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**SUBSTITUTE SENATE BILL 6638**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Wilson, C., Lovelett, Randall, Nguyen, Das, and Darneille)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to providing reentry services to persons  
2 releasing from prison, jail, and other institutions; amending RCW  
3 74.09.670, 10.77.150, 72.09.370, 71.24.470, and 71.24.480; reenacting  
4 and amending RCW 71.24.025 and 71.24.385; adding a new section to  
5 chapter 71.24 RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that it is critical  
8 to successful community reintegration and recovery for persons  
9 releasing from prison, jail, juvenile rehabilitation, and other state  
10 institutions to have access to supportive services and for persons  
11 who have behavioral health services needs to receive targeted  
12 assistance. This act employs multiple strategies to improve reentry  
13 services for these individuals. It provides for suspension of  
14 medicaid benefits to end before a person's release from custody so  
15 that medical assistance benefits can be made available immediately  
16 upon the person's release and authorized medicaid services may be  
17 provided before the person's release if the state receives a medicaid  
18 waiver. It creates a reentry services modality within the community  
19 behavioral health services act and directs the Washington state  
20 health care authority to apply for a section 1115 medicaid waiver  
21 similar to the application submitted by New York state in August 2019

1 so that the state can leverage federal funding to provide reentry  
2 services before the person's release, and to provide a potential  
3 source of funding to support cost-effective and cost-neutral reentry  
4 and diversion services funded by contempt fines paid in the case of  
5 *Trueblood, et al., v. DSHS, et al.*, No. 15-35462. It guarantees that  
6 persons applying for a conditional release under chapter 10.77 RCW  
7 must have access to the same community support services available to  
8 persons receiving community services under a less restrictive  
9 alternative order under chapter 71.05 RCW. Finally, it removes  
10 stigmatizing language from the program created under RCW 72.09.370  
11 and 71.24.470 and creates a work group to advise the state how to use  
12 strategies based on evidence-based, research-based, and promising  
13 practices to expand the recovery benefits of this evidence-based  
14 reentry program to additional persons.

15 **Sec. 2.** RCW 74.09.670 and 2016 c 154 s 2 are each amended to  
16 read as follows:

17 (1) The authority is directed to suspend, rather than terminate,  
18 medical assistance benefits by July 1, 2017, for persons who are  
19 incarcerated or committed to a state hospital or other institution or  
20 facility. This must include the ability for a person to apply for  
21 medical assistance in suspense status during incarceration or civil  
22 commitment, and may not depend upon knowledge of the release date of  
23 the person. The authority must provide a progress report describing  
24 program design and a detailed fiscal estimate to the governor and  
25 relevant committees of the legislature by December 1, 2016.

26 (2) When a release date is scheduled for an individual whose  
27 medical assistance benefits are suspended under this section, the  
28 medical assistance benefits of a person may be restored up to ninety  
29 days prior to the person's release to facilitate reentry services,  
30 provided that no federal funds may be expended during this period for  
31 purposes not permitted by the state's agreements with the federal  
32 government.

33 (3) Starting January 1, 2022, the medical assistance benefits of  
34 a person that have been suspended under this section must be restored  
35 up to ninety days but not less than seven days prior to the person's  
36 scheduled release to facilitate reentry services, provided that no  
37 federal funds may be expended during this period for purposes not  
38 permitted by the state's agreements with the federal government.

1       (4) For the purpose of this section, "reentry services" has the  
2 same meaning as under RCW 71.24.025.

3       **Sec. 3.** RCW 71.24.025 and 2019 c 325 s 1004 and 2019 c 324 s 2  
4 are each reenacted and amended to read as follows:

5       Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

11       (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
12 case of a child, a gravely disabled minor as defined in RCW  
13 71.34.020; or

14       (c) Presenting a likelihood of serious harm as defined in RCW  
15 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

16       (2) "Alcoholism" means a disease, characterized by a dependency  
17 on alcoholic beverages, loss of control over the amount and  
18 circumstances of use, symptoms of tolerance, physiological or  
19 psychological withdrawal, or both, if use is reduced or discontinued,  
20 and impairment of health or disruption of social or economic  
21 functioning.

22       (3) "Approved substance use disorder treatment program" means a  
23 program for persons with a substance use disorder provided by a  
24 treatment program licensed or certified by the department as meeting  
25 standards adopted under this chapter.

26       (4) "Authority" means the Washington state health care authority.

27       (5) "Available resources" means funds appropriated for the  
28 purpose of providing community behavioral health programs, federal  
29 funds, except those provided according to Title XIX of the Social  
30 Security Act, and state funds appropriated under this chapter or  
31 chapter 71.05 RCW by the legislature during any biennium for the  
32 purpose of providing residential services, resource management  
33 services, community support services, and other behavioral health  
34 services. This does not include funds appropriated for the purpose of  
35 operating and administering the state psychiatric hospitals.

36       (6) "Behavioral health administrative services organization"  
37 means an entity contracted with the authority to administer  
38 behavioral health services and programs under RCW 71.24.381,  
39 including crisis services and administration of chapter 71.05 RCW,

1 the involuntary treatment act, for all individuals in a defined  
2 regional service area.

3 (7) "Behavioral health provider" means a person licensed under  
4 chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79  
5 RCW, as it applies to registered nurses and advanced registered nurse  
6 practitioners.

7 (8) "Behavioral health services" means mental health services as  
8 described in this chapter and chapter 71.36 RCW and substance use  
9 disorder treatment services as described in this chapter that,  
10 depending on the type of service, are provided by licensed or  
11 certified behavioral health agencies, behavioral health providers, or  
12 integrated into other health care providers.

13 (9) "Child" means a person under the age of eighteen years.

14 (10) "Chronically mentally ill adult" or "adult who is  
15 chronically mentally ill" means an adult who has a mental disorder  
16 and meets at least one of the following criteria:

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

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

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

27 (11) "Clubhouse" means a community-based program that provides  
28 rehabilitation services and is licensed or certified by the  
29 department.

30 (12) "Community behavioral health program" means all  
31 expenditures, services, activities, or programs, including reasonable  
32 administration and overhead, designed and conducted to prevent or  
33 treat substance use disorder, mental illness, or both in the  
34 community behavioral health system.

35 (13) "Community behavioral health service delivery system" means  
36 public, private, or tribal agencies that provide services  
37 specifically to persons with mental disorders, substance use  
38 disorders, or both, as defined under RCW 71.05.020 and receive  
39 funding from public sources.

1 (14) "Community support services" means services authorized,  
2 planned, and coordinated through resource management services  
3 including, at a minimum, assessment, diagnosis, emergency crisis  
4 intervention available twenty-four hours, seven days a week,  
5 prescreening determinations for persons who are mentally ill being  
6 considered for placement in nursing homes as required by federal law,  
7 screening for patients being considered for admission to residential  
8 services, diagnosis and treatment for children who are acutely  
9 mentally ill or severely emotionally or behaviorally disturbed  
10 discovered under screening through the federal Title XIX early and  
11 periodic screening, diagnosis, and treatment program, investigation,  
12 legal, and other nonresidential services under chapter 71.05 RCW,  
13 case management services, psychiatric treatment including medication  
14 supervision, counseling, psychotherapy, assuring transfer of relevant  
15 patient information between service providers, recovery services, and  
16 other services determined by behavioral health administrative  
17 services organizations.

18 (15) "Consensus-based" means a program or practice that has  
19 general support among treatment providers and experts, based on  
20 experience or professional literature, and may have anecdotal or case  
21 study support, or that is agreed but not possible to perform studies  
22 with random assignment and controlled groups.

23 (16) "County authority" means the board of county commissioners,  
24 county council, or county executive having authority to establish a  
25 behavioral health administrative services organization, or two or  
26 more of the county authorities specified in this subsection which  
27 have entered into an agreement to establish a behavioral health  
28 administrative services organization.

29 (17) "Department" means the department of health.

30 (18) "Designated crisis responder" has the same meaning as in RCW  
31 71.05.020.

32 (19) "Director" means the director of the authority.

33 (20) "Drug addiction" means a disease characterized by a  
34 dependency on psychoactive chemicals, loss of control over the amount  
35 and circumstances of use, symptoms of tolerance, physiological or  
36 psychological withdrawal, or both, if use is reduced or discontinued,  
37 and impairment of health or disruption of social or economic  
38 functioning.

39 (21) "Early adopter" means a regional service area for which all  
40 of the county authorities have requested that the authority purchase

1 medical and behavioral health services through a managed care health  
2 system as defined under RCW 71.24.380(6).

3 (22) "Emerging best practice" or "promising practice" means a  
4 program or practice that, based on statistical analyses or a well  
5 established theory of change, shows potential for meeting the  
6 evidence-based or research-based criteria, which may include the use  
7 of a program that is evidence-based for outcomes other than those  
8 listed in subsection (23) of this section.

9 (23) "Evidence-based" means a program or practice that has been  
10 tested in heterogeneous or intended populations with multiple  
11 randomized, or statistically controlled evaluations, or both; or one  
12 large multiple site randomized, or statistically controlled  
13 evaluation, or both, where the weight of the evidence from a systemic  
14 review demonstrates sustained improvements in at least one outcome.  
15 "Evidence-based" also means a program or practice that can be  
16 implemented with a set of procedures to allow successful replication  
17 in Washington and, when possible, is determined to be cost-  
18 beneficial.

19 (24) "Indian health care provider" means a health care program  
20 operated by the Indian health service or by a tribe, tribal  
21 organization, or urban Indian organization as those terms are defined  
22 in the Indian health care improvement act (25 U.S.C. Sec. 1603).

23 (25) "Intensive behavioral health treatment facility" means a  
24 community-based specialized residential treatment facility for  
25 individuals with behavioral health conditions, including individuals  
26 discharging from or being diverted from state and local hospitals,  
27 whose impairment or behaviors do not meet, or no longer meet,  
28 criteria for involuntary inpatient commitment under chapter 71.05  
29 RCW, but whose care needs cannot be met in other community-based  
30 placement settings.

31 (26) "Licensed or certified behavioral health agency" means:

32 (a) An entity licensed or certified according to this chapter or  
33 chapter 71.05 RCW;

34 (b) An entity deemed to meet state minimum standards as a result  
35 of accreditation by a recognized behavioral health accrediting body  
36 recognized and having a current agreement with the department; or

37 (c) An entity with a tribal attestation that it meets state  
38 minimum standards for a licensed or certified behavioral health  
39 agency.

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

4 (28) "Long-term inpatient care" means inpatient services for  
5 persons committed for, or voluntarily receiving intensive treatment  
6 for, periods of ninety days or greater under chapter 71.05 RCW.  
7 "Long-term inpatient care" as used in this chapter does not include:  
8 (a) Services for individuals committed under chapter 71.05 RCW who  
9 are receiving services pursuant to a conditional release or a court-  
10 ordered less restrictive alternative to detention; or (b) services  
11 for individuals voluntarily receiving less restrictive alternative  
12 treatment on the grounds of the state hospital.

13 (29) "Managed care organization" means an organization, having a  
14 certificate of authority or certificate of registration from the  
15 office of the insurance commissioner, that contracts with the  
16 authority under a comprehensive risk contract to provide prepaid  
17 health care services to enrollees under the authority's managed care  
18 programs under chapter 74.09 RCW.

19 (30) "Mental health peer respite center" means a peer-run program  
20 to serve individuals in need of voluntary, short-term, noncrisis  
21 services that focus on recovery and wellness.

22 (31) Mental health "treatment records" include registration and  
23 all other records concerning persons who are receiving or who at any  
24 time have received services for mental illness, which are maintained  
25 by the department of social and health services or the authority, by  
26 behavioral health administrative services organizations and their  
27 staffs, by managed care organizations and their staffs, or by  
28 treatment facilities. "Treatment records" do not include notes or  
29 records maintained for personal use by a person providing treatment  
30 services for the entities listed in this subsection, or a treatment  
31 facility if the notes or records are not available to others.

32 (32) "Mentally ill persons," "persons who are mentally ill," and  
33 "the mentally ill" mean persons and conditions defined in subsections  
34 (1), (10), (39), and (40) of this section.

35 (33) "Recovery" means a process of change through which  
36 individuals improve their health and wellness, live a self-directed  
37 life, and strive to reach their full potential.

38 (34) "Research-based" means a program or practice that has been  
39 tested with a single randomized, or statistically controlled  
40 evaluation, or both, demonstrating sustained desirable outcomes; or

1 where the weight of the evidence from a systemic review supports  
2 sustained outcomes as described in subsection (23) of this section  
3 but does not meet the full criteria for evidence-based.

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

24 (36) "Resilience" means the personal and community qualities that  
25 enable individuals to rebound from adversity, trauma, tragedy,  
26 threats, or other stresses, and to live productive lives.

27 (37) "Resource management services" mean the planning,  
28 coordination, and authorization of residential services and community  
29 support services administered pursuant to an individual service plan  
30 for: (a) Adults and children who are acutely mentally ill; (b) adults  
31 who are chronically mentally ill; (c) children who are severely  
32 emotionally disturbed; or (d) adults who are seriously disturbed and  
33 determined by a behavioral health administrative services  
34 organization or managed care organization to be at risk of becoming  
35 acutely or chronically mentally ill. Such planning, coordination, and  
36 authorization shall include mental health screening for children  
37 eligible under the federal Title XIX early and periodic screening,  
38 diagnosis, and treatment program. Resource management services  
39 include seven day a week, twenty-four hour a day availability of  
40 information regarding enrollment of adults and children who are



1 mentally ill in services and their individual service plan to  
2 designated crisis responders, evaluation and treatment facilities,  
3 and others as determined by the behavioral health administrative  
4 services organization or managed care organization, as applicable.

5 (38) "Secretary" means the secretary of the department of health.

6 (39) "Seriously disturbed person" means a person who:

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

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

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

16 (d) Exhibits suicidal preoccupation or attempts; or

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

22 (40) "Severely emotionally disturbed child" or "child who is  
23 severely emotionally disturbed" means a child who has been determined  
24 by the behavioral health administrative services organization or  
25 managed care organization, if applicable, to be experiencing a mental  
26 disorder as defined in chapter 71.34 RCW, including those mental  
27 disorders that result in a behavioral or conduct disorder, that is  
28 clearly interfering with the child's functioning in family or school  
29 or with peers and who meets at least one of the following criteria:

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

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

34 (c) Is currently served by at least one of the following child-  
35 serving systems: Juvenile justice, child-protection/welfare, special  
36 education, or developmental disabilities;

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

38 (i) Chronic family dysfunction involving a caretaker who is  
39 mentally ill or inadequate;

40 (ii) Changes in custodial adult;

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

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

6 (v) Drug or alcohol abuse; or

7 (vi) Homelessness.

8 (41) "State minimum standards" means minimum requirements  
9 established by rules adopted and necessary to implement this chapter  
10 by:

11 (a) The authority for:

12 (i) Delivery of mental health and substance use disorder  
13 services; and

14 (ii) Community support services and resource management services;

15 (b) The department of health for:

16 (i) Licensed or certified behavioral health agencies for the  
17 purpose of providing mental health or substance use disorder programs  
18 and services, or both;

19 (ii) Licensed behavioral health providers for the provision of  
20 mental health or substance use disorder services, or both; and

21 (iii) Residential services.

22 (42) "Substance use disorder" means a cluster of cognitive,  
23 behavioral, and physiological symptoms indicating that an individual  
24 continues using the substance despite significant substance-related  
25 problems. The diagnosis of a substance use disorder is based on a  
26 pathological pattern of behaviors related to the use of the  
27 substances.

28 (43) "Tribe," for the purposes of this section, means a federally  
29 recognized Indian tribe.

30 (44) "Reentry services" means targeted services to support  
31 community reintegration and recovery for a person with an identified  
32 behavioral health services need who is scheduled or expected to be  
33 released from a prison, jail, juvenile rehabilitation facility, state  
34 hospital, or other institution or facility within ninety days.  
35 "Reentry services" also means targeted services provided to such a  
36 person following release to support the person's recovery and  
37 stability in the community. "Reentry services" may include:

38 (a) Engagement, assessment, recovery support, and release  
39 planning provided up to ninety days prior to a scheduled or expected

1 release provided by behavioral health clinicians, certified peer  
2 counselors, or both;

3 (b) Intensive case management, peer bridger services, or both  
4 provided during the period beginning immediately upon the person's  
5 release which may decrease in intensity over time depending on the  
6 specific needs of the individual;

7 (c) Coordination of mental health services, assistance with  
8 unfunded medical expenses, assistance obtaining substance use  
9 disorder treatment, housing, employment services, educational or  
10 vocational training, transportation, independent living skills,  
11 parenting education, anger management services, peer services, and  
12 such other services as the case manager deems necessary; and

13 (d) Provision of services under contract through the reentry  
14 community services program under RCW 72.09.370 and 71.24.470.

15 NEW SECTION. Sec. 4. (1) By May 1, 2021, the health care  
16 authority shall apply for a section 1115 medicaid waiver to provide  
17 reentry services as defined under RCW 71.24.025 through the state  
18 medicaid program. The authority shall consult with the work group  
19 established under section 10 of this act about the application and  
20 may modify the details of its application with the consent of the  
21 work group.

22 (2) The health care authority shall explicitly consider how 1115  
23 medicaid waiver services applied for under this section could be used  
24 to provide sustainable funding for cost-effective or cost-neutral  
25 reentry or diversion services provided by pilot programs funded by  
26 contempt fines in *Trueblood, et al., v. DSHS, et al.*, No. 15-35462.  
27 To the extent practicable, the authority shall accommodate this  
28 consideration in its waiver application with the advice and consent  
29 of the work group established under section 10 of this act. The  
30 authority shall consider how evaluations of the program created under  
31 RCW 72.09.370 and 71.24.470 conducted by the Washington state  
32 institute for public policy may establish an evidence base for the  
33 cost-effective use of reentry services in the state of Washington.

34 (3) The health care authority shall update the governor and  
35 appropriate committees of the legislature in writing upon submission  
36 of the waiver application, at the point at which such application  
37 obtains final approval or denial from the centers for medicaid and  
38 medicare services, and at other critical junctures at the discretion  
39 of the health care authority.

1       **Sec. 5.** RCW 71.24.385 and 2019 c 325 s 1023 and 2019 c 264 s 6  
2 are each reenacted and amended to read as follows:

3       (1) Within funds appropriated by the legislature for this  
4 purpose, behavioral health administrative services organizations and  
5 managed care organizations, as applicable, shall develop the means to  
6 serve the needs of people:

7       (a) With mental disorders residing within the boundaries of their  
8 regional service area. Elements of the program may include:

- 9       (i) Crisis diversion services;  
10       (ii) Evaluation and treatment and community hospital beds;  
11       (iii) Residential treatment;  
12       (iv) Programs for intensive community treatment;  
13       (v) Outpatient services, including family support;  
14       (vi) Peer support services;  
15       (vii) Community support services;  
16       (viii) Resource management services; (~~and~~)  
17       (ix) Reentry services; and  
18       (x) Supported housing and supported employment services.

19       (b) With substance use disorders and their families, people  
20 incapacitated by alcohol or other psychoactive chemicals, and  
21 intoxicated people.

22       (i) Elements of the program shall include, but not necessarily be  
23 limited to, a continuum of substance use disorder treatment services  
24 that includes:

- 25       (A) Withdrawal management;  
26       (B) Residential treatment; and  
27       (C) Outpatient treatment.

28       (ii) The program may include peer support, supported housing,  
29 supported employment, crisis diversion, recovery support services,  
30 reentry services, or technology-based recovery supports.

31       (iii) The authority may contract for the use of an approved  
32 substance use disorder treatment program or other individual or  
33 organization if the director considers this to be an effective and  
34 economical course to follow.

35       (2)(a) The managed care organization and the behavioral health  
36 administrative services organization shall have the flexibility,  
37 within the funds appropriated by the legislature for this purpose and  
38 the terms of their contract, to design the mix of services that will  
39 be most effective within their service area of meeting the needs of  
40 people with behavioral health disorders and avoiding placement of

1 such individuals at the state mental hospital. Managed care  
2 organizations and behavioral health administrative services  
3 organizations are encouraged to maximize the use of evidence-based  
4 practices and alternative resources with the goal of substantially  
5 reducing and potentially eliminating the use of institutions for  
6 mental diseases.

7 (b) Managed care organizations and behavioral health  
8 administrative services organizations may allow reimbursement to  
9 providers for services delivered through a partial hospitalization or  
10 intensive outpatient program. Such payment and services are distinct  
11 from the state's delivery of wraparound with intensive services under  
12 the *T.R. v. Strange and Birch* settlement agreement.

13 (3) (a) Treatment provided under this chapter must be purchased  
14 primarily through managed care contracts.

15 (b) Consistent with RCW 71.24.580, services and funding provided  
16 through the criminal justice treatment account are intended to be  
17 exempted from managed care contracting.

18 **Sec. 6.** RCW 10.77.150 and 2010 c 263 s 5 are each amended to  
19 read as follows:

20 (1) Persons examined pursuant to RCW 10.77.140 may make  
21 application to the secretary for conditional release. The secretary  
22 shall, after considering the reports of experts or professional  
23 persons conducting the examination pursuant to RCW 10.77.140, forward  
24 to the court of the county which ordered the person's commitment the  
25 person's application for conditional release as well as the  
26 secretary's recommendations concerning the application and any  
27 proposed terms and conditions upon which the secretary reasonably  
28 believes the person can be conditionally released. Conditional  
29 release may also contemplate partial release for work, training, or  
30 educational purposes.

31 (2) In instances in which persons examined pursuant to RCW  
32 10.77.140 have not made application to the secretary for conditional  
33 release, but the secretary, after considering the reports of experts  
34 or professional persons conducting the examination pursuant to RCW  
35 10.77.140, reasonably believes the person may be conditionally  
36 released, the secretary may submit a recommendation for release to  
37 the court of the county that ordered the person's commitment. The  
38 secretary's recommendation must include any proposed terms and  
39 conditions upon which the secretary reasonably believes the person

1 may be conditionally released. Conditional release may also include  
2 partial release for work, training, or educational purposes. Notice  
3 of the secretary's recommendation under this subsection must be  
4 provided to the person for whom the secretary has made the  
5 recommendation for release and to his or her attorney.

6 (3) (a) The court of the county which ordered the person's  
7 commitment, upon receipt of an application or recommendation for  
8 conditional release with the secretary's recommendation for  
9 conditional release terms and conditions, shall within thirty days  
10 schedule a hearing. The court may schedule a hearing on applications  
11 recommended for disapproval by the secretary.

12 (b) The prosecuting attorney shall represent the state at such  
13 hearings and shall have the right to have the patient examined by an  
14 expert or professional person of the prosecuting attorney's choice.  
15 If the committed person is indigent, and he or she so requests, the  
16 court shall appoint a qualified expert or professional person to  
17 examine the person on his or her behalf.

18 (c) The issue to be determined at such a hearing is whether or  
19 not the person may be released conditionally without substantial  
20 danger to other persons, or substantial likelihood of committing  
21 criminal acts jeopardizing public safety or security.

22 (d) The court, after the hearing, shall rule on the secretary's  
23 recommendations, and if it disapproves of conditional release, may do  
24 so only on the basis of substantial evidence. The court may modify  
25 the suggested terms and conditions on which the person is to be  
26 conditionally released. Pursuant to the determination of the court  
27 after hearing, the committed person shall thereupon be released on  
28 such conditions as the court determines to be necessary, or shall be  
29 remitted to the custody of the secretary. If the order of conditional  
30 release includes a requirement for the committed person to report to  
31 a community corrections officer, the order shall also specify that  
32 the conditionally released person shall be under the supervision of  
33 the secretary of corrections or such person as the secretary of  
34 corrections may designate and shall follow explicitly the  
35 instructions of the secretary of corrections including reporting as  
36 directed to a community corrections officer, remaining within  
37 prescribed geographical boundaries, and notifying the community  
38 corrections officer prior to making any change in the offender's  
39 address or employment. If the order of conditional release includes a  
40 requirement for the committed person to report to a community

1 corrections officer, the community corrections officer shall notify  
2 the secretary or the secretary's designee, if the person is not in  
3 compliance with the court-ordered conditions of release.

4 (4) If the court determines that receiving regular or periodic  
5 medication or other medical treatment shall be a condition of the  
6 committed person's release, then the court shall require him or her  
7 to report to a physician or other medical or mental health  
8 practitioner for the medication or treatment. In addition to  
9 submitting any report required by RCW 10.77.160, the physician or  
10 other medical or mental health practitioner shall immediately upon  
11 the released person's failure to appear for the medication or  
12 treatment or upon a change in mental health condition that renders  
13 the patient a potential risk to the public report to the court, to  
14 the prosecuting attorney of the county in which the released person  
15 was committed, to the secretary, and to the supervising community  
16 corrections officer.

17 (5) Any person, whose application for conditional release has  
18 been denied, may reapply after a period of six months from the date  
19 of denial.

20 (6) A licensed or certified behavioral health agency as defined  
21 under RCW 71.24.025 that provides community behavioral health  
22 services to a person placed on conditional release under this section  
23 or agrees to provide such services upon the person's conditional  
24 release shall provide equivalent services to the person as it would  
25 provide to a person who is court ordered to receive less restrictive  
26 alternative treatment under RCW 71.05.585. A licensed or certified  
27 behavioral health agency must participate in reentry planning when a  
28 person is recommended for conditional release under this section and  
29 may provide reentry services as defined in RCW 71.24.025 in  
30 coordination with state hospital staff and the person's managed care  
31 organization, behavioral health administrative services organization,  
32 or private insurance carrier.

33 **Sec. 7.** RCW 72.09.370 and 2019 c 325 s 5025 are each amended to  
34 read as follows:

35 (1) The ~~((offender))~~ reentry community ~~((safety))~~ services  
36 program is established to provide intensive services to ~~((offenders))~~  
37 incarcerated persons identified under this subsection and to thereby  
38 promote successful reentry, public safety, and recovery. The  
39 secretary shall identify ~~((offenders))~~ persons in confinement or

1 partial confinement who: (a) Are reasonably believed to (~~be~~  
2 ~~dangerous~~) present a danger to themselves or others if released to  
3 the community without supportive services; and (b) have a mental  
4 disorder. In determining (~~(an offender's dangerousness)~~) whether an  
5 incarcerated person may meet these criteria, the secretary shall  
6 consider behavior known to the department and factors, based on  
7 research, that are linked to (~~(an increased)~~) risk (~~(for)~~) of  
8 dangerousness (~~(of offenders)~~) for persons with mental illnesses who  
9 are involved with the criminal justice system and shall include  
10 consideration of (~~(an offender's)~~) the person's substance use  
11 disorder or history of substance abuse.

12 (2) Prior to release of (~~(an offender)~~) a person identified under  
13 this section, a team consisting of representatives of the department  
14 of corrections, the health care authority, and, as necessary, the  
15 indeterminate sentence review board, divisions or administrations  
16 within the department of social and health services, specifically  
17 including the division of developmental disabilities, the appropriate  
18 managed care organization (~~(contracted with the health care~~  
19 ~~authority, the appropriate)~~) or behavioral health administrative  
20 services organization, and (~~(the)~~) reentry community services  
21 providers, as appropriate, shall develop a plan, as determined  
22 necessary by the team, for delivery of treatment and support services  
23 to the (~~(offender)~~) incarcerated person upon release. In developing  
24 the plan, the (~~(offender)~~) person shall be offered assistance in  
25 executing a mental health advance directive under chapter 71.32 RCW,  
26 after being fully informed of the benefits, scope, and purposes of  
27 such directive. The team may include a school district representative  
28 for (~~(offenders)~~) incarcerated persons under the age of twenty-one.  
29 The team shall consult with the (~~(offender's)~~) person's counsel, if  
30 any, and, as appropriate, the (~~(offender's)~~) person's family and  
31 community. The team shall notify the crime victim/witness program,  
32 which shall provide notice to all people registered to receive notice  
33 under RCW 72.09.712 of the proposed release plan developed by the  
34 team. Victims, witnesses, and other interested people notified by the  
35 department may provide information and comments to the department on  
36 potential safety risk to specific individuals or classes of  
37 individuals posed by the specific (~~(offender)~~) incarcerated person.  
38 The team may recommend: (a) That the (~~(offender)~~) person be evaluated  
39 by (~~(the)~~) a designated crisis responder, as defined in chapter 71.05



1 RCW; (b) department-supervised community treatment; or (c) voluntary  
2 community mental health or substance use disorder or abuse treatment.

3 (3) Prior to release of an (~~offender~~) incarcerated person  
4 identified under this section, the team shall determine whether or  
5 not an evaluation by a designated crisis responder is needed. If an  
6 evaluation is recommended, the supporting documentation shall be  
7 immediately forwarded to the appropriate designated crisis responder.  
8 The supporting documentation shall include the (~~offender's~~)  
9 person's criminal history, history of judicially required or  
10 administratively ordered involuntary antipsychotic medication while  
11 in confinement, and any known history of involuntary civil  
12 commitment.

13 (4) If an evaluation by a designated crisis responder is  
14 recommended by the team, such evaluation shall occur not more than  
15 ten days, nor less than five days, prior to release.

16 (5) A second evaluation by a designated crisis responder shall  
17 occur on the day of release if requested by the team, based upon new  
18 information or a change in the (~~offender's~~) person's mental  
19 condition, and the initial evaluation did not result in an emergency  
20 detention or a summons under chapter 71.05 RCW.

21 (6) If the designated crisis responder determines an emergency  
22 detention under chapter 71.05 RCW is necessary, the department shall  
23 release the (~~offender~~) person only to a state hospital or to a  
24 consenting evaluation and treatment facility or secure withdrawal  
25 management and stabilization facility. The department shall arrange  
26 transportation of the (~~offender~~) person to the hospital or  
27 facility.

28 (7) If the designated crisis responder believes that a less  
29 restrictive alternative treatment is appropriate, he or she shall  
30 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to  
31 require the (~~offender~~) person to appear at an evaluation and  
32 treatment facility or secure withdrawal management and stabilization  
33 facility. If a summons is issued, the (~~offender~~) person shall  
34 remain within the corrections facility until completion of his or her  
35 term of confinement and be transported, by corrections personnel on  
36 the day of completion, directly to the identified (~~evaluation and~~  
37 ~~treatment~~) facility.

38 (8) The secretary shall adopt rules to implement this section.

1       **Sec. 8.** RCW 71.24.470 and 2019 c 325 s 1030 are each amended to  
2 read as follows:

3       (1) The director shall contract, to the extent that funds are  
4 appropriated for this purpose, for case management services and such  
5 other services as the director deems necessary to assist  
6 ~~((offenders))~~ incarcerated persons identified under RCW 72.09.370 for  
7 participation in the ~~((offender))~~ reentry community ~~((safety))~~  
8 services program. The contracts may be with any qualified and  
9 appropriate entities.

10       (2) The case manager has the authority to assist these  
11 ~~((offenders))~~ individuals in obtaining the services, as set forth in  
12 the plan created under RCW 72.09.370(2), for up to five years. The  
13 services may include coordination of mental health services,  
14 assistance with unfunded medical expenses, assistance obtaining  
15 substance use disorder treatment, housing, employment services,  
16 educational or vocational training, independent living skills,  
17 parenting education, anger management services, peer services, and  
18 such other services as the case manager deems necessary.

19       (3) The legislature intends that funds appropriated for the  
20 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section  
21 are to supplement and not to supplant general funding. Funds  
22 appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212,  
23 and this section are not to be considered available resources as  
24 defined in RCW 71.24.025 and are not subject to the priorities,  
25 terms, or conditions in the appropriations act established pursuant  
26 to RCW 71.24.035.

27       (4) The ~~((offender))~~ reentry community ~~((safety))~~ services  
28 program was formerly known as the community integration assistance  
29 program.

30       **Sec. 9.** RCW 71.24.480 and 2019 c 325 s 1031 are each amended to  
31 read as follows:

32       (1) A licensed or certified behavioral health agency acting in  
33 the course of the ~~((provider's))~~ agency's duties under this  
34 chapter~~((, is))~~ and its individual employees are not liable for civil  
35 damages resulting from the injury or death of another caused by a  
36 participant in the ~~((offender))~~ reentry community ~~((safety))~~ services  
37 program who is a client of the ~~((provider or organization))~~ agency,  
38 unless the act or omission of the ~~((provider or organization))~~ agency  
39 or employee constitutes:

1 (a) Gross negligence;  
2 (b) Willful or wanton misconduct; or  
3 (c) A breach of the duty to warn of and protect from a client's  
4 threatened violent behavior if the client has communicated a serious  
5 threat of physical violence against a reasonably ascertainable victim  
6 or victims.

7 (2) In addition to any other requirements to report violations,  
8 the licensed or certified behavioral health agency shall report (~~an~~  
9 ~~offender's~~) a reentry community services program participant's  
10 expressions of intent to harm or other predatory behavior, regardless  
11 of whether there is an ascertainable victim, in progress reports and  
12 other established processes that enable courts and supervising  
13 entities to assess and address the progress and appropriateness of  
14 treatment.

15 (3) A licensed or certified behavioral health agency's mere act  
16 of treating a participant in the (~~offender~~) reentry community  
17 (~~safety~~) services program is not negligence. Nothing in this  
18 subsection alters the licensed or certified behavioral health  
19 agency's normal duty of care with regard to the client.

20 (4) The limited liability provided by this section applies only  
21 to the conduct of licensed or certified behavioral health agencies  
22 and their employees and does not apply to conduct of the state.

23 (5) For purposes of this section, "participant in the  
24 (~~offender~~) reentry community (~~safety~~) services program" means a  
25 person who has been identified under RCW 72.09.370 as (~~an offender~~)  
26 a person who: (a) Is reasonably believed to (~~be dangerous~~) present  
27 a danger to himself or herself or others if released to the community  
28 without supportive services; and (b) has a mental disorder.

29 NEW SECTION. Sec. 10. A new section is added to chapter 71.24  
30 RCW to read as follows:

31 (1) The authority shall convene a reentry community services work  
32 group to consider expansion or replication of the successful elements  
33 of the reentry community services program under RCW 72.09.370 and  
34 other ways to improve reentry services for persons with an identified  
35 behavioral health services need. The work group shall:

36 (a) Advise the authority on its waiver application under section  
37 4 of this act;

1 (b) Consider the merits of expanding or replicating the essential  
2 elements of the reentry community services program under RCW  
3 72.09.370 and 71.24.470 to include providing services to:

4 (i) A larger set of persons incarcerated in prison including, but  
5 not limited to, persons who could be served by revising eligibility  
6 criteria for the program to include eligibility for services to all  
7 persons with either a high risk of violent recidivism, a high risk of  
8 nonviolent recidivism, or both in combination with a mental disorder  
9 or a substance use disorder, or both;

10 (ii) Persons committed to a state hospital or facility under  
11 chapter 10.77 RCW or RCW 71.05.280(3);

12 (iii) Persons confined under chapter 13.40 RCW;

13 (iv) Persons confined in jail; and/or

14 (v) Other populations recommended by the work group;

15 (c) Determine whether administration of contracts for services  
16 under the reentry community services program should remain at the  
17 state level or instead be administered by managed care organizations  
18 and/or behavioral health administrative services organizations;

19 (d) Identify what cost savings could be realized through  
20 expansion or replication of the reentry community services program  
21 and how such an expanded or replicated program could be staffed or  
22 funded;

23 (e) Consider whether peer services should be incorporated into  
24 the program; and

25 (f) Identify what adaptations are needed to expand or replicate  
26 the program while preserving those aspects of the program that are  
27 essential for stable reentry and recovery.

28 (2) The authority shall invite participation in the work group by  
29 stakeholders including but not limited to representatives from:  
30 Disability rights Washington and other behavioral health advocacy  
31 organizations; behavioral health peers; reentry community services  
32 providers; community behavioral health agencies; advocates for  
33 persons with developmental disabilities; the department of  
34 corrections; the department of children, youth, and families; law  
35 enforcement; jails; the department of social and health services;  
36 state hospital employees who serve patients committed under chapters  
37 10.77 and 71.05 RCW; the public safety review panel under RCW  
38 10.77.270; managed care organizations; behavioral health  
39 administrative services organizations; the Washington statewide  
40 reentry council; the Washington state senate and house of

1 representatives; and the Washington state institute for public  
2 policy.

3 (3) The work group must provide a progress report to the governor  
4 and appropriate committees of the legislature by December 1, 2020,  
5 and a final report by December 1, 2021.

6 NEW SECTION. **Sec. 11.** By January 1, 2021, the Washington state  
7 health care authority shall revise its contracts with managed care  
8 organizations and behavioral health administrative services  
9 organizations to require those entities to ensure that providers that  
10 contract to provide services through the reentry community services  
11 program under RCW 72.09.370 and 71.24.330 are available to their  
12 eligible clients in every regional service area.

13 NEW SECTION. **Sec. 12.** The Washington state institute for public  
14 policy shall update its previous evaluations of the reentry community  
15 services program under RCW 72.09.370 and 71.24.470, considering  
16 impacts on both recidivism and the use of public services. The  
17 institute shall collaborate with the work group established under  
18 section 10 of this act to determine research parameters and  
19 additional research questions that would support the work of the work  
20 group including, but not limited to, the potential cost, benefit, and  
21 risks to the state of expanding or replicating the reentry community  
22 services program; and what modifications to the program are most and  
23 least likely to prove advantageous based on the current state of  
24 knowledge about evidence-based, research-based, and promising  
25 programs. The department of corrections, health care authority,  
26 administrative office of the courts, King county, and department of  
27 social and health services must cooperate with the institute to  
28 facilitate access to data or other resources necessary to complete  
29 this work. The institute must provide a preliminary report by  
30 December 1, 2020, and a final report by November 1, 2021, to the  
31 governor and relevant committees of the legislature.

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