v). The extent
7 of information that may be released is limited as follows:

8 (a) Only the fact, place, and date of involuntary commitment, an
9 official copy of any order or orders of commitment, and an official
10 copy of any written or oral notice of ineligibility to possess a
11 firearm that was provided to the person pursuant to RCW 9.41.047(1),
12 must be disclosed upon request;

13 (b) The law enforcement and prosecuting attorneys may only
14 release the information obtained to the person's attorney as required
15 by court rule and to a jury or judge, if a jury is waived, that
16 presides over any trial at which the person is charged with violating
17 RCW 9.41.040(2)(a)(~~(iv)~~) (v);

18 (c) Disclosure under this subsection is mandatory for the
19 purposes of the federal health insurance portability and
20 accountability act;

21 (14) This section may not 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 director of the
25 health care authority or the secretary of the department of social
26 and health services, where applicable. The fact of admission and all
27 information obtained pursuant to chapter 71.34 RCW are not admissible
28 as evidence in any legal proceeding outside chapter 71.34 RCW, except
29 guardianship or dependency, without the written consent of the minor
30 or the minor's parent;

31 (15) For the purpose of a correctional facility participating in
32 the postinstitutional medical assistance system supporting the
33 expedited medical determinations and medical suspensions as provided
34 in RCW 74.09.555 and 74.09.295;

35 (16) Pursuant to a lawful order of a court.

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