

employee of the state, he shall forfeit such office or employment and shall be incapable of holding any public office or employment in this state for a period of two years thereafter.

NEW SECTION. Sec. 82A-58. Tax Compact. To the extent that Article IV of chapter 82.56 RCW (Multistate Tax Compact) is in conflict with the allocation and apportion rules contained herein such Article is hereby superseded.

NEW SECTION. Sec. 59. An aggregate amount equal to no less than four percent of the collections of the state imposed net income tax (said collections to be computed on the basis of the rates, individual and corporate, contained in the act initially adopting a net income tax) shall be placed in a special account in the state general fund to be used exclusively for distribution, as provided by law to municipal corporations other than school districts.

NEW SECTION. Sec. 60. Effective Date. The provisions of this 1973 amendatory act shall take effect on January 1, 1974 if the proposed amendment to Article 7 of the state Constitution authorizing the legislature to impose a tax upon net income and to authorize property tax relief is validly submitted and is approved and ratified by the voters at a general election held in November, 1973. If such proposed amendment is not so submitted and approved and ratified, this 1973 amendatory act shall be null and void in its entirety.

Passed the Senate April 14, 1973.

Passed the House April 13, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.

CHAPTER 142

[Engrossed Substitute Senate Bill No. 2336]

MENTALLY DISORDERED PERSONS--

COMMITMENT PROCEDURES

AN ACT Relating to mental illness; creating a new chapter in Title 71 RCW; amending section 71.12.560, chapter 25, Laws of 1959 and RCW 71.12.560; amending section 71.12.570, chapter 25, Laws of 1959 and RCW 71.12.570; amending section 72.23.010, chapter 28, Laws of 1959 and RCW 72.23.010; amending section 72.23.070, chapter 28, Laws of 1959 as amended by section 50, chapter 292, Laws of 1971 ex. sess and RCW 72.23.070; amending section 72.23.100, chapter 28, Laws of 1959 and RCW 72.23.100; adding a new chapter to Title 71 RCW; repealing section 71.02.010, chapter 25, Laws of 1959 and RCW 71.02.010; repealing section 71.02.020, chapter 25, Laws of 1959 and RCW

71.02.020; repealing section 71.02.090, chapter 25, Laws of 1959 and RCW 71.02.090; repealing section 71.02.100, chapter 25, Laws of 1959 and RCW 71.02.100; repealing section 71.02.110, chapter 25, Laws of 1959 and RCW 71.02.110; repealing section 71.02.120, chapter 25, Laws of 1959, section 9, chapter 196, Laws of 1959 and RCW 71.02.120; repealing section 71.02.130, chapter 25, Laws of 1959, section 10, chapter 196, Laws of 1959 and RCW 71.02.130; repealing section 71.02.140, chapter 25, Laws of 1959 and RCW 71.02.140; repealing section 71.02.150, chapter 25, Laws of 1959 and RCW 71.02.150; repealing section 71.02.160, chapter 25, Laws of 1959 and RCW 71.02.160; repealing section 71.02.170, chapter 25, Laws of 1959 and RCW 71.02.170; repealing section 71.02.180, chapter 25, Laws of 1959 and RCW 71.02.180; repealing section 71.02.190, chapter 25, Laws of 1959 and RCW 71.02.190; repealing section 71.02.200, chapter 25, Laws of 1959 and RCW 71.02.200; repealing section 71.02.210, chapter 25, Laws of 1959 and RCW 71.02.210; repealing section 71.02.220, chapter 25, Laws of 1959 and RCW 71.02.220; repealing section 71.02.230, chapter 25, Laws of 1959, section 3, chapter 127, Laws of 1967 ex. sess., section 63, chapter 292, Laws of 1971 ex. sess. and RCW 71.02.230; repealing section 71.02.240, chapter 25, Laws of 1959 and RCW 71.02.240; repealing section 71.02.250, chapter 25, Laws of 1959, section 1, chapter 51, Laws of 1959 and RCW 71.02.250; repealing section 2, chapter 51, Laws of 1959 and RCW 71.02.255; repealing section 71.02.260, chapter 25, Laws of 1959 and RCW 71.02.260; repealing section 71.02.270, chapter 25, Laws of 1959 and RCW 71.02.270; repealing section 71.02.280, chapter 25, Laws of 1959 and RCW 71.02.280; repealing section 71.02.290, chapter 25, Laws of 1959 and RCW 71.02.290; repealing section 71.02.300, chapter 25, Laws of 1959 and RCW 71.02.300; repealing section 71.02.450, chapter 25, Laws of 1959, section 1, chapter 24, Laws of 1967 and RCW 71.02.450; repealing section 71.02.650, chapter 25, Laws of 1959 and RCW 71.02.650; repealing section 2, chapter 196, Laws of 1959 and RCW 71.03.010; repealing section 4, chapter 196, Laws of 1959 and RCW 71.03.020; repealing section 5, chapter 196, Laws of 1959 and RCW 71.03.030; repealing section 6, chapter 196, Laws of 1959 and RCW 71.03.040; repealing section 7, chapter 196, Laws of 1959 and RCW 71.03.050; repealing section 8, chapter 196, Laws of 1959 and RCW 71.03.060; repealing section 3, chapter 196, Laws of 1959 and RCW 71.03.900; repealing section 71.12.580, chapter 25, Laws of 1959 and RCW 71.12.580; repealing section 1, chapter 145, Laws of 1959 and RCW

72.01.390; repealing section 2, chapter 145, Laws of 1959 and RCW 72.01.400; repealing section 72.08.110, chapter 28, Laws of 1959 and RCW 72.08.110; repealing section 72.23.090, chapter 28, Laws of 1959, section 51, chapter 292, Laws of 1971 ex. sess. and RCW 72.23.090; repealing section 72.23.140, chapter 28, Laws of 1959 and RCW 72.23.140; repealing section 72.23.150, chapter 28, Laws of 1959 and RCW 72.23.150; repealing section 72.23.220, chapter 28, Laws of 1959 and RCW 72.23.220; repealing section 72.23.270, chapter 28, Laws of 1959 and RCW 72.23.270; repealing section 72.25.040, chapter 28, Laws of 1959, section 4, chapter 78, Laws of 1965 and RCW 72.25.040; prescribing penalties; and declaring an effective date.

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

Section 1. Section 71.12.560, chapter 25, Laws of 1959 and RCW 71.12.560 are each amended to read as follows:

The person in charge of any private institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged may receive ((and detain)) therein as a voluntary patient any person suffering from mental illness or derangement who is a suitable person for care and treatment in the institution, hospital, or sanitarium, who voluntarily makes a written application to the person in charge for admission into the institution, hospital or sanitarium, and who is at the time of making the application mentally competent to make the application. Upon the admission of a voluntary patient to a private institution, hospital, or sanitarium, the person in charge shall immediately forward to the office of the department of social and health services a record of the voluntary patient showing the name, residence, age, sex, place of birth, occupation, marital status, date of admission to the institution, hospital, or sanitarium, and such other information as may be required by rule of the department of social and health services. ((No voluntary patient in a private institution, hospital, or sanitarium shall be detained therein for more than ten days after having given notice, in writing, to the person in charge of the institution, hospital, or sanitarium of his desire to leave the institution, hospital, or sanitarium.))

Sec. 2. Section 71.12.570, chapter 25, Laws of 1959 and RCW 71.12.570 are each amended to read as follows:

No person in an establishment as defined in this chapter shall be restrained from sending written communications of the fact of his detention in such establishment to a friend, relative, or other person. The physician in charge of such person and the person in charge of such establishment shall send each such communication to the person to whom it is addressed. ((if, however, the person in

charge finds it inadvisable to send any such communication because it contains other matter which would do harm to the reputation of, and would later cause mental anguish to the person detained; or if the physician finds it impossible to send any such communication within twenty-four hours; then both the physician in charge of the patient and the person in charge of the establishment shall give notice of the detention of such patient to the prosecuting attorney of the county from which the patient came at the time of admission and the prosecuting attorney of the county in which the establishment is located; and the person to whom such communication was addressed; and to the department of health; giving the name and address of the patient and the names and addresses of the person or persons who arranged for his admission and stating the facts of the attempted communication and the reason for withholding it. Such prosecuting attorney or prosecuting attorneys shall investigate the detention of such patient and advise the patient concerning his legal rights and shall report in full concerning said patient to the department of health. The person in charge of the establishment may detain a patient only when there has been compliance with the provisions of this section.) All persons in an establishment as defined by chapter 71.12 RCW shall have no less than all rights secured to involuntarily detained persons by sections 41 and 42 of this 1973 amendatory act and to voluntarily admitted or committed persons pursuant to sections 10 and 43 of this 1973 amendatory act.

Sec. 3. Section 72.23.010, chapter 28, Laws of 1959 and RCW 72.23.010 are each amended to read as follows:

As used in this chapter, the following terms shall have the following meanings:

"Mentally ill person" shall mean any person ((found to be suffering from psychosis or other disease impairing his mental health; and the symptoms of such disease are of a suicidal, homicidal; or incendiary nature; or of such nature which would render such person dangerous to his own life or to the lives or property of others)) who, pursuant to the definitions contained in section 7 of this 1973 amendatory act, as a result of a mental disorder presents a likelihood of serious harm to others or himself or is gravely disabled.

"Patient" shall mean a person under observation, care or treatment in a state hospital, or a person found mentally ill by the court, and not discharged from a state hospital, or other facility, to which such person had been ordered hospitalized.

"Licensed physician" shall mean an individual licensed as a physician under the laws of the state, or a medical officer, similarly qualified, of the government of the United States while in this state in performance of his official duties.

"State hospital" shall mean any hospital operated and maintained by the state of Washington for the care of the mentally ill.

"Superintendent" shall mean the superintendent of a state hospital.

"Court" shall mean the superior court of the state of Washington.

"Resident" shall mean a resident of the state of Washington ((who has maintained his domiciliary residence within this state for a period of two years immediately preceding commitment)).

Wherever used in this chapter, the masculine shall include the feminine and the singular shall include the plural.

Sec. 4. Section 72.23.070, chapter 28, Laws of 1959 as amended by section 50, chapter 292, Laws of 1971 ex. sess. and RCW 72.23.070 are each amended to read as follows:

Pursuant to rules and regulations established by the department, ((the superintendent of)) a state hospital may receive ((and detain)) any person who is((; in his opinion)) a suitable person for care and treatment as mentally ill, or for observation as to the existence of mental illness, upon the receipt of a written application of the person, or others on his behalf, in accordance with the following requirements:

(1) In the case of a person eighteen years of age or over, the application shall be voluntarily made by the person, at a time when he is in such condition of mind as to render him aware of the significance of his act;

(2) In the case of a person under eighteen years of age, the application shall be made by his parents, or by the parent, conservator, guardian, or other person entitled to his custody. A person under eighteen years of age received into a state hospital as a voluntary patient shall not be retained after he reaches eighteen years of age, but such person, upon reaching eighteen years of age, may apply for admission into a state hospital as a voluntary patient:

(3) In the case of a person eighteen years of age or over for whom a conservator or guardian of the person has been appointed, such application shall be made by said conservator or guardian, when so authorized by proper court order in the conservatorship or guardianship proceedings.

Sec. 5. Section 72.23.100, chapter 28, Laws of 1959 and RCW 72.23.100 are each amended to read as follows:

It shall be the policy of the department to permit liberal use of the foregoing sections for the admission of those cases that can be benefited by treatment and returned to normal life and mental condition, in the opinion of the superintendent, within a period of six months. No person shall be carried as a voluntary patient for a

period of more than one year. ((No person shall be admitted as a voluntary patient who has not been a resident of the state of Washington for a period of two years immediately preceding application for admission.))

NEW SECTION. Sec. 6. LEGISLATIVE INTENT. The provisions of this chapter are intended by the legislature:

(1) To end inappropriate, indefinite commitment of mentally disordered persons and to eliminate legal disabilities that arise from such commitment;

(2) To provide prompt evaluation and short term treatment of persons with serious mental disorders;

(3) To safeguard individual rights;

(4) To provide continuity of care for persons with serious mental disorders;

(5) To encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures;

(6) To encourage, whenever appropriate, that services be provided within the community.

NEW SECTION. Sec. 7. DEFINITIONS. For the purposes of this chapter:

(1) "Gravely disabled" means a condition in which a person, as a result of a mental disorder is in danger of serious physical harm resulting from a failure to provide for his essential human needs;

(2) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions;

(3) "Likelihood of serious harm" means either (a) a substantial risk that physical harm will be inflicted by an individual upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's self, or (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm;

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

(5) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(6) "Public agency" means any evaluation and treatment facility of, or operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(7) "Private agency" means any person, partnership,

corporation, or association not defined as a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility;

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

(9) "Department" means the department of social and health services of the state of Washington;

(10) "Secretary" means the secretary of the department of social and health services, or his designee;

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

(12) "Professional person" shall mean a mental health professional, as above defined, and shall also mean a physician, registered nurse, and such others as may be defined by rules and regulations adopted by the secretary pursuant to the provisions of this chapter;

(13) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association;

(14) "Psychologist" means a person with an earned graduate degree in psychology or a graduate degree deemed its equivalent under rules and regulations adopted by the secretary or who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(15) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree from a graduate school deemed equivalent under rules and regulations adopted by the secretary;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and short term inpatient care to persons suffering from a mental disorder, and which is certified as such by the department of social and health services: PROVIDED, That a physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility: PROVIDED FURTHER, That a facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification: AND PROVIDED FURTHER, That no correctional institution or facility, or jail, shall be an evaluation

and treatment facility within the meaning of this chapter.

NEW SECTION. Sec. 8. COMMITMENT LAW APPLICABLE. (1) Persons suffering from a mental disorder may not be involuntarily committed for treatment of such disorder except pursuant to provisions of this chapter, chapter 10.76 RCW or its successor, chapter 71.06 RCW, transfer pursuant to RCW 72.68.031 through 72.68.037, or pursuant to court ordered evaluation and treatment not to exceed ninety days pending a criminal trial or sentencing. Persons impaired by chronic alcoholism or drug abuse may receive services pursuant to this chapter if they so elect.

(2) No person under the age of eighteen years shall be involuntarily provided with, detained, certified, or committed for evaluation or treatment pursuant to the provisions of this chapter unless written authorization has been obtained from such person's parent, parents, conservator, or legal guardian, or pursuant to proceedings of the juvenile court under chapter 13.04 RCW.

NEW SECTION. Sec. 9. NO JUDICIAL COMMITMENT--EPILEPTIC --MENTALLY DEFICIENT OR RETARDED--SENILE. Persons who are epileptics, mentally deficient, mentally retarded, or senile shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or constitutes a likelihood of serious harm to others.

NEW SECTION. Sec. 10. VOLUNTARY APPLICATION FOR MENTAL HEALTH SERVICES. Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall, orally and in writing, be advised of such right to release and such other rights as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment and/or possible release, at which time they shall again be advised of their right to release upon request.

NEW SECTION. Sec. 11. RIGHTS OF PERSONS COMPLAINED AGAINST. A person subject to confinement resulting from any petition or proceeding pursuant to the provisions of this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter.

NEW SECTION. Sec. 12. PRAYER TREATMENT. The provisions of

this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

NEW SECTION. Sec. 13. EFFECT ON PENDING PROCEEDINGS AND ON PERSONS PREVIOUSLY COMMITTED. Except as herein provided, the provisions of this chapter shall not in themselves impair any action taken in any proceeding pending under statutes in effect prior to the effective date of this 1973 amendatory act, nor shall they apply retroactively to terminate the detention of any person previously committed pursuant to statutes in effect prior to the effective date of this 1973 amendatory act. One hundred twenty days after the effective date of this 1973 amendatory act, the provisions of section 37(2) of this 1973 amendatory act shall apply to all persons previously committed pursuant to chapter 71.02 RCW.

NEW SECTION. Sec. 14. CHOICE OF PHYSICIANS. Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of physician or other professional person providing such services.

NEW SECTION. Sec. 15. FINANCIAL RESPONSIBILITY. In addition to the responsibility provided for by RCW 71.02.411, any person, or his estate, or his spouse, or the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department of social and health services shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The county mental health administrative board shall, as part of its annual community mental health program plan, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Financial responsibility with respect to department services and facilities shall continue to be as provided in chapter 71.02 RCW.

NEW SECTION. Sec. 16. COMPENSATION OF APPOINTED COUNSEL. Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) If such person is indigent pursuant to such standards, the costs of such services shall be borne

by the county in which the proceeding is held, subject however to the responsibility for costs provided in section 37(2) of this 1973 amendatory act.

NEW SECTION. Sec. 17. EXEMPTIONS FROM LIABILITY. No public or private officer or agency initiating or providing treatment pursuant to this chapter, nor the superintendent, professional person in charge, his professional designee, or attending staff of any such agency, nor peace officer responsible for detaining a person pursuant to this chapter shall be civilly or criminally liable for performing duties prescribed by this chapter or releasing a person at or before the end of the period for which he was admitted or committed for evaluation or treatment: PROVIDED, That such duties were performed in good faith and without negligence.

NEW SECTION. Sec. 18. DUTY OF PROSECUTING ATTORNEY. In any judicial proceeding for involuntary commitment or detention, or in any proceeding challenging such commitment or detention, the prosecuting attorney for the county in which the proceeding was initiated shall represent the individuals or agencies petitioning for commitment or detention and shall defend all challenges to such commitment or detention.

NEW SECTION. Sec. 19. RECORDS MAINTAINED. A record of all applications, petitions, and proceedings under this chapter shall be maintained by the county clerk in which the application, petition, or proceeding was initiated.

NEW SECTION. Sec. 20. DETENTION OF MENTALLY DISORDERED PERSONS FOR EVALUATION AND TREATMENT. (1) (a) When a mental health professional designated by the county receives information alleging that a person, as a result of a mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, such mental health professional, after investigation and evaluation of the specific facts alleged, and of the reliability and credibility of the person or persons, if any, providing information to initiate detention, may summon such person to appear at an evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period. The mental health professional shall also designate, from a list provided by the court, an attorney who will be appointed, if any is to be appointed, and state the name of this attorney in the summons.

(b) The summons shall state a date and time to appear not less than twenty-four hours after the summons, notice of rights, and statement of specific facts required by section 25 of this 1973 amendatory act is served on such person. The summons shall state the address of the evaluation and treatment facility to which such person is to report and the business address and phone number of the mental health professional designated by the county. The summons shall

state that if the person named in the summons fails to appear at the evaluation and treatment facility at or before the date and time stated in the summons, such person may be involuntarily taken into custody.

(c) If such mental health professional decides to summon such person for up to a seventy-two hour evaluation and treatment period, the mental health professional must file in court the summons, the petition for initial detention, and all documentary evidence. The mental health professional shall then serve or cause to be served on such person, his guardian, and conservator, if any, a copy of the summons together with a notice of rights and a statement of specific facts as required by section 25 of this 1973 amendatory act. After service on such person the mental health professional shall file the return of service and statement of specific facts in court and provide copies of all papers in the court file to the evaluation and treatment facility. This shall constitute an application as required by section 21 of this 1973 amendatory act. The mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time specified on the summons if such person is not released prior to the expiration of such period.

(d) If the person summoned appears on or before the date and time specified, the evaluation and treatment facility shall admit such person as required by section 22 of this 1973 amendatory act. If the person summoned fails to appear on or before the date and time specified, the evaluation and treatment facility shall immediately notify the mental health professional designated by the county who may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. At the time such person is taken into custody there shall be served on such person, his guardian, and conservator, if any, a copy of the original summons together with a copy of the notice and statement of specific facts required by section 25 of this 1973 amendatory act.

(2) When a mental health professional designated by the county receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm to himself or others, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the mental health professional may take such person, or cause such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in section 23 of this 1973 amendatory act.

(3) A peace officer may take such person or cause such person

to be taken into custody and placed in an evaluation and treatment facility pursuant to subsection (1) (d) of this section.

A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause such person to be taken into custody and placed in an evaluation and treatment facility only pursuant to subsections (1) (d) and (2) of this section or when such person is subject to lawful arrest and as a result of mental disorder presents an imminent likelihood of serious harm to others or himself.

NEW SECTION. Sec. 21. APPLICATION. Any facility receiving a person pursuant to section 20 of this 1973 amendatory act shall require an application in writing stating the circumstances under which the person's condition was made known and stating that such officer or person has evidence, as a result of his personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm to himself or others, or that he is gravely disabled, and stating the specific facts known to him as a result of his personal observation or investigation, upon which he bases the belief that such person should be detained for the purposes and under the authority of this chapter.

If a person is involuntarily placed in an evaluation and treatment facility pursuant to section 20 of this 1973 amendatory act, not later than seventy-two hours after the initial detention, the professional staff of the facility or the mental health professional designated by the county shall file with the court either the application, a copy of the notice required by section 25 of this 1973 amendatory act, proof of service of notice, and the statement of specific facts, or a copy of the second notice and statement of specific facts served on such person as required by section 20(1)(d) of this 1973 amendatory act and proof of service of the second notice, if proceedings are initiated under section 20(1)(d) of this 1973 amendatory act.

NEW SECTION. Sec. 22. ACCEPTANCE OF APPLICATION. Whenever such an application is made for admission of a person whose actions constitute a likelihood of serious harm to himself or others, or who is gravely disabled, the facility providing seventy-two hour evaluation and treatment must immediately accept such application and the person. The facility shall then evaluate the person's condition and admit or release such person in accordance with section 26 of this 1973 amendatory act. The facility shall notify the court of the date and time of the initial detention of each person involuntarily detained in order that a probable cause hearing shall be held no later than seventy-two hours after detention.

NEW SECTION. Sec. 23. DETENTION FOR EVALUATION--SERVICES

PROVIDED. If the evaluation and treatment facility admits the person, it may detain him for evaluation and treatment for a period not to exceed seventy-two hours, including Saturdays, Sundays, and holidays.

NEW SECTION. Sec. 24. PERSONS NOT ADMITTED--TRANSPORTATION. If an application is not approved for admission by a facility providing seventy-two hour evaluation and treatment, the facility shall furnish transportation, if not otherwise available, for the person to his place of residence or other appropriate place.

NEW SECTION. Sec. 25. NOTICE AND STATEMENT OF RIGHTS--PROBABLE CAUSE HEARING. (1) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both he and, if possible, a responsible member of his immediate family, guardian, and conservator, if any, shall be immediately advised in writing and orally, by the officer or person taking him into custody, if any, and by personnel of the evaluation and treatment facility to which he is taken that unless he is released within seventy-two hours of the initial detention:

(a) That a judicial hearing in a district justice court or in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain him after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that he is a mentally ill person whose mental disorder presents a likelihood of serious harm to others or himself or that he is gravely disabled;

(b) That he has a right to communicate immediately with an attorney; he has a right to have an attorney appointed to represent him before and at the probable cause hearing if he is indigent; and he has the right to be told the name and address of the attorney the court has designated pursuant to this chapter;

(c) That he has the right to remain silent and that any statement he makes may be used against him;

(d) That he has the right to present evidence and to cross-examine witnesses who testify against him at the probable cause hearing; and

(e) That he has the right to refuse medication beginning twenty-four hours prior to the probable cause hearing.

(2) When proceedings are initiated under section 20 (2) or (3) of this 1973 amendatory act, no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility shall serve on such person a statement of specific facts alleged to have caused such person's present detention and possible future detention. This

statement of specific facts may be taken directly from the application of the peace officer required by section 21 of this 1973 amendatory act.

(3) The judicial hearing described in subsection (1) of this section is hereby authorized, and shall be held according to the provisions of subsection (1) of this section and rules promulgated by the supreme court.

NEW SECTION. Sec. 26. EVALUATION--TREATMENT AND CARE--RELEASE OR OTHER DISPOSITION. Each person involuntarily admitted to an evaluation and treatment facility shall, within twenty-four hours of his admission, be examined and evaluated by a licensed physician and licensed mental health professional unless a licensed mental health professional is not reasonably available, and shall receive such treatment and care as his condition requires for the period that he is detained, except that, beginning twenty-four hours prior to a court proceeding, the individual may refuse all but emergency life-saving treatment, and the individual shall be informed at an appropriate time of his right to such refusal of treatment. Such person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his professional designee, the person presents a likelihood of serious harm to himself or others, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be either released, referred for further care on a voluntary basis, or certified for intensive treatment.

An evaluation and treatment center admitting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for treatment.

NEW SECTION. Sec. 27. PROPERTY OF COMMITTED PERSON. At the time a person is involuntarily admitted to an evaluation and treatment facility, the professional person in charge or his designee shall take reasonable precautions to inventory and safeguard the personal property of the person detained. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this section, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without the consent of the patient or order of the court.

NEW SECTION. Sec. 28. PROCEDURES FOR ADDITIONAL TREATMENT. A person detained for seventy-two hour evaluation and treatment may

be detained for not more than fourteen additional days of either involuntary intensive treatment or of a less restrictive alternative to involuntary intensive treatment if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that said condition is caused by mental disorder and either results in a likelihood of serious harm to the person detained or to others, or results in the detained person being gravely disabled; and

(2) The person has been advised of the need for, but has not accepted, voluntary treatment; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department of social and health services; and

(4) The professional staff of the agency or facility or the mental health professional designated by the county has filed a petition for fourteen day involuntary treatment with the court. The petition must be signed either by two physicians or by one physician and a licensed psychologist who have examined the person, unless one of these persons is not reasonably available, in which case another mental health professional who participated in the examination may sign the notice. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others; and

(5) A copy of the petition for fourteen day involuntary treatment has been served on the detained person, his attorney and his guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The court has ordered a fourteen day involuntary treatment after a probable cause hearing has been held pursuant to section 29 of this 1973 amendatory act.

NEW SECTION. Sec. 29. PROBABLE CAUSE HEARING. If a petition is filed for fourteen day involuntary treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention of such person. If requested by the detained person or his attorney, the hearing may be postponed for a period not to exceed twenty-four hours.

At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the

result of mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department of social and health services. If the court finds that such person, as the result of a mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive course of treatment for not to exceed fourteen days.

The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period is to be sought, such person will have the right to a full hearing or jury trial as required by section 36 of this 1973 amendatory act and that if such person requests release from the evaluation and treatment facility during the fourteen day period he will be brought before a court pursuant to section 53 of this 1973 amendatory act.

NEW SECTION. Sec. 30. PROBABLE CAUSE HEARING-->DETAINED PERSON'S RIGHTS. At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

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

NEW SECTION. Sec. 31. RELEASE--EXCEPTION. (1) Involuntary treatment shall be for no more than fourteen days, and shall terminate sooner when, in the opinion of the professional person in charge of the facility or his professional designee, (a) the person no longer constitutes a likelihood of serious harm to himself or others, or (b) no longer is gravely disabled, or (c) is prepared to accept voluntary treatment upon referral, or (d) is to remain in the facility providing intensive treatment on a voluntary basis.

(2) A person who has been detained for fourteen days of intensive treatment shall be released at the end of the fourteen days unless one of the following applies: (a) Such person agrees to receive further treatment on a voluntary basis; or (b) such person is a patient to whom section 33 of this 1973 amendatory act is applicable.

NEW SECTION. Sec. 32. TEMPORARY RELEASE. Nothing in this chapter shall prohibit the professional person in charge of a treatment facility, or his professional designee, from permitting a person detained for intensive treatment to leave the facility for prescribed periods during the term of the person's detention, under such conditions as may be appropriate.

NEW SECTION. Sec. 33. ADDITIONAL CONFINEMENT--GROUNDS--DURATION. At the expiration of the fourteen day period of intensive treatment, a person may be confined for further treatment pursuant to section 37 of this 1973 amendatory act for an additional period, not to exceed ninety days if:

(1) Such person has threatened, attempted, or inflicted physical harm upon the person of another after having been taken into custody for evaluation and treatment, and, as a result of mental disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he attempted or inflicted physical harm upon the person of another, and continues to present, as a result of mental disorder, a likelihood of serious harm.

For the purposes of this chapter "custody" shall mean involuntary detention under the provisions of this chapter, uninterrupted by any period of unconditional release from a facility providing involuntary care and treatment.

NEW SECTION. Sec. 34. PETITION--AFFIDAVIT. At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his professional designee may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in section 33 of this 1973 amendatory act. The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining licensed psychologist unless one of these persons is not reasonably available, in which case another mental health professional who participated in the examination may sign such affidavits. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person.

NEW SECTION. Sec. 35. FILING OF PETITION--SERVICE--ADVICE OF RIGHTS. A petition for ninety day treatment shall be filed with the clerk of the superior court. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing, and shall notify the

prosecuting attorney. The person filing the petition shall immediately notify the person detained, his attorney, if any, and his guardian or conservator, if any, and provide a copy of the petition to such persons.

At the time set for appearance the detained person shall be brought before the court and the court shall advise him of his right to be represented by an attorney and of his right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person. The court shall also set a date for a full hearing on the petition as provided in section 36 of this 1973 amendatory act.

NEW SECTION. Sec. 36. TIME FOR HEARING--DUE PROCESS--JURY TRIAL--CONTINUATION OF TREATMENT. The court shall conduct a hearing on the petition for ninety day treatment within four judicial days of the first court appearance after the probable cause hearing unless the person named in the petition requests a jury trial, in which case trial shall commence within ten judicial days of the filing of the petition for ninety day treatment. The court may continue the hearing upon the written request of the person named in the petition or his attorney, which continuance shall not exceed ten additional judicial days. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioning facility. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence.

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his attorney, the detained person shall be released.

NEW SECTION. Sec. 37. REMAND FOR ADDITIONAL TREATMENT--DURATION--NEW PETITION. (1) If the court or jury finds that the person named in the petition (a) has threatened, attempted, or actually inflicted physical harm upon the person of another after having been taken into custody for evaluation and treatment, and as a result of mental disorder, presents an imminent threat of serious physical harm to others, and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention; or (b) was taken into custody as a result of attempting to inflict or inflicting physical harm upon the person of another, and as a result of mental disorder presents an imminent

threat of serious physical harm to others, and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services for a further period of intensive treatment not to exceed ninety days from the date of judgment.

If the court or jury finds that the respondent has committed acts falling within either subsection (1) (a) or (b) of this section, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services for a further period of less restrictive treatment not to exceed ninety days from the date of judgment.

(2) Said person shall be released from involuntary treatment at the expiration of ninety days unless the superintendent or professional person in charge of the facility in which he is confined files a new petition for involuntary treatment on the grounds that the committed person has attempted or actually inflicted physical harm on another during his period of involuntary treatment, and he is a person who, by reason of mental disorder, presents a likelihood of serious harm, and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention. Such new petition for involuntary treatment shall be filed and heard either in the superior court of the county of the facility which is filing the new petition for involuntary treatment or in the superior court of the county wherein the original petition for involuntary treatment was filed. The cost of the proceedings shall be borne by the county wherein the original petition for involuntary treatment was filed, when such proceedings are had in a county other than the county wherein the petition for involuntary treatment was filed and arrangements shall be made and agreements reached between involved counties for billing and payment arrangements to meet said responsibility.

The hearing shall be held as provided in section 36 of this 1973 amendatory act, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued

treatment is filed and heard in the same manner as provided herein above. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment. No person committed as herein provided may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

NEW SECTION. Sec. 38. EARLY RELEASE--NOTICE TO COURT. Nothing in this chapter shall prohibit the superintendent or professional person in charge of the hospital or facility in which the person is being involuntarily treated from releasing him prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer presents a likelihood of serious harm to others.

Whenever the superintendent or professional person in charge of a hospital or facility providing involuntary treatment pursuant to this chapter releases a person prior to the expiration of ninety days, the superintendent or professional person in charge shall in writing notify the court which committed the person for treatment.

NEW SECTION. Sec. 39. OUTPATIENT CARE--CONDITIONAL RELEASE--PROCEDURES FOR REVOCATION. (1) When in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient care prior to the expiration of the period of commitment, then such outpatient care may be required as a condition for early release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the hospital or facility designated to provide outpatient care is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility.

(2) The hospital or facility designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person.

(3) If the hospital or facility designated to provide outpatient care or the secretary determines that a conditionally released person is failing to adhere to the terms and conditions of his release, and because of that failure has become a substantial danger to himself or other persons, then, upon notification by the hospital or facility designated to provide outpatient care, or on his own motion, the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he is receiving outpatient treatment until such time, not

exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he had been conditionally released. The secretary may modify or rescind such order at any time prior to commencement of the court hearing. The court shall be notified before the close of the next judicial day of a person's detention under the provisions of this section, and the secretary shall file his petition and order of apprehension and detention with the court and serve them upon the person detained, his attorney, if any, and his guardian or conservator, if any. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The issues to be determined shall be whether the conditionally released person did or did not adhere to the terms and conditions of his release; and, if he failed to adhere to such terms and conditions, (a) whether he is likely to injure himself or other persons if not returned for involuntary treatment on an inpatient basis, or (b) whether the conditions of release should be modified. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his counsel and his guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

(4) The proceedings set forth in subsection (3) of this section may be initiated by the secretary on the same basis set forth therein without the secretary requiring or ordering the apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than fifteen days from the date of service of the petition upon the conditionally released person.

Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided.

NEW SECTION. Sec. 40. ASSISTANCE TO RELEASED PERSONS. No indigent patient shall be conditionally released or discharged from involuntary treatment without suitable clothing, and the superintendent of a state hospital shall furnish the same, together with such sum of money as he shall deem necessary for the immediate

welfare of the patient. Such sum of money shall be the same as the amount required by RCW 72.02.100 to be provided to persons in need being released from correctional institutions. As funds are available, the secretary may provide payment to indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules and regulations to do so.

NEW SECTION. Sec. 41. RIGHTS OF INVOLUNTARILY DETAINED PERSONS. (1) Every person involuntarily detained, certified, or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter and shall retain all rights not denied him under this chapter and which follow from such denial by necessary implication.

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

NEW SECTION. Sec. 42. RIGHTS--POSTING OF LIST. Insofar as imminent danger to the individual or others is not created, each person involuntarily detained, certified, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

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

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

(3) To have access to individual storage space for his private use;

(4) To have visitors at reasonable times;

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

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

(7) Not to consent to the performance of shock treatment or surgery, except emergency life-saving surgery, upon him, and not to have shock treatment or nonemergency surgery in such circumstance unless ordered by a court pursuant to a judicial hearing in which the person is present and represented by counsel, and the court shall appoint a psychiatrist, psychologist, or physician designated by such person or his counsel to testify on behalf of such person;

(8) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding

directed to that particular issue;

(9) Not to have a lobotomy performed on him under any circumstances.

NEW SECTION. Sec. 43. RIGHTS OF VOLUNTARILY COMMITTED PERSONS. All persons voluntarily entering or remaining in any facility, institution, or hospital providing evaluation and treatment for mental disorder shall have no less than all rights secured to involuntarily detained persons by sections 41 and 42 of this 1973 amendatory act.

NEW SECTION. Sec. 44. CONFIDENTIAL INFORMATION AND RECORDS--DISCLOSURE. The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person, not employed by the facility, who does not have the medical responsibility for the patient's care;

(2) When the person receiving services, or his guardian, designates persons to whom information or records may be released, or if the person is a minor, when his parents make such designation;

(3) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

(4) For program evaluation and/or research: PROVIDED, That the secretary of social and health services adopts rules for the conduct of such evaluation and/or research. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

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

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

/s/"

(5) To the courts as necessary to the administration of this chapter.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any civil or criminal proceeding without the written consent of the person who was the subject of the proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available only to the person who was the subject of the proceeding or his attorney. In addition, the court may order the release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

NEW SECTION. Sec. 45. INFORMATION TO PERSON'S FAMILY. Nothing in this chapter shall prohibit a public or private agency from releasing to a patient's attorney, his guardian, or conservator, if any, or a member of the patient's family the information that the person is presently a patient in the facility or that the person is seriously physically ill, if the professional person in charge of the facility determines that the release of such information is in the best interest of the person. Upon the death of a patient, his guardian or conservator, if any, and a member of his family shall be notified.

NEW SECTION. Sec. 46. NOTICE OF DISAPPEARANCE OF PERSON. When a voluntary patient would otherwise be subject to the provisions of section 44 of this 1973 amendatory act, and disclosure is necessary for the protection of the patient or others due to his unauthorized disappearance from the facility, and his whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility, or his professional designee.

NEW SECTION. Sec. 47. RECORDS OF DISCLOSURE. When any disclosure of information or records is made as authorized by sections 44 through 46 of this 1973 amendatory act, the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record the date and circumstances under which said disclosure was made, the names and relationships to the patient, if any, of the persons or agencies to whom such disclosure was made, and the information disclosed.

NEW SECTION. Sec. 48. STATISTICAL DATA. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers

under standards, including standards to assure maintenance of confidentiality, set forth by the secretary of the department of social and health services.

NEW SECTION. Sec. 49. ACTION FOR UNAUTHORIZED RELEASE OF CONFIDENTIAL INFORMATION--LIQUIDATED DAMAGES--TREBLE DAMAGES--INJUNCTION. Any person may bring an action against an individual who has wilfully and knowingly released confidential information or records concerning him in violation of the provisions of this chapter, for the greater of the following amounts:

(1) One thousand dollars; or

(2) Three times the amount of actual damages sustained, if any. It shall not be a prerequisite to recovery under this section that the plaintiff shall have suffered or be threatened with special, as contrasted with general, damages.

Any person may bring an action to enjoin the release of confidential information or records concerning him or his ward, in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

The court may award to the plaintiff, should he prevail in an action authorized by this section, reasonable attorney fees in addition to those otherwise provided by law.

NEW SECTION. Sec. 50. COMPETENCY--EFFECT--STATEMENT OF WASHINGTON LAW. Competency shall not be determined or withdrawn by operation of, or under the provisions of this chapter. No person shall be presumed incompetent or lose any civil rights as a consequence of receiving evaluation or treatment for mental disorder, either voluntarily or involuntarily, or certification or commitment pursuant to this chapter or any prior laws of this state dealing with mental illness. Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

NEW SECTION. Sec. 51. RIGHT TO COUNSEL. Every person involuntarily detained shall immediately be informed of his right to a hearing to review the legality of his detention and of his right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him.

NEW SECTION. Sec. 52. RIGHT TO EXAMINATION. A person challenging his detention or his attorney, shall have the right to designate and have the court appoint a reasonably available independent physician or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he is financially able, bear the cost of such expert information, otherwise such expert

examination shall be at public expense.

NEW SECTION. Sec. 53. REQUEST FOR RELEASE--NOTICE. Any staff person of a facility for evaluation and treatment to whom an objection to detention or a request for release is made, shall promptly provide the person making the request with a copy of the form provided for hereinafter in this section, help him to fill out the form, and deliver the completed form to the professional person in charge of the facility, or his professional designee. Not later than the next judicial day the professional person in charge of the facility, or his designee, shall file with the clerk of the superior court the request for release. Not later than two days after filing such request, the facility shall notify the clerk as to whether or not such person has been released. If no notice is received or the person has not been released, the clerk shall notify a judge of the superior court who shall immediately appoint an attorney to represent the person who has requested release. A form for a request for release shall be provided in accordance with rules and regulations adopted by the secretary.

NEW SECTION. Sec. 54. PRESENT RIGHTS. Nothing in this chapter shall prohibit a person committed on or prior to the effective date of this 1973 amendatory act from exercising a right available to him at or prior to the effective date of this 1973 amendatory act for obtaining release from confinement.

NEW SECTION. Sec. 55. LIABILITY OF APPLICANT. Any person making or filing an application alleging that a person should be involuntarily detained, certified, committed, treated, or evaluated pursuant to this chapter shall not be rendered civilly or criminally liable where the making and filing of such application was in good faith.

NEW SECTION. Sec. 56. DAMAGES FOR EXCESSIVE DETENTION. Any individual who negligently, knowingly, or wilfully, in violation of the provisions of this chapter, detains a person for more than the allowable number of days shall be liable to the person detained in civil damages. It shall not be a prerequisite to an action under this section that the plaintiff shall have suffered or be threatened with special, as contrasted with general damages.

NEW SECTION. Sec. 57. PROTECTION OF RIGHTS--STAFF. The department of social and health services shall have the responsibility to determine whether all rights of individuals recognized and guaranteed by the provisions of this chapter and the Constitutions of the state of Washington and the United States are in fact protected and effectively secured. To this end, the department shall assign appropriate staff who shall from time to time as may be necessary have authority to examine records, inspect facilities, attend proceedings, and do whatever is necessary to monitor,

evaluate, and assure adherence to such rights. Such persons shall also recommend such additional safeguards or procedures as may be appropriate to secure individual rights set forth in this chapter and as guaranteed by the state and federal Constitutions.

NEW SECTION. Sec. 58. FACILITIES PART OF COMPREHENSIVE MENTAL HEALTH PROGRAM. Evaluation and treatment facilities authorized pursuant to this chapter may be part of the comprehensive community mental health services program conducted in counties pursuant to the Community Mental Health Services Act, chapter 71.24 RCW, and may receive funding pursuant to the provisions thereof.

NEW SECTION. Sec. 59. STANDARDS FOR PUBLIC AND PRIVATE EVALUATION AND TREATMENT FACILITIES, ENFORCEMENT PROCEDURES--PENALTIES. (1) The department shall establish standards to be met by a public or private facility to be certified as an evaluation and treatment facility, and shall fix the fees to be paid by such facility to the department for the required inspections.

(2) The department shall periodically inspect certified evaluation and treatment facilities at reasonable times and in a reasonable manner.

(3) The department shall maintain an updated list of certified evaluation and treatment facilities.

(4) Each certified evaluation and treatment facility shall file with the department, on request, such data, statistics, schedules, and information as the department reasonably requires. A certified evaluation and treatment facility which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be removed from the list of certified evaluation and treatment facilities and its certification revoked or suspended.

(5) The department may suspend, revoke, limit, or restrict a certification, or refuse to grant a certification for failure to conform to the law, applicable rules and regulations, or applicable standards.

(6) The superior court may restrain any evaluation and treatment facility from operating without certification or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.04 RCW, any denial, suspension, limitation, restriction, or revocation of certification, and grant other relief required to enforce the provisions of this chapter.

(7) Upon petition by the department, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him to enter at reasonable times, and examine the records, books, and accounts of any public or private evaluation and treatment facility refusing to consent to inspection or examination by the department.

(8) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter, and shall otherwise assure the effectuation of the purposes and intent of this chapter.

NEW SECTION. Sec. 60. RECOGNITION OF COUNTY FINANCIAL NECESSITIES. The department of social and health services, in planning and providing funding to counties pursuant to chapter 71.24 RCW, shall recognize the financial necessities imposed upon counties by implementation of this chapter and shall consider needs, if any, for additional community mental health services and facilities and reduction in commitments to state hospitals for the mentally ill accomplished by individual counties, in planning and providing such funding. The state shall provide financial assistance to the counties to enable the counties to meet all increased costs, if any, to the counties resulting from their administration of the provisions of this 1973 amendatory act.

NEW SECTION. Sec. 61. ADOPTION OF RULES AND REGULATIONS. The department of social and health services shall adopt such rules and regulations as may be necessary to effectuate the intent and purposes of this chapter, which shall include but not be limited to evaluation of the quality of the program and facilities operating pursuant to this chapter, evaluation of the effectiveness and cost effectiveness of such programs and facilities, and procedures and standards for certification and other action relevant to evaluation and treatment facilities.

NEW SECTION. Sec. 62. RULES OF COURT. The supreme court of the state of Washington shall adopt such rules as it shall deem necessary with respect to the court procedures and proceedings provided for by this chapter.

NEW SECTION. Sec. 63. SEVERABILITY. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 64. Sections 6 through 63 of this 1973 amendatory act shall constitute a new chapter in Title 71 RCW, and shall be considered the successor to those sections of chapter 71.02 RCW repealed by this 1973 amendatory act.

NEW SECTION. Sec. 65. Section headings as used in sections 6 through 63 of this 1973 amendatory act shall not constitute any part of law.

NEW SECTION. Sec. 66. The following acts or parts of acts are each repealed:

(1) Section 71.02.010, chapter 25, Laws of 1959 and RCW

71.02.010;

(2) Section 71.02.020, chapter 25, Laws of 1959 and RCW

71.02.020;

(3) Section 71.02.090, chapter 25, Laws of 1959 and RCW

71.02.090;

(4) Section 71.02.100, chapter 25, Laws of 1959 and RCW

71.02.100;

(5) Section 71.02.110, chapter 25, Laws of 1959 and RCW

71.02.110;

(6) Section 71.02.120, chapter 25, Laws of 1959, section 9, chapter 196, Laws of 1959 and RCW 71.02.120;

(7) Section 71.02.130, chapter 25, Laws of 1959, section 10, chapter 196, Laws of 1959 and RCW 71.02.130;

(8) Section 71.02.140, chapter 25, Laws of 1959 and RCW

71.02.140;

(9) Section 71.02.150, chapter 25, Laws of 1959 and RCW

71.02.150;

(10) Section 71.02.160, chapter 25, Laws of 1959 and RCW

71.02.160;

(11) Section 71.02.170, chapter 25, Laws of 1959 and RCW

71.02.170;

(12) Section 71.02.180, chapter 25, Laws of 1959 and RCW

71.02.180;

(13) Section 71.02.190, chapter 25, Laws of 1959 and RCW

71.02.190;

(14) Section 71.02.200, chapter 25, Laws of 1959 and RCW

71.02.200;

(15) Section 71.02.210, chapter 25, Laws of 1959 and RCW

71.02.210;

(16) Section 71.02.220, chapter 25, Laws of 1959 and RCW

71.02.220;

(17) Section 71.02.230, chapter 25, Laws of 1959, section 3, chapter 127, Laws of 1967 ex. sess., section 63, chapter 292, Laws of 1971 ex. sess. and RCW 71.02.230;

(18) Section 71.02.240, chapter 25, Laws of 1959 and RCW

71.02.240;

(19) Section 71.02.250, chapter 25, Laws of 1959, section 1, chapter 51, Laws of 1959 and RCW 71.02.250;

(20) Section 2, chapter 51, Laws of 1959 and RCW 71.02.255;

(21) Section 71.02.260, chapter 25, Laws of 1959 and RCW

71.02.260;

(22) Section 71.02.270, chapter 25, Laws of 1959 and RCW

71.02.270;

(23) Section 71.02.280, chapter 25, Laws of 1959 and RCW

71.02.280;

(24) Section 71.02.290, chapter 25, Laws of 1959 and RCW 71.02.290;

(25) Section 71.02.300, chapter 25, Laws of 1959 and RCW 71.02.300;

(26) Section 71.02.450, chapter 25, Laws of 1959, section 1, chapter 24, Laws of 1967 and RCW 71.02.450;

(27) Section 71.02.650, chapter 25, Laws of 1959 and RCW 71.02.650;

(28) Section 2, chapter 196, Laws of 1959 and RCW 71.03.010;

(29) Section 4, chapter 196, Laws of 1959 and RCW 71.03.020;

(30) Section 5, chapter 196, Laws of 1959 and RCW 71.03.030;

(31) Section 6, chapter 196, Laws of 1959 and RCW 71.03.040;

(32) Section 7, chapter 196, Laws of 1959 and RCW 71.03.050;

(33) Section 8, chapter 196, Laws of 1959 and RCW 71.03.060;

(34) Section 3, chapter 196, Laws of 1959 and RCW 71.03.900;

(35) Section 71.12.580, chapter 25, Laws of 1959 and RCW 71.12.580;

(36) Section 1, chapter 145, Laws of 1959 and RCW 72.01.390;

(37) Section 2, chapter 145, Laws of 1959 and RCW 72.01.400;

(38) Section 72.08.110, chapter 28, Laws of 1959 and RCW 72.08.110;

(39) Section 72.23.090, chapter 28, Laws of 1959, section 51, chapter 292, Laws of 1971 ex. sess. and RCW 72.23.090;

(40) Section 72.23.140, chapter 28, Laws of 1959 and RCW 72.23.140;

(41) Section 72.23.150, chapter 28, Laws of 1959 and RCW 72.23.150;

(42) Section 72.23.220, chapter 28, Laws of 1959 and RCW 72.23.220;

(43) Section 72.23.270, chapter 28, Laws of 1959 and RCW 72.23.270;

(44) Section 72.25.040, chapter 28, Laws of 1959, section 4, chapter 78, Laws of 1965 and RCW 72.25.040.

NEW SECTION. Sec. 67. This 1973 amendatory act shall take effect on January 1, 1974.

Passed the Senate April 13, 1973.

Passed the House April 13, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.

CHAPTER 143

[Engrossed Senate Bill No. 2361]

VOTERS' PAMPHLETS--

REBUTTAL STATEMENTS

AN ACT Relating to the voters' pamphlet; amending section 29.81.010, chapter 9, Laws of 1965 and RCW 29.81.010; amending section 29.81.020, chapter 9, Laws of 1965 and RCW 29.81.020; amending section 29.81.030, chapter 9, Laws of 1965 and RCW 29.81.030; amending section 29.81.040, chapter 9, Laws of 1965 as amended by section 4, chapter 145, Laws of 1971 ex. sess. and RCW 29.81.040; amending section 29.81.050, chapter 9, Laws of 1965 and RCW 29.81.050; and adding new sections to chapter 9, Laws of 1965 and chapter 29.81 RCW.

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

Section 1. Section 29.81.010, chapter 9, Laws of 1965 and RCW 29.81.010 are each amended to read as follows:

The voters' pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

(1) Upon the top portion of the first two opposing pages relating to said measure and not exceeding one-third of the total printing area shall appear:

(a) The legal identification of the measure by serial designation and number;

(b) The official ballot title of the measure;

(c) A brief statement explaining the law as it presently exists;

(d) A brief statement explaining the effect of the proposed measure should it be approved into law;

(e) The total number of votes cast for and against the measure in both the state senate and house of representatives if the measure has been passed by the legislature;

(f) A heavy double ruled line across both pages to clearly set apart the above items from the remaining text.

(2) Upon the lower portion of the left page of the two facing pages shall appear an argument advocating the voters' approval of the measure together with any rebuttal statement of the opposing argument as provided in RCW 29.81.030, 29.81.040, or 29.81.050.

(3) Upon the lower portion of the right hand page of the two facing pages shall appear an argument advocating the voters' rejection of the measure together with any rebuttal statement of the opposing argument as provided in RCW 29.81.030, 29.81.040, or 29.81.050.

(4) Following each argument or rebuttal statement each member of the committee advocating for or against a measure shall be listed