
SENATE BILL 6638

State of Washington

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2020 Regular Session

By Senators Wilson, C., Lovelett, Randall, Nguyen, Das, and Darneille

Read first time 01/29/20. Referred to Committee on Human Services, Reentry & Rehabilitation.

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 the 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 provided by pilot programs funded by the
5 settlement in *Trueblood, et al., v. DSHS, et al.*, No. 15-35462. It
6 ensures that persons applying for a conditional release under chapter
7 10.77 RCW have access to the same community support services
8 available to persons receiving community services under a less
9 restrictive alternative order under chapter 71.05 RCW. Finally, it
10 removes stigmatizing language from the program created under RCW
11 72.09.370 and 71.24.470 and creates a work group to advise the state
12 how to use strategies based on evidence-based, research-based, and
13 promising practices to expand the recovery benefits of this evidence-
14 based 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 and recovery
30 services, provided that no federal funds may be expended during this
31 period for purposes not permitted by the state's agreements with the
32 federal 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 and recovery services,
37 provided that no federal funds may be expended during this period for
38 purposes not permitted by the state's agreements with the federal
39 government.

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

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

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

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

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

12 (c) Presenting a likelihood of serious harm as defined in RCW
13 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

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

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

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

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

34 (6) "Behavioral health administrative services organization"
35 means an entity contracted with the authority to administer
36 behavioral health services and programs under RCW 71.24.381,
37 including crisis services and administration of chapter 71.05 RCW,
38 the involuntary treatment act, for all individuals in a defined
39 regional service area.

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

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

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

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

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

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

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

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

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

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

38 (14) "Community support services" means services authorized,
39 planned, and coordinated through resource management services
40 including, at a minimum, assessment, diagnosis, emergency crisis

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

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

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

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

27 (18) "Designated crisis responder" has the same meaning as in RCW
28 71.05.020.

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

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

36 (21) "Early adopter" means a regional service area for which all
37 of the county authorities have requested that the authority purchase
38 medical and behavioral health services through a managed care health
39 system as defined under RCW 71.24.380(6).

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

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

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

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

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

30 (a) An entity licensed or certified according to this chapter or
31 chapter 71.05 RCW;

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

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

38 (27) "Licensed physician" means a person licensed to practice
39 medicine or osteopathic medicine and surgery in the state of
40 Washington.

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

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

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

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

29 (32) "Mentally ill persons," "persons who are mentally ill," and
30 "the mentally ill" mean persons and conditions defined in subsections
31 (1), (10), (39), and (40) of this section.

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

35 (34) "Research-based" means a program or practice that has been
36 tested with a single randomized, or statistically controlled
37 evaluation, or both, demonstrating sustained desirable outcomes; or
38 where the weight of the evidence from a systemic review supports
39 sustained outcomes as described in subsection (23) of this section
40 but does not meet the full criteria for evidence-based.

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

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

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

1 and others as determined by the behavioral health administrative
2 services organization or managed care organization, as applicable.

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

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

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

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

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

14 (d) Exhibits suicidal preoccupation or attempts; or

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

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

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

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

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

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

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

38 (ii) Changes in custodial adult;

39 (iii) Going to, residing in, or returning from any placement
40 outside of the home, for example, psychiatric hospital, short-term

1 inpatient, residential treatment, group or foster home, or a
2 correctional facility;

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

4 (v) Drug or alcohol abuse; or

5 (vi) Homelessness.

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

9 (a) The authority for:

10 (i) Delivery of mental health and substance use disorder
11 services; and

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

13 (b) The department of health for:

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

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

19 (iii) Residential services.

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

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

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

36 (a) Engagement, assessment, recovery support, and release
37 planning provided up to ninety days prior to scheduled or expected
38 release provided by behavioral health clinicians, certified peers, or
39 both;

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

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

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

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

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

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

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 improvement of 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 replicating or expanding 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 in jail; and/or

13 (iv) Other populations recommended by the work group;

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

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

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

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

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

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

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

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

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