

E2SSB 5763 - H COMM AMD
By Committee on Health Care

NOT ADOPTED 04/14/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 GENERAL PROVISIONS

5 NEW SECTION. **Sec. 101.** The legislature finds that persons with
6 mental disorders, chemical dependency disorders, or co-occurring mental
7 and substance abuse disorders are disproportionately more likely to be
8 confined in a correctional institution, become homeless, become
9 involved with child protective services or involved in a dependency
10 proceeding, or lose those state and federal benefits to which they may
11 be entitled as a result of their disorders. The legislature finds that
12 prior state policy of addressing mental health and chemical dependency
13 in isolation from each other has not been cost-effective and has often
14 resulted in longer-term, more costly treatment that may be less
15 effective over time. The legislature finds that a substantial number
16 of persons have co-occurring mental and substance abuse disorders and
17 that identification and integrated treatment of co-occurring disorders
18 is critical to successful outcomes and recovery. Consequently, the
19 legislature intends, within funds specifically appropriated for this
20 purpose, to:

21 (1) Establish a process for determining which persons with mental
22 disorders and substance abuse disorders have co-occurring disorders;

23 (2) Reduce the gap between available chemical dependency treatment
24 and the documented need for treatment;

25 (3) Improve treatment outcomes by shifting treatment, where
26 possible, to evidence-based, research-based, and consensus-based
27 treatment practices and by removing barriers to the use of those
28 practices;

1 (4) Expand the authority for and use of therapeutic courts
2 including drug courts, mental health courts, and therapeutic courts for
3 dependency proceedings;

4 (5) Improve access to treatment for persons who are not enrolled in
5 medicaid by improving and creating consistency in the application
6 processes, and by minimizing the numbers of eligible confined persons
7 who leave confinement without medical assistance;

8 (6) Improve access to inpatient treatment by creating expanded
9 services facilities for persons needing intensive treatment in a secure
10 setting who do not need inpatient care, but are unable to access
11 treatment under current licensing restrictions in other settings;

12 (7) Establish secure detoxification centers for persons
13 involuntarily detained as gravely disabled or presenting a likelihood
14 of serious harm due to chemical dependency and authorize combined
15 crisis responders for both mental disorders and chemical dependency
16 disorders on a pilot basis and study the outcomes;

17 (8) Slow or stop the loss of inpatient and intensive residential
18 beds and children's long-term inpatient placements and refine the
19 balance of state hospital and community inpatient and residential beds;

20 (9) Improve cross-system collaboration including collaboration with
21 first responders and hospital emergency rooms, schools, primary care,
22 developmental disabilities, law enforcement and corrections, and
23 federally funded and licensed programs; and

24 (10) Amend existing state law to address organizational and
25 structural barriers to effective use of state funds for treating
26 persons with mental and substance abuse disorders, minimize internal
27 inconsistencies, clarify policy and requirements, and maximize the
28 opportunity for effective and cost-effective outcomes.

29 NEW SECTION. **Sec. 102.** (1) The department of social and health
30 services shall explore and report to the appropriate committees of the
31 legislature by December 1, 2005, on the feasibility, costs, benefits,
32 and time frame to access federal medicaid funds for mental health and
33 substance abuse treatment under the following provisions:

34 (a) The optional clinic provisions;

35 (b) Children's mental health treatment or co-occurring disorders
36 treatment under the early periodic screening, diagnosis, and treatment
37 provisions;

1 (c) Targeted case management, including a plan for coordination of
2 various case management opportunities under medicaid.

3 (2) The department shall provide the appropriate committees of the
4 legislature with a clear and concise explanation of the reasons for
5 reducing state hospital capacity and the differences in costs and
6 benefits of treatment in state and community hospital treatment.

7 (3) The department may not reduce the capacity of either state
8 hospital until at least an equal number of skilled nursing,
9 residential, expanded services facility, or supported housing
10 placements are available in the community to the persons displaced by
11 the capacity reduction.

12 **Mental Health Treatment**

13 NEW SECTION. **Sec. 103.** A new section is added to chapter 71.05
14 RCW to read as follows:

15 (1) Not later than January 1, 2007, all persons providing treatment
16 under this chapter shall also implement the integrated comprehensive
17 screening and assessment process for chemical dependency and mental
18 disorders adopted pursuant to section 701 of this act and shall
19 document the numbers of clients with co-occurring mental and substance
20 abuse disorders based on a quadrant system of low and high needs.

21 (2) Treatment providers and regional support networks who fail to
22 implement the integrated comprehensive screening and assessment process
23 for chemical dependency and mental disorders by July 1, 2007, shall be
24 subject to contractual penalties established under section 701 of this
25 act.

26 **Sec. 104.** RCW 71.05.020 and 2000 c 94 s 1 are each amended to read
27 as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

30 (1) "Admission" or "admit" means a decision by a physician that a
31 person should be examined or treated as a patient in a hospital;

32 (2) "Antipsychotic medications" means that class of drugs primarily
33 used to treat serious manifestations of mental illness associated with
34 thought disorders, which includes, but is not limited to atypical
35 antipsychotic medications;

1 (3) "Attending staff" means any person on the staff of a public or
2 private agency having responsibility for the care and treatment of a
3 patient;

4 (4) "Commitment" means the determination by a court that a person
5 should be detained for a period of either evaluation or treatment, or
6 both, in an inpatient or a less restrictive setting;

7 (5) "Conditional release" means a revocable modification of a
8 commitment, which may be revoked upon violation of any of its terms;

9 ~~(6) ("County designated mental health professional" means a mental
10 health professional appointed by the county to perform the duties
11 specified in this chapter;~~

12 ~~(7))~~ "Custody" means involuntary detention under the provisions of
13 this chapter or chapter 10.77 RCW, uninterrupted by any period of
14 unconditional release from commitment from a facility providing
15 involuntary care and treatment;

16 ~~((8))~~ (7) "Department" means the department of social and health
17 services;

18 ~~((9))~~ (8) "Designated chemical dependency specialist" means a
19 person designated by the county alcoholism and other drug addiction
20 program coordinator designated under RCW 70.96A.310 to perform the
21 commitment duties described in chapter 70.96A RCW and sections 202
22 through 216 of this act;

23 (9) "Designated crisis responder" means a mental health
24 professional appointed by the county or the regional support network to
25 perform the duties specified in this chapter;

26 (10) "Designated mental health professional" means a mental health
27 professional certified by the department per rules adopted by the
28 secretary and employed by or contracted with a regional support network
29 established under chapter 71.24 RCW;

30 (11) "Detention" or "detain" means the lawful confinement of a
31 person, under the provisions of this chapter;

32 ~~((10))~~ (12) "Developmental disabilities professional" means a
33 person who has specialized training and three years of experience in
34 directly treating or working with persons with developmental
35 disabilities and is a psychiatrist, psychologist, or social worker, and
36 such other developmental disabilities professionals as may be defined
37 by rules adopted by the secretary;

1 (~~(11)~~) (13) "Developmental disability" means that condition
2 defined in RCW 71A.10.020(3);

3 (~~(12)~~) (14) "Discharge" means the termination of hospital medical
4 authority. The commitment may remain in place, be terminated, or be
5 amended by court order;

6 (~~(13)~~) (15) "Evaluation and treatment facility" means any
7 facility which can provide directly, or by direct arrangement with
8 other public or private agencies, emergency evaluation and treatment,
9 outpatient care, and timely and appropriate inpatient care to persons
10 suffering from a mental disorder, and which is certified as such by the
11 department. A physically separate and separately operated portion of
12 a state hospital may be designated as an evaluation and treatment
13 facility. A facility which is part of, or operated by, the department
14 or any federal agency will not require certification. No correctional
15 institution or facility, or jail, shall be an evaluation and treatment
16 facility within the meaning of this chapter;

17 (~~(14)~~) (16) "Gravely disabled" means a condition in which a
18 person, as a result of a mental disorder: (a) Is in danger of serious
19 physical harm resulting from a failure to provide for his or her
20 essential human needs of health or safety; or (b) manifests severe
21 deterioration in routine functioning evidenced by repeated and
22 escalating loss of cognitive or volitional control over his or her
23 actions and is not receiving such care as is essential for his or her
24 health or safety;

25 (~~(15)~~) (17) "Habilitative services" means those services provided
26 by program personnel to assist persons in acquiring and maintaining
27 life skills and in raising their levels of physical, mental, social,
28 and vocational functioning. Habilitative services include education,
29 training for employment, and therapy. The habilitative process shall
30 be undertaken with recognition of the risk to the public safety
31 presented by the (~~(individual)~~) person being assisted as manifested by
32 prior charged criminal conduct;

33 (~~(16)~~) (18) "History of one or more violent acts" refers to the
34 period of time ten years prior to the filing of a petition under this
35 chapter, excluding any time spent, but not any violent acts committed,
36 in a mental health facility or in confinement as a result of a criminal
37 conviction;

1 (~~(17)~~) (19) "Individualized service plan" means a plan prepared
2 by a developmental disabilities professional with other professionals
3 as a team, for (~~(an individual)~~) a person with developmental
4 disabilities, which shall state:

5 (a) The nature of the person's specific problems, prior charged
6 criminal behavior, and habilitation needs;

7 (b) The conditions and strategies necessary to achieve the purposes
8 of habilitation;

9 (c) The intermediate and long-range goals of the habilitation
10 program, with a projected timetable for the attainment;

11 (d) The rationale for using this plan of habilitation to achieve
12 those intermediate and long-range goals;

13 (e) The staff responsible for carrying out the plan;

14 (f) Where relevant in light of past criminal behavior and due
15 consideration for public safety, the criteria for proposed movement to
16 less-restrictive settings, criteria for proposed eventual discharge or
17 release, and a projected possible date for discharge or release; and

18 (g) The type of residence immediately anticipated for the person
19 and possible future types of residences;

20 (~~(18)~~) (20) "Judicial commitment" means a commitment by a court
21 pursuant to the provisions of this chapter;

22 (~~(19)~~) (21) "Likelihood of serious harm" means:

23 (a) A substantial risk that: (i) Physical harm will be inflicted
24 by (~~(an individual)~~) a person upon his or her own person, as evidenced
25 by threats or attempts to commit suicide or inflict physical harm on
26 oneself; (ii) physical harm will be inflicted by (~~(an individual)~~) a
27 person upon another, as evidenced by behavior which has caused such
28 harm or which places another person or persons in reasonable fear of
29 sustaining such harm; or (iii) physical harm will be inflicted by (~~(an~~
30 ~~individual)~~) a person upon the property of others, as evidenced by
31 behavior which has caused substantial loss or damage to the property of
32 others; or

33 (b) The (~~(individual)~~) person has threatened the physical safety of
34 another and has a history of one or more violent acts;

35 (~~(20)~~) (22) "Mental disorder" means any organic, mental, or
36 emotional impairment which has substantial adverse effects on (~~(an~~
37 ~~individual's)~~) a person's cognitive or volitional functions;

1 ((+21+)) (23) "Mental health professional" means a psychiatrist,
2 psychologist, psychiatric nurse, or social worker, and such other
3 mental health professionals as may be defined by rules adopted by the
4 secretary pursuant to the provisions of this chapter;

5 ((+22+)) (24) "Peace officer" means a law enforcement official of
6 a public agency or governmental unit, and includes persons specifically
7 given peace officer powers by any state law, local ordinance, or
8 judicial order of appointment;

9 ((+23+)) (25) "Private agency" means any person, partnership,
10 corporation, or association that is not a public agency, whether or not
11 financed in whole or in part by public funds, which constitutes an
12 evaluation and treatment facility or private institution, or
13 hospital(~~(, or sanitarium)~~), which is conducted for, or includes a
14 department or ward conducted for, the care and treatment of persons who
15 are mentally ill;

16 ((+24+)) (26) "Professional person" means a mental health
17 professional and shall also mean a physician, registered nurse, and
18 such others as may be defined by rules adopted by the secretary
19 pursuant to the provisions of this chapter;

20 ((+25+)) (27) "Psychiatric nurse" means a registered nurse who has
21 a bachelor's degree from an accredited college or university, and who
22 has had, in addition, at least two years of experience in the direct
23 treatment of mentally ill or emotionally disturbed persons under the
24 supervision of a mental health professional. "Psychiatric nurse" also
25 means any other registered nurse who has at least three years of such
26 experience.

27 (28) "Psychiatrist" means a person having a license as a physician
28 and surgeon in this state who has in addition completed three years of
29 graduate training in psychiatry in a program approved by the American
30 medical association or the American osteopathic association and is
31 certified or eligible to be certified by the American board of
32 psychiatry and neurology;

33 ((+26+)) (29) "Psychologist" means a person who has been licensed
34 as a psychologist pursuant to chapter 18.83 RCW;

35 ((+27+)) (30) "Public agency" means any evaluation and treatment
36 facility or institution, or hospital(~~(, or sanitarium)~~) which is
37 conducted for, or includes a department or ward conducted for, the care

1 and treatment of persons who are mentally ill(~~(+[,])~~), if the agency is
2 operated directly by, federal, state, county, or municipal government,
3 or a combination of such governments;

4 ~~((+28))~~ (31) "Registration records" include all the records of the
5 department, regional support networks, treatment facilities, and other
6 persons providing services to the department, county departments, or
7 facilities which identify persons who are receiving or who at any time
8 have received services for mental illness.

9 (32) "Release" means legal termination of the commitment under the
10 provisions of this chapter;

11 ~~((+29))~~ (33) "Resource management services" has the meaning given
12 in chapter 71.24 RCW;

13 ~~((+30))~~ (34) "Secretary" means the secretary of the department of
14 social and health services, or his or her designee;

15 ~~((+31))~~ (35) "Social worker" means a person with a master's or
16 further advanced degree from an accredited school of social work or a
17 degree deemed equivalent under rules adopted by the secretary, who is
18 a licensed independent clinical social worker;

19 ~~((+32))~~ (36) "Treatment records" include registration and all
20 other records concerning persons who are receiving or who at any time
21 have received services for mental illness, which are maintained by the
22 department, by regional support networks and their staffs, and by
23 treatment facilities. Treatment records do not include notes or
24 records maintained for personal use by a person providing treatment
25 services for the department, regional support networks, or a treatment
26 facility if the notes or records are not available to others.

27 (37) "Violent act" means behavior that resulted in homicide,
28 attempted suicide, nonfatal injuries, or substantial damage to
29 property.

30 **Sec. 105.** RCW 71.24.025 and 2001 c 323 s 8 are each amended to
31 read as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

34 (1) "Acutely mentally ill" means a condition which is limited to a
35 short-term severe crisis episode of:

36 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
37 of a child, as defined in RCW 71.34.020;

1 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
2 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
3 or

4 (c) Presenting a likelihood of serious harm as defined in RCW
5 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

6 (2) "Available resources" means funds appropriated for the purpose
7 of providing community mental health programs (~~(under RCW 71.24.045)~~),
8 federal funds, except those provided according to Title XIX of the
9 Social Security Act, and state funds appropriated under this chapter or
10 chapter 71.05 RCW by the legislature during any biennium for the
11 purpose of providing residential services, resource management
12 services, community support services, and other mental health services.
13 This does not include funds appropriated for the purpose of operating
14 and administering the state psychiatric hospitals, except as negotiated
15 according to RCW 71.24.300(1)(e).

16 (3) "Child" means a person under the age of eighteen years.

17 (4) "Chronically mentally ill adult" means an adult who has a
18 mental disorder and meets at least one of the following criteria:

19 (a) Has undergone two or more episodes of hospital care for a
20 mental disorder within the preceding two years; or

21 (b) Has experienced a continuous psychiatric hospitalization or
22 residential treatment exceeding six months' duration within the
23 preceding year; or

24 (c) Has been unable to engage in any substantial gainful activity
25 by reason of any mental disorder which has lasted for a continuous
26 period of not less than twelve months. "Substantial gainful activity"
27 shall be defined by the department by rule consistent with Public Law
28 92-603, as amended.

29 (5) "Community mental health program" means all mental health
30 services, activities, or programs using available resources.

31 (6) "Community mental health service delivery system" means public
32 or private agencies that provide services specifically to persons with
33 mental disorders as defined under RCW 71.05.020 and receive funding
34 from public sources.

35 (7) "Community support services" means services authorized,
36 planned, and coordinated through resource management services
37 including, at a minimum, assessment, diagnosis, emergency crisis
38 intervention available twenty-four hours, seven days a week,

1 prescreening determinations for mentally ill persons being considered
2 for placement in nursing homes as required by federal law, screening
3 for patients being considered for admission to residential services,
4 diagnosis and treatment for acutely mentally ill and severely
5 emotionally disturbed children discovered under screening through the
6 federal Title XIX early and periodic screening, diagnosis, and
7 treatment program, investigation, legal, and other nonresidential
8 services under chapter 71.05 RCW, case management services, psychiatric
9 treatment including medication supervision, counseling, psychotherapy,
10 assuring transfer of relevant patient information between service
11 providers, recovery services, and other services determined by regional
12 support networks.

13 (8) "County authority" means the board of county commissioners,
14 county council, or county executive having authority to establish a
15 community mental health program, or two or more of the county
16 authorities specified in this subsection which have entered into an
17 agreement to provide a community mental health program.

18 (9) "Department" means the department of social and health
19 services.

20 (10) "Evidence-based practices" means services for people with
21 severe mental illness that have demonstrated positive outcomes in
22 multiple research studies.

23 (11) "Licensed service provider" means an entity licensed according
24 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
25 minimum standards as a result of accreditation by a recognized
26 behavioral health accrediting body recognized and having a current
27 agreement with the department, that meets state minimum standards or
28 ~~((individuals))~~ persons licensed under chapter 18.57, 18.71, 18.83, or
29 18.79 RCW, as it applies to registered nurses and advanced registered
30 nurse practitioners.

31 ~~((11))~~ (12) "Mental health services" means all services provided
32 by regional support networks and other services provided by the state
33 for the mentally ill.

34 ~~((12))~~ (13) "Mentally ill persons" and "the mentally ill" mean
35 persons and conditions defined in subsections (1), (4), ~~((17))~~ (21),
36 and ~~((18))~~ (22) of this section.

37 ~~((13))~~ (14) "Regional support network" means a county authority
38 or group of county authorities or other entity recognized by the

1 ~~secretary ((that enter into joint operating agreements to contract with~~
2 ~~the secretary pursuant to this chapter)) through a department~~
3 ~~procurement process.~~

4 ~~((+14+))~~ (15) "Registration records" include all the records of the
5 department, regional support networks, treatment facilities, and other
6 persons providing services to the department, county departments, or
7 facilities which identify persons who are receiving or who at any time
8 have received services for mental illness.

9 (16) "Residential services" means a complete range of residences
10 and supports authorized by resource management services and which may
11 involve a facility, a distinct part thereof, or services which support
12 community living, for acutely mentally ill persons, chronically
13 mentally ill adults, severely emotionally disturbed children, or
14 seriously disturbed adults determined by the regional support network
15 to be at risk of becoming acutely or chronically mentally ill. The
16 services shall include at least evaluation and treatment services as
17 defined in chapter 71.05 RCW, acute crisis respite care, long-term
18 adaptive and rehabilitative care, and supervised and supported living
19 services, and shall also include any residential services developed to
20 service mentally ill persons in nursing homes, boarding homes, and
21 adult family homes. Residential services for children in out-of-home
22 placements related to their mental disorder shall not include the costs
23 of food and shelter, except for children's long-term residential
24 facilities existing prior to January 1, 1991.

25 ~~((+15+))~~ (17) "Recovery" means the process in which people are able
26 to live, work, learn, and participate fully in their communities.

27 (18) "Resilience" means the personal and community qualities that
28 enable individuals to rebound from adversity, trauma, tragedy, threats,
29 or other stresses, and to live productive lives.

30 (19) "Resource management services" mean the planning,
31 coordination, and authorization of residential services and community
32 support services administered pursuant to an individual service plan
33 for: (a) Acutely mentally ill adults and children; (b) chronically
34 mentally ill adults; (c) severely emotionally disturbed children; or
35 (d) seriously disturbed adults determined solely by a regional support
36 network to be at risk of becoming acutely or chronically mentally ill.
37 Such planning, coordination, and authorization shall include mental
38 health screening for children eligible under the federal Title XIX

1 early and periodic screening, diagnosis, and treatment program.
2 Resource management services include seven day a week, twenty-four hour
3 a day availability of information regarding mentally ill adults' and
4 children's enrollment in services and their individual service plan to
5 (~~county~~) designated mental health professionals, evaluation and
6 treatment facilities, and others as determined by the regional support
7 network.

8 ((~~16~~)) (20) "Secretary" means the secretary of social and health
9 services.

10 ((~~17~~)) (21) "Seriously disturbed person" means a person who:

11 (a) Is gravely disabled or presents a likelihood of serious harm to
12 himself or herself or others, or to the property of others, as a result
13 of a mental disorder as defined in chapter 71.05 RCW;

14 (b) Has been on conditional release status, or under a less
15 restrictive alternative order, at some time during the preceding two
16 years from an evaluation and treatment facility or a state mental
17 health hospital;

18 (c) Has a mental disorder which causes major impairment in several
19 areas of daily living;

20 (d) Exhibits suicidal preoccupation or attempts; or

21 (e) Is a child diagnosed by a mental health professional, as
22 defined in chapter 71.34 RCW, as experiencing a mental disorder which
23 is clearly interfering with the child's functioning in family or school
24 or with peers or is clearly interfering with the child's personality
25 development and learning.

26 ((~~18~~)) (22) "Severely emotionally disturbed child" means a child
27 who has been determined by the regional support network to be
28 experiencing a mental disorder as defined in chapter 71.34 RCW,
29 including those mental disorders that result in a behavioral or conduct
30 disorder, that is clearly interfering with the child's functioning in
31 family or school or with peers and who meets at least one of the
32 following criteria:

33 (a) Has undergone inpatient treatment or placement outside of the
34 home related to a mental disorder within the last two years;

35 (b) Has undergone involuntary treatment under chapter 71.34 RCW
36 within the last two years;

37 (c) Is currently served by at least one of the following child-

1 serving systems: Juvenile justice, child-protection/welfare, special
2 education, or developmental disabilities;

3 (d) Is at risk of escalating maladjustment due to:

4 (i) Chronic family dysfunction involving a mentally ill or
5 inadequate caretaker;

6 (ii) Changes in custodial adult;

7 (iii) Going to, residing in, or returning from any placement
8 outside of the home, for example, psychiatric hospital, short-term
9 inpatient, residential treatment, group or foster home, or a
10 correctional facility;

11 (iv) Subject to repeated physical abuse or neglect;

12 (v) Drug or alcohol abuse; or

13 (vi) Homelessness.

14 (~~(19)~~) (23) "State minimum standards" means minimum requirements
15 established by rules adopted by the secretary and necessary to
16 implement this chapter for: (a) Delivery of mental health services;
17 (b) licensed service providers for the provision of mental health
18 services; (c) residential services; and (d) community support services
19 and resource management services.

20 (~~(20)~~) (24) "Treatment records" include registration and all
21 other records concerning persons who are receiving or who at any time
22 have received services for mental illness, which are maintained by the
23 department, by regional support networks and their staffs, and by
24 treatment facilities. Treatment records do not include notes or
25 records maintained for personal use by a person providing treatment
26 services for the department, regional support networks, or a treatment
27 facility if the notes or records are not available to others.

28 (25) "Tribal authority," for the purposes of this section and RCW
29 71.24.300 only, means: The federally recognized Indian tribes and the
30 major Indian organizations recognized by the secretary insofar as these
31 organizations do not have a financial relationship with any regional
32 support network that would present a conflict of interest.

33 **Sec. 106.** RCW 10.77.010 and 2004 c 157 s 2 are each amended to
34 read as follows:

35 As used in this chapter:

36 (1) "Admission" means acceptance based on medical necessity, of a
37 person as a patient.

1 (2) "Commitment" means the determination by a court that a person
2 should be detained for a period of either evaluation or treatment, or
3 both, in an inpatient or a less-restrictive setting.

4 (3) "Conditional release" means modification of a court-ordered
5 commitment, which may be revoked upon violation of any of its terms.

6 (4) (~~"County designated mental health professional" has the same~~
7 ~~meaning as provided in RCW 71.05.020.~~

8 ~~(5)~~) A "criminally insane" person means any person who has been
9 acquitted of a crime charged by reason of insanity, and thereupon found
10 to be a substantial danger to other persons or to present a substantial
11 likelihood of committing criminal acts jeopardizing public safety or
12 security unless kept under further control by the court or other
13 persons or institutions.

14 (~~(6)~~) (5) "Department" means the state department of social and
15 health services.

16 (6) "Designated mental health professional" has the same meaning as
17 provided in RCW 71.05.020.

18 (7) "Detention" or "detain" means the lawful confinement of a
19 person, under the provisions of this chapter, pending evaluation.

20 (8) "Developmental disabilities professional" means a person who
21 has specialized training and three years of experience in directly
22 treating or working with persons with developmental disabilities and is
23 a psychiatrist or psychologist, or a social worker, and such other
24 developmental disabilities professionals as may be defined by rules
25 adopted by the secretary.

26 (9) "Developmental disability" means the condition as defined in
27 RCW 71A.10.020(3).

28 (10) "Discharge" means the termination of hospital medical
29 authority. The commitment may remain in place, be terminated, or be
30 amended by court order.

31 (11) "Furlough" means an authorized leave of absence for a resident
32 of a state institution operated by the department designated for the
33 custody, care, and treatment of the criminally insane, consistent with
34 an order of conditional release from the court under this chapter,
35 without any requirement that the resident be accompanied by, or be in
36 the custody of, any law enforcement or institutional staff, while on
37 such unescorted leave.

1 (12) "Habilitative services" means those services provided by
2 program personnel to assist persons in acquiring and maintaining life
3 skills and in raising their levels of physical, mental, social, and
4 vocational functioning. Habilitative services include education,
5 training for employment, and therapy. The habilitative process shall
6 be undertaken with recognition of the risk to the public safety
7 presented by the (~~individual~~) person being assisted as manifested by
8 prior charged criminal conduct.

9 (13) "History of one or more violent acts" means violent acts
10 committed during: (a) The ten-year period of time prior to the filing
11 of criminal charges; plus (b) the amount of time equal to time spent
12 during the ten-year period in a mental health facility or in
13 confinement as a result of a criminal conviction.

14 (14) "Incompetency" means a person lacks the capacity to understand
15 the nature of the proceedings against him or her or to assist in his or
16 her own defense as a result of mental disease or defect.

17 (15) "Indigent" means any person who is financially unable to
18 obtain counsel or other necessary expert or professional services
19 without causing substantial hardship to the person or his or her
20 family.

21 (16) "Individualized service plan" means a plan prepared by a
22 developmental disabilities professional with other professionals as a
23 team, for an individual with developmental disabilities, which shall
24 state:

25 (a) The nature of the person's specific problems, prior charged
26 criminal behavior, and habilitation needs;

27 (b) The conditions and strategies necessary to achieve the purposes
28 of habilitation;

29 (c) The intermediate and long-range goals of the habilitation
30 program, with a projected timetable for the attainment;

31 (d) The rationale for using this plan of habilitation to achieve
32 those intermediate and long-range goals;

33 (e) The staff responsible for carrying out the plan;

34 (f) Where relevant in light of past criminal behavior and due
35 consideration for public safety, the criteria for proposed movement to
36 less-restrictive settings, criteria for proposed eventual release, and
37 a projected possible date for release; and

1 (g) The type of residence immediately anticipated for the person
2 and possible future types of residences.

3 (17) "Professional person" means:

4 (a) A psychiatrist licensed as a physician and surgeon in this
5 state who has, in addition, completed three years of graduate training
6 in psychiatry in a program approved by the American medical association
7 or the American osteopathic association and is certified or eligible to
8 be certified by the American board of psychiatry and neurology or the
9 American osteopathic board of neurology and psychiatry;

10 (b) A psychologist licensed as a psychologist pursuant to chapter
11 18.83 RCW; or

12 (c) A social worker with a master's or further advanced degree from
13 an accredited school of social work or a degree deemed equivalent under
14 rules adopted by the secretary.

15 (18) "Registration records" include all the records of the
16 department, regional support networks, treatment facilities, and other
17 persons providing services to the department, county departments, or
18 facilities which identify persons who are receiving or who at any time
19 have received services for mental illness.

20 (19) "Release" means legal termination of the court-ordered
21 commitment under the provisions of this chapter.

22 ((+19+)) (20) "Secretary" means the secretary of the department of
23 social and health services or his or her designee.

24 ((+20+)) (21) "Treatment" means any currently standardized medical
25 or mental health procedure including medication.

26 ((+21+)) (22) "Treatment records" include registration and all
27 other records concerning persons who are receiving or who at any time
28 have received services for mental illness, which are maintained by the
29 department, by regional support networks and their staffs, and by
30 treatment facilities. Treatment records do not include notes or
31 records maintained for personal use by a person providing treatment
32 services for the department, regional support networks, or a treatment
33 facility if the notes or records are not available to others.

34 (23) "Violent act" means behavior that: (a)(i) Resulted in; (ii)
35 if completed as intended would have resulted in; or (iii) was
36 threatened to be carried out by a person who had the intent and
37 opportunity to carry out the threat and would have resulted in,
38 homicide, nonfatal injuries, or substantial damage to property; or (b)

1 recklessly creates an immediate risk of serious physical injury to
2 another person. As used in this subsection, "nonfatal injuries" means
3 physical pain or injury, illness, or an impairment of physical
4 condition. "Nonfatal injuries" shall be construed to be consistent
5 with the definition of "bodily injury," as defined in RCW 9A.04.110.

6 **Sec. 107.** RCW 71.05.360 and 1997 c 112 s 30 are each amended to
7 read as follows:

8 (1)(a) Every person involuntarily detained or committed under the
9 provisions of this chapter shall be entitled to all the rights set
10 forth in this chapter, which shall be prominently posted in the
11 facility, and shall retain all rights not denied him or her under this
12 chapter except as chapter 9.41 RCW may limit the right of a person to
13 purchase or possess a firearm or to qualify for a concealed pistol
14 license.

15 (b) No person shall be presumed incompetent as a consequence of
16 receiving an evaluation or voluntary or involuntary treatment for a
17 mental disorder, under this chapter or any prior laws of this state
18 dealing with mental illness. Competency shall not be determined or
19 withdrawn except under the provisions of chapter 10.97 or 11.88 RCW.

20 (c) Any person who leaves a public or private agency following
21 evaluation or treatment for mental disorder shall be given a written
22 statement setting forth the substance of this section.

23 (2) Each person involuntarily detained or committed pursuant to
24 this chapter shall have the right to adequate care and individualized
25 treatment.

26 (3) The provisions of this chapter shall not be construed to deny
27 to any person treatment by spiritual means through prayer in accordance
28 with the tenets and practices of a church or religious denomination.

29 (4) Persons receiving evaluation or treatment under this chapter
30 shall be given a reasonable choice of an available physician or other
31 professional person qualified to provide such services.

32 (5) Whenever any person is detained for evaluation and treatment
33 pursuant to this chapter, both the person and, if possible, a
34 responsible member of his or her immediate family, personal
35 representative, guardian, or conservator, if any, shall be advised as
36 soon as possible in writing or orally, by the officer or person taking
37 him or her into custody or by personnel of the evaluation and treatment

1 facility where the person is detained that unless the person is
2 released or voluntarily admits himself or herself for treatment within
3 seventy-two hours of the initial detention:

4 (a) A judicial hearing in a superior court, either by a judge or
5 court commissioner thereof, shall be held not more than seventy-two
6 hours after the initial detention to determine whether there is
7 probable cause to detain the person after the seventy-two hours have
8 expired for up to an additional fourteen days without further automatic
9 hearing for the reason that the person is a person whose mental
10 disorder presents a likelihood of serious harm or that the person is
11 gravely disabled;

12 (b) The person has a right to communicate immediately with an
13 attorney; has a right to have an attorney appointed to represent him or
14 her before and at the probable cause hearing if he or she is indigent;
15 and has the right to be told the name and address of the attorney that
16 the mental health professional has designated pursuant to this chapter;

17 (c) The person has the right to remain silent and that any
18 statement he or she makes may be used against him or her;

19 (d) The person has the right to present evidence and to cross-
20 examine witnesses who testify against him or her at the probable cause
21 hearing; and

22 (e) The person has the right to refuse psychiatric medications,
23 including antipsychotic medication beginning twenty-four hours prior to
24 the probable cause hearing.

25 (6) When proceedings are initiated under RCW 71.05.150 (2), (3), or
26 (4)(b), no later than twelve hours after such person is admitted to the
27 evaluation and treatment facility the personnel of the evaluation and
28 treatment facility or the designated mental health professional shall
29 serve on such person a copy of the petition for initial detention and
30 the name, business address, and phone number of the designated attorney
31 and shall forthwith commence service of a copy of the petition for
32 initial detention on the designated attorney.

33 (7) The judicial hearing described in subsection (5) of this
34 section is hereby authorized, and shall be held according to the
35 provisions of subsection (5) of this section and rules promulgated by
36 the supreme court.

37 (8) At the probable cause hearing the detained person shall have
38 the following rights in addition to the rights previously specified:

- 1 (a) To present evidence on his or her behalf;
- 2 (b) To cross-examine witnesses who testify against him or her;
- 3 (c) To be proceeded against by the rules of evidence;
- 4 (d) To remain silent;
- 5 (e) To view and copy all petitions and reports in the court file.

6 (9) The physician-patient privilege or the psychologist-client
7 privilege shall be deemed waived in proceedings under this chapter
8 relating to the administration of antipsychotic medications. As to
9 other proceedings under this chapter, the privileges shall be waived
10 when a court of competent jurisdiction in its discretion determines
11 that such waiver is necessary to protect either the detained person or
12 the public.

13 The waiver of a privilege under this section is limited to records
14 or testimony relevant to evaluation of the detained person for purposes
15 of a proceeding under this chapter. Upon motion by the detained person
16 or on its own motion, the court shall examine a record or testimony
17 sought by a petitioner to determine whether it is within the scope of
18 the waiver.

19 The record maker shall not be required to testify in order to
20 introduce medical or psychological records of the detained person so
21 long as the requirements of RCW 5.45.020 are met except that portions
22 of the record which contain opinions as to the detained person's mental
23 state must be deleted from such records unless the person making such
24 conclusions is available for cross-examination.

25 (10) Insofar as danger to the person or others is not created, each
26 person involuntarily detained, treated in a less restrictive
27 alternative course of treatment, or committed for treatment and
28 evaluation pursuant to this chapter shall have, in addition to other
29 rights not specifically withheld by law, the following rights:

30 (a) To wear his or her own clothes and to keep and use his or her
31 own personal possessions, except when deprivation of same is essential
32 to protect the safety of the resident or other persons;

33 (b) To keep and be allowed to spend a reasonable sum of his or her
34 own money for canteen expenses and small purchases;

35 (c) To have access to individual storage space for his or her
36 private use;

37 (d) To have visitors at reasonable times;

1 (e) To have reasonable access to a telephone, both to make and
2 receive confidential calls, consistent with an effective treatment
3 program;

4 (f) To have ready access to letter writing materials, including
5 stamps, and to send and receive uncensored correspondence through the
6 mails;

7 (g) To discuss treatment plans and decisions with professional
8 persons;

9 (h) Not to consent to the administration of antipsychotic
10 medications and not to thereafter be administered antipsychotic
11 medications unless ordered by a court under RCW 71.05.370 (as
12 recodified by this act) or pursuant to an administrative hearing under
13 RCW 71.05.215;

14 (i) Not to consent to the performance of electroconvulsant therapy
15 or surgery, except emergency life-saving surgery, unless ordered by a
16 court under RCW 71.05.370 (as recodified by this act);

17 (j) Not to have psychosurgery performed on him or her under any
18 circumstances;

19 (k) To dispose of property and sign contracts unless such person
20 has been adjudicated an incompetent in a court proceeding directed to
21 that particular issue.

22 (11) Every person involuntarily detained shall immediately be
23 informed of his or her right to a hearing to review the legality of his
24 or her detention and of his or her right to counsel, by the
25 professional person in charge of the facility providing evaluation and
26 treatment, or his or her designee, and, when appropriate, by the court.
27 If the person so elects, the court shall immediately appoint an
28 attorney to assist him or her.

29 (12) A person challenging his or her detention or his or her
30 attorney, shall have the right to designate and have the court appoint
31 a reasonably available independent physician or licensed mental health
32 professional to examine the person detained, the results of which
33 examination may be used in the proceeding. The person shall, if he or
34 she is financially able, bear the cost of such expert information,
35 otherwise such expert examination shall be at public expense.

36 (13) Nothing contained in this chapter shall prohibit the patient
37 from petitioning by writ of habeas corpus for release.

1 (14) Nothing in this chapter shall prohibit a person committed on
2 or prior to January 1, 1974, from exercising a right available to him
3 or her at or prior to January 1, 1974, for obtaining release from
4 confinement.

5 (15) Nothing in this section permits any person to knowingly
6 violate a no-contact order or a condition of an active judgment and
7 sentence or an active condition of supervision by the department of
8 corrections.

9 **Sec. 108.** RCW 71.05.215 and 1997 c 112 s 16 are each amended to
10 read as follows:

11 (1) A person (~~((found to be))~~) who is gravely disabled or presents a
12 likelihood of serious harm as a result of a mental or chemical
13 dependency disorder or co-occurring mental and chemical dependency
14 disorders has a right to refuse antipsychotic medication unless it is
15 determined that the failure to medicate may result in a likelihood of
16 serious harm or substantial deterioration or substantially prolong the
17 length of involuntary commitment and there is no less intrusive course
18 of treatment than medication in the best interest of that person.

19 ~~((The department shall adopt rules to carry out the purposes of~~
20 ~~this chapter. These rules shall include:~~

21 ~~(a) An attempt to obtain the informed consent of the person prior~~
22 ~~to administration of antipsychotic medication.~~

23 ~~(b) For short term treatment up to thirty days, the right to refuse~~
24 ~~antipsychotic medications unless there is an additional concurring~~
25 ~~medical opinion approving medication.~~

26 ~~(c) For continued treatment beyond thirty days through the hearing~~
27 ~~on any petition filed under RCW 71.05.370(7), the right to periodic~~
28 ~~review of the decision to medicate by the medical director or designee.~~

29 ~~(d) Administration of antipsychotic medication in an emergency and~~
30 ~~review of this decision within twenty four hours. An emergency exists~~
31 ~~if the person presents an imminent likelihood of serious harm, and~~
32 ~~medically acceptable alternatives to administration of antipsychotic~~
33 ~~medications are not available or are unlikely to be successful; and in~~
34 ~~the opinion of the physician, the person's condition constitutes an~~
35 ~~emergency requiring the treatment be instituted prior to obtaining a~~
36 ~~second medical opinion.~~

1 ~~(e) Documentation in the medical record of the physician's attempt~~
2 ~~to obtain informed consent and the reasons why antipsychotic medication~~
3 ~~is being administered over the person's objection or lack of consent.))~~
4 The physician must attempt to obtain the informed consent of an
5 involuntary committed person prior to administration of antipsychotic
6 medication and document the attempt to obtain consent in the person's
7 medical record with the reasons that antipsychotic medication is
8 necessary.

9 (3) If an involuntary committed person refuses antipsychotic
10 medications, the medications may not be administered unless the person
11 has first had a hearing by a panel composed of a psychologist,
12 psychiatrist, and the medical director of the facility, none of whom
13 may be involved in the person's treatment at the time of the hearing.

14 (4) If a majority of the panel determines that there is clear,
15 coherent, and convincing evidence demonstrating that treatment with
16 antipsychotic medications is medically appropriate, that failure to
17 medicate may result in a likelihood of serious harm or substantial
18 deterioration or substantially prolong the length of involuntary
19 commitment, and that there is no less intrusive course of treatment
20 than medication in the best interest of that person, the person may be
21 medicated, subject to the provisions of subsections (5) through (7) of
22 this section.

23 (5) Medication ordered pursuant to a decision of the panel may only
24 be continued on an involuntary basis if the panel conducts a second
25 hearing on the written record and a majority of the panel determines
26 that there continues to be clear, coherent, and convincing evidence
27 demonstrating that treatment with antipsychotic medications continues
28 to be medically appropriate, that failure to medicate may result in a
29 likelihood of serious harm or substantial deterioration or
30 substantially prolong the length of involuntary commitment, and that
31 there is no less intrusive course of treatment than medication in the
32 best interest of that person.

33 (a) Following the second hearing, involuntary medication with
34 antipsychotic medication may be continued if the treating psychiatrist
35 certifies, not less than every fourteen days, that the medication
36 continues to be medically appropriate and failure to medicate may
37 result in a likelihood of serious harm or substantial deterioration or

1 substantially prolong the length of involuntary commitment, and that
2 there is no less intrusive course of treatment than medication in the
3 best interest of that person.

4 (b) No administrative order for involuntary medication may be
5 continued beyond one hundred eighty days, or the next commitment
6 proceeding in the superior court, whichever comes first.

7 (6) The committed person may appeal the panel's decision to the
8 medical director within twenty-four hours and the medical director must
9 decide the appeal within twenty-four hours of receipt.

10 (7) The committed person may seek judicial review of the medical
11 director's decision at the next commitment proceeding or by means of an
12 extraordinary writ.

13 (8) Minutes of the hearing shall be kept and a copy shall be
14 provided to the committed person.

15 (9) With regard to the involuntary medication hearing, the
16 committed person has the right:

17 (a) To notice at least twenty-four hours in advance of the hearing
18 that includes the intent to convene the hearing, the tentative
19 diagnosis and the factual basis for the diagnosis, and why the staff
20 believes that medication is necessary;

21 (b) Not to be medicated between the delivery of the notice and the
22 hearing;

23 (c) To attend the hearing;

24 (d) To present evidence, including witnesses, and to cross-examine
25 witnesses, including staff;

26 (e) To the assistance of a lay assistant, who is not involved in
27 the case and who understands psychiatric issues;

28 (f) To receive a copy of the minutes of the hearing; and

29 (g) To appeal the panel's decision to the medical director.

30 **Sec. 109.** RCW 71.05.370 and 1997 c 112 s 31 are each amended to
31 read as follows:

32 ~~((Insofar as danger to the individual or others is not created,~~
33 ~~each person involuntarily detained, treated in a less restrictive~~
34 ~~alternative course of treatment, or committed for treatment and~~
35 ~~evaluation pursuant to this chapter shall have, in addition to other~~
36 ~~rights not specifically withheld by law, the following rights, a list~~

1 of which shall be prominently posted in all facilities, institutions,
2 and hospitals providing such services:

3 (1) To wear his or her own clothes and to keep and use his or her
4 own personal possessions, except when deprivation of same is essential
5 to protect the safety of the resident or other persons;

6 (2) To keep and be allowed to spend a reasonable sum of his or her
7 own money for canteen expenses and small purchases;

8 (3) To have access to individual storage space for his or her
9 private use;

10 (4) To have visitors at reasonable times;

11 (5) To have reasonable access to a telephone, both to make and
12 receive confidential calls;

13 (6) To have ready access to letter writing materials, including
14 stamps, and to send and receive uncensored correspondence through the
15 mails;

16 (7) Not to consent to the administration of antipsychotic
17 medications beyond the hearing conducted pursuant to RCW 71.05.320(2)
18 or the performance of electroconvulsant therapy or surgery, except
19 emergency life saving surgery, unless ordered by a court of competent

20 jurisdiction)) (1) A court of competent jurisdiction may order that a
21 person involuntarily detained, or committed for inpatient treatment and
22 evaluation or to treatment in a less restrictive alternative pursuant
23 to this chapter be administered antipsychotic medications or the
24 performance of electroconvulsant therapy or surgery pursuant to the
25 following standards and procedures:

26 (a) The administration of antipsychotic medication or
27 electroconvulsant therapy shall not be ordered by the court unless the
28 petitioning party proves by clear, cogent, and convincing evidence that
29 ((there exists a compelling state interest that justifies overriding
30 the patient's lack of consent to the administration of antipsychotic
31 medications or electroconvulsant therapy, that the proposed treatment
32 is necessary and effective, and that medically acceptable alternative
33 forms of treatment are not available, have not been successful, or are
34 not likely to be effective)) treatment with antipsychotic medications
35 is medically appropriate, that failure to medicate may result in a
36 likelihood of serious harm or substantial deterioration or
37 substantially prolong the length of involuntary commitment, and that

1 there is no less intrusive course of treatment than medication or
2 electroconvulsive therapy in the best interest of the person.

3 (b) The court shall make specific findings of fact concerning: (i)
4 The existence of ~~((one or more compelling state interests))~~ the
5 likelihood of serious harm or substantial deterioration or
6 substantially prolonging the length of involuntary commitment; (ii) the
7 necessity and effectiveness of the treatment; ~~((and))~~ (iii) the
8 person's desires regarding the proposed treatment; and (iv) the best
9 interests of the person.

10 (c) If the ~~((patient))~~ person is unable to make a rational and
11 informed decision about consenting to or refusing the proposed
12 ~~((treatment))~~ electroconvulsive therapy, the court shall make a
13 substituted judgment for the patient as if he or she were competent to
14 make such a determination.

15 ~~((e))~~ (d) The person shall be present at any hearing on a request
16 to administer antipsychotic medication or electroconvulsant therapy
17 filed pursuant to this ~~((subsection))~~ section. The person has the
18 right:

- 19 (i) To be represented by an attorney;
- 20 (ii) To present evidence;
- 21 (iii) To cross-examine witnesses;
- 22 (iv) To have the rules of evidence enforced;
- 23 (v) To remain silent;
- 24 (vi) To view and copy all petitions and reports in the court file;

25 and

26 (vii) To be given reasonable notice and an opportunity to prepare
27 for the hearing.

28 (e) The court may appoint a psychiatrist, psychologist within their
29 scope of practice, or physician to examine and testify on behalf of
30 such person. The court shall appoint a psychiatrist, psychologist
31 within their scope of practice, or physician designated by such person
32 or the person's counsel to testify on behalf of the person in cases
33 where an order for electroconvulsant therapy is sought.

34 ~~((d))~~ (f) An order for the administration of antipsychotic
35 medications entered following a hearing conducted pursuant to this
36 section shall be effective for the period of the current involuntary
37 treatment order, and any interim period during which the person is

1 awaiting trial or hearing on a new petition for involuntary treatment
2 or involuntary medication.

3 ~~((e))~~ (2) Any person detained for a period of greater than ninety
4 days pursuant to RCW 71.05.320~~((2))~~, who subsequently refuses
5 antipsychotic medication, shall be entitled to the procedures set forth
6 in ~~((RCW 71.05.370(7))~~ subsection (1) of this section.

7 ~~((f))~~ (3) Antipsychotic medication may be administered to a
8 nonconsenting person detained or committed pursuant to this chapter
9 without a court order:

10 (a) Pursuant to RCW 71.05.215~~((2))~~; or

11 (b) Under the following circumstances:

12 (i) A person presents an imminent likelihood of serious harm;

13 (ii) Medically acceptable alternatives to administration of
14 antipsychotic medications are not available, have not been successful,
15 or are not likely to be effective; and

16 (iii) In the opinion of the physician with responsibility for
17 treatment of the person, or his or her designee, the person's condition
18 constitutes an emergency requiring the treatment be instituted before
19 a judicial hearing as authorized pursuant to this section can be held.

20 If antipsychotic medications are administered over a person's lack
21 of consent pursuant to (b) of this subsection, a petition for an order
22 authorizing the administration of antipsychotic medications shall be
23 filed on the next judicial day. The hearing shall be held within two
24 judicial days. If deemed necessary by the physician with
25 responsibility for the treatment of the person, administration of
26 antipsychotic medications may continue until the hearing is held;

27 ~~((8) To dispose of property and sign contracts unless such person~~
28 ~~has been adjudicated an incompetent in a court proceeding directed to~~
29 ~~that particular issue;~~

30 ~~(9) Not to have))~~ (4) No court has the authority to order
31 psychosurgery performed on ~~((him or her))~~ any person involuntarily
32 detained, treated in a less restrictive alternative course of
33 treatment, or committed for treatment and evaluation pursuant to this
34 chapter under any circumstances.

35 (5) A petition for involuntary medication may be joined with a
36 petition for involuntary treatment.

1 NEW SECTION. **Sec. 110.** RCW 71.05.370 is recodified as a new
2 section in chapter 71.05 RCW to be codified in proximity to RCW
3 71.05.215.

4 **Sec. 111.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and
5 2004 c 33 s 2 are each reenacted and amended to read as follows:

6 Except as provided in this section, RCW 71.05.445, 71.05.630,
7 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the
8 fact of admission and all information and records compiled, obtained,
9 or maintained in the course of providing services to either voluntary
10 or involuntary recipients of services at public or private agencies
11 shall be confidential.

12 Information and records may be disclosed only:

13 (1) In communications between qualified professional persons to
14 meet the requirements of this chapter, in the provision of services or
15 appropriate referrals, or in the course of guardianship proceedings.
16 The consent of the ((patient)) person, or his or her personal
17 representative or guardian, shall be obtained before information or
18 records may be disclosed by a professional person employed by a
19 facility unless provided to a professional person:

- 20 (a) Employed by the facility;
- 21 (b) Who has medical responsibility for the patient's care;
- 22 (c) Who is a ((county)) designated mental health professional;
- 23 (d) Who is providing services under chapter 71.24 RCW;
- 24 (e) Who is employed by a state or local correctional facility where
25 the person is confined or supervised; or
- 26 (f) Who is providing evaluation, treatment, or follow-up services
27 under chapter 10.77 RCW.

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

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

1 (6)(a) To the courts as necessary to the administration of this
2 chapter or to a court ordering an evaluation or treatment under chapter
3 10.77 RCW solely for the purpose of preventing the entry of any
4 evaluation or treatment order that is inconsistent with any order
5 entered under this chapter.

6 (b) To a court or its designee in which a motion under chapter
7 10.77 RCW has been made for involuntary medication of a defendant for
8 the purpose of competency restoration.

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

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

22 (b) To law enforcement officers, public health officers, or
23 personnel of the department of corrections or the indeterminate
24 sentence review board for persons who are the subject of the records
25 and who are committed to the custody or supervision of the department
26 of corrections or indeterminate sentence review board which information
27 or records are necessary to carry out the responsibilities of their
28 office. Except for dissemination of information released pursuant to
29 RCW 71.05.425 and 4.24.550, regarding persons committed under this
30 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of
31 a sex offense as defined in RCW 9.94A.030, the extent of information
32 that may be released is limited as follows:

33 ~~((a))~~ (i) Only the fact, place, and date of involuntary
34 commitment, the fact and date of discharge or release, and the last
35 known address shall be disclosed upon request;

36 ~~((b))~~ (ii) The law enforcement and public health officers or
37 personnel of the department of corrections or indeterminate sentence

1 review board shall be obligated to keep such information confidential
2 in accordance with this chapter;

3 ~~((e))~~ (iii) Additional information shall be disclosed only after
4 giving notice to said person and his or her counsel and upon a showing
5 of clear, cogent, and convincing evidence that such information is
6 necessary and that appropriate safeguards for strict confidentiality
7 are and will be maintained. However, in the event the said person has
8 escaped from custody, said notice prior to disclosure is not necessary
9 and that the facility from which the person escaped shall include an
10 evaluation as to whether the person is of danger to persons or property
11 and has a propensity toward violence;

12 ~~((d))~~ (iv) Information and records shall be disclosed to the
13 department of corrections pursuant to and in compliance with the
14 provisions of RCW 71.05.445 for the purposes of completing presentence
15 investigations or risk assessment reports, supervision of an
16 incarcerated offender or offender under supervision in the community,
17 planning for and provision of supervision of an offender, or assessment
18 of an offender's risk to the community; and

19 ~~((e))~~ (v) Disclosure under this subsection is mandatory for the
20 purposes of the health insurance portability and accountability act.

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

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

31 (10) To appropriate law enforcement agencies and to a person, when
32 the identity of the person is known to the public or private agency,
33 whose health and safety has been threatened, or who is known to have
34 been repeatedly harassed, by the patient. The person may designate a
35 representative to receive the disclosure. The disclosure shall be made
36 by the professional person in charge of the public or private agency or
37 his or her designee and shall include the dates of commitment,
38 admission, discharge, or release, authorized or unauthorized absence

1 from the agency's facility, and only such other information that is
2 pertinent to the threat or harassment. The decision to disclose or not
3 shall not result in civil liability for the agency or its employees so
4 long as the decision was reached in good faith and without gross
5 negligence.

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

12 (12) To the persons designated in RCW 71.05.425 for the purposes
13 described in that section.

14 (13) Civil liability and immunity for the release of information
15 about a particular person who is committed to the department under RCW
16 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
17 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

18 (14) (~~To a patient's next of kin, guardian, or conservator, if~~
19 ~~any, in the event of death, as provided in RCW 71.05.400.~~) Upon the
20 death of a person, his or her next of kin, personal representative,
21 guardian, or conservator, if any, shall be notified.

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

28 (15) To the department of health for the purposes of determining
29 compliance with state or federal licensure, certification, or
30 registration rules or laws. However, the information and records
31 obtained under this subsection are exempt from public inspection and
32 copying pursuant to chapter 42.17 RCW.

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

1 (17) When a patient would otherwise be subject to the provisions of
2 RCW 71.05.390 and disclosure is necessary for the protection of the
3 patient or others due to his or her unauthorized disappearance from the
4 facility, and his or her whereabouts is unknown, notice of such
5 disappearance, along with relevant information, may be made to
6 relatives, the department of corrections when the person is under the
7 supervision of the department, and governmental law enforcement
8 agencies designated by the physician in charge of the patient or the
9 professional person in charge of the facility, or his or her
10 professional designee.

11 Except as otherwise provided in this chapter, the uniform health
12 care information act, chapter 70.02 RCW, applies to all records and
13 information compiled, obtained, or maintained in the course of
14 providing services.

15 (18) The fact of admission, as well as all records, files,
16 evidence, findings, or orders made, prepared, collected, or maintained
17 pursuant to this chapter shall not be admissible as evidence in any
18 legal proceeding outside this chapter without the written consent of
19 the person who was the subject of the proceeding except in a subsequent
20 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
21 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
22 10.77 RCW due to incompetency to stand trial ((~~or~~)), in a civil
23 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of
24 a minor, a guardianship or dependency proceeding. The records and
25 files maintained in any court proceeding pursuant to this chapter shall
26 be confidential and available subsequent to such proceedings only to
27 the person who was the subject of the proceeding or his or her
28 attorney. In addition, the court may order the subsequent release or
29 use of such records or files only upon good cause shown if the court
30 finds that appropriate safeguards for strict confidentiality are and
31 will be maintained.

32 **Sec. 112.** RCW 71.05.420 and 1990 c 3 s 113 are each amended to
33 read as follows:

34 Except as provided in RCW 71.05.425, when any disclosure of
35 information or records is made as authorized by RCW 71.05.390 ((~~through~~
36 ~~71.05.410~~)), the physician in charge of the patient or the professional
37 person in charge of the facility shall promptly cause to be entered

1 into the patient's medical record the date and circumstances under
2 which said disclosure was made, the names and relationships to the
3 patient, if any, of the persons or agencies to whom such disclosure was
4 made, and the information disclosed.

5 **Sec. 113.** RCW 71.05.620 and 1989 c 205 s 12 are each amended to
6 read as follows:

7 ~~((1) Informed consent for disclosure of information from court or~~
8 ~~treatment records to an individual, agency, or organization must be in~~
9 ~~writing and must contain the following information:~~

10 ~~(a) The name of the individual, agency, or organization to which~~
11 ~~the disclosure is to be made;~~

12 ~~(b) The name of the individual whose treatment record is being~~
13 ~~disclosed;~~

14 ~~(c) The purpose or need for the disclosure;~~

15 ~~(d) The specific type of information to be disclosed;~~

16 ~~(e) The time period during which the consent is effective;~~

17 ~~(f) The date on which the consent is signed; and~~

18 ~~(g) The signature of the individual or person legally authorized to~~
19 ~~give consent for the individual.~~

20 ~~(2))~~ The files and records of court proceedings under this chapter
21 and chapters ((71.05)) 70.96A, 71.34, and 70.-- (sections 202 through
22 216 of this act) RCW shall be closed but shall be accessible to any
23 ~~((individual))~~ person who is the subject of a petition and to the
24 ~~((individual's))~~ person's attorney, guardian ad litem, resource
25 management services, or service providers authorized to receive such
26 information by resource management services.

27 **Sec. 114.** RCW 71.05.630 and 2000 c 75 s 5 are each amended to read
28 as follows:

29 (1) Except as otherwise provided by law, all treatment records
30 shall remain confidential~~((Treatment records))~~ and may be released
31 only to the persons designated in this section, or to other persons
32 designated in an informed written consent of the patient.

33 (2) Treatment records of ~~((an individual))~~ a person may be released
34 without informed written consent in the following circumstances:

35 (a) To ~~((an individual))~~ a person, organization, or agency as
36 necessary for management or financial audits, or program monitoring and

1 evaluation. Information obtained under this subsection shall remain
2 confidential and may not be used in a manner that discloses the name or
3 other identifying information about the ((~~individual~~)) person whose
4 records are being released.

5 (b) To the department, the director of regional support networks,
6 or a qualified staff member designated by the director only when
7 necessary to be used for billing or collection purposes. The
8 information shall remain confidential.

9 (c) For purposes of research as permitted in chapter 42.48 RCW.

10 (d) Pursuant to lawful order of a court.

11 (e) To qualified staff members of the department, to the director
12 of regional support networks, to resource management services
13 responsible for serving a patient, or to service providers designated
14 by resource management services as necessary to determine the progress
15 and adequacy of treatment and to determine whether the person should be
16 transferred to a less restrictive or more appropriate treatment
17 modality or facility. The information shall remain confidential.

18 (f) Within the treatment facility where the patient is receiving
19 treatment, confidential information may be disclosed to ((~~individuals~~))
20 persons employed, serving in bona fide training programs, or
21 participating in supervised volunteer programs, at the facility when it
22 is necessary to perform their duties.

23 (g) Within the department as necessary to coordinate treatment for
24 mental illness, developmental disabilities, alcoholism, or drug abuse
25 of ((~~individuals~~)) persons who are under the supervision of the
26 department.

27 (h) To a licensed physician who has determined that the life or
28 health of the ((~~individual~~)) person is in danger and that treatment
29 without the information contained in the treatment records could be
30 injurious to the patient's health. Disclosure shall be limited to the
31 portions of the records necessary to meet the medical emergency.

32 (i) To a facility that is to receive ((~~an individual~~)) a person who
33 is involuntarily committed under chapter 71.05 RCW, or upon transfer of
34 the ((~~individual~~)) person from one treatment facility to another. The
35 release of records under this subsection shall be limited to the
36 treatment records required by law, a record or summary of all somatic
37 treatments, and a discharge summary. The discharge summary may include

1 a statement of the patient's problem, the treatment goals, the type of
2 treatment which has been provided, and recommendation for future
3 treatment, but may not include the patient's complete treatment record.

4 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a
5 correctional facility or a corrections officer who is responsible for
6 the supervision of (~~(an individual)~~) a person who is receiving
7 inpatient or outpatient evaluation or treatment. Except as provided in
8 RCW 71.05.445 and 71.34.225, release of records under this section is
9 limited to:

10 (i) An evaluation report provided pursuant to a written supervision
11 plan.

12 (ii) The discharge summary, including a record or summary of all
13 somatic treatments, at the termination of any treatment provided as
14 part of the supervision plan.

15 (iii) When (~~(an individual)~~) a person is returned from a treatment
16 facility to a correctional facility, the information provided under
17 (j)(iv) of this subsection.

18 (iv) Any information necessary to establish or implement changes in
19 the (~~(individual's)~~) person's treatment plan or the level or kind of
20 supervision as determined by resource management services. In cases
21 involving a person transferred back to a correctional facility,
22 disclosure shall be made to clinical staff only.

23 (k) To the (~~(individual's)~~) person's counsel or guardian ad litem,
24 without modification, at any time in order to prepare for involuntary
25 commitment or recommitment proceedings, reexaminations, appeals, or
26 other actions relating to detention, admission, commitment, or
27 patient's rights under chapter 71.05 RCW.

28 (l) To staff members of the protection and advocacy agency or to
29 staff members of a private, nonprofit corporation for the purpose of
30 protecting and advocating the rights of persons with mental (~~(illness)~~)
31 disorders or developmental disabilities. Resource management services
32 may limit the release of information to the name, birthdate, and county
33 of residence of the patient, information regarding whether the patient
34 was voluntarily admitted, or involuntarily committed, the date and
35 place of admission, placement, or commitment, the name and address of
36 a guardian of the patient, and the date and place of the guardian's
37 appointment. Any staff member who wishes to obtain additional
38 information shall notify the patient's resource management services in

1 writing of the request and of the resource management services' right
2 to object. The staff member shall send the notice by mail to the
3 guardian's address. If the guardian does not object in writing within
4 fifteen days after the notice is mailed, the staff member may obtain
5 the additional information. If the guardian objects in writing within
6 fifteen days after the notice is mailed, the staff member may not
7 obtain the additional information.

8 (3) Whenever federal law or federal regulations restrict the
9 release of information contained in the treatment records of any
10 patient who receives treatment for (~~(alcoholism or drug)~~) chemical
11 dependency, the department may restrict the release of the information
12 as necessary to comply with federal law and regulations.

13 **Sec. 115.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to
14 read as follows:

15 (1) Procedures shall be established by resource management services
16 to provide reasonable and timely access to individual treatment
17 records. However, access may not be denied at any time to records of
18 all medications and somatic treatments received by the (~~(individual)~~)
19 person.

20 (2) Following discharge, the (~~(individual)~~) person shall have a
21 right to a complete record of all medications and somatic treatments
22 prescribed during evaluation, admission, or commitment and to a copy of
23 the discharge summary prepared at the time of his or her discharge. A
24 reasonable and uniform charge for reproduction may be assessed.

25 (3) Treatment records may be modified prior to inspection to
26 protect the confidentiality of other patients or the names of any other
27 persons referred to in the record who gave information on the condition
28 that his or her identity remain confidential. Entire documents may not
29 be withheld to protect such confidentiality.

30 (4) At the time of discharge all (~~(individuals)~~) persons shall be
31 informed by resource management services of their rights as provided in
32 RCW (~~(71.05.610)~~) 71.05.390 and 71.05.620 through 71.05.690.

33 **Sec. 116.** RCW 71.05.660 and 1989 c 205 s 16 are each amended to
34 read as follows:

35 Nothing in this chapter (~~(205, Laws of 1989)~~) or chapter 70.96A,

1 71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall
2 be construed to interfere with communications between physicians or
3 psychologists and patients and attorneys and clients.

4 NEW SECTION. Sec. 117. A new section is added to chapter 71.05
5 RCW to read as follows:

6 A petition for commitment under this chapter may be joined with a
7 petition for commitment under chapter 70.96A RCW.

8 **PART II**
9 **PILOT PROGRAMS**

10 NEW SECTION. Sec. 201. Sections 202 through 216 of this act
11 constitute a new chapter in Title 70 RCW.

12 NEW SECTION. Sec. 202. The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Admission" or "admit" means a decision by a physician that a
15 person should be examined or treated as a patient in a hospital, an
16 evaluation and treatment facility, or other inpatient facility, or a
17 decision by a professional person in charge or his or her designee that
18 a person should be detained as a patient for evaluation and treatment
19 in a secure detoxification facility or other certified chemical
20 dependency provider.

21 (2) "Antipsychotic medications" means that class of drugs primarily
22 used to treat serious manifestations of mental illness associated with
23 thought disorders, which includes but is not limited to atypical
24 antipsychotic medications.

25 (3) "Approved treatment program" means a discrete program of
26 chemical dependency treatment provided by a treatment program certified
27 by the department as meeting standards adopted under chapter 70.96A
28 RCW.

29 (4) "Attending staff" means any person on the staff of a public or
30 private agency having responsibility for the care and treatment of a
31 patient.

32 (5) "Chemical dependency" means:

- 33 (a) Alcoholism;
- 34 (b) Drug addiction; or

1 (c) Dependence on alcohol and one or more other psychoactive
2 chemicals, as the context requires.

3 (6) "Chemical dependency professional" means a person certified as
4 a chemical dependency professional by the department of health under
5 chapter 18.205 RCW.

6 (7) "Commitment" means the determination by a court that a person
7 should be detained for a period of either evaluation or treatment, or
8 both, in an inpatient or a less restrictive setting.

9 (8) "Conditional release" means a revocable modification of a
10 commitment that may be revoked upon violation of any of its terms.

11 (9) "Custody" means involuntary detention under either chapter
12 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of
13 unconditional release from commitment from a facility providing
14 involuntary care and treatment.

15 (10) "Department" means the department of social and health
16 services.

17 (11) "Designated chemical dependency specialist" or "specialist"
18 means a person designated by the county alcoholism and other drug
19 addiction program coordinator designated under RCW 70.96A.310 to
20 perform the commitment duties described in RCW 70.96A.140 and this
21 chapter, and qualified to do so by meeting standards adopted by the
22 department.

23 (12) "Designated crisis responder" means a person designated by the
24 county or regional support network to perform the duties specified in
25 this chapter.

26 (13) "Designated mental health professional" means a mental health
27 professional certified by the department per rules adopted by the
28 secretary and employed by or contracted with a regional support network
29 established under chapter 71.24 RCW.

30 (14) "Detention" or "detain" means the lawful confinement of a
31 person under this chapter, or chapter 70.96A or 71.05 RCW.

32 (15) "Developmental disabilities professional" means a person who
33 has specialized training and three years of experience in directly
34 treating or working with individuals with developmental disabilities
35 and is a psychiatrist, psychologist, or social worker, and such other
36 developmental disabilities professionals as may be defined by rules
37 adopted by the secretary.

1 (16) "Developmental disability" means that condition defined in RCW
2 71A.10.020.

3 (17) "Discharge" means the termination of facility authority. The
4 commitment may remain in place, be terminated, or be amended by court
5 order.

6 (18) "Evaluation and treatment facility" means any facility that
7 can provide directly, or by direct arrangement with other public or
8 private agencies, emergency evaluation and treatment, outpatient care,
9 and timely and appropriate inpatient care to persons suffering from a
10 mental disorder, and that is certified as such by the department. A
11 physically separate and separately operated portion of a state hospital
12 may be designated as an evaluation and treatment facility. A facility
13 that is part of, or operated by, the department or any federal agency
14 does not require certification. No correctional institution or
15 facility, or jail, may be an evaluation and treatment facility within
16 the meaning of this chapter.

17 (19) "Facility" means either an evaluation and treatment facility
18 or a secure detoxification facility.

19 (20) "Gravely disabled" means a condition in which a person, as a
20 result of a mental disorder, or as a result of the use of alcohol or
21 other psychoactive chemicals:

22 (a) Is in danger of serious physical harm resulting from a failure
23 to provide for his or her essential human needs of health or safety; or

24 (b) Manifests severe deterioration in routine functioning evidenced
25 by repeated and escalating loss of cognitive or volitional control over
26 his or her actions and is not receiving such care as is essential for
27 his or her health or safety.

28 (21) "History of one or more violent acts" refers to the period of
29 time ten years before the filing of a petition under this chapter, or
30 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any
31 violent acts committed, in a mental health facility or a long-term
32 alcoholism or drug treatment facility, or in confinement as a result of
33 a criminal conviction.

34 (22) "Intoxicated person" means a person whose mental or physical
35 functioning is substantially impaired as a result of the use of alcohol
36 or other psychoactive chemicals.

37 (23) "Judicial commitment" means a commitment by a court under this
38 chapter.

1 (24) "Licensed physician" means a person licensed to practice
2 medicine or osteopathic medicine and surgery in the state of
3 Washington.

4 (25) "Likelihood of serious harm" means:

5 (a) A substantial risk that:

6 (i) Physical harm will be inflicted by a person upon his or her own
7 person, as evidenced by threats or attempts to commit suicide or
8 inflict physical harm on oneself;

9 (ii) Physical harm will be inflicted by a person upon another, as
10 evidenced by behavior that has caused such harm or that places another
11 person or persons in reasonable fear of sustaining such harm; or

12 (iii) Physical harm will be inflicted by a person upon the property
13 of others, as evidenced by behavior that has caused substantial loss or
14 damage to the property of others; or

15 (b) The person has threatened the physical safety of another and
16 has a history of one or more violent acts.

17 (26) "Mental disorder" means any organic, mental, or emotional
18 impairment that has substantial adverse effects on a person's cognitive
19 or volitional functions.

20 (27) "Mental health professional" means a psychiatrist,
21 psychologist, psychiatric nurse, or social worker, and such other
22 mental health professionals as may be defined by rules adopted by the
23 secretary under the authority of chapter 71.05 RCW.

24 (28) "Peace officer" means a law enforcement official of a public
25 agency or governmental unit, and includes persons specifically given
26 peace officer powers by any state law, local ordinance, or judicial
27 order of appointment.

28 (29) "Person in charge" means a physician or chemical dependency
29 counselor as defined in rule by the department, who is empowered by a
30 certified treatment program with authority to make assessment,
31 admission, continuing care, and discharge decisions on behalf of the
32 certified program.

33 (30) "Private agency" means any person, partnership, corporation,
34 or association that is not a public agency, whether or not financed in
35 whole or in part by public funds, that constitutes an evaluation and
36 treatment facility or private institution, or hospital, or approved
37 treatment program, that is conducted for, or includes a department or

1 ward conducted for, the care and treatment of persons who are mentally
2 ill and/or chemically dependent.

3 (31) "Professional person" means a mental health professional or
4 chemical dependency professional and shall also mean a physician,
5 registered nurse, and such others as may be defined by rules adopted by
6 the secretary pursuant to the provisions of this chapter.

7 (32) "Psychiatric nurse" means a registered nurse who has a
8 bachelor's degree from an accredited college or university, and who
9 has, in addition, at least two years' experience in the direct
10 treatment of mentally ill or emotionally disturbed persons under the
11 supervision of a mental health professional. "Psychiatric nurse" also
12 means any other registered nurse who has three years of such
13 experience.

14 (33) "Psychiatrist" means a person having a license as a physician
15 and surgeon in this state who has in addition completed three years of
16 graduate training in psychiatry in a program approved by the American
17 medical association or the American osteopathic association and is
18 certified or eligible to be certified by the American board of
19 psychiatry and neurology.

20 (34) "Psychologist" means a person who has been licensed as a
21 psychologist under chapter 18.83 RCW.

22 (35) "Public agency" means any evaluation and treatment facility or
23 institution, or hospital, or approved treatment program that is
24 conducted for, or includes a department or ward conducted for, the care
25 and treatment of persons who are mentally ill and/or chemically
26 dependent, if the agency is operated directly by federal, state,
27 county, or municipal government, or a combination of such governments.

28 (36) "Registration records" means all the records of the
29 department, regional support networks, treatment facilities, and other
30 persons providing services to the department, county departments, or
31 facilities which identify persons who are receiving or who at any time
32 have received services for mental illness.

33 (37) "Release" means legal termination of the commitment under
34 chapter 70.96A or 71.05 RCW or this chapter.

35 (38) "Secretary" means the secretary of the department or the
36 secretary's designee.

37 (39) "Secure detoxification facility" means a facility operated by
38 either a public or private agency or by the program of an agency that

1 serves the purpose of providing evaluation and assessment, and acute
2 and/or subacute detoxification services for intoxicated persons and
3 includes security measures sufficient to protect the patients, staff,
4 and community.

5 (40) "Social worker" means a person with a master's or further
6 advanced degree from an accredited school of social work or a degree
7 deemed equivalent under rules adopted by the secretary, who is a
8 licensed independent clinical social worker.

9 (41) "Treatment records" means registration records and all other
10 records concerning persons who are receiving or who at any time have
11 received services for mental illness, which are maintained by the
12 department, by regional support networks and their staffs, and by
13 treatment facilities. Treatment records do not include notes or
14 records maintained for personal use by a person providing treatment
15 services for the department, regional support networks, or a treatment
16 facility if the notes or records are not available to others.

17 (42) "Violent act" means behavior that resulted in homicide,
18 attempted suicide, nonfatal injuries, or substantial damage to
19 property.

20 NEW SECTION. **Sec. 203.** (1) The secretary, after consulting with
21 the Washington state association of counties, shall select and contract
22 with regional support networks or counties to provide two integrated
23 crisis response and involuntary treatment pilot programs for adults and
24 shall allocate resources for both integrated services and secure
25 detoxification services in the pilot areas. In selecting the two
26 regional support networks or counties, the secretary shall endeavor to
27 site one in an urban and one in a rural regional support network or
28 county; and to site them in counties other than those selected pursuant
29 to section 220 of this act, to the extent necessary to facilitate
30 evaluation of pilot project results.

31 (2) The regional support networks or counties shall implement the
32 pilot programs by providing integrated crisis response and involuntary
33 treatment to persons with a chemical dependency, a mental disorder, or
34 both, consistent with this chapter. The pilot programs shall:

35 (a) Combine the crisis responder functions of a designated mental
36 health professional under chapter 71.05 RCW and a designated chemical

1 dependency specialist under chapter 70.96A RCW by establishing a new
2 designated crisis responder who is authorized to conduct investigations
3 and detain persons up to seventy-two hours to the proper facility;

4 (b) Provide training to the crisis responders as required by the
5 department;

6 (c) Provide sufficient staff and resources to ensure availability
7 of an adequate number of crisis responders twenty-four hours a day,
8 seven days a week;

9 (d) Provide the administrative and court-related staff, resources,
10 and processes necessary to facilitate the legal requirements of the
11 initial detention and the commitment hearings for persons with a
12 chemical dependency;

13 (e) Participate in the evaluation and report to assess the outcomes
14 of the pilot programs including providing data and information as
15 requested;

16 (f) Provide the other services necessary to the implementation of
17 the pilot programs, consistent with this chapter as determined by the
18 secretary in contract; and

19 (g) Collaborate with the department of corrections where persons
20 detained or committed are also subject to supervision by the department
21 of corrections.

22 (3) The pilot programs established by this section shall begin
23 providing services by March 1, 2006.

24 NEW SECTION. **Sec. 204.** To qualify as a designated crisis
25 responder, a person must have received chemical dependency training as
26 determined by the department and be a:

27 (1) Psychiatrist, psychologist, psychiatric nurse, or social
28 worker;

29 (2) Person with a master's degree or further advanced degree in
30 counseling or one of the social sciences from an accredited college or
31 university and who have, in addition, at least two years of experience
32 in direct treatment of persons with mental illness or emotional
33 disturbance, such experience gained under the direction of a mental
34 health professional;

35 (3) Person who meets the waiver criteria of RCW 71.24.260, which
36 waiver was granted before 1986;

1 (4) Person who had an approved waiver to perform the duties of a
2 mental health professional that was requested by the regional support
3 network and granted by the department before July 1, 2001; or

4 (5) Person who has been granted a time-limited exception of the
5 minimum requirements of a mental health professional by the department
6 consistent with rules adopted by the secretary.

7 NEW SECTION. **Sec. 205.** In addition to the provisions of this
8 chapter, a designated crisis responder has all the powers and duties of
9 a designated mental health professional as well as the powers and
10 duties of a designated chemical dependency specialist under RCW
11 70.96A.120.

12 NEW SECTION. **Sec. 206.** (1)(a) When a designated crisis responder
13 receives information alleging that a person, as a result of a mental
14 disorder, chemical dependency disorder, or both, presents a likelihood
15 of serious harm or is gravely disabled, the designated crisis responder
16 may, after investigation and evaluation of the specific facts alleged
17 and of the reliability and credibility of any person providing
18 information to initiate detention, if satisfied that the allegations
19 are true and that the person will not voluntarily seek appropriate
20 treatment, file a petition for initial detention. Before filing the
21 petition, the designated crisis responder must personally interview the
22 person, unless the person refuses an interview, and determine whether
23 the person will voluntarily receive appropriate evaluation and
24 treatment at either an evaluation and treatment facility, a
25 detoxification facility, or other certified chemical dependency
26 provider.

27 (b)(i)(A) Whenever it appears, by petition for initial detention,
28 to the satisfaction of a judge of the superior court that a person
29 presents as a result of a mental disorder, a likelihood of serious
30 harm, or is gravely disabled, and that the person has refused or failed
31 to accept appropriate evaluation and treatment voluntarily, the judge
32 may issue an order requiring the person to appear within twenty-four
33 hours after service of the order at a designated evaluation and
34 treatment facility for not more than a seventy-two hour evaluation and
35 treatment period; or

1 (B) Whenever it appears, by petition for initial detention, to the
2 satisfaction of a judge of the superior court, district court, or other
3 court permitted by court rule, that a person presents as a result of a
4 chemical dependency, a likelihood of serious harm, or is gravely
5 disabled, and that the person has refused or failed to accept
6 appropriate evaluation and treatment voluntarily, the judge may issue
7 an order requiring the person to appear within twenty-four hours after
8 service of the order at a secure detoxification facility or other
9 certified chemical dependency provider for not more than a seventy-two
10 hour evaluation and treatment period.

11 (ii) The order issued under this subsection (1)(b) shall state the
12 address of the evaluation and treatment facility, secure detoxification
13 facility, or other certified chemical dependency provider to which the
14 person is to report; whether the required seventy-two hour evaluation
15 and treatment services may be delivered on an outpatient or inpatient
16 basis; and that if the person named in the order fails to appear at the
17 evaluation and treatment facility, secure detoxification facility, or
18 other certified chemical dependency provider at or before the date and
19 time stated in the order, the person may be involuntarily taken into
20 custody for evaluation and treatment. The order shall also designate
21 retained counsel or, if counsel is appointed from a list provided by
22 the court, the name, business address, and telephone number of the
23 attorney appointed to represent the person.

24 (c) The designated crisis responder shall then serve or cause to be
25 served on such person, his or her guardian, and conservator, if any, a
26 copy of the order to appear, together with a notice of rights and a
27 petition for initial detention. After service on the person, the
28 designated crisis responder shall file the return of service in court
29 and provide copies of all papers in the court file to the evaluation
30 and treatment facility or secure detoxification facility and the
31 designated attorney. The designated crisis responder shall notify the
32 court and the prosecuting attorney that a probable cause hearing will
33 be held within seventy-two hours of the date and time of outpatient
34 evaluation or admission to the evaluation and treatment facility,
35 secure detoxification facility, or other certified chemical dependency
36 provider. The person shall be permitted to remain in his or her home
37 or other place of his or her choosing before the time of evaluation and
38 shall be permitted to be accompanied by one or more of his or her

1 relatives, friends, an attorney, a personal physician, or other
2 professional or religious advisor to the place of evaluation. An
3 attorney accompanying the person to the place of evaluation shall be
4 permitted to be present during the admission evaluation. Any other
5 person accompanying the person may be present during the admission
6 evaluation. The facility may exclude the person if his or her presence
7 would present a safety risk, delay the proceedings, or otherwise
8 interfere with the evaluation.

9 (d) If the person ordered to appear does appear on or before the
10 date and time specified, the evaluation and treatment facility, secure
11 detoxification facility, or other certified chemical dependency
12 provider may admit the person as required by subsection (3) of this
13 section or may provide treatment on an outpatient basis. If the person
14 ordered to appear fails to appear on or before the date and time
15 specified, the evaluation and treatment facility, secure detoxification
16 facility, or other certified chemical dependency provider shall
17 immediately notify the designated crisis responder who may notify a
18 peace officer to take the person or cause the person to be taken into
19 custody and placed in an evaluation and treatment facility, a secure
20 detoxification facility, or other certified chemical dependency
21 provider. Should the designated crisis responder notify a peace
22 officer authorizing the officer to take a person into custody under
23 this subsection, the designated crisis responder shall file with the
24 court a copy of the authorization and a notice of detention. At the
25 time the person is taken into custody there shall commence to be served
26 on the person, his or her guardian, and conservator, if any, a copy of
27 the original order together with a notice of detention, a notice of
28 rights, and a petition for initial detention.

29 (2) If a designated crisis responder receives information alleging
30 that a person, as the result of:

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

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

9 (3) If the designated crisis responder petitions for detention of
10 a person whose actions constitute a likelihood of serious harm, or who
11 is gravely disabled, the evaluation and treatment facility, the secure
12 detoxification facility, or other certified chemical dependency
13 provider providing seventy-two hour evaluation and treatment must
14 immediately accept on a provisional basis the petition and the person.
15 The evaluation and treatment facility, the secure detoxification
16 facility, or other certified chemical dependency provider shall then
17 evaluate the person's condition and admit, detain, transfer, or
18 discharge such person in accordance with this chapter. The facility
19 shall notify in writing the court and the designated crisis responder
20 of the date and time of the initial detention of each person
21 involuntarily detained so that a probable cause hearing will be held no
22 later than seventy-two hours after detention.

23 (4) A peace officer may, without prior notice of the proceedings
24 provided for in subsection (1) of this section, take or cause the
25 person to be taken into custody and immediately delivered to an
26 evaluation and treatment facility, secure detoxification facility,
27 other certified chemical dependency treatment provider only pursuant to
28 subsections (1)(d) and (2) of this section.

29 (5) Nothing in this chapter limits the power of a peace officer to
30 take a person into custody and immediately deliver the person to the
31 emergency department of a local hospital or to a detoxification
32 facility.

33 NEW SECTION. **Sec. 207.** (1) A person or public or private entity
34 employing a person is not civilly or criminally liable for performing
35 duties under this chapter if the duties were performed in good faith
36 and without gross negligence.

1 (2) This section does not relieve a person from giving the required
2 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
3 or to take reasonable precautions to provide protection from violent
4 behavior where the patient has communicated an actual threat of
5 physical violence against a reasonably identifiable victim or victims.
6 The duty to warn or to take reasonable precautions to provide
7 protection from violent behavior is discharged if reasonable efforts
8 are made to communicate the threat to the victim or victims and to law
9 enforcement personnel.

10 NEW SECTION. **Sec. 208.** If the evaluation and treatment facility,
11 secure detoxification facility, or other certified chemical dependency
12 provider admits the person, it may detain the person for evaluation and
13 treatment for a period not to exceed seventy-two hours from the time of
14 acceptance. The computation of the seventy-two hour period excludes
15 Saturdays, Sundays, and holidays.

16 NEW SECTION. **Sec. 209.** Whenever any person is detained for
17 evaluation and treatment for a mental disorder under section 206 of
18 this act, chapter 71.05 RCW applies.

19 NEW SECTION. **Sec. 210.** (1) A person detained for seventy-two hour
20 evaluation and treatment under section 206 of this act or RCW
21 70.96A.120 may be detained for not more than fourteen additional days
22 of involuntary chemical dependency treatment if there are beds
23 available at the secure detoxification facility and the following
24 conditions are met:

25 (a) The professional person in charge of the agency or facility or
26 the person's designee providing evaluation and treatment services in a
27 secure detoxification facility has assessed the person's condition and
28 finds that the condition is caused by chemical dependency and either
29 results in a likelihood of serious harm or in the detained person being
30 gravely disabled, and the professional person or his or her designee is
31 prepared to testify those conditions are met;

32 (b) The person has been advised of the need for voluntary treatment
33 and the professional person in charge of the agency or facility or his
34 or her designee has evidence that he or she has not in good faith
35 volunteered for treatment; and

1 (c) The professional person in charge of the agency or facility or
2 the person's designee has filed a petition for fourteen-day involuntary
3 detention with the superior court, district court, or other court
4 permitted by court rule. The petition must be signed by the chemical
5 dependency professional who has examined the person.

6 (2) The petition under subsection (1)(c) of this section shall be
7 accompanied by a certificate of a licensed physician who has examined
8 the person, unless the person whose commitment is sought has refused to
9 submit to a medical examination, in which case the fact of refusal
10 shall be alleged in the petition. The certificate shall set forth the
11 licensed physician's findings in support of the allegations of the
12 petition. A physician employed by the petitioning program or the
13 department is eligible to be the certifying physician.

14 (3) The petition shall state facts that support the finding that
15 the person, as a result of chemical dependency, presents a likelihood
16 of serious harm or is gravely disabled, and that there are no less
17 restrictive alternatives to detention in the best interest of the
18 person or others. The petition shall state specifically that less
19 restrictive alternative treatment was considered and specify why
20 treatment less restrictive than detention is not appropriate.

21 (4) A copy of the petition shall be served on the detained person,
22 his or her attorney, and his or her guardian or conservator, if any,
23 before the probable cause hearing.

24 (5)(a) The court shall inform the person whose commitment is sought
25 of his or her right to contest the petition, be represented by counsel
26 at every stage of any proceedings relating to his or her commitment,
27 and have counsel appointed by the court or provided by the court, if he
28 or she wants the assistance of counsel and is unable to obtain counsel.
29 If the court believes that the person needs the assistance of counsel,
30 the court shall require, by appointment if necessary, counsel for him
31 or her regardless of his or her wishes. The person shall, if he or she
32 is financially able, bear the costs of such legal service; otherwise
33 such legal service shall be at public expense. The person whose
34 commitment is sought shall be informed of his or her right to be
35 examined by a licensed physician of his or her choice. If the person
36 is unable to obtain a licensed physician and requests examination by a
37 physician, the court shall appoint a reasonably available licensed
38 physician designated by the person.

1 (b) At the conclusion of the probable cause hearing, if the court
2 finds by a preponderance of the evidence that the person, as the result
3 of chemical dependency, presents a likelihood of serious harm or is
4 gravely disabled and, after considering less restrictive alternatives
5 to involuntary detention and treatment, finds that no such alternatives
6 are in the best interest of such person or others, the court shall
7 order that the person be detained for involuntary chemical dependency
8 treatment not to exceed fourteen days in a secure detoxification
9 facility.

10 NEW SECTION. **Sec. 211.** If a person is detained for additional
11 treatment beyond fourteen days under section 210 of this act, the
12 professional staff of the agency or facility may petition for
13 additional treatment under RCW 70.96A.140.

14 NEW SECTION. **Sec. 212.** The prosecuting attorney of the county in
15 which an action under this chapter is taken must represent the
16 petitioner in judicial proceedings under this chapter for the
17 involuntary chemical dependency treatment of a person, including any
18 judicial proceeding where the person sought to be treated for chemical
19 dependency challenges the action.

20 NEW SECTION. **Sec. 213.** (1) Every person involuntarily detained or
21 committed under this chapter as a result of a mental disorder is
22 entitled to all the rights set forth in this chapter and in chapter
23 71.05 RCW, and retains all rights not denied him or her under this
24 chapter or chapter 71.05 RCW.

25 (2) Every person involuntarily detained or committed under this
26 chapter as a result of a chemical dependency is entitled to all the
27 rights set forth in this chapter and chapter 70.96A RCW, and retains
28 all rights not denied him or her under this chapter or chapter 70.96A
29 RCW.

30 NEW SECTION. **Sec. 214.** (1) When a designated crisis responder is
31 notified by a jail that a defendant or offender who was subject to a
32 discharge review under RCW 71.05.232 is to be released to the
33 community, the designated crisis responder shall evaluate the person
34 within seventy-two hours of release.

1 (2) When an offender is under court-ordered treatment in the
2 community and the supervision of the department of corrections, and the
3 treatment provider becomes aware that the person is in violation of the
4 terms of the court order, the treatment provider shall notify the
5 designated crisis responder of the violation and request an evaluation
6 for purposes of revocation of the less restrictive alternative.

7 (3) When a designated crisis responder becomes aware that an
8 offender who is under court-ordered treatment in the community and the
9 supervision of the department of corrections is in violation of a
10 treatment order or a condition of supervision that relates to public
11 safety, or the designated crisis responder detains a person under this
12 chapter, the designated crisis responder shall notify the person's
13 treatment provider and the department of corrections.

14 (4) When an offender who is confined in a state correctional
15 facility or is under supervision of the department of corrections in
16 the community is subject to a petition for involuntary treatment under
17 this chapter, the petitioner shall notify the department of corrections
18 and the department of corrections shall provide documentation of its
19 risk assessment or other concerns to the petitioner and the court if
20 the department of corrections classified the offender as a high risk or
21 high needs offender.

22 (5) Nothing in this section creates a duty on any treatment
23 provider or designated crisis responder to provide offender
24 supervision.

25 NEW SECTION. **Sec. 215.** The secretary may adopt rules to implement
26 this chapter.

27 NEW SECTION. **Sec. 216.** The provisions of RCW 71.05.550 apply to
28 this chapter.

29 NEW SECTION. **Sec. 217.** (1) The Washington state institute for
30 public policy shall evaluate the pilot programs and make a preliminary
31 report to appropriate committees of the legislature by December 1,
32 2007, and a final report by September 30, 2008.

33 (2) The evaluation of the pilot programs shall include:

34 (a) Whether the designated crisis responder pilot program:

1 (i) Has increased efficiency of evaluation and treatment of persons
2 involuntarily detained for seventy-two hours;

3 (ii) Is cost-effective;

4 (iii) Results in better outcomes for persons involuntarily
5 detained;

6 (iv) Increased the effectiveness of the crisis response system in
7 the pilot catchment areas;

8 (b) The effectiveness of providing a single chapter in the Revised
9 Code of Washington to address initial detention of persons with mental
10 disorders or chemical dependency, in crisis response situations and the
11 likelihood of effectiveness of providing a single, comprehensive
12 involuntary treatment act.

13 (3) The reports shall consider the impact of the pilot programs on
14 the existing mental health system and on the persons served by the
15 system.

16 **Sec. 218.** RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each
17 amended to read as follows:

18 The department of social and health services, in planning and
19 providing funding to counties pursuant to chapter 71.24 RCW, shall
20 recognize the financial necessities imposed upon counties by
21 implementation of this chapter and chapter 70.-- RCW (sections 202
22 through 216 of this act), and shall consider needs, if any, for
23 additional community mental health services and facilities and
24 reduction in commitments to state hospitals for the mentally ill
25 accomplished by individual counties, in planning and providing such
26 funding. The state shall provide financial assistance to the counties
27 to enable the counties to meet all increased costs, if any, to the
28 counties resulting from their administration of the provisions of
29 chapter 142, Laws of 1973 1st ex. sess.

30 NEW SECTION. **Sec. 219.** Sections 202 through 216 of this act
31 expire July 1, 2008.

32 NEW SECTION. **Sec. 220.** A new section is added to chapter 70.96A
33 RCW to read as follows:

34 (1) The secretary shall select and contract with counties to
35 provide intensive case management for chemically dependent persons with

1 histories of high utilization of crisis services at two sites. In
2 selecting the two sites, the secretary shall endeavor to site one in an
3 urban county, and one in a rural county; and to site them in counties
4 other than those selected pursuant to section 203 of this act, to the
5 extent necessary to facilitate evaluation of pilot project results.

6 (2) The contracted sites shall implement the pilot programs by
7 providing intensive case management to persons with a primary chemical
8 dependency diagnosis or dual primary chemical dependency and mental
9 health diagnoses, through the employment of chemical dependency case
10 managers. The chemical dependency case managers shall:

11 (a) Be trained in and use the integrated, comprehensive screening
12 and assessment process adopted under section 701 of this act;

13 (b) Reduce the use of crisis medical, chemical dependency and
14 mental health services, including but not limited to, emergency room
15 admissions, hospitalizations, detoxification programs, inpatient
16 psychiatric admissions, involuntary treatment petitions, emergency
17 medical services, and ambulance services;

18 (c) Reduce the use of emergency first responder services including
19 police, fire, emergency medical, and ambulance services;

20 (d) Reduce the number of criminal justice interventions including
21 arrests, violations of conditions of supervision, bookings, jail days,
22 prison sanction day for violations, court appearances, and prosecutor
23 and defense costs;

24 (e) Where appropriate and available, work with therapeutic courts
25 including drug courts and mental health courts to maximize the outcomes
26 for the individual and reduce the likelihood of reoffense;

27 (f) Coordinate with local offices of the economic services
28 administration to assist the person in accessing and remaining enrolled
29 in those programs to which the person may be entitled;

30 (g) Where appropriate and available, coordinate with primary care
31 and other programs operated through the federal government including
32 federally qualified health centers, Indian health programs, and
33 veterans' health programs for which the person is eligible to reduce
34 duplication of services and conflicts in case approach;

35 (h) Where appropriate, advocate for the client's needs to assist
36 the person in achieving and maintaining stability and progress toward
37 recovery;

1 (i) Document the numbers of persons with co-occurring mental and
2 substance abuse disorders and the point of determination of the co-
3 occurring disorder by quadrant of intensity of need; and

4 (j) Where a program participant is under supervision by the
5 department of corrections, collaborate with the department of
6 corrections to maximize treatment outcomes and reduce the likelihood of
7 reoffense.

8 (3) The pilot programs established by this section shall begin
9 providing services by March 1, 2006.

10 (4) This section expires June 30, 2008.

11 **PART III**

12 **MENTAL HEALTH SERVICES FOR MINORS**

13 **Sec. 301.** RCW 71.34.042 and 1998 c 296 s 14 are each amended to
14 read as follows:

15 (1) An evaluation and treatment facility may admit for evaluation,
16 diagnosis, or treatment any minor under thirteen years of age for whom
17 application is made by the minor's parent or guardian. The consent of
18 the minor under the age of thirteen is not required.

19 (2) A minor thirteen years or older may admit himself or herself to
20 an evaluation and treatment facility for inpatient mental treatment,
21 without parental consent. The admission shall occur only if the
22 professional person in charge of the facility concurs with the need for
23 inpatient treatment.

24 ((+2)) (3) When, in the judgment of the professional person in
25 charge of an evaluation and treatment facility, there is reason to
26 believe that a minor is in need of inpatient treatment because of a
27 mental disorder, and the facility provides the type of evaluation and
28 treatment needed by the minor, and it is not feasible to treat the
29 minor in any less restrictive setting or the minor's home, the minor
30 may be admitted to an evaluation and treatment facility.

31 ((+3)) (4) Written renewal of voluntary consent must be obtained
32 from the applicant no less than once every twelve months. The minor's
33 need for continued inpatient treatments shall be reviewed and
34 documented no less than every one hundred eighty days.

1 **Sec. 302.** RCW 71.34.052 and 1998 c 296 s 17 are each amended to
2 read as follows:

3 (1) A parent may bring, or authorize the bringing of, his or her
4 minor child, age thirteen or older, to an evaluation and treatment
5 facility and request that the professional person examine the minor to
6 determine whether the minor has a mental disorder and is in need of
7 inpatient treatment.

8 (2) The consent of the minor is not required for admission,
9 evaluation, and treatment if the parent brings the minor to the
10 facility.

11 (3) An appropriately trained professional person may evaluate
12 whether the minor has a mental disorder. The evaluation shall be
13 completed within twenty-four hours of the time the minor was brought to
14 the facility, unless the professional person determines that the
15 condition of the minor necessitates additional time for evaluation. In
16 no event shall a minor be held longer than seventy-two hours for
17 evaluation. If, in the judgment of the professional person, it is
18 determined it is a medical necessity for the minor to receive inpatient
19 treatment, the minor may be held for treatment. The facility shall
20 limit treatment to that which the professional person determines is
21 medically necessary to stabilize the minor's condition until the
22 evaluation has been completed. Within twenty-four hours of completion
23 of the evaluation, the professional person shall notify the department
24 if the child is held for treatment and of the date of admission.

25 (4) No provider is obligated to provide treatment to a minor under
26 the provisions of this section. No provider may admit a minor to
27 treatment under this section unless it is medically necessary.

28 (5) No minor receiving inpatient treatment under this section may
29 be discharged from the facility based solely on his or her request.

30 (6) Prior to the review conducted under RCW 71.34.025, the
31 professional person shall notify the minor of his or her right to
32 petition superior court for release from the facility.

33 (7) For the purposes of this section "professional person" does not
34 include a social worker, unless the social worker is certified under
35 RCW 18.19.110 and appropriately trained and qualified by education and
36 experience, as defined by the department, in psychiatric social work.

1 **Sec. 303.** RCW 71.34.054 and 1998 c 296 s 18 are each amended to
2 read as follows:

3 (1) A parent may bring, or authorize the bringing of, his or her
4 minor child, age thirteen or older, to a provider of outpatient mental
5 health treatment and request that an appropriately trained professional
6 person examine the minor to determine whether the minor has a mental
7 disorder and is in need of outpatient treatment.

8 (2) The consent of the minor is not required for evaluation if the
9 parent brings the minor to the provider.

10 (3) The professional person may evaluate whether the minor has a
11 mental disorder and is in need of outpatient treatment.

12 (4) Any minor admitted to inpatient treatment under RCW 71.34.042
13 or 71.34.052 shall be discharged immediately from inpatient treatment
14 upon written request of the parent.

15 **Sec. 304.** RCW 71.34.025 and 1998 c 296 s 9 are each amended to
16 read as follows:

17 (1) The department shall assure that, for any minor admitted to
18 inpatient treatment under RCW 71.34.052, a review is conducted by a
19 physician or other mental health professional who is employed by the
20 department, or an agency under contract with the department, and who
21 neither has a financial interest in continued inpatient treatment of
22 the minor nor is affiliated with the facility providing the treatment.
23 The physician or other mental health professional shall conduct the
24 review not less than (~~seven~~) three nor more than (~~fourteen~~) seven
25 days following the date the minor was brought to the facility under RCW
26 71.34.052 to determine whether it is a medical necessity to continue
27 the minor's treatment on an inpatient basis.

28 (2) In making a determination under subsection (1) of this section,
29 the department shall consider the opinion of the treatment provider,
30 the safety of the minor, and the likelihood the minor's mental health
31 will deteriorate if released from inpatient treatment. The department
32 shall consult with the parent in advance of making its determination.

33 (3) If, after any review conducted by the department under this
34 section, the department determines it is no longer a medical necessity
35 for a minor to receive inpatient treatment, the department shall
36 immediately notify the parents and the facility. The facility shall
37 release the minor to the parents within twenty-four hours of receiving

1 notice. If the professional person in charge and the parent believe
2 that it is a medical necessity for the minor to remain in inpatient
3 treatment, the minor shall be released to the parent on the second
4 judicial day following the department's determination (~~in order to~~
5 ~~allow the parent time to file an at-risk youth petition under chapter~~
6 ~~13.32A RCW~~). If the department determines it is a medical necessity
7 for the minor to receive outpatient treatment and the minor declines to
8 obtain such treatment, such refusal shall be grounds for the parent to
9 file an at-risk youth petition.

10 (4) If the evaluation conducted under RCW 71.34.052 is done by the
11 department, the reviews required by subsection (1) of this section
12 shall be done by contract with an independent agency.

13 (5) The department may, subject to available funds, contract with
14 other governmental agencies to conduct the reviews under this section.
15 The department may seek reimbursement from the parents, their
16 insurance, or medicaid for the expense of any review conducted by an
17 agency under contract.

18 (6) In addition to the review required under this section, the
19 department may periodically determine and redetermine the medical
20 necessity of treatment for purposes of payment with public funds.

21 **Sec. 305.** RCW 71.34.162 and 1998 c 296 s 19 are each amended to
22 read as follows:

23 Following the review conducted under RCW 71.34.025, a minor child
24 may petition the superior court for his or her release from the
25 facility. (~~The petition may be filed not sooner than five days~~
26 ~~following the review.~~) The court shall release the minor unless it
27 finds, upon a preponderance of the evidence, that it is a medical
28 necessity for the minor to remain at the facility.

29 **Sec. 306.** RCW 71.34.270 and 1985 c 354 s 27 are each amended to
30 read as follows:

31 No public or private agency or governmental entity, nor officer of
32 a public or private agency, nor the superintendent, or professional
33 person in charge, his or her professional designee or attending staff
34 of any such agency, nor any public official performing functions
35 necessary to the administration of this chapter, nor peace officer
36 responsible for detaining a person under this chapter, nor any

1 ((~~county~~)) designated mental health professional, nor professional
2 person, nor evaluation and treatment facility, shall be civilly or
3 criminally liable for performing his or her duties under this chapter
4 with regard to the decision of whether to admit, release, or detain a
5 person for evaluation and treatment: PROVIDED, That such duties were
6 performed in good faith and without gross negligence.

7 NEW SECTION. Sec. 307. (1) The code reviser shall recodify, as
8 necessary, the following sections of chapter 71.34 RCW in the following
9 order, using the indicated subchapter headings:

10 General

11 71.34.010

12 71.34.020

13 71.34.140

14 71.34.032

15 71.34.250

16 71.34.280

17 71.34.260

18 71.34.240

19 71.34.230

20 71.34.210

21 71.34.200

22 71.34.225

23 71.34.220

24 71.34.160

25 71.34.190

26 71.34.170

27 71.34.290

28 71.34.056

29 71.34.800

30 71.34.805

31 71.34.810

32 71.34.015

33 71.34.027

34 71.34.130

35 71.34.270

36 Minor-Initiated Treatment

37 71.34.042

1 71.34.044
2 71.34.046
3 71.34.030
4 Parent-Initiated Treatment
5 71.34.052
6 71.34.025
7 71.34.162
8 71.34.164
9 71.34.035
10 71.34.054
11 Involuntary Commitment
12 71.34.040
13 71.34.050
14 71.34.060
15 71.34.070
16 71.34.080
17 71.34.090
18 71.34.100
19 71.34.120
20 71.34.110
21 71.34.150
22 71.34.180
23 Technical
24 71.34.900
25 71.34.901

26 (2) The code reviser shall correct all statutory references to
27 sections recodified by this section.

28 **PART IV**
29 **TREATMENT GAP**

30 NEW SECTION. **Sec. 401.** A new section is added to chapter 70.96A
31 RCW to read as follows:

32 (1) The division of alcohol and substance abuse shall increase its
33 capacity to serve adults who meet chemical dependency treatment
34 criteria and who are enrolled in medicaid as follows:

35 (a) In fiscal year 2006, the division of alcohol and substance
36 abuse shall serve forty percent of the calculated need; and

1 (b) In fiscal year 2007, the division of alcohol and substance
2 abuse shall serve sixty percent of the calculated need.

3 (2) The division of alcohol and substance abuse shall increase its
4 capacity to serve minors who have passed their twelfth birthday and who
5 are not yet eighteen, who are under two hundred percent of the federal
6 poverty level as follows:

7 (a) In fiscal year 2006, the division of alcohol and substance
8 abuse shall serve forty percent of the calculated need; and

9 (b) In fiscal year 2007, the division of alcohol and substance
10 abuse shall serve sixty percent of the calculated need.

11 (3) For purposes of this section, "calculated need" means the
12 percentage of the population under two hundred percent of the federal
13 poverty level in need of chemical dependency services as determined in
14 the 2003 Washington state needs assessment study.

15 NEW SECTION. **Sec. 402.** A new section is added to chapter 70.96A
16 RCW to read as follows:

17 (1) Not later than January 1, 2007, all persons providing treatment
18 under this chapter shall also implement the integrated comprehensive
19 screening and assessment process for chemical dependency and mental
20 disorders adopted pursuant to section 701 of this act and shall
21 document the numbers of clients with co-occurring mental and substance
22 abuse disorders based on a quadrant system of low and high needs.

23 (2) Treatment providers contracted to provide treatment under this
24 chapter who fail to implement the integrated comprehensive screening
25 and assessment process for chemical dependency and mental disorders by
26 July 1, 2007, are subject to contractual penalties established under
27 section 701 of this act.

28 NEW SECTION. **Sec. 403.** A new section is added to chapter 13.34
29 RCW to read as follows:

30 The department of social and health services and the department of
31 health shall develop and expand comprehensive services for drug-
32 affected and alcohol-affected mothers and infants. Subject to funds
33 appropriated for this purpose, the expansion shall be in evidence-
34 based, research-based, or consensus-based practices, as those terms are
35 defined in section 703 of this act, and shall expand capacity in
36 underserved regions of the state.

1 inappropriate acute care facilities and released without an appropriate
2 placement or have been treated or detained for extended periods in
3 inappropriate settings including state hospitals and correctional
4 facilities. The legislature further finds that some of these persons
5 present complex safety and treatment issues that require security
6 measures that cannot be instituted under most facility licenses or
7 supported housing programs. These include the ability to detain
8 persons under involuntary treatment orders or administer court ordered
9 medications.

10 Consequently, the legislature intends, subject to funds
11 appropriated specifically for this purpose, to establish a new type of
12 facility licensed by the department of social and health services as an
13 enhanced services facility with standards that will provide a safe,
14 secure treatment environment for a limited population of persons who
15 are not appropriately served in other facilities or programs. The
16 legislature also finds that enhanced services facilities may need to
17 specialize in order to effectively care for a particular segment of the
18 identified population.

19 For the purposes of this chapter, an enhanced services facility is
20 governed by the same provisions in chapter 71.05 RCW as an evaluation
21 and treatment facility, provided that the enhanced services facility
22 will serve only individuals for which it is certified.

23 NEW SECTION. **Sec. 503.** The definitions in this section apply
24 throughout this chapter unless the context clearly requires otherwise.

25 (1) "Antipsychotic medications" means that class of drugs primarily
26 used to treat serious manifestations of mental illness associated with
27 thought disorders, which includes but is not limited to atypical
28 antipsychotic medications.

29 (2) "Attending staff" means any person on the staff of a public or
30 private agency having responsibility for the care and treatment of a
31 patient.

32 (3) "Chemical dependency" means alcoholism, drug addiction, or
33 dependence on alcohol and one or more other psychoactive chemicals, as
34 the context requires and as those terms are defined in chapter 70.96A
35 RCW.

36 (4) "Chemical dependency professional" means a person certified as

1 a chemical dependency professional by the department of health under
2 chapter 18.205 RCW.

3 (5) "Commitment" means the determination by a court that an
4 individual should be detained for a period of either evaluation or
5 treatment, or both, in an inpatient or a less restrictive setting.

6 (6) "Conditional release" means a modification of a commitment that
7 may be revoked upon violation of any of its terms.

8 (7) "Custody" means involuntary detention under chapter 71.05 or
9 70.96A RCW, uninterrupted by any period of unconditional release from
10 commitment from a facility providing involuntary care and treatment.

11 (8) "Department" means the department of social and health
12 services.

13 (9) "Designated responder" means a designated mental health
14 professional, a designated chemical dependency specialist, or a
15 designated crisis responder as those terms are defined in chapter
16 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

17 (10) "Detention" or "detain" means the lawful confinement of an
18 individual under chapter 70.96A or 71.05 RCW.

19 (11) "Discharge" means the termination of facility authority. The
20 commitment may remain in place, be terminated, or be amended by court
21 order.

22 (12) "Enhanced services facility" means a facility that provides
23 treatment and services to persons for whom acute inpatient treatment is
24 not medically necessary and who have been determined by the department
25 to be inappropriate for placement in other licensed facilities due to
26 the complex needs that result in behavioral and security issues.

27 (13) "Expanded community services program" means a nonsecure
28 program of enhanced behavioral and residential support provided to
29 long-term and residential care providers serving specifically eligible
30 clients who would otherwise be at risk for hospitalization at state
31 hospital geriatric units.

32 (14) "Facility" means an enhanced services facility.

33 (15) "Gravely disabled" means a condition in which an individual,
34 as a result of a mental disorder, as a result of the use of alcohol or
35 other psychoactive chemicals, or both:

36 (a) Is in danger of serious physical harm resulting from a failure
37 to provide for his or her essential human needs of health or safety; or

1 (b) Manifests severe deterioration in routine functioning evidenced
2 by repeated and escalating loss of cognitive or volitional control over
3 his or her actions and is not receiving such care as is essential for
4 his or her health or safety.

5 (16) "History of one or more violent acts" refers to the period of
6 time ten years before the filing of a petition under this chapter, or
7 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any
8 violent acts committed, in a mental health facility or a long-term
9 alcoholism or drug treatment facility, or in confinement as a result of
10 a criminal conviction.

11 (17) "Licensed physician" means a person licensed to practice
12 medicine or osteopathic medicine and surgery in the state of
13 Washington.

14 (18) "Likelihood of serious harm" means:

15 (a) A substantial risk that:

16 (i) Physical harm will be inflicted by an individual upon his or
17 her own person, as evidenced by threats or attempts to commit suicide
18 or inflict physical harm on oneself;

19 (ii) Physical harm will be inflicted by an individual upon another,
20 as evidenced by behavior that has caused such harm or that places
21 another person or persons in reasonable fear of sustaining such harm;
22 or

23 (iii) Physical harm will be inflicted by an individual upon the
24 property of others, as evidenced by behavior that has caused
25 substantial loss or damage to the property of others; or

26 (b) The individual has threatened the physical safety of another
27 and has a history of one or more violent acts.

28 (19) "Mental disorder" means any organic, mental, or emotional
29 impairment that has substantial adverse effects on an individual's
30 cognitive or volitional functions.

31 (20) "Mental health professional" means a psychiatrist,
32 psychologist, psychiatric nurse, or social worker, and such other
33 mental health professionals as may be defined by rules adopted by the
34 secretary under the authority of chapter 71.05 RCW.

35 (21) "Professional person" means a mental health professional and
36 also means a physician, registered nurse, and such others as may be
37 defined in rules adopted by the secretary pursuant to the provisions of
38 this chapter.

1 (22) "Psychiatric nurse" means:
2 (a) A registered nurse who has a bachelor's degree from an
3 accredited college or university and who has had, in addition, at least
4 two years of experience in the direct treatment of mentally ill or
5 emotionally disturbed persons under the supervision of a mental health
6 professional; or
7 (b) Any other registered nurse who has three years of such
8 experience.

9 (23) "Psychiatrist" means a person having a license as a physician
10 and surgeon in this state who has in addition completed three years of
11 graduate training in psychiatry in a program approved by the American
12 medical association or the American osteopathic association and is
13 certified or eligible to be certified by the American board of
14 psychiatry and neurology.

15 (24) "Psychologist" means a person who has been licensed as a
16 psychologist under chapter 18.83 RCW.

17 (25) "Registration records" include all the records of the
18 department, regional support networks, treatment facilities, and other
19 persons providing services to the department, county departments, or
20 facilities which identify individuals who are receiving or who at any
21 time have received services for mental illness.

22 (26) "Release" means legal termination of the commitment under
23 chapter 70.96A or 71.05 RCW.

24 (27) "Resident" means a person admitted to an enhanced services
25 facility.

26 (28) "Secretary" means the secretary of the department or the
27 secretary's designee.

28 (29) "Significant change" means:
29 (a) A deterioration in a resident's physical, mental, or
30 psychosocial condition that has caused or is likely to cause clinical
31 complications or life-threatening conditions; or
32 (b) An improvement in the resident's physical, mental, or
33 psychosocial condition that may make the resident eligible for release
34 or for treatment in a less intensive or less secure setting.

35 (30) "Social worker" means a person with a master's or further
36 advanced degree from an accredited school of social work or a degree
37 deemed equivalent under rules adopted by the secretary, who is a
38 licensed independent clinical social worker.

1 (31) "Treatment" means the broad range of emergency,
2 detoxification, residential, inpatient, and outpatient services and
3 care, including diagnostic evaluation, mental health or chemical
4 dependency education and counseling, medical, psychiatric,
5 psychological, and social service care, vocational rehabilitation, and
6 career counseling, which may be extended to persons with mental
7 disorders, chemical dependency disorders, or both, and their families.

8 (32) "Treatment records" include registration and all other records
9 concerning individuals who are receiving or who at any time have
10 received services for mental illness, which are maintained by the
11 department, by regional support networks and their staffs, and by
12 treatment facilities. "Treatment records" do not include notes or
13 records maintained for personal use by an individual providing
14 treatment services for the department, regional support networks, or a
15 treatment facility if the notes or records are not available to others.

16 (33) "Violent act" means behavior that resulted in homicide,
17 attempted suicide, nonfatal injuries, or substantial damage to
18 property.

19 NEW SECTION. **Sec. 504.** A facility shall honor an advance
20 directive including a mental health advance directive that was validly
21 executed pursuant to chapter 71.32 RCW.

22 NEW SECTION. **Sec. 505.** (1) An individual is not eligible for
23 admission to an enhanced services facility if his or her treatment
24 needs can be adequately addressed in an adult residential
25 rehabilitation center, a boarding home, an adult family home, a group
26 home, a nursing home, or a supported housing program, including an
27 expanded community services program or a program for assertive
28 community treatment.

29 (2) A person who is eligible for admission to or residence in an
30 adult residential rehabilitation center, a boarding home, a group home,
31 a skilled nursing facility, or a supported housing program, including
32 an expanded community services program or a program for assertive
33 community treatment is not eligible for residence in an enhanced
34 services facility unless his or her treatment needs cannot adequately
35 be addressed in the other facility or facilities for which he or she is
36 eligible.

1 (3) A person, eighteen years old or older, may be admitted to an
2 enhanced services facility if he or she meets the criteria in (a)
3 through (c) of this subsection:

4 (a) The person requires: (i) Daily care by or under the
5 supervision of a mental health professional, chemical dependency
6 professional, or nurse; or (ii) assistance with three or more
7 activities of daily living; and

8 (b) The person has: (i) A mental disorder, chemical dependency
9 disorder, or both; (ii) an organic or traumatic brain injury; or (iii)
10 a cognitive impairment that results in symptoms or behaviors requiring
11 supervision and facility services;

12 (c) The person has two or more of the following:

13 (i) Self-endangering behaviors that are frequent or difficult to
14 manage;

15 (ii) Aggressive, threatening, or assaultive behaviors that create
16 a risk to the health or safety of other residents or staff, or a
17 significant risk to property and these behaviors are frequent or
18 difficult to manage;

19 (iii) Intrusive behaviors that put residents or staff at risk;

20 (iv) Complex medication needs and those needs include psychotropic
21 medications;

22 (v) A history of or likelihood of unsuccessful placements in other
23 licensed facilities or a history of rejected applications for admission
24 to other licensed facilities based on the person's behaviors, history,
25 or security needs;

26 (vi) A history of frequent or protracted mental health
27 hospitalizations;

28 (vii) A history of offenses against a person or felony offenses
29 that created substantial damage to property;

30 (viii) A history of other problematic placements and other
31 symptoms, as defined in rules adopted by the department.

32 NEW SECTION. **Sec. 506.** (1)(a) Every person who is a resident of
33 an enhanced services facility or is involuntarily detained or committed
34 under the provisions of this chapter shall be entitled to all the
35 rights set forth in this chapter, and chapters 71.05 and 70.96A RCW,
36 and shall retain all rights not denied him or her under these chapters.

1 (b) No person shall be presumed incompetent as a consequence of
2 receiving an evaluation or voluntary or involuntary treatment for a
3 mental disorder, chemical dependency disorder, or both, under this
4 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this
5 state dealing with mental illness. Competency shall not be determined
6 or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

7 (c) Every resident of an enhanced services facility shall be given
8 a written statement setting forth the substance of this section.

9 (2) Every resident of an enhanced services facility shall have the
10 right to adequate care and individualized treatment.

11 (3) The provisions of this chapter shall not be construed to deny
12 to any person treatment by spiritual means through prayer in accordance
13 with the tenets and practices of a church or religious denomination.

14 (4) Persons receiving evaluation or treatment under this chapter
15 shall be given a reasonable choice of an available physician or other
16 professional person qualified to provide such services.

17 (5) The physician-patient privilege or the psychologist-client
18 privilege shall be deemed waived in proceedings under this chapter
19 relating to the administration of antipsychotic medications. As to
20 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the
21 privileges shall be waived when a court of competent jurisdiction in
22 its discretion determines that such waiver is necessary to protect
23 either the detained person or the public.

24 (6) Insofar as danger to the person or others is not created, each
25 resident of an enhanced services facility shall have, in addition to
26 other rights not specifically withheld by law, the following rights, a
27 list of which shall be prominently posted in all facilities,
28 institutions, and hospitals providing such services:

29 (a) To wear his or her own clothes and to keep and use his or her
30 own personal possessions, except when deprivation of same is essential
31 to protect the safety of the resident or other persons;

32 (b) To keep and be allowed to spend a reasonable sum of his or her
33 own money for canteen expenses and small purchases;

34 (c) To have access to individual storage space for his or her
35 private use;

36 (d) To have visitors at reasonable times;

37 (e) To have reasonable access to a telephone, both to make and

1 receive confidential calls, consistent with an effective treatment
2 program;

3 (f) To have ready access to letter writing materials, including
4 stamps, and to send and receive uncensored correspondence through the
5 mails;

6 (g) Not to consent to the administration of antipsychotic
7 medications beyond the hearing conducted pursuant to section 108 or 109
8 of this act, or the performance of electroconvulsant therapy, or
9 surgery, except emergency life-saving surgery, unless ordered by a
10 court under section 109 of this act;

11 (h) To discuss treatment plans and decisions with professional
12 persons;

13 (i) Not to have psychosurgery performed on him or her under any
14 circumstances;

15 (j) To dispose of property and sign contracts unless such person
16 has been adjudicated an incompetent in a court proceeding directed to
17 that particular issue.

18 (7) Nothing contained in this chapter shall prohibit a resident
19 from petitioning by writ of habeas corpus for release.

20 (8) Nothing in this section permits any person to knowingly violate
21 a no-contact order or a condition of an active judgment and sentence or
22 active supervision by the department of corrections.

23 NEW SECTION. **Sec. 507.** A person who is gravely disabled or
24 presents a likelihood of serious harm as a result of a mental or
25 chemical dependency disorder or co-occurring mental and chemical
26 dependency disorders has a right to refuse antipsychotic medication.
27 Antipsychotic medication may be administered over the person's
28 objections only pursuant to RCW 71.05.215 or 71.05.370 (as recodified
29 by this act).

30 NEW SECTION. **Sec. 508.** (1)(a) The department shall not license an
31 enhanced services facility that serves any residents under sixty-five
32 years of age for a capacity to exceed sixteen residents.

33 (b) The department may license and contract for services for the
34 operation of enhanced services facilities only to the extent that funds
35 are specifically provided for that purpose.

1 (2) The facility shall provide an appropriate level of security for
2 the characteristics, behaviors, and legal status of the residents.

3 (3) An enhanced services facility may hold only one license but, to
4 the extent permitted under state and federal law and medicaid
5 requirements, a facility may be located in the same building as another
6 licensed facility, provided that:

7 (a) The enhanced services facility is in a location that is totally
8 separate and discrete from the other licensed facility; and

9 (b) The two facilities maintain separate staffing, unless an
10 exception to this is permitted by the department in rule.

11 (4) Nursing homes under chapter 18.51 RCW, boarding homes under
12 chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that
13 become licensed as facilities under this chapter shall be deemed to
14 meet the applicable state and local rules, regulations, permits, and
15 code requirements. All other facilities are required to meet all
16 applicable state and local rules, regulations, permits, and code
17 requirements.

18 NEW SECTION. **Sec. 509.** (1) The enhanced services facility shall
19 complete a comprehensive assessment for each resident within fourteen
20 days of admission, and the assessments shall be completed upon a
21 significant change in the resident's condition or, at a minimum, every
22 one hundred eighty days if there is no significant change in condition.

23 (2) The enhanced services facility shall develop an individualized
24 treatment plan for each resident based on the comprehensive assessment
25 and any other information in the person's record. The plan shall be
26 updated as necessary and shall include a plan for appropriate transfer
27 or discharge. Where the person is under the supervision of the
28 department of corrections, the facility shall collaborate with the
29 department of corrections to maximize treatment outcomes and reduce the
30 likelihood of reoffense.

31 (3) The plan shall maximize the opportunities for independence,
32 recovery, employment, the resident's participation in treatment
33 decisions, and collaboration with peer-supported services, and provide
34 for care and treatment in the least restrictive manner appropriate to
35 the individual resident, and, where relevant, to any court orders with
36 which the resident must comply.

1 NEW SECTION. **Sec. 510.** (1) An enhanced services facility must
2 have sufficient numbers of staff with the appropriate credentials and
3 training to provide residents with the appropriate care and treatment:

- 4 (a) Mental health treatment;
- 5 (b) Medication services;
- 6 (c) Assistance with the activities of daily living;
- 7 (d) Medical or habilitative treatment;
- 8 (e) Dietary services;
- 9 (f) Security; and
- 10 (g) Chemical dependency treatment.

11 (2) Where an enhanced services facility specializes in medically or
12 functionally fragile persons with mental disorders, the on-site staff
13 must include at least one licensed nurse twenty-four hours per day.
14 The nurse must be a registered nurse for at least sixteen hours per
15 day. If the nurse is not a registered nurse, a registered nurse or a
16 doctor must be on-call during the remaining eight hours.

17 (3) Any employee or other individual who will have unsupervised
18 access to vulnerable adults must successfully pass a background inquiry
19 check.

20 NEW SECTION. **Sec. 511.** This chapter does not apply to the
21 following residential facilities:

- 22 (1) Nursing homes licensed under chapter 18.51 RCW;
- 23 (2) Boarding homes licensed under chapter 18.20 RCW;
- 24 (3) Adult family homes licensed under chapter 70.128 RCW;
- 25 (4) Facilities approved and certified under chapter 71A.22 RCW;
- 26 (5) Residential treatment facilities licensed under chapter 71.12
27 RCW; and
- 28 (6) Hospitals licensed under chapter 70.41 RCW.

29 NEW SECTION. **Sec. 512.** (1) The department shall establish
30 licensing rules for enhanced services facilities to serve the
31 populations defined in this chapter. In order for the identified
32 populations to be more effectively served, licensing rules shall
33 provide for the facility to specialize in a particular segment to be
34 served including but not necessarily limited to persons with the
35 following needs: (a) Mental health; (b) chemical dependency; (c)
36 developmental disabilities; (d) long-term care medically and

1 functionally fragile individuals with mental disorders; (e) traumatic
2 brain injury; (f) neurological; or (g) any combination of (a) through
3 (f) of this subsection as long as residents can be safely and
4 adequately served.

5 (2) No person or public or private agency may operate or maintain
6 an enhanced services facility without a license, which must be renewed
7 annually.

8 (3) A licensee shall have the following readily accessible and
9 available for review by the department, residents, families of
10 residents, and the public:

11 (a) Its license to operate and a copy of the department's most
12 recent inspection report and any recent complaint investigation reports
13 issued by the department;

14 (b) Its written policies and procedures for all treatment, care,
15 and services provided directly or indirectly by the facility; and

16 (c) The department's toll-free complaint number, which shall also
17 be posted in a clearly visible place and manner.

18 (4) No facility shall discriminate or retaliate in any manner
19 against a resident or employee because the resident, employee, or any
20 other person made a complaint or provided information to the
21 department, the long-term care ombudsman, or a mental health
22 ombudsperson.

23 NEW SECTION. **Sec. 513.** (1) In any case in which the department
24 finds that a licensee of a facility, or any partner, officer, director,
25 owner of five percent or more of the assets of the facility, or
26 managing employee failed or refused to comply with the requirements of
27 this chapter or the rules established under them, the department may
28 take any or all of the following actions:

29 (a) Suspend, revoke, or refuse to issue or renew a license;

30 (b) Order stop placement; or

31 (c) Assess civil monetary penalties.

32 (2) The department may suspend, revoke, or refuse to renew a
33 license, assess civil monetary penalties, or both, in any case in which
34 it finds that the licensee of a facility, or any partner, officer,
35 director, owner of five percent or more of the assets of the facility,
36 or managing employee:

1 (a) Operated a facility without a license or under a revoked or
2 suspended license;

3 (b) Knowingly or with reason to know made a false statement of a
4 material fact in the license application or any data attached thereto,
5 or in any matter under investigation by the department;

6 (c) Refused to allow representatives or agents of the department to
7 inspect all books, records, and files required to be maintained or any
8 portion of the premises of the facility;

9 (d) Willfully prevented, interfered with, or attempted to impede in
10 any way the work of any duly authorized representative of the
11 department and the lawful enforcement of any provision of this chapter;

12 (e) Willfully prevented or interfered with any representative of
13 the department in the preservation of evidence of any violation of any
14 of the provisions of this chapter or of the rules adopted under it; or

15 (f) Failed to pay any civil monetary penalty assessed by the
16 department under this chapter within ten days after the assessment
17 becomes final.

18 (3)(a) Civil penalties collected under this chapter shall be
19 deposited into a special fund administered by the department.

20 (b) Civil monetary penalties, if imposed, may be assessed and
21 collected, with interest, for each day the facility is or was out of
22 compliance. Civil monetary penalties shall not exceed three thousand
23 dollars per day. Each day upon which the same or a substantially
24 similar action occurs is a separate violation subject to the assessment
25 of a separate penalty.

26 (4) The department may use the civil penalty monetary fund for the
27 protection of the health or property of residents of facilities found
28 to be deficient including:

29 (a) Payment for the cost of relocation of residents to other
30 facilities;

31 (b) Payment to maintain operation of a facility pending correction
32 of deficiencies or closure; and

33 (c) Reimbursement of a resident for personal funds or property
34 loss.

35 (5)(a) The department may issue a stop placement order on a
36 facility, effective upon oral or written notice, when the department
37 determines:

1 (i) The facility no longer substantially meets the requirements of
2 this chapter; and

3 (ii) The deficiency or deficiencies in the facility:
4 (A) Jeopardizes the health and safety of the residents; or
5 (B) Seriously limits the facility's capacity to provide adequate
6 care.

7 (b) When the department has ordered a stop placement, the
8 department may approve a readmission to the facility from a hospital,
9 residential treatment facility, or crisis intervention facility when
10 the department determines the readmission would be in the best interest
11 of the individual seeking readmission.

12 (6) If the department determines that an emergency exists and
13 resident health and safety is immediately jeopardized as a result of a
14 facility's failure or refusal to comply with this chapter, the
15 department may summarily suspend the facility's license and order the
16 immediate closure of the facility, or the immediate transfer of
17 residents, or both.

18 (7) If the department determines that the health or safety of the
19 residents is immediately jeopardized as a result of a facility's
20 failure or refusal to comply with requirements of this chapter, the
21 department may appoint temporary management to:

22 (a) Oversee the operation of the facility; and
23 (b) Ensure the health and safety of the facility's residents while:
24 (i) Orderly closure of the facility occurs; or
25 (ii) The deficiencies necessitating temporary management are
26 corrected.

27 NEW SECTION. **Sec. 514.** (1) All orders of the department denying,
28 suspending, or revoking the license or assessing a monetary penalty
29 shall become final twenty days after the same has been served upon the
30 applicant or licensee unless a hearing is requested.

31 (2) All orders of the department imposing stop placement, temporary
32 management, emergency closure, emergency transfer, or summary license
33 suspension shall be effective immediately upon notice, pending any
34 hearing.

35 (3) Subject to the requirements of subsection (2) of this section,
36 all hearings under this chapter and judicial review of such

1 determinations shall be in accordance with the administrative procedure
2 act, chapter 34.05 RCW.

3 NEW SECTION. **Sec. 515.** Operation of a facility without a license
4 in violation of this chapter and discrimination against medicaid
5 recipients is a matter vitally affecting the public interest for the
6 purpose of applying the consumer protection act, chapter 19.86 RCW.
7 Operation of an enhanced services facility without a license in
8 violation of this chapter is not reasonable in relation to the
9 development and preservation of business. Such a violation is an
10 unfair or deceptive act in trade or commerce and an unfair method of
11 competition for the purpose of applying the consumer protection act,
12 chapter 19.86 RCW.

13 NEW SECTION. **Sec. 516.** A person operating or maintaining a
14 facility without a license under this chapter is guilty of a
15 misdemeanor and each day of a continuing violation after conviction
16 shall be considered a separate offense.

17 NEW SECTION. **Sec. 517.** Notwithstanding the existence or use of
18 any other remedy, the department may, in the manner provided by law,
19 maintain an action in the name of the state for an injunction, civil
20 penalty, or other process against a person to restrain or prevent the
21 operation or maintenance of a facility without a license issued under
22 this chapter.

23 NEW SECTION. **Sec. 518.** (1) The department shall make or cause to
24 be made at least one inspection of each facility prior to licensure and
25 an unannounced full inspection of facilities at least once every
26 eighteen months. The statewide average interval between full facility
27 inspections must be fifteen months.

28 (2) Any duly authorized officer, employee, or agent of the
29 department may enter and inspect any facility at any time to determine
30 that the facility is in compliance with this chapter and applicable
31 rules, and to enforce any provision of this chapter. Complaint
32 inspections shall be unannounced and conducted in such a manner as to
33 ensure maximum effectiveness. No advance notice shall be given of any
34 inspection unless authorized or required by federal law.

1 (3) During inspections, the facility must give the department
2 access to areas, materials, and equipment used to provide care or
3 support to residents, including resident and staff records, accounts,
4 and the physical premises, including the buildings, grounds, and
5 equipment. The department has the authority to privately interview the
6 provider, staff, residents, and other individuals familiar with
7 resident care and treatment.

8 (4) Any public employee giving advance notice of an inspection in
9 violation of this section shall be suspended from all duties without
10 pay for a period of not less than five nor more than fifteen days.

11 (5) The department shall prepare a written report describing the
12 violations found during an inspection, and shall provide a copy of the
13 inspection report to the facility.

14 (6) The facility shall develop a written plan of correction for any
15 violations identified by the department and provide a plan of
16 correction to the department within ten working days from the receipt
17 of the inspection report.

18 NEW SECTION. **Sec. 519.** The facility shall only admit individuals:

19 (1) Who are over the age of eighteen;

20 (2) Who meet the resident eligibility requirements described in
21 section 505 of this act; and

22 (3) Whose needs the facility can safely and appropriately meet
23 through qualified and trained staff, services, equipment, security, and
24 building design.

25 NEW SECTION. **Sec. 520.** If the facility does not employ a
26 qualified professional able to furnish needed services, the facility
27 must have a written contract with a qualified professional or agency
28 outside the facility to furnish the needed services.

29 NEW SECTION. **Sec. 521.** At least sixty days before the effective
30 date of any change of ownership, or change of management of a facility,
31 the current operating entity must provide written notification about
32 the proposed change separately and in writing, to the department, each
33 resident of the facility, or the resident's guardian or representative.

34 NEW SECTION. **Sec. 522.** The facility shall:

1 (1) Maintain adequate resident records to enable the provision of
2 necessary treatment, care, and services and to respond appropriately in
3 emergency situations;

4 (2) Comply with all state and federal requirements related to
5 documentation, confidentiality, and information sharing, including
6 chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and

7 (3) Where possible, obtain signed releases of information
8 designating the department, the facility, and the department of
9 corrections where the person is under its supervision, as recipients of
10 health care information.

11 NEW SECTION. **Sec. 523.** (1) Standards for fire protection and the
12 enforcement thereof, with respect to all facilities licensed under this
13 chapter, are the responsibility of the chief of the Washington state
14 patrol, through the director of fire protection, who must adopt
15 recognized standards as applicable to facilities for the protection of
16 life against the cause and spread of fire and fire hazards. If the
17 facility to be licensed meets with the approval of the chief of the
18 Washington state patrol, through the director of fire protection, the
19 director of fire protection must submit to the department a written
20 report approving the facility with respect to fire protection before a
21 full license can be issued. The chief of the Washington state patrol,
22 through the director of fire protection, shall conduct an unannounced
23 full inspection of facilities at least once every eighteen months. The
24 statewide average interval between full facility inspections must be
25 fifteen months.

26 (2) Inspections of facilities by local authorities must be
27 consistent with the requirements adopted by the chief of the Washington
28 state patrol, through the director of fire protection. Findings of a
29 serious nature must be coordinated with the department and the chief of
30 the Washington state patrol, through the director of fire protection,
31 for determination of appropriate actions to ensure a safe environment
32 for residents. The chief of the Washington state patrol, through the
33 director of fire protection, has exclusive authority to determine
34 appropriate corrective action under this section.

35 NEW SECTION. **Sec. 524.** No facility providing care and treatment
36 for individuals placed in a facility, or agency licensing or placing

1 residents in a facility, acting in the course of its duties, shall be
2 civilly or criminally liable for performing its duties under this
3 chapter, provided that such duties were performed in good faith and
4 without gross negligence.

5 NEW SECTION. **Sec. 525.** (1) The secretary shall adopt rules to
6 implement this chapter.

7 (2) Such rules shall at the minimum: (a) Promote safe treatment
8 and adequate care of individuals residing in the facility and provide
9 for safe, comfortable, and clean conditions; (b) establish licensee
10 qualifications, licensing and enforcement, and license fees; and (c)
11 establish payment rates for facility services.

12 **PART VI**

13 **FORENSIC AND CORRECTIONAL**

14 **Drug and Mental Health Courts**

15
16 NEW SECTION. **Sec. 601.** A new section is added to chapter 2.28 RCW
17 to read as follows:

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

19 (2) For the purposes of this section, "mental health court" means
20 a court that has special calendars or dockets designed to achieve a
21 reduction in recidivism and symptoms of mental illness among
22 nonviolent, mentally ill felony and nonfelony offenders by increasing
23 their likelihood for successful rehabilitation through early,
24 continuous, and intense judicially supervised treatment including drug
25 treatment for persons with co-occurring disorders; mandatory periodic
26 reviews, including drug testing if indicated; and the use of
27 appropriate sanctions and other rehabilitation services.

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

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

32 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
33 for mental health court programs with local cash or in-kind resources.
34 Moneys allocated by the state must be used to supplement, not supplant,

1 other federal, state, and local funds for mental health court
2 operations and associated services.

3 (b) Any county that establishes a mental health court pursuant to
4 this section shall establish minimum requirements for the participation
5 of offenders in the program. The mental health court may adopt local
6 requirements that are more stringent than the minimum. The minimum
7 requirements are:

8 (i) The offender would benefit from psychiatric treatment;

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

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

14 (A) That is a sex offense;

15 (B) That is a serious violent offense;

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

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

19 NEW SECTION. **Sec. 602.** A new section is added to chapter 2.28 RCW
20 to read as follows:

21 Any county that has established a drug court and a mental health
22 court under this chapter may combine the functions of both courts into
23 a single therapeutic court.

24 NEW SECTION. **Sec. 603.** A new section is added to chapter 26.12
25 RCW to read as follows:

26 (1) Every county that authorizes the tax provided in section 904 of
27 this act shall, and every county may, establish and operate a
28 therapeutic court component for dependency proceedings designed to be
29 effective for the court's size, location, and resources. A county with
30 a drug court for criminal cases or with a mental health court may
31 include a therapeutic court for dependency proceedings as a component
32 of its existing program.

33 (2) For the purposes of this section, "therapeutic court" means a
34 court that has special calendars or dockets designed for the intense
35 judicial supervision, coordination, and oversight of treatment provided

1 to parents and families who have substance abuse or mental health
2 problems and who are involved in the dependency and is designed to
3 achieve a reduction in:

- 4 (a) Child abuse and neglect;
- 5 (b) Out-of-home placement of children;
- 6 (c) Termination of parental rights; and
- 7 (d) Substance abuse or mental health symptoms among parents or
8 guardians and their children.

9 (3) To the extent possible, the therapeutic court shall provide
10 services for parents and families co-located with the court or as near
11 to the court as practicable.

12 (4) The department of social and health services shall furnish
13 services to the therapeutic court unless a court contracts with
14 providers outside of the department.

15 (5) Any jurisdiction that receives a state appropriation to fund a
16 therapeutic court must first exhaust all federal funding available for
17 the development and operation of the therapeutic court and associated
18 services.

19 (6) Moneys allocated by the state for a therapeutic court must be
20 used to supplement, not supplant, other federal, state, local, and
21 private funding for court operations and associated services under this
22 section.

23 (7) Any county that establishes a therapeutic court or receives
24 funds for an existing court under this section shall:

25 (a) Establish minimum requirements for the participation in the
26 program; and

27 (b) Develop an evaluation component of the court, including
28 tracking the success rates in graduating from treatment, reunifying
29 parents with their children, and the costs and benefits of the court.

30 **Sec. 604.** RCW 2.28.170 and 2002 c 290 s 13 are each amended to
31 read as follows:

32 (1) Counties may establish and operate drug courts.

33 (2) For the purposes of this section, "drug court" means a court
34 that has special calendars or dockets designed to achieve a reduction
35 in recidivism and substance abuse among nonviolent, substance abusing
36 felony and nonfelony offenders by increasing their likelihood for

1 successful rehabilitation through early, continuous, and intense
2 judicially supervised treatment; mandatory periodic drug testing; and
3 the use of appropriate sanctions and other rehabilitation services.

4 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
5 drug court program must first:

6 (i) Exhaust all federal funding (~~received from the office of~~
7 ~~national drug control policy~~) that is available to support the
8 operations of its drug court and associated services; and

9 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
10 for drug court programs with local cash or in-kind resources. Moneys
11 allocated by the state must be used to supplement, not supplant, other
12 federal, state, and local funds for drug court operations and
13 associated services.

14 (b) Any county that establishes a drug court pursuant to this
15 section shall establish minimum requirements for the participation of
16 offenders in the program. The drug court may adopt local requirements
17 that are more stringent than the minimum. The minimum requirements
18 are:

19 (i) The offender would benefit from substance abuse treatment;

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

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

25 (A) That is a sex offense;

26 (B) That is a serious violent offense;

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

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

30 **Regional Jails**

31 NEW SECTION. **Sec. 605.** (1) The joint legislative audit and review
32 committee shall investigate and assess whether there are existing
33 facilities in the state that could be converted to use as a regional
34 jail for offenders who have mental or chemical dependency disorders, or
35 both, that need specialized housing and treatment arrangements.

1 (2) The joint legislative audit and review committee shall consider
2 the feasibility of using at least the following facilities or types of
3 facilities:

- 4 (a) State-owned or operated facilities; and
- 5 (b) Closed or abandoned nursing homes.

6 (3) The analysis shall include an assessment of when such
7 facilities could be available for use as a regional jail and the
8 potential costs, costs avoided, and benefits of at least the following
9 considerations:

- 10 (a) Any impact on existing offenders or residents;
- 11 (b) The conversion of the facilities;
- 12 (c) Infrastructure tied to the facilities;
- 13 (d) Whether the facility is, or can be, sized proportionately to
14 the available pool of offenders;
- 15 (e) Changes in criminal justice costs, including transport, access
16 to legal assistance, and access to courts;
- 17 (f) Reductions in jail populations; and
- 18 (g) Changes in treatment costs for these offenders.

19 (4) The joint legislative audit and review committee shall report
20 its findings and recommendations to the appropriate committees of the
21 legislature not later than December 15, 2005.

22 **Competency and Criminal Insanity**

23 NEW SECTION. **Sec. 606.** By January 1, 2006, the department of
24 social and health services shall:

25 (1) Reduce the waiting times for competency evaluation and
26 restoration to the maximum extent possible using funds appropriated for
27 this purpose; and

28 (2) Report to the legislature with an analysis of several
29 alternative strategies for addressing increases in forensic population
30 and minimizing waiting periods for competency evaluation and
31 restoration. The report shall discuss, at a minimum, the costs and
32 advantages of, and barriers to co-locating professional persons in
33 jails, performing restoration treatment in less restrictive
34 alternatives than the state hospitals, and the use of regional jail
35 facilities to accomplish competency evaluation and restoration.

1 **ESSB 6358 Implementation Issues**

2 **Sec. 607.** RCW 71.05.157 and 2004 c 166 s 16 are each amended to
3 read as follows:

4 (1) When a ((~~county~~)) designated mental health professional is
5 notified by a jail that a defendant or offender who was subject to a
6 discharge review under RCW 71.05.232 is to be released to the
7 community, the ((~~county~~)) designated mental health professional shall
8 evaluate the person within seventy-two hours of release.

9 (2) When an offender is under court-ordered treatment in the
10 community and the supervision of the department of corrections, and the
11 treatment provider becomes aware that the person is in violation of the
12 terms of the court order, the treatment provider shall notify the
13 ((~~county~~)) designated mental health professional and the department of
14 corrections of the violation and request an evaluation for purposes of
15 revocation of the less restrictive alternative.

16 (3) When a ((~~county~~)) designated mental health professional becomes
17 aware that an offender who is under court-ordered treatment in the
18 community and the supervision of the department of corrections is in
19 violation of a treatment order or a condition of supervision that
20 relates to public safety, or the ((~~county~~)) designated mental health
21 professional detains a person under this chapter, the ((~~county~~))
22 designated mental health professional shall notify the person's
23 treatment provider and the department of corrections.

24 (4) When an offender who is confined in a state correctional
25 facility or is under supervision of the department of corrections in
26 the community is subject to a petition for involuntary treatment under
27 this chapter, the petitioner shall notify the department of corrections
28 and the department of corrections shall provide documentation of its
29 risk assessment or other concerns to the petitioner and the court if
30 the department of corrections classified the offender as a high risk or
31 high needs offender.

32 (5) Nothing in this section creates a duty on any treatment
33 provider or ((~~county~~)) designated mental health professional to provide
34 offender supervision.

35 NEW SECTION. **Sec. 608.** A new section is added to chapter 70.96A
36 RCW to read as follows:

1 (1) Treatment providers shall inquire of each person seeking
2 treatment, at intake, whether the person is subject to court ordered
3 mental health or chemical dependency treatment, whether civil or
4 criminal, and document the person's response in his or her record. If
5 the person is in treatment on the effective date of this section, and
6 the treatment provider has not inquired whether the person is subject
7 to court ordered mental health or chemical dependency treatment, the
8 treatment provider shall inquire on the person's next treatment session
9 and document the person's response in his or her record.

10 (2) Treatment providers shall inquire of each person seeking
11 treatment, at intake, whether the person is subject to supervision of
12 any kind by the department of corrections and document the person's
13 response in his or her record. If the person is in treatment on the
14 effective date of this section, and the treatment provider has not
15 inquired whether the person is subject to supervision of any kind by
16 the department of corrections, the treatment provider shall inquire on
17 the person's next treatment session and document the person's response
18 in his or her record.

19 (3) For all persons who are subject to both court ordered mental
20 health or chemical dependency treatment and supervision by the
21 department of corrections, the treatment provider shall request an
22 authorization to release records and notify the person that, unless
23 expressly excluded by the court order the law requires treatment
24 providers to share information with the department of corrections and
25 the person's mental health treatment provider.

26 (4) If the treatment provider has reason to believe that a person
27 is subject to supervision by the department of corrections but the
28 person's record does not indicate that he or she is, the treatment
29 provider may call any department of corrections office and provide the
30 person's name and birth date. If the person is subject to supervision,
31 the treatment provider shall request, and the department of corrections
32 shall provide, the name and contact information for the person's
33 community corrections officer.

34 **PART VII**

35 **BEST PRACTICES AND COLLABORATION**

1 NEW SECTION. **Sec. 701.** (1) The department of social and health
2 services, in consultation with the members of the team charged with
3 developing the state plan for co-occurring mental and substance abuse
4 disorders, shall adopt, not later than January 1, 2006, an integrated
5 and comprehensive screening and assessment process for chemical
6 dependency and mental disorders and co-occurring chemical dependency
7 and mental disorders.

8 (a) The process adopted shall include, at a minimum:

9 (i) An initial screening tool that can be used by intake personnel
10 system-wide and which will identify the most common types of co-
11 occurring disorders;

12 (ii) An assessment process for those cases in which assessment is
13 indicated that provides an appropriate degree of assessment for most
14 situations, which can be expanded for complex situations;

15 (iii) Identification of triggers in the screening that indicate the
16 need to begin an assessment;

17 (iv) Identification of triggers after or outside the screening that
18 indicate a need to begin or resume an assessment;

19 (v) The components of an assessment process and a protocol for
20 determining whether part or all of the assessment is necessary, and at
21 what point; and

22 (vi) Emphasis that the process adopted under this section is to
23 replace and not to duplicate existing intake, screening, and assessment
24 tools and processes.

25 (b) The department shall consider existing models, including those
26 already adopted by other states, and to the extent possible, adopt an
27 established, proven model.

28 (c) The integrated, comprehensive screening and assessment process
29 shall be implemented statewide by all chemical dependency and mental
30 health treatment providers as well as all designated mental health
31 professionals, designated chemical dependency specialists, and
32 designated crisis responders not later than January 1, 2007.

33 (2) The department shall provide adequate training to effect
34 statewide implementation by the dates designated in this section and
35 shall report the rates of co-occurring disorders and the stage of
36 screening or assessment at which the co-occurring disorder was
37 identified to the caseload forecast council.

1 (3) The department shall establish contractual penalties to
2 contracted treatment providers, the regional support networks, and
3 their contracted providers for failure to implement the integrated
4 screening and assessment process by July 1, 2007.

5 NEW SECTION. **Sec. 702.** The department of corrections shall, to
6 the extent that resources are available for this purpose, utilize the
7 integrated, comprehensive screening and assessment process for chemical
8 dependency and mental disorders developed under section 701 of this
9 act.

10 NEW SECTION. **Sec. 703.** A new section is added to chapter 71.02
11 RCW to read as follows:

12 (1) By June 30, 2006, the department shall develop and implement a
13 matrix or set of matrices for providing services based on the following
14 principles:

15 (a) Maximizing evidence-based practices where these practices
16 exist; where no evidence-based practice exists, the use of research-
17 based practices, including but not limited to, the adaptation of
18 evidence-based practices to new situations; where no evidence-based or
19 research-based practices exist the use of consensus-based practices;
20 and, to the extent that funds are available, the use of promising
21 practices;

22 (b) Maximizing the person's independence, recovery, and employment
23 by consideration of the person's strengths and supports in the
24 community;

25 (c) Maximizing the person's participation in treatment decisions
26 including, where possible, the person's awareness of, and technical
27 assistance in preparing, mental health advance directives; and

28 (d) Collaboration with consumer-based support programs.

29 (2) The matrix or set of matrices shall include both adults and
30 children and persons with co-occurring mental and substance abuse
31 disorders and shall build on the service intensity quadrant models that
32 have been developed in this state.

33 (3)(a) The matrix or set of matrices shall be developed in
34 collaboration with experts in evidence-based practices for mental
35 disorders, chemical dependency disorders, and co-occurring mental and
36 chemical dependency disorders at the University of Washington, and in

1 consultation with representatives of the regional support networks,
2 community mental health providers, county chemical dependency
3 coordinators, chemical dependency providers, consumers, family
4 advocates, and community inpatient providers.

5 (b) The matrix or set of matrices shall, to the extent possible,
6 adopt or utilize materials already prepared by the department or by
7 other states.

8 (4)(a) The department shall require, by contract with the regional
9 support networks, that providers maximize the use of evidence-based,
10 research-based, and consensus-based practices and document the
11 percentage of clients enrolled in evidence-based, research-based, and
12 consensus-based programs by program type.

13 (b) The department shall establish a schedule by which regional
14 support networks and providers must adopt the matrix or set of matrices
15 and a schedule of penalties for failure to adopt and implement the
16 matrices. The department may act against the regional support networks
17 or providers or both to enforce the provisions of this section and
18 shall provide the appropriate committees of the legislature with the
19 schedules adopted under this subsection by June 30, 2006.

20 (5) The following definitions apply to this section:

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

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

28 (c) "Consensus-based" means a program or practice that has general
29 support among treatment providers and experts, based on experience or
30 professional literature, and may have anecdotal or case study support,
31 or that is agreed but not possible to perform studies with random
32 assignment and controlled groups.

33 (d) "Promising practice" means a practice that presents, based on
34 preliminary information, potential for becoming a research-based or
35 consensus-based practice.

36 NEW SECTION. **Sec. 704.** A new section is added to chapter 71.02
37 RCW to read as follows:

1 (1) The department of social and health services shall collaborate
2 with community providers of mental health services, early learning and
3 child care providers, child serving agencies, and child-placing
4 agencies to identify and utilize federal, state, and local services and
5 providers for children in out-of-home care and other populations of
6 vulnerable children who are in need of an evaluation and treatment for
7 mental health services and do not qualify for medicaid or treatment
8 services through the regional support networks.

9 (2) If no appropriate mental health services are available through
10 federal, state, or local services and providers for a child described
11 in subsection (1) of this section, the regional support network must
12 provide a child, at a minimum, with a mental health evaluation
13 consistent with chapter 71.24 RCW.

14 (3) The department, in collaboration with the office of the
15 superintendent of public instruction, local providers, local school
16 districts, and the regional support networks, shall identify and review
17 existing programs and services as well as the unmet need for programs
18 and services serving birth to five and school-aged children who exhibit
19 early signs of behavioral or mental health disorders and who are not
20 otherwise eligible for services through the regional support networks.
21 The review of programs and services shall include, but not be limited
22 to, the utilization and effectiveness of early intervention or
23 prevention services and the primary intervention programs.

24 The department of social and health services shall provide a
25 briefing on the collaboration's findings and recommendations to the
26 appropriate committee of the legislature by December 31, 2005.

27 NEW SECTION. **Sec. 705.** The Washington state institute for public
28 policy shall assess the long-term and intergenerational cost-
29 effectiveness of investing in the treatment of chemical dependency
30 disorders, mental disorders, and co-occurring mental and substance
31 abuse disorders. The assessment shall use, to the extent possible,
32 existing governmental data bases and research and determine the net
33 present value of costs avoided or minimized. These costs include, but
34 are not limited to, homeless services, domestic violence services,
35 primary care, jail or prison, competency evaluations and restorations,
36 child protective services interventions, dependencies, foster care,
37 emergency service interventions, and prosecutorial, defense, and court

1 costs. If possible, the institute shall indicate whether prevention
2 and early intervention programs differ from acute and chronic treatment
3 programs in long-term cost- effectiveness.

4 **PART VIII**

5 **REPEALERS AND CROSS-REFERENCE CORRECTIONS**

6 NEW SECTION. **Sec. 801.** The following acts or parts of acts are
7 each repealed on the effective date of section 107 of this act:

8 (1) RCW 71.05.060 (Rights of persons complained against) and 1973
9 1st ex.s. c 142 s 11;

10 (2) RCW 71.05.070 (Prayer treatment) and 1973 1st ex.s. c 142 s 12;

11 (3) RCW 71.05.090 (Choice of physicians) and 1973 2nd ex.s. c 24 s
12 3 & 1973 1st ex.s. c 142 s 14;

13 (4) RCW 71.05.200 (Notice and statement of rights--Probable cause
14 hearing) and 1998 c 297 s 11, 1997 c 112 s 14, 1989 c 120 s 5, 1974
15 ex.s. c 145 s 13, & 1973 1st ex.s. c 142 s 25;

16 (5) RCW 71.05.250 (Probable cause hearing--Detained person's
17 rights--Waiver of privilege--Limitation--Records as evidence) and 1989
18 c 120 s 7, 1987 c 439 s 6, 1974 ex.s. c 145 s 17, & 1973 1st ex.s. c
19 142 s 30;

20 (6) RCW 71.05.450 (Competency--Effect--Statement of Washington law)
21 and 1994 sp.s. c 7 s 440 & 1973 1st ex.s. c 142 s 50;

22 (7) RCW 71.05.460 (Right to counsel) and 1997 c 112 s 33 & 1973 1st
23 ex.s. c 142 s 51;

24 (8) RCW 71.05.470 (Right to examination) and 1997 c 112 s 34 & 1973
25 1st ex.s. c 142 s 52;

26 (9) RCW 71.05.480 (Petitioning for release--Writ of habeas corpus)
27 and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and

28 (10) RCW 71.05.490 (Rights of persons committed before January 1,
29 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

30 NEW SECTION. **Sec. 802.** The following acts or parts of acts are
31 each repealed on the effective date of section 111 of this act:

32 (1) RCW 71.05.155 (Request to mental health professional by law
33 enforcement agency for investigation under RCW 71.05.150--Advisory
34 report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;

1 (2) RCW 71.05.395 (Application of uniform health care information
2 act, chapter 70.02 RCW) and 1993 c 448 s 8;

3 (3) RCW 71.05.400 (Release of information to patient's next of kin,
4 attorney, guardian, conservator--Notification of patient's death) and
5 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973
6 1st ex.s. c 142 s 45;

7 (4) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c
8 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and

9 (5) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

10 NEW SECTION. **Sec. 803.** RCW 71.05.610 (Treatment records--
11 Definitions) and 1989 c 205 s 11 are each repealed on the effective
12 date of sections 104 through 106 of this act.

13 NEW SECTION. **Sec. 804.** The following acts or parts of acts are
14 each repealed:

15 (1) RCW 71.05.650 (Treatment records--Notation of and access to
16 released data) and 1989 c 205 s 15; and

17 (2) RCW 71.05.670 (Treatment records--Violations--Civil action) and
18 1999 c 13 s 10.

19 **Sec. 805.** RCW 5.60.060 and 2001 c 286 s 2 are each amended to read
20 as follows:

21 (1) A husband shall not be examined for or against his wife,
22 without the consent of the wife, nor a wife for or against her husband
23 without the consent of the husband; nor can either during marriage or
24 afterward, be without the consent of the other, examined as to any
25 communication made by one to the other during marriage. But this
26 exception shall not apply to a civil action or proceeding by one
27 against the other, nor to a criminal action or proceeding for a crime
28 committed by one against the other, nor to a criminal action or
29 proceeding against a spouse if the marriage occurred subsequent to the
30 filing of formal charges against the defendant, nor to a criminal
31 action or proceeding for a crime committed by said husband or wife
32 against any child of whom said husband or wife is the parent or
33 guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202
34 through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the
35 spouse of a person sought to be detained under chapter 70.96A, 70.--

1 (sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be
2 compelled to testify and shall be so informed by the court prior to
3 being called as a witness.

4 (2)(a) An attorney or counselor shall not, without the consent of
5 his or her client, be examined as to any communication made by the
6 client to him or her, or his or her advice given thereon in the course
7 of professional employment.

8 (b) A parent or guardian of a minor child arrested on a criminal
9 charge may not be examined as to a communication between the child and
10 his or her attorney if the communication was made in the presence of
11 the parent or guardian. This privilege does not extend to
12 communications made prior to the arrest.

13 (3) A member of the clergy or a priest shall not, without the
14 consent of a person making the confession, be examined as to any
15 confession made to him or her in his or her professional character, in
16 the course of discipline enjoined by the church to which he or she
17 belongs.

18 (4) Subject to the limitations under RCW 70.96A.140 or
19 (~~(71.05.250)~~) 71.05.360 (8) and (9), a physician or surgeon or
20 osteopathic physician or surgeon or podiatric physician or surgeon
21 shall not, without the consent of his or her patient, be examined in a
22 civil action as to any information acquired in attending such patient,
23 which was necessary to enable him or her to prescribe or act for the
24 patient, except as follows:

25 (a) In any judicial proceedings regarding a child's injury,
26 neglect, or sexual abuse or the cause thereof; and

27 (b) Ninety days after filing an action for personal injuries or
28 wrongful death, the claimant shall be deemed to waive the physician-
29 patient privilege. Waiver of the physician-patient privilege for any
30 one physician or condition constitutes a waiver of the privilege as to
31 all physicians or conditions, subject to such limitations as a court
32 may impose pursuant to court rules.

33 (5) A public officer shall not be examined as a witness as to
34 communications made to him or her in official confidence, when the
35 public interest would suffer by the disclosure.

36 (6)(a) A peer support group counselor shall not, without consent of
37 the law enforcement officer making the communication, be compelled to
38 testify about any communication made to the counselor by the officer

1 while receiving counseling. The counselor must be designated as such
2 by the sheriff, police chief, or chief of the Washington state patrol,
3 prior to the incident that results in counseling. The privilege only
4 applies when the communication was made to the counselor while acting
5 in his or her capacity as a peer support group counselor. The
6 privilege does not apply if the counselor was an initial responding
7 officer, a witness, or a party to the incident which prompted the
8 delivery of peer support group counseling services to the law
9 enforcement officer.

10 (b) For purposes of this section, "peer support group counselor"
11 means a:

12 (i) Law enforcement officer, or civilian employee of a law
13 enforcement agency, who has received training to provide emotional and
14 moral support and counseling to an officer who needs those services as
15 a result of an incident in which the officer was involved while acting
16 in his or her official capacity; or

17 (ii) Nonemployee counselor who has been designated by the sheriff,
18 police chief, or chief of the Washington state patrol to provide
19 emotional and moral support and counseling to an officer who needs
20 those services as a result of an incident in which the officer was
21 involved while acting in his or her official capacity.

22 (7) A sexual assault advocate may not, without the consent of the
23 victim, be examined as to any communication made by the victim to the
24 sexual assault advocate.

25 (a) For purposes of this section, "sexual assault advocate" means
26 the employee or volunteer from a rape crisis center, victim assistance
27 unit, program, or association, that provides information, medical or
28 legal advocacy, counseling, or support to victims of sexual assault,
29 who is designated by the victim to accompany the victim to the hospital
30 or other health care facility and to proceedings concerning the alleged
31 assault, including police and prosecution interviews and court
32 proceedings.

33 (b) A sexual assault advocate may disclose a confidential
34 communication without the consent of the victim if failure to disclose
35 is likely to result in a clear, imminent risk of serious physical
36 injury or death of the victim or another person. Any sexual assault
37 advocate participating in good faith in the disclosing of records and
38 communications under this section shall have immunity from any

1 liability, civil, criminal, or otherwise, that might result from the
2 action. In any proceeding, civil or criminal, arising out of a
3 disclosure under this section, the good faith of the sexual assault
4 advocate who disclosed the confidential communication shall be
5 presumed.

6 **Sec. 806.** RCW 18.83.110 and 1989 c 271 s 303 are each amended to
7 read as follows:

8 Confidential communications between a client and a psychologist
9 shall be privileged against compulsory disclosure to the same extent
10 and subject to the same conditions as confidential communications
11 between attorney and client, but this exception is subject to the
12 limitations under RCW 70.96A.140 and (~~71.05.250~~) 71.05.360 (8) and
13 (9).

14 **Sec. 807.** RCW 18.225.105 and 2003 c 204 s 1 are each amended to
15 read as follows:

16 A person licensed under this chapter shall not disclose the written
17 acknowledgment of the disclosure statement pursuant to RCW 18.225.100,
18 nor any information acquired from persons consulting the individual in
19 a professional capacity when the information was necessary to enable
20 the individual to render professional services to those persons except:

21 (1) With the written authorization of that person or, in the case
22 of death or disability, the person's personal representative;

23 (2) If the person waives the privilege by bringing charges against
24 the person licensed under this chapter;

25 (3) In response to a subpoena from the secretary. The secretary
26 may subpoena only records related to a complaint or report under RCW
27 18.130.050;

28 (4) As required under chapter 26.44 or 74.34 RCW or RCW
29 (~~71.05.250~~) 71.05.360 (8) and (9); or

30 (5) To any individual if the person licensed under this chapter
31 reasonably believes that disclosure will avoid or minimize an imminent
32 danger to the health or safety of the individual or any other
33 individual; however, there is no obligation on the part of the provider
34 to so disclose.

1 **Sec. 808.** RCW 71.05.235 and 2000 c 74 s 6 are each amended to read
2 as follows:

3 (1) If an individual is referred to a ((~~county~~)) designated mental
4 health professional under RCW 10.77.090(1)(d)(iii)(A), the ((~~county~~))
5 designated mental health professional shall examine the individual
6 within forty-eight hours. If the ((~~county~~)) designated mental health
7 professional determines it is not appropriate to detain the individual
8 or petition for a ninety-day less restrictive alternative under RCW
9 71.05.230(4), that decision shall be immediately presented to the
10 superior court for hearing. The court shall hold a hearing to consider
11 the decision of the ((~~county~~)) designated mental health professional
12 not later than the next judicial day. At the hearing the superior
13 court shall review the determination of the ((~~county~~)) designated
14 mental health professional and determine whether an order should be
15 entered requiring the person to be evaluated at an evaluation and
16 treatment facility. No person referred to an evaluation and treatment
17 facility may be held at the facility longer than seventy-two hours.

18 (2) If an individual is placed in an evaluation and treatment
19 facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall
20 evaluate the individual for purposes of determining whether to file a
21 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.
22 Before expiration of the seventy-two hour evaluation period authorized
23 under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file
24 a petition or, if the recommendation of the professional person is to
25 release the individual, present his or her recommendation to the
26 superior court of the county in which the criminal charge was
27 dismissed. The superior court shall review the recommendation not
28 later than forty-eight hours, excluding Saturdays, Sundays, and
29 holidays, after the recommendation is presented. If the court rejects
30 the recommendation to unconditionally release the individual, the court
31 may order the individual detained at a designated evaluation and
32 treatment facility for not more than a seventy-two hour evaluation and
33 treatment period and direct the individual to appear at a surety
34 hearing before that court within seventy-two hours, or the court may
35 release the individual but direct the individual to appear at a surety
36 hearing set before that court within eleven days, at which time the
37 prosecutor may file a petition under this chapter for ninety-day
38 inpatient or outpatient treatment. If a petition is filed by the

1 prosecutor, the court may order that the person named in the petition
2 be detained at the evaluation and treatment facility that performed the
3 evaluation under this subsection or order the respondent to be in
4 outpatient treatment. If a petition is filed but the individual fails
5 to appear in court for the surety hearing, the court shall order that
6 a mental health professional or peace officer shall take such person or
7 cause such person to be taken into custody and placed in an evaluation
8 and treatment facility to be brought before the court the next judicial
9 day after detention. Upon the individual's first appearance in court
10 after a petition has been filed, proceedings under RCW 71.05.310 and
11 71.05.320 shall commence. For an individual subject to this
12 subsection, the prosecutor or professional person may directly file a
13 petition for ninety-day inpatient or outpatient treatment and no
14 petition for initial detention or fourteen-day detention is required
15 before such a petition may be filed.

16 The court shall conduct the hearing on the petition filed under
17 this subsection within five judicial days of the date the petition is
18 filed. The court may continue the hearing upon the written request of
19 the person named in the petition or the person's attorney, for good
20 cause shown, which continuance shall not exceed five additional
21 judicial days. If the person named in the petition requests a jury
22 trial, the trial shall commence within ten judicial days of the date of
23 the filing of the petition. The burden of proof shall be by clear,
24 cogent, and convincing evidence and shall be upon the petitioner. The
25 person shall be present at such proceeding, which shall in all respects
26 accord with the constitutional guarantees of due process of law and the
27 rules of evidence pursuant to RCW (~~(71.05.250)~~) 71.05.360 (8) and (9).

28 During the proceeding the person named in the petition shall
29 continue to be detained and treated until released by order of the
30 court. If no order has been made within thirty days after the filing
31 of the petition, not including any extensions of time requested by the
32 detained person or his or her attorney, the detained person shall be
33 released.

34 (3) If a (~~county~~) designated mental health professional or the
35 professional person and prosecuting attorney for the county in which
36 the criminal charge was dismissed or attorney general, as appropriate,
37 stipulate that the individual does not present a likelihood of serious

1 harm or is not gravely disabled, the hearing under this section is not
2 required and the individual, if in custody, shall be released.

3 (4) The individual shall have the rights specified in RCW
4 (~~(71.05.250)~~) 71.05.360 (8) and (9).

5 **Sec. 809.** RCW 71.05.310 and 1987 c 439 s 9 are each amended to
6 read as follows:

7 The court shall conduct a hearing on the petition for ninety day
8 treatment within five judicial days of the first court appearance after
9 the probable cause hearing. The court may continue the hearing upon
10 the written request of the person named in the petition or the person's
11 attorney, for good cause shown, which continuance shall not exceed five
12 additional judicial days. If the person named in the petition requests
13 a jury trial, the trial shall commence within ten judicial days of the
14 first court appearance after the probable cause hearing. The burden of
15 proof shall be by clear, cogent, and convincing evidence and shall be
16 upon the petitioner. The person shall be present at such proceeding,
17 which shall in all respects accord with the constitutional guarantees
18 of due process of law and the rules of evidence pursuant to RCW
19 (~~(71.05.250)~~) 71.05.360 (8) and (9).

20 During the proceeding, the person named in the petition shall
21 continue to be treated until released by order of the superior court.
22 If no order has been made within thirty days after the filing of the
23 petition, not including extensions of time requested by the detained
24 person or his or her attorney, the detained person shall be released.

25 **Sec. 810.** RCW 71.05.425 and 2000 c 94 s 10 are each amended to
26 read as follows:

27 (1)(a) Except as provided in subsection (2) of this section, at the
28 earliest possible date, and in no event later than thirty days before
29 conditional release, final release, authorized leave under RCW
30 71.05.325(2), or transfer to a facility other than a state mental
31 hospital, the superintendent shall send written notice of conditional
32 release, release, authorized leave, or transfer of a person committed
33 under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex,
34 violent, or felony harassment offense pursuant to RCW 10.77.090(4) to
35 the following:

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

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

4 (b) The same notice as required by (a) of this subsection shall be
5 sent to the following, if such notice has been requested in writing
6 about a specific person committed under RCW 71.05.280(3) or
7 71.05.320(2)(c) following dismissal of a sex, violent, or felony
8 harassment offense pursuant to RCW 10.77.090(4):

9 (i) The victim of the sex, violent, or felony harassment offense
10 that was dismissed pursuant to RCW 10.77.090(4) preceding commitment
11 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin
12 if the crime was a homicide;

13 (ii) Any witnesses who testified against the person in any court
14 proceedings; and

15 (iii) Any person specified in writing by the prosecuting attorney.
16 Information regarding victims, next of kin, or witnesses requesting the
17 notice, information regarding any other person specified in writing by
18 the prosecuting attorney to receive the notice, and the notice are
19 confidential and shall not be available to the person committed under
20 this chapter.

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

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

26 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)
27 following dismissal of a sex, violent, or felony harassment offense
28 pursuant to RCW 10.77.090(4) escapes, the superintendent shall
29 immediately notify, by the most reasonable and expedient means
30 available, the chief of police of the city and the sheriff of the
31 county in which the person resided immediately before the person's
32 arrest. If previously requested, the superintendent shall also notify
33 the witnesses and the victim of the sex, violent, or felony harassment
34 offense that was dismissed pursuant to RCW 10.77.090(4) preceding
35 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next
36 of kin if the crime was a homicide. In addition, the secretary shall
37 also notify appropriate parties pursuant to RCW ((71.05.410))
38 71.05.390(18). If the person is recaptured, the superintendent shall

1 send notice to the persons designated in this subsection as soon as
2 possible but in no event later than two working days after the
3 department learns of such recapture.

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

7 (4) The superintendent shall send the notices required by this
8 chapter to the last address provided to the department by the
9 requesting party. The requesting party shall furnish the department
10 with a current address.

11 (5) For purposes of this section the following terms have the
12 following meanings:

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

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

15 (c) "Next of kin" means a person's spouse, parents, siblings, and
16 children;

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

19 **Sec. 811.** RCW 71.05.445 and 2004 c 166 s 4 are each amended to
20 read as follows:

21 (1) The definitions in this subsection apply throughout this
22 section unless the context clearly requires otherwise.

23 (a) "Information related to mental health services" means all
24 information and records compiled, obtained, or maintained in the course
25 of providing services to either voluntary or involuntary recipients of
26 services by a mental health service provider. This may include
27 documents of legal proceedings under this chapter or chapter 71.34 or
28 10.77 RCW, or somatic health care information.

29 (b) "Mental health service provider" means a public or private
30 agency that provides services to persons with mental disorders as
31 defined under RCW 71.05.020 and receives funding from public sources.
32 This includes evaluation and treatment facilities as defined in RCW
33 71.05.020, community mental health service delivery systems, or
34 community mental health programs as defined in RCW 71.24.025, and
35 facilities conducting competency evaluations and restoration under
36 chapter 10.77 RCW.

1 (2)(a) Information related to mental health services delivered to
2 a person subject to chapter 9.94A or 9.95 RCW shall be released, upon
3 request, by a mental health service provider to department of
4 corrections personnel for whom the information is necessary to carry
5 out the responsibilities of their office. The information must be
6 provided only for the purposes of completing presentence investigations
7 or risk assessment reports, supervision of an incarcerated offender or
8 offender under supervision in the community, planning for and provision
9 of supervision of an offender, or assessment of an offender's risk to
10 the community. The request shall be in writing and shall not require
11 the consent of the subject of the records.

12 (b) If an offender subject to chapter 9.94A or 9.95 RCW has failed
13 to report for department of corrections supervision or in the event of
14 an emergent situation that poses a significant risk to the public or
15 the offender, information related to mental health services delivered
16 to the offender and, if known, information regarding where the offender
17 is likely to be found shall be released by the mental health services
18 provider to the department of corrections upon request. The initial
19 request may be written or oral. All oral requests must be subsequently
20 confirmed in writing. Information released in response to an oral
21 request is limited to a statement as to whether the offender is or is
22 not being treated by the mental health services provider and the
23 address or information about the location or whereabouts of the
24 offender. Information released in response to a written request may
25 include information identified by rule as provided in subsections (4)
26 and (5) of this section. For purposes of this subsection a written
27 request includes requests made by e-mail or facsimile so long as the
28 requesting person at the department of corrections is clearly
29 identified. The request must specify the information being requested.
30 Disclosure of the information requested does not require the consent of
31 the subject of the records unless the offender has received relief from
32 disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.

33 (3)(a) When a mental health service provider conducts its initial
34 assessment for a person receiving court-ordered treatment, the service
35 provider shall inquire and shall be told by the offender whether he or
36 she is subject to supervision by the department of corrections.

37 (b) When a person receiving court-ordered treatment or treatment
38 ordered by the department of corrections discloses to his or her mental

1 health service provider that he or she is subject to supervision by the
2 department of corrections, the mental health services provider shall
3 notify the department of corrections that he or she is treating the
4 offender and shall notify the offender that his or her community
5 corrections officer will be notified of the treatment, provided that if
6 the offender has received relief from disclosure pursuant to RCW
7 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
8 mental health services provider with a copy of the order granting
9 relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or
10 71.05.132, the mental health services provider is not required to
11 notify the department of corrections that the mental health services
12 provider is treating the offender. The notification may be written or
13 oral and shall not require the consent of the offender. If an oral
14 notification is made, it must be confirmed by a written notification.
15 For purposes of this section, a written notification includes
16 notification by e-mail or facsimile, so long as the notifying mental
17 health service provider is clearly identified.

18 (4) The information to be released to the department of corrections
19 shall include all relevant records and reports, as defined by rule,
20 necessary for the department of corrections to carry out its duties,
21 including those records and reports identified in subsection (2) of
22 this section.

23 (5) The department and the department of corrections, in
24 consultation with regional support networks, mental health service
25 providers as defined in subsection (1) of this section, mental health
26 consumers, and advocates for persons with mental illness, shall adopt
27 rules to implement the provisions of this section related to the type
28 and scope of information to be released. These rules shall:

29 (a) Enhance and facilitate the ability of the department of
30 corrections to carry out its responsibility of planning and ensuring
31 community protection with respect to persons subject to sentencing
32 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
33 disclosing information of persons who received mental health services
34 as a minor; and

35 (b) Establish requirements for the notification of persons under
36 the supervision of the department of corrections regarding the
37 provisions of this section.

1 (6) The information received by the department of corrections under
2 this section shall remain confidential and subject to the limitations
3 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
4 72.09.585.

5 (7) No mental health service provider or individual employed by a
6 mental health service provider shall be held responsible for
7 information released to or used by the department of corrections under
8 the provisions of this section or rules adopted under this section
9 except under RCW (~~71.05.670~~ and) 71.05.440.

10 (8) Whenever federal law or federal regulations restrict the
11 release of information contained in the treatment records of any
12 patient who receives treatment for alcoholism or drug dependency, the
13 release of the information may be restricted as necessary to comply
14 with federal law and regulations.

15 (9) This section does not modify the terms and conditions of
16 disclosure of information related to sexually transmitted diseases
17 under chapter 70.24 RCW.

18 (10) The department shall, subject to available resources,
19 electronically, or by the most cost-effective means available, provide
20 the department of corrections with the names, last dates of services,
21 and addresses of specific regional support networks and mental health
22 service providers that delivered mental health services to a person
23 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
24 the departments.

25 **Sec. 812.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to
26 read as follows:

27 (1) Procedures shall be established by resource management services
28 to provide reasonable and timely access to individual treatment
29 records. However, access may not be denied at any time to records of
30 all medications and somatic treatments received by the individual.

31 (2) Following discharge, the individual shall have a right to a
32 complete record of all medications and somatic treatments prescribed
33 during evaluation, admission, or commitment and to a copy of the
34 discharge summary prepared at the time of his or her discharge. A
35 reasonable and uniform charge for reproduction may be assessed.

36 (3) Treatment records may be modified prior to inspection to
37 protect the confidentiality of other patients or the names of any other

1 persons referred to in the record who gave information on the condition
2 that his or her identity remain confidential. Entire documents may not
3 be withheld to protect such confidentiality.

4 (4) At the time of discharge all individuals shall be informed by
5 resource management services of their rights as provided in RCW
6 (~~71.05.610~~) 71.05.620 through 71.05.690.

7 **Sec. 813.** RCW 71.05.680 and 1999 c 13 s 11 are each amended to
8 read as follows:

9 Any person who requests or obtains confidential information
10 pursuant to RCW (~~71.05.610~~) 71.05.620 through 71.05.690 under false
11 pretenses shall be guilty of a gross misdemeanor.

12 **Sec. 814.** RCW 71.05.690 and 1999 c 13 s 12 are each amended to
13 read as follows:

14 The department shall adopt rules to implement RCW (~~71.05.610~~)
15 71.05.620 through 71.05.680.

16 **Sec. 815.** RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are
17 each reenacted and amended to read as follows:

18 (1) The department is designated as the state mental health
19 authority.

20 (2) The secretary shall provide for public, client, and licensed
21 service provider participation in developing the state mental health
22 program, developing contracts with regional support networks, and any
23 waiver request to the federal government under medicaid.

24 (3) The secretary shall provide for participation in developing the
25 state mental health program for children and other underserved
26 populations, by including representatives on any committee established
27 to provide oversight to the state mental health program.

28 (4) The secretary shall be designated as the county authority if a
29 county fails to meet state minimum standards or refuses to exercise
30 responsibilities under RCW 71.24.045.

31 (5) The secretary shall:

32 (a) Develop a biennial state mental health program that
33 incorporates county biennial needs assessments and county mental health
34 service plans and state services for mentally ill adults and children.
35 The secretary may also develop a six-year state mental health plan;

1 (b) Assure that any regional or county community mental health
2 program provides access to treatment for the county's residents in the
3 following order of priority: (i) The acutely mentally ill; (ii)
4 chronically mentally ill adults and severely emotionally disturbed
5 children; and (iii) the seriously disturbed. Such programs shall
6 provide:

7 (A) Outpatient services;

8 (B) Emergency care services for twenty-four hours per day;

9 (C) Day treatment for mentally ill persons which includes training
10 in basic living and social skills, supported work, vocational
11 rehabilitation, and day activities. Such services may include
12 therapeutic treatment. In the case of a child, day treatment includes
13 age-appropriate basic living and social skills, educational and
14 prevocational services, day activities, and therapeutic treatment;

15 (D) Screening for patients being considered for admission to state
16 mental health facilities to determine the appropriateness of admission;

17 (E) Employment services, which may include supported employment,
18 transitional work, placement in competitive employment, and other work-
19 related services, that result in mentally ill persons becoming engaged
20 in meaningful and gainful full or part-time work. Other sources of
21 funding such as the division of vocational rehabilitation may be
22 utilized by the secretary to maximize federal funding and provide for
23 integration of services;

24 (F) Consultation and education services; and

25 (G) Community support services;

26 (c) Develop and adopt rules establishing state minimum standards
27 for the delivery of mental health services pursuant to RCW 71.24.037
28 including, but not limited to:

29 (i) Licensed service providers. The secretary shall provide for
30 deeming of compliance with state minimum standards for those entities
31 accredited by recognized behavioral health accrediting bodies
32 recognized and having a current agreement with the department;

33 (ii) Regional support networks; and

34 (iii) Inpatient services, evaluation and treatment services and
35 facilities under chapter 71.05 RCW, resource management services, and
36 community support services;

37 (d) Assure that the special needs of minorities, the elderly,

1 disabled, children, and low-income persons are met within the
2 priorities established in this section;

3 (e) Establish a standard contract or contracts, consistent with
4 state minimum standards, which shall be used in contracting with
5 regional support networks or counties. The standard contract shall
6 include a maximum fund balance, which shall not exceed ten percent;

7 (f) Establish, to the extent possible, a standardized auditing
8 procedure which minimizes paperwork requirements of county authorities
9 and licensed service providers. The audit procedure shall focus on the
10 outcomes of service and not the processes for accomplishing them;

11 (g) Develop and maintain an information system to be used by the
12 state, counties, and regional support networks that includes a tracking
13 method which allows the department and regional support networks to
14 identify mental health clients' participation in any mental health
15 service or public program on an immediate basis. The information
16 system shall not include individual patient's case history files.
17 Confidentiality of client information and records shall be maintained
18 as provided in this chapter and in RCW 71.05.390, (~~(71.05.400,~~
19 ~~71.05.410,)~~) 71.05.420, (~~(71.05.430,)~~) and 71.05.440. The design of
20 the system and the data elements to be collected shall be reviewed by
21 the work group appointed by the secretary under section 5(1) of this
22 act and representing the department, regional support networks, service
23 providers, consumers, and advocates. The data elements shall be
24 designed to provide information that is needed to measure performance
25 and achieve the service outcomes (~~(identified in section 5 of this~~
26 ~~act))~~);

27 (h) License service providers who meet state minimum standards;

28 (i) Certify regional support networks that meet state minimum
29 standards;

30 (j) Periodically monitor the compliance of certified regional
31 support networks and their network of licensed service providers for
32 compliance with the contract between the department, the regional
33 support network, and federal and state rules at reasonable times and in
34 a reasonable manner;

35 (k) Fix fees to be paid by evaluation and treatment centers to the
36 secretary for the required inspections;

37 (l) Monitor and audit counties, regional support networks, and

1 licensed service providers as needed to assure compliance with
2 contractual agreements authorized by this chapter; and

3 (m) Adopt such rules as are necessary to implement the department's
4 responsibilities under this chapter.

5 (6) The secretary shall use available resources only for regional
6 support networks.

7 (7) Each certified regional support network and licensed service
8 provider shall file with the secretary, on request, such data,
9 statistics, schedules, and information as the secretary reasonably
10 requires. A certified regional support network or licensed service
11 provider which, without good cause, fails to furnish any data,
12 statistics, schedules, or information as requested, or files fraudulent
13 reports thereof, may have its certification or license revoked or
14 suspended.

15 (8) The secretary may suspend, revoke, limit, or restrict a
16 certification or license, or refuse to grant a certification or license
17 for failure to conform to: (a) The law; (b) applicable rules and
18 regulations; (c) applicable standards; or (d) state minimum standards.

19 (9) The superior court may restrain any regional support network or
20 service provider from operating without certification or a license or
21 any other violation of this section. The court may also review,
22 pursuant to procedures contained in chapter 34.05 RCW, any denial,
23 suspension, limitation, restriction, or revocation of certification or
24 license, and grant other relief required to enforce the provisions of
25 this chapter.

26 (10) Upon petition by the secretary, and after hearing held upon
27 reasonable notice to the facility, the superior court may issue a
28 warrant to an officer or employee of the secretary authorizing him or
29 her to enter at reasonable times, and examine the records, books, and
30 accounts of any regional support network or service provider refusing
31 to consent to inspection or examination by the authority.

32 (11) Notwithstanding the existence or pursuit of any other remedy,
33 the secretary may file an action for an injunction or other process
34 against any person or governmental unit to restrain or prevent the
35 establishment, conduct, or operation of a regional support network or
36 service provider without certification or a license under this chapter.

37 (12) The standards for certification of evaluation and treatment
38 facilities shall include standards relating to maintenance of good

1 physical and mental health and other services to be afforded persons
2 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
3 otherwise assure the effectuation of the purposes of these chapters.

4 (13)(a) The department, in consultation with affected parties,
5 shall establish a distribution formula that reflects county needs
6 assessments based on the number of persons who are acutely mentally
7 ill, chronically mentally ill, severely emotionally disturbed children,
8 and seriously disturbed. The formula shall take into consideration the
9 impact on counties of demographic factors in counties which result in
10 concentrations of priority populations as set forth in subsection
11 (5)(b) of this section. These factors shall include the population
12 concentrations resulting from commitments under chapters 71.05 and
13 71.34 RCW to state psychiatric hospitals, as well as concentration in
14 urban areas, at border crossings at state boundaries, and other
15 significant demographic and workload factors.

16 (b) The formula shall also include a projection of the funding
17 allocations that will result for each county, which specifies
18 allocations according to priority populations, including the allocation
19 for services to children and other underserved populations.

20 (c) After July 1, 2003, the department may allocate up to two
21 percent of total funds to be distributed to the regional support
22 networks for incentive payments to reward the achievement of superior
23 outcomes, or significantly improved outcomes, as measured by a
24 statewide performance measurement system consistent with the framework
25 recommended in the joint legislative audit and review committee's
26 performance audit of the mental health system. The department shall
27 annually report to the legislature on its criteria and allocation of
28 the incentives provided under this subsection.

29 (14) The secretary shall assume all duties assigned to the
30 nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW.
31 Such responsibilities shall include those which would have been
32 assigned to the nonparticipating counties under regional support
33 networks.

34 The regional support networks, or the secretary's assumption of all
35 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
36 included in all state and federal plans affecting the state mental
37 health program including at least those required by this chapter, the

1 NEW SECTION. **Sec. 902.** A new section is added to chapter 43.20A
2 RCW to read as follows:

3 Beginning July 1, 2007, the secretary shall require, in the
4 contracts the department negotiates pursuant to chapters 71.24 and
5 70.96A RCW, that any vendor rate increases provided for mental health
6 and chemical dependency treatment providers or programs who are parties
7 to the contract or subcontractors of any party to the contract shall be
8 prioritized to those providers and programs that maximize the use of
9 evidence-based and research-based practices, as those terms are defined
10 in section 703 of this act, unless otherwise designated by the
11 legislature.

12 NEW SECTION. **Sec. 903.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 904.** A new section is added to chapter 82.14
17 RCW to read as follows:

18 (1) A county legislative authority may authorize, fix, and impose
19 a sales and use tax in accordance with the terms of this chapter.

20 (2) The tax authorized in this section shall be in addition to any
21 other taxes authorized by law and shall be collected from those persons
22 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
23 the occurrence of any taxable event within the county. The rate of tax
24 shall equal one-tenth of one percent of the selling price in the case
25 of a sales tax, or value of the article used, in the case of a use tax.

26 (3) Moneys collected under this section shall be used solely for
27 the purpose of providing new or expanded chemical dependency or mental
28 health treatment services and for the operation of new or expanded
29 therapeutic court programs. Moneys collected under this section shall
30 not be used to supplant existing funding for these purposes.

31 NEW SECTION. **Sec. 905.** This act shall be so applied and construed
32 as to effectuate its general purpose to make uniform the law with
33 respect to the subject of this act among those states which enact it.

1 NEW SECTION. **Sec. 906.** Captions, part headings, and subheadings
2 used in this act are not part of the law.

3 NEW SECTION. **Sec. 907.** If specific funding for the purposes of
4 sections 102, 103, 203, 217, 220, 221, 401, 402, 403, 406, 605, 606,
5 701, 703, 704, and 705 of this act, referencing the section by section
6 number and by bill or chapter number, is not provided by June 30, 2005,
7 each section not referenced is null and void.

8 NEW SECTION. **Sec. 908.** (1) The code reviser shall alphabetize and
9 renumber the definitions, and correct any internal references affected
10 by this act.

11 (2) The code reviser shall replace all references to "county
12 designated mental health professional" with "designated mental health
13 professional" in the Revised Code of Washington.

14 NEW SECTION. **Sec. 909.** (1) The secretary of the department of
15 social and health services may adopt rules as necessary to implement
16 the provisions of this act.

17 (2) The secretary of corrections may adopt rules as necessary to
18 implement the provisions of this act.

19 NEW SECTION. **Sec. 910.** (1) Except for section 603 of this act,
20 this act is necessary for the immediate preservation of the public
21 peace, health, or safety, or support of the state government and its
22 existing public institutions, and takes effect July 1, 2005.

23 (2) Section 603 of this act takes effect July 1, 2006."

E2SSB 5763 - H COMM AMD
By Committee on Health Care

NOT ADOPTED 04/14/2005

24 On page 1, line 2 of the title, after "2005;" strike the remainder
25 of the title and insert "amending RCW 71.05.020, 71.24.025, 10.77.010,
26 71.05.360, 71.05.215, 71.05.370, 71.05.420, 71.05.620, 71.05.630,

1 71.05.640, 71.05.660, 71.05.550, 71.34.042, 71.34.052, 71.34.054,
2 71.34.025, 71.34.162, 71.34.270, 2.28.170, 71.05.157, 5.60.060,
3 18.83.110, 18.225.105, 71.05.235, 71.05.310, 71.05.425, 71.05.445,
4 71.05.640, 71.05.680, and 71.05.690; reenacting and amending RCW
5 71.05.390 and 71.24.035; adding new sections to chapter 71.05 RCW;
6 adding new sections to chapter 70.96A RCW; adding a new section to
7 chapter 13.34 RCW; adding new sections to chapter 2.28 RCW; adding a
8 new section to chapter 26.12 RCW; adding new sections to chapter 71.02
9 RCW; adding new sections to chapter 71.34 RCW; adding a new section to
10 chapter 71A.12 RCW; adding a new section to chapter 43.20A RCW; adding
11 a new section to chapter 82.14 RCW; adding new chapters to Title 70
12 RCW; creating new sections; recodifying RCW 71.05.370, 71.34.010,
13 71.34.020, 71.34.140, 71.34.032, 71.34.250, 71.34.280, 71.34.260,
14 71.34.240, 71.34.230, 71.34.210, 71.34.200, 71.34.225, 71.34.220,
15 71.34.160, 71.34.190, 71.34.170, 71.34.290, 71.34.056, 71.34.800,
16 71.34.805, 71.34.810, 71.34.015, 71.34.027, 71.34.130, 71.34.270,
17 71.34.042, 71.34.044, 71.34.046, 71.34.030, 71.34.052, 71.34.025,
18 71.34.162, 71.34.164, 71.34.035, 71.34.054, 71.34.040, 71.34.050,
19 71.34.060, 71.34.070, 71.34.080, 71.34.090, 71.34.100, 71.34.120,
20 71.34.110, 71.34.150, 71.34.180, 71.34.900, 71.34.901, and 71.05.035;
21 repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250,
22 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155,
23 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and
24 71.05.670; prescribing penalties; providing effective dates; providing
25 expiration dates; and declaring an emergency."

--- END ---