
SENATE BILL 5452

State of Washington

62nd Legislature

2011 Regular Session

By Senators Hargrove, Stevens, and Haugen

Read first time 01/26/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to improving communication, collaboration, and
2 expedited medicaid attainment with regard to persons diverted,
3 arrested, confined or to be released from confinement or commitment who
4 have mental health or chemical dependency disorders; amending RCW
5 71.05.190, 71.05.385, 71.05.425, 10.77.165, 10.31.110, 70.96B.045,
6 71.05.153, 71.34.340, 71.05.232, and 70.02.900; reenacting and amending
7 RCW 71.05.390; adding a new section to chapter 74.09 RCW; and creating
8 a new section.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that effective
11 collaboration and communication between mental health and chemical
12 dependency treatment providers and service delivery systems and law
13 enforcement and criminal justice agencies is important to both the care
14 of persons with mental disorders and chemical dependency and public
15 safety. The legislature also finds that many state and local efforts
16 in recent years have worked to address improved treatment of persons
17 with mental disorders, chemical dependency disorders, or co-occurring
18 mental and substance abuse disorders who are confined in a correctional
19 institution and to improve communication and collaboration among the

1 agencies, institutions, and professionals who are responsible for the
2 care or custody of those persons. While numerous laws have been
3 enacted to clarify the appropriate sharing of information between those
4 agencies, institutions, and professionals, the legislature finds
5 further clarification will continue to aide and improve the care of
6 those persons and augment public safety.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW
8 to read as follows:

9 It is permissible to provide to a correctional institution, as
10 defined in RCW 9.94.049, with the fact, place, and date of an
11 involuntary commitment and the fact and date of discharge or release of
12 a person who has been involuntarily committed under chapter 71.05,
13 71.34, 70.96A, or 70.96B RCW, without a person's consent, in the course
14 of the implementation and use of the department's postinstitutionalized
15 medical assistance system supporting the expedited medical
16 determinations and medical suspensions as provided in RCW 74.09.555.
17 Disclosure under this section is mandatory for the purposes of the
18 health insurance portability and accountability act.

19 **Sec. 3.** RCW 71.05.190 and 1997 c 112 s 13 are each amended to read
20 as follows:

21 If the person is not approved for admission by a facility providing
22 seventy-two hour evaluation and treatment, and the individual has not
23 been arrested, the facility shall furnish transportation, if not
24 otherwise available, for the person to his or her place of residence or
25 other appropriate place. If the individual has been arrested, the
26 evaluation and treatment facility shall detain the individual for not
27 more than eight hours at the request of the peace officer. The
28 facility shall make reasonable attempts to contact the requesting peace
29 officer during this time to inform the peace officer that the person is
30 not approved for admission in order to enable a peace officer to return
31 to the facility and take the individual back into custody.

32 **Sec. 4.** RCW 71.05.385 and 2009 c 320 s 2 are each amended to read
33 as follows:

34 (1) A mental health service provider shall release to the persons
35 authorized under subsection (2) of this section, upon request:

1 (a) The fact, place, and date of an involuntary commitment, the
2 fact and date of discharge or release, and the last known address of a
3 person who has been committed under this chapter.

4 (b) Information related to mental health services, in the format
5 determined under subsection (9) of this section, concerning a person
6 who:

7 (i) Is currently committed to the custody or supervision of the
8 department of corrections or the indeterminate sentence review board
9 under chapter 9.94A or 9.95 RCW or a jail, as defined in RCW 70.48.020;

10 (ii) Has been convicted or found not guilty by reason of insanity
11 of a serious violent offense; or

12 (iii) Was charged with a serious violent offense and such charges
13 were dismissed under RCW 10.77.086.

14 Legal counsel may release such information to the persons
15 authorized under subsection (2) of this section on behalf of the mental
16 health service provider, provided that nothing in this subsection shall
17 require the disclosure of attorney work product or attorney-client
18 privileged information.

19 (2) The information subject to release under subsection (1) of this
20 section shall be released to law enforcement officers, personnel of a
21 county or city jail, designated mental health professionals, public
22 health officers, therapeutic court personnel, personnel of the
23 department of corrections, or personnel of the indeterminate sentence
24 review board, when such information is requested during the course of
25 business and for the purpose of carrying out the responsibilities of
26 the requesting person's office. No mental health service provider or
27 person employed by a mental health service provider, or its legal
28 counsel, shall be liable for information released to or used under the
29 provisions of this section or rules adopted under this section except
30 under RCW 71.05.440.

31 (3) A person who requests information under subsection (1)(b) of
32 this section must comply with the following restrictions:

33 (a) Information must be requested only for the purposes permitted
34 by this subsection and for the purpose of carrying out the
35 responsibilities of the requesting person's office. Appropriate
36 purposes for requesting information under this section include:

37 (i) Completing presentence investigations or risk assessment
38 reports;

1 (ii) Assessing a person's risk to the community;
2 (iii) Assessing a person's risk of harm to self or others when
3 confined in a city or county jail;
4 (iv) Planning for and provision of supervision of an offender,
5 including decisions related to sanctions for violations of conditions
6 of community supervision; and
7 (v) Responding to an offender's failure to report for department of
8 corrections supervision.

9 (b) Information shall not be requested under this section unless
10 the requesting person has reasonable suspicion that the individual who
11 is the subject of the information:

12 (i) Has engaged in activity indicating that a crime or a violation
13 of community custody or parole has been committed or, based upon his or
14 her current or recent past behavior, is likely to be committed in the
15 near future; or

16 (ii) Is exhibiting signs of a deterioration in mental functioning
17 which may make the individual appropriate for civil commitment under
18 this chapter.

19 (c) Any information received under this section shall be held
20 confidential and subject to the limitations on disclosure outlined in
21 this chapter, except:

22 (i) Such information may be shared with other persons who have the
23 right to request similar information under subsection (2) of this
24 section, solely for the purpose of coordinating activities related to
25 the individual who is the subject of the information in a manner
26 consistent with the official responsibilities of the persons involved;

27 (ii) Such information may be shared with a prosecuting attorney
28 acting in an advisory capacity for a person who receives information
29 under this section. A prosecuting attorney under this subsection shall
30 be subject to the same restrictions and confidentiality limitations as
31 the person who requested the information; and

32 (iii) As provided in RCW 72.09.585.

33 (4) A request for information related to mental health services
34 under this section shall not require the consent of the subject of the
35 records. Such request shall be provided in writing, except to the
36 extent authorized in subsection (5) of this section. A written request
37 may include requests made by e-mail or facsimile so long as the

1 requesting person is clearly identified. The request must specify the
2 information being requested.

3 (5) In the event of an emergency situation that poses a significant
4 risk to the public or the offender, a mental health service provider,
5 or its legal counsel, shall release information related to mental
6 health services delivered to the offender and, if known, information
7 regarding where the offender is likely to be found to the department of
8 corrections or law enforcement upon request. The initial request may
9 be written or oral. All oral requests must be subsequently confirmed
10 in writing. Information released in response to an oral request is
11 limited to a statement as to whether the offender is or is not being
12 treated by the mental health service provider and the address or
13 information about the location or whereabouts of the offender.

14 (6) Disclosure under this section to state or local law enforcement
15 authorities is mandatory for the purposes of the health insurance
16 portability and accountability act.

17 (7) Whenever federal law or federal regulations restrict the
18 release of information contained in the treatment records of any
19 patient who receives treatment for alcoholism or drug dependency, the
20 release of the information may be restricted as necessary to comply
21 with federal law and regulations.

22 (8) This section does not modify the terms and conditions of
23 disclosure of information related to sexually transmitted diseases
24 under chapter 70.24 RCW.

25 (9) In collaboration with interested organizations, the department
26 shall develop a standard form for requests for information related to
27 mental health services made under this section and a standard format
28 for information provided in response to such requests. Consistent with
29 the goals of the health information privacy provisions of the federal
30 health insurance portability and accountability act, in developing the
31 standard form for responsive information, the department shall design
32 the form in such a way that the information disclosed is limited to the
33 minimum necessary to serve the purpose for which the information is
34 requested.

35 **Sec. 5.** RCW 71.05.390 and 2009 c 320 s 3 and 2009 c 217 s 6 are
36 each reenacted and amended to read as follows:

37 Except as provided in this section, RCW 71.05.445, 71.05.630,

1 70.96A.150, 71.05.385, section 2 of this act, or pursuant to a valid
2 release under RCW 70.02.030, the fact of admission and all information
3 and records compiled, obtained, or maintained in the course of
4 providing services to either voluntary or involuntary recipients of
5 services at public or private agencies shall be confidential.

6 Information and records may be disclosed only:

7 (1) In communications between qualified professional persons to
8 meet the requirements of this chapter, in the provision of services or
9 appropriate referrals, or in the course of guardianship proceedings.
10 The consent of the person, or his or her personal representative or
11 guardian, shall be obtained before information or records may be
12 disclosed by a professional person employed by a facility unless
13 provided to a professional person:

14 (a) Employed by the facility;

15 (b) Who has medical responsibility for the patient's care;

16 (c) Who is a designated mental health professional;

17 (d) Who is providing services under chapter 71.24 RCW;

18 (e) Who is employed by a state or local correctional facility where
19 the person is confined or supervised; or

20 (f) Who is providing evaluation, treatment, or follow-up services
21 under chapter 10.77 RCW.

22 (2) When the communications regard the special needs of a patient
23 and the necessary circumstances giving rise to such needs and the
24 disclosure is made by a facility providing services to the operator of
25 a facility in which the patient resides or will reside.

26 (3)(a) When the person receiving services, or his or her guardian,
27 designates persons to whom information or records may be released, or
28 if the person is a minor, when his or her parents make such
29 designation.

30 (b) A public or private agency shall release to a person's next of
31 kin, attorney, personal representative, guardian, or conservator, if
32 any:

33 (i) The information that the person is presently a patient in the
34 facility or that the person is seriously physically ill;

35 (ii) A statement evaluating the mental and physical condition of
36 the patient, and a statement of the probable duration of the patient's
37 confinement, if such information is requested by the next of kin,
38 attorney, personal representative, guardian, or conservator; and

1 (iii) Such other information requested by the next of kin or
2 attorney as may be necessary to decide whether or not proceedings
3 should be instituted to appoint a guardian or conservator.

4 (4) To the extent necessary for a recipient to make a claim, or for
5 a claim to be made on behalf of a recipient for aid, insurance, or
6 medical assistance to which he or she may be entitled.

7 (5)(a) For either program evaluation or research, or both:
8 PROVIDED, That the secretary adopts rules for the conduct of the
9 evaluation or research, or both. Such rules shall include, but need
10 not be limited to, the requirement that all evaluators and researchers
11 must sign an oath of confidentiality substantially as follows:

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

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

21 /s/"

22 (b) Nothing in this chapter shall be construed to prohibit the
23 compilation and publication of statistical data for use by government
24 or researchers under standards, including standards to assure
25 maintenance of confidentiality, set forth by the secretary.

26 (6)(a) To the courts as necessary to the administration of this
27 chapter or to a court ordering an evaluation or treatment under chapter
28 10.77 RCW solely for the purpose of preventing the entry of any
29 evaluation or treatment order that is inconsistent with any order
30 entered under this chapter.

31 (b) To a court or its designee in which a motion under chapter
32 10.77 RCW has been made for involuntary medication of a defendant for
33 the purpose of competency restoration.

1 (c) Disclosure under this subsection is mandatory for the purpose
2 of the health insurance portability and accountability act.

3 (7)(a) When a mental health professional is requested by a
4 representative of a law enforcement or corrections agency, including a
5 police officer, sheriff, community corrections officer, a municipal
6 attorney, or prosecuting attorney to undertake an investigation or
7 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
8 mental health professional shall, if requested to do so, advise the
9 representative in writing of the results of the investigation including
10 a statement of reasons for the decision to detain or release the person
11 investigated. Such written report shall be submitted within seventy-
12 two hours of the completion of the investigation or the request from
13 the law enforcement or corrections representative, whichever occurs
14 later.

15 (b) Disclosure under this subsection is mandatory for the purposes
16 of the health insurance portability and accountability act.

17 (8) To the attorney of the detained person.

18 (9) To the prosecuting attorney as necessary to carry out the
19 responsibilities of the office under RCW 71.05.330(2) and
20 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
21 to records regarding the committed person's treatment and prognosis,
22 medication, behavior problems, and other records relevant to the issue
23 of whether treatment less restrictive than inpatient treatment is in
24 the best interest of the committed person or others. Information shall
25 be disclosed only after giving notice to the committed person and the
26 person's counsel.

27 (10)(a) To appropriate law enforcement agencies and to a person,
28 when the identity of the person is known to the public or private
29 agency, whose health and safety has been threatened, or who is known to
30 have been repeatedly harassed, by the patient. The person may
31 designate a representative to receive the disclosure. The disclosure
32 shall be made by the professional person in charge of the public or
33 private agency or his or her designee and shall include the dates of
34 commitment, admission, discharge, or release, authorized or
35 unauthorized absence from the agency's facility, and only such other
36 information that is pertinent to the threat or harassment. The
37 decision to disclose or not shall not result in civil liability for the

1 agency or its employees so long as the decision was reached in good
2 faith and without gross negligence.

3 (b) Disclosure under this subsection is mandatory for the purposes
4 of the health insurance portability and accountability act.

5 (11)(a) To appropriate corrections and law enforcement agencies all
6 necessary and relevant information in the event of a crisis or emergent
7 situation that poses a significant and imminent risk to the public.
8 The decision to disclose or not shall not result in civil liability for
9 the mental health service provider or its employees so long as the
10 decision was reached in good faith and without gross negligence.

11 (b) Disclosure under this subsection is mandatory for the purposes
12 of the health insurance portability and accountability act.

13 (12) To the persons designated in RCW 71.05.425 and 71.05.385 for
14 the purposes described in those sections.

15 (13) Civil liability and immunity for the release of information
16 about a particular person who is committed to the department under RCW
17 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as
18 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

19 (14) Upon the death of a person, his or her next of kin, personal
20 representative, guardian, or conservator, if any, shall be notified.

21 Next of kin who are of legal age and competent shall be notified
22 under this section in the following order: Spouse, parents, children,
23 brothers and sisters, and other relatives according to the degree of
24 relation. Access to all records and information compiled, obtained, or
25 maintained in the course of providing services to a deceased patient
26 shall be governed by RCW 70.02.140.

27 (15) To the department of health for the purposes of determining
28 compliance with state or federal licensure, certification, or
29 registration rules or laws. However, the information and records
30 obtained under this subsection are exempt from public inspection and
31 copying pursuant to chapter 42.56 RCW.

32 (16) To mark headstones or otherwise memorialize patients interred
33 at state hospital cemeteries. The department of social and health
34 services shall make available the name, date of birth, and date of
35 death of patients buried in state hospital cemeteries fifty years after
36 the death of a patient.

37 (17) To law enforcement officers and to prosecuting attorneys as

1 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of
2 information that may be released is limited as follows:

3 (a) Only the fact, place, and date of involuntary commitment, an
4 official copy of any order or orders of commitment, and an official
5 copy of any written or oral notice of ineligibility to possess a
6 firearm that was provided to the person pursuant to RCW 9.41.047(1),
7 shall be disclosed upon request;

8 (b) The law enforcement and prosecuting attorneys may only release
9 the information obtained to the person's attorney as required by court
10 rule and to a jury or judge, if a jury is waived, that presides over
11 any trial at which the person is charged with violating RCW
12 9.41.040(2)(a)(ii);

13 (c) Disclosure under this subsection is mandatory for the purposes
14 of the health insurance portability and accountability act.

15 (18) When a patient would otherwise be subject to the provisions of
16 this section and disclosure is necessary for the protection of the
17 patient or others due to his or her unauthorized disappearance from the
18 facility, and his or her whereabouts is unknown, notice of such
19 disappearance, along with relevant information, may be made to
20 relatives, the department of corrections when the person is under the
21 supervision of the department, and governmental law enforcement
22 agencies designated by the physician or psychiatric advanced registered
23 nurse practitioner in charge of the patient or the professional person
24 in charge of the facility, or his or her professional designee.

25 Except as otherwise provided in this chapter, the uniform health
26 care information act, chapter 70.02 RCW, applies to all records and
27 information compiled, obtained, or maintained in the course of
28 providing services.

29 (19) The fact of admission, as well as all records, files,
30 evidence, findings, or orders made, prepared, collected, or maintained
31 pursuant to this chapter shall not be admissible as evidence in any
32 legal proceeding outside this chapter without the written consent of
33 the person who was the subject of the proceeding except as provided in
34 RCW 71.05.385, in a subsequent criminal prosecution of a person
35 committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges
36 that were dismissed pursuant to chapter 10.77 RCW due to incompetency
37 to stand trial, in a civil commitment proceeding pursuant to chapter
38 71.09 RCW, or, in the case of a minor, a guardianship or dependency

1 proceeding. The records and files maintained in any court proceeding
2 pursuant to this chapter shall be confidential and available subsequent
3 to such proceedings only to the person who was the subject of the
4 proceeding or his or her attorney. In addition, the court may order
5 the subsequent release or use of such records or files only upon good
6 cause shown if the court finds that appropriate safeguards for strict
7 confidentiality are and will be maintained.

8 **Sec. 6.** RCW 71.05.425 and 2009 c 521 s 158 are each amended to
9 read as follows:

10 (1)(a) Except as provided in subsection (2) of this section, at the
11 earliest possible date, and in no event later than thirty days before
12 conditional release, final release, authorized leave under RCW
13 71.05.325(2), or transfer to a facility other than a state mental
14 hospital, the superintendent shall send written notice of conditional
15 release, release, authorized leave, or transfer of a person committed
16 under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex,
17 violent, or felony harassment offense pursuant to RCW 10.77.086(4) to
18 the following:

19 (i) The chief of police of the city, if any, in which the person
20 will reside; and

21 (ii) The sheriff of the county in which the person will reside.

22 (b) The same notice as required by (a) of this subsection shall be
23 sent to the following, if such notice has been requested in writing
24 about a specific person committed under RCW 71.05.280(3) or
25 71.05.320(3)(c) following dismissal of a sex, violent, or felony
26 harassment offense pursuant to RCW 10.77.086(4):

27 (i) The victim of the sex, violent, or felony harassment offense
28 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment
29 under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin
30 if the crime was a homicide;

31 (ii) Any witnesses who testified against the person in any court
32 proceedings; (~~and~~)

33 (iii) Any person specified in writing by the prosecuting attorney.
34 Information regarding victims, next of kin, or witnesses requesting the
35 notice, information regarding any other person specified in writing by
36 the prosecuting attorney to receive the notice, and the notice are

1 confidential and shall not be available to the person committed under
2 this chapter; and

3 (iv) The chief of police of the city, if any, and the sheriff of
4 the county, if any, which had jurisdiction of the person on the date of
5 an applicable offense.

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

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

11 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c)
12 following dismissal of a sex, violent, or felony harassment offense
13 pursuant to RCW 10.77.086(4) escapes, the superintendent shall
14 immediately notify, by the most reasonable and expedient means
15 available, the chief of police of the city and the sheriff of the
16 county in which the person escaped and in which the person resided
17 immediately before the person's arrest. If previously requested, the
18 superintendent shall also notify the witnesses and the victim of the
19 sex, violent, or felony harassment offense that was dismissed pursuant
20 to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or
21 71.05.320(3) or the victim's next of kin if the crime was a homicide.
22 In addition, the secretary shall also notify appropriate parties
23 pursuant to RCW 71.05.390(18). If the person is recaptured, the
24 superintendent shall send notice to the persons designated in this
25 subsection as soon as possible but in no event later than two working
26 days after the department learns of such recapture.

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

30 (4) The superintendent shall send the notices required by this
31 chapter to the last address provided to the department by the
32 requesting party. The requesting party shall furnish the department
33 with a current address.

34 (5) For purposes of this section the following terms have the
35 following meanings:

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

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

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

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

5 **Sec. 7.** RCW 10.77.165 and 2010 c 28 s 1 are each amended to read
6 as follows:

7 (1) In the event of an escape by a person committed under this
8 chapter from a state facility or the disappearance of such a person on
9 conditional release or other authorized absence, the superintendent
10 shall provide notification of the person's escape or disappearance for
11 the public's safety or to assist in the apprehension of the person.

12 (a) The superintendent shall notify:

13 (i) State and local law enforcement officers located in the city
14 and county where the person escaped and in the city and county which
15 had jurisdiction of the person on the date of the applicable offense;

16 (ii) Other appropriate governmental agencies; and

17 (iii) The person's relatives.

18 (b) The superintendent shall provide the same notification as
19 required by (a) of this subsection to the following, if such notice has
20 been requested in writing about a specific person committed under this
21 chapter:

22 (i) The victim of the crime for which the person was convicted or
23 the victim's next of kin if the crime was a homicide;

24 (ii) Any witnesses who testified against the person in any court
25 proceedings if the person was charged with a violent offense; and

26 (iii) Any other appropriate persons.

27 (2) Information regarding victims, next of kin, or witnesses
28 requesting the notice, information regarding any other person specified
29 in writing by the prosecuting attorney to receive the notice, and the
30 notice are confidential and shall not be available to the person
31 committed under this chapter.

32 (3) The notice provisions of this section are in addition to those
33 provided in RCW 10.77.205.

34 **Sec. 8.** RCW 10.31.110 and 2007 c 375 s 2 are each amended to read
35 as follows:

36 (1) When a police officer has reasonable cause to believe that the

1 individual has committed acts constituting a nonfelony crime that is
2 not a serious offense as identified in RCW 10.77.092 and the individual
3 is known by history or consultation with the regional support network
4 to suffer from a mental disorder, the arresting officer may:

5 (a) Take the individual to a crisis stabilization unit as defined
6 in RCW 71.05.020(6). Individuals delivered to a crisis stabilization
7 unit pursuant to this section may be held by the facility for a period
8 of up to twelve hours: PROVIDED, that they are examined by a mental
9 health professional within three hours of their arrival;

10 (b) Refer the individual to a mental health professional for
11 evaluation for initial detention and proceeding under chapter 71.05
12 RCW; or

13 (c) Release the individual upon agreement to voluntary
14 participation in outpatient treatment.

15 (2) If the individual is released to the community, the mental
16 health provider shall inform the referring law enforcement agency of
17 the release within a reasonable period of time after the release if the
18 referring law enforcement agency has requested notification.

19 (3) In deciding whether to refer the individual to treatment under
20 this section, the police officer shall be guided by standards mutually
21 agreed upon with the prosecuting authority, which address, at a
22 minimum, the length, seriousness, and recency of the known criminal
23 history of the individual, the mental health history of the individual,
24 where available, and the circumstances surrounding the commission of
25 the alleged offense.

26 ~~((+3))~~ (4) Any agreement to participate in treatment shall not
27 require individuals to stipulate to any of the alleged facts regarding
28 the criminal activity as a prerequisite to participation in a mental
29 health treatment alternative. The agreement is inadmissible in any
30 criminal or civil proceeding. The agreement does not create immunity
31 from prosecution for the alleged criminal activity.

32 ~~((+4))~~ (5) If an individual violates such agreement and the mental
33 health treatment alternative is no longer appropriate:

34 (a) The mental health provider shall inform the referring law
35 enforcement agency of the violation; and

36 (b) The original charges may be filed or referred to the
37 prosecutor, as appropriate, and the matter may proceed accordingly.

1 (~~(5)~~) (6) The police officer is immune from liability for any
2 good faith conduct under this section.

3 **Sec. 9.** RCW 70.96B.045 and 2007 c 120 s 2 are each amended to read
4 as follows:

5 (1) If a designated crisis responder receives information alleging
6 that a person, as the result of:

7 (a) A mental disorder, presents an imminent likelihood of serious
8 harm, or is in imminent danger because of being gravely disabled, after
9 investigation and evaluation of the specific facts alleged and of the
10 reliability and credibility of the person or persons providing the
11 information if any, the designated crisis responder may take the
12 person, or cause by oral or written order the person to be taken into
13 emergency custody in an evaluation and treatment facility for not more
14 than seventy-two hours as described in this chapter; or

15 (b) Chemical dependency, presents an imminent likelihood of serious
16 harm, or is in imminent danger because of being gravely disabled, after
17 investigation and evaluation of the specific facts alleged and of the
18 reliability and credibility of the person or persons providing the
19 information if any, the designated crisis responder may take the
20 person, or cause by oral or written order the person to be taken into
21 emergency custody in a secure detoxification facility for not more than
22 seventy-two hours as described in this chapter.

23 (2) The evaluation and treatment facility, the secure
24 detoxification facility, or other certified chemical dependency
25 provider shall then evaluate the person's condition and admit, detain,
26 transfer, or discharge such person in accordance with this chapter.
27 The facility shall notify in writing the court and the designated
28 crisis responder of the date and time of the initial detention of each
29 person involuntarily detained so that a probable cause hearing will be
30 held no later than seventy-two hours after detention.

31 (3) A peace officer may take or cause the person to be taken into
32 custody and immediately delivered to an evaluation and treatment
33 facility, secure detoxification facility, or other certified chemical
34 dependency treatment provider: (a) Pursuant to this section; or (b)
35 when he or she has reasonable cause to believe that such person, as a
36 result of a mental disorder or chemical dependency, presents an
37 imminent likelihood of serious harm, or is in imminent danger because

1 of being gravely disabled. An individual brought to a facility by a
2 peace officer may be held for up to twelve hours: PROVIDED, That the
3 individual is examined by a designated crisis responder within three
4 hours of arrival. Within twelve hours of arrival the designated crisis
5 responder must determine whether the individual meets detention
6 criteria. If the individual is detained, the designated mental health
7 professional shall file a petition for detention or supplemental
8 petition as appropriate and commence service on the designated attorney
9 for the detained person. If the individual is released to the
10 community, the mental health provider shall inform the referring law
11 enforcement agency of the release within a reasonable period of time
12 after the release if the referring law enforcement agency has requested
13 notification.

14 (4) Nothing in this chapter limits the power of a peace officer to
15 take a person into custody and immediately deliver the person to the
16 emergency department of a local hospital or to a detoxification
17 facility.

18 **Sec. 10.** RCW 71.05.153 and 2007 c 375 s 8 are each amended to read
19 as follows:

20 (1) When a designated mental health professional receives
21 information alleging that a person, as the result of a mental disorder,
22 presents an imminent likelihood of serious harm, or is in imminent
23 danger because of being gravely disabled, after investigation and
24 evaluation of the specific facts alleged and of the reliability and
25 credibility of the person or persons providing the information if any,
26 the designated mental health professional may take such person, or
27 cause by oral or written order such person to be taken into emergency
28 custody in an evaluation and treatment facility for not more than
29 seventy-two hours as described in RCW 71.05.180.

30 (2) A peace officer may take or cause such person to be taken into
31 custody and immediately delivered to a crisis stabilization unit, an
32 evaluation and treatment facility, or the emergency department of a
33 local hospital under the following circumstances:

34 (a) Pursuant to subsection (1) of this section; or

35 (b) When he or she has reasonable cause to believe that such person
36 is suffering from a mental disorder and presents an imminent likelihood

1 of serious harm or is in imminent danger because of being gravely
2 disabled.

3 (3) Persons delivered to a crisis stabilization unit, evaluation
4 and treatment facility, or the emergency department of a local hospital
5 by peace officers pursuant to subsection (2) of this section may be
6 held by the facility for a period of up to twelve hours: PROVIDED,
7 That they are examined by a mental health professional within three
8 hours of their arrival. Within twelve hours of their arrival, the
9 designated mental health professional must determine whether the
10 individual meets detention criteria. If the individual is detained,
11 the designated mental health professional shall file a petition for
12 detention or a supplemental petition as appropriate and commence
13 service on the designated attorney for the detained person. If the
14 individual is released to the community, the mental health provider
15 shall inform the referring law enforcement agency of the release within
16 a reasonable period of time after the release if the referring law
17 enforcement agency has requested notification.

18 **Sec. 11.** RCW 71.34.340 and 2005 c 453 s 6 are each amended to read
19 as follows:

20 The fact of admission and all information obtained through
21 treatment under this chapter is confidential. Confidential information
22 may be disclosed only:

23 (1) In communications between mental health professionals to meet
24 the requirements of this chapter, in the provision of services to the
25 minor, or in making appropriate referrals;

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

27 (3) To persons with medical responsibility for the minor's care;

28 (4) To the minor, the minor's parent, and the minor's attorney,
29 subject to RCW 13.50.100;

30 (5) When the minor or the minor's parent designates in writing the
31 persons to whom information or records may be released;

32 (6) To the extent necessary to make a claim for financial aid,
33 insurance, or medical assistance to which the minor may be entitled or
34 for the collection of fees or costs due to providers for services
35 rendered under this chapter;

36 (7) To the courts as necessary to the administration of this
37 chapter;

1 (8) To law enforcement officers or public health officers as
2 necessary to carry out the responsibilities of their office. However,
3 only the fact and date of admission, and the date of discharge, the
4 name and address of the treatment provider, if any, and the last known
5 address shall be disclosed upon request;

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

14 (10) To the secretary for assistance in data collection and program
15 evaluation or research, provided that the secretary adopts rules for
16 the conduct of such evaluation and research. The rules shall include,
17 but need not be limited to, the requirement that all evaluators and
18 researchers sign an oath of confidentiality substantially as follows:

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

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

28 /s/"

29 (11) To appropriate law enforcement agencies, upon request, all
30 necessary and relevant information in the event of a crisis or emergent
31 situation that poses a significant and imminent risk to the public.
32 The decision to disclose or not shall not result in civil liability for
33 the mental health service provider or its employees so long as the
34 decision was reached in good faith and without gross negligence;

1 (12) To appropriate law enforcement agencies and to a person, when
2 the identity of the person is known to the public or private agency,
3 whose health and safety has been threatened, or who is known to have
4 been repeatedly harassed, by the patient. The person may designate a
5 representative to receive the disclosure. The disclosure shall be made
6 by the professional person in charge of the public or private agency or
7 his or her designee and shall include the dates of admission,
8 discharge, authorized or unauthorized absence from the agency's
9 facility, and only such other information that is pertinent to the
10 threat or harassment. The decision to disclose or not shall not result
11 in civil liability for the agency or its employees so long as the
12 decision was reached in good faith and without gross negligence;

13 (13) To a minor's next of kin, attorney, guardian, or conservator,
14 if any, the information that the minor is presently in the facility or
15 that the minor is seriously physically ill and a statement evaluating
16 the mental and physical condition of the minor as well as a statement
17 of the probable duration of the minor's confinement;

18 (14) Upon the death of a minor, to the minor's next of kin;

19 (15) To a facility in which the minor resides or will reside;

20 (16) To law enforcement officers and to prosecuting attorneys as
21 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of
22 information that may be released is limited as follows:

23 (a) Only the fact, place, and date of involuntary commitment, an
24 official copy of any order or orders of commitment, and an official
25 copy of any written or oral notice of ineligibility to possess a
26 firearm that was provided to the person pursuant to RCW 9.41.047(1),
27 shall be disclosed upon request;

28 (b) The law enforcement and prosecuting attorneys may only release
29 the information obtained to the person's attorney as required by court
30 rule and to a jury or judge, if a jury is waived, that presides over
31 any trial at which the person is charged with violating RCW
32 9.41.040(2)(a)(ii);

33 (c) Disclosure under this subsection is mandatory for the purposes
34 of the health insurance portability and accountability act.

35 This section shall not be construed to prohibit the compilation and
36 publication of statistical data for use by government or researchers
37 under standards, including standards to assure maintenance of
38 confidentiality, set forth by the secretary. The fact of admission and

1 all information obtained pursuant to this chapter are not admissible as
2 evidence in any legal proceeding outside this chapter, except
3 guardianship or dependency, without the written consent of the minor or
4 the minor's parent;

5 (17) For the purpose of a correctional facility participating in
6 the postinstitutionalized medical assistance system supporting the
7 expedited medical determinations and medical suspensions as provided in
8 RCW 74.09.555 and section 2 of this act.

9 **Sec. 12.** RCW 71.05.232 and 2004 c 166 s 18 are each amended to
10 read as follows:

11 (1) When a state hospital admits a person for evaluation or
12 treatment under this chapter who has a history of one or more violent
13 acts and:

14 (a) Has been transferred from a correctional facility; or

15 (b) Is or has been under the authority of the department of
16 corrections or the indeterminate sentence review board,
17 the state hospital shall consult with the appropriate corrections and
18 chemical dependency personnel and the appropriate forensic staff at the
19 state hospital to conduct a discharge review to determine whether the
20 person presents a likelihood of serious harm and whether the person is
21 appropriate for release to a less restrictive alternative.

22 (2) When a state hospital returns a person who was reviewed under
23 subsection (1) of this section to a correctional facility, or
24 discharges or releases the person to the community, the hospital shall
25 notify the correctional facility that the person was subject to a
26 discharge review pursuant to this section.

27 **Sec. 13.** RCW 70.02.900 and 2000 c 5 s 4 are each amended to read
28 as follows:

29 (1) This chapter does not restrict a health care provider, a third-
30 party payor, or an insurer regulated under Title 48 RCW from complying
31 with obligations imposed by federal or state health care payment
32 programs or federal or state law.

33 (2) This chapter does not modify the terms and conditions of
34 disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24,

1 ((~~70.39,~~) 70.96A, 71.05, ((~~and~~)) 71.34, and 74.09 RCW and rules
2 adopted under these provisions.

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