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**SUBSTITUTE HOUSE BILL 1218**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Farivar, Macri, Reed, Simmons, Wylie, Pollet, Street, Ormsby, Scott, Salahuddin, Parshley, and Hill; by request of Governor Inslee)

READ FIRST TIME 02/20/25.

1 AN ACT Relating to persons referred for competency evaluation and  
2 restoration services within the framework of the forensic mental  
3 health care system consistent with the requirements agreed to in the  
4 Trueblood settlement agreement; amending RCW 10.77.074, 10.77.084,  
5 10.77.086, 10.77.088, and 10.77.092; reenacting and amending RCW  
6 43.84.092 and 43.84.092; adding new sections to chapter 10.77 RCW;  
7 creating a new section; providing an effective date; and providing  
8 expiration dates.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that individuals  
11 referred for services related to competency to stand trial requiring  
12 admission into a psychiatric facility are experiencing significantly  
13 reduced wait times for competency services. In order to preserve  
14 these critical gains, for the benefit of the state and those  
15 individuals awaiting services, the legislature finds that  
16 implementing measures to reduce the continued growth of referrals to  
17 the competency system are necessary. The state's forensic bed  
18 capacity forecast model indicates that if the state continues to  
19 receive competency referrals from local superior, district, and  
20 municipal courts at the same volume, the state will again fall  
21 behind.

1       The legislature further finds that historical investments and  
2 policy changes have been made in behavioral health services over the  
3 past several years, designed to both increase capacity to provide  
4 competency to stand trial services and to reduce the need for them by  
5 creating opportunities for diversion, prevention, and improved  
6 community health. New construction at western state hospital has  
7 resulted in the opening of 58 forensic psychiatric beds in the first  
8 quarter of 2023, while emergency community hospital contracts  
9 expanded to allow for the discharge or transfer of over 50 civil  
10 conversion patients occupying forensic state hospital beds over the  
11 same period. Sixteen beds for civil conversion patients opened at  
12 Maple Lane school in the first quarter of 2023, with 30 additional  
13 beds for patients acquitted by reason of insanity opened in early  
14 2024. The state also acquired a new facility in 2024, now known as  
15 Olympic Heritage behavioral health, which added to this historic rise  
16 in bed capacity in the state of Washington. Over a longer time  
17 period, 350 forensic beds are planned to open within a new forensic  
18 hospital on the western state hospital campus between 2028 and 2029.  
19 Policy and budget changes have increased capacity for assisted  
20 outpatient treatment, 988 crisis response, use of medication for  
21 opioid use disorders in jails and community settings, reentry  
22 services, and mental health advance directives, and created new  
23 behavioral health facility types, supportive housing, and supportive  
24 employment services. Forensic navigator services, outpatient  
25 competency restoration programs, clinical intervention specialists  
26 and other specialty forensic services are now available and  
27 continuing to be deployed in phase one, two, and three Trueblood  
28 settlement regions.

29       The legislature further finds that these investments over a  
30 period of many years have made significant improvements in the wait  
31 times for competency services. Even so, there remains a need for  
32 everyone to come together to find solutions to both reduce demand for  
33 forensic services and shrink the number of individuals whose only  
34 access to behavioral health care is through the criminal justice  
35 system. Forensic services should be reserved only for those where the  
36 state's interest is sufficient to justify the detention and greater  
37 efforts are needed to prevent or divert individuals with behavioral  
38 health needs from being unnecessarily incarcerated. The state needs  
39 collaboration from local governments and other entities to provide  
40 and develop services and supports to patients connected to the

1 forensic system, to reduce the flow of competency referrals coming  
2 from municipal, district, and superior courts, and to improve  
3 availability and effectiveness of behavioral health services provided  
4 outside the criminal justice system.

5 **Sec. 2.** RCW 10.77.074 and 2023 c 453 s 5 are each amended to  
6 read as follows:

7 (1) Subject to the limitations described in subsection (2) of  
8 this section, a court may appoint an impartial forensic navigator  
9 employed by or contracted by the department to assist individuals who  
10 have been referred for competency evaluation for class B and class C  
11 felonies and all misdemeanors and shall appoint a forensic navigator  
12 in circumstances described under RCW 10.77.072. Class A felonies will  
13 not be referred to forensic navigators unless requested by a party to  
14 the proceedings or the court.

15 (2) A forensic navigator must assist the individual to access  
16 services related to diversion and community outpatient competency  
17 restoration. The forensic navigator must assist the individual,  
18 prosecuting attorney, defense attorney, and the court to understand  
19 the options available to the individual and be accountable as an  
20 officer of the court for faithful execution of the responsibilities  
21 outlined in this section.

22 (3) The duties of the forensic navigator include, but are not  
23 limited to, the following:

24 (a) To collect relevant information about the individual,  
25 including behavioral health services and supports available to the  
26 individual that might support placement in outpatient restoration,  
27 diversion, or some combination of these;

28 (b) To meet with, interview, and observe the individual;

29 (c) To gather collateral information regarding the presence of  
30 disabilities, injuries, or cognitive disorders, and other records  
31 when appropriate to help inform referrals for diversion or services;

32 (d) When able to meet with the individual, to gather accurate  
33 contact information for the individual, the individual's next of kin  
34 or legal guardian, and other relevant persons to facilitate timely  
35 contact if the individual is referred for services;

36 (e) To assess the individual for appropriateness for assisted  
37 outpatient treatment under chapter 71.05 RCW;

38 ~~((d))~~ (f) To present information to the court in order to  
39 assist the court in understanding the treatment options available to

1 the individual to support the entry of orders for diversion from the  
2 forensic mental health system or for community outpatient competency  
3 restoration, to facilitate that transition;

4 ~~((e))~~ (g) To provide regular updates to the court and parties  
5 of the status of the individual's participation in diversion or  
6 outpatient services and be responsive to inquiries by the parties  
7 about treatment status;

8 ~~((f))~~ (h) When the individual is ordered to receive community  
9 outpatient restoration, to provide services to the individual  
10 including:

11 (i) Assisting the individual with attending appointments and  
12 classes relating to outpatient competency restoration;

13 (ii) Coordinating access to housing for the individual;

14 (iii) Meeting with the individual on a regular basis;

15 (iv) Providing information to the court concerning the  
16 individual's progress and compliance with court-ordered conditions of  
17 release, which may include appearing at court hearings to provide  
18 information to the court;

19 (v) Coordinating the individual's access to community case  
20 management services and mental health services;

21 (vi) Assisting the individual with obtaining prescribed  
22 medication and encouraging adherence with prescribed medication;

23 (vii) Assessing the individual for appropriateness for assisted  
24 outpatient treatment under chapter 71.05 RCW and coordinating the  
25 initiation of an assisted outpatient treatment order if appropriate;

26 (viii) Planning for a coordinated transition of the individual to  
27 a case manager in the community behavioral health system;

28 (ix) Attempting to follow-up with the individual to check whether  
29 the meeting with a community-based case manager took place;

30 (x) When the individual is a high utilizer, attempting to connect  
31 the individual with high utilizer services; and

32 (xi) Attempting to check up on the individual at least once per  
33 month for up to sixty days after coordinated transition to community  
34 behavioral health services, without duplicating the services of the  
35 community-based case manager;

36 ~~((g))~~ (i) For individuals who are found by the court to be not  
37 competent to stand trial and not restorable due to an intellectual or  
38 developmental disability, dementia, traumatic brain injury, or other  
39 neurocognitive disorders, and diverted for services under RCW

1 10.77.202, to make a coordinated transition of the individual to  
2 appropriate case managers within the department;

3 (j) If the individual is an American Indian or Alaska Native who  
4 receives medical, behavioral health, housing, or other supportive  
5 services from a tribe within this state, to notify and coordinate  
6 with the tribe and Indian health care provider. Notification shall be  
7 made in person or by telephonic or electronic communication to the  
8 tribal contact listed in the authority's tribal crisis coordination  
9 plan as soon as possible.

10 (4) Forensic navigators may submit recommendations to the court  
11 regarding treatment and restoration options for the individual, which  
12 the court may consider and weigh in conjunction with the  
13 recommendations of all of the parties.

14 (5) Forensic navigators shall be deemed officers of the court for  
15 the purpose of immunity from civil liability.

16 (6) The signed order for competency evaluation from the court  
17 shall serve as authority for the forensic navigator to be given  
18 access to all records held by a behavioral health, educational, or  
19 law enforcement agency or a correctional facility that relates to an  
20 individual. Information that is protected by state or federal law,  
21 including health information, shall not be entered into the court  
22 record without the consent of the individual or their defense  
23 attorney.

24 (7) Admissions made by the individual in the course of receiving  
25 services from the forensic navigator may not be used against the  
26 individual in the prosecution's case in chief.

27 (8) A court may not issue an order appointing a forensic  
28 navigator unless the department certifies that there is adequate  
29 forensic navigator capacity to provide these services at the time the  
30 order is issued.

31 **Sec. 3.** RCW 10.77.084 and 2023 c 453 s 6 are each amended to  
32 read as follows:

33 (1)(a) If at any time during the pendency of an action and prior  
34 to judgment the court finds, following a report as provided in RCW  
35 10.77.060, a defendant is incompetent, the court shall order the  
36 proceedings against the defendant be stayed except as provided in  
37 subsection (4) of this section. Beginning October 1, 2023, if the  
38 defendant is charged with a serious traffic offense under RCW  
39 9.94A.030, or a felony version of a serious traffic offense, the

1 court may order the clerk to transmit an order to the department of  
2 licensing for revocation of the defendant's driver's license for a  
3 period of one year.

4 (b) The court may order a defendant who has been found to be  
5 incompetent to undergo competency restoration treatment at a facility  
6 designated by the department if the defendant is eligible under RCW  
7 10.77.086 or 10.77.088. At the end of each competency restoration  
8 period or at any time a professional person determines competency has  
9 been, or is unlikely to be, restored, the defendant shall be returned  
10 to court for a hearing, except that if the opinion of the  
11 professional person is that the defendant remains incompetent and the  
12 hearing is held before the expiration of the current competency  
13 restoration period, the parties may agree to waive the defendant's  
14 presence, to remote participation by the defendant at a hearing, or  
15 to presentation of an agreed order in lieu of a hearing. The facility  
16 shall promptly notify the court and all parties of the date on which  
17 the competency restoration period commences and expires so that a  
18 timely hearing date may be scheduled.

19 (c) If, following notice and hearing or entry of an agreed order  
20 under (b) of this subsection, the court finds that competency has  
21 been restored, the court shall lift the stay entered under (a) of  
22 this subsection. If the court finds that competency has not been  
23 restored, the court shall dismiss the proceedings without prejudice,  
24 except that the court may order a further period of competency  
25 restoration treatment if it finds that further treatment within the  
26 time limits established by RCW 10.77.086 or 10.77.088 is likely to  
27 restore competency, and a further period of treatment is allowed  
28 under RCW 10.77.086 or 10.77.088.

29 (d) If at any time during the proceeding the court finds,  
30 following notice and hearing, a defendant is not likely to regain  
31 competency, the court shall dismiss the proceedings without prejudice  
32 and refer the defendant for civil commitment evaluation or  
33 proceedings if appropriate under RCW 10.77.065, 10.77.086, or  
34 10.77.088.

35 (e) Beginning October 1, 2023, if the court issues an order  
36 directing revocation of the defendant's driver's license under (a) of  
37 this subsection, and the court subsequently finds that the  
38 defendant's competency has been restored, the court shall order the  
39 clerk to transmit an order to the department of licensing for  
40 reinstatement of the defendant's driver's license. The court may

1 direct the clerk to transmit an order reinstating the defendant's  
2 driver's license before the end of one year for good cause upon the  
3 petition of the defendant.

4 (2) If the defendant is referred for evaluation by a designated  
5 crisis responder under this chapter, the designated crisis responder  
6 shall provide prompt written notification of the results of the  
7 evaluation and whether the person was detained. The notification  
8 shall be provided to the court in which the criminal action was  
9 pending, the prosecutor, the defense attorney in the criminal action,  
10 and the facility that evaluated the defendant for competency.

11 (3) The fact that the defendant is unfit to proceed does not  
12 preclude any pretrial proceedings which do not require the personal  
13 participation of the defendant.

14 (4) A defendant receiving medication for either physical or  
15 mental problems shall not be prohibited from standing trial, if the  
16 medication either enables the defendant to understand the proceedings  
17 against him or her and to assist in his or her own defense, or does  
18 not disable him or her from so understanding and assisting in his or  
19 her own defense.

20 (5) At or before the conclusion of any commitment period provided  
21 for by this section, the facility providing evaluation and treatment  
22 shall provide to the court a written report of evaluation which meets  
23 the requirements of RCW 10.77.060(3). For defendants charged with a  
24 felony, the report following the second competency restoration period  
25 or first competency restoration period if the defendant's  
26 incompetence is determined to be solely due to a developmental  
27 disability or the evaluator concludes that the defendant is not  
28 likely to regain competency must include an assessment of the  
29 defendant's future dangerousness which is evidence-based regarding  
30 predictive validity.

31 (6) For defendants who are on personal recognizance who are  
32 waiting for competency restoration services, in a county with an  
33 outpatient competency restoration program that has adequate space,  
34 the department shall provide a recommended services plan to the court  
35 and parties. Upon receipt of this recommended services plan, if  
36 restoration is still required, the court shall order outpatient  
37 competency restoration.

38 (7) If, after two attempts to schedule or admit a defendant on  
39 personal recognizance status to a department facility for competency  
40 evaluation or restoration, the department is not able to complete

1 scheduling the admission or the defendant does not arrive at the  
2 scheduled time of the admission, the department shall submit a report  
3 to the court and parties and include a date and time for another  
4 admission which must be at least two weeks later. The court shall  
5 provide notice to the defendant of the date and time of the  
6 admission. If the defendant fails to appear at that admission, the  
7 court shall recall the order for competency evaluation or restoration  
8 and may issue a warrant for the failure to appear. The secretary may  
9 adopt rules and regulations necessary to implement this section.

10 **Sec. 4.** RCW 10.77.086 and 2024 c 290 s 3 are each amended to  
11 read as follows:

12 (1)(a) Except as otherwise provided in this section, if the  
13 defendant is charged with a felony and determined to be incompetent,  
14 until he or she has regained the competency necessary to understand  
15 the proceedings against him or her and assist in his or her own  
16 defense, but in any event for a period of no longer than 90 days, the  
17 court shall commit the defendant to the custody of the secretary for  
18 inpatient competency restoration, or may alternatively order the  
19 defendant to receive outpatient competency restoration based on a  
20 recommendation from a forensic navigator and input from the parties.

21 (b) For a defendant who is determined to be incompetent and whose  
22 highest charge is a class C felony other than assault in the third  
23 degree under RCW 9A.36.031(1) (d) or (f), felony physical control of  
24 a vehicle under RCW 46.61.504(6), felony hit and run resulting in  
25 injury under RCW 46.52.020(4)(b), a hate crime offense under RCW  
26 9A.36.080, a class C felony with a domestic violence designation, a  
27 class C felony sex offense as defined in RCW 9.94A.030, or a class C  
28 felony with a sexual motivation allegation, the court shall first  
29 consider all available and appropriate alternatives to inpatient  
30 competency restoration. The court shall dismiss the proceedings  
31 without prejudice upon agreement of the parties if the forensic  
32 navigator has found an appropriate and available diversion program  
33 willing to accept the defendant.

34 (2)(a) To be eligible for an order for outpatient competency  
35 restoration, a defendant must be clinically appropriate and be  
36 willing to:

37 (i) Adhere to medications or receive prescribed intramuscular  
38 medication; and

39 (ii) (~~Abstain from alcohol and unprescribed drugs; and~~



1       ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~  
2 needed)) Adhere to all rules and conditions of the identified  
3 outpatient competency restoration.

4       (b) If the court orders inpatient competency restoration, the  
5 department shall place the defendant in an appropriate facility of  
6 the department for competency restoration.

7       (c) For a defendant ordered to inpatient competency restoration,  
8 the department shall promptly notify the court and parties whenever  
9 it appears the defendant's condition is such that a transfer to  
10 outpatient competency restoration is appropriate. Any such notice to  
11 the court and parties shall provide pertinent information concerning  
12 the change in condition or the reasons supporting transfer to  
13 outpatient competency restoration. Upon receipt of this notice, the  
14 court shall schedule a hearing within 10 days to review the  
15 information provided by the department, conditions of release of the  
16 defendant, and anticipated release date from inpatient treatment. The  
17 court shall issue appropriate orders if it finds that the defendant's  
18 condition has so changed that they are a suitable candidate for  
19 outpatient competency restoration.

20       (d) If the court orders outpatient competency restoration, the  
21 court shall modify conditions of release as needed to authorize the  
22 department to place the person in approved housing, which may include  
23 access to supported housing, affiliated with a contracted outpatient  
24 competency restoration program. The department, in conjunction with  
25 the health care authority, must establish rules for conditions of  
26 participation in the outpatient competency restoration program, which  
27 must include the defendant being subject to medication management.  
28 The court may order regular urinalysis testing. The outpatient  
29 competency restoration program shall monitor the defendant during the  
30 defendant's placement in the program and report any noncompliance or  
31 significant changes with respect to the defendant to the department  
32 and, if applicable, the forensic navigator.

33       ~~((d))~~ (e) If a defendant fails to comply with the restrictions  
34 of the outpatient restoration program such that restoration is no  
35 longer appropriate in that setting or the defendant is no longer  
36 clinically appropriate for outpatient competency restoration, the  
37 director of the outpatient competency restoration program shall  
38 notify the authority and the department of the need to terminate the  
39 outpatient competency restoration placement and intent to request  
40 placement for the defendant in an appropriate facility of the

1 department for inpatient competency restoration. The outpatient  
2 competency restoration program shall coordinate with the authority,  
3 the department, and any law enforcement personnel under ~~((d))~~ (e)  
4 (i) of this subsection to ensure that the time period between  
5 termination and admission into the inpatient facility is as minimal  
6 as possible. The time period for inpatient competency restoration  
7 shall be reduced by the time period spent in active treatment within  
8 the outpatient competency restoration program, excluding time periods  
9 in which the defendant was absent from the program and all time from  
10 notice of termination of the outpatient competency restoration period  
11 through the defendant's admission to the facility. The department  
12 shall obtain a placement for the defendant within seven days of the  
13 notice of intent to terminate the outpatient competency restoration  
14 placement.

15 (i) The department may authorize a peace officer to detain the  
16 defendant into emergency custody for transport to the designated  
17 inpatient competency restoration facility. If medical clearance is  
18 required by the designated competency restoration facility before  
19 admission, the peace officer must transport the defendant to a crisis  
20 stabilization unit, evaluation and treatment facility, or emergency  
21 department of a local hospital for medical clearance once a bed is  
22 available at the designated inpatient competency restoration  
23 facility. The signed outpatient competency restoration order of the  
24 court shall serve as authority for the detention of the defendant  
25 under this subsection. This subsection does not preclude voluntary  
26 transportation of the defendant to a facility for inpatient  
27 competency restoration or for medical clearance, or authorize  
28 admission of the defendant into jail.

29 (ii) The department shall notify the court and parties of the  
30 defendant's admission for inpatient competency restoration before the  
31 close of the next judicial day. The court shall schedule a hearing  
32 within five days to review the conditions of release of the defendant  
33 and anticipated release from treatment and issue appropriate orders.

34 ~~((e))~~ (f) The court may not issue an order for outpatient  
35 competency restoration unless the department certifies that there is  
36 an available appropriate outpatient competency restoration program  
37 that has adequate space for the person at the time the order is  
38 issued or the court places the defendant under the guidance and  
39 control of a professional person identified in the court order.

1 (3) For a defendant whose highest charge is a class C felony, or  
2 a class B felony that is not classified as violent under RCW  
3 9.94A.030, the maximum time allowed for the initial competency  
4 restoration period is 45 days if the defendant is referred for  
5 inpatient competency restoration, or 90 days if the defendant is  
6 referred for outpatient competency restoration, provided that if the  
7 outpatient competency restoration placement is terminated and the  
8 defendant is subsequently admitted to an inpatient facility, the  
9 period of inpatient treatment during the first competency restoration  
10 period under this subsection shall not exceed 45 days.

11 (4) When any defendant whose highest charge is a class C felony  
12 other than assault in the third degree under RCW 9A.36.031(1) (d) or  
13 (f), felony physical control of a vehicle under RCW 46.61.504(6),  
14 felony hit and run resulting in injury under RCW 46.52.020(4)(b), a  
15 hate crime offense under RCW 9A.36.080, a class C felony with a  
16 domestic violence designation, a class C felony sex offense as  
17 defined in RCW 9.94A.030, or a class C felony with a sexual  
18 motivation allegation is admitted for inpatient competency  
19 restoration with an accompanying court order for involuntary  
20 medication under RCW 10.77.092, and the defendant is found not  
21 competent to stand trial following that period of competency  
22 restoration, the court shall dismiss the charges pursuant to  
23 subsection (7) of this section.

24 (5) If the court determines or the parties agree before the  
25 initial competency restoration period or at any subsequent stage of  
26 the proceedings that the defendant is unlikely to regain competency,  
27 the court may dismiss the charges without prejudice without ordering  
28 the defendant to undergo an initial or further period of competency  
29 restoration treatment, in which case the court shall order that the  
30 defendant be referred for evaluation for civil commitment in the  
31 manner provided in subsection (7) of this section.

32 (6) On or before expiration of the initial competency restoration  
33 period the court shall conduct a hearing to determine whether the  
34 defendant is now competent to stand trial. If the court finds by a  
35 preponderance of the evidence that the defendant is incompetent to  
36 stand trial, the court may order an extension of the competency  
37 restoration period for an additional period of 90 days, but the court  
38 must at the same time set a date for a new hearing to determine the  
39 defendant's competency to stand trial before the expiration of this  
40 second restoration period. The defendant, the defendant's attorney,

1 and the prosecutor have the right to demand that the hearing be  
2 before a jury. No extension shall be ordered for a second or third  
3 competency restoration period if the defendant is ineligible for a  
4 subsequent competency restoration period under subsection (4) of this  
5 section or the defendant's incompetence has been determined by the  
6 secretary to be solely the result of an intellectual or developmental  
7 disability, dementia, or traumatic brain injury which is such that  
8 competence is not reasonably likely to be regained during an  
9 extension.

10 (7) (a) Except as provided in (b) of this subsection, at the  
11 hearing upon the expiration of the second competency restoration  
12 period, or at the end of the first competency restoration period if  
13 the defendant is ineligible for a second or third competency  
14 restoration period under subsection (4) or (6) of this section, if  
15 the jury or court finds that the defendant is incompetent to stand  
16 trial, the court shall dismiss the charges without prejudice and  
17 order the defendant to be committed to the department for placement  
18 in a facility operated or contracted by the department for up to 120  
19 hours if the defendant has not undergone competency restoration  
20 services or has engaged in outpatient competency restoration  
21 services, and up to 72 hours if the defendant engaged in inpatient  
22 competency restoration services starting from admission to the  
23 facility, excluding Saturdays, Sundays, and holidays, for evaluation  
24 for the purpose of filing a civil commitment petition under chapter  
25 71.05 RCW. If at the time the order to dismiss the charges without  
26 prejudice is entered by the court the defendant is already in a  
27 facility operated or contracted by the department, the 72-hour or  
28 120-hour period shall instead begin upon department receipt of the  
29 court order.

30 (b) The court shall not dismiss the charges if the defendant is  
31 eligible for a second or third competency restoration period under  
32 subsection (6) of this section and the court or jury finds that: (i)  
33 The defendant (A) is a substantial danger to other persons; or (B)  
34 presents a substantial likelihood of committing criminal acts  
35 jeopardizing public safety or security; and (ii) there is a  
36 substantial probability that the defendant will regain competency  
37 within a reasonable period of time. If the court or jury makes such a  
38 finding, the court may extend the period of commitment for up to an  
39 additional six months.

1 (8) Any period of competency restoration treatment under this  
2 section includes only the time the defendant is actually at the  
3 facility or is actively participating in an outpatient competency  
4 restoration program and is in addition to reasonable time for  
5 transport to or from the facility.

6 (9) If at any time the court dismisses charges based on  
7 incompetency to stand trial under this section, the court shall issue  
8 an order prohibiting the defendant from the possession of firearms  
9 until a court restores his or her right to possess a firearm under  
10 RCW 9.41.047. The court shall notify the defendant orally and in  
11 writing that the defendant may not possess a firearm unless the  
12 defendant's right to do so is restored by the superior court that  
13 issued the order under RCW 9.41.047, and that the defendant must  
14 immediately surrender all firearms and any concealed pistol license  
15 to their local law enforcement agency.

16 **Sec. 5.** RCW 10.77.088 and 2024 c 290 s 4 are each amended to  
17 read as follows:

18 (1) If the defendant is charged with a nonfelony crime which is a  
19 serious offense as identified in RCW 10.77.092 and found by the court  
20 to be not competent, the court shall first consider all available and  
21 appropriate alternatives to inpatient competency restoration. If the  
22 parties agree that there is an appropriate diversion program  
23 available to accept the defendant, the court shall dismiss the  
24 proceedings without prejudice and refer the defendant to the  
25 recommended diversion program. If the parties do not agree that there  
26 is an appropriate diversion program available to accept the  
27 defendant, then the court:

28 (a) Shall dismiss the proceedings without prejudice and detain  
29 the defendant pursuant to subsection (6) of this section, unless the  
30 prosecutor objects to the dismissal and provides notice of a motion  
31 for an order for competency restoration treatment, in which case the  
32 court shall schedule a hearing within seven days.

33 (b) At the hearing, the prosecuting attorney must establish that  
34 there is a compelling state interest to order competency restoration  
35 treatment for the defendant. The court may consider prior criminal  
36 history, prior history in treatment, prior history of violence, the  
37 quality and severity of the pending charges, any history that  
38 suggests whether competency restoration treatment is likely to be  
39 successful, in addition to the factors listed under RCW 10.77.092. If

1 the defendant is subject to an order under chapter 71.05 RCW or  
2 proceedings under chapter 71.05 RCW have been initiated, there is a  
3 rebuttable presumption that there is no compelling state interest in  
4 ordering competency restoration treatment. If the prosecuting  
5 attorney proves by a preponderance of the evidence that there is a  
6 compelling state interest in ordering competency restoration  
7 treatment, then the court shall issue an order in accordance with  
8 subsection (2) of this section.

9 (2) (a) If a court finds pursuant to subsection (1)(b) of this  
10 section that there is a compelling state interest in pursuing  
11 competency restoration treatment, the court shall order the defendant  
12 to receive outpatient competency restoration consistent with the  
13 recommendation of the forensic navigator, unless the court finds that  
14 an order for outpatient competency restoration is inappropriate  
15 considering the health and safety of the defendant and risks to  
16 public safety.

17 (b) To be eligible for an order for outpatient competency  
18 restoration, a defendant must be willing to:

19 (i) Adhere to medications or receive prescribed intramuscular  
20 medication; and

21 (ii) ~~((Abstain from alcohol and unprescribed drugs; and~~

22 ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~  
23 ~~needed)) Adhere to the rules and conditions of the identified~~

24 outpatient competency restoration program.  
25 (c) If the court orders inpatient competency restoration, the  
26 department shall place the defendant in an appropriate facility of  
27 the department for competency restoration under subsection (3) of  
28 this section.

29 (d) For a defendant ordered to inpatient competency restoration,  
30 the department shall promptly notify the court and parties whenever  
31 it appears the defendant's condition is such that a transfer to  
32 outpatient competency restoration is appropriate. Any such notice to  
33 the court and parties shall provide pertinent information concerning  
34 the change in condition or the reasons supporting transfer to  
35 outpatient competency restoration. Upon receipt of this notice, the  
36 court shall schedule a hearing within 10 days to review the  
37 information provided by the department, conditions of release of the  
38 defendant, and anticipated release date from inpatient treatment. The  
39 court shall issue appropriate orders if it finds that the defendant's

1 condition has so changed that they are a suitable candidate for  
2 outpatient competency restoration.

3 (e) If the court orders outpatient competency restoration, the  
4 court shall modify conditions of release as needed to authorize the  
5 department to place the person in approved housing, which may include  
6 access to supported housing, affiliated with a contracted outpatient  
7 competency restoration program. The department, in conjunction with  
8 the health care authority, must establish rules for conditions of  
9 participation in the outpatient competency restoration program, which  
10 must include the defendant being subject to medication management.  
11 The court may order regular urinalysis testing. The outpatient  
12 competency restoration program shall monitor the defendant during the  
13 defendant's placement in the program and report any noncompliance or  
14 significant changes with respect to the defendant to the department  
15 and, if applicable, the forensic navigator.

16 (~~(e)~~) (f) If a defendant fails to comply with the restrictions  
17 of the outpatient competency restoration program such that  
18 restoration is no longer appropriate in that setting or the defendant  
19 is no longer clinically appropriate for outpatient competency  
20 restoration, the director of the outpatient competency restoration  
21 program shall notify the authority and the department of the need to  
22 terminate the outpatient competency restoration placement and intent  
23 to request placement for the defendant in an appropriate facility of  
24 the department for inpatient competency restoration. The outpatient  
25 competency restoration program shall coordinate with the authority,  
26 the department, and any law enforcement personnel under (~~(e)~~) (f)  
27 (i) of this subsection to ensure that the time period between  
28 termination and admission into the inpatient facility is as minimal  
29 as possible. The time period for inpatient competency restoration  
30 shall be reduced by the time period spent in active treatment within  
31 the outpatient competency restoration program, excluding time periods  
32 in which the defendant was absent from the program and all time from  
33 notice of termination of the outpatient competency restoration period  
34 through the defendant's admission to the facility. The department  
35 shall obtain a placement for the defendant within seven days of the  
36 notice of intent to terminate the outpatient competency restoration  
37 placement.

38 (i) The department may authorize a peace officer to detain the  
39 defendant into emergency custody for transport to the designated  
40 inpatient competency restoration facility. If medical clearance is

1 required by the designated competency restoration facility before  
2 admission, the peace officer must transport the defendant to a crisis  
3 stabilization unit, evaluation and treatment facility, or emergency  
4 department of a local hospital for medical clearance once a bed is  
5 available at the designated inpatient competency restoration  
6 facility. The signed outpatient competency restoration order of the  
7 court shall serve as authority for the detention of the defendant  
8 under this subsection. This subsection does not preclude voluntary  
9 transportation of the defendant to a facility for inpatient  
10 competency restoration or for medical clearance, or authorize  
11 admission of the defendant into jail.

12 (ii) The department shall notify the court and parties of the  
13 defendant's admission for inpatient competency restoration before the  
14 close of the next judicial day. The court shall schedule a hearing  
15 within five days to review the conditions of release of the defendant  
16 and anticipated release from treatment and issue appropriate orders.

17 (~~(f)~~) (g) The court may not issue an order for outpatient  
18 competency restoration unless the department certifies that there is  
19 an available appropriate outpatient restoration program that has  
20 adequate space for the person at the time the order is issued or the  
21 court places the defendant under the guidance and control of a  
22 professional person identified in the court order.

23 (~~(g)~~) (h) If the court does not order the defendant to receive  
24 outpatient competency restoration under (a) of this subsection, the  
25 court shall commit the defendant to the department for placement in a  
26 facility operated or contracted by the department for inpatient  
27 competency restoration.

28 (3) The placement under subsection (2) of this section shall not  
29 exceed 29 days if the defendant is ordered to receive inpatient  
30 competency restoration, and shall not exceed 90 days if the defendant  
31 is ordered to receive outpatient competency restoration. The court  
32 may order any combination of this subsection, but the total period of  
33 inpatient competency restoration may not exceed 29 days.

34 (4) Beginning October 1, 2023, if the defendant is charged with a  
35 serious traffic offense under RCW 9.94A.030, the court may order the  
36 clerk to transmit an order to the department of licensing for  
37 revocation of the defendant's driver's license for a period of one  
38 year. The court shall direct the clerk to transmit an order to the  
39 department of licensing reinstating the defendant's driver's license  
40 if the defendant is subsequently restored to competency, and may do



1 so at any time before the end of one year for good cause upon the  
2 petition of the defendant.

3 (5) If the court has determined or the parties agree that the  
4 defendant is unlikely to regain competency, the court may dismiss the  
5 charges without prejudice without ordering the defendant to undergo  
6 competency restoration treatment, in which case the court shall order  
7 that the defendant be referred for evaluation for civil commitment in  
8 the manner provided in subsection (6) of this section.

9 (6) (a) If the proceedings are dismissed under RCW 10.77.084 and  
10 the defendant was on conditional release at the time of dismissal,  
11 the court shall order the designated crisis responder within that  
12 county to evaluate the defendant pursuant to chapter 71.05 RCW. The  
13 evaluation may be conducted in any location chosen by the  
14 professional.

15 (b) If the defendant was in custody and not on conditional  
16 release at the time of dismissal, the defendant shall be detained and  
17 sent to an evaluation and treatment facility for up to 120 hours if  
18 the defendant has not undergone competency restoration services or  
19 has engaged in outpatient competency restoration services and up to  
20 72 hours if the defendant engaged in inpatient competency restoration  
21 services, excluding Saturdays, Sundays, and holidays, for evaluation  
22 for purposes of filing a petition under chapter 71.05 RCW. The 120-  
23 hour or 72-hour period shall commence upon the next nonholiday  
24 weekday following the court order and shall run to the end of the  
25 last nonholiday weekday within the 120-hour or 72-hour period.

26 (7) If the defendant is charged with a nonfelony crime that is  
27 not a serious offense as defined in RCW 10.77.092 and found by the  
28 court to be not competent, the court may stay or dismiss proceedings  
29 and detain the defendant for sufficient time to allow the designated  
30 crisis responder to evaluate the defendant and consider initial  
31 detention proceedings under chapter 71.05 RCW. The court must give  
32 notice to all parties at least 24 hours before the dismissal of any  
33 proceeding under this subsection, and provide an opportunity for a  
34 hearing on whether to dismiss the proceedings.

35 (8) If at any time the court dismisses charges under subsections  
36 (1) through (7) of this section, the court shall make a finding as to  
37 whether the defendant has a history of one or more violent acts. If  
38 the court so finds, the court shall issue an order prohibiting the  
39 defendant from the possession of firearms until a court restores his  
40 or her right to possess a firearm under RCW 9.41.047. The court shall

1 notify the defendant orally and in writing that the defendant may not  
2 possess a firearm unless the defendant's right to do so is restored  
3 by the superior court that issued the order under RCW 9.41.047, and  
4 that the defendant must immediately surrender all firearms and any  
5 concealed pistol license to their local law enforcement agency.

6 (9) Any period of competency restoration treatment under this  
7 section includes only the time the defendant is actually at the  
8 facility or is actively participating in an outpatient competency  
9 restoration program and is in addition to reasonable time for  
10 transport to or from the facility.

11 **Sec. 6.** RCW 10.77.092 and 2023 c 453 s 11 are each amended to  
12 read as follows:

13 (1) For purposes of determining whether a court may authorize  
14 involuntary medication for the purpose of competency restoration  
15 pursuant to RCW 10.77.084 and for maintaining the level of  
16 restoration in the jail following the restoration period, a pending  
17 charge involving any one or more of the following crimes is a serious  
18 offense per se in the context of competency restoration:

19 (a) Any violent offense, sex offense, serious traffic offense,  
20 and most serious offense, as those terms are defined in RCW  
21 9.94A.030;

22 (b) Any offense, except nonfelony counterfeiting offenses,  
23 included in crimes against persons in RCW 9.94A.411;

24 (c) Any offense contained in chapter 9.41 RCW (firearms and  
25 dangerous weapons);

26 (d) Any offense listed as domestic violence in RCW 10.99.020;

27 (e) Any offense listed as a harassment offense in chapter 9A.46  
28 RCW, except for criminal trespass in the first or second degree;

29 (f) Any violation of chapter 69.50 RCW that is a class B felony;  
30 or

31 (g) Any city or county ordinance or statute that is equivalent to  
32 an offense referenced in this subsection.

33 (2) Any time a petition is filed seeking a court order  
34 authorizing the involuntary medication for purposes of competency  
35 restoration pursuant to RCW 10.77.084, the petition must also seek  
36 authorization to continue involuntary medication for purposes of  
37 maintaining the level of restoration in the jail or juvenile  
38 detention facility following the restoration period.

1 (3) (a) In a particular case, a court may determine that a pending  
2 charge not otherwise defined as serious by state or federal law or by  
3 a city or county ordinance is, nevertheless, a serious offense within  
4 the context of competency restoration treatment when the conduct in  
5 the charged offense falls within the standards established in (b) of  
6 this subsection.

7 (b) To determine that the particular case is a serious offense  
8 within the context of competency restoration, the court must consider  
9 the following factors and determine that one or more of the following  
10 factors creates a situation in which the offense is serious:

11 (i) The charge includes an allegation that the defendant actually  
12 inflicted bodily or emotional harm on another person or that the  
13 defendant created a reasonable apprehension of bodily or emotional  
14 harm to another;

15 (ii) The extent of the impact of the alleged offense on the basic  
16 human need for security of the citizens within the jurisdiction;

17 (iii) The number and nature of related charges pending against  
18 the defendant;

19 (iv) The length of potential confinement if the defendant is  
20 convicted; and

21 (v) The number of potential and actual victims or persons  
22 impacted by the defendant's alleged acts.

23 (4) For a defendant ordered to inpatient competency restoration,  
24 the department shall promptly notify the court and parties whenever  
25 it appears the defendant's condition and amenability to treatment are  
26 such that an order for involuntary medication is necessary. Any such  
27 notice to the court and parties shall provide pertinent information  
28 concerning the applicable criteria under *Sell v. United States*, 539  
29 U.S. 166, 123 S.Ct. 2174, 156 L.Ed.2d 197 (2003). Upon receipt of  
30 this notice, the court shall schedule a hearing within 10 days to  
31 consider an order for involuntary medication.

32 (5) For any hearing pertaining to involuntary medication, the  
33 parties, the witnesses, the interpreters, and the presiding judicial  
34 officer shall be present and participate by video. The term "video,"  
35 as used in this section, includes any functional equivalent. At any  
36 hearing conducted by video, the technology used must permit the  
37 judicial officer, counsel, all parties, and the witnesses to be able  
38 to see, hear, and speak, when authorized, during the hearing; to  
39 allow attorneys to use exhibits or other materials during the  
40 hearing; and to allow the respondent's counsel to be in the same

1 location as the respondent unless otherwise requested by the  
2 respondent or the respondent's counsel. Witnesses in a proceeding may  
3 also appear in court through other means, including telephonically,  
4 pursuant to the requirements of superior court civil rule 43.  
5 Notwithstanding the foregoing, the court, upon its own motion or upon  
6 a motion for good cause by any party, may require some or all parties  
7 and witnesses to participate in the hearing in person rather than by  
8 video. In ruling on any such motion, the court may allow in-person or  
9 video testimony; and the court may consider, among other things,  
10 whether the respondent's alleged behavioral health disorder affects  
11 the respondent's ability to perceive or participate in the proceeding  
12 by video.

13 **Sec. 7.** RCW 43.84.092 and 2024 c 210 s 4 and 2024 c 168 s 12 are  
14 each reenacted and amended to read as follows:

15 (1) All earnings of investments of surplus balances in the state  
16 treasury shall be deposited to the treasury income account, which  
17 account is hereby established in the state treasury.

18 (2) The treasury income account shall be utilized to pay or  
19 receive funds associated with federal programs as required by the  
20 federal cash management improvement act of 1990. The treasury income  
21 account is subject in all respects to chapter 43.88 RCW, but no  
22 appropriation is required for refunds or allocations of interest  
23 earnings required by the cash management improvement act. Refunds of  
24 interest to the federal treasury required under the cash management  
25 improvement act fall under RCW 43.88.180 and shall not require  
26 appropriation. The office of financial management shall determine the  
27 amounts due to or from the federal government pursuant to the cash  
28 management improvement act. The office of financial management may  
29 direct transfers of funds between accounts as deemed necessary to  
30 implement the provisions of the cash management improvement act, and  
31 this subsection. Refunds or allocations shall occur prior to the  
32 distributions of earnings set forth in subsection (4) of this  
33 section.

34 (3) Except for the provisions of RCW 43.84.160, the treasury  
35 income account may be utilized for the payment of purchased banking  
36 services on behalf of treasury funds including, but not limited to,  
37 depository, safekeeping, and disbursement functions for the state  
38 treasury and affected state agencies. The treasury income account is  
39 subject in all respects to chapter 43.88 RCW, but no appropriation is

1 required for payments to financial institutions. Payments shall occur  
2 prior to distribution of earnings set forth in subsection (4) of this  
3 section.

4 (4) Monthly, the state treasurer shall distribute the earnings  
5 credited to the treasury income account. The state treasurer shall  
6 credit the general fund with all the earnings credited to the  
7 treasury income account except:

8 (a) The following accounts and funds shall receive their  
9 proportionate share of earnings based upon each account's and fund's  
10 average daily balance for the period: The abandoned recreational  
11 vehicle disposal account, the aeronautics account, the Alaskan Way  
12 viaduct replacement project account, the ambulance transport fund,  
13 behavioral health diversion fund, the budget stabilization account,  
14 the capital vessel replacement account, the capitol building  
15 construction account, the Central Washington University capital  
16 projects account, the charitable, educational, penal and reformatory  
17 institutions account, the Chehalis basin account, the Chehalis basin  
18 taxable account, the clean fuels credit account, the clean fuels  
19 transportation investment account, the cleanup settlement account,  
20 the climate active transportation account, the climate transit  
21 programs account, the Columbia river basin water supply development  
22 account, the Columbia river basin taxable bond water supply  
23 development account, the Columbia river basin water supply revenue  
24 recovery account, the common school construction fund, the community  
25 forest trust account, the connecting Washington account, the county  
26 arterial preservation account, the county criminal justice assistance  
27 account, the covenant homeownership account, the deferred  
28 compensation administrative account, the deferred compensation  
29 principal account, the department of licensing services account, the  
30 department of retirement systems expense account, the developmental  
31 disabilities community services account, the diesel idle reduction  
32 account, the opioid abatement settlement account, the drinking water  
33 assistance account, the administrative subaccount of the drinking  
34 water assistance account, the early learning facilities development  
35 account, the early learning facilities revolving account, the Eastern  
36 Washington University capital projects account, the education  
37 construction fund, the education legacy trust account, the election  
38 account, the electric vehicle account, the energy freedom account,  
39 the energy recovery act account, the essential rail assistance  
40 account, The Evergreen State College capital projects account, the

1 fair start for kids account, the family medicine workforce  
2 development account, the ferry bond retirement fund, the fish,  
3 wildlife, and conservation account, the freight mobility investment  
4 account, the freight mobility multimodal account, the grade crossing  
5 protective fund, the higher education retirement plan supplemental  
6 benefit fund, the Washington student loan account, the highway bond  
7 retirement fund, the highway infrastructure account, the highway  
8 safety fund, the hospital safety net assessment fund, the Interstate  
9 5 bridge replacement project account, the Interstate 405 and state  
10 route number 167 express toll lanes account, the judges' retirement  
11 account, the judicial retirement administrative account, the judicial  
12 retirement principal account, the limited fish and wildlife account,  
13 the local leasehold excise tax account, the local real estate excise  
14 tax account, the local sales and use tax account, the marine  
15 resources stewardship trust account, the medical aid account, the  
16 money-purchase retirement savings administrative account, the money-  
17 purchase retirement savings principal account, the motor vehicle  
18 fund, the motorcycle safety education account, the move ahead WA  
19 account, the move ahead WA flexible account, the multimodal  
20 transportation account, the multiuse roadway safety account, the  
21 municipal criminal justice assistance account, the oyster reserve  
22 land account, the pension funding stabilization account, the  
23 perpetual surveillance and maintenance account, the pilotage account,  
24 the pollution liability insurance agency underground storage tank  
25 revolving account, the public employees' retirement system plan 1  
26 account, the public employees' retirement system combined plan 2 and  
27 plan 3 account, the public facilities construction loan revolving  
28 account, the public health supplemental account, the public works  
29 assistance account, the Puget Sound capital construction account, the  
30 Puget Sound ferry operations account, the Puget Sound Gateway  
31 facility account, the Puget Sound taxpayer accountability account,  
32 the real estate appraiser commission account, the recreational  
33 vehicle account, the regional mobility grant program account, the  
34 reserve officers' relief and pension principal fund, the resource  
35 management cost account, the rural arterial trust account, the rural  
36 mobility grant program account, the rural Washington loan fund, the  
37 second injury fund, the sexual assault prevention and response  
38 account, the site closure account, the skilled nursing facility  
39 safety net trust fund, the small city pavement and sidewalk account,  
40 the special category C account, the special wildlife account, the

1 state hazard mitigation revolving loan account, the state investment  
2 board expense account, the state investment board commingled trust  
3 fund accounts, the state patrol highway account, the state  
4 reclamation revolving account, the state route number 520 civil  
5 penalties account, the state route number 520 corridor account, the  
6 statewide broadband account, the statewide tourism marketing account,  
7 the supplemental pension account, the Tacoma Narrows toll bridge  
8 account, the teachers' retirement system plan 1 account, the  
9 teachers' retirement system combined plan 2 and plan 3 account, the  
10 tobacco prevention and control account, the tobacco settlement  
11 account, the toll facility bond retirement account, the  
12 transportation 2003 account (nickel account), the transportation  
13 equipment fund, the JUDY transportation future funding program  
14 account, the transportation improvement account, the transportation  
15 improvement board bond retirement account, the transportation  
16 infrastructure account, the transportation partnership account, the  
17 traumatic brain injury account, the tribal opioid prevention and  
18 treatment account, the University of Washington bond retirement fund,  
19 the University of Washington building account, the voluntary cleanup  
20 account, the volunteer firefighters' relief and pension principal  
21 fund, the volunteer firefighters' and reserve officers'  
22 administrative fund, the vulnerable roadway user education account,  
23 the Washington judicial retirement system account, the Washington law  
24 enforcement officers' and firefighters' system plan 1 retirement  
25 account, the Washington law enforcement officers' and firefighters'  
26 system plan 2 retirement account, the Washington public safety  
27 employees' plan 2 retirement account, the Washington school  
28 employees' retirement system combined plan 2 and 3 account, the  
29 Washington state patrol retirement account, the Washington State  
30 University building account, the Washington State University bond  
31 retirement fund, the water pollution control revolving administration  
32 account, the water pollution control revolving fund, the Western  
33 Washington University capital projects account, the Yakima integrated  
34 plan implementation account, the Yakima integrated plan  
35 implementation revenue recovery account, and the Yakima integrated  
36 plan implementation taxable bond account. Earnings derived from  
37 investing balances of the agricultural permanent fund, the normal  
38 school permanent fund, the permanent common school fund, the  
39 scientific permanent fund, and the state university permanent fund  
40 shall be allocated to their respective beneficiary accounts.

1 (b) Any state agency that has independent authority over accounts  
2 or funds not statutorily required to be held in the state treasury  
3 that deposits funds into a fund or account in the state treasury  
4 pursuant to an agreement with the office of the state treasurer shall  
5 receive its proportionate share of earnings based upon each account's  
6 or fund's average daily balance for the period.

7 (5) In conformance with Article II, section 37 of the state  
8 Constitution, no treasury accounts or funds shall be allocated  
9 earnings without the specific affirmative directive of this section.

10 **Sec. 8.** RCW 43.84.092 and 2024 c 210 s 5 and 2024 c 168 s 13 are  
11 each reenacted and amended to read as follows:

12 (1) All earnings of investments of surplus balances in the state  
13 treasury shall be deposited to the treasury income account, which  
14 account is hereby established in the state treasury.

15 (2) The treasury income account shall be utilized to pay or  
16 receive funds associated with federal programs as required by the  
17 federal cash management improvement act of 1990. The treasury income  
18 account is subject in all respects to chapter 43.88 RCW, but no  
19 appropriation is required for refunds or allocations of interest  
20 earnings required by the cash management improvement act. Refunds of  
21 interest to the federal treasury required under the cash management  
22 improvement act fall under RCW 43.88.180 and shall not require  
23 appropriation. The office of financial management shall determine the  
24 amounts due to or from the federal government pursuant to the cash  
25 management improvement act. The office of financial management may  
26 direct transfers of funds between accounts as deemed necessary to  
27 implement the provisions of the cash management improvement act, and  
28 this subsection. Refunds or allocations shall occur prior to the  
29 distributions of earnings set forth in subsection (4) of this  
30 section.

31 (3) Except for the provisions of RCW 43.84.160, the treasury  
32 income account may be utilized for the payment of purchased banking  
33 services on behalf of treasury funds including, but not limited to,  
34 depository, safekeeping, and disbursement functions for the state  
35 treasury and affected state agencies. The treasury income account is  
36 subject in all respects to chapter 43.88 RCW, but no appropriation is  
37 required for payments to financial institutions. Payments shall occur  
38 prior to distribution of earnings set forth in subsection (4) of this  
39 section.



1 (4) Monthly, the state treasurer shall distribute the earnings  
2 credited to the treasury income account. The state treasurer shall  
3 credit the general fund with all the earnings credited to the  
4 treasury income account except:

5 (a) The following accounts and funds shall receive their  
6 proportionate share of earnings based upon each account's and fund's  
7 average daily balance for the period: The abandoned recreational  
8 vehicle disposal account, the aeronautics account, the Alaskan Way  
9 viaduct replacement project account, behavioral health diversion  
10 fund, the budget stabilization account, the capital vessel  
11 replacement account, the capitol building construction account, the  
12 Central Washington University capital projects account, the  
13 charitable, educational, penal and reformatory institutions account,  
14 the Chehalis basin account, the Chehalis basin taxable account, the  
15 clean fuels credit account, the clean fuels transportation investment  
16 account, the cleanup settlement account, the climate active  
17 transportation account, the climate transit programs account, the  
18 Columbia river basin water supply development account, the Columbia  
19 river basin taxable bond water supply development account, the  
20 Columbia river basin water supply revenue recovery account, the  
21 common school construction fund, the community forest trust account,  
22 the connecting Washington account, the county arterial preservation  
23 account, the county criminal justice assistance account, the covenant  
24 homeownership account, the deferred compensation administrative  
25 account, the deferred compensation principal account, the department  
26 of licensing services account, the department of retirement systems  
27 expense account, the developmental disabilities community services  
28 account, the diesel idle reduction account, the opioid abatement  
29 settlement account, the drinking water assistance account, the  
30 administrative subaccount of the drinking water assistance account,  
31 the early learning facilities development account, the early learning  
32 facilities revolving account, the Eastern Washington University  
33 capital projects account, the education construction fund, the  
34 education legacy trust account, the election account, the electric  
35 vehicle account, the energy freedom account, the energy recovery act  
36 account, the essential rail assistance account, The Evergreen State  
37 College capital projects account, the fair start for kids account,  
38 the family medicine workforce development account, the ferry bond  
39 retirement fund, the fish, wildlife, and conservation account, the  
40 freight mobility investment account, the freight mobility multimodal

1 account, the grade crossing protective fund, the higher education  
2 retirement plan supplemental benefit fund, the Washington student  
3 loan account, the highway bond retirement fund, the highway  
4 infrastructure account, the highway safety fund, the hospital safety  
5 net assessment fund, the Interstate 5 bridge replacement project  
6 account, the Interstate 405 and state route number 167 express toll  
7 lanes account, the judges' retirement account, the judicial  
8 retirement administrative account, the judicial retirement principal  
9 account, the limited fish and wildlife account, the local leasehold  
10 excise tax account, the local real estate excise tax account, the  
11 local sales and use tax account, the marine resources stewardship  
12 trust account, the medical aid account, the money-purchase retirement  
13 savings administrative account, the money-purchase retirement savings  
14 principal account, the motor vehicle fund, the motorcycle safety  
15 education account, the move ahead WA account, the move ahead WA  
16 flexible account, the multimodal transportation account, the multiuse  
17 roadway safety account, the municipal criminal justice assistance  
18 account, the oyster reserve land account, the pension funding  
19 stabilization account, the perpetual surveillance and maintenance  
20 account, the pilotage account, the pollution liability insurance  
21 agency underground storage tank revolving account, the public  
22 employees' retirement system plan 1 account, the public employees'  
23 retirement system combined plan 2 and plan 3 account, the public  
24 facilities construction loan revolving account, the public health  
25 supplemental account, the public works assistance account, the Puget  
26 Sound capital construction account, the Puget Sound ferry operations  
27 account, the Puget Sound Gateway facility account, the Puget Sound  
28 taxpayer accountability account, the real estate appraiser commission  
29 account, the recreational vehicle account, the regional mobility  
30 grant program account, the reserve officers' relief and pension  
31 principal fund, the resource management cost account, the rural  
32 arterial trust account, the rural mobility grant program account, the  
33 rural Washington loan fund, the second injury fund, the sexual  
34 assault prevention and response account, the site closure account,  
35 the skilled nursing facility safety net trust fund, the small city  
36 pavement and sidewalk account, the special category C account, the  
37 special wildlife account, the state hazard mitigation revolving loan  
38 account, the state investment board expense account, the state  
39 investment board commingled trust fund accounts, the state patrol  
40 highway account, the state reclamation revolving account, the state

1 route number 520 civil penalties account, the state route number 520  
2 corridor account, the statewide broadband account, the statewide  
3 tourism marketing account, the supplemental pension account, the  
4 Tacoma Narrows toll bridge account, the teachers' retirement system  
5 plan 1 account, the teachers' retirement system combined plan 2 and  
6 plan 3 account, the tobacco prevention and control account, the  
7 tobacco settlement account, the toll facility bond retirement  
8 account, the transportation 2003 account (nickel account), the  
9 transportation equipment fund, the JUDY transportation future funding  
10 program account, the transportation improvement account, the  
11 transportation improvement board bond retirement account, the  
12 transportation infrastructure account, the transportation partnership  
13 account, the traumatic brain injury account, the tribal opioid  
14 prevention and treatment account, the University of Washington bond  
15 retirement fund, the University of Washington building account, the  
16 voluntary cleanup account, the volunteer firefighters' relief and  
17 pension principal fund, the volunteer firefighters' and reserve  
18 officers' administrative fund, the vulnerable roadway user education  
19 account, the Washington judicial retirement system account, the  
20 Washington law enforcement officers' and firefighters' system plan 1  
21 retirement account, the Washington law enforcement officers' and  
22 firefighters' system plan 2 retirement account, the Washington public  
23 safety employees' plan 2 retirement account, the Washington school  
24 employees' retirement system combined plan 2 and 3 account, the  
25 Washington state patrol retirement account, the Washington State  
26 University building account, the Washington State University bond  
27 retirement fund, the water pollution control revolving administration  
28 account, the water pollution control revolving fund, the Western  
29 Washington University capital projects account, the Yakima integrated  
30 plan implementation account, the Yakima integrated plan  
31 implementation revenue recovery account, and the Yakima integrated  
32 plan implementation taxable bond account. Earnings derived from  
33 investing balances of the agricultural permanent fund, the normal  
34 school permanent fund, the permanent common school fund, the  
35 scientific permanent fund, and the state university permanent fund  
36 shall be allocated to their respective beneficiary accounts.

37 (b) Any state agency that has independent authority over accounts  
38 or funds not statutorily required to be held in the state treasury  
39 that deposits funds into a fund or account in the state treasury  
40 pursuant to an agreement with the office of the state treasurer shall

1 receive its proportionate share of earnings based upon each account's  
2 or fund's average daily balance for the period.

3 (5) In conformance with Article II, section 37 of the state  
4 Constitution, no treasury accounts or funds shall be allocated  
5 earnings without the specific affirmative directive of this section.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 10.77  
7 RCW to read as follows:

8 (1)(a) The department shall develop and implement a growth cap  
9 program to manage inpatient competency orders under this chapter. The  
10 department shall assess penalties as described in this section to  
11 implement the growth cap program.

12 (b) The department shall establish a baseline cap for each county  
13 by utilizing the average number of inpatient competency orders to the  
14 department from any court within a county's jurisdiction in fiscal  
15 years 2024 and 2025. For any county with an average of less than two  
16 inpatient competency orders in fiscal years 2024 and 2025, the  
17 baseline shall be set at one.

18 (c) The department shall establish an incentive cap for each  
19 county by utilizing the average number of inpatient competency orders  
20 to the department from any court within a county's jurisdiction in  
21 fiscal years 2018 and 2019. For any county with an average less than  
22 two inpatient competency orders in fiscal years 2017 and 2018, the  
23 incentive cap shall be set at one individual.

24 (d) Commencing in fiscal year 2027 and each fiscal year  
25 thereafter, for each inpatient competency order that exceeds the  
26 baseline number identified in (b) of this subsection, a county shall  
27 pay the penalty amount described in (f) of this subsection.

28 (e) The department shall reconcile the total county inpatient  
29 competency orders against the baseline by August 15th each year. The  
30 first reconciliation will be August 15, 2027.

31 (f) Calculations shall be based on the per day individual rate as  
32 calculated by the department for state hospital treatment for  
33 individuals referred for inpatient competency services, as follows:

34 (i) In fiscal year 2027, each county shall make penalty payments  
35 equivalent to 25 percent of the rate for the third and fourth  
36 inpatient competency orders over the baseline, 50 percent of the rate  
37 for the fifth, sixth, and seventh inpatient competency orders over  
38 the baseline, 75 percent of the rate for the eighth and ninth  
39 inpatient competency orders over the baseline, and 100 percent of the

1 rate for the 10th and all subsequent inpatient competency orders over  
2 the baseline;

3 (ii) Commencing with fiscal year 2028 and each fiscal year  
4 thereafter, each county shall make penalty payments equivalent to 150  
5 percent of the rate for the third and any subsequent individual  
6 inpatient competency orders over the baseline.

7 (g) Commencing with fiscal year 2027, each county shall remit  
8 payment to the department in an amount equal to the amount identified  
9 in the invoice issued to the county administrator or their designee  
10 by the department. The penalty payment shall be due no later than 90  
11 days after the date that the invoice is received by the county. The  
12 penalty funds shall be collected as revenue by the department and  
13 deposited into the behavioral health diversion fund created in  
14 section 10 of this act.

15 (h) A county may not use state funds to pay for any penalty under  
16 this act.

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 10.77  
18 RCW to read as follows:

19 The behavioral health diversion fund is hereby created in the  
20 state treasury. All penalty payments from each county as collected by  
21 the department pursuant to section 9 of this act and all receipts  
22 from assessed penalties pursuant to this act must be deposited into  
23 the fund. Moneys in the fund may be spent only after appropriation.  
24 Expenditures from the fund may only be used for services or supports  
25 that either prevent individuals with behavioral health needs from  
26 entering the criminal justice system or that diverts them away from  
27 the criminal justice system once incarcerated.

28 NEW SECTION. **Sec. 11.** A new section is added to chapter 10.77  
29 RCW to read as follows:

30 Any county that reduces its total annual inpatient competency  
31 referrals below the incentive cap established by the department in  
32 section 9(1)(c) of this act, or that reduces its overall orders for  
33 any competency service by at least 40 percent for a given fiscal  
34 year, shall be eligible to request an appropriation from the  
35 behavioral health diversion fund. Any funds appropriated to a county  
36 from the behavioral health diversion fund must be used toward  
37 services or supports that either prevent individuals with behavioral  
38 health needs from entering the criminal justice system or that

1 diverts them away from the criminal justice system once incarcerated.  
2 Counties that have an average incentive cap of less than five  
3 individuals may apply based on a 50 percent or greater reduction in  
4 their total number of inpatient competency orders.

5 NEW SECTION. **Sec. 12.** A new section is added to chapter 10.77  
6 RCW to read as follows:

7 Commencing January 1, 2027, the department shall provide notice  
8 on a quarterly basis to the superior, district, and municipal courts  
9 and relevant county agencies of each county including, but not  
10 limited to, the county administrator, behavioral health department,  
11 sheriff, public defender, and district attorney of the total number  
12 of inpatient competency orders made in that county for the current  
13 fiscal year compared to the baseline determination for that county.

14 NEW SECTION. **Sec. 13.** A new section is added to chapter 10.77  
15 RCW to read as follows:

16 (1) Beginning in fiscal year 2026 and commencing no later than  
17 August 15, 2025, the department of social and health services in  
18 partnership with the health care authority shall convene a task force  
19 to determine rules, policies, protocols, and other related  
20 requirements to implement a growth cap system for inpatient  
21 competency services. This must include a determination on rules and  
22 requirements to determine county of origin for purposes of section 9  
23 of this act. The task force must also address eligibility  
24 requirements on the necessary elements for behavioral health  
25 diversion plans. The task force shall submit a report no later than  
26 June 1, 2026, to the governor and appropriate committees of the  
27 legislature. The task force shall, at a minimum, include partners  
28 from local government, the criminal justice system, behavioral health  
29 providers, tribes, people with lived experience, and disability  
30 rights Washington or a designee.

31 (2) This section expires December 31, 2026.

32 NEW SECTION. **Sec. 14.** A new section is added to chapter 10.77  
33 RCW to read as follows:

34 (1) For purposes of this section, "behavioral health diversion"  
35 means adult jail diversion, whereby a person who has a behavioral  
36 health need may still have involvement with the criminal justice  
37 system but spends little to no time in a jail facility and is instead

1 connected to community-based treatment and support services either  
2 with or without court involvement or correctional supervision.

3 (2) (a) For purposes of this section, "behavioral health diversion  
4 plan" means a plan or strategy to ensure the availability and  
5 utilization of community-based treatment and support services  
6 designed to reduce or eliminate the amount of time persons with  
7 behavioral health needs spend in a jail facility. The plan must  
8 include, but is not limited to:

9 (i) Specific measures to reduce the number of individuals with  
10 behavioral health needs whose highest charge is up to a class C  
11 felony from entering or remaining in the criminal justice system;

12 (ii) Specific measures to increase diversion of individuals with  
13 behavioral health needs whose highest charge is up to a class C  
14 felony away from the competency system;

15 (iii) Specific measures to identify individuals for whom a court  
16 has made multiple prior findings of nonrestorability, and strategies  
17 to prevent future competency evaluation or restoration orders and  
18 instead utilize diversion options for these individuals;

19 (iv) Strategies to reduce recidivism for individuals with  
20 behavioral health needs who are likely to be referred for a  
21 competency service within the next six months based on history of  
22 prior referrals, prior inpatient psychiatric treatment episodes,  
23 criminal justice system involvement, or homelessness;

24 (v) A strategic plan to create programming, services, and  
25 supports, including housing supports, along each intercept in the  
26 sequential intercept model for the county;

27 (vi) A communications and collaboration plan that will  
28 incorporate key stakeholders into the development of the behavioral  
29 health diversion plan. This may include the development of a steering  
30 committee or task force. Key stakeholders for this purpose must  
31 include people with lived experience, criminal justice system  
32 participants, an individual with housing and homelessness expertise,  
33 the behavioral health administrative service organization for the  
34 county, behavioral health providers, and tribes.

35 (b) The department may provide technical assistance and data to  
36 counties developing behavioral health diversion plans.

37 NEW SECTION. **Sec. 15.** Section 7 of this act expires July 1,  
38 2028.

1        NEW SECTION.    **Sec. 16.**    Section 8 of this act takes effect July  
2    1, 2028.

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