
SECOND SUBSTITUTE HOUSE BILL 1218

State of Washington

69th Legislature

2025 Regular Session

By House Appropriations (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 02/28/25.

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 new sections; 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. If the parties do not agree that
34 there is an appropriate diversion program available to accept the
35 defendant:

36 (i) The court shall dismiss the proceedings and order that the
37 defendant be referred for evaluation for civil commitment under
38 subsection (7) of this section, unless the prosecutor objects to the
39 dismissal and provides notice of a motion for an order for competency

1 restoration treatment, in which case the court shall schedule a
2 hearing within seven days. The prosecutor shall provide notice of the
3 objection and motion for an order of competency restoration treatment
4 to the department.

5 (ii) The prosecuting attorney shall inquire into and make a full
6 examination of all the facts and circumstances regarding whether
7 there is a compelling state interest in pursuing competency
8 restoration. This must include a review of any history that suggests
9 the likelihood of success for competency restoration. Upon
10 examination and prior to the hearing the prosecuting attorney shall
11 file a statement regarding whether there is a compelling state
12 interest in pursuing competency restoration. The statement must
13 include relevant information related to the state's interest in
14 continuing the prosecution of the charges including whether doing so
15 serves the interests of justice.

16 (iii) At the hearing, the prosecuting attorney must establish
17 that there is a compelling state interest to order competency
18 restoration treatment for the defendant. The court must consider the
19 statement of the prosecuting attorney and any history that suggests
20 whether competency restoration treatment is likely to be successful.
21 The court also may consider prior criminal history, prior history in
22 treatment, prior history of violence, or the quality and severity of
23 the pending charges, in addition to the factors listed under RCW
24 10.77.092. If the defendant is subject to an order under chapter
25 71.05 RCW or proceedings under chapter 71.05 RCW have been initiated,
26 or the court determines based on history that competency restoration
27 is unlikely to be successful, there is a rebuttable presumption that
28 there is no compelling state interest in ordering competency
29 restoration treatment. If the prosecuting attorney proves by a
30 preponderance of the evidence that there is a compelling state
31 interest in ordering competency restoration treatment, then the court
32 shall issue an order for either outpatient or inpatient competency
33 restoration in accordance with this section.

34 (iv) The court shall enter written findings of fact and
35 conclusions of law at the conclusion of any hearing conducted under
36 this subsection.

37 (2) (a) To be eligible for an order for outpatient competency
38 restoration, a defendant must be clinically appropriate and be
39 willing to:

1 (i) Adhere to medications or receive prescribed intramuscular
2 medication; and

3 (ii) ~~((Abstain from alcohol and unprescribed drugs; and~~
4 ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~
5 ~~needed)) Adhere to all rules and conditions of the identified
6 outpatient competency restoration.~~

7 (b) If the court orders inpatient competency restoration, the
8 department shall place the defendant in an appropriate facility of
9 the department for competency restoration.

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

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

36 ~~((d))~~ (e) If a defendant fails to comply with the restrictions
37 of the outpatient competency restoration program such that
38 restoration is no longer appropriate in that setting or the defendant
39 is no longer clinically appropriate for outpatient competency
40 restoration, the director of the outpatient competency restoration

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

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

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

37 ~~((e))~~ (f) The court may not issue an order for outpatient
38 competency restoration unless the department certifies that there is
39 an available appropriate outpatient competency restoration program
40 that has adequate space for the person at the time the order is

1 issued or the court places the defendant under the guidance and
2 control of a professional person identified in the court order.

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

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

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

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

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

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

35 (b) The court shall not dismiss the charges if the defendant is
36 eligible for a second or third competency restoration period under
37 subsection (6) of this section and the court or jury finds that: (i)
38 The defendant (A) is a substantial danger to other persons; or (B)
39 presents a substantial likelihood of committing criminal acts
40 jeopardizing public safety or security; and (ii) there is a

1 substantial probability that the defendant will regain competency
2 within a reasonable period of time. If the court or jury makes such a
3 finding, the court may extend the period of commitment for up to an
4 additional six months.

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

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

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

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

32 (a) (~~Shall~~) The court shall dismiss the proceedings without
33 prejudice and detain the defendant pursuant to subsection (6) of this
34 section, unless the prosecutor objects to the dismissal and provides
35 notice of a motion for an order for competency restoration treatment,
36 in which case the court shall schedule a hearing within seven days.
37 The prosecutor shall provide notice of the objection and motion for
38 an order of competency restoration treatment to the department.

1 (b) The prosecuting attorney shall inquire into and make a full
2 examination of all the facts and circumstances regarding whether
3 there is a compelling state interest in pursuing competency
4 restoration. This must include a review of any history that suggests
5 the likelihood of success for competency restoration. Upon
6 examination and prior to the hearing the prosecuting attorney shall
7 file a statement regarding whether there is a compelling state
8 interest in pursuing competency restoration. The statement must
9 include relevant information related to the state's interest in
10 continuing the prosecution of the charges including whether doing so
11 serves the interests of justice.

12 (c) At the hearing, the prosecuting attorney must establish that
13 there is a compelling state interest to order competency restoration
14 treatment for the defendant. The court must consider the statement of
15 the prosecuting attorney and any history that suggests whether
16 competency restoration treatment is likely to be successful. The
17 court also may consider prior criminal history, prior history in
18 treatment, prior history of violence, or the quality and severity of
19 the pending charges, (~~(any history that suggests whether competency~~
20 ~~restoration treatment is likely to be successful,)~~) in addition to
21 the factors listed under RCW 10.77.092. If the defendant is subject
22 to an order under chapter 71.05 RCW or proceedings under chapter
23 71.05 RCW have been initiated, or the court determines based on
24 history that competency restoration is unlikely to be successful,
25 there is a rebuttable presumption that there is no compelling state
26 interest in ordering competency restoration treatment. If the
27 prosecuting attorney proves by a preponderance of the evidence that
28 there is a compelling state interest in ordering competency
29 restoration treatment, then the court shall issue an order in
30 accordance with subsection (2) of this section.

31 (d) The court shall enter written findings of fact and
32 conclusions of law at the conclusion of any hearing conducted under
33 this subsection.

34 (2) (a) If a court finds pursuant to subsection (1) (~~(b)~~) (c) of
35 this section that there is a compelling state interest in pursuing
36 competency restoration treatment, the court shall order the defendant
37 to receive outpatient competency restoration consistent with the
38 recommendation of the forensic navigator, unless the court finds that
39 an order for outpatient competency restoration is inappropriate

1 considering the health and safety of the defendant and risks to
2 public safety.

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

5 (i) Adhere to medications or receive prescribed intramuscular
6 medication; and

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

8 ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~
9 ~~needed)) Adhere to the rules and conditions of the identified
10 outpatient competency restoration program.~~

11 (c) If the court orders inpatient competency restoration, the
12 department shall place the defendant in an appropriate facility of
13 the department for competency restoration under subsection (3) of
14 this section.

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

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

1 (~~(e)~~) (f) If a defendant fails to comply with the restrictions
2 of the outpatient competency restoration program such that
3 restoration is no longer appropriate in that setting or the defendant
4 is no longer clinically appropriate for outpatient competency
5 restoration, the director of the outpatient competency restoration
6 program shall notify the authority and the department of the need to
7 terminate the outpatient competency restoration placement and intent
8 to request placement for the defendant in an appropriate facility of
9 the department for inpatient competency restoration. The outpatient
10 competency restoration program shall coordinate with the authority,
11 the department, and any law enforcement personnel under (~~(e)~~) (f)
12 (i) of this subsection to ensure that the time period between
13 termination and admission into the inpatient facility is as minimal
14 as possible. The time period for inpatient competency restoration
15 shall be reduced by the time period spent in active treatment within
16 the outpatient competency restoration program, excluding time periods
17 in which the defendant was absent from the program and all time from
18 notice of termination of the outpatient competency restoration period
19 through the defendant's admission to the facility. The department
20 shall obtain a placement for the defendant within seven days of the
21 notice of intent to terminate the outpatient competency restoration
22 placement.

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

37 (ii) The department shall notify the court and parties of the
38 defendant's admission for inpatient competency restoration before the
39 close of the next judicial day. The court shall schedule a hearing

1 within five days to review the conditions of release of the defendant
2 and anticipated release from treatment and issue appropriate orders.

3 ~~((f))~~ (g) The court may not issue an order for outpatient
4 competency restoration unless the department certifies that there is
5 an available appropriate outpatient competency restoration program
6 that has adequate space for the person at the time the order is
7 issued or the court places the defendant under the guidance and
8 control of a professional person identified in the court order.

9 ~~((g))~~ (h) If the court does not order the defendant to receive
10 outpatient competency restoration under (a) of this subsection, the
11 court shall commit the defendant to the department for placement in a
12 facility operated or contracted by the department for inpatient
13 competency restoration.

14 (3) The placement under subsection (2) of this section shall not
15 exceed 29 days if the defendant is ordered to receive inpatient
16 competency restoration, and shall not exceed 90 days if the defendant
17 is ordered to receive outpatient competency restoration. The court
18 may order any combination of this subsection, but the total period of
19 inpatient competency restoration may not exceed 29 days.

20 (4) Beginning October 1, 2023, if the defendant is charged with a
21 serious traffic offense under RCW 9.94A.030, the court may order the
22 clerk to transmit an order to the department of licensing for
23 revocation of the defendant's driver's license for a period of one
24 year. The court shall direct the clerk to transmit an order to the
25 department of licensing reinstating the defendant's driver's license
26 if the defendant is subsequently restored to competency, and may do
27 so at any time before the end of one year for good cause upon the
28 petition of the defendant.

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

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

1 (b) If the defendant was in custody and not on conditional
2 release at the time of dismissal, the defendant shall be detained and
3 sent to an evaluation and treatment facility for up to 120 hours if
4 the defendant has not undergone competency restoration services or
5 has engaged in outpatient competency restoration services and up to
6 72 hours if the defendant engaged in inpatient competency restoration
7 services, excluding Saturdays, Sundays, and holidays, for evaluation
8 for purposes of filing a petition under chapter 71.05 RCW. The 120-
9 hour or 72-hour period shall commence upon the next nonholiday
10 weekday following the court order and shall run to the end of the
11 last nonholiday weekday within the 120-hour or 72-hour period.

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

21 (8) If at any time the court dismisses charges under subsections
22 (1) through (7) of this section, the court shall make a finding as to
23 whether the defendant has a history of one or more violent acts. If
24 the court so finds, the court shall issue an order prohibiting the
25 defendant from the possession of firearms until a court restores his
26 or her right to possess a firearm under RCW 9.41.047. The court shall
27 notify the defendant orally and in writing that the defendant may not
28 possess a firearm unless the defendant's right to do so is restored
29 by the superior court that issued the order under RCW 9.41.047, and
30 that the defendant must immediately surrender all firearms and any
31 concealed pistol license to their local law enforcement agency.

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

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

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

7 (a) Any violent offense, sex offense, serious traffic offense,
8 and most serious offense, as those terms are defined in RCW
9 9.94A.030;

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

12 (c) Any offense contained in chapter 9.41 RCW (firearms and
13 dangerous weapons);

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

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

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

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

21 (2) Any time a petition is filed seeking a court order
22 authorizing the involuntary medication for purposes of competency
23 restoration pursuant to RCW 10.77.084, the petition must also seek
24 authorization to continue involuntary medication for purposes of
25 maintaining the level of restoration in the jail or juvenile
26 detention facility following the restoration period.

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

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

37 (i) The charge includes an allegation that the defendant actually
38 inflicted bodily or emotional harm on another person or that the
39 defendant created a reasonable apprehension of bodily or emotional
40 harm to another;

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

3 (iii) The number and nature of related charges pending against
4 the defendant;

5 (iv) The length of potential confinement if the defendant is
6 convicted; and

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

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

18 (5) For any hearing pertaining to involuntary medication, the
19 parties, the witnesses, the interpreters, and the presiding judicial
20 officer shall be present and participate by video. The term "video,"
21 as used in this section, includes any functional equivalent. At any
22 hearing conducted by video, the technology used must permit the
23 judicial officer, counsel, all parties, and the witnesses to be able
24 to see, hear, and speak, when authorized, during the hearing; to
25 allow attorneys to use exhibits or other materials during the
26 hearing; and to allow the respondent's counsel to be in the same
27 location as the respondent unless otherwise requested by the
28 respondent or the respondent's counsel. Witnesses in a proceeding may
29 also appear in court through other means, including telephonically,
30 pursuant to the requirements of superior court civil rule 43.
31 Notwithstanding the foregoing, the court, upon its own motion or upon
32 a motion for good cause by any party, may require some or all parties
33 and witnesses to participate in the hearing in person rather than by
34 video. In ruling on any such motion, the court may allow in-person or
35 video testimony; and the court may consider, among other things,
36 whether the respondent's alleged behavioral health disorder affects
37 the respondent's ability to perceive or participate in the proceeding
38 by video.

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

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

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

22 (3) Except for the provisions of RCW 43.84.160, the treasury
23 income account may be utilized for the payment of purchased banking
24 services on behalf of treasury funds including, but not limited to,
25 depository, safekeeping, and disbursement functions for the state
26 treasury and affected state agencies. The treasury income account is
27 subject in all respects to chapter 43.88 RCW, but no appropriation is
28 required for payments to financial institutions. Payments shall occur
29 prior to distribution of earnings set forth in subsection (4) of this
30 section.

31 (4) Monthly, the state treasurer shall distribute the earnings
32 credited to the treasury income account. The state treasurer shall
33 credit the general fund with all the earnings credited to the
34 treasury income account except:

35 (a) The following accounts and funds shall receive their
36 proportionate share of earnings based upon each account's and fund's
37 average daily balance for the period: The abandoned recreational
38 vehicle disposal account, the aeronautics account, the Alaskan Way
39 viaduct replacement project account, the ambulance transport fund,
40 behavioral health diversion fund, the budget stabilization account,

1 the capital vessel replacement account, the capitol building
2 construction account, the Central Washington University capital
3 projects account, the charitable, educational, penal and reformatory
4 institutions account, the Chehalis basin account, the Chehalis basin
5 taxable account, the clean fuels credit account, the clean fuels
6 transportation investment account, the cleanup settlement account,
7 the climate active transportation account, the climate transit
8 programs account, the Columbia river basin water supply development
9 account, the Columbia river basin taxable bond water supply
10 development account, the Columbia river basin water supply revenue
11 recovery account, the common school construction fund, the community
12 forest trust account, the connecting Washington account, the county
13 arterial preservation account, the county criminal justice assistance
14 account, the covenant homeownership account, the deferred
15 compensation administrative account, the deferred compensation
16 principal account, the department of licensing services account, the
17 department of retirement systems expense account, the developmental
18 disabilities community services account, the diesel idle reduction
19 account, the opioid abatement settlement account, the drinking water
20 assistance account, the administrative subaccount of the drinking
21 water assistance account, the early learning facilities development
22 account, the early learning facilities revolving account, the Eastern
23 Washington University capital projects account, the education
24 construction fund, the education legacy trust account, the election
25 account, the electric vehicle account, the energy freedom account,
26 the energy recovery act account, the essential rail assistance
27 account, The Evergreen State College capital projects account, the
28 fair start for kids account, the family medicine workforce
29 development account, the ferry bond retirement fund, the fish,
30 wildlife, and conservation account, the freight mobility investment
31 account, the freight mobility multimodal account, the grade crossing
32 protective fund, the higher education retirement plan supplemental
33 benefit fund, the Washington student loan account, the highway bond
34 retirement fund, the highway infrastructure account, the highway
35 safety fund, the hospital safety net assessment fund, the Interstate
36 5 bridge replacement project account, the Interstate 405 and state
37 route number 167 express toll lanes account, the judges' retirement
38 account, the judicial retirement administrative account, the judicial
39 retirement principal account, the limited fish and wildlife account,
40 the local leasehold excise tax account, the local real estate excise

1 tax account, the local sales and use tax account, the marine
2 resources stewardship trust account, the medical aid account, the
3 money-purchase retirement savings administrative account, the money-
4 purchase retirement savings principal account, the motor vehicle
5 fund, the motorcycle safety education account, the move ahead WA
6 account, the move ahead WA flexible account, the multimodal
7 transportation account, the multiuse roadway safety account, the
8 municipal criminal justice assistance account, the oyster reserve
9 land account, the pension funding stabilization account, the
10 perpetual surveillance and maintenance account, the pilotage account,
11 the pollution liability insurance agency underground storage tank
12 revolving account, the public employees' retirement system plan 1
13 account, the public employees' retirement system combined plan 2 and
14 plan 3 account, the public facilities construction loan revolving
15 account, the public health supplemental account, the public works
16 assistance account, the Puget Sound capital construction account, the
17 Puget Sound ferry operations account, the Puget Sound Gateway
18 facility account, the Puget Sound taxpayer accountability account,
19 the real estate appraiser commission account, the recreational
20 vehicle account, the regional mobility grant program account, the
21 reserve officers' relief and pension principal fund, the resource
22 management cost account, the rural arterial trust account, the rural
23 mobility grant program account, the rural Washington loan fund, the
24 second injury fund, the sexual assault prevention and response
25 account, the site closure account, the skilled nursing facility
26 safety net trust fund, the small city pavement and sidewalk account,
27 the special category C account, the special wildlife account, the
28 state hazard mitigation revolving loan account, the state investment
29 board expense account, the state investment board commingled trust
30 fund accounts, the state patrol highway account, the state
31 reclamation revolving account, the state route number 520 civil
32 penalties account, the state route number 520 corridor account, the
33 statewide broadband account, the statewide tourism marketing account,
34 the supplemental pension account, the Tacoma Narrows toll bridge
35 account, the teachers' retirement system plan 1 account, the
36 teachers' retirement system combined plan 2 and plan 3 account, the
37 tobacco prevention and control account, the tobacco settlement
38 account, the toll facility bond retirement account, the
39 transportation 2003 account (nickel account), the transportation
40 equipment fund, the JUDY transportation future funding program

1 account, the transportation improvement account, the transportation
2 improvement board bond retirement account, the transportation
3 infrastructure account, the transportation partnership account, the
4 traumatic brain injury account, the tribal opioid prevention and
5 treatment account, the University of Washington bond retirement fund,
6 the University of Washington building account, the voluntary cleanup
7 account, the volunteer firefighters' relief and pension principal
8 fund, the volunteer firefighters' and reserve officers'
9 administrative fund, the vulnerable roadway user education account,
10 the Washington judicial retirement system account, the Washington law
11 enforcement officers' and firefighters' system plan 1 retirement
12 account, the Washington law enforcement officers' and firefighters'
13 system plan 2 retirement account, the Washington public safety
14 employees' plan 2 retirement account, the Washington school
15 employees' retirement system combined plan 2 and 3 account, the
16 Washington state patrol retirement account, the Washington State
17 University building account, the Washington State University bond
18 retirement fund, the water pollution control revolving administration
19 account, the water pollution control revolving fund, the Western
20 Washington University capital projects account, the Yakima integrated
21 plan implementation account, the Yakima integrated plan
22 implementation revenue recovery account, and the Yakima integrated
23 plan implementation taxable bond account. Earnings derived from
24 investing balances of the agricultural permanent fund, the normal
25 school permanent fund, the permanent common school fund, the
26 scientific permanent fund, and the state university permanent fund
27 shall be allocated to their respective beneficiary accounts.

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

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

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

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

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

20 (3) Except for the provisions of RCW 43.84.160, the treasury
21 income account may be utilized for the payment of purchased banking
22 services on behalf of treasury funds including, but not limited to,
23 depository, safekeeping, and disbursement functions for the state
24 treasury and affected state agencies. The treasury income account is
25 subject in all respects to chapter 43.88 RCW, but no appropriation is
26 required for payments to financial institutions. Payments shall occur
27 prior to distribution of earnings set forth in subsection (4) of this
28 section.

29 (4) Monthly, the state treasurer shall distribute the earnings
30 credited to the treasury income account. The state treasurer shall
31 credit the general fund with all the earnings credited to the
32 treasury income account except:

33 (a) The following accounts and funds shall receive their
34 proportionate share of earnings based upon each account's and fund's
35 average daily balance for the period: The abandoned recreational
36 vehicle disposal account, the aeronautics account, the Alaskan Way
37 viaduct replacement project account, behavioral health diversion
38 fund, the budget stabilization account, the capital vessel
39 replacement account, the capitol building construction account, the
40 Central Washington University capital projects account, the

1 charitable, educational, penal and reformatory institutions account,
2 the Chehalis basin account, the Chehalis basin taxable account, the
3 clean fuels credit account, the clean fuels transportation investment
4 account, the cleanup settlement account, the climate active
5 transportation account, the climate transit programs account, the
6 Columbia river basin water supply development account, the Columbia
7 river basin taxable bond water supply development account, the
8 Columbia river basin water supply revenue recovery account, the
9 common school construction fund, the community forest trust account,
10 the connecting Washington account, the county arterial preservation
11 account, the county criminal justice assistance account, the covenant
12 homeownership account, the deferred compensation administrative
13 account, the deferred compensation principal account, the department
14 of licensing services account, the department of retirement systems
15 expense account, the developmental disabilities community services
16 account, the diesel idle reduction account, the opioid abatement
17 settlement account, the drinking water assistance account, the
18 administrative subaccount of the drinking water assistance account,
19 the early learning facilities development account, the early learning
20 facilities revolving account, the Eastern Washington University
21 capital projects account, the education construction fund, the
22 education legacy trust account, the election account, the electric
23 vehicle account, the energy freedom account, the energy recovery act
24 account, the essential rail assistance account, The Evergreen State
25 College capital projects account, the fair start for kids account,
26 the family medicine workforce development account, the ferry bond
27 retirement fund, the fish, wildlife, and conservation account, the
28 freight mobility investment account, the freight mobility multimodal
29 account, the grade crossing protective fund, the higher education
30 retirement plan supplemental benefit fund, the Washington student
31 loan account, the highway bond retirement fund, the highway
32 infrastructure account, the highway safety fund, the hospital safety
33 net assessment fund, the Interstate 5 bridge replacement project
34 account, the Interstate 405 and state route number 167 express toll
35 lanes account, the judges' retirement account, the judicial
36 retirement administrative account, the judicial retirement principal
37 account, the limited fish and wildlife account, the local leasehold
38 excise tax account, the local real estate excise tax account, the
39 local sales and use tax account, the marine resources stewardship
40 trust account, the medical aid account, the money-purchase retirement

1 savings administrative account, the money-purchase retirement savings
2 principal account, the motor vehicle fund, the motorcycle safety
3 education account, the move ahead WA account, the move ahead WA
4 flexible account, the multimodal transportation account, the multiuse
5 roadway safety account, the municipal criminal justice assistance
6 account, the oyster reserve land account, the pension funding
7 stabilization account, the perpetual surveillance and maintenance
8 account, the pilotage account, the pollution liability insurance
9 agency underground storage tank revolving account, the public
10 employees' retirement system plan 1 account, the public employees'
11 retirement system combined plan 2 and plan 3 account, the public
12 facilities construction loan revolving account, the public health
13 supplemental account, the public works assistance account, the Puget
14 Sound capital construction account, the Puget Sound ferry operations
15 account, the Puget Sound Gateway facility account, the Puget Sound
16 taxpayer accountability account, the real estate appraiser commission
17 account, the recreational vehicle account, the regional mobility
18 grant program account, the reserve officers' relief and pension
19 principal fund, the resource management cost account, the rural
20 arterial trust account, the rural mobility grant program account, the
21 rural Washington loan fund, the second injury fund, the sexual
22 assault prevention and response account, the site closure account,
23 the skilled nursing facility safety net trust fund, the small city
24 pavement and sidewalk account, the special category C account, the
25 special wildlife account, the state hazard mitigation revolving loan
26 account, the state investment board expense account, the state
27 investment board commingled trust fund accounts, the state patrol
28 highway account, the state reclamation revolving account, the state
29 route number 520 civil penalties account, the state route number 520
30 corridor account, the statewide broadband account, the statewide
31 tourism marketing account, the supplemental pension account, the
32 Tacoma Narrows toll bridge account, the teachers' retirement system
33 plan 1 account, the teachers' retirement system combined plan 2 and
34 plan 3 account, the tobacco prevention and control account, the
35 tobacco settlement account, the toll facility bond retirement
36 account, the transportation 2003 account (nickel account), the
37 transportation equipment fund, the JUDY transportation future funding
38 program account, the transportation improvement account, the
39 transportation improvement board bond retirement account, the
40 transportation infrastructure account, the transportation partnership

1 account, the traumatic brain injury account, the tribal opioid
2 prevention and treatment account, the University of Washington bond
3 retirement fund, the University of Washington building account, the
4 voluntary cleanup account, the volunteer firefighters' relief and
5 pension principal fund, the volunteer firefighters' and reserve
6 officers' administrative fund, the vulnerable roadway user education
7 account, the Washington judicial retirement system account, the
8 Washington law enforcement officers' and firefighters' system plan 1
9 retirement account, the Washington law enforcement officers' and
10 firefighters' system plan 2 retirement account, the Washington public
11 safety employees' plan 2 retirement account, the Washington school
12 employees' retirement system combined plan 2 and 3 account, the
13 Washington state patrol retirement account, the Washington State
14 University building account, the Washington State University bond
15 retirement fund, the water pollution control revolving administration
16 account, the water pollution control revolving fund, the Western
17 Washington University capital projects account, the Yakima integrated
18 plan implementation account, the Yakima integrated plan
19 implementation revenue recovery account, and the Yakima integrated
20 plan implementation taxable bond account. Earnings derived from
21 investing balances of the agricultural permanent fund, the normal
22 school permanent fund, the permanent common school fund, the
23 scientific permanent fund, and the state university permanent fund
24 shall be allocated to their respective beneficiary accounts.

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

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

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

36 (1)(a) The department shall develop and implement a growth cap
37 program to manage inpatient competency orders under this chapter. The
38 department shall assess penalties as described in this section to
39 implement the growth cap program.

1 (b) The department shall establish a baseline cap for each city
2 and county that refers individuals for inpatient competency services
3 by utilizing the average number of inpatient competency orders
4 referred to the department from any court within a city's or county's
5 jurisdiction in fiscal years 2024 and 2025. For any city or county
6 with an average of less than two inpatient competency orders in
7 fiscal years 2024 and 2025, the baseline shall be set at one.

8 (c) The department shall establish an incentive cap for each city
9 and county that refers individuals for inpatient competency services
10 by utilizing the average number of inpatient competency orders
11 referred to the department from any court within a city's or county's
12 jurisdiction in fiscal years 2018 and 2019. For any city or county
13 with an average of less than two inpatient competency orders in
14 fiscal years 2017 and 2018, the incentive cap shall be set at one
15 individual.

16 (d) Commencing in fiscal year 2027 and each fiscal year
17 thereafter, for each inpatient competency order that exceeds the
18 baseline number identified in (b) of this subsection, the referring
19 city or county shall pay the penalty amount described in (f) of this
20 subsection.

21 (e) The department shall reconcile the total city and county
22 inpatient competency orders against the baseline by August 15th each
23 year. The first reconciliation will be August 15, 2027.

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

27 (i) In fiscal year 2027, each city and county that refers
28 individuals for inpatient competency services shall make penalty
29 payments equivalent to 25 percent of the rate for the third and
30 fourth inpatient competency orders over the baseline, 50 percent of
31 the rate for the fifth, sixth, and seventh inpatient competency
32 orders over the baseline, 75 percent of the rate for the eighth and
33 ninth inpatient competency orders over the baseline, and 100 percent
34 of the rate for the 10th and all subsequent inpatient competency
35 orders over the baseline;

36 (ii) Commencing with fiscal year 2028 and each fiscal year
37 thereafter, each city and county that refers individuals for
38 inpatient competency services shall make penalty payments equivalent
39 to 150 percent of the rate for the third and any subsequent
40 individual inpatient competency orders over the baseline.

1 (g) Commencing with fiscal year 2027, each city and county that
2 refers individuals for inpatient competency services shall remit
3 payment to the department in an amount equal to the amount identified
4 in the invoice issued to the city or county administrator or their
5 designee by the department. The penalty payment shall be due no later
6 than 90 days after the date that the invoice is received by the city
7 or county. The penalty funds shall be collected as revenue by the
8 department and deposited into the behavioral health diversion fund
9 created in section 10 of this act.

10 (h) A city or county may not use state funds to pay for any
11 penalty under this act.

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

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

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

25 Any city or county that reduces its total annual inpatient
26 competency referrals below the incentive cap established by the
27 department in section 9(1)(c) of this act, or that reduces its
28 overall orders for any competency service by at least 40 percent for
29 a given fiscal year, shall be eligible to request an appropriation
30 from the behavioral health diversion fund. Any funds appropriated to
31 a city or county from the behavioral health diversion fund must be
32 used toward services or supports that either prevent individuals with
33 behavioral health needs from entering the criminal justice system or
34 that diverts them away from the criminal justice system once
35 incarcerated. Cities and counties that have an average incentive cap
36 of less than five individuals may apply based on a 50 percent or
37 greater reduction in their total number of inpatient competency
38 orders.

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

3 Commencing January 1, 2027, the department shall provide notice
4 on a quarterly basis to the superior, district, and municipal courts
5 and relevant agencies of each city and county including, but not
6 limited to, the city or county administrator, behavioral health
7 department, sheriff or police chief, public defender, and prosecuting
8 authority of the total number of inpatient competency orders made in
9 the city or county for the current fiscal year compared to the
10 baseline determination for the city or county.

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

13 The department shall adopt rules establishing policies,
14 protocols, and other related requirements for implementation of the
15 growth cap program for inpatient competency services established
16 under this act.

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

19 (1) For purposes of this section, "behavioral health diversion"
20 means adult jail diversion, whereby a person who has a behavioral
21 health need may still have involvement with the criminal justice
22 system but spends little to no time in a jail facility and is instead
23 connected to community-based treatment and support services either
24 with or without court involvement or correctional supervision.

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

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

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

37 (iii) Specific measures to identify individuals for whom a court
38 has made multiple prior findings of nonrestorability, and strategies

1 to prevent future competency evaluation or restoration orders and
2 instead utilize diversion options for these individuals;

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

8 (v) A strategic plan to create programming, services, and
9 supports, including housing supports, along each intercept in the
10 sequential intercept model for the county. The plan must include
11 strategies to address housing and case management for people with
12 significant behavioral health needs who have or are at risk of having
13 involvement with the criminal justice system;

14 (vi) A communications and collaboration plan that will
15 incorporate key stakeholders into the development of the behavioral
16 health diversion plan. This may include the development of a steering
17 committee or task force. Key stakeholders for this purpose must
18 include people with lived experience, participants representing
19 prosecuting attorneys, defense attorneys, and judicial officers in
20 superior court, district court, and municipal court, an individual
21 with housing and homelessness expertise, the behavioral health
22 administrative service organization for the county, behavioral health
23 providers, and tribes.

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

26 NEW SECTION. **Sec. 15.** Section 7 of this act expires July 1,
27 2028.

28 NEW SECTION. **Sec. 16.** Section 8 of this act takes effect July
29 1, 2028.

30 NEW SECTION. **Sec. 17.** If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not
32 provided by June 30, 2025, in the omnibus appropriations act, this
33 act is null and void.

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