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**SUBSTITUTE HOUSE BILL 1718**

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**State of Washington                      62nd Legislature                      2011 Regular Session**

**By** House Ways & Means (originally sponsored by Representatives Roberts, Moeller, Dammeier, and Green)

READ FIRST TIME 02/25/11.

1            AN ACT Relating to offenders with developmental disabilities or  
2 traumatic brain injuries; amending RCW 2.28.180 and 74.09.555; and  
3 adding a new section to chapter 70.48 RCW.

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

5            **Sec. 1.** RCW 2.28.180 and 2005 c 504 s 501 are each amended to read  
6 as follows:

7            (1) Counties may establish and operate mental health courts.

8            (2) For the purposes of this section, "mental health court" means  
9 a court that has special calendars or dockets designed to achieve a  
10 reduction in recidivism and symptoms of mental illness among  
11 nonviolent, (~~mentally ill~~) felony and nonfelony offenders with mental  
12 illnesses and recidivism among nonviolent felony and nonfelony  
13 offenders who have developmental disabilities as defined in RCW  
14 71A.10.020 or who have suffered a traumatic brain injury by increasing  
15 their likelihood for successful rehabilitation through early,  
16 continuous, and intense judicially supervised treatment including drug  
17 treatment for persons with co-occurring disorders; mandatory periodic  
18 reviews, including drug testing if indicated; and the use of  
19 appropriate sanctions and other rehabilitation services.

1 (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
2 mental health court program must first:

3 (i) Exhaust all federal funding that is available to support the  
4 operations of its mental health court and associated services; and

5 (ii) Match, on a dollar-for-dollar basis, state moneys allocated  
6 for mental health court programs with local cash or in-kind resources.  
7 Moneys allocated by the state must be used to supplement, not supplant,  
8 other federal, state, and local funds for mental health court  
9 operations and associated services.

10 (b) Any county that establishes a mental health court pursuant to  
11 this section shall establish minimum requirements for the participation  
12 of offenders in the program. The mental health court may adopt local  
13 requirements that are more stringent than the minimum. The minimum  
14 requirements are:

15 (i) The offender would benefit from psychiatric treatment or  
16 treatment related to his or her developmental disability or traumatic  
17 brain injury;

18 (ii) The offender has not previously been convicted of a serious  
19 violent offense or sex offense as defined in RCW 9.94A.030; and

20 (iii) Without regard to whether proof of any of these elements is  
21 required to convict, the offender is not currently charged with or  
22 convicted of an offense:

23 (A) That is a sex offense;

24 (B) That is a serious violent offense;

25 (C) During which the defendant used a firearm; or

26 (D) During which the defendant caused substantial or great bodily  
27 harm or death to another person.

28 NEW SECTION. Sec. 2. A new section is added to chapter 70.48 RCW  
29 to read as follows:

30 When a jail has determined that a person in custody has or may have  
31 a developmental disability as defined in RCW 71A.10.020 or a traumatic  
32 brain injury, upon transfer of the person to a department of  
33 corrections facility or other jail facility, every reasonable effort  
34 shall be made by the transferring jail staff to communicate to  
35 receiving staff the nature of the disability, as determined by the jail  
36 and any necessary accommodation for the person as identified by the  
37 transferring jail staff.

1           **Sec. 3.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each amended  
2 to read as follows:

3           (1) The department shall adopt rules and policies providing that  
4 when persons with a mental disorder, a developmental disability as  
5 defined in RCW 71A.10.020, or a traumatic brain injury, who were  
6 enrolled in medical assistance immediately prior to confinement, are  
7 released from confinement, their medical assistance coverage will be  
8 fully reinstated on the day of their release, subject to any expedited  
9 review of their continued eligibility for medical assistance coverage  
10 that is required under federal or state law.

11           (2) The department, in collaboration with the Washington  
12 association of sheriffs and police chiefs, the department of  
13 corrections, and the regional support networks, shall establish  
14 procedures for coordination between department field offices,  
15 institutions for mental disease, and correctional institutions, as  
16 defined in RCW 9.94.049, that result in prompt reinstatement of  
17 eligibility and speedy eligibility determinations for persons who are  
18 likely to be eligible for medical assistance services upon release from  
19 confinement. Procedures developed under this subsection must address:

20           (a) Mechanisms for receiving medical assistance services  
21 applications on behalf of confined persons in anticipation of their  
22 release from confinement;

23           (b) Expeditious review of applications filed by or on behalf of  
24 confined persons and, to the extent practicable, completion of the  
25 review before the person is released;

26           (c) Mechanisms for providing medical assistance services identity  
27 cards to persons eligible for medical assistance services immediately  
28 upon their release from confinement; and

29           (d) Coordination with the federal social security administration,  
30 through interagency agreements or otherwise, to expedite processing of  
31 applications for federal supplemental security income or social  
32 security disability benefits, including federal acceptance of  
33 applications on behalf of confined persons.

34           (3) Where medical or psychiatric examinations during a person's  
35 confinement indicate that the person is disabled, the correctional  
36 institution or institution for mental diseases shall provide the  
37 department with that information for purposes of making medical  
38 assistance eligibility and enrollment determinations prior to the

1 person's release from confinement. The department shall, to the  
2 maximum extent permitted by federal law, use the examination in making  
3 its determination whether the person is disabled and eligible for  
4 medical assistance.

5 (4) For purposes of this section, "confined" or "confinement" means  
6 incarcerated in a correctional institution, as defined in RCW 9.94.049,  
7 or admitted to an institute for mental disease, as defined in 42 C.F.R.  
8 part 435, Sec. 1009 on July 24, 2005.

9 (5) For purposes of this section, "likely to be eligible" means  
10 that a person:

11 (a) Was enrolled in medicaid or supplemental security income or the  
12 disability lifeline program immediately before he or she was confined  
13 and his or her enrollment was terminated during his or her confinement;  
14 or

15 (b) Was enrolled in medicaid or supplemental security income or the  
16 disability lifeline program at any time during the five years before  
17 his or her confinement, and medical or psychiatric examinations during  
18 the person's confinement indicate that the person continues to be  
19 disabled and the disability is likely to last at least twelve months  
20 following release.

21 (6) The economic services administration shall adopt standardized  
22 statewide screening and application practices and forms designed to  
23 facilitate the application of a confined person who is likely to be  
24 eligible for medicaid.

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