State of Washington
Joint Legislative Audit & Review Committee (JLARC)

Information-Sharing and Medicaid Reinstatement for Individuals Released from Confinement

Report 10-5

May 19, 2010

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Audit Authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.
JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

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Committee Approval

On May 19, 2010, this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Acknowledgements

We appreciate the assistance provided by staff members of the Department of Social and Health Services, the Department of Corrections, the Administrative Office of the Courts, the Sentencing Guidelines Commission, and the Washington Association of Sheriffs and Police Chiefs in conducting this study. We would like to thank each of those staff members for their availability and responsiveness during a very busy time.

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Report 10-5

May 19, 2010

STATE OF WASHINGTON
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REPORT SUMMARY

In the 2009-11 Operating Budget, the Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to review the status of implementation of four specific bills related to two topics:

1. Legislation to increase information-sharing between the criminal justice and behavioral health systems (E2SSB 6358 (2004) and E2SSB 5763 (2005)); and
2. Legislation to reinstate Medicaid coverage for adults with a mental illness, and juveniles, upon their release from correctional or therapeutic confinement (E2SHB 1290 (2005) and 2SHB 1088 (2007)).

For each of these topics, this JLARC study identifies the relevant provisions from these laws, reports on the status of their implementation, and offers recommendations to facilitate their further implementation and to examine the outcomes of these efforts.

Part 1. Information-Sharing

The Concern: Legislators expressed concerns that gaps in information-sharing between the criminal justice and behavioral health (i.e., mental health and chemical dependency treatment) systems could allow offenders with mental illnesses to fall through the cracks, which **could allow the systems to miss opportunities to prevent future crimes**. By way of context, in 2006, 22 percent of individuals released from state correctional facilities had mental health diagnoses.

The Legislative Response: The legislation passed in 2004 and 2005 contained 39 provisions to increase information-sharing between the two systems. The Legislature gave specific directives to a disparate range of entities and individuals, including state agencies, local jails, individual treatment providers, and offenders.

Status of Implementation: Largely Unknown, but Many Positive Efforts. Of the 39 provisions, seven have been implemented, while two have not been fully implemented. For the remaining 30 provisions, the status is "Unknown," although there is evidence that a state rule, policy, training materials, compliance review tools, or forms have been established in accordance with 27 of these 30. The Legislature did not include requirements for entities or individuals to report on their implementation of the 39 provisions. The Legislature also did not include any future assessments on the outcomes from establishing the information-sharing provisions.

Recommendations:

- Two recommendations are addressed to the Legislature if it is interested in: a) further documentation on implementation of these provisions, and/or b) an assessment of the outcomes from establishing these provisions.
- One recommendation each is directed to the superior courts, the Department of Social and Health Services, and the Supreme Court-established Pattern Forms Committee related to implementation of specific provisions within the 39.

Part 2. Reinstating Medicaid Coverage

The Concern: When leaving confinement, whether correctional or therapeutic, individuals with a mental illness may not receive essential mental health treatment. These individuals are not eligible for Medicaid benefits to pay for medical care while they are confined. However, once released, they may be eligible for Medicaid, which would provide these individuals with a **way to get mental health treatment**.

The Legislative Response: The legislation passed in 2005 and 2007 contained nine provisions aimed at reinstating Medicaid coverage for eligible adults with a mental illness, and juveniles, upon their release from confinement, thus providing them with a way to access mental health treatment. Of the nine provisions, seven are directed to the Department of Social and Health Services (DSHS), one to the various institutions where an individual may have been confined, and one to the local Regional Support Networks.

Status of Implementation: Largely Implemented, Though a DSHS Analysis Questions Impacts
Of the nine provisions, five have been implemented, one has not been fully implemented, and the status for three of the provisions is "Unknown." DSHS conducted an analysis in 2006-07 to see whether adults with a mental illness released from Department of Corrections (DOC) facilities and six county jails were being referred for expedited review for DSHS medical coverage (including Medicaid), enrolled in coverage, and ultimately accessed mental health treatment. The study concluded that only one in five adults targeted by these provisions was referred for an expedited review upon release.

DSHS is currently developing a web-based tool to allow the criminal justice and Medicaid systems to share information relating to the Medicaid eligibility of individuals who are confined. The purpose of this tool is to facilitate the provision of Medicaid services to eligible individuals upon release.

Recommendation:

- One recommendation is directed to the Department of Social and Health Services to update and expand its 2006-07 analysis to determine the impact of these provisions related to Medicaid reinstatement for adults with a mental illness, and juveniles, who are released from confinement.

INFORMATION-SHARING AND MEDICAID REINSTATEMENT FOR INDIVIDUALS RELEASED FROM CONFINEMENT

Part 1. Information-Sharing Between the Criminal Justice and Behavioral Health Systems

Legislators expressed concerns that gaps in information-sharing between the criminal justice and behavioral health (i.e., mental health and chemical dependency treatment) systems could allow offenders with mental illnesses to fall through the cracks, which could allow the systems to miss opportunities to prevent future crimes.

Legislative Directives for Information-Sharing: Who Should Do What?

JLARC identified 39 distinct provisions in state law to increase information-sharing between the criminal justice and behavioral health (i.e., mental health and chemical dependency treatment) systems. These provisions were enacted through legislation from 2004 (E2SSB 6358) and 2005 (E2SSB 5763). The term "provisions" is used here rather than sections of law, since JLARC separated the sections out into individual provisions, when appropriate.[1]

In these provisions, the Legislature gave specific directives to a disparate range of entities and individuals, including state agencies, local jails, individual treatment providers, and offenders. However, the Legislature did not include reporting requirements for any of the 39 provisions. For example, jails do not have to document their compliance with these provisions of law, even though these provisions require them to perform specific actions. The same is true for the remaining ten other entities and groups of individuals. In addition, the legislation did not call for any future assessment of the outcomes associated with these provisions.

A descriptive, longitudinal study that tracks the outcomes among individuals involved in the criminal justice and behavioral health systems could be conducted to make comparisons between a period before these provisions were enacted and a period afterward. However, the many changes to these systems over time would make it difficult to attribute any changes solely to enactment of these provisions.

Exhibit 1 provides information on the key entities addressed in the information-sharing provisions, as well as a condensed description of the primary roles assigned to each of these entities.

[1] These 39 identified provisions do not include two provisions where it would be unlikely that implementation status could be demonstrated, regardless of what data may be available. Those provisions require that specific criteria *must not prevent* an individual from being involuntarily committed, but do not obligate any party with ensuring that this requirement is followed. JLARC could not identify a method for documenting implementation of these provisions.

Exhibit 1 – Condensed Description of Roles Assigned to Key Entities by Information-Sharing Legislation

Department of Corrections (DOC): State agency responsible for state adult correctional facilities and supervision of offenders in the community (Chapter 72.09 RCW)
• Must ask offenders about court-ordered mental health or chemical dependency treatment, and request further information from the offenders' treatment providers • Must provide relevant information relating to a petition for involuntary treatment for offenders in a state correctional facility or under DOC supervision • With DSHS, must develop a training plan for department employees, contractors, and necessary treatment providers covering information-sharing processes for offenders with treatment orders and under DOC supervision • With DSHS, must develop a model for multidisciplinary case management and release planning for offenders with high resource needs in multiple service areas
Department of Social and Health Services (DSHS): State agency with responsibility for mental health and chemical dependency services throughout the state (Chapters 71.24 and 70.96A RCW)
• Share information with DOC about mental health treatment providers treating offenders • With DOC, must develop a training plan for department employees, contractors, and necessary treatment providers covering information-sharing processes for offenders with treatment orders and under DOC supervision • With DOC, must develop a model for multidisciplinary case management and release planning for offenders with high resource needs in multiple service areas • Report to Legislature on residential capacity for mental health and chemical dependency treatment
Community Corrections Officers: Employees of DOC responsible for specific duties in supervising and monitoring offenders in the community (RCW 9.94A.030)
• Must request an evaluation of offenders under supervision who have violated a mental health or chemical dependency treatment order
State Psychiatric Hospitals: Hospitals operated and maintained by the state for the care of the mentally ill (RCW 72.23.010)
• Must consult with appropriate corrections, chemical dependency, and forensic staff in conducting a discharge review for involuntary mental health treatment • Must notify a correctional facility when returning an offender to the facility following a discharge review for involuntary mental health treatment

Exhibit 1 (continued) – Condensed Description of Roles Assigned to Key Entities by Information-Sharing Legislation

Designated Mental Health Professionals (DMHPs): Mental health treatment providers designated by the county or other authority to make evaluation and commitment recommendations on involuntary mental health treatment (RCW 71.05.020)
• Must evaluate individuals subject to a discharge review within 72 hours of their release from jail • Must notify treatment providers and DOC when an offender under court-ordered treatment and DOC supervision violates the treatment order or conditions of supervision, or the professional detains the individual for involuntary treatment • Must notify DOC if petitioning an offender, who is in a state correctional facility or under DOC supervision, for involuntary treatment
Designated Chemical Dependency Specialists (DCDSs): Persons designated by the county chemical dependency program coordinator to make evaluation and commitment recommendations on involuntary chemical dependency treatment (RCW 70.96A.020)
• Must evaluate individuals subject to a discharge review within 72 hours of their release from jail • Must notify treatment providers and DOC when an offender under court-ordered treatment and DOC supervision violates the treatment order or conditions of supervision, or the professional detains the individual for involuntary treatment • Must notify DOC if petitioning an offender, who is in a state correctional facility or under DOC supervision, for involuntary treatment
Mental Health Treatment Providers: Psychiatrists, psychologists, psychiatric advanced registered nurse practitioners, psychiatric nurses, or social workers, and other mental health professionals defined by DSHS rule (RCW 71.05.020)
• Must ask individuals court-ordered to treatment about DOC supervision • Must release information to DOC relating to treatment of offenders • Must request an evaluation of offenders under supervision who have violated a mental health treatment order
Chemical Dependency Treatment Providers: DSHS-certified chemical dependency treatment programs (RCW 70.96A.020)
• Must ask individuals about court-ordered mental health or chemical dependency treatment and DOC supervision • Must request an authorization to release records from individuals under court-ordered treatment and DOC supervision • May ask DOC about supervision of an individual in treatment • Must request an evaluation of offenders under supervision who have violated a chemical dependency treatment order

Exhibit 1 (continued) – Condensed Description of Roles Assigned to Key Entities by Information-Sharing Legislation

Superior Courts: Courts whose jurisdiction includes all felony and a portion of misdemeanor criminal cases, and petitions for involuntary treatment (RCW 2.08.010, Chapters 71.05 and 70.96A RCW)

• Must include a specific statement in all judgment and sentences relating to:
  ○ An offender's obligation to notify DOC of any court-ordered mental health or chemical dependency treatment; and
  ○ The requirement that related treatment information must be shared with DOC
• Must include a specific statement in all orders for involuntary mental health treatment relating to:
  ○ An offender's obligation to notify his/her treatment provider of DOC supervision; and
  ○ The requirement that mental health treatment information must be shared with DOC

Jails: County, city, or town's holding, detention, special detention, or correctional facilities (RCW 70.48.180, 70.48.190)
• Must notify DMHP or DCDS of the release of an offender subject to a discharge review within 72 hours of release • Must notify the appropriate state psychiatric hospital of the release of an offender subject to a discharge review
Offenders: Persons who have committed a felony or specific misdemeanors or gross misdemeanors (RCW 9.94A.030)
• Must disclose information on court- or DOC-ordered mental health or chemical dependency treatment and supervision by DOC to mental health treatment providers, chemical dependency treatment providers, and DOC

Source: JLARC analysis of state law.

Status of Implementation: Largely Unknown, but Many Positive Efforts

Given the disparate and wide range of parties with information-sharing obligations, the lack of reporting requirements, and the resulting absence of any central data repositories, JLARC sought information from state agencies to document implementation of the information-sharing provisions. Exhibit 2 presents the results on implementation status for the 39 provisions. Seven provisions have been implemented, while two have not been fully implemented. The majority of the provisions (30 of 39) have the status of "Unknown," meaning that there was not enough documentation to measure whether or not those provisions have been fully implemented.

JLARC further reviewed the provisions with an "Unknown" status to see whether there was evidence that efforts had been made in processes (e.g., establishing a state rule, policy, training materials, compliance review tools, or forms) in accordance with these provisions. For 27 of these 30 provisions, at least one such effort had been made. Appendix 3 provides tables that address in greater detail the implementation status of the information-sharing provisions.

Exhibit 2 – Implementation Status is "Unknown" for 30 of 39 Information-Sharing Provisions in State Law

			Implementation Status of Provisions in Law			
	Type of entity	**Who is responsible?**	**Unknown**	**Yes**	**No**	**Total**
Criminal Justice	State Agency	DOC	5	0	0	5
		Community Corrections Officers	1	0	0	1
	Locals	Courts	2	0	1	3
		Jails	2	0	0	2
	Individuals	Offenders	3	0	0	3
Behavioral Health	State Agency	DSHS	0	2	1	3
		State Psychiatric Hospitals	2	0	0	2
	Locals	DMHPs/DCDSs	6	0	0	6
	Individuals	Behavioral Health Treatment Providers	9	2	0	11
	State Agencies	DOC/DSHS	0	2	0	2
		Not stated	0	1	0	1
		Totals	**30**	**7**	**2**	**39**

Source: JLARC Analysis of state law and agency documents.

Recommendations

Recommendations to the Legislature

The first two recommendations are to the Legislature and concern the information-sharing provisions of law, as a whole. They provide avenues for the Legislature to obtain a) further documentation on implementation of these provisions, and b) an assessment of the outcomes from establishing these provisions.

Recommendation 1

If the Legislature would like further information on whether state laws concerning information-sharing between the criminal justice and behavioral health systems are being fully implemented (E2SSB 6358 (2004) and Sections 507-508 of E2SSB 5763 (2005)), it should enact new legislation with specific reporting requirements for those state agencies, other entities, and individuals required to perform functions under these provisions of law.

Legislation Required:	Yes
Fiscal Impact:	Dependent upon reporting requirements
Implementation Date:	Not applicable

Recommendation 2

If the Legislature would like information relating to the impact of state laws concerning information-sharing between the criminal justice and behavioral health systems (E2SSB 6358 (2004) and Sections 507-508 of E2SSB 5763 (2005)), it should commission a longitudinal study to assess outcomes for individuals involved in both the criminal justice and behavioral health systems.

Legislation Required:	Yes
Fiscal Impact:	An estimated $50,000 for a study of outcomes
Implementation Date:	Not applicable

Recommendations Related to Specific Information-Sharing Provisions

The remaining three recommendations relate to specific actions required of various entities or individuals under the information-sharing provisions. In the first case, the recommendation addresses the failure of a few of the superior courts to include specific required language in their completed felony judgment and sentence forms. In the remaining two cases, the recommendations address missed opportunities to encourage implementation of specific information-sharing provisions.

Improve Compliance by Superior Courts

All superior courts must include language in completed judgment and sentence forms providing that if the offender is or becomes subject to court-ordered mental health or chemical dependency treatment, the offender must notify DOC and the offender's treatment information must be shared with DOC for the duration of the offender's incarceration and supervision. The court may, for good

cause, find that public safety is not enhanced by the sharing of this offender's information. (RCW 9.94A.562)

This language is included on the Felony Judgment and Sentence form adopted as a Statewide Pattern Form by the Pattern Forms Committee, which was established in 1978 by the state Supreme Court to develop standardized forms for court use. However, an analysis by the Sentencing Guidelines Commission of a selection of judgment and sentence forms, completed in the state's 39 counties in each year from fiscal year 2006 through fiscal year 2009, discovered instances where at least five counties had not included this language in any given year.

Recommendation 3

All superior courts should include the language required by RCW 9.94A.562 relating to reporting of treatment information in all completed judgment and sentence forms.

Legislation Required:	None
Fiscal Impact:	JLARC assumes that this can be completed within existing resources.
Implementation Date:	December 1, 2010

Improve DSHS Guidance for Designated Mental Health Professionals

When notified by a jail, a Designated Mental Health Professional must evaluate a specific group of defendants and offenders within 72 hours of release from the jail. That group consists of any defendants or offenders who were the subject of a discharge review for involuntary mental health treatment. (RCW 71.05.157) There is no readily available information on whether DMHPs are completing these evaluations. In addition, DSHS has not included this requirement in the statewide protocols for Designated Mental Health Professionals, which state law has required the department to maintain since 1998. In contrast, DSHS has included other directives from the information-sharing provisions in the statewide protocols for DMHPs.

Recommendation 4

The Department of Social and Health Services should add to its statewide protocols the requirement that Designated Mental Health Professions must evaluate defendants or offenders who were the subject of a discharge review for involuntary mental health treatment within 72 hours of release from jail.

Legislation Required:	None
Fiscal Impact:	JLARC assumes that this can be completed within existing resources.
Implementation Date:	December 1, 2010

Improve Supports for Court Compliance

When a court orders a person to receive involuntary mental health or chemical dependency treatment, the order must include a statement that if the person is, or becomes, subject to supervision by DOC, the person must notify the mental health or chemical dependency treatment provider and the person's treatment information must be shared with DOC for the duration of the

offender's incarceration and supervision. The court may, for good cause, find that public safety would not be enhanced by the sharing of this person's information. (RCW 71.05.132, 70.96A.155)

There is no readily available information on whether courts—most likely superior courts—are including the required language in their court orders for mental health or chemical dependency involuntary treatment. In addition, the Supreme Court-established Pattern Forms Committee has not created any uniform language for involuntary treatment orders, including the required language.

Recommendation 5

The Pattern Forms Committee should adopt Statewide Pattern Forms for involuntary treatment court orders that include the language relating to reporting of treatment information required by RCW 71.05.132 and RCW 70.96A.155.

Legislation Required:	None
Fiscal Impact:	JLARC assumes that this can be completed within existing resources.
Implementation Date:	December 1, 2010

Part 2. Medicaid Reinstatement and Expedited Eligibility for Individuals Released from Confinement

When leaving confinement, whether correctional or therapeutic, individuals with a mental illness may not receive essential mental health treatment. These individuals are not eligible for Medicaid benefits to pay for medical care while they are confined in a prison, jail, or institution for mental disease. They may remain enrolled in the program so long as they continue to meet eligibility requirements, but any services they receive while confined cannot be billed to Medicaid, which is jointly funded with state and federal dollars. Immediately upon release from confinement, individuals eligible for the program may receive Medicaid benefits which include mental health treatment.

Legislative Directives for Medicaid Reinstatement: Who Should Do What?

JLARC identified nine distinct provisions in state law to facilitate Medicaid reinstatement and expedited eligibility for adults with a mental illness, and juveniles, released from confinement. These provisions were enacted through legislation from 2005 (E2SHB 1290) and 2007 (2SHB 1088). The term "provisions" is used here rather than sections of law, since JLARC separated the sections out into individual provisions, when appropriate.

Exhibit 3 provides information on the key entities addressed in the Medicaid reinstatement provisions, as well as a condensed description of the primary roles assigned to each of these entities.

Exhibit 3 – Condensed Description of Roles Assigned to Key Entities by Medicaid Reinstatement Legislation

Department of Social and Health Services (DSHS): State agency with responsibility for mental health and chemical dependency services throughout the state (Chapters 71.24 and 70.96A RCW)	
Regarding Adults	• Must adopt rules and policies providing that the Medicaid coverage of individuals with a mental disorder must be fully reinstated upon release from confinement • In collaboration with other specific entities, must establish procedures for coordination among DSHS field offices, institutions for mental disease, and correctional institutions resulting in prompt reinstatement or speedy eligibility determinations for individuals released from confinement who are likely eligible for Medicaid • Must use medical or psychiatric examinations of individuals under confinement that indicate a disability in making its determination of an individual's disability and Medicaid eligibility • Must adopt standardized statewide screening and application practices and forms to facilitate Medicaid applications for individuals who are confined and are likely eligible for Medicaid • Must require RSNs to develop interlocal agreements in accordance with the Medicaid reinstatement and speedy eligibility determinations required by E2SHB 1290 (2005)
Regarding Juveniles	• Must adopt rules and policies providing that the Medicaid coverage of youths, who were enrolled in Medicaid upon confinement, must be fully reinstated upon release • In collaboration with other specific entities, must establish procedures for coordination among DSHS field offices, state juvenile facilities, and county juvenile courts resulting in prompt reinstatement or speedy eligibility determinations for youth released from confinement who are likely eligible for Medicaid • Must adopt standardized statewide screening and application practices and forms to facilitate Medicaid applications for youth who are confined and are likely eligible for Medicaid
Correctional Institutions: State prisons, county or local jails, or other facilities operated by the Department of Corrections (DOC) or local government for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense (RCW 9.94.049)	
• Must provide DSHS with medical or psychiatric examinations of individuals under confinement that indicate a disability	
Institutions for Mental Disease: Hospital, nursing facility, or other institutions of more than 16 beds that are primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases (42 C.F.R. part 435, Sec. 1009)	
• Must provide DSHS with medical or psychiatric examinations of individuals under confinement that indicate a disability	
Regional Support Networks (RSNs): County authorities or groups of county authorities or other entity contracted with DSHS to serve the needs of people with mental disorders within defined geographic boundaries (RCW 71.24.016, 71.24.025)	
• Must accept referrals for individuals who are confined, prior to release from confinement	

Source: JLARC analysis of state law.

Status of Implementation: Largely Implemented, Though a DSHS Analysis Questions Impacts

All but two of these provisions were directed solely to the Department of Social and Health Services (DSHS), as the single state agency responsible for administering the Medicaid program. As such, JLARC sought information from DSHS and other state agencies to document implementation of these provisions of law. Exhibit 4 presents the results on implementation status for the nine provisions. Five provisions have been implemented, while one has not been fully implemented. The status of the remaining three is "Unknown," meaning that there was not enough documentation to determine whether or not those provisions have been implemented.

Appendix 4 provides tables that address, in greater detail, the implementation status of these provisions.

Exhibit 4 – Five of Nine Provisions Have Been Implemented

	Implementation Status of Provisions of Law			
Who is responsible?	**Yes**	**No**	**Unknown**	**Total**
DSHS	5	1	1	7
Correctional Institutions, Institutions for Mental Disease, and DSHS	0	0	1	1
Regional Support Networks	0	0	1	1
Totals	**5**	**1**	**3**	**9**

Source: JLARC analysis of state law and agency documents.

2007 DSHS Analysis Raises Concerns about Correctional Facilities' Rates of Referral for Medicaid Reinstatement, Enrollment, and Receipt of Behavioral Health Services

In 2006-07, DSHS' Research and Data Analysis Division (RDA) conducted an analysis to determine the impact of the provisions concerning Medicaid reinstatement for adults with a mental illness released from confinement (E2SHB 1290 (2005)). RDA focused on individuals released from state and local correctional facilities, but not those released from public or private institutions for mental disease.

Using information from DSHS, the Department of Corrections (DOC), and six counties' jails,[2] RDA identified individuals targeted by these provisions. For individuals released from DOC facilities, RDA identified those with a mental illness diagnosis in DOC's information systems. For individuals released from county jails, RDA identified those who had DSHS medical coverage at booking, stayed in jail for at least 45 days, and lost that coverage while in jail. The analysis focused on three items: 1) referrals by correctional facilities to DSHS for an expedited eligibility review for medical coverage; 2) (re)enrollment in DSHS medical coverage (including Medicaid); and 3) use of behavioral health treatment services.

[2] King, Kitsap, Snohomish, Spokane, Thurston, and Yakima.

Low Referral Rates for Expedited Review

Only **one in five** individuals was referred for an expedited review for DSHS medical coverage out of the following groups:

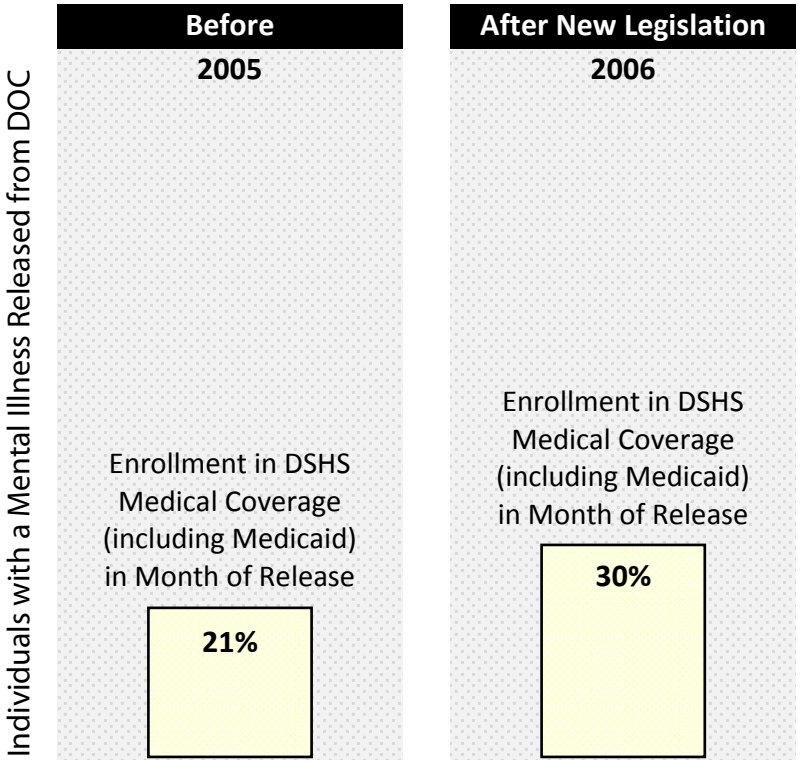
- Individuals with a mental illness released from DOC; and
- Individuals released from county jail who had DSHS medical coverage at booking, stayed in jail for at least 45 days, and lost that coverage while in jail.

There may be good reason why the rates of referral for these identified groups are not 100 percent. For those released from DOC, not all individuals with a mental illness diagnosis may have met the definition of being likely eligible for Medicaid. For those released from jail, not all individuals who lost DSHS medical coverage while in jail may have had a mental illness. In addition, if all of these individuals were referred for an expedited review, they may not all meet the eligibility requirements for DSHS medical coverage. These eligibility requirements cover a range of areas, such as the presence of a disability, age, income level, and family circumstances. However, the referral would prompt the review by DSHS to make an eligibility determination.

Some Improvement in Medical Coverage Enrollment

As illustrated in Exhibit 5, when it came to getting enrolled in medical coverage within the month of release from DOC, there was an increase of nine percentage points from before the legislation was enacted for individuals with a mental illness. Since not all of these individuals may have been eligible for DSHS medical coverage, there may be good reason why some of the 70 percent were not enrolled. In addition, a portion of that unenrolled group may have been enrolled in DSHS medical coverage after their month of release.

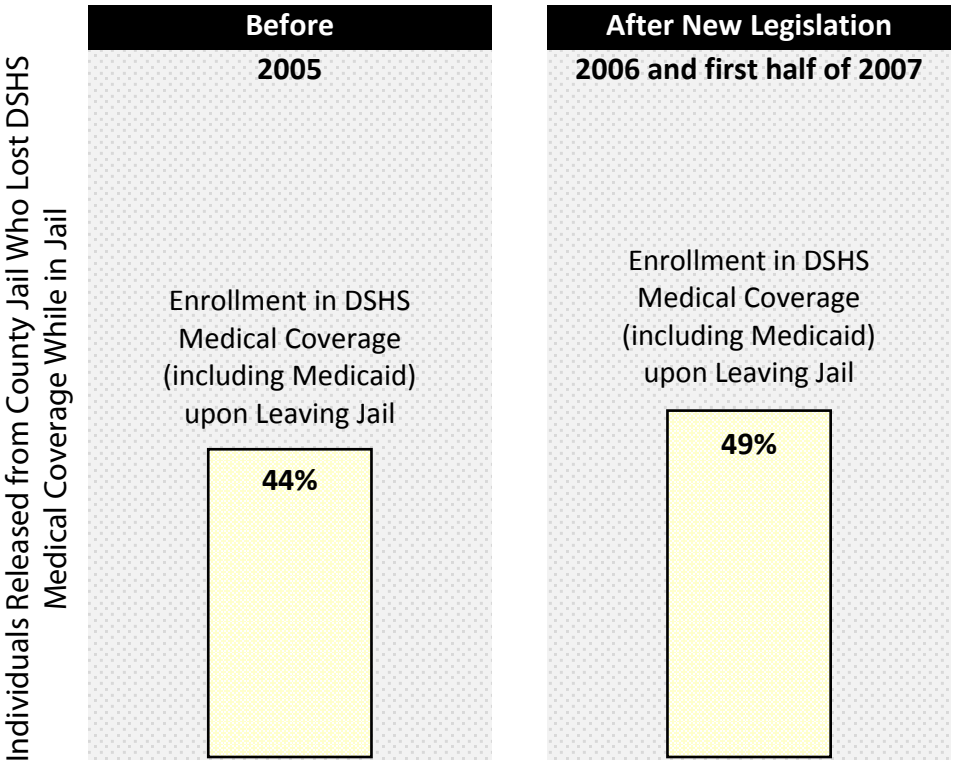
Exhibit 5 – Nine Percentage Point Increase in Enrollment for Individuals with a Mental Illness in Month of Release from DOC



Source: RDA analysis.

As illustrated in Exhibit 6, there was only an increase of five percentage points from before the legislation was enacted in the rate of enrollment in medical coverage upon leaving county jail for individuals who had DSHS medical coverage at booking, stayed in jail for at least 45 days, and lost that coverage while in jail. Since not all of these individuals may have been eligible for DSHS medical coverage, there may be good reason why some of the 51 percent were not enrolled. In addition, a portion of that unenrolled group may have been enrolled in DSHS medical coverage at a later date.

Exhibit 6 – Five Percentage Point Increase in Enrollment for Individuals Released from County Jail Who Had DSHS Medical Coverage at Booking, Stayed in Jail for at Least 45 Days, and Lost that Coverage



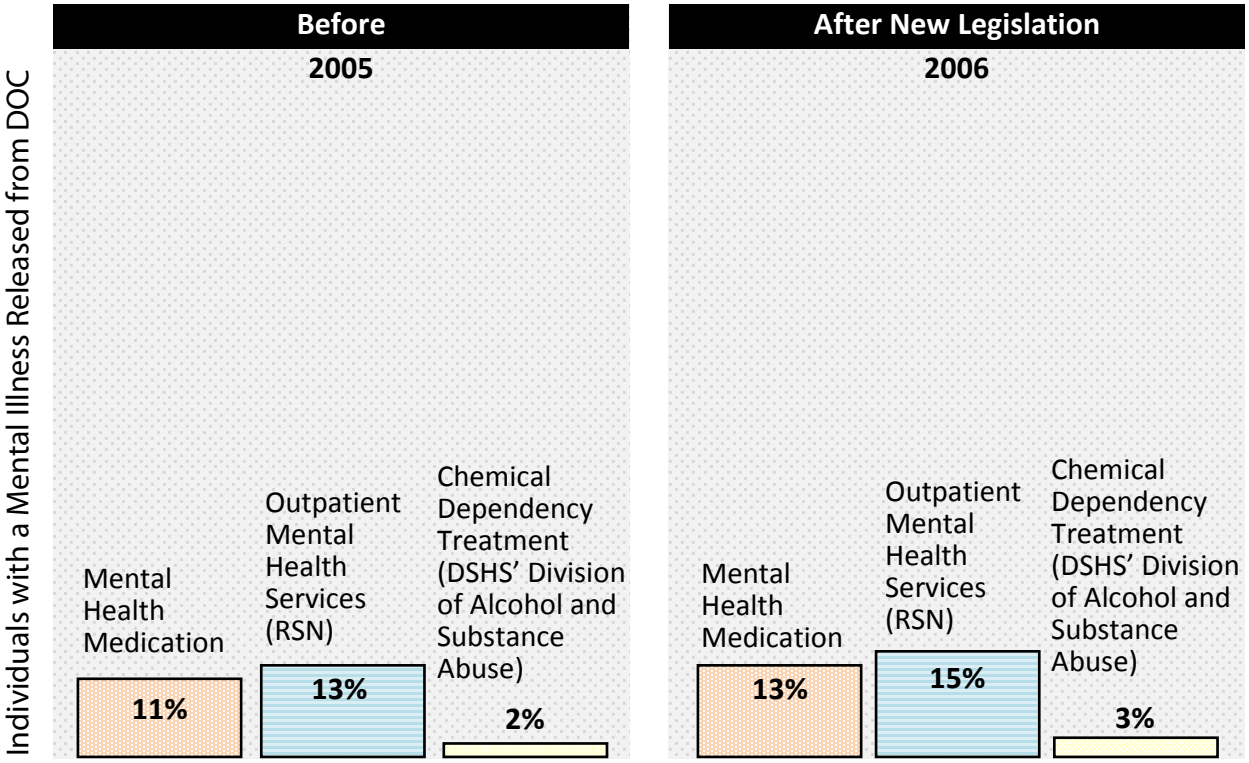
Source: RDA analysis.

These results of RDA's analysis on rates of referral and enrollment in DSHS medical coverage indicate that the provision of law (Section 12 of E2SHB 1290 (2005)) requiring that DSHS' procedures "result in prompt reinstatement of eligibility and speedy eligibility determination" was not fully implemented following enactment.

Limited Improvement in Released Adults' Receipt of Behavioral Health Services

Focusing on the use of behavioral health treatment services, RDA's analysis concluded that the numbers of individuals who accessed behavioral health treatment services in the month of release or the month after release changed very little after the bill was enacted. As illustrated in Exhibit 7, there was an increase of one to two percentage points in the utilization rates for three behavioral health services for individuals with a mental illness in the month of release or the month after release from DOC.

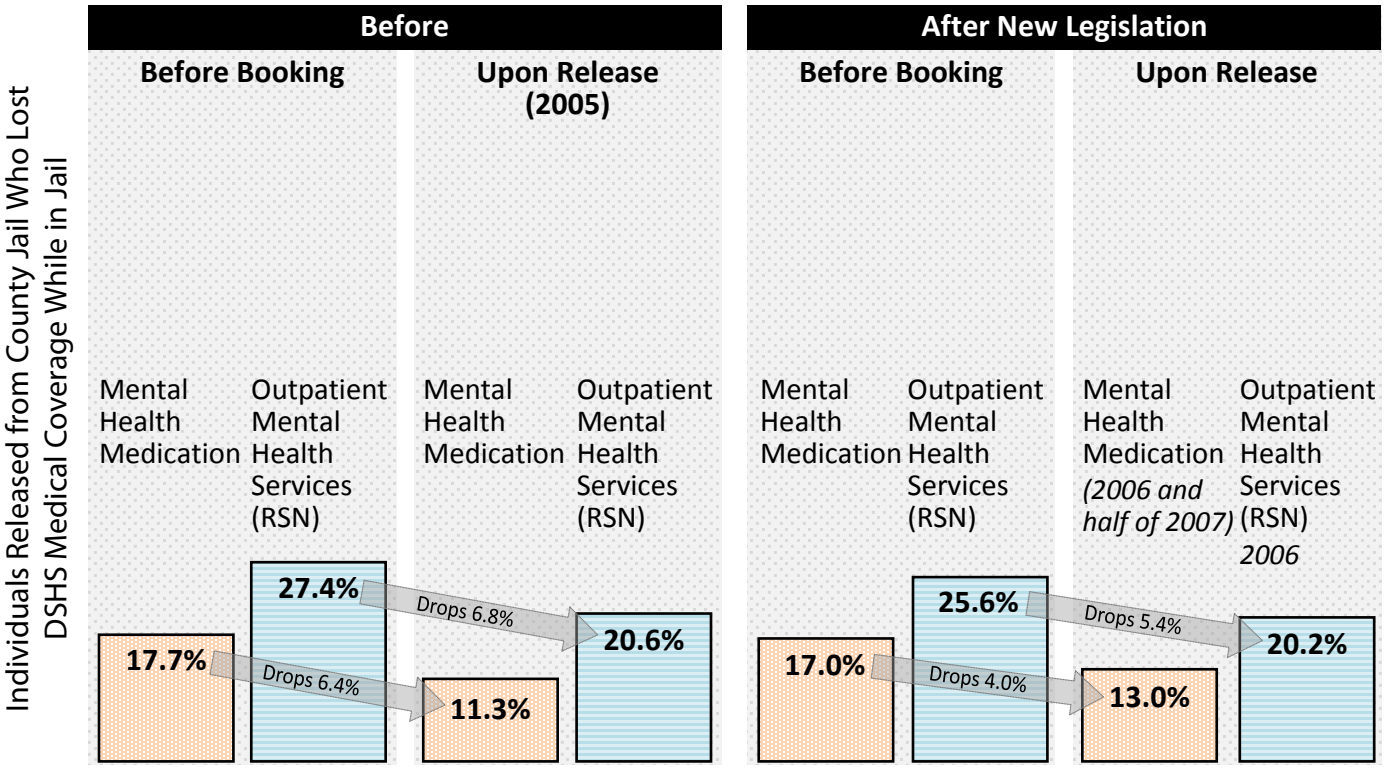
Exhibit 7 – Use of Behavioral Health Services in the Month of Release or the Month after Release from DOC by Individuals with a Mental Illness Has Hardly Changed



Source: RDA analysis.

For individuals released from county jails, who had DSHS medical coverage at booking, stayed in jail for at least 45 days, and lost that coverage while in jail, RDA compared the utilization rates for two behavioral health services from before those individuals were booked into jail to the month of release or the month after release. As illustrated in Exhibit 8, those rates dropped from before booking to after release, both before and after the legislation was enacted.

Exhibit 8 – Use of Behavioral Health Services Dropped from Before Booking to the Month of Release or the Month After Release from Jail, Even After Legislation Enacted



Source: RDA analysis.

Recommendation

The one recommendation concerns the Medicaid reinstatement provisions, as a whole—specifically, the impacts of implementation of these provisions.

Recommendation 6

The Department of Social and Health Service's Research and Data Analysis Division should update its analysis of implementation of Medicaid reinstatement and expedited eligibility review for adults with a mental illness under E2SHB 1290 (2005), including individuals released from institutions for mental disease, and also conduct an analysis of implementation of Medicaid reinstatement and expedited eligibility review for juveniles under 2SHB 1088 (2007).

Legislation Required:	None
Fiscal Impact:	DSHS estimates $200,000, including the acquisition of data from local correctional facilities for juveniles and adults.
Implementation Date:	December 1, 2011

APPENDIX 1 – SCOPE AND OBJECTIVES

INFORMATION-SHARING AND MEDICAID REINSTATEMENT FOR INDIVIDUALS RELEASED FROM CONFINEMENT

SCOPE AND OBJECTIVES

JANUARY 5, 2010

STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

STUDY TEAM
Cynthia L. Forland

PROJECT SUPERVISOR
Keenan Konopaski

LEGISLATIVE AUDITOR
Ruta Fanning

Joint Legislative Audit & Review Committee
1300 Quince St SE
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Why a JLARC Study of Information-Sharing and Medicaid Reinstatement for Individuals Released from Confinement?

The 2009-11 Operating Budget directs JLARC to evaluate implementation of legislation designed to improve communication, collaboration, and Medicaid reinstatement for persons released from confinement in a prison, jail, or institution for mental disease who have mental health or chemical dependency disorders. Specifically, the review is to include the implementation of: E2SSB 6358 (2004), and specific sections of E2SSB 5763 (2005), E2SHB 1290 (2005), and 2SHB 1088 (2007).

Communication and Information-Sharing Between the Criminal Justice and Behavioral Health Systems

State legislation was enacted in 2004 (E2SSB 6358) to facilitate communication and information-sharing between the criminal justice and behavioral health (i.e., mental health and chemical dependency) systems. The bill provides specific direction to the following entities and individuals: the Department of Corrections (DOC), the Department of Social and Health Services, state psychiatric hospitals, courts, jails, community corrections officers, mental health service providers, chemical dependency treatment providers, individuals petitioning for another individual's involuntary treatment, and individuals ordered by a court or DOC to mental health or chemical dependency treatment. Legislation enacted in 2005 (E2SSB 5763) also addressed implementation issues with the 2004 bill.

In 2009, the Legislature expanded information-sharing between the criminal justice and behavioral health systems (SHB 1300). This legislation originated with a work group convened by the King County Prosecuting Attorney's Office and the Department of Corrections during the 2008 Interim to look at how the criminal justice and mental health systems interact.

Medicaid Reinstatement and Expedited Eligibility for Individuals Released from Confinement

While individuals are confined in a prison, jail, or institution for mental disease, they cannot receive Medicaid benefits. However, they may receive Medicaid benefits immediately upon release. State legislation enacted in 2005 (E2SHB 1290) addressed reinstatement and expedited eligibility

determinations for Medicaid coverage for individuals released from confinement. Also, legislation enacted in 2007 (2SHB 1088) addressed reinstatement and expedited eligibility determinations for Medicaid coverage for juveniles released from confinement. The Governor limited implementation of these bills to hold down costs. To date, neither bill has been implemented statewide.

The Department of Social and Health Services is currently developing a web-based tool to allow the criminal justice and Medicaid systems to share information relating to the Medicaid eligibility of individuals who are confined. The purpose of this tool is to facilitate the provision of Medicaid services to eligible individuals upon release.

Study Scope

JLARC will evaluate state agency implementation of specific provisions of law (delineated below) regarding:

- Communication and information-sharing between the criminal justice and behavioral health systems; and
- Reinstatement and expedited eligibility determinations for Medicaid coverage for adults and juveniles released from confinement.

Study Objectives

JLARC staff will analyze the extent to which state agencies can demonstrate implementation of the following provisions of state law:

1) Regarding communication and information-sharing between the criminal justice and behavioral health systems (E2SSB 6358 of 2004 and Sections 507 and 508 of E2SSB 5763 of 2005); and
2) Regarding reinstatement and expedited eligibility determinations for Medicaid coverage for adults released from confinement (Sections 12 and 13 of E2SHB 1290 of 2005 and Section 8 of 2SHB 1088 of 2007).

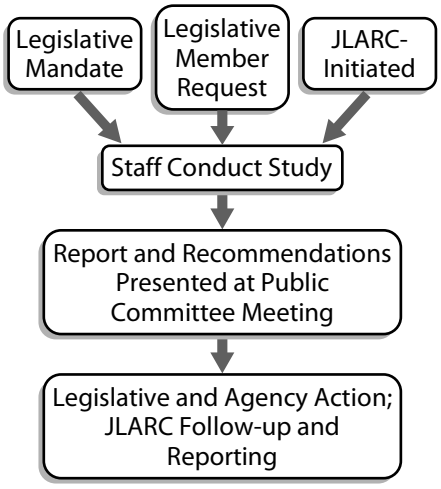
Timeframe for the Study

Staff will present the preliminary report in April 2010, and the proposed final report in May 2010.

JLARC Staff Contact for the Study

Cynthia L. Forland (360) 786-5178 forland.cynthia@leg.wa.gov

JLARC Study Process



Criteria for Establishing JLARC Work Program Priorities

- Is study consistent with JLARC mission? Is it mandated?
- Is this an area of significant fiscal or program impact, a major policy issue facing the state, or otherwise of compelling public interest?
- Will there likely be substantive findings and recommendations?
- Is this the best use of JLARC resources? For example:
  - Is JLARC the most appropriate agency to perform the work?
  - Would the study be nonduplicating?
  - Would this study be cost-effective compared to other projects (e.g., larger, more substantive studies take longer and cost more, but might also yield more useful results)?
- Is funding available to carry out the project?

APPENDIX 2 – AGENCY RESPONSES

- Department of Corrections
- Administrative Office of the Courts
- Department of Social and Health Services
- Washington Association of Sheriffs and Police Chiefs

Note: JLARC also requested a response from the Office of Financial Management (OFM). OFM responded that they did not have comments on this report.

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
P. O. Box 41101 • Olympia, Washington 98504-1101 • Tel (360) 725-8200
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April 26, 2010

Ruta Fanning. Legislative Auditor
Joint Legislative Audit & Review Committee
Post Office Box 40910
Olympia, Washington 98504-0910

Dear Ms. Fanning:

Thank you for offering an opportunity for the Department of Corrections (DOC) to provide feedback on the final audit report. The six recommendations in the JLARC Preliminary Report are addressed to organizations other than DOC so the Department will not be submitting a formal response.

In lieu of a formal response, however, I wanted to share with you some of the activities that the Department has been working diligently on to improve our sharing of information with criminal justice and behavioral health partners and linking individuals releasing from prison with Department of Social & Health Services (DSHS) medical assistance benefits. The following are some of DOC's initiatives:

- DOC Health Services now prepares an Electronic Behavioral Health Discharge Summary on offenders needing expedited medical services. It is for RSN providers, jail personnel, Community Corrections Officers, and Designated Mental Health and Chemical Dependency Professionals. This document shares essential clinical and risk information in a clear and concise manner.

- DOC has implemented a monthly Behavioral Health Scorecard that tracks, by facility, our progress in submitting completed E2SHB 1290 applications to DSHS, and DOC's completion rate of discharge summaries. DOC's Behavioral Health Director and Quality Improvement Manager review this data monthly with mental health managers across the state. These performance reviews help drive improvements in ensuring expedited eligibility for mental health patients releasing from DOC facilities.

- DOC and DSHS are working together more closely than ever before, resulting in the formation of the Washington State Behavioral Health Reentry Partnership. This

partnership is made up of a group of senior DSHS and DOC staff and is co-led by the DOC Deputy Secretary and DSHS's Chief of Staff. The group meets monthly to target current obstacles to link releasing offenders with the mental health and chemical dependency services they need. The Partnership is developing an infrastructure that includes monitoring access of appropriate behavioral health services for offenders releasing to the community.

- DOC, in collaboration with DSHS, is providing statewide training at multiple sites for community corrections staff on how to access behavioral health care.

- DOC is developing a data share agreement with the DSHS's Economic Services Administration that identifies DOC offenders who received medical benefits prior to entering prison and those who were approved or denied benefits when they were released. This data sharing agreement will help sharpen the focus of DSHS's and DOC's shared efforts to ensure that appropriate offenders are gaining access to appropriate services upon release from DOC confinement.

- DOC is a sponsor and presenter at the June 23 – 25, 2010, Washington Behavioral Healthcare Conference – "Partnering for Recovery." This event is the Washington Community Mental Health Council's annual meeting -- a professional association of licensed mental health centers. Over 500 behavioral health staff attend.

- In partnership with DSHS, DOC is working on a Memorandum of Understanding with Regional Support Networks to create consistent offender access to the community behavioral health system, beginning with an initial appointment within 14 days of release from a DOC facility.

An ongoing challenge for the Department is implementing E2SHB 1290 (2005) within existing resources. The legislation addresses the reinstatement of Medicaid coverage for offenders who had medical benefits prior to entering prison. Many eligible offenders with serious mental illnesses never applied for benefits nor received ongoing mental health treatment in the community. It takes considerable time for staff to complete the nine documents required for each application. This is time that would otherwise be spent treating mentally ill offenders during incarceration. Should the Legislature act on recommendations made by JLARC with regard to increased reporting requirements, there could be a fiscal impact, depending on the level of requirements for DOC.

When mentally ill offenders reenter the community, they need multidisciplinary case management support to access and remain in treatment. Approximately one in five individuals releasing each year require psychiatric treatment in the community. DOC Community Justice Centers and Community Supervision Field Offices need mental health professionals to perform this important work. It would take a new allocation to add treatment staff to our community sites.

The Department is continually looking to do all that it can to enhance collaboration with our partners.

Once again, thank you for auditing our current status and shedding light on how the Department can be more effective.

Sincerely,

Eldon Vail
Secretary

EV:dg
cc: Cynthia Forland, JLARC Staff
Cheryl Strange, DOC Deputy Secretary
Clela Steelhammer, DOC Legislative Program Manager
Andy Phillips, DOC QA Program Manager

WASHINGTON
COURTS

ADMINISTRATIVE OFFICE OF THE COURTS

Jeff Hall
Interim State Court Administrator

April 26, 2010

TO: Ruta Fanning, Legislative Auditor

FROM: Jeff Hall, State Court Administrator

RE: Administrative Office of the Courts (AOC) Formal Response to JLARC Preliminary Report, "Information-Sharing and Medicaid Reinstatement for Individuals Released from Confinement"

Thank you for the opportunity for the AOC to review and respond to the above referenced JLARC preliminary report.

Recommendations 3 and 5 on pages 8-10 of the preliminary report directly impact the Washington courts. The AOC's formal response is summarized as follows:

RECOMMENDATION	AGENCY POSITION	COMMENTS
Recommendation 3	N/A	See below.
Recommendation 5	Partially Concur	See below.

Recommendation 3: "**All superior courts should include the language required by RCW 9.94A.562 relating to reporting of treatment information in all completed judgment and sentence forms.**"

The AOC does not take a formal position on this recommendation because it relates to Washington superior courts and not to AOC. However, the AOC will confer with the Superior Court Judges' Association (SCJA) to determine how the SCJA wishes to approach assessing individual court compliance with the statutory requirement and how the SCJA wishes to respond once it is determined which superior courts are not consistently using Judgment and Sentence forms with the required language.

The AOC also understands that JLARC is willing to share with AOC the information JLARC obtained from the Sentencing Guidelines Commission concerning local courts' compliance and noncompliance with this requirement.

Recommendation 5 (p. 10): "**The Pattern Forms Committee should adopt Statewide Pattern Forms for involuntary treatment court orders that include the language relating to reporting of treatment information required by RCW 71.05.132 and RCW 70.96A.155.**"

STATE OF WASHINGTON
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The AOC takes a position of partial concurrence with this recommendation. The AOC agrees in principle that the required language should be on the orders but in the absence of any information on whether courts are currently in compliance, AOC is not in a position to fully concur. Further investigation is needed to determine whether a problem exists and, if so, its extent.

The AOC understands that JLARC was unable to determine whether courts are in fact using this language on their forms because of the confidential nature of these case files. Thus the AOC (through the Washington State Center for Court Research) intends to do its own review to determine whether courts are currently using forms with the required language. If there are courts which are not, the AOC will work with those courts to ensure the required language is being included.

In addition, as with Recommendation 3, the AOC will confer with the SCJA to determine how the SCJA wishes to approach assessing individual court compliance with the statutory requirement, and how the SCJA wishes to respond once it is determined whether superior courts are not consistently using Involuntary Treatment forms with the required language.

It should also be noted that adoption of statewide pattern forms for involuntary treatment court orders would have a fiscal impact.

cc: Judge Stephen Warning, SCJA President-Elect
Cynthia Forland, Ph.D., Research Analyst, JLARC
Keenan Konopaski, Audit Coordinator, JLARC
Chris Ruhl, Court Services Manager, AOC

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STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
P.O. Box 45010, Olympia, Washington 98504-5010

April 26, 2010

TO: Ruta Fanning, Legislative Auditor
Joint Legislative Audit and Review Committee

FROM: Susan N. Dreyfus, Secretary
Department of Social and Health Services

SUBJECT: Formal response to preliminary Joint Legislative Audit and Review Committee's (JLARC) report on *Information-Sharing and Medicaid Reinstatement for Individuals Released from Confinement*

Thank you for the opportunity to provide a formal response to the preliminary Joint Legislative Audit and Review Committee's report on *Information – Sharing and Medicaid Reinstatement for Individuals Released from Confinement.* The Department of Social and Health Services is dedicated to strengthening its relationships with other state agencies and communities to better serve persons with mental or chemical dependency disorders who are being released from confinement. Central to our success is the interdependent linkages between the Department of Corrections and the Department's Health Recovery Services Administration and Economic Services Administration.

The preliminary report provides an excellent balanced and accurate evaluation of the current implementation status of E2SSB 6358(2004), E2SSB 5763(2005), E2SHB 1290(2005) and 2SHB 1088 (2007). We appreciate the opportunity to comment below on the two recommendations to the Department.

RECOMMENDATION	AGENCY POSITION	COMMENTS
Rec. 4, page 9 The Department should add to its statewide protocols the requirement that Designated Mental Health Professionals must evaluate defendants or offenders who were the subject of a discharge review for involuntary mental health treatment within 72 hours of release from jail.	Concur. The required E2SSB 5763 language was erroneously omitted from the 2008 revision (updates required at least every three years (per RCW 71.05. 214) of the Designated Mental Health Professionals Protocols.	The recommendation will be implemented by December 1, 2010. It will be completed within existing resources. As Protocols are revised to insert required E2SSB 5763 language, new 2010 involuntary treatment act statutory requirements in SHB 2533 and 2SHB 3076 for designated mental health professionals will be added.

RECOMMENDATION	AGENCY POSITION	COMMENTS
Rec. 6, page 19 The Department of Social and Health Service's Research and Data Analysis Division should update its analysis of implementation of Medicaid reinstatement and expedited eligibility review for adults with a mental illness under E2SHB 1290 (2005), including individuals released from institutions for mental disease, and also conduct an analysis of implementation of Medicaid reinstatement and expedited eligibility review for juveniles under 2SHB 1088 (2007).	Concur with comments DSHS concurs that an analysis of implementation would be beneficial to program administrators. DSHS estimates that a study would cost roughly $200,000 which is currently not in its operating budget.	Without an allocation for staffing and data costs, it is unlikely that DSHS can produce a substantive report.

Please feel free to contact Richard Kellogg, Director, Mental Health Systems, at (360) 725-1550, if you need further assistance.

WASHINGTON ASSOCIATION OF SHERIFFS & POLICE CHIEFS
3060 Willamette Drive NE Lacey, WA 98516 ~ Phone: (360) 486-2380 ~ Fax: (360) 486-2381 ~ Website: www.waspc.org

Serving the Law Enforcement Community and the Citizens of Washington

April 30, 2010

Joint Legislative Audit & Review Committee
PO Box 40910
Olympia, WA 98504

Preliminary Report—Information Sharing and Medicaid Reinstatement for Individuals Released from Confinement

Recommendation	Agency Position	Comments
Rec. 1	Partially Concur	WASPC strongly supports implementation of E2SSB 6358 and ensuring better communication between entities involved in the criminal justice and behavior health systems. However, with regards to the specific requirements of jails to provide notice to DMHPs and state hospitals under RCW 70.48, an informal survey of several jails this spring revealed that there is miscommunication or lack of information or understanding between the parties regarding offenders who are subject to a discharge review and returned to the jail. Jails surveyed could generally not recall that a hospital had ever notified them that an offender being returned to jail was subject to such a review. This is in turn makes it difficult on a practical level for jails to comply with the law to notify DMHPs or DCDS or the hospital of the release of the offender within 72 hours prior to that release. While the legislature could require data tracking on whether jails are in compliance, it is difficult to assess what resources this would require or whether, without coextensive training and cooperative efforts with the state hospitals, any advancements would be made toward better communication and treatment. WASPC noted the Report's finding that DSHS and DOC's joint training model for E2SSB 6358 does not include guidance on this provision and that training was provided on a one-time basis in five counties. The CJTC provides some ongoing training for jail personnel. Further ongoing training

		in this area would be helpful. WASPC continues to consult with jails on jail policies, and has noted the requirements of E2SSB 6358.
Rec. 2	Concur	
Rec. 3	Concur	
Rec. 4	Concur	If the issue of identification and communication between the state hospitals and jails regarding which offenders are or have been subject to the discharge review is addressed, the issue of identification and communication for DMHPs should be alleviated as well and make compliance with such a recommendation easier.
Rec. 5	Concur	

Additional Comments

Upon further review of responses to WASPC's informal survey of jails on implementation of 2ESSB 6358, the following may be noted:

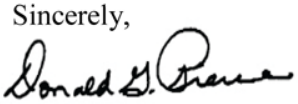
- One large Eastside county stated that the jail does contact the DMHP prior to release.
- One Westside city jail described a different process involving the DMHP and release from jail than the one in 2ESSB 6358, but still of interest: A court will automatically note on the court order that the subject (offender) may be released from custody of the jail pending a 71.05 evaluation by the DMHP. The jail's practice is to then call the DMHP to come to the jail and triage the subject before releasing them to the street.
- One large Westside county stated that Western State Hospital has not historically provided notification regarding inmates transferred back to the jail who were subject to a 6358 discharge review. Regardless, the local E & T was now more likely to be the place of detention hospitalization so the law applicable to the State Hospital was less significant.
- Several jails stated that in response to WASPC's contact on the issue they would review policy to ensure that information and notification around the discharge review is requested and tracked.
- WASPC has made efforts in recent months to provide information to jails regarding the provisions and requirements of 2ESSB 6358.

In 2010 the legislature enacted 2SHB 3076 (C 280 L 10)-- Concerning the involuntary treatment act. Section 4 requires that when a person who has been detained under the ITA is discharged from an evaluation and treatment facility or state hospital, the facility or hospital must provide notice of the discharge to the office of the DHMP responsible for the initial commitment and the professional office for the DHMP in the county where the person is expected to reside. Jail administrators and law enforcement believe it would improve public safety if they received similar notice regarding people who have been in contact with law enforcement. This notice would be helpful, for example, when a person is being discharged back to the community who was recently diverted by law enforcement to evaluation and treatment or who was transferred from jail to a facility for evaluation and/or ITA. Currently, the discharge review process and notification provided in 2ESSB 6358 (RCW 71.05.232) only applies to state hospitals and only to those offenders with a history of one or more violent acts who are subject to the discharge review by the

hospital. But if a person is being released on an LRA or without condition from a local treatment facility, law enforcement does not have a mechanism to be made aware that that person is back "on the street." RCW 71.05 requires notice to prosecutors at various times regarding when one someone is going to be released and no new petition for an ITA filed, but this issue is not addressed with regards to law enforcement. The public safety and information sharing issues addressed in 2ESSB 6358 are mirrored by those raised in 2SHB 3076.

Lastly, there is one specific place where law enforcement must be notified by a mental health professional if the person's treatment situation changes. If a person diverted to treatment by law enforcement is no longer complying with agreed-to outpatient treatment, under the diversion process enacted in SB 5533 (2007) (RCW 10.31.110) law enforcement is required to be notified. It is WASPC's hope that the legislature consider expanding the concepts in RCW 10.31.110 and in 2SHB 3076 to include law enforcement as a party to be notified when someone has had law enforcement contact and is being released to the community from evaluation/treatment.

Sincerely,



Donald G. Pierce
Executive Director

APPENDIX 3 – DETAILED INFORMATION-SHARING PROVISIONS

The following 13 tables address implementation of E2SSB 6358 (2004) and E2SSB 5763 (2005). Each table is devoted to the provisions of law[3] directed to one or more specific agencies, entities, or groups of individuals. Each table consists of the following four pieces of information for each provision: 1) language of the provision; 2) a briefer, paraphrased version of the provision; 3) relevant documentation relating to the implementation status; and 4) implementation status. Red highlighting in the third column indicates information that documents a gap in, or a barrier to, implementation.

JLARC's analysis of the 39 provisions resulted in three implementation statuses: "Unknown," "Yes," and "No." For 30 of the 39 provisions, the implementation status is "Unknown," meaning that there was not enough documentation to determine whether or not those provisions have been implemented.

In addition, 11 of the following13 tables are accompanied by additional contextual information relating to the provisions. That information was not used in reaching conclusions about implementation of these provisions of law.

[3] The term "provisions" is used here rather than sections of law, since JLARC separated the sections out into individual provisions, when appropriate.

1) Who is responsible? Department of Corrections (DOC)

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 5 of E2SSB 6358 of 2004: Amends current law (RCW 72.09.585--DOC) to provide that when DOC is determining an offender's risk management level, it shall inquire of the offender and shall be told whether the offender is subject to court-ordered treatment for mental health services or chemical dependency services. DOC shall request and the offender shall provide an authorization to release information form that meets applicable state and federal requirements and shall provide the offender with written notice that the department will request the offender's mental health and substance abuse treatment information. An offender's failure to inform the department of court-ordered treatment is a violation of the conditions of supervision if the offender is in the community and an infraction if the offender is in confinement, and the violation or infraction is subject to sanctions.	When determining an offender's risk management level, DOC must ask the offender whether s/he is court-ordered to mental health or chemical dependency treatment. The offender must answer that question, subject to sanctions. DOC must request an authorization to release information from the offender. And the offender must provide the requested authorization. DOC must inform the offender that the agency will be requesting information on the offender's mental health and substance abuse treatment.	DOC WAC and policy direct agency staff in accordance with this provision. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance on this requirement. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know the rate at which DOC is asking this question of offenders, requesting the authorization to release information, and then providing notice to offenders. Do not know how many offenders are answering the question accurately, and then providing the requested authorization. DOC's WAC and policy, and the inclusion of this provision in the joint training model are positive signs.
Section 5 of E2SSB 6358 of 2004: Amends current law (RCW 72.09.585--DOC) to provide that when an offender discloses that he or she is subject to court-ordered mental health services or chemical dependency treatment, DOC shall provide the mental health services provider or chemical dependency treatment provider with a	When an offender reports being subject to court-ordered mental health or chemical dependency treatment, DOC must request information from the offender's mental	WAC and DOC policy direct agency staff in accordance with this provision. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance on this requirement. However, this in-depth	UNKNOWN Do not know the rate at which DOC is requesting information from providers on court-ordered treatment.

Provision of Law	In brief	Information Provided by Agency	Implemented?
written request for information and any necessary authorization to release information forms. The written request shall comply with rules adopted by the department of social and health services or protocols developed jointly by the department and the department of social and health services. A single request shall be valid for the duration of the offender's supervision in the community. Disclosures of information related to mental health services made pursuant to a department request shall not require consent of the offender.	health services or chemical dependency treatment provider, and provide any necessary authorization for release of information.	training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	DOC's WAC and policy, and the inclusion of this provision in the joint training model are positive signs.
Section 17 of E2SSB 6358 of 2004 (RCW 72.09.315): When a county designated mental health professional or the designated chemical dependency specialist notifies DOC that an offender in a state correctional facility is the subject of a petition for involuntary treatment under chapter 71.05 or 70.96A RCW, DOC shall provide documentation of its risk assessment or other concerns to the petitioner and the court if the department classified the offender as a high risk or high needs offender. [Addition to Chapter 72.09 RCW--DOC]	When notified by a Designated Mental Health Professional or Designated Chemical Dependency Specialist that a high-risk or high-needs offender in a state correctional facility is the subject of a petition for involuntary mental health or chemical dependency treatment, DOC must provide documentation of its risk assessment or other concerns to the petitioner and the court.	DSHS' statewide protocols for Designated Mental Health Professionals direct those professionals to coordinate the petition for involuntary commitment process with law enforcement personnel, county DOC representatives, representatives of the legal system, and other appropriate persons. (DSHS' agreements with Regional Support Networks (RSN) require RSNs to incorporate these protocols into their contracts with Designated Mental Health Professionals.) DOC's policy directs Community Corrections Officers to provide risk information consistent with this provision.	UNKNOWN Do not know whether DOC is providing the required information to petitioners or the court. DOC's policies are a positive sign. The inclusion of this provision in the joint training model is a positive sign.

Provision of Law	In brief	Information Provided by Agency	Implemented?
		DOC's policy also directs staff to provide offenders with the Consumer/Offender Notification during risk assessments, Pre-Sentence Investigation Intake, and during initial classification. That document specifies that if the individual becomes subject to a petition for involuntary treatment, the petitioner will notify DOC, which will provide documentation of its risk assessment or other concerns to the petitioner and the court. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance on this requirement. This in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	
Section 19 of E2SSB 6358 of 2004: Amends current law (RCW 70.02.030--Medical Records--Health Care Information Access and Disclosure) to provide that except for authorizations given pursuant to an agreement with a treatment or monitoring program or disciplinary authority under chapter 18.71 or 18.130 RCW, *when the patient is under the supervision of DOC*, or to provide information to third-party payors, an authorization may not	When a patient is under DOC supervision, an authorization for release of health care information may extend beyond the standard 90 days after being signed.	As stated in DOC's authorization for release of information form, the release remains in effect for the duration of time the offender is under supervision. DOC policy directs staff to request that offenders sign that release of information during risk assessments, Pre-Sentence Investigation Intake, and during initial classification.	UNKNOWN Do not know whether DOC is utilizing the opportunity for authorizations extending beyond 90 days. DOC's policy and release form are a positive sign.

Provision of Law	In brief	Information Provided by Agency	Implemented?
permit the release of health care information relating to future health care that the patient receives more than ninety days after the authorization was signed. Patients shall be advised of the period of validity of their authorization on the disclosure authorization form. If the authorization does not contain an expiration date *and the patient is not under the supervision of DOC*, it expires 90 days after it is signed [new language in italics].			
Section 19 of E2SSB 6358 of 2004: Amends current law (RCW 70.02.030--Medical Records--Health Care Information Access and Disclosure) to provide that where the patient is under the supervision of DOC, an authorization signed pursuant to this section for health care information related to mental health or drug or alcohol treatment expires at the end of the term of supervision, unless the patient is part of a treatment program that requires the continued exchange of information until the end of the period of treatment.	An authorization for health care information related to mental health or drug or alcohol treatment for an individual under DOC supervision lasts until the end of the term of supervision, if not until the end of treatment.	As stated in DOC's authorization for release of information form, the release remains in effect for the duration of time the offender is under supervision or a specific treatment agreement, whichever is longer. DOC policy directs staff to request that offenders sign that release of information during risk assessments, Pre-Sentence Investigation Intake, and during initial classification.	UNKNOWN Do not know whether DOC is utilizing the opportunity for authorizations extending until the end of supervision or until the end of treatment. DOC's policy and release form are positive signs.

Regarding Section 5: When asked by DOC Headquarters staff, Intake and Pre-Sentence Investigations staff reported that they have not had an offender refuse to respond to the question of whether they are subject to court-ordered treatment. In addition, when asked by DOC Headquarters staff, DOC's Hearings Administrator reported not being aware of any offenders being sanctioned for not answering this question.

When asked by DOC Headquarters staff, Community Corrections staff reported that that they routinely receive the information requested from mental health and chemical dependency treatment providers relating to offenders' court-ordered treatment. At times, delays occur because some local providers require that the offender sign the provider's information release form before releasing the information.

Regarding Section 17: When contacted by DSHS Headquarters, the Washington Association of Designated Mental Health Professionals reported that Designated Mental Health Professionals (DMHPs) seldom evaluate individuals in a state correctional facility for involuntary

detention. Rather, evaluations occur at the end of inmates' sentences and prior to release. These evaluations are often coordinated with the prison mental health specialists. Only persons eligible for release can be detained to a treatment facility. Under these circumstances, DOC is very forthcoming with any relevant documentation.

When asked by DSHS Headquarters, eight of 17 responding Designated Chemical Dependency Specialists (DCDS) reported notifying DOC when an offender in a state correctional facility is the subject of a petition for involuntary mental health or chemical dependency treatment. Seven of those 17 replied "N/A," and one of 17 replied "Not doing ITA [Involuntary Treatment Act, meaning petitioning for involuntary treatment]." When asked by DSHS Headquarters, two of 19 responding County Coordinators reported that DCDSs are notifying DOC in such instances. Nine of 19 replied "N/A," and five of 19 replied "Not doing ITA." DSHS asked the County Coordinators whether DOC provided the documentation, but the two who reported that DCDSs are notifying DOC in such instances did not respond to that second part of the question.

DOC reported that when an offender is confined in a DOC facility and is subject to a petition for involuntary treatment, DOC would have initiated the referral for the petition so there would be no need for notification. When the evaluation occurs, DOC provides the information to the petitioner and/or the court by providing a packet of information related to mental health services provided by DOC and risk assessment data.

2) Who is responsible? Community Corrections Officers (CCO)

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 17 of E2SSB 6358 of 2004 (RCW 72.09.315): When an offender is under court-ordered mental health or chemical dependency treatment in the community and the supervision of DOC, and the community corrections officer becomes aware that the person is in violation of the terms of the court's treatment order, the community corrections officer shall notify the county designated mental health professional or the designated chemical dependency specialist, as appropriate, of the violation and request an evaluation for purposes of revocation of	A Community Corrections Officer must notify the Designated Mental Health Professional (DMHP) or the Designated Chemical Dependency Specialist (DCDS), as appropriate, when an offender under court-ordered mental health or chemical dependency treatment and under DOC supervision violates the treatment order. The officer must also request an evaluation for revocation of the offender's conditional release or less	DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for Community Corrections Officers to notify DCDSs or DMHPs and request an evaluation when an individual violates a treatment order. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know whether CCOs are notifying Designated Mental Health Professionals or Designated Chemical Dependency Specialists and requesting an evaluation when an offender violates his/her treatment order. The inclusion of this provision in the joint training model is a positive sign.

Provision of Law	In brief	Information Provided by Agency	Implemented?
the less restrictive alternative or conditional release. [Addition to Chapter 72.09 RCW--DOC]	restrictive alternative for involuntary treatment.		

Regarding Section 17: When asked by DSHS Headquarters, 11 of 17 responding DCDSs reported that DOC is notifying them and requesting an evaluation when an offender under court-ordered mental health or chemical dependency treatment and under DOC supervision violates his/her treatment order.

When asked by DSHS Headquarters, the Washington Association of Designated Mental Health Professionals reported that, to the best of their knowledge, CCOs are providing notification and requesting evaluations when offenders under court-ordered mental health or chemical dependency treatment and under DOC supervision violate their treatment orders.

When asked by DOC Headquarters, DOC staff reported that they contact the appropriate entity when an offender violates conditions. DOC staff also reported that they notify a DMHP if they are concerned that an offender is beginning to decompensate [a deterioration in mental health], even if an offender is not in violation.

3) Who is responsible? Superior Courts

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 11 of E2SSB 6358 of 2004 (9.94A.562): When any person is convicted in a superior court, the judgment and sentence shall include a statement that if the offender is or becomes subject to court-ordered mental health or chemical dependency treatment, the offender must notify DOC and the offender's treatment information must be shared with DOC for the duration of the offender's incarceration and supervision. Upon a petition by an offender who does not have a history of one or more violent acts, as defined in RCW 71.05.020, the court may, for good cause, find that public	All Superior Court judgment and sentences must include the following statement: *If the offender is or becomes subject to court-ordered mental health or chemical dependency treatment, the offender must notify DOC and the offender's treatment information must be shared with DOC for the duration of the offender's incarceration and supervision. Upon a petition by an offender who does not have a history of one or more violent acts, as defined in RCW 71.05.020, the*	This statement is included on the Felony Judgment and Sentence form adopted as a Statewide Pattern Form by the Pattern Forms Committee. Staff from the Sentencing Guidelines Commission reviewed a selection of judgment and sentence forms completed in the state's 39 counties in each year from fiscal year 2006 through fiscal year 2009. This analysis discovered instances where at least five counties had not included this language in any given year. DSHS and DOC's joint training model for implementing E2SSB 6358 includes	NO

Provision of Law	In brief	Information Provided by Agency	Implemented?
safety is not enhanced by the sharing of this offender's information. [Addition to Chapter 9.94A RCW--Sentencing Reform Act of 1981]	*court may, for good cause, find that public safety is not enhanced by the sharing of this offender's information.*	guidance on this requirement. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	
Section 12 of E2SSB 6358 of 2004 (RCW 71.05.132): When any court orders a person to receive treatment under this chapter, the order shall include a statement that if the person is, or becomes, subject to supervision by DOC, the person must notify the treatment provider and the person's mental health treatment information must be shared with DOC for the duration of the offender's incarceration and supervision, under RCW 71.05.445. Upon a petition by a person who does not have a history of one or more violent acts, the court may, for good cause, find that public safety would not be enhanced by the sharing of this person's information. [Addition to Chapter 71.05 RCW--Mental Health]	All court[4] orders for involuntary mental health treatment must include the following statement: *If the person is, or becomes, subject to supervision by DOC, the person must notify the treatment provider and the person's mental health treatment information must be shared with DOC for the duration of the offender's incarceration and supervision, under RCW 71.05.445. Upon a petition by a person who does not have a history of one or more violent acts, the court may, for good cause, find that public safety would not be enhanced by the sharing of this person's information.*	The Pattern Forms Committee has not created any statewide forms for involuntary treatment (i.e., civil commitment). DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance on this requirement. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know whether superior courts are including this statement in their orders. The fact that the Pattern Forms Committee has not created any statewide civil commitment forms is a negative sign. The inclusion of this provision in the joint training model is a positive sign.
Section 13 of E2SSB 6358 of 2004 (RCW 70.96A.155): When any court orders a person to receive treatment under this chapter, the order shall include a statement that if the person is, or becomes,	All court[5] orders for involuntary chemical dependency treatment must include the following statement: *If the person is, or becomes, subject*	The Pattern Forms Committee has not created any statewide forms for involuntary treatment (i.e., civil commitment). DSHS and DOC's joint training model	UNKNOWN Do not know whether superior courts are including this statement in

[4] Chapter 71.05 RCW presents superior courts as the sole venue for filing petitions for involuntary mental health treatment.

[5] Chapter 70.96A RCW provides that petitions for involuntary chemical dependency treatment may be filed in "superior court, district court, or in another court permitted by court rule." However, it is not known how frequently these petitions are filed outside of superior court.

Provision of Law	In brief	Information Provided by Agency	Implemented?
subject to supervision by DOC, the person must notify the treatment provider and the person's chemical dependency treatment information must be shared with DOC for the duration of the offender's incarceration and supervision. Upon a petition by a person who does not have a history of one or more violent acts, as defined in RCW 71.05.020, the court may, for good cause, find that public safety would not be enhanced by the sharing of this person's information. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]	*to supervision by DOC, the person must notify the treatment provider and the person's chemical dependency treatment information must be shared with DOC for the duration of the offender's incarceration and supervision. Upon a petition by a person who does not have a history of one or more violent acts, as defined in RCW 71.05.020, the court may, for good cause, find that public safety would not be enhanced by the sharing of this person's information.*	for implementing E2SSB 6358 includes guidance on this requirement. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	their orders. The fact that the Pattern Forms Committee has not created any statewide civil commitment forms is a negative sign. The inclusion of this provision in the joint training model is a positive sign.

4) Who is responsible? Jails

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 14 of E2SSB 6358 of 2004 (RCW 70.48.475): A person having charge of a jail, or that person's designee, shall notify the county designated mental health professional or the designated chemical dependency specialist 72 hours prior to the release to the community of an offender or defendant who was subject to a discharge review under section 18 of this act. If the person having charge of the jail does not receive 72 hours notice of the release, the notification to the county designated mental health professional or the designated chemical dependency specialist shall be made as soon as reasonably possible, but not later than the actual release to the community of the defendant or offender. [Addition to Chapter 70.48 RCW--City and County Jails Act]	Jails must notify the Designated Mental Health Professional (DMHP) or the Designated Chemical Dependency Specialist (DCDS) 72 hours prior to the release to the community of an offender or defendant who was subject to a discharge review for involuntary mental health treatment. If the jail does not receive 72 hours notice of the release, the notification to the DMHP or DCDS must be made as soon as reasonably possible, but not later than the actual release to the community of the defendant or offender.	DSHS and DOC's joint training model for implementing E2SSB 6358 does not include guidance on this provision.	UNKNOWN Do not know whether jails are notifying the Designated Mental Health Professional or Designated Chemical Dependency Specialist of defendants' or offenders' release. The absence of this provision from the joint training model is a negative sign.
Section 14 of E2SSB 6358 of 2004 (RCW 70.48.475): When a person having charge of a jail, or that person's designee, releases an offender or defendant who was the subject of a discharge review under section 18 of this act, the person having charge of a jail, or that person's designee, shall notify the state hospital from which the offender or defendant was released. [Addition to Chapter 70.48 RCW--City and County Jails Act]	When a jail releases a defendant or offender who was the subject of a discharge review for involuntary mental health treatment, the jail must notify the state hospital where the discharge review was conducted.	When asked by DSHS Headquarters, Eastern and Western State Hospitals reported that they have not been advised when any person subject to discharge review has been released from jail. DSHS and DOC's joint training model for implementing E2SSB 6358 does not include guidance on this provision.	UNKNOWN Do not know whether any jails have notified state hospitals of defendants' or offenders' release. The reports from the state's two psychiatric hospitals and the absence of this provision from the joint

Provision of Law	In brief	Information Provided by Agency	Implemented?
			training model are negative signs.

Regarding Section 14: When asked by DSHS Headquarters, only five of 17 responding Designated Chemical Dependency Specialists reported receiving this notice from jails. Five of 18 responding County Coordinators reported that this notice is provided by jails, but eight of those 18 replied "N/A."

When asked by DSHS Headquarters, the Washington Association of Designated Mental Health Providers reported that some DMHPs receive some 72-hour notices.

When asked by the Washington Association of Sheriffs and Police Chiefs, some jails reported not being informed that an offender in their custody is or has been subject to a discharge review for involuntary treatment.

5) Who is responsible? Offenders

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 7 of E2SSB 6358 of 2004 (RCW 9.94A.723): An offender's failure to inform DOC of court-ordered treatment upon request by the department is a violation of the conditions of supervision if the offender is in the community and an infraction if the offender is in confinement, and the violation or infraction is subject to sanctions. [Addition to Chapter 9.94A RCW--Sentencing Reform Act of 1981]	Offenders are subject to sanction for not informing DOC, upon request, of court-ordered treatment.	DOC policy directs agency staff in accordance with this provision.	UNKNOWN Do not know whether offenders are informing DOC of court-ordered treatment. DOC's policy is a positive sign.
Section 9 of E2SSB 6358 of 2004 (RCW 9.94A.722): When an offender receiving court-ordered mental health or chemical dependency treatment or treatment ordered by DOC presents for treatment from a mental health or chemical dependency treatment provider, the offender must disclose to the mental health or chemical dependency	An offender who is receiving court- or DOC-ordered mental health or chemical dependency treatment must disclose to his/her mental health or chemical dependency	**Chemical Dependency Treatment:** DSHS' WACs relating to chemical dependency treatment providers require those providers to ensure that patient record content includes documentation of the patient's response, as well as a copy of the court order exempting the patient from reporting requirements.	UNKNOWN Do not know the rate at which offenders receiving court- or DOC-ordered mental health or chemical dependency

Provision of Law	In brief	Information Provided by Agency	Implemented?
treatment provider whether he or she is subject to supervision by DOC. If an offender has received relief from disclosure pursuant to section 11, 12, or 13 of this act, the offender must provide the mental health or chemical dependency treatment provider with a copy of the order granting the relief. [Addition to Chapter 9.94A RCW--Sentencing Reform Act of 1981]	treatment provider whether s/he is subject to supervision by DOC. If an offender is exempt from disclosure, s/he must provide the provider with a copy of the order granting that exemption.	DSHS' onsite survey patient record checklist includes whether treatment programs are asking all patients about this issue. A sample chemical dependency assessment form developed by DSHS for certified chemical dependency treatment programs includes questions that would prompt such disclosure. **Mental Health Treatment:** WACs relating to mental health professionals require that intakes must include documentation showing the consumer has been asked whether s/he is under the supervision of DOC or juvenile court. DSHS' compliance review tools correspond with that WAC. **Chemical Dependency and Mental Health Treatment Providers:** DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for situations in which the mental health or chemical dependency treatment provider believes that an individual is under DOC supervision even though the individual has denied such. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	treatment inform their mental health or chemical dependency treatment providers that they are subject to supervision by DOC. DSHS' WACs and compliance review tools, and the inclusion of this provision in the joint training model are positive signs.
Section 10 of E2SSB 6358 of 2004 (RCW 9.95.143): When an offender receiving court-ordered mental health or chemical dependency treatment or treatment ordered	An offender who is receiving court- or DOC-ordered mental health or chemical	**Chemical Dependency Treatment:** DSHS' WACs relating to chemical dependency treatment providers require those providers to ensure that patient record	UNKNOWN Do not know the rate at which offenders receiving

Provision of Law	In brief	Information Provided by Agency	Implemented?
by DOC presents for treatment from a mental health or chemical dependency treatment provider, the offender must disclose to the mental health or chemical dependency treatment provider whether he or she is subject to supervision by DOC. If an offender has received relief from disclosure pursuant to section 11, 12, or 13 of this act, the offender must provide the mental health or chemical dependency treatment provider with a copy of the order granting the relief. [Addition to Chapter 9.95 RCW--Indeterminate Sentences]	dependency treatment must disclose to his/her mental health or chemical dependency treatment provider whether s/he is subject to supervision by DOC. If an offender is exempt from disclosure, s/he must provide the provider with a copy of the order granting that exemption.	content includes documentation of the patient's response, as well as a copy of the court order exempting the patient from reporting requirements. DSHS' onsite survey patient record checklist includes whether treatment programs are asking all patients about this issue. A sample chemical dependency assessment form developed by DSHS for certified chemical dependency treatment programs includes questions that would prompt such disclosure. **Mental Health Treatment:** WACs relating to mental health professionals require that intakes must include documentation showing the consumer has been asked whether s/he is under the supervision of DOC or juvenile court. DSHS' compliance review tools correspond with that WAC. **Chemical Dependency and Mental Health Treatment Providers:** DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for situations in which the mental health or chemical dependency treatment provider believes that an individual is under DOC supervision even though the individual has denied such. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	court- or DOC-ordered mental health or chemical dependency treatment inform their mental health or chemical dependency treatment providers that they are subject to supervision by DOC. DSHS' WACs and compliance review tools, and the inclusion of this provision in the joint training model are positive signs.

Regarding Section 7: When asked by DOC Headquarters staff, Intake and Pre-Sentence Investigations staff reported that they have not had an offender refuse to respond. When asked by DOC Headquarters staff, DOC's Hearings Administrator reported not being aware of any offenders being sanctioned under this provision.

Regarding Sections 9-10: When asked by DSHS Headquarters, 15 of 17 responding Designated Chemical Dependency Specialists reported that most of their patients who are under DOC supervision have disclosed this information to them. Sixteen of 20 responding County Coordinators reported that offenders receiving court- or DOC-ordered treatment are disclosing that information to their treatment providers.

6) Who is responsible? Department of Social and Health Services (DSHS)

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 4 of E2SSB 6358 of 2004: Amends current law (RCW 71.05.445--Mental Health) to provide that DSHS shall, subject to available resources, electronically, or by the most cost-effective means available, provide DOC with the names, last dates of services, and addresses of specific regional support networks and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.	DSHS must provide DOC with specific information on mental health service providers treating offenders.	A data sharing agreement between DOC and DSHS, which was implemented in 1999, contains data elements consistent with the requirements of this provision. Both DSHS and DOC reported that this information-sharing is occurring on a monthly basis.	YES
Section 8 of E2SSB 6358 of 2004: Amends current law (RCW 71.34.225--Mental Health Services for Minors) to provide that DSHS shall, subject to available resources, electronically, or by the most cost-effective means available, provide DOC with the names, last dates of services, and addresses of specific regional support networks and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.	DSHS must provide DOC with specific information on mental health service providers treating offenders.	A data sharing agreement between DOC and DSHS, which was implemented in 1999, contains data elements consistent with the requirements of this provision. Both DSHS and DOC reported that this information-sharing is occurring on a monthly basis.	YES
Section 22 of E2SSB 6358 of 2004 [uncodified]: DSHS, in consultation with the appropriate committees of the legislature, shall assess the current	DSHS must submit two reports to the Legislature assessing the current and	DSHS completed the first report, but not the second. The agency identified a lack of additional requested funding	NO

Provision of Law	In brief	Information Provided by Agency	Implemented?
and needed residential capacity for crisis response and ongoing treatment services for persons in need of treatment for mental disorders and chemical dependency. In addition to considering the demand for persons with either a mental disorder or chemical dependency, the assessment shall consider the demand for services for mentally ill offenders, and persons with co-occurring disorders, mental disorders caused by traumatic brain injury or dementia, and drug induced psychosis. An initial report assessing the types, number, and location of needed mental health crisis response and emergency treatment beds, both in community hospital-based and in other settings, shall be submitted to appropriate committees of the legislature by November 1, 2004. A final report assessing the types, number, and location of beds needed for mental health and chemical dependency emergency, transitional, and ongoing treatment shall be submitted to appropriate committees of the legislature by December 1, 2005. Both reports shall set forth the projected costs and benefits of alternative strategies and timelines for addressing identified needs.	needed residential capacity for crisis response and ongoing treatment services for persons needing treatment for mental disorders and chemical dependency: By November 1, 2004, an assessment of the types, number, and location of needed mental health crisis response and emergency treatment beds, both in community hospital-based and in other settings; and By December 1, 2005, an assessment of the types, number, and location of beds needed for mental health and chemical dependency emergency, transitional, and ongoing treatment.	as the reason for not completing the second report.	

7) Who is responsible? State Psychiatric Hospitals

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 18 of E2SSB 6358 of 2004 (RCW 71.05.232): When a state hospital admits a person for evaluation or treatment under this chapter who has a history of one or more violent acts and: • Has been transferred from a correctional facility; or • Is or has been under the authority of DOC or the indeterminate sentence review board, the state hospital shall consult with the appropriate corrections and chemical dependency personnel and the appropriate forensic staff at the state hospital to conduct a discharge review to determine whether the person presents a likelihood of serious harm and whether the person is appropriate for release to a less restrictive alternative. [Addition to Chapter 71.05 RCW--Mental Health]	A state hospital must consult with the appropriate corrections, chemical dependency, and forensic staff at the state hospital to conduct a discharge review to determine whether a person who has a history of one or more violent acts and has been transferred from a correctional facility or is or has been under the authority of DOC or the Indeterminate Sentence Review Board presents a likelihood of serious harm and is appropriate for release to a less restrictive alternative for involuntary mental health treatment.	Eastern and Western State hospitals' respective policies and procedures are consistent with this provision.	UNKNOWN Do not know whether the state hospitals are consulting with the required personnel when conducting a discharge review. Eastern and Western State hospitals' policies and procedures are a positive sign.
Section 18 of E2SSB 6358 of 2004 (RCW 71.05.232): When a state hospital returns a person who was reviewed under subsection (1) of this section to a correctional facility, the hospital shall notify the correctional facility that the person was subject to a discharge review pursuant to this section. [Addition to Chapter 71.05 RCW--Mental Health]	When returning a person to a correctional facility following a discharge review for involuntary mental health treatment, the state hospital must notify the correctional facility that the person was subject to a discharge review.	Eastern and Western State hospitals' respective policies and procedures require such notification.	UNKNOWN Do not know whether the state hospitals are notifying correctional facilities when returning a person following a discharge review. Eastern and Western State hospitals' policies and procedures are a positive sign.

Regarding Section 18: When asked by DSHS Headquarters, Eastern and Western State Hospitals reported routinely consulting with the appropriate Corrections, chemical dependency, and forensic staff at the hospitals to conduct discharge reviews. When asked by DSHS Headquarters, Eastern and Western State hospitals reported that discharge reviews occur as required. They reported that usually when a patient is being returned to a correctional facility upon release from a state hospital, the correctional facility is notified.

When asked by the Washington Association of Sheriffs and Police Chiefs, some jails reported not being informed that an offender in their custody is or has been subject to a discharge review for involuntary treatment.

DOC reported that the return of an individual to DOC custody following a discharge review is a very rare occurrence. Typically, an individual is detained under the Involuntary Treatment Act upon release from DOC confinement. However, the Offender Reentry Community Safety Program (previously known as the Dangerous Mentally Ill Offender program) allows for civil commitment proceedings to occur 5-10 days prior to release. In these rare instances, if the person is not civilly committed beyond the initial detention period (72 hours), that person would return to a DOC facility to serve the remaining days of confinement. DOC is aware of one incidence wherein this occurred. In that instance, DOC was notified by the hospital.

8) Who is responsible? Designated Mental Health Professionals

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 507 of E2SSB 5763 of 2005 amends current law (RCW 71.05.157--Mental Health) to provide that when a designated mental health professional is notified by a jail that a defendant or offender who was subject to a discharge review under section 18 of this act is to be released to the community, the designated mental health professional shall evaluate the person within 72 hours of release.[6]	When notified by a jail, a Designated Mental Health Professional must evaluate a defendant or offender who was the subject of a discharge review for involuntary mental health treatment within 72 hours of release from the jail.	This provision is not specifically addressed in DSHS' statewide protocols for Designated Mental Health Professionals. (DSHS' agreements with Regional Support Networks (RSN) require RSNs to incorporate these protocols into their contracts with Designated Mental Health Professionals.)	UNKNOWN Do not know whether Designated Mental Health Professionals are performing the required evaluations. The absence of this provision from DSHS' statewide protocols is a negative sign.
Section 507 of E2SSB 5763 of 2005 amends current law (RCW 71.05.157--Mental Health) to provide that when	Designated Mental Health Professionals must notify an offender's treatment	DSHS' statewide protocols for Designated Mental Health Professionals are consistent with the requirements of this provision,	UNKNOWN Do not know whether Designated Mental Health

[6] Section 507 of E2SSB 5763 of 2005 consists of further amendments from those made in Section 16 of E2SSB 6358 of 2004. Hence, only the former is included in this table.

Provision of Law	In brief	Information Provided by Agency	Implemented?
a designated mental health professional becomes aware that an offender who is under court-ordered treatment in the community and the supervision of DOC is in violation of a treatment order or a condition of supervision, or the designated mental health professional detains a person under this chapter, the designated mental health professional shall notify the person's treatment provider and DOC.	provider and DOC whenever they become aware that the offender who is under court-ordered treatment in the community and under DOC supervision is in violation of a treatment order or a condition of supervision or if the professional detains the offender for involuntary mental health treatment.	and DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for DMHPs in accordance with this provision. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane). (DSHS' agreements with Regional Support Networks (RSN) require RSNs to incorporate these protocols into their contracts with Designated Mental Health Professionals.)	Professionals are providing the required notification. DSHS' statewide protocols and the inclusion of this provision in the joint training model are positive signs.
Section 507 of E2SSB 5763 of 2005 amends current law (RCW 71.05.157--Mental Health) to provide that when an offender who is confined in a state correctional facility or is under supervision of DOC in the community is subject to a petition for involuntary treatment under this chapter, the petitioner shall notify DOC and DOC shall provide documentation of its risk assessment or other concerns to the petitioner and the court if DOC classified the offender as a high risk or high needs offender.	The petitioner [Designated Mental Health Professional] for an offender's involuntary mental health treatment must notify DOC, if the offender is confined in a state correctional facility or is under DOC supervision. If DOC classified the offender as high risk or high needs, then DOC must provide documentation of its risk assessment or other concerns to the petitioner and the court.	DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for DMHPs and DOC in accordance with this provision. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane). DOC's policy directs Community Corrections Officers to provide risk information consistent with this provision. DOC's policy also directs staff to provide offenders with the Consumer/Offender Notification during risk assessments, Pre-Sentence Investigation Intake, and during initial classification. That document specifies that if the individual becomes subject to a petition for involuntary treatment, the petitioner will notify DOC, which will provide documentation of its	UNKNOWN Do not know whether Designated Mental Health Professionals are notifying DOC as required, but inclusion of this provision in the joint training model is a positive sign. Do not know whether DOC is providing the necessary documentation, but DOC's policy and inclusion of this provision in the joint training model are positive signs.

Provision of Law	In brief	Information Provided by Agency	Implemented?
		risk assessment or other concerns to the petitioner and the court.	

Regarding Section 507: When contacted by DSHS Headquarters, the Washington Association of Designated Mental Health Professionals reported that pre-release evaluations are performed following notification from jails.

When asked by the Washington Association of Sheriffs and Police Chiefs, some jails reported not being informed that an offender in their custody is or has been subject to a discharge review for involuntary treatment.

When contacted by DSHS Headquarters, the Washington Association of Designated Mental Health Professionals suggested that most referrals for offenders in violation are initiated by either the mental health provider or DOC. If an offender under supervision comes into an emergency room, and his/her status is known, DMHPs indicate that mental health providers and DOC are generally notified.

When asked by DOC Headquarters staff, Special Needs Unit staff reported that they receive written or phone notification from providers when offenders are in violation. Special Needs Unit staff also reported that information indicating that an offender is beginning to decompensate [a deterioration in mental health] is also shared, even if an offender is not in violation. DOC reported that the close working relationship between Special Needs Units staff and DSHS-contracted providers promotes the exchange of information about offenders' compliance.

When contacted by DSHS Headquarters, the Washington Association of Designated Mental Health Professionals reported that for individuals confined in a correctional facility, DMHPs anecdotally indicate that the facility is aware as the initiator of the evaluation and petition. WADMHP also reported that for individuals under DOC supervision, DMHPs report anecdotally that when they are aware that the individual is under supervision, the CCO is contacted.

DOC reported that when an offender is confined in a DOC facility and is subject to a petition for involuntary treatment, DOC would have initiated the referral for the petition so there would be no need for notification. When the evaluation occurs, DOC provides the information to the petitioner and/or the court by providing a packet of information related to mental health services provided by DOC and risk assessment data. When asked by DOC Headquarters staff, agency staff reported that for offenders under DOC supervision in the community, DOC staff provide the documentation upon request.

9) Who is responsible? Designated Chemical Dependency Specialists

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 15 of E2SSB 6358 of 2004 (RCW 70.96a.142): When a designated chemical dependency specialist is notified by a jail that a defendant or offender who was subject to a discharge review under section 18 of this act is to be released to the community, the designated chemical dependency specialist shall evaluate the person within 72 hours of release, if the person's treatment information indicates that he or she may need chemical dependency treatment. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]	When a jail notifies a Designated Chemical Dependency Specialist (DCDS) of the upcoming release of a defendant or offender who was subject to a discharge review for involuntary mental health treatment, the DCDS must evaluate the person within 72 hours of release, if the person's treatment information indicates that he or she may need chemical dependency treatment.	DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for DCDSs in accordance with this provision. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know whether Designated Chemical Dependency Specialists are performing the required evaluations. The inclusion of this provision in the joint training model is a positive sign.
Section 15 of E2SSB 6358 of 2004 (RCW 70.96a.142): When a designated chemical dependency specialist becomes aware that an offender who is under court-ordered treatment in the community and the supervision of DOC is in violation of a treatment order or a condition of supervision that relates to public safety, or the designated chemical dependency specialist detains a person under this chapter, the designated chemical dependency specialist shall notify the person's treatment provider and DOC. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]	Designated Chemical Dependency Specialists (DCDS) must notify an offender's treatment provider and DOC whenever they become aware that the offender who is under court-ordered treatment in the community and under DOC supervision is in violation of a treatment order or a condition of supervision that relates to public safety or if the DCDS detains the offender for involuntary chemical dependency treatment.	DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for DCDSs to provide notice of a violation in accordance with this provision, but does not specifically provide guidance for providing notice when detaining an offender for involuntary chemical dependency treatment. That in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know whether Designated Chemical Dependency Specialists are notifying treatment providers or DOC as required. The inclusion of only a portion of this provision in the joint training model is a negative sign.
Section 15 of E2SSB 6358 of 2004 (RCW 70.96a.142): When an offender who is	The petitioner [Designated Chemical Dependency	DOC's policy directs Community Corrections Officers to provide risk	UNKNOWN Do not know

Provision of Law	In brief	Information Provided by Agency	Implemented?
confined in a state correctional facility or is under supervision of DOC in the community is subject to a petition for involuntary treatment under this chapter, the petitioner shall notify DOC and DOC shall provide documentation of its risk assessment or other concerns to the petitioner and the court if DOC classified the offender as a high risk or high needs offender. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]	Specialist] for an offender's involuntary chemical dependency treatment must notify DOC, if the offender is confined in a state correctional facility or is under DOC supervision. If DOC classified the offender as high risk or high needs, then DOC must provide documentation of its risk assessment or other concerns to the petitioner and the court.	information consistent with this provision. DOC's policy also directs staff to provide offenders with the Consumer/Offender Notification during risk assessments, Pre-Sentence Investigation Intake, and during initial classification. That document specifies that if the individual becomes subject to a petition for involuntary treatment, the petitioner will notify DOC, which will provide documentation of its risk assessment or other concerns to the petitioner and the court. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for DOC to provide the required documentation, but does not specifically provide guidance to Designated Chemical Dependency Specialists to provide notice to DOC. That in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	whether Designated Chemical Dependency Specialists are notifying DOC as required. Do not know whether DOC is providing the necessary documentation, but DOC's policy is a positive sign. The inclusion of only a portion of this provision in the joint training model is a negative sign.

Regarding Section 15: When asked by DSHS Headquarters, five of 18 responding County Coordinators reported that DCDSs are performing the required evaluation. Eleven of 18 replied "N/A."

When asked by the Washington Association of Sheriffs and Police Chiefs, some jails reported not being informed that an offender in their custody is or has been subject to a discharge review for involuntary treatment.

When asked by DSHS Headquarters, 16 of 17 responding Designated Chemical Dependency Specialists reported notifying treatment providers and DOC when an offender is in violation of a treatment order or a condition of supervision. Thirteen of 19 responding County Coordinators reported that DCDSs are notifying treatment providers and DOC in such instances.

When asked by DSHS Headquarters, 15 of 17 responding Designated Chemical Dependency Specialists reported notifying DOC when petitioning for an offender's involuntary chemical dependency treatment. Seven of 17 responding County Coordinators reported notifying DOC in such instances, but two of those 17 replied "N/A," and five of 17 replied "Not doing ITA [Involuntary Treatment Act, meaning petitioning for involuntary treatment]."

When asked by DOC Headquarters staff, Special Needs Unit staff reported that they receive written or phone notification from providers when offenders are in violation. They also reported that information indicating that an offender is beginning to decompensate[a deterioration in mental health] is also shared, even if an offender is not in violation. DOC reported that the close working relationship between DOC's Special Needs Units staff and DSHS-contracted providers promotes the exchange of information about offenders' compliance.

DOC reported that when an offender is confined in a DOC facility and is subject to a petition for involuntary treatment, DOC would have initiated the referral for the petition so there would be no need for notification. When the evaluation occurs, DOC provides the information to the petitioner and/or the court by providing a packet of information related to mental health services provided by DOC and risk assessment data. DOC staff also reported that for offenders under DOC supervision in the community who are subject to an involuntary chemical dependency treatment petition, DOC staff provide the documentation upon request.

10) Who is responsible? Mental Health Treatment Providers

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 4 of E2SSB 6358 of 2004: Amends current law (RCW 71.05.445--Mental Health) to provide that information related to mental health services released by a mental health service provider to the DOC may only be provided "for the purposes of completing presentence investigations *or risk assessment reports*, supervision of an incarcerated *offender or offender under supervision in the community*, planning for and provision of supervision of *an offender*, or assessment	Mental health treatment providers may release information to DOC for a greater number of purposes. The newly added purposes are the following: • Completing risk assessment reports; and	DSHS' WAC and DOC policy direct agency staff and providers in accordance with this provision.	UNKNOWN Do not know whether mental health treatment providers have been appropriately releasing information to DOC.

Provision of Law	In brief	Information Provided by Agency	Implemented?
of *an offender's* risk to the community [new language in italics]."	• Supervising an offender in the community.		DSHS' WAC and DOC's policy are positive signs.
Section 4 of E2SSB 6358 of 2004: Amends current law (RCW 71.05.445--Mental Health) to provide that if an offender subject to chapter 9.94A or 9.95 RCW has failed to report for DOC supervision or in the event of an emergent situation that poses a significant risk to the public or the offender, information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found shall be released by the mental health services provider to the DOC upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health services provider and the address or information about the location or whereabouts of the offender. Information released in response to a written request may include information identified by rule as provided in subsections (4) and (5) of this section. For purposes of this subsection a written request includes requests made by e-mail or facsimile so long as the requesting person at the DOC is clearly identified. The request must specify the information being requested. Disclosure of the information requested does not require the consent of the subject of the records unless the offender has received relief from disclosure under section 11, 12, or 13 of this act.	If an offender does not report for DOC supervision or there is an emergent situation that poses a significant risk to the public or the offender, mental health treatment providers must release information related to services provided and any information regarding where the offender may be found to DOC, upon request.	DSHS' WAC and DOC policy direct agency staff and providers in accordance with this provision. In addition, DSHS produced addenda to its compliance review tools to verify that providers are acting in accordance with this provision. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for mental health treatment providers to share information with DOC in these circumstances. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know whether mental health treatment providers have been appropriately releasing information to DOC. DSHS' WAC, DOC's policy, and the inclusion of this provision in the joint training model are positive signs.

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 4 of E2SSB 6358 of 2004: Amends current law (RCW 71.05.445--Mental Health) to provide that when a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the DOC.	During initial assessment, mental health treatment providers must ask all individuals receiving court-ordered treatment whether they are subject to DOC supervision. And the offenders must answer that question.	DSHS' WAC requires that mental health providers' intake evaluations include documentation showing that the consumer has been asked if s/he is under the supervision of DOC or juvenile court. DSHS' compliance review tools correspond with that WAC. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for situations in which the mental health or chemical dependency treatment provider believes that an individual is under DOC supervision even though the individual has denied such. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know the rate at which mental health treatment providers are asking this question. Do not know how many offenders are answering the question accurately. DSHS' WAC and compliance review tools, and the inclusion of this provision in the joint training model are positive signs.
Section 4 of E2SSB 6358 of 2004: Amends current law (RCW 71.05.445--Mental Health) to provide that when a person receiving court-ordered treatment or treatment ordered by the DOC discloses to his or her mental health service provider that he or she is subject to supervision by the DOC, the mental health services	When an offender receiving court- or DOC-ordered treatment discloses to a mental health treatment provider that s/he is subject to DOC	DSHS produced addenda to its compliance review tools to verify that providers are notifying DOC as required, but does not verify that providers are notifying offenders as	UNKNOWN Do not know the rate at which mental health treatment providers are notifying DOC and

Provision of Law	In brief	Information Provided by Agency	Implemented?
provider shall notify the DOC that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to section 11, 12, or 13 of this act and the offender has provided the mental health services provider with a copy of the order granting relief from disclosure pursuant to section 11, 12, or 13 of this act, the mental health services provider is not required to notify the DOC that the mental health services provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by e-mail or facsimile, so long as the notifying mental health service provider is clearly identified.	supervision, the mental health treatment provider must notify DOC of the offender's treatment and notify the offender that his/her Community Corrections Officer will be notified of the treatment.	required. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for mental health providers to notify both DOC and the offender. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	offenders as required. The inclusion of only a portion of this provision in DSHS' compliance review tools is a negative sign. The inclusion of this provision in the joint training model is a positive sign.
Section 6 of E2SSB 6358 of 2004: Amends current law (RCW 71.05.390--Mental Health) to expand the limits on the release of information to provide that information and records shall be disclosed to DOC pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community. Disclosure under this subsection is mandatory for the	Expands mental health services information that providers may release to DOC to include the following: • Completing presentence investigations or risk assessment reports; • Supervision of an incarcerated offender or offender under	DSHS' WAC and DOC policy direct agency staff and providers in accordance with this provision.	UNKNOWN Do not know whether DOC is receiving allowable mental health services information from providers. DSHS' WAC and DOC's policy are positive signs.

Provision of Law	In brief	Information Provided by Agency	Implemented?
purposes of the health insurance portability and accountability act. In addition, provisions regarding information-sharing are expanded to include: 1) not only situations of DOC confinement but also situations of DOC supervision; and 2) not only situations involving law enforcement agencies but also corrections agencies.	supervision in the community; • Planning for and provision of supervision of an offender; and • Assessment of an offender's risk to the community. Provides that such disclosures are mandatory under the federal Health Insurance Portability and Accountability Act (HIPAA). In addition, provisions regarding information-sharing are expanded to include: 1) not only situations of DOC confinement but also situations of DOC supervision; and 2) not only situations involving law enforcement agencies but also corrections agencies.		
Section 507 of E2SSB 5763 of 2005 amends current law (RCW 71.05.157--Mental Health) to provide that when	Mental health treatment providers must notify a	DSHS produced addenda to its compliance review tools to	UNKNOWN Do not know

Provision of Law	In brief	Information Provided by Agency	Implemented?
an offender is under court-ordered treatment in the community and the supervision of DOC, and the treatment provider becomes aware that the person is in violation of the terms of the court order, the treatment provider shall notify the designated mental health professional of the violation and request an evaluation for purposes of revocation of the less restrictive alternative.[7]	Designated Mental Health Professional (DMHP) when an offender under court-ordered mental health treatment in the community and under DOC supervision violates the court order. The treatment provider must also request an evaluation for revocation of the offender's less restrictive alternative for involuntary treatment.	verify that providers are acting in accordance with this provision. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for mental health providers to notify a DMHP and request an evaluation. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	whether mental health treatment providers are notifying DMHPs and requesting these evaluations. DSHS' compliance review tools and the inclusion of this provision in the joint training model are positive signs.

Regarding Sections 4 and 6: When asked by DOC Headquarters staff, Intake and Pre-Sentence Investigation staff reported that offenders are asked about mental health treatment information. When DOC requests that information from providers, the information is received. In addition, when asked by DOC Headquarters staff about mental health treatment providers' notification of DOC of the offender's treatment, Special Needs Unit staff reported that there is a close working relationship between DOC and the community providers, and information is routinely shared between the two. The Special Needs Units serve as a resource for providers with offenders supervised in non-specialized units.

Regarding Section 4: When an offender does not report for DOC supervision or there is an emergent situation that poses a significant risk to the public or the offender, DOC reported that the agency does request information related to mental health services provided and any information regarding where the offender may be found and routinely receives it. However, challenges may occur with new, or less familiar, providers and DOC staff who may not be aware of the statutory requirements. DOC also states that because of their close working relationship with DSHS contracted community providers, the DOC Special Needs Units serve as a resource for providers with offenders supervised in non-specialized units.

Regarding Sections 4 and 507: DSHS reported that its Division of Behavioral Health-Mental Health Division (DBHR-MHD) Licensing and Certification validate compliance by performing clinical record review on 7-10 percent of all clinical records of mental health providers. By

[7] Section 507 of E2SSB 5763 of 2005 consists of further amendments to those made in Section 16 of E2SSB 6358 of 2004. Hence, only the former is included in this table.

historical practice and prior Mental Health Director agreement with the Assistant Secretary, onsite clinical record review of community mental health agencies have been conducted every three years. Occasionally, an agency review may extend beyond three years. DSHS reported that this may be caused by reduction of staff due to periodic budget constraints, staff turnover, and episodic influx of new providers requesting licensing or certification thus increasing workload beyond staff capacity. The Licensing and Certification team requires providers to submit a corrective action plan within 30-60 days for review and approval. The team may go onsite within 6-9 months to verify that the corrective action plan was implemented and check clinical records for documentation of implementation.

Regarding Section 4: DSHS also reported sending addenda to its compliance review tools to all licensed mental health service providers concerning the service providers' duty to notify DOC of their treatment of an offender under DOC supervision.

Regarding Section 507: When contacted by DSHS Headquarters, the Washington Association of Designated Mental Health Professionals reported that DMHPs do receive and respond to these requests for evaluation following an offender's violation of court-ordered treatment.

11) Who is responsible? Chemical Dependency Treatment Providers

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 15 of E2SSB 6358 of 2004 (RCW 70.96a.142): When an offender is under court-ordered treatment in the community and the supervision of DOC, and the treatment provider becomes aware that the person is in violation of the terms of the court order, the treatment provider shall notify the designated chemical dependency specialist of the violation and request an evaluation for purposes of revocation of the conditional release. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]	A chemical dependency treatment provider treating an offender under court-ordered treatment and DOC supervision must notify the Designated Chemical Dependency Specialist if the offender violates terms of the court order and request an evaluation for revocation of conditional release.	DSHS' WAC directs chemical dependency treatment providers in accordance with this provision. DSHS and DOC's joint training model for implementing E2SSB 6358 does not include guidance in accordance with this provision.	UNKNOWN Do not know whether chemical dependency treatment providers are providing the required notice and request for evaluation. DSHS' WAC is a positive sign, but the absence of this provision from the joint training model is a negative sign.
Section 508 of E2SSB 5763 of 2005 (RCW 70.96A.157): Treatment	During intake, chemical dependency treatment	DSHS' WAC requires chemical dependency treatment providers to ensure that patient	YES DSHS' WAC and onsite

Provision of Law	In brief	Information Provided by Agency	Implemented?
providers shall inquire of each person seeking treatment, at intake, whether the person is subject to court ordered mental health or chemical dependency treatment, whether civil or criminal, and document the person's response in his or her record. If the person is in treatment on the effective date of this section, and the treatment provider has not inquired whether the person is subject to court ordered mental health or chemical dependency treatment, the treatment provider shall inquire on the person's next treatment session and document the person's response in his or her record. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]	providers must ask all individuals whether they are subject to civil or criminal court-ordered mental health or chemical dependency treatment. The providers must document the individuals' responses.	records include documentation of the patient's response. A sample chemical dependency assessment form developed by DSHS for certified chemical dependency treatment programs includes questions that would prompt such disclosure. DSHS' onsite survey patient record checklist includes whether treatment programs are asking all patients about this issue. DSHS' policy provides detailed direction to Certification Section staff for completing on-site surveys of chemical dependency treatment agencies every three years. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for situations in which the mental health or chemical dependency treatment provider believes that an individual is under DOC supervision even though the individual has denied such. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	survey materials, and the inclusion of this provision in the joint training model are positive signs. DSHS' policy directing and detailing on-site surveys every three years adds a mechanism for ensuring that the WACs are implemented.
Section 508 of E2SSB 5763 of 2005 (RCW 70.96A.157): Treatment providers shall inquire of each person seeking treatment, at intake, whether the person is subject to supervision of any kind by DOC and document the person's response in his or her record. If the person is in treatment on the effective date of this section, and the	During intake, chemical dependency treatment providers must ask all individuals whether they are subject to DOC supervision. The providers must document the individuals' responses.	DSHS' WAC requires chemical dependency treatment providers to ensure that patient records include documentation of the patient's response. A sample chemical dependency assessment form developed by DSHS for certified chemical dependency treatment programs includes questions that would prompt such disclosure. DSHS' onsite survey patient record checklist	YES DSHS' WAC and onsite survey materials, and the inclusion of this provision in the joint training model are positive signs. DSHS' policy directing and detailing on-site

Provision of Law	In brief	Information Provided by Agency	Implemented?
treatment provider has not inquired whether the person is subject to supervision of any kind by the department of corrections, the treatment provider shall inquire on the person's next treatment session and document the person's response in his or her record. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]		includes whether treatment programs are asking all patients about this issue. DSHS' policy provides detailed direction to Certification Section staff for completing on-site surveys of chemical dependency treatment agencies every three years. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for situations in which the mental health or chemical dependency treatment provider believes that an individual is under DOC supervision even though the individual has denied such. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	surveys every three years adds a mechanism for ensuring that the WACs are implemented.
Section 508 of E2SSB 5763 of 2005 (RCW 70.96A.157): For all persons who are subject to both court ordered mental health or chemical dependency treatment and supervision by DOC, the treatment provider shall request an authorization to release records and notify the person that, unless expressly excluded by the court order the law requires treatment providers to share information with DOC and the person's mental health treatment provider. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug	Chemical dependency treatment providers must request an authorization to release records from any individual who is subject to court-ordered treatment and DOC supervision. The treatment provider must also notify the individual that the provider must share information with DOC and any mental health treatment provider who is also treating the individual.	DSHS' WAC requires chemical dependency treatment providers to request authorization in accordance with this provision. DSHS and DOC have developed a standardized multi-party release of information form. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for chemical dependency treatment providers to request authorization from individuals and provide those individuals with the required notification. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know whether chemical dependency treatment providers are requesting the required authorization to release records and providing the required notification to the individual under treatment. DSHS' WAC, the standardized release of information form, and the inclusion of this provision in the joint training model are

Provision of Law	In brief	Information Provided by Agency	Implemented?
Addiction]			positive signs.
Section 508 of E2SSB 5763 of 2005 (RCW 70.96A.157): If the treatment provider has reason to believe that a person is subject to supervision by DOC but the person's record does not indicate that he or she is, the treatment provider may call any DOC office and provide the person's name and birth date. If the person is subject to supervision, the treatment provider shall request, and DOC shall provide, the name and contact information for the person's community corrections officer. [Addition to Chapter 70.96A RCW--Treatment for Alcoholism, Intoxication, and Drug Addiction]	A chemical dependency treatment provider may contact DOC to determine whether an individual under treatment is subject to DOC supervision, if the treatment provider has reason to believe this is the case. If the individual is subject to DOC supervision, DOC must provide the name and contact information for that individual's Community Corrections Officer to the provider.	When an external provider requests information, DOC's policy directs staff to direct that provider to the assigned Community Corrections Officer. DSHS and DOC's joint training model for implementing E2SSB 6358 includes guidance for chemical dependency treatment providers in accordance with this provision. However, this in-depth training was only provided in five counties (Clark, King, Pierce, Snohomish, and Spokane).	UNKNOWN Do not know whether chemical dependency treatment providers are requesting this information from DOC. DOC's policy direction and the inclusion of this provision, as it relates to chemical dependency treatment providers, in the joint training model are positive signs.

Regarding Section 15: When asked by DSHS Headquarters, 10 of 17 responding Designated Chemical Dependency Specialists reported that providers are providing notice and requesting an evaluation when an offender violates the terms of his/her court order. Fourteen of 20 responding County Coordinators reported that providers are providing notice and requesting an evaluation.

Regarding Section 15 and 508: DSHS reported that its Division of Behavioral Health and Recovery-Substance Abuse (DBHR-SA), the former Division of Alcohol and Substance Abuse, ensures chemical dependency treatment provider/agency compliance with WAC 388-805 (regulating chemical dependency treatment providers) through on-site surveys conducted once every three years. After each on-site survey, DSHS reported that the DBHR-SA Certification Section staff member writes a survey report, requests a corrective action plan (CAP) due within 30 days, and may or may not conduct a follow-up CAP survey depending on the nature and extent of deficiencies found during the on-site survey.

Regarding Section 508: When asked by DSHS Headquarters, 19 of 20 responding County Coordinators reported that chemical dependency treatment providers are asking patients whether they are subject to court-ordered treatment. All 20 of 20 reported that chemical dependency treatment providers are asking patients whether they are subject to DOC supervision.

When asked by DSHS Headquarters, 20 of 20 responding County Coordinators reported that chemical dependency treatment providers are requesting authorization to release records from individuals who are subject to court-ordered treatment and DOC supervision.

When asked by DSHS Headquarters, 12 of 20 responding County Coordinators reported that chemical dependency treatment providers are requesting information regarding individuals' supervision status from DOC.

12) Who is responsible? Department of Social and Health Services and Department of Corrections

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 20 of E2SSB 6358 of 2004 [uncodified]: DSHS and DOC shall develop a training plan for department employees, contractors, and necessary mental health service providers and chemical dependency treatment providers covering the information sharing processes for offenders with treatment orders and terms of supervision in the community.	DSHS and DOC must develop a training plan for department employees, contractors, and necessary mental health service and chemical dependency treatment providers covering the information-sharing processes for offenders with treatment orders and terms of supervision in the community.	The joint DOC and DSHS Section 20 Work Group developed a training plan. The training was implemented by consultants, with assistance from DSHS, DOC, and DSHS' Division of Alcohol and Substance Abuse (DASA). In 2005-2006, training consisting of the following four components was provided to five counties (Clark, King, Pierce, Snohomish, and Spokane): 1) CD-ROM providing background on the provisions of the new law; 2) two 6-hour training events for local professionals from the mental health, substance abuse, and criminal justice systems; 3) 2 to 3-month period between the two parts of the training to mobilize specific activities related to implementation of the new law as identified in local action plans; and 4) evaluation of the effectiveness of the training provided. Cross-system participation in the training was ensured through the identification by DSHS, DOC, and DSHS' DASA leadership of specific individuals to be included.	YES DSHS and DOC developed the required training plan.
Section 20 of E2SSB 6358 of 2004 [uncodified]: DOC and DSHS, in consultation with prosecuting attorneys, the Washington	DOC and DSHS must develop a model for multidisciplinary case management and release planning of offenders classified	A stakeholder work group developed a Multi-Disciplinary Case Management Model. This model was introduced as part of the joint training detailed above.	YES DOC and DSHS developed the required model.

Provision of Law	In brief	Information Provided by Agency	Implemented?
association of sheriffs and police chiefs, regional support networks, county designated chemical dependency specialists, and other experts that the departments deem appropriate, shall develop a model for multidisciplinary case management and release planning of offenders classified as having high resource needs in multiple service areas.	as having high resource needs in multiple service areas. In developing the model, DOC and DSHS must consult with prosecuting attorneys, the Washington Association of Sheriffs and Police Chiefs, Regional Support Networks, Designated Chemical Dependency Specialists, and other experts deemed appropriate.		

Regarding Section 20: DOC also reported providing training as follows: 1) December 2006-presentation to Executive Leadership by Mental Health Director; 2) August 2007-all field staff trained by field administrators training their supervisors who then trained their staff; and 3) October 2007-staff at both of DOC's reception centers were trained.

DOC and DSHS reported presentations on the information-sharing provisions of law at three behavioral health conferences during 2005 and 2006.

DSHS reported that implementation of the multidisciplinary case management model occurs at the local level, among DOC, mental health, and chemical dependency treatment staff. DOC reported that although the model had been developed, it has not been implemented on a statewide basis since doing so would have required additional staffing resources and other infrastructure development.

13) Who is responsible? Not stated.

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 21 of E2SSB 6358 of 2004 (RCW 4.24.558): Information shared and actions taken without gross negligence and in good faith compliance with RCW 71.05.445, 72.09.585, or sections 15 through 17 of this act are not a basis for any private civil cause of action. [Addition to Chapter 4.24 RCW--Special Rights of Action and Special Immunities]	Provides civil immunity for information-sharing and actions taken in accordance with E2SSB 6358 (2004).	Staff from the Attorney General's Office report that they have not had this statute come up in their cases.	YES

Regarding Section 21: DSHS reported that they are not aware of any civil actions nor have they been contacted by agency Assistant Attorneys General of any civil actions as a result of implementing this legislation. DOC reported that the Corrections and Torts divisions of the State Attorney General's Office have not defended any actions brought under these provisions of law.

APPENDIX 4 – DETAILED MEDICAID REINSTATEMENT PROVISIONS

The following three tables address implementation of E2SHB 1290 (2005) and 2SHB 1088 (2007). Each table is devoted to the provisions of law[8] directed to one or more specific agencies or entities. Each table consists of the following four pieces of information for each provision: 1) language of the provision; 2) a briefer, paraphrased version of the provision; 3) relevant documentation relating to the implementation status; and 4) implementation status.

JLARC's analysis of the nine provisions resulted in three implementation statuses: "Unknown," "Yes," and "No." The implementation status of five is "Yes," one is "No," and the remaining three are "Unknown," meaning that there was not enough documentation to determine whether or not those provisions have been implemented.

In addition, the first two tables are accompanied by additional contextual information relating to the provisions. That information was not used in reaching conclusions about implementation of these provisions of law.

[8] The term "provisions" is used here rather than sections of law, since JLARC separated the sections out into individual provisions, when appropriate.

1) Who is responsible? Department of Social and Health Services (DSHS)

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 12 of E2SHB 1290 of 2005 (RCW 74.09.555): DSHS shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law. For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on the effective date of this section. [Addition to Chapter 74.09 RCW--Medical Care]	DSHS must adopt rules and policies to provide that Medicaid must be fully reinstated for individuals with a mental disorder on the day they are released from confinement.	DSHS' WAC and policy were updated in accordance with this provision.	YES DSHS adopted the required rules and policies.
Section 12 of E2SHB 1290 of 2005 (RCW 74.09.555): DSHS, in collaboration with the Washington association of sheriffs and police chiefs, DOC, and the regional support networks, shall establish procedures for coordination between DSHS field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and	In collaboration with specific entities, DSHS must establish procedures for coordination among DSHS field offices, institutions for mental disease, and correctional institutions that result	DSHS established an Expedited Medical Determinations Steering Committee consisting of 15 members, with representatives from DSHS, WASPC, DOC, RSNs, IMDS, and the federal SSA. DSHS has developed working agreements under this bill with entities across the state, including public and private institutes for	NO DSHS met the requirement of collaboration with specific entities in establishing procedures, and has developed working agreements with the required types of entities. DSHS updated its online system to track such applications. DSHS administrative data

Provision of Law	In brief	Information Provided by Agency	Implemented?
speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address: • Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement; • Expeditious review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released; • Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and • Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons. For purposes of this section, "likely to be eligible" means that a person: was enrolled in medicaid or supplemental security income or general assistance immediately before he or she was confined and his or	in prompt reinstatement or speedy eligibility determinations of individual's Medicaid enrollment upon their release from confinement. The speedy eligibility determinations apply to individuals who are likely eligible for Medicaid, but who were not enrolled immediately prior to confinement. The procedures must address: • Mechanisms for receiving applications for Medicaid prior to an individual's release; • Expeditious review of applications filed prior to an individual's release with completion of the review before release; • Mechanisms for	mental disease, state and local correctional facilities, and Regional Support Networks. DSHS has added a "1290 Confinement and Release" screen to its online system to track 1290 applications (referring to E2SHB 1290 of 2005). (DSHS reported that this replaced an interim tracking process.) DSHS reported a total of 10,485 expedited applications from 1/1/06 through 2/26/10. Of those, 4,522 were processed prior to release, 2,907 within seven days of release, and 3,056 more than seven days following release. DSHS also reported tracking the reasons why individual applications were processed more than seven days following release. The Governor directed DSHS to phase-in implementation of these provisions of law, but DSHS reported that they are now implemented statewide. DSHS is currently developing a web-based tool to allow the criminal justice and Medicaid systems to share information relating to the Medicaid eligibility of individuals who are confined. The purpose of	identifies over 10,000 expedited applications since January 1, 2006, with the largest portion of those processed prior to individuals' release. Over 1/4 of those applications were processed within seven days of release, and over another 1/4 were processed more than seven days following release. DSHS tracks the reasons why individual applications were processed more than seven days following release. DSHS' Research and Data Division's 2006-07 analysis (discussed in the body of the report) identified shortcomings in fulfilling the requirement that the procedures "result in prompt reinstatement of eligibility and speedy eligibility determination." RDA's review focused on: 1) individuals released from DOC with a mental illness; and 2) individuals released from county jails who had DSHS medical coverage at booking, stayed in jail for at least 45 days, and lost that coverage while in jail. For both of those groups, only about 20 percent were referred for expedited review by DOC or jails.

Provision of Law	In brief	Information Provided by Agency	Implemented?
her enrollment was terminated during his or her confinement; or was enrolled in medicaid or supplemental security income or general assistance at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release. [Addition to Chapter 74.09 RCW--Medical Care]	providing Medicaid ID cards immediately upon individuals' release; and • Coordination with the federal Social Security Administration to expedite processing of applications for federal SSI or SSDI, including federal acceptance of applications prior to individuals' release.	this tool is to facilitate the provision of Medicaid services to eligible individuals upon release.	There may be good reason why the rates of referral for these identified groups are not 100 percent. For those released from DOC, not all individuals with a mental illness diagnosis may have met the definition of being likely eligible for Medicaid. For those released from jail, not all individuals who lost DSHS medical coverage while in jail may have had a mental illness. In looking at enrollment in coverage, there was some improvement from before the bill was enacted: 1) an increase from 21 percent to 30 percent for DOC, during individuals' month of release; and 2) an increase from 44 percent to 49 percent for jails, upon individuals leaving jail. There may be good reason why the rates of enrollment are not 100 percent since not all of these individuals may have met all of the criteria for enrollment in DSHS medical coverage. However, these results of RDA's analysis indicate that this provision of law was not fully implemented following enactment.

Provision of Law	In brief	Information Provided by Agency	Implemented?
			DSHS' current development of a web-based tool to facilitate the provision of Medicaid services to eligible individuals upon release is a positive sign.
Section 12 of E2SHB 1290 of 2005 (RCW 74.09.555): The economic services administration [of DSHS] shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid. [Addition to Chapter 74.09 RCW--Medical Care]	DSHS' Economic Services Administration must adopt standardized statewide screening and application practices and forms designed to facilitate individuals' applications for Medicaid, for those confined and likely eligible.	DSHS' WAC and policy were updated in accordance with this provision. DSHS has added a "1290 Confinement and Release" screen to its online system to track 1290 applications (referring to E2SHB 1290 of 2005). (DSHS reported that this replaced an interim tracking process.) DSHS reported a total of 10,485 expedited applications from 1/1/06 through 2/26/10. Of those, 4,522 were processed prior to release, 2,907 within seven days of release, and 3,056 more than seven days following release. DSHS also reported tracking the reasons why individual applications were processed more than seven days following release.	YES DSHS adopted required rules, policies, and changes to its online system.
Section 13 of E2SHB 1290 of 2005 (71.24.340): The secretary [of DSHS] shall require the regional support networks to develop interlocal agreements pursuant to section 12 of this act. [Addition to Chapter	DSHS must require the Regional Support Networks (RSN) to develop interlocal agreements in	DSHS' contracts with the RSNs require them to maintain interlocal agreements pursuant to Section 12 of E2SSHB 1290. These agreements require the acceptance of referrals to	YES DSHS met the requirement to require RSNs to develop interlocal agreements.

Provision of Law	In brief	Information Provided by Agency	Implemented?
71.24 RCW--Community Mental Health Services Act]	accordance with Section 12 of the bill.	screen confined individuals prior to release and accept individuals for enrollment in RSN services upon release when they meet access to care standards.	
Section 8 of 2SHB 1088 of 2007 (74.09.515): DSHS shall adopt rules and policies providing that when youth who were enrolled in a medical assistance program immediately prior to confinement are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law. For purposes of this section, "confined" or "confinement" means detained in a facility operated by or under contract with the department of social and health services, juvenile rehabilitation administration, or detained in a juvenile detention facility operated under chapter 13.04 RCW. [Addition to Chapter 74.09 RCW--Medical Care]	DSHS must adopt rules and policies providing that youths' Medicaid must be fully reinstated on the day they are released from confinement.	DSHS' WAC was updated in accordance with this provision. DSHS reported updating the "Confinement and Release" screen in its online system to include juveniles in April 2008.	YES DSHS adopted the required rules and policies.
Section 8 of 2SHB 1088 of 2007 (74.09.515): DSHS, in collaboration with county juvenile court administrators and regional support networks, shall establish procedures for coordination between	In collaboration with specific entities, DSHS must establish procedures for coordination among	DSHS has developed working agreements under this bill with state and local juvenile correctional facilities across the state. DSHS' Juvenile Rehabilitation	UNKNOWN DSHS has developed working agreements with the required types of entities. DSHS administrative data

Provision of Law	In brief	Information Provided by Agency	Implemented?
DSHS field offices, juvenile rehabilitation administration institutions, and county juvenile courts that result in prompt reinstatement of eligibility and speedy eligibility determinations for youth who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address: • Mechanisms for receiving medical assistance services' applications on behalf of confined youth in anticipation of their release from confinement; • Expeditious review of applications filed by or on behalf of confined youth and, to the extent practicable, completion of the review before the youth is released; and • Mechanisms for providing medical assistance services' identity cards to youth eligible for medical assistance services immediately upon their release from confinement. For purposes of this section, "confined" or "confinement" means detained in a facility operated by or under contract with the department of social and health services, juvenile rehabilitation administration, or detained in a juvenile detention facility operated under chapter 13.04 RCW. [Addition to Chapter 74.09 RCW--Medical Care]	DSHS field offices, Juvenile Rehabilitation Administration institutions, and county juvenile courts that result in prompt reinstatement or speedy eligibility determinations of individual youth's Medicaid enrollment upon his/her release from confinement. The speedy eligibility determinations apply to individuals who are likely eligible for Medicaid, but who were not enrolled immediately prior to confinement. The procedures must address: • Mechanisms for receiving applications for Medicaid prior to a youth's release; • Expeditious review of applications filed prior to a youth's release	Administration (JRA) and Economic Services Administration (ESA) have entered into a Memorandum of Understanding requiring ESA to collaborate with JRA in accordance with this bill for youth released from JRA facilities. DSHS' JRA has developed a process for referring youth released from JRA facilities for expedited medical determinations in accordance with this bill. DSHS reported processing a total of 2,669 expedited applications from 1/1/06 through 2/26/10. Of those, 1,546 were processed prior to release, 197 within seven days of release, and 926 more than seven days following release. DSHS also reported tracking the reasons why individual applications processed more than seven days following release are delayed. DSHS has phased in implementation of these provisions, but DSHS reported that they are now implemented statewide. DSHS is currently developing a web-based tool to allow the criminal justice and Medicaid systems to share information relating to the Medicaid eligibility of individuals	identifies nearly 2,700 expedited applications processed since January 1, 2006, with the largest portion of those processed prior to youths' release. Seven percent were processed within seven days of release, and over 1/3 were processed more than seven days following release. DSHS tracks the reasons why individual applications were processed more than seven days following release. However, do not know whether the requirement that the procedures "result in prompt reinstatement of eligibility and speedy eligibility determination" is being met, since the total population released from state and local juvenile correctional facilities is not known. DSHS' Research and Data Analysis Division has not conducted an analysis of the impact of these provisions of law relating specifically to juveniles. DSHS' current development of a web-based tool to facilitate the provision of Medicaid services to eligible individuals upon release is a positive sign.

Provision of Law	In brief	Information Provided by Agency	Implemented?
	with completion of the review before release; and • Mechanisms for providing Medicaid ID cards immediately upon youth's release.	who are confined. The purpose of this tool is to facilitate the provision of Medicaid services to eligible individuals upon release.	
Section 8 of 2SHB 1088 of 2007 (74.09.515): DSHS shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined youth who is likely to be eligible for a medical assistance program. [Addition to Chapter 74.09 RCW--Medical Care]	DSHS must adopt statewide screening and application practices and forms to facilitate reinstatement of Medicaid for youth in confinement, upon release.	DSHS' WAC was updated in accordance with this provision. DSHS reported that staff use the 1290 Project structure to receive 1088 referrals from juvenile facilities (referring to 2SHB 1088 of 2007). In April 2008, the "Confinement and Release" screen was updated to include juveniles.	YES DSHS adopted required rules and changes to its online system.

Regarding Section 12: DSHS reported that implementation was primarily focused on getting the project staff in place and developing processes with local facilities to expedite application processing. These processes tend to vary quite a bit based on the size, type and location of the facility, so do not lend themselves to statewide standardized training or instructions. DSHS indicates that, because the number of line staff processing applications is relatively small and they perform specialized functions, information can be shared and performance can be monitored somewhat informally (e.g., Q & A's, memos, e-mails, etc.).

DSHS reported having implemented a method to identify 1290 applications (referring to E2SHB 1290 of 2005) so that they can be routed to dedicated project staff for expedited processing and issuance of medical ID cards. These staff also assist former SSI recipients with reinstatement or re-application upon their release from confinement. The Community Services Division has identified "1290 coordinators" in each of its six regions to work with local facilities and DSHS staff on methods for handling applications. DSHS reported that 1290 project staff are located in Community Services Offices in the following communities: Spokane, Wenatchee, Yakima, Kennewick, Bellingham, Everett, Mount Vernon, Oak Harbor, Monroe, Seattle, Bremerton, Tacoma, Olympia, Kelso, and Vancouver. These staff work with specific facilities and institutions in their area to perform expedited eligibility determinations for confined persons. Procedures are developed at the local level.

DOC reported that each of DOC's facilities has developed a process in collaboration with local Community Service Offices to process expedited Medicaid eligibility applications, but DOC did not require local correctional facilities to send copies of signed local agreements to DOC headquarters.

DSHS reported that detailed information about the project was distributed to 1290 (referring to E2SHB 1290 of 2005) coordinators and project staff when DSHS began implementing the project. DSHS reported that application forms for 1290 clients are flagged so that they can be routed to project staff for expedited processing.

DSHS reported that data on the numbers of persons served by the RSNs in jail is currently incomplete, but DSHS has a data quality project under way which will provide the data in the future.

Regarding Section 8: The Community Services Division uses the 1290 Project structure to receive 1088 referrals from juvenile facilities (referring to 2SHB 1088 of 2007). DSHS also reported that in most cases, juveniles who are released from confinement are returned to the custody of their parents. In these cases, DSHS staff must send an application for benefits to the parents to obtain information (e.g., family size, income) needed to determine the child's eligibility for medical coverage. When the completed application is returned, DSHS staff determine eligibility and authorize medical benefits if the child is eligible.

2) Who is responsible? Correctional Institutions, Institutions for Mental Disease, and DSHS

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 12 of E2SHB 1290 of 2005 (RCW 74.09.555): Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide DSHS with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. DSHS shall, to the maximum extent permitted by federal law, use the examination in making its	Correctional institutions and institutions for mental disease must provide DSHS with information on medical or psychiatric examinations conducted during confinement that indicate individuals' disability. DSHS must use those examinations in making its determination of an individual's disability and eligibility for Medicaid.	A template was developed for interagency agreements between local Community Services Offices and DOC facilities. In 2006, DOC hired a 1290 Implementation Coordinator to develop and implement policy, protocol, and assist with DOC facility processes.	UNKNOWN Do not know the rate at which correctional institutions and institutions for mental disease are providing DSHS with the required information. Do not know the rate at which DSHS is using that information in making determinations of an individual's disability and eligibility for Medicaid. The developed template and DOC's hiring of a 1290 Implementation Coordinator are positive signs.

Provision of Law	In brief	Information Provided by Agency	Implemented?
determination whether the person is disabled and eligible for medical assistance. [Addition to Chapter 74.09 RCW--Medical Care]			Do not know how widely the templates are being used.

Regarding Section 12: DSHS reported that correctional institutions and institutions for mental diseases are providing DSHS with information about confined persons' disabilities obtained from medical and psychiatric examinations when such information is available.

3) Who is responsible? Regional Support Networks

Provision of Law	In brief	Information Provided by Agency	Implemented?
Section 13 of E2SHB 1290 of 2005 (71.24.340): To this end, the regional support networks shall accept referrals for enrollment on behalf of a confined person, prior to the person's release. [Addition to Chapter 71.24 RCW--Community Mental Health Services Act]	Regional Support Networks (RSN) must accept referrals for enrollment for individuals confined, prior to release.	DSHS' contracts with the RSNs require them to maintain interlocal agreements pursuant to Section 12 of E2SSHB 1290. These agreements require the acceptance of referrals to screen confined individuals prior to release and accept individuals for enrollment in RSN services upon release when they meet access to care standards.	UNKNOWN Do not know whether RSNs have been accepting referrals for enrollment for confined individuals.