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HOUSE BILL 2590

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State of Washington

66th Legislature

2020 Regular Session

By Representative Peterson

1 AN ACT Relating to unlawful possession of a firearm; amending RCW  
2 9.41.042, 13.40.0357, 13.40.160, 13.40.193, 13.40.265, and 70.02.240;  
3 reenacting and amending RCW 9.41.040 and 70.02.230; and prescribing  
4 penalties.

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

6 **Sec. 1.** RCW 9.41.040 and 2019 c 248 s 2, 2019 c 245 s 3, and  
7 2019 c 46 s 5003 are each reenacted and amended to read as follows:

8 (1)(a) A person, whether an adult or juvenile, is guilty of the  
9 crime of unlawful possession of a firearm in the first degree, if the  
10 person owns, has in his or her possession, or has in his or her  
11 control any firearm after having previously been convicted or found  
12 not guilty by reason of insanity in this state or elsewhere of any  
13 serious offense as defined in this chapter.

14 (b) Unlawful possession of a firearm in the first degree is a  
15 class B felony punishable according to chapter 9A.20 RCW.

16 (2)(a) A person, whether an adult or juvenile, is guilty of the  
17 crime of unlawful possession of a firearm in the second degree, if  
18 the person does not qualify under subsection (1) of this section for  
19 the crime of unlawful possession of a firearm in the first degree and  
20 the person owns, has in his or her possession, or has in his or her  
21 control any firearm:

1 (i) After having previously been convicted or found not guilty by  
2 reason of insanity in this state or elsewhere of any felony not  
3 specifically listed as prohibiting firearm possession under  
4 subsection (1) of this section, or any of the following crimes when  
5 committed by one family or household member against another,  
6 committed on or after July 1, 1993: Assault in the fourth degree,  
7 coercion, stalking, reckless endangerment, criminal trespass in the  
8 first degree, or violation of the provisions of a protection order or  
9 no-contact order restraining the person or excluding the person from  
10 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

11 (ii) After having previously been convicted or found not guilty  
12 by reason of insanity in this state or elsewhere of harassment when  
13 committed by one family or household member against another,  
14 committed on or after June 7, 2018;

15 (iii) After having previously been convicted or found not guilty  
16 by reason of insanity in this state or elsewhere on two or more  
17 occasions within five years of driving or being in physical control  
18 of a motor vehicle while under the influence of intoxicating liquor  
19 or any drug in violation of RCW 46.61.502 or 46.61.504, when the  
20 second or subsequent offense is committed on or after the effective  
21 date of this section;

22 (iv) During any period of time that the person is subject to a  
23 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
24 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that:

25 (A) Was issued after a hearing of which the person received  
26 actual notice, and at which the person had an opportunity to  
27 participate;

28 (B) Restrains the person from harassing, stalking, or threatening  
29 the person protected under the order or child of the person or  
30 protected person, or engaging in other conduct that would place the  
31 protected person in reasonable fear of bodily injury to the protected  
32 person or child; and

33 (C) (I) Includes a finding that the person represents a credible  
34 threat to the physical safety of the protected person or child and by  
35 its terms explicitly prohibits the use, attempted use, or threatened  
36 use of physical force against the protected person or child that  
37 would reasonably be expected to cause bodily injury; or

38 (II) Includes an order under RCW 9.41.800 requiring the person to  
39 surrender all firearms and prohibiting the person from accessing,  
40 obtaining, or possessing firearms;

1       (~~(iv)~~) (v) After having previously been involuntarily committed  
2 for mental health treatment under RCW 71.05.240, 71.05.320,  
3 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of  
4 another jurisdiction, unless his or her right to possess a firearm  
5 has been restored as provided in RCW 9.41.047;

6       (~~(v)~~) (vi) After dismissal of criminal charges based on  
7 incompetency to stand trial under RCW 10.77.088 when the court has  
8 made a finding indicating that the defendant has a history of one or  
9 more violent acts, unless his or her right to possess a firearm has  
10 been restored as provided in RCW 9.41.047;

11       (~~(vi)~~) (vii) If the person is under eighteen years of age,  
12 except as provided in RCW 9.41.042; and/or

13       (~~(vii)~~) (viii) If the person is free on bond or personal  
14 recognizance pending trial, appeal, or sentencing for a serious  
15 offense as defined in RCW 9.41.010.

16       (b) (a) (~~(iii)~~) (iv) of this subsection does not apply to a  
17 sexual assault protection order under chapter 7.90 RCW if the order  
18 has been modified pursuant to RCW 7.90.170 to remove any restrictions  
19 on firearm purchase, transfer, or possession.

20       (c) Unlawful possession of a firearm in the second degree is a  
21 class C felony punishable according to chapter 9A.20 RCW.

22       (3) Notwithstanding RCW 9.41.047 or any other provisions of law,  
23 as used in this chapter, a person has been "convicted", whether in an  
24 adult court or adjudicated in a juvenile court, at such time as a  
25 plea of guilty has been accepted, or a verdict of guilty has been  
26 filed, notwithstanding the pendency of any future proceedings  
27 including but not limited to sentencing or disposition, post-trial or  
28 post-fact-finding motions, and appeals. Conviction includes a  
29 dismissal entered after a period of probation, suspension or deferral  
30 of sentence, and also includes equivalent dispositions by courts in  
31 jurisdictions other than Washington state. A person shall not be  
32 precluded from possession of a firearm if the conviction has been the  
33 subject of a pardon, annulment, certificate of rehabilitation, or  
34 other equivalent procedure based on a finding of the rehabilitation  
35 of the person convicted or the conviction or disposition has been the  
36 subject of a pardon, annulment, or other equivalent procedure based  
37 on a finding of innocence. Where no record of the court's disposition  
38 of the charges can be found, there shall be a rebuttable presumption  
39 that the person was not convicted of the charge.

1 (4) (a) Notwithstanding subsection (1) or (2) of this section, a  
2 person convicted or found not guilty by reason of insanity of an  
3 offense prohibiting the possession of a firearm under this section  
4 other than murder, manslaughter, robbery, rape, indecent liberties,  
5 arson, assault, kidnapping, extortion, burglary, or violations with  
6 respect to controlled substances under RCW 69.50.401 and 69.50.410,  
7 who received a probationary sentence under RCW 9.95.200, and who  
8 received a dismissal of the charge under RCW 9.95.240, shall not be  
9 precluded from possession of a firearm as a result of the conviction  
10 or finding of not guilty by reason of insanity. Notwithstanding any  
11 other provisions of this section, if a person is prohibited from  
12 possession of a firearm under subsection (1) or (2) of this section  
13 and has not previously been convicted or found not guilty by reason  
14 of insanity of a sex offense prohibiting firearm ownership under  
15 subsection (1) or (2) of this section and/or any felony defined under  
16 any law as a class A felony or with a maximum sentence of at least  
17 twenty years, or both, the individual may petition a court of record  
18 to have his or her right to possess a firearm restored:

19 (i) Under RCW 9.41.047; and/or

20 (ii) (A) If the conviction or finding of not guilty by reason of  
21 insanity was for a felony offense, after five or more consecutive  
22 years in the community without being convicted or found not guilty by  
23 reason of insanity or currently charged with any felony, gross  
24 misdemeanor, or misdemeanor crimes, if the individual has no prior  
25 felony convictions that prohibit the possession of a firearm counted  
26 as part of the offender score under RCW 9.94A.525; or

27 (B) If the conviction or finding of not guilty by reason of  
28 insanity was for a nonfelony offense, after three or more consecutive  
29 years in the community without being convicted or found not guilty by  
30 reason of insanity or currently charged with any felony, gross  
31 misdemeanor, or misdemeanor crimes, if the individual has no prior  
32 felony convictions that prohibit the possession of a firearm counted  
33 as part of the offender score under RCW 9.94A.525 and the individual  
34 has completed all conditions of the sentence.

35 (b) An individual may petition a court of record to have his or  
36 her right to possess a firearm restored under (a) of this subsection  
37 (~~((4))~~) only at:

38 (i) The court of record that ordered the petitioner's prohibition  
39 on possession of a firearm; or

1 (ii) The superior court in the county in which the petitioner  
2 resides.

3 (5) In addition to any other penalty provided for by law, if a  
4 person under the age of eighteen years is found by a court to have  
5 possessed a firearm in a vehicle in violation of subsection (1) or  
6 (2) of this section or to have committed an offense while armed with  
7 a firearm during which offense a motor vehicle served an integral  
8 function, the court shall notify the department of licensing within  
9 twenty-four hours and the person's privilege to drive shall be  
10 revoked under RCW 46.20.265, unless the offense is the juvenile's  
11 first offense in violation of this section and has not committed an  
12 offense while armed with a firearm, an unlawful possession of a  
13 firearm offense, or an offense in violation of chapter 66.44, 69.52,  
14 69.41, or 69.50 RCW.

15 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed  
16 or interpreted as preventing an offender from being charged and  
17 subsequently convicted for the separate felony crimes of theft of a  
18 firearm or possession of a stolen firearm, or both, in addition to  
19 being charged and subsequently convicted under this section for  
20 unlawful possession of a firearm in the first or second degree.  
21 Notwithstanding any other law, if the offender is convicted under  
22 this section for unlawful possession of a firearm in the first or  
23 second degree and for the felony crimes of theft of a firearm or  
24 possession of a stolen firearm, or both, then the offender shall  
25 serve consecutive sentences for each of the felony crimes of  
26 conviction listed in this subsection.

27 (7) Each firearm unlawfully possessed under this section shall be  
28 a separate offense.

29 **TECHNICAL AMENDMENTS TO CORRECT CITATIONS**

30 **Sec. 2.** RCW 9.41.042 and 2003 c 53 s 27 are each amended to read  
31 as follows:

32 RCW 9.41.040(2)(a) (~~((iii))~~) (vii) shall not apply to any person  
33 under the age of eighteen years who is:

34 (1) In attendance at a hunter's safety course or a firearms  
35 safety course;

36 (2) Engaging in practice in the use of a firearm or target  
37 shooting at an established range authorized by the governing body of

1 the jurisdiction in which such range is located or any other area  
2 where the discharge of a firearm is not prohibited;

3 (3) Engaging in an organized competition involving the use of a  
4 firearm, or participating in, or practicing for, a performance by an  
5 organized group that uses firearms as a part of the performance;

6 (4) Hunting or trapping under a valid license issued to the  
7 person under Title 77 RCW;

8 (5) In an area where the discharge of a firearm is permitted, is  
9 not trespassing, and the person either: (a) Is at least fourteen  
10 years of age, has been issued a hunter safety certificate, and is  
11 using a lawful firearm other than a pistol; or (b) is under the  
12 supervision of a parent, guardian, or other adult approved for the  
13 purpose by the parent or guardian;

14 (6) Traveling with any unloaded firearm in the person's  
15 possession to or from any activity described in subsection (1), (2),  
16 (3), (4), or (5) of this section;

17 (7) On real property under the control of his or her parent,  
18 other relative, or legal guardian and who has the permission of the  
19 parent or legal guardian to possess a firearm;

20 (8) At his or her residence and who, with the permission of his  
21 or her parent or legal guardian, possesses a firearm for the purpose  
22 of exercising the rights specified in RCW 9A.16.020(3); or

23 (9) Is a member of the armed forces of the United States,  
24 national guard, or organized reserves, when on duty.

25 **Sec. 3.** RCW 13.40.0357 and 2019 c 322 s 8 are each amended to  
26 read as follows:

27 **DESCRIPTION AND OFFENSE CATEGORY**

		JUVENILE DISPOSITION
JUVENILE		CATEGORY FOR
DISPOSITION		ATTEMPT, BAILJUMP,
OFFENSE		CONSPIRACY, OR
CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E

1	B	Malicious Mischief 1 (9A.48.070)	C
2	C	Malicious Mischief 2 (9A.48.080)	D
3	D	Malicious Mischief 3 (9A.48.090)	E
4	E	Tampering with Fire Alarm Apparatus	E
5		(9.40.100)	
6	E	Tampering with Fire Alarm Apparatus	E
7		with Intent to Commit Arson (9.40.105)	
8	A	Possession of Incendiary Device	B+
9		(9.40.120)	
10		<b>Assault and Other Crimes Involving</b>	
11		<b>Physical Harm</b>	
12	A	Assault 1 (9A.36.011)	B+
13	B+	Assault 2 (9A.36.021)	C+
14	C+	Assault 3 (9A.36.031)	D+
15	D+	Assault 4 (9A.36.041)	E
16	B+	Drive-By Shooting (9A.36.045)	C+
17		committed at age 15 or under	
18	A++	Drive-By Shooting (9A.36.045)	A
19		committed at age 16 or 17	
20	D+	Reckless Endangerment (9A.36.050)	E
21	C+	Promoting Suicide Attempt (9A.36.060)	D+
22	D+	Coercion (9A.36.070)	E
23	C+	Custodial Assault (9A.36.100)	D+
24		<b>Burglary and Trespass</b>	
25	B+	Burglary 1 (9A.52.020) committed at	C+
26		age 15 or under	
27	A-	Burglary 1 (9A.52.020) committed at	B+
28		age 16 or 17	
29	B	Residential Burglary (9A.52.025)	C
30	B	Burglary 2 (9A.52.030)	C
31	D	Burglary Tools (Possession of)	E
32		(9A.52.060)	
33	D	Criminal Trespass 1 (9A.52.070)	E
34	E	Criminal Trespass 2 (9A.52.080)	E
35	C	Mineral Trespass (78.44.330)	C
36	C	Vehicle Prowling 1 (9A.52.095)	D

1	D	Vehicle Prowling 2 (9A.52.100)	E
2		<b>Drugs</b>	
3	E	Possession/Consumption of Alcohol	E
4		(66.44.270)	
5	C	Illegally Obtaining Legend Drug	D
6		(69.41.020)	
7	C+	Sale, Delivery, Possession of Legend	D+
8		Drug with Intent to Sell (69.41.030(2)(a))	
9	E	Possession of Legend	E
10		Drug (69.41.030(2)(b))	
11	B+	Violation of Uniform Controlled	B+
12		Substances Act - Narcotic,	
13		Methamphetamine, or Flunitrazepam	
14		Sale (69.50.401(2) (a) or (b))	
15	C	Violation of Uniform Controlled	C
16		Substances Act - Nonnarcotic Sale	
17		(69.50.401(2)(c))	
18	E	Possession of Marihuana <40 grams	E
19		(69.50.4014)	
20	C	Fraudulently Obtaining Controlled	C
21		Substance (69.50.403)	
22	C+	Sale of Controlled Substance for Profit	C+
23		(69.50.410)	
24	E	Unlawful Inhalation (9.47A.020)	E
25	B	Violation of Uniform Controlled	B
26		Substances Act - Narcotic,	
27		Methamphetamine, or Flunitrazepam	
28		Counterfeit Substances (69.50.4011(2)	
29		(a) or (b))	
30	C	Violation of Uniform Controlled	C
31		Substances Act - Nonnarcotic Counterfeit	
32		Substances (69.50.4011(2) (c), (d), or (e))	
33	C	Violation of Uniform Controlled	C
34		Substances Act - Possession of a	
35		Controlled Substance (69.50.4013)	
36	C	Violation of Uniform Controlled	C
37		Substances Act - Possession of a	
38		Controlled Substance (69.50.4012)	

1		<b>Firearms and Weapons</b>	
2	B	Theft of Firearm (9A.56.300)	C
3	B	Possession of Stolen Firearm	C
4		(9A.56.310)	
5	E	Carrying Loaded Pistol Without Permit	E
6		(9.41.050)	
7	C	Possession of Firearms by Minor (<18)	C
8		(9.41.040(2)(a)((+)) (vii))	
9	D+	Possession of Dangerous Weapon	E
10		(9.41.250)	
11	D	Intimidating Another Person by use of	E
12		Weapon (9.41.270)	
13		<b>Homicide</b>	
14	A+	Murder 1 (9A.32.030)	A
15	A+	Murder 2 (9A.32.050)	B+
16	B+	Manslaughter 1 (9A.32.060)	C+
17	C+	Manslaughter 2 (9A.32.070)	D+
18	B+	Vehicular Homicide (46.61.520)	C+
19		<b>Kidnapping</b>	
20	A	Kidnap 1 (9A.40.020)	B+
21	B+	Kidnap 2 (9A.40.030)	C+
22	C+	Unlawful Imprisonment (9A.40.040)	D+
23		<b>Obstructing Governmental Operation</b>	
24	D	Obstructing a Law Enforcement Officer	E
25		(9A.76.020)	
26	E	Resisting Arrest (9A.76.040)	E
27	B	Introducing Contraband 1 (9A.76.140)	C
28	C	Introducing Contraband 2 (9A.76.150)	D
29	E	Introducing Contraband 3 (9A.76.160)	E
30	B+	Intimidating a Public Servant	C+
31		(9A.76.180)	
32	B+	Intimidating a Witness (9A.72.110)	C+
33		<b>Public Disturbance</b>	
34	C+	Criminal Mischief with Weapon	D+
35		(9A.84.010(2)(b))	

1	D+	Criminal Mischief Without Weapon	E
2		(9A.84.010(2)(a))	
3	E	Failure to Disperse (9A.84.020)	E
4	E	Disorderly Conduct (9A.84.030)	E
5		<b>Sex Crimes</b>	
6	A	Rape 1 (9A.44.040)	B+
7	B++	Rape 2 (9A.44.050) committed at age 14	B+
8		or under	
9	A-	Rape 2 (9A.44.050) committed at age 15	B+
10		through age 17	
11	C+	Rape 3 (9A.44.060)	D+
12	B++	Rape of a Child 1 (9A.44.073)	B+
13		committed at age 14 or under	
14	A-	Rape of a Child 1 (9A.44.073)	B+
15		committed at age 15	
16	B+	Rape of a Child 2 (9A.44.076)	C+
17	B	Incest 1 (9A.64.020(1))	C
18	C	Incest 2 (9A.64.020(2))	D
19	D+	Indecent Exposure (Victim <14)	E
20		(9A.88.010)	
21	E	Indecent Exposure (Victim 14 or over)	E
22		(9A.88.010)	
23	B+	Promoting Prostitution 1 (9A.88.070)	C+
24	C+	Promoting Prostitution 2 (9A.88.080)	D+
25	E	O & A (Prostitution) (9A.88.030)	E
26	B+	Indecent Liberties (9A.44.100)	C+
27	B++	Child Molestation 1 (9A.44.083)	B+
28		committed at age 14 or under	
29	A-	Child Molestation 1 (9A.44.083)	B+
30		committed at age 15 through age 17	
31	B	Child Molestation 2 (9A.44.086)	C+
32	C	Failure to Register as a Sex Offender	D
33		(9A.44.132)	
34		<b>Theft, Robbery, Extortion, and</b>	
35		<b>Forgery</b>	
36	B	Theft 1 (9A.56.030)	C

1	C	Theft 2 (9A.56.040)	D
2	D	Theft 3 (9A.56.050)	E
3	B	Theft of Livestock 1 and 2 (9A.56.080	C
4		and 9A.56.083)	
5	C	Forgery (9A.60.020)	D
6	A	Robbery 1 (9A.56.200) committed at	B+
7		age 15 or under	
8	A++	Robbery 1 (9A.56.200) committed at	A
9		age 16 or 17	
10	B+	Robbery 2 (9A.56.210)	C+
11	B+	Extortion 1 (9A.56.120)	C+
12	C+	Extortion 2 (9A.56.130)	D+
13	C	Identity Theft 1 (9.35.020(2))	D
14	D	Identity Theft 2 (9.35.020(3))	E
15	D	Improperly Obtaining Financial	E
16		Information (9.35.010)	
17	B	Possession of a Stolen Vehicle	C
18		(9A.56.068)	
19	B	Possession of Stolen Property 1	C
20		(9A.56.150)	
21	C	Possession of Stolen Property 2	D
22		(9A.56.160)	
23	D	Possession of Stolen Property 3	E
24		(9A.56.170)	
25	B	Taking Motor Vehicle Without	C
26		Permission 1 (9A.56.070)	
27	C	Taking Motor Vehicle Without	D
28		Permission 2 (9A.56.075)	
29	B	Theft of a Motor Vehicle (9A.56.065)	C
30		<b>Motor Vehicle Related Crimes</b>	
31	E	Driving Without a License (46.20.005)	E
32	B+	Hit and Run - Death (46.52.020(4)(a))	C+
33	C	Hit and Run - Injury (46.52.020(4)(b))	D
34	D	Hit and Run-Attended (46.52.020(5))	E
35	E	Hit and Run-Unattended (46.52.010)	E
36	C	Vehicular Assault (46.61.522)	D

1	C	Attempting to Elude Pursuing Police	D
2		Vehicle (46.61.024)	
3	E	Reckless Driving (46.61.500)	E
4	D	Driving While Under the Influence	E
5		(46.61.502 and 46.61.504)	
6	B+	Felony Driving While Under the	B
7		Influence (46.61.502(6))	
8	B+	Felony Physical Control of a Vehicle	B
9		While Under the Influence (46.61.504(6))	
10		<b>Other</b>	
11	B	Animal Cruelty 1 (16.52.205)	C
12	B	Bomb Threat (9.61.160)	C
13	C	Escape 1 <sup>1</sup> (9A.76.110)	C
14	C	Escape 2 <sup>1</sup> (9A.76.120)	C
15	D	Escape 3 (9A.76.130)	E
16	E	Obscene, Harassing, Etc., Phone Calls	E
17		(9.61.230)	
18	A	Other Offense Equivalent to an Adult	B+
19		Class A Felony	
20	B	Other Offense Equivalent to an Adult	C
21		Class B Felony	
22	C	Other Offense Equivalent to an Adult	D
23		Class C Felony	
24	D	Other Offense Equivalent to an Adult	E
25		Gross Misdemeanor	
26	E	Other Offense Equivalent to an Adult	E
27		Misdemeanor	
28	V	Violation of Order of Restitution,	V
29		Community Supervision, or Confinement	
30		(13.40.200) <sup>2</sup>	

31 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
32 and the standard range is established as follows:

33 1st escape or attempted escape during 12-month period - 28 days  
34 confinement

35 2nd escape or attempted escape during 12-month period - 8 weeks  
36 confinement

1 3rd and subsequent escape or attempted escape during 12-month  
2 period - 12 weeks confinement

3 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
4 it may impose a penalty of up to 30 days of confinement.

5 **JUVENILE SENTENCING STANDARDS**

6 This schedule must be used for juvenile offenders. The court may  
7 select sentencing option A, B, C, or D.

8 **OPTION A**

9 **JUVENILE OFFENDER SENTENCING GRID**

10 **STANDARD RANGE**

11	A++	129 to 260 weeks for all category A++ offenses					
12	A+	180 weeks to age 21 for all category A+ offenses					
13	A	103-129 weeks for all category A offenses					
14	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
15	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
16	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
17	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
18	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
19		C	LS	LS	LS	LS	15-36 weeks
20		D+	LS	LS	LS	LS	LS
21		D	LS	LS	LS	LS	LS
22		E	LS	LS	LS	LS	LS
23	PRIOR		0	1	2	3	4 or more
24	ADJUDICATIONS						

25 NOTE: References in the grid to days or weeks mean periods of  
26 confinement. "LS" means "local sanctions" as defined in RCW  
27 13.40.020.

28 (1) The vertical axis of the grid is the current offense  
29 category. The current offense category is determined by the offense  
30 of adjudication.

31 (2) The horizontal axis of the grid is the number of prior  
32 adjudications included in the juvenile's criminal history. Each prior  
33 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
2 point. Fractional points shall be rounded down.

3 (3) The standard range disposition for each offense is determined  
4 by the intersection of the column defined by the prior adjudications  
5 and the row defined by the current offense category.

6 (4) RCW 13.40.180 applies if the offender is being sentenced for  
7 more than one offense.

8 (5) A current offense that is a violation is equivalent to an  
9 offense category of E. However, a disposition for a violation shall  
10 not include confinement.

11 **OR**  
12 **OPTION B**  
13 **SUSPENDED DISPOSITION ALTERNATIVE**

14 (1) If the offender is subject to a standard range disposition  
15 involving confinement by the department, the court may impose the  
16 standard range and suspend the disposition on condition that the  
17 offender comply with one or more local sanctions and any educational  
18 or treatment requirement. The treatment programs provided to the  
19 offender must be either research-based best practice programs as  
20 identified by the Washington state institute for public policy or the  
21 joint legislative audit and review committee, or for chemical  
22 dependency treatment programs or services, they must be evidence-  
23 based or research-based best practice programs. For the purposes of  
24 this subsection:

25 (a) "Evidence-based" means a program or practice that has had  
26 multiple site random controlled trials across heterogeneous  
27 populations demonstrating that the program or practice is effective  
28 for the population; and

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

32 (2) If the offender fails to comply with the suspended  
33 disposition, the court may impose sanctions pursuant to RCW 13.40.200  
34 or may revoke the suspended disposition and order the disposition's  
35 execution.

36 (3) An offender is ineligible for the suspended disposition  
37 option under this section if the offender:

38 (a) Is adjudicated of an A+ or A++ offense;

1 (b) Is fourteen years of age or older and is adjudicated of one  
2 or more of the following offenses:

3 (i) A class A offense, or an attempt, conspiracy, or solicitation  
4 to commit a class A offense;

5 (ii) Manslaughter in the first degree (RCW 9A.32.060);

6 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
7 the first degree (RCW 9A.56.120), kidnapping in the second degree  
8 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular  
9 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or  
10 manslaughter 2 (RCW 9A.32.070); or

11 (iv) Violation of the uniform controlled substances act (RCW  
12 69.50.401(2) (a) and (b)), when the offense includes infliction of  
13 bodily harm upon another or when during the commission or immediate  
14 withdrawal from the offense the respondent was armed with a deadly  
15 weapon;

16 (c) Is ordered to serve a disposition for a firearm violation  
17 under RCW 13.40.193;

18 (d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;  
19 or

20 (e) Has a prior option B disposition.

21 **OR**

22 **OPTION C**

23 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

24 If the juvenile offender is subject to a standard range  
25 disposition of local sanctions or 15 to 36 weeks of confinement and  
26 has not committed a B++ or B+ offense, the court may impose a  
27 disposition under RCW 13.40.160(4) and 13.40.165.

28 **OR**

29 **OPTION D**

30 **MANIFEST INJUSTICE**

31 If the court determines that a disposition under option A, B, or C  
32 would effectuate a manifest injustice, the court shall impose a  
33 disposition outside the standard range under RCW 13.40.160(2).

34 **Sec. 4.** RCW 13.40.160 and 2011 c 338 s 2 are each amended to  
35 read as follows:

36 (1) The standard range disposition for a juvenile adjudicated of  
37 an offense is determined according to RCW 13.40.0357.

1 (a) When the court sentences an offender to a local sanction as  
2 provided in RCW 13.40.0357 option A, the court shall impose a  
3 determinate disposition within the standard ranges, except as  
4 provided in subsection (2), (3), (4), (5), or (6) of this section.  
5 The disposition may be comprised of one or more local sanctions.

6 (b) When the court sentences an offender to a standard range as  
7 provided in RCW 13.40.0357 option A that includes a term of  
8 confinement exceeding thirty days, commitment shall be to the  
9 department for the standard range of confinement, except as provided  
10 in subsection (2), (3), (4), (5), or (6) of this section.

11 (2) If the court concludes, and enters reasons for its  
12 conclusion, that disposition within the standard range would  
13 effectuate a manifest injustice the court shall impose a disposition  
14 outside the standard range, as indicated in option D of RCW  
15 13.40.0357. The court's finding of manifest injustice shall be  
16 supported by clear and convincing evidence.

17 A disposition outside the standard range shall be determinate and  
18 shall be comprised of confinement or community supervision, or a  
19 combination thereof. When a judge finds a manifest injustice and  
20 imposes a sentence of confinement exceeding thirty days, the court  
21 shall sentence the juvenile to a maximum term, and the provisions of  
22 RCW 13.40.030(2) shall be used to determine the range. A disposition  
23 outside the standard range is appealable under RCW 13.40.230 by the  
24 state or the respondent. A disposition within the standard range is  
25 not appealable under RCW 13.40.230.

26 (3) If a juvenile offender is found to have committed a sex  
27 offense, other than a sex offense that is also a serious violent  
28 offense as defined by RCW 9.94A.030, and has no history of a prior  
29 sex offense, the court may impose the special sex offender  
30 disposition alternative under RCW 13.40.162.

31 (4) If the juvenile offender is subject to a standard range  
32 disposition of local sanctions or 15 to 36 weeks of confinement and  
33 has not committed an A- or B+ offense, the court may impose the  
34 disposition alternative under RCW 13.40.165.

35 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
36 confinement, the court may impose the disposition alternative under  
37 RCW 13.40.167.

38 (6) When the offender is subject to a standard range commitment  
39 of 15 to 36 weeks and is ineligible for a suspended disposition  
40 alternative, a manifest injustice disposition below the standard

1 range, special sex offender disposition alternative, chemical  
2 dependency disposition alternative, or mental health disposition  
3 alternative, the court in a county with a pilot program under RCW  
4 13.40.169 may impose the disposition alternative under RCW 13.40.169.

5 (7) RCW 13.40.193 shall govern the disposition of any juvenile  
6 adjudicated of possessing a firearm in violation of RCW  
7 9.41.040(2)(a) (~~(+iii+)~~) (vii) or any crime in which a special finding  
8 is entered that the juvenile was armed with a firearm.

9 (8) RCW 13.40.308 shall govern the disposition of any juvenile  
10 adjudicated of theft of a motor vehicle as defined under RCW  
11 9A.56.065, possession of a stolen motor vehicle as defined under RCW  
12 9A.56.068, taking a motor vehicle without permission in the first  
13 degree under RCW 9A.56.070, and taking a motor vehicle without  
14 permission in the second degree under RCW 9A.56.075.

15 (9) Whenever a juvenile offender is entitled to credit for time  
16 spent in detention prior to a dispositional order, the dispositional  
17 order shall specifically state the number of days of credit for time  
18 served.

19 (10) Except as provided under subsection (3), (4), (5), or (6) of  
20 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the  
21 court shall not suspend or defer the imposition or the execution of  
22 the disposition.

23 (11) In no case shall the term of confinement imposed by the  
24 court at disposition exceed that to which an adult could be subjected  
25 for the same offense.

26 **Sec. 5.** RCW 13.40.193 and 2019 c 64 s 4 are each amended to read  
27 as follows:

28 (1) If a respondent is found to have been in possession of a  
29 firearm in violation of RCW 9.41.040(2)(a) (~~(+v+)~~) (vii), the court  
30 shall impose a minimum disposition of ten days of confinement. If the  
31 offender's standard range of disposition for the offense as indicated  
32 in RCW 13.40.0357 is more than thirty days of confinement, the court  
33 shall commit the offender to the department for the standard range  
34 disposition. The offender shall not be released until the offender  
35 has served a minimum of ten days in confinement.

36 (2)(a) If a respondent is found to have been in possession of a  
37 firearm in violation of RCW 9.41.040, the disposition must include a  
38 requirement that the respondent participate in a qualifying program  
39 as described in (b) of this subsection, when available, unless the

1 court makes a written finding based on the outcome of the juvenile  
2 court risk assessment that participation in a qualifying program  
3 would not be appropriate.

4 (b) For purposes of this section, "qualifying program" means an  
5 aggression replacement training program, a functional family therapy  
6 program, or another program applicable to the juvenile firearm  
7 offender population that has been identified as evidence-based or  
8 research-based and cost-beneficial in the current list prepared at  
9 the direction of the legislature by the Washington state institute  
10 for public policy.

11 (3) If the court finds that the respondent or an accomplice was  
12 armed with a firearm, the court shall determine the standard range  
13 disposition for the offense pursuant to RCW 13.40.160. If the  
14 offender or an accomplice was armed with a firearm when the offender  
15 committed any felony other than possession of a machine gun or bump-  
16 fire stock, possession of a stolen firearm, drive-by shooting, theft  
17 of a firearm, unlawful possession of a firearm in the first and  
18 second degree, or use of a machine gun or bump-fire stock in a  
19 felony, the following periods of total confinement must be added to  
20 the sentence: (a) Except for (b) of this subsection, for a class A  
21 felony, six months; for a class B felony, four months; and for a  
22 class C felony, two months; (b) for any violent offense as defined in  
23 RCW 9.94A.030, committed by a respondent who is sixteen or seventeen  
24 years old at the time of the offense, a period of twelve months. The  
25 additional time shall be imposed regardless of the offense's juvenile  
26 disposition offense category as designated in RCW 13.40.0357.

27 (4) (a) If the court finds that the respondent who is sixteen or  
28 seventeen years old and committed the offense of robbery in the first  
29 degree, drive-by shooting, rape of a child in the first degree,  
30 burglary in the first degree, or any violent offense as defined in  
31 RCW 9.94A.030 and was armed with a firearm, and the court finds that  
32 the respondent's participation was related to membership in a  
33 criminal street gang or advancing the benefit, aggrandizement, gain,  
34 profit, or other advantage for a criminal street gang, a period of  
35 three months total confinement must be added to the sentence. The  
36 additional time must be imposed regardless of the offense's juvenile  
37 disposition offense category as designated in RCW 13.40.0357 and must  
38 be served consecutively with any other sentencing enhancement.

39 (b) For the purposes of this section, "criminal street gang"  
40 means any ongoing organization, association, or group of three or

1 more persons, whether formal or informal, having a common name or  
2 common identifying sign or symbol, having as one of its primary  
3 activities the commission of criminal acts, and whose members or  
4 associates individually or collectively engage in or have engaged in  
5 a pattern of criminal street gang activity. This definition does not  
6 apply to employees engaged in concerted activities for their mutual  
7 aid and protection, or to the activities of labor and bona fide  
8 nonprofit organizations or their members or agents.

9 (5) When a disposition under this section would effectuate a  
10 manifest injustice, the court may impose another disposition. When a  
11 judge finds a manifest injustice and imposes a disposition of  
12 confinement exceeding thirty days, the court shall commit the  
13 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)  
14 shall be used to determine the range. When a judge finds a manifest  
15 injustice and imposes a disposition of confinement less than thirty  
16 days, the disposition shall be comprised of confinement or community  
17 supervision or both.

18 (6) Any term of confinement ordered pursuant to this section  
19 shall run consecutively to any term of confinement imposed in the  
20 same disposition for other offenses.

21 **Sec. 6.** RCW 13.40.265 and 2016 c 136 s 6 are each amended to  
22 read as follows:

23 (1) If a juvenile thirteen years of age or older is found by  
24 juvenile court to have committed an offense while armed with a  
25 firearm or an offense that is a violation of RCW 9.41.040(2)(a)  
26 (~~(iv)~~) (vii) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the  
27 court shall notify the department of licensing within twenty-four  
28 hours after entry of the judgment, unless the offense is the  
29 juvenile's first offense while armed with a firearm, first unlawful  
30 possession of a firearm offense, or first offense in violation of  
31 chapter 66.44, 69.41, 69.50, or 69.52 RCW.

32 (2) Except as otherwise provided in subsection (3) of this  
33 section, upon petition of a juvenile who has been found by the court  
34 to have committed an offense that is a violation of chapter 66.44,  
35 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems  
36 appropriate notify the department of licensing that the juvenile's  
37 driving privileges should be reinstated.

38 (3) If the offense is the juvenile's second or subsequent  
39 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile

1 may not petition the court for reinstatement of the juvenile's  
2 privilege to drive revoked pursuant to RCW 46.20.265 until the date  
3 the juvenile turns seventeen or one year after the date judgment was  
4 entered, whichever is later.

5 **Sec. 7.** RCW 70.02.230 and 2019 c 381 s 19, 2019 c 325 s 5020,  
6 and 2019 c 317 s 2 are each reenacted and amended to read as follows:

7 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
8 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265,  
9 or pursuant to a valid authorization under RCW 70.02.030, the fact of  
10 admission to a provider for mental health services and all  
11 information and records compiled, obtained, or maintained in the  
12 course of providing mental health services to either voluntary or  
13 involuntary recipients of services at public or private agencies must  
14 be confidential.

15 (2) Information and records related to mental health services,  
16 other than those obtained through treatment under chapter 71.34 RCW,  
17 may be disclosed only:

18 (a) In communications between qualified professional persons to  
19 meet the requirements of chapter 71.05 RCW, in the provision of  
20 services or appropriate referrals, or in the course of guardianship  
21 proceedings if provided to a professional person:

- 22 (i) Employed by the facility;  
23 (ii) Who has medical responsibility for the patient's care;  
24 (iii) Who is a designated crisis responder;  
25 (iv) Who is providing services under chapter 71.24 RCW;  
26 (v) Who is employed by a state or local correctional facility  
27 where the person is confined or supervised; or  
28 (vi) Who is providing evaluation, treatment, or follow-up  
29 services under chapter 10.77 RCW;

30 (b) When the communications regard the special needs of a patient  
31 and the necessary circumstances giving rise to such needs and the  
32 disclosure is made by a facility providing services to the operator  
33 of a facility in which the patient resides or will reside;

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

1 (ii) A public or private agency shall release to a person's next  
2 of kin, attorney, personal representative, guardian, or conservator,  
3 if any:

4 (A) The information that the person is presently a patient in the  
5 facility or that the person is seriously physically ill;

6 (B) A statement evaluating the mental and physical condition of  
7 the patient, and a statement of the probable duration of the  
8 patient's confinement, if such information is requested by the next  
9 of kin, attorney, personal representative, guardian, or conservator;  
10 and

11 (iii) Other information requested by the next of kin or attorney  
12 as may be necessary to decide whether or not proceedings should be  
13 instituted to appoint a guardian or conservator;

14 (d)(i) To the courts as necessary to the administration of  
15 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
16 under chapter 10.77 RCW solely for the purpose of preventing the  
17 entry of any evaluation or treatment order that is inconsistent with  
18 any order entered under chapter 71.05 RCW.

19 (ii) To a court or its designee in which a motion under chapter  
20 10.77 RCW has been made for involuntary medication of a defendant for  
21 the purpose of competency restoration.

22 (iii) Disclosure under this subsection is mandatory for the  
23 purpose of the federal health insurance portability and  
24 accountability act;

25 (e)(i) When a mental health professional or designated crisis  
26 responder is requested by a representative of a law enforcement or  
27 corrections agency, including a police officer, sheriff, community  
28 corrections officer, a municipal attorney, or prosecuting attorney to  
29 undertake an investigation or provide treatment under RCW 71.05.150,  
30 10.31.110, or 71.05.153, the mental health professional or designated  
31 crisis responder shall, if requested to do so, advise the  
32 representative in writing of the results of the investigation  
33 including a statement of reasons for the decision to detain or  
34 release the person investigated. The written report must be submitted  
35 within seventy-two hours of the completion of the investigation or  
36 the request from the law enforcement or corrections representative,  
37 whichever occurs later.

38 (ii) Disclosure under this subsection is mandatory for the  
39 purposes of the federal health insurance portability and  
40 accountability act;

1 (f) To the attorney of the detained person;  
2 (g) To the prosecuting attorney as necessary to carry out the  
3 responsibilities of the office under RCW 71.05.330(2),  
4 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
5 access to records regarding the committed person's treatment and  
6 prognosis, medication, behavior problems, and other records relevant  
7 to the issue of whether treatment less restrictive than inpatient  
8 treatment is in the best interest of the committed person or others.  
9 Information must be disclosed only after giving notice to the  
10 committed person and the person's counsel;

11 (h)(i) To appropriate law enforcement agencies and to a person,  
12 when the identity of the person is known to the public or private  
13 agency, whose health and safety has been threatened, or who is known  
14 to have been repeatedly harassed, by the patient. The person may  
15 designate a representative to receive the disclosure. The disclosure  
16 must be made by the professional person in charge of the public or  
17 private agency or his or her designee and must include the dates of  
18 commitment, admission, discharge, or release, authorized or  
19 unauthorized absence from the agency's facility, and only any other  
20 information that is pertinent to the threat or harassment. The agency  
21 or its employees are not civilly liable for the decision to disclose  
22 or not, so long as the decision was reached in good faith and without  
23 gross negligence.

24 (ii) Disclosure under this subsection is mandatory for the  
25 purposes of the federal health insurance portability and  
26 accountability act;

27 (i)(i) To appropriate corrections and law enforcement agencies  
28 all necessary and relevant information in the event of a crisis or  
29 emergent situation that poses a significant and imminent risk to the  
30 public. The mental health service agency or its employees are not  
31 civilly liable for the decision to disclose or not so long as the  
32 decision was reached in good faith and without gross negligence.

33 (ii) Disclosure under this subsection is mandatory for the  
34 purposes of the health insurance portability and accountability act;

35 (j) To the persons designated in RCW 71.05.425 for the purposes  
36 described in those sections;

37 (k) Upon the death of a person. The person's next of kin,  
38 personal representative, guardian, or conservator, if any, must be  
39 notified. Next of kin who are of legal age and competent must be  
40 notified under this section in the following order: Spouse, parents,

1 children, brothers and sisters, and other relatives according to the  
2 degree of relation. Access to all records and information compiled,  
3 obtained, or maintained in the course of providing services to a  
4 deceased patient are governed by RCW 70.02.140;

5 (l) To mark headstones or otherwise memorialize patients interred  
6 at state hospital cemeteries. The department of social and health  
7 services shall make available the name, date of birth, and date of  
8 death of patients buried in state hospital cemeteries fifty years  
9 after the death of a patient;

10 (m) To law enforcement officers and to prosecuting attorneys as  
11 are necessary to enforce RCW 9.41.040(2)(a)(~~(iv)~~) (v). The extent  
12 of information that may be released is limited as follows:

13 (i) Only the fact, place, and date of involuntary commitment, an  
14 official copy of any order or orders of commitment, and an official  
15 copy of any written or oral notice of ineligibility to possess a  
16 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
17 must be disclosed upon request;

18 (ii) The law enforcement and prosecuting attorneys may only  
19 release the information obtained to the person's attorney as required  
20 by court rule and to a jury or judge, if a jury is waived, that  
21 presides over any trial at which the person is charged with violating  
22 RCW 9.41.040(2)(a)(~~(iv)~~) (v);

23 (iii) Disclosure under this subsection is mandatory for the  
24 purposes of the federal health insurance portability and  
25 accountability act;

26 (n) When a patient would otherwise be subject to the provisions  
27 of this section and disclosure is necessary for the protection of the  
28 patient or others due to his or her unauthorized disappearance from  
29 the facility, and his or her whereabouts is unknown, notice of the  
30 disappearance, along with relevant information, may be made to  
31 relatives, the department of corrections when the person is under the  
32 supervision of the department, and governmental law enforcement  
33 agencies designated by the physician or psychiatric advanced  
34 registered nurse practitioner in charge of the patient or the  
35 professional person in charge of the facility, or his or her  
36 professional designee;

37 (o) Pursuant to lawful order of a court;

38 (p) To qualified staff members of the department, to the  
39 authority, to behavioral health administrative services  
40 organizations, to managed care organizations, to resource management

1 services responsible for serving a patient, or to service providers  
2 designated by resource management services as necessary to determine  
3 the progress and adequacy of treatment and to determine whether the  
4 person should be transferred to a less restrictive or more  
5 appropriate treatment modality or facility;

6 (q) Within the mental health service agency where the patient is  
7 receiving treatment, confidential information may be disclosed to  
8 persons employed, serving in bona fide training programs, or  
9 participating in supervised volunteer programs, at the facility when  
10 it is necessary to perform their duties;

11 (r) Within the department and the authority as necessary to  
12 coordinate treatment for mental illness, developmental disabilities,  
13 alcoholism, or substance use disorder of persons who are under the  
14 supervision of the department;

15 (s) Between the department of social and health services, the  
16 department of children, youth, and families, and the health care  
17 authority as necessary to coordinate treatment for mental illness,  
18 developmental disabilities, alcoholism, or drug abuse of persons who  
19 are under the supervision of the department of social and health  
20 services or the department of children, youth, and families;

21 (t) To a licensed physician or psychiatric advanced registered  
22 nurse practitioner who has determined that the life or health of the  
23 person is in danger and that treatment without the information and  
24 records related to mental health services could be injurious to the  
25 patient's health. Disclosure must be limited to the portions of the  
26 records necessary to meet the medical emergency;

27 (u)(i) Consistent with the requirements of the federal health  
28 insurance portability and accountability act, to:

29 (A) A health care provider who is providing care to a patient, or  
30 to whom a patient has been referred for evaluation or treatment; or

31 (B) Any other person who is working in a care coordinator role  
32 for a health care facility or health care provider or is under an  
33 agreement pursuant to the federal health insurance portability and  
34 accountability act with a health care facility or a health care  
35 provider and requires the information and records to assure  
36 coordinated care and treatment of that patient.

37 (ii) A person authorized to use or disclose information and  
38 records related to mental health services under this subsection  
39 (2)(u) must take appropriate steps to protect the information and  
40 records relating to mental health services.

1 (iii) Psychotherapy notes may not be released without  
2 authorization of the patient who is the subject of the request for  
3 release of information;

4 (v) To administrative and office support staff designated to  
5 obtain medical records for those licensed professionals listed in (u)  
6 of this subsection;

7 (w) To a facility that is to receive a person who is  
8 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
9 the person from one evaluation and treatment facility to another. The  
10 release of records under this subsection is limited to the  
11 information and records related to mental health services required by  
12 law, a record or summary of all somatic treatments, and a discharge  
13 summary. The discharge summary may include a statement of the  
14 patient's problem, the treatment goals, the type of treatment which  
15 has been provided, and recommendation for future treatment, but may  
16 not include the patient's complete treatment record;

17 (x) To the person's counsel or guardian ad litem, without  
18 modification, at any time in order to prepare for involuntary  
19 commitment or recommitment proceedings, reexaminations, appeals, or  
20 other actions relating to detention, admission, commitment, or  
21 patient's rights under chapter 71.05 RCW;

22 (y) To staff members of the protection and advocacy agency or to  
23 staff members of a private, nonprofit corporation for the purpose of  
24 protecting and advocating the rights of persons with mental disorders  
25 or developmental disabilities. Resource management services may limit  
26 the release of information to the name, birthdate, and county of  
27 residence of the patient, information regarding whether the patient  
28 was voluntarily admitted, or involuntarily committed, the date and  
29 place of admission, placement, or commitment, the name and address of  
30 a guardian of the patient, and the date and place of the guardian's  
31 appointment. Any staff member who wishes to obtain additional  
32 information must notify the patient's resource management services in  
33 writing of the request and of the resource management services' right  
34 to object. The staff member shall send the notice by mail to the  
35 guardian's address. If the guardian does not object in writing within  
36 fifteen days after the notice is mailed, the staff member may obtain  
37 the additional information. If the guardian objects in writing within  
38 fifteen days after the notice is mailed, the staff member may not  
39 obtain the additional information;

1 (z) To all current treating providers of the patient with  
2 prescriptive authority who have written a prescription for the  
3 patient within the last twelve months. For purposes of coordinating  
4 health care, the department or the authority may release without  
5 written authorization of the patient, information acquired for  
6 billing and collection purposes as described in RCW 70.02.050(1)(d).  
7 The department, or the authority, if applicable, shall notify the  
8 patient that billing and collection information has been released to  
9 named providers, and provide the substance of the information  
10 released and the dates of such release. Neither the department nor  
11 the authority may release counseling, inpatient psychiatric  
12 hospitalization, or drug and alcohol treatment information without a  
13 signed written release from the client;

14 (aa)(i) To the secretary of social and health services and the  
15 director of the health care authority for either program evaluation  
16 or research, or both so long as the secretary or director, where  
17 applicable, adopts rules for the conduct of the evaluation or  
18 research, or both. Such rules must include, but need not be limited  
19 to, the requirement that all evaluators and researchers sign an oath  
20 of confidentiality substantially as follows:

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

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

30 /s/ . . . . ."

31 (ii) Nothing in this chapter may be construed to prohibit the  
32 compilation and publication of statistical data for use by government  
33 or researchers under standards, including standards to assure  
34 maintenance of confidentiality, set forth by the secretary, or  
35 director, where applicable;

36 (bb) To any person if the conditions in RCW 70.02.205 are met;

37 (cc) To the secretary of health for the purposes of the maternal  
38 mortality review panel established in RCW 70.54.450.

1 (3) Whenever federal law or federal regulations restrict the  
2 release of information contained in the information and records  
3 related to mental health services of any patient who receives  
4 treatment for a substance use disorder, the department or the  
5 authority may restrict the release of the information as necessary to  
6 comply with federal law and regulations.

7 (4) Civil liability and immunity for the release of information  
8 about a particular person who is committed to the department of  
9 social and health services or the authority under RCW 71.05.280(3)  
10 and 71.05.320(4)(c) after dismissal of a sex offense as defined in  
11 RCW 9.94A.030, is governed by RCW 4.24.550.

12 (5) The fact of admission to a provider of mental health  
13 services, as well as all records, files, evidence, findings, or  
14 orders made, prepared, collected, or maintained pursuant to chapter  
15 71.05 RCW are not admissible as evidence in any legal proceeding  
16 outside that chapter without the written authorization of the person  
17 who was the subject of the proceeding except as provided in RCW  
18 70.02.260, in a subsequent criminal prosecution of a person committed  
19 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
20 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
21 trial, in a civil commitment proceeding pursuant to chapter 71.09  
22 RCW, or, in the case of a minor, a guardianship or dependency  
23 proceeding. The records and files maintained in any court proceeding  
24 pursuant to chapter 71.05 RCW must be confidential and available  
25 subsequent to such proceedings only to the person who was the subject  
26 of the proceeding or his or her attorney. In addition, the court may  
27 order the subsequent release or use of such records or files only  
28 upon good cause shown if the court finds that appropriate safeguards  
29 for strict confidentiality are and will be maintained.

30 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
31 an action against an individual who has willfully released  
32 confidential information or records concerning him or her in  
33 violation of the provisions of this section, for the greater of the  
34 following amounts:

35 (i) One thousand dollars; or

36 (ii) Three times the amount of actual damages sustained, if any.

37 (b) It is not a prerequisite to recovery under this subsection  
38 that the plaintiff suffered or was threatened with special, as  
39 contrasted with general, damages.

1 (c) Any person may bring an action to enjoin the release of  
2 confidential information or records concerning him or her or his or  
3 her ward, in violation of the provisions of this section, and may in  
4 the same action seek damages as provided in this subsection.

5 (d) The court may award to the plaintiff, should he or she  
6 prevail in any action authorized by this subsection, reasonable  
7 attorney fees in addition to those otherwise provided by law.

8 (e) If an action is brought under this subsection, no action may  
9 be brought under RCW 70.02.170.

10 **Sec. 8.** RCW 70.02.240 and 2019 c 381 s 20 are each amended to  
11 read as follows:

12 The fact of admission and all information and records related to  
13 mental health services obtained through inpatient or outpatient  
14 treatment of a minor under chapter 71.34 RCW must be kept  
15 confidential, except as authorized by this section or under RCW  
16 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.  
17 Confidential information under this section may be disclosed only:

18 (1) In communications between mental health professionals to meet  
19 the requirements of chapter 71.34 RCW, in the provision of services  
20 to the minor, or in making appropriate referrals;

21 (2) In the course of guardianship or dependency proceedings;

22 (3) To the minor, the minor's parent, including those acting as a  
23 parent as defined in RCW 71.34.020 for purposes of family-initiated  
24 treatment, and the minor's attorney, subject to RCW 13.50.100;

25 (4) To the courts as necessary to administer chapter 71.34 RCW;

26 (5) To law enforcement officers or public health officers as  
27 necessary to carry out the responsibilities of their office. However,  
28 only the fact and date of admission, and the date of discharge, the  
29 name and address of the treatment provider, if any, and the last  
30 known address must be disclosed upon request;

31 (6) To law enforcement officers, public health officers,  
32 relatives, and other governmental law enforcement agencies, if a  
33 minor has escaped from custody, disappeared from an evaluation and  
34 treatment facility, violated conditions of a less restrictive  
35 treatment order, or failed to return from an authorized leave, and  
36 then only such information as may be necessary to provide for public  
37 safety or to assist in the apprehension of the minor. The officers  
38 are obligated to keep the information confidential in accordance with  
39 this chapter;

1 (7) To the secretary of social and health services and the  
2 director of the health care authority for assistance in data  
3 collection and program evaluation or research so long as the  
4 secretary or director, where applicable, adopts rules for the conduct  
5 of such evaluation and research. The rules must include, but need not  
6 be limited to, the requirement that all evaluators and researchers  
7 sign an oath of confidentiality substantially as follows:

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

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

17 /s/ . . . . .";

18 (8) To appropriate law enforcement agencies, upon request, all  
19 necessary and relevant information in the event of a crisis or  
20 emergent situation that poses a significant and imminent risk to the  
21 public. The mental health service agency or its employees are not  
22 civilly liable for the decision to disclose or not, so long as the  
23 decision was reached in good faith and without gross negligence;

24 (9) To appropriate law enforcement agencies and to a person, when  
25 the identity of the person is known to the public or private agency,  
26 whose health and safety has been threatened, or who is known to have  
27 been repeatedly harassed, by the patient. The person may designate a  
28 representative to receive the disclosure. The disclosure must be made  
29 by the professional person in charge of the public or private agency  
30 or his or her designee and must include the dates of admission,  
31 discharge, authorized or unauthorized absence from the agency's  
32 facility, and only any other information that is pertinent to the  
33 threat or harassment. The agency or its employees are not civilly  
34 liable for the decision to disclose or not, so long as the decision  
35 was reached in good faith and without gross negligence;

36 (10) To a minor's next of kin, attorney, guardian, or  
37 conservator, if any, the information that the minor is presently in  
38 the facility or that the minor is seriously physically ill and a  
39 statement evaluating the mental and physical condition of the minor

1 as well as a statement of the probable duration of the minor's  
2 confinement;

3 (11) Upon the death of a minor, to the minor's next of kin;

4 (12) To a facility in which the minor resides or will reside;

5 (13) To law enforcement officers and to prosecuting attorneys as  
6 are necessary to enforce RCW 9.41.040(2)(a)(~~(iv)~~) (v). The extent  
7 of information that may be released is limited as follows:

8 (a) Only the fact, place, and date of involuntary commitment, an  
9 official copy of any order or orders of commitment, and an official  
10 copy of any written or oral notice of ineligibility to possess a  
11 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
12 must be disclosed upon request;

13 (b) The law enforcement and prosecuting attorneys may only  
14 release the information obtained to the person's attorney as required  
15 by court rule and to a jury or judge, if a jury is waived, that  
16 presides over any trial at which the person is charged with violating  
17 RCW 9.41.040(2)(a)(~~(iv)~~) (v);

18 (c) Disclosure under this subsection is mandatory for the  
19 purposes of the federal health insurance portability and  
20 accountability act;

21 (14) This section may not be construed to prohibit the  
22 compilation and publication of statistical data for use by government  
23 or researchers under standards, including standards to assure  
24 maintenance of confidentiality, set forth by the director of the  
25 health care authority or the secretary of the department of social  
26 and health services, where applicable. The fact of admission and all  
27 information obtained pursuant to chapter 71.34 RCW are not admissible  
28 as evidence in any legal proceeding outside chapter 71.34 RCW, except  
29 guardianship or dependency, without the written consent of the minor  
30 or the minor's parent;

31 (15) For the purpose of a correctional facility participating in  
32 the postinstitutional medical assistance system supporting the  
33 expedited medical determinations and medical suspensions as provided  
34 in RCW 74.09.555 and 74.09.295;

35 (16) Pursuant to a lawful order of a court.

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