

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5020**

62nd Legislature  
2011 Regular Session

Passed by the Senate March 5, 2011  
YEAS 44 NAYS 5

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**President of the Senate**

Passed by the House April 5, 2011  
YEAS 76 NAYS 20

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5020** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5020**

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Passed Legislature - 2011 Regular Session

**State of Washington                      62nd Legislature                      2011 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Murray, Regala, Kohl-Welles, Prentice, and Chase)

READ FIRST TIME 02/21/11.

1            AN ACT Relating to protecting consumers by assuring persons using  
2 the title of social worker have graduated with a degree in social work  
3 from an educational program accredited by the council on social work  
4 education; amending RCW 10.77.010, 13.34.260, 26.09.191, 26.10.160,  
5 28A.170.080, 70.96A.037, 70.96B.010, 70.97.010, 70.126.020, 70.127.010,  
6 71.32.020, 71.34.020, 74.13.029, and 74.34.020; reenacting and amending  
7 RCW 71.05.020 and 74.42.010; adding a new chapter to Title 18 RCW; and  
8 providing an effective date.

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

10            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that:

11            (a) The practice of social work by persons in the public and  
12 private sectors improves the lives of many people throughout the state  
13 through the application of a broad spectrum of social sciences to  
14 enhance the quality of life and develop the full potential of each  
15 client;

16            (b) The practice of social work is a complex discipline that,  
17 appropriately undertaken, can address client problems, needs, and  
18 concerns, with the goal that clients achieve the maximum possible

1 enhancement of their quality of life and develop to their full  
2 potential. However, improper assessment of client problems and needs  
3 by unqualified persons can lead to client harm;

4 (c) It is in the state's interest to take steps to safeguard state  
5 residents from misrepresentations about qualifications for practicing  
6 social work. Because such misrepresentations could lead to the  
7 improper practice of social work by unqualified persons, those who  
8 represent themselves as social workers should have a qualifying degree  
9 from an accredited and approved social work program.

10 (2) The legislature declares that this act to regulate social  
11 workers constitutes an exercise of the state's police power to protect  
12 and promote the health, safety, and welfare of the residents of the  
13 state in general. Accordingly, while this act is intended to protect  
14 the public generally, it does not create a duty owed by the state or  
15 its instrumentalities to any individual or entity.

16 NEW SECTION. **Sec. 2.** (1) To address the goal of safeguarding  
17 Washington residents from the unqualified or improper practice of  
18 social work, a person may not represent himself or herself as a social  
19 worker unless qualified as a social worker as defined in this section.

20 (2) For purposes of this section, "social worker" means a person  
21 who meets one of the following qualifications:

22 (a) Is licensed under RCW 18.225.090(1)(a) or 18.225.145(1)(a); or

23 (b) Has graduated with at least a bachelor's degree from a social  
24 work educational program accredited by the council on social work  
25 education.

26 (3) A public agency or private entity doing business in Washington  
27 may not use the title of social worker, or a form of the title, for  
28 describing or designating volunteer or employment positions or within  
29 contracts for services, reference materials, manuals, or other  
30 documents, unless the volunteers or employees working in those  
31 positions are qualified as a social worker as defined in this section.

32 (4) This section does not apply to:

33 (a) Persons employed in Washington on the effective date of this  
34 section under the job title of social worker so long as the person  
35 continues to be employed by the same agency as on the effective date of  
36 this section;

1 (b) Persons employed by the state of Washington on the effective  
2 date of this section under the job title of social worker so long as  
3 the person continues to be employed by the state and who shall continue  
4 to have the same layoff, reversion, transfer, and promotional  
5 opportunities as were available to the employee on the effective date  
6 of this section;

7 (c) Individuals employed by the government of the United States  
8 while engaged in the performance of duties prescribed by the laws of  
9 the United States; or

10 (d) Persons providing services as an educational staff associate  
11 who are certified by the Washington professional educator standards  
12 board. However, this section applies to a certified educational staff  
13 associate providing services outside the school setting.

14 (5) As used in subsection (4) of this section, "agency" means any  
15 private employer or any agency of state government.

16 NEW SECTION. **Sec. 3.** (1) The legislature finds that the practices  
17 covered by this chapter are matters vitally affecting the public  
18 interest for the purpose of applying the consumer protection act,  
19 chapter 19.86 RCW. A violation of this chapter is not reasonable in  
20 relation to the development and preservation of business and is an  
21 unfair or deceptive act in trade or commerce and an unfair method of  
22 competition for the purpose of applying the consumer protection act,  
23 chapter 19.86 RCW.

24 (2) Remedies available under chapter 19.86 RCW for a violation of  
25 this chapter do not affect any other remedy available under the law.

26 **Sec. 4.** RCW 10.77.010 and 2010 c 262 s 2 are each amended to read  
27 as follows:

28 As used in this chapter:

29 (1) "Admission" means acceptance based on medical necessity, of a  
30 person as a patient.

31 (2) "Commitment" means the determination by a court that a person  
32 should be detained for a period of either evaluation or treatment, or  
33 both, in an inpatient or a less-restrictive setting.

34 (3) "Conditional release" means modification of a court-ordered  
35 commitment, which may be revoked upon violation of any of its terms.

1 (4) A "criminally insane" person means any person who has been  
2 acquitted of a crime charged by reason of insanity, and thereupon found  
3 to be a substantial danger to other persons or to present a substantial  
4 likelihood of committing criminal acts jeopardizing public safety or  
5 security unless kept under further control by the court or other  
6 persons or institutions.

7 (5) "Department" means the state department of social and health  
8 services.

9 (6) "Designated mental health professional" has the same meaning as  
10 provided in RCW 71.05.020.

11 (7) "Detention" or "detain" means the lawful confinement of a  
12 person, under the provisions of this chapter, pending evaluation.

13 (8) "Developmental disabilities professional" means a person who  
14 has specialized training and three years of experience in directly  
15 treating or working with persons with developmental disabilities and is  
16 a psychiatrist or psychologist, or a social worker, and such other  
17 developmental disabilities professionals as may be defined by rules  
18 adopted by the secretary.

19 (9) "Developmental disability" means the condition as defined in  
20 RCW 71A.10.020(3).

21 (10) "Discharge" means the termination of hospital medical  
22 authority. The commitment may remain in place, be terminated, or be  
23 amended by court order.

24 (11) "Furlough" means an authorized leave of absence for a resident  
25 of a state institution operated by the department designated for the  
26 custody, care, and treatment of the criminally insane, consistent with  
27 an order of conditional release from the court under this chapter,  
28 without any requirement that the resident be accompanied by, or be in  
29 the custody of, any law enforcement or institutional staff, while on  
30 such unescorted leave.

31 (12) "Habilitative services" means those services provided by  
32 program personnel to assist persons in acquiring and maintaining life  
33 skills and in raising their levels of physical, mental, social, and  
34 vocational functioning. Habilitative services include education,  
35 training for employment, and therapy. The habilitative process shall  
36 be undertaken with recognition of the risk to the public safety  
37 presented by the person being assisted as manifested by prior charged  
38 criminal conduct.

1 (13) "History of one or more violent acts" means violent acts  
2 committed during: (a) The ten-year period of time prior to the filing  
3 of criminal charges; plus (b) the amount of time equal to time spent  
4 during the ten-year period in a mental health facility or in  
5 confinement as a result of a criminal conviction.

6 (14) "Immediate family member" means a spouse, child, stepchild,  
7 parent, stepparent, grandparent, sibling, or domestic partner.

8 (15) "Incompetency" means a person lacks the capacity to understand  
9 the nature of the proceedings against him or her or to assist in his or  
10 her own defense as a result of mental disease or defect.

11 (16) "Indigent" means any person who is financially unable to  
12 obtain counsel or other necessary expert or professional services  
13 without causing substantial hardship to the person or his or her  
14 family.

15 (17) "Individualized service plan" means a plan prepared by a  
16 developmental disabilities professional with other professionals as a  
17 team, for an individual with developmental disabilities, which shall  
18 state:

19 (a) The nature of the person's specific problems, prior charged  
20 criminal behavior, and habilitation needs;

21 (b) The conditions and strategies necessary to achieve the purposes  
22 of habilitation;

23 (c) The intermediate and long-range goals of the habilitation  
24 program, with a projected timetable for the attainment;

25 (d) The rationale for using this plan of habilitation to achieve  
26 those intermediate and long-range goals;

27 (e) The staff responsible for carrying out the plan;

28 (f) Where relevant in light of past criminal behavior and due  
29 consideration for public safety, the criteria for proposed movement to  
30 less-restrictive settings, criteria for proposed eventual release, and  
31 a projected possible date for release; and

32 (g) The type of residence immediately anticipated for the person  
33 and possible future types of residences.

34 (18) "Professional person" means:

35 (a) A psychiatrist licensed as a physician and surgeon in this  
36 state who has, in addition, completed three years of graduate training  
37 in psychiatry in a program approved by the American medical association

1 or the American osteopathic association and is certified or eligible to  
2 be certified by the American board of psychiatry and neurology or the  
3 American osteopathic board of neurology and psychiatry;

4 (b) A psychologist licensed as a psychologist pursuant to chapter  
5 18.83 RCW; or

6 (c) A social worker with a master's or further advanced degree from  
7 (~~(an accredited school of social work or a degree deemed equivalent~~  
8 ~~under rules adopted by the secretary)) a social work educational  
9 program accredited and approved as provided in section 2 of this act.~~

10 (19) "Registration records" include all the records of the  
11 department, regional support networks, treatment facilities, and other  
12 persons providing services to the department, county departments, or  
13 facilities which identify persons who are receiving or who at any time  
14 have received services for mental illness.

15 (20) "Release" means legal termination of the court-ordered  
16 commitment under the provisions of this chapter.

17 (21) "Secretary" means the secretary of the department of social  
18 and health services or his or her designee.

19 (22) "Treatment" means any currently standardized medical or mental  
20 health procedure including medication.

21 (23) "Treatment records" include registration and all other records  
22 concerning persons who are receiving or who at any time have received  
23 services for mental illness, which are maintained by the department, by  
24 regional support networks and their staffs, and by treatment  
25 facilities. Treatment records do not include notes or records  
26 maintained for personal use by a person providing treatment services  
27 for the department, regional support networks, or a treatment facility  
28 if the notes or records are not available to others.

29 (24) "Violent act" means behavior that: (a)(i) Resulted in; (ii)  
30 if completed as intended would have resulted in; or (iii) was  
31 threatened to be carried out by a person who had the intent and  
32 opportunity to carry out the threat and would have resulted in,  
33 homicide, nonfatal injuries, or substantial damage to property; or (b)  
34 recklessly creates an immediate risk of serious physical injury to  
35 another person. As used in this subsection, "nonfatal injuries" means  
36 physical pain or injury, illness, or an impairment of physical  
37 condition. "Nonfatal injuries" shall be construed to be consistent  
38 with the definition of "bodily injury," as defined in RCW 9A.04.110.

1       **Sec. 5.** RCW 13.34.260 and 2009 c 491 s 5 are each amended to read  
2 as follows:

3       (1) In an attempt to minimize the inherent intrusion in the lives  
4 of families involved in the foster care system and to maintain parental  
5 authority where appropriate, the department, absent good cause, shall  
6 follow the wishes of the natural parent regarding the placement of the  
7 child with a relative or other suitable person pursuant to RCW  
8 13.34.130. Preferences such as family constellation, sibling  
9 relationships, ethnicity, and religion shall be considered when  
10 matching children to foster homes. Parental authority is appropriate  
11 in areas that are not connected with the abuse or neglect that resulted  
12 in the dependency and shall be integrated through the foster care team.

13       (2) When a child is placed in out-of-home care, relatives, other  
14 suitable persons, and foster parents are encouraged to:

15       (a) Provide consultation to the foster care team based upon their  
16 experience with the child placed in their care;

17       (b) Assist the birth parents by helping them understand their  
18 child's needs and correlating appropriate parenting responses;

19       (c) Participate in educational activities, and enter into  
20 community-building activities with birth families and other foster  
21 families;

22       (d) Transport children to family time visits with birth families  
23 and assist children and their families in maximizing the purposefulness  
24 of family time.

25       (3) For purposes of this section ~~((τ))~~ ;

26       (a) "Foster care team" means the relative, other suitable person,  
27 or foster parent currently providing care, the currently assigned  
28 ~~((social worker))~~ department employee, and the parent or parents; and

29       (b) "Birth family" means the persons described in RCW  
30 74.15.020(2)(a).

31       **Sec. 6.** RCW 26.09.191 and 2007 c 496 s 303 are each amended to  
32 read as follows:

33       (1) The permanent parenting plan shall not require mutual decision-  
34 making or designation of a dispute resolution process other than court  
35 action if it is found that a parent has engaged in any of the following  
36 conduct: (a) Willful abandonment that continues for an extended period  
37 of time or substantial refusal to perform parenting functions; (b)



1 physical, sexual, or a pattern of emotional abuse of a child; or (c) a  
2 history of acts of domestic violence as defined in RCW 26.50.010(1) or  
3 an assault or sexual assault which causes grievous bodily harm or the  
4 fear of such harm.

5 (2)(a) The parent's residential time with the child shall be  
6 limited if it is found that the parent has engaged in any of the  
7 following conduct: (i) Willful abandonment that continues for an  
8 extended period of time or substantial refusal to perform parenting  
9 functions; (ii) physical, sexual, or a pattern of emotional abuse of a  
10 child; (iii) a history of acts of domestic violence as defined in RCW  
11 26.50.010(1) or an assault or sexual assault which causes grievous  
12 bodily harm or the fear of such harm; or (iv) the parent has been  
13 convicted as an adult of a sex offense under:

14 (A) RCW 9A.44.076 if, because of the difference in age between the  
15 offender and the victim, no rebuttable presumption exists under (d) of  
16 this subsection;

17 (B) RCW 9A.44.079 if, because of the difference in age between the  
18 offender and the victim, no rebuttable presumption exists under (d) of  
19 this subsection;

20 (C) RCW 9A.44.086 if, because of the difference in age between the  
21 offender and the victim, no rebuttable presumption exists under (d) of  
22 this subsection;

23 (D) RCW 9A.44.089;

24 (E) RCW 9A.44.093;

25 (F) RCW 9A.44.096;

26 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
27 between the offender and the victim, no rebuttable presumption exists  
28 under (d) of this subsection;

29 (H) Chapter 9.68A RCW;

30 (I) Any predecessor or antecedent statute for the offenses listed  
31 in (a)(iv)(A) through (H) of this subsection;

32 (J) Any statute from any other jurisdiction that describes an  
33 offense analogous to the offenses listed in (a)(iv)(A) through (H) of  
34 this subsection.

35 This subsection (2)(a) shall not apply when (c) or (d) of this  
36 subsection applies.

37 (b) The parent's residential time with the child shall be limited  
38 if it is found that the parent resides with a person who has engaged in

1 any of the following conduct: (i) Physical, sexual, or a pattern of  
2 emotional abuse of a child; (ii) a history of acts of domestic violence  
3 as defined in RCW 26.50.010(1) or an assault or sexual assault that  
4 causes grievous bodily harm or the fear of such harm; or (iii) the  
5 person has been convicted as an adult or as a juvenile has been  
6 adjudicated of a sex offense under:

7 (A) RCW 9A.44.076 if, because of the difference in age between the  
8 offender and the victim, no rebuttable presumption exists under (e) of  
9 this subsection;

10 (B) RCW 9A.44.079 if, because of the difference in age between the  
11 offender and the victim, no rebuttable presumption exists under (e) of  
12 this subsection;

13 (C) RCW 9A.44.086 if, because of the difference in age between the  
14 offender and the victim, no rebuttable presumption exists under (e) of  
15 this subsection;

16 (D) RCW 9A.44.089;

17 (E) RCW 9A.44.093;

18 (F) RCW 9A.44.096;

19 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
20 between the offender and the victim, no rebuttable presumption exists  
21 under (e) of this subsection;

22 (H) Chapter 9.68A RCW;

23 (I) Any predecessor or antecedent statute for the offenses listed  
24 in (b)(iii)(A) through (H) of this subsection;

25 (J) Any statute from any other jurisdiction that describes an  
26 offense analogous to the offenses listed in (b)(iii)(A) through (H) of  
27 this subsection.

28 This subsection (2)(b) shall not apply when (c) or (e) of this  
29 subsection applies.

30 (c) If a parent has been found to be a sexual predator under  
31 chapter 71.09 RCW or under an analogous statute of any other  
32 jurisdiction, the court shall restrain the parent from contact with a  
33 child that would otherwise be allowed under this chapter. If a parent  
34 resides with an adult or a juvenile who has been found to be a sexual  
35 predator under chapter 71.09 RCW or under an analogous statute of any  
36 other jurisdiction, the court shall restrain the parent from contact  
37 with the parent's child except contact that occurs outside that  
38 person's presence.

1 (d) There is a rebuttable presumption that a parent who has been  
2 convicted as an adult of a sex offense listed in (d)(i) through (ix) of  
3 this subsection poses a present danger to a child. Unless the parent  
4 rebuts this presumption, the court shall restrain the parent from  
5 contact with a child that would otherwise be allowed under this  
6 chapter:

7 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
8 was at least five years older than the other person;

9 (ii) RCW 9A.44.073;

10 (iii) RCW 9A.44.076, provided that the person convicted was at  
11 least eight years older than the victim;

12 (iv) RCW 9A.44.079, provided that the person convicted was at least  
13 eight years older than the victim;

14 (v) RCW 9A.44.083;

15 (vi) RCW 9A.44.086, provided that the person convicted was at least  
16 eight years older than the victim;

17 (vii) RCW 9A.44.100;

18 (viii) Any predecessor or antecedent statute for the offenses  
19 listed in (d)(i) through (vii) of this subsection;

20 (ix) Any statute from any other jurisdiction that describes an  
21 offense analogous to the offenses listed in (d)(i) through (vii) of  
22 this subsection.

23 (e) There is a rebuttable presumption that a parent who resides  
24 with a person who, as an adult, has been convicted, or as a juvenile  
25 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)  
26 of this subsection places a child at risk of abuse or harm when that  
27 parent exercises residential time in the presence of the convicted or  
28 adjudicated person. Unless the parent rebuts the presumption, the  
29 court shall restrain the parent from contact with the parent's child  
30 except for contact that occurs outside of the convicted or adjudicated  
31 person's presence:

32 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
33 was at least five years older than the other person;

34 (ii) RCW 9A.44.073;

35 (iii) RCW 9A.44.076, provided that the person convicted was at  
36 least eight years older than the victim;

37 (iv) RCW 9A.44.079, provided that the person convicted was at least  
38 eight years older than the victim;

1 (v) RCW 9A.44.083;

2 (vi) RCW 9A.44.086, provided that the person convicted was at least  
3 eight years older than the victim;

4 (vii) RCW 9A.44.100;

5 (viii) Any predecessor or antecedent statute for the offenses  
6 listed in (e)(i) through (vii) of this subsection;

7 (ix) Any statute from any other jurisdiction that describes an  
8 offense analogous to the offenses listed in (e)(i) through (vii) of  
9 this subsection.

10 (f) The presumption established in (d) of this subsection may be  
11 rebutted only after a written finding that:

12 (i) If the child was not the victim of the sex offense committed by  
13 the parent requesting residential time, (A) contact between the child  
14 and the offending parent is appropriate and poses minimal risk to the  
15 child, and (B) the offending parent has successfully engaged in  
16 treatment for sex offenders or is engaged in and making progress in  
17 such treatment, if any was ordered by a court, and the treatment  
18 provider believes such contact is appropriate and poses minimal risk to  
19 the child; or

20 (ii) If the child was the victim of the sex offense committed by  
21 the parent requesting residential time, (A) contact between the child  
22 and the offending parent is appropriate and poses minimal risk to the  
23 child, (B) if the child is in or has been in therapy for victims of  
24 sexual abuse, the child's counselor believes such contact between the  
25 child and the offending parent is in the child's best interest, and (C)  
26 the offending parent has successfully engaged in treatment for sex  
27 offenders or is engaged in and making progress in such treatment, if  
28 any was ordered by a court, and the treatment provider believes such  
29 contact is appropriate and poses minimal risk to the child.

30 (g) The presumption established in (e) of this subsection may be  
31 rebutted only after a written finding that:

32 (i) If the child was not the victim of the sex offense committed by  
33 the person who is residing with the parent requesting residential time,  
34 (A) contact between the child and the parent residing with the  
35 convicted or adjudicated person is appropriate and that parent is able  
36 to protect the child in the presence of the convicted or adjudicated  
37 person, and (B) the convicted or adjudicated person has successfully  
38 engaged in treatment for sex offenders or is engaged in and making

1 progress in such treatment, if any was ordered by a court, and the  
2 treatment provider believes such contact is appropriate and poses  
3 minimal risk to the child; or

4 (ii) If the child was the victim of the sex offense committed by  
5 the person who is residing with the parent requesting residential time,  
6 (A) contact between the child and the parent in the presence of the  
7 convicted or adjudicated person is appropriate and poses minimal risk  
8 to the child, (B) if the child is in or has been in therapy for victims  
9 of sexual abuse, the child's counselor believes such contact between  
10 the child and the parent residing with the convicted or adjudicated  
11 person in the presence of the convicted or adjudicated person is in the  
12 child's best interest, and (C) the convicted or adjudicated person has  
13 successfully engaged in treatment for sex offenders or is engaged in  
14 and making progress in such treatment, if any was ordered by a court,  
15 and the treatment provider believes contact between the parent and  
16 child in the presence of the convicted or adjudicated person is  
17 appropriate and poses minimal risk to the child.

18 (h) If the court finds that the parent has met the burden of  
19 rebutting the presumption under (f) of this subsection, the court may  
20 allow a parent who has been convicted as an adult of a sex offense  
21 listed in (d)(i) through (ix) of this subsection to have residential  
22 time with the child supervised by a neutral and independent adult and  
23 pursuant to an adequate plan for supervision of such residential time.  
24 The court shall not approve of a supervisor for contact between the  
25 child and the parent unless the court finds, based on the evidence,  
26 that the supervisor is willing and capable of protecting the child from  
27 harm. The court shall revoke court approval of the supervisor upon  
28 finding, based on the evidence, that the supervisor has failed to  
29 protect the child or is no longer willing or capable of protecting the  
30 child.

31 (i) If the court finds that the parent has met the burden of  
32 rebutting the presumption under (g) of this subsection, the court may  
33 allow a parent residing with a person who has been adjudicated as a  
34 juvenile of a sex offense listed in (e)(i) through (ix) of this  
35 subsection to have residential time with the child in the presence of  
36 the person adjudicated as a juvenile, supervised by a neutral and  
37 independent adult and pursuant to an adequate plan for supervision of  
38 such residential time. The court shall not approve of a supervisor for

1 contact between the child and the parent unless the court finds, based  
2 on the evidence, that the supervisor is willing and capable of  
3 protecting the child from harm. The court shall revoke court approval  
4 of the supervisor upon finding, based on the evidence, that the  
5 supervisor has failed to protect the child or is no longer willing or  
6 capable of protecting the child.

7 (j) If the court finds that the parent has met the burden of  
8 rebutting the presumption under (g) of this subsection, the court may  
9 allow a parent residing with a person who, as an adult, has been  
10 convicted of a sex offense listed in (e)(i) through (ix) of this  
11 subsection to have residential time with the child in the presence of  
12 the convicted person supervised by a neutral and independent adult and  
13 pursuant to an adequate plan for supervision of such residential time.  
14 The court shall not approve of a supervisor for contact between the  
15 child and the parent unless the court finds, based on the evidence,  
16 that the supervisor is willing and capable of protecting the child from  
17 harm. The court shall revoke court approval of the supervisor upon  
18 finding, based on the evidence, that the supervisor has failed to  
19 protect the child or is no longer willing or capable of protecting the  
20 child.

21 (k) A court shall not order unsupervised contact between the  
22 offending parent and a child of the offending parent who was sexually  
23 abused by that parent. A court may order unsupervised contact between  
24 the offending parent and a child who was not sexually abused by the  
25 parent after the presumption under (d) of this subsection has been  
26 rebutted and supervised residential time has occurred for at least two  
27 years with no further arrests or convictions of sex offenses involving  
28 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW  
29 and (i) the sex offense of the offending parent was not committed  
30 against a child of the offending parent, and (ii) the court finds that  
31 unsupervised contact between the child and the offending parent is  
32 appropriate and poses minimal risk to the child, after consideration of  
33 the testimony of a state-certified therapist, mental health counselor,  
34 or social worker with expertise in treating child sexual abuse victims  
35 who has supervised at least one period of residential time between the  
36 parent and the child, and after consideration of evidence of the  
37 offending parent's compliance with community supervision requirements,  
38 if any. If the offending parent was not ordered by a court to

1 participate in treatment for sex offenders, then the parent shall  
2 obtain a psychosexual evaluation conducted by a certified sex offender  
3 treatment provider or a certified affiliate sex offender treatment  
4 provider indicating that the offender has the lowest likelihood of risk  
5 to reoffend before the court grants unsupervised contact between the  
6 parent and a child.

7 (l) A court may order unsupervised contact between the parent and  
8 a child which may occur in the presence of a juvenile adjudicated of a  
9 sex offense listed in (e)(i) through (ix) of this subsection who  
10 resides with the parent after the presumption under (e) of this  
11 subsection has been rebutted and supervised residential time has  
12 occurred for at least two years during which time the adjudicated  
13 juvenile has had no further arrests, adjudications, or convictions of  
14 sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020,  
15 or chapter 9.68A RCW, and (i) the court finds that unsupervised contact  
16 between the child and the parent that may occur in the presence of the  
17 adjudicated juvenile is appropriate and poses minimal risk to the  
18 child, after consideration of the testimony of a state-certified  
19 therapist, mental health counselor, or social worker with expertise in  
20 treatment of child sexual abuse victims who has supervised at least one  
21 period of residential time between the parent and the child in the  
22 presence of the adjudicated juvenile, and after consideration of  
23 evidence of the adjudicated juvenile's compliance with community  
24 supervision or parole requirements, if any. If the adjudicated  
25 juvenile was not ordered by a court to participate in treatment for sex  
26 offenders, then the adjudicated juvenile shall obtain a psychosexual  
27 evaluation conducted by a certified sex offender treatment provider or  
28 a certified affiliate sex offender treatment provider indicating that  
29 the adjudicated juvenile has the lowest likelihood of risk to reoffend  
30 before the court grants unsupervised contact between the parent and a  
31 child which may occur in the presence of the adjudicated juvenile who  
32 is residing with the parent.

33 (m)(i) The limitations imposed by the court under (a) or (b) of  
34 this subsection shall be reasonably calculated to protect the child  
35 from the physical, sexual, or emotional abuse or harm that could result  
36 if the child has contact with the parent requesting residential time.  
37 The limitations shall also be reasonably calculated to provide for the  
38 safety of the parent who may be at risk of physical, sexual, or

1 emotional abuse or harm that could result if the parent has contact  
2 with the parent requesting residential time. The limitations the court  
3 may impose include, but are not limited to: Supervised contact between  
4 the child and the parent or completion of relevant counseling or  
5 treatment. If the court expressly finds based on the evidence that  
6 limitations on the residential time with the child will not adequately  
7 protect the child from the harm or abuse that could result if the child  
8 has contact with the parent requesting residential time, the court  
9 shall restrain the parent requesting residential time from all contact  
10 with the child.

11 (ii) The court shall not enter an order under (a) of this  
12 subsection allowing a parent to have contact with a child if the parent  
13 has been found by clear and convincing evidence in a civil action or by  
14 a preponderance of the evidence in a dependency action to have sexually  
15 abused the child, except upon recommendation by an evaluator or  
16 therapist for the child that the child is ready for contact with the  
17 parent and will not be harmed by the contact. The court shall not  
18 enter an order allowing a parent to have contact with the child in the  
19 offender's presence if the parent resides with a person who has been  
20 found by clear and convincing evidence in a civil action or by a  
21 preponderance of the evidence in a dependency action to have sexually  
22 abused a child, unless the court finds that the parent accepts that the  
23 person engaged in the harmful conduct and the parent is willing to and  
24 capable of protecting the child from harm from the person.

25 (iii) If the court limits residential time under (a) or (b) of this  
26 subsection to require supervised contact between the child and the  
27 parent, the court shall not approve of a supervisor for contact between  
28 a child and a parent who has engaged in physical, sexual, or a pattern  
29 of emotional abuse of the child unless the court finds based upon the  
30 evidence that the supervisor accepts that the harmful conduct occurred  
31 and is willing to and capable of protecting the child from harm. The  
32 court shall revoke court approval of the supervisor upon finding, based  
33 on the evidence, that the supervisor has failed to protect the child or  
34 is no longer willing to or capable of protecting the child.

35 (n) If the court expressly finds based on the evidence that  
36 contact between the parent and the child will not cause physical,  
37 sexual, or emotional abuse or harm to the child and that the  
38 probability that the parent's or other person's harmful or abusive



1 conduct will recur is so remote that it would not be in the child's  
2 best interests to apply the limitations of (a), (b), and (m)(i) and  
3 (iii) of this subsection, or if the court expressly finds that the  
4 parent's conduct did not have an impact on the child, then the court  
5 need not apply the limitations of (a), (b), and (m)(i) and (iii) of  
6 this subsection. The weight given to the existence of a protection  
7 order issued under chapter 26.50 RCW as to domestic violence is within  
8 the discretion of the court. This subsection shall not apply when (c),  
9 (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this  
10 subsection apply.

11 (3) A parent's involvement or conduct may have an adverse effect on  
12 the child's best interests, and the court may preclude or limit any  
13 provisions of the parenting plan, if any of the following factors  
14 exist:

15 (a) A parent's neglect or substantial nonperformance of parenting  
16 functions;

17 (b) A long-term emotional or physical impairment which interferes  
18 with the parent's performance of parenting functions as defined in RCW  
19 26.09.004;

20 (c) A long-term impairment resulting from drug, alcohol, or other  
21 substance abuse that interferes with the performance of parenting  
22 functions;

23 (d) The absence or substantial impairment of emotional ties between  
24 the parent and the child;

25 (e) The abusive use of conflict by the parent which creates the  
26 danger of serious damage to the child's psychological development;

27 (f) A parent has withheld from the other parent access to the child  
28 for a protracted period without good cause; or

29 (g) Such other factors or conduct as the court expressly finds  
30 adverse to the best interests of the child.

31 (4) In cases involving allegations of limiting factors under  
32 subsection (2)(a)(ii) and (iii) of this section, both parties shall be  
33 screened to determine the appropriateness of a comprehensive assessment  
34 regarding the impact of the limiting factor on the child and the  
35 parties.

36 (5) In entering a permanent parenting plan, the court shall not  
37 draw any presumptions from the provisions of the temporary parenting  
38 plan.

1 (6) In determining whether any of the conduct described in this  
2 section has occurred, the court shall apply the civil rules of  
3 evidence, proof, and procedure.

4 (7) For the purposes of this section((7)):

5 (a) "A parent's child" means that parent's natural child, adopted  
6 child, or stepchild; and

7 (b) "Social worker" means a person with a master's or further  
8 advanced degree from a social work educational program accredited and  
9 approved as provided in section 2 of this act.

10 **Sec. 7.** RCW 26.10.160 and 2004 c 38 s 13 are each amended to read  
11 as follows:

12 (1) A parent not granted custody of the child is entitled to  
13 reasonable visitation rights except as provided in subsection (2) of  
14 this section.

15 (2)(a) Visitation with the child shall be limited if it is found  
16 that the parent seeking visitation has engaged in any of the following  
17 conduct: (i) Willful abandonment that continues for an extended period  
18 of time or substantial refusal to perform parenting functions; (ii)  
19 physical, sexual, or a pattern of emotional abuse of a child; (iii) a  
20 history of acts of domestic violence as defined in RCW 26.50.010(1) or  
21 an assault or sexual assault which causes grievous bodily harm or the  
22 fear of such harm; or (iv) the parent has been convicted as an adult of  
23 a sex offense under:

24 (A) RCW 9A.44.076 if, because of the difference in age between the  
25 offender and the victim, no rebuttable presumption exists under (d) of  
26 this subsection;

27 (B) RCW 9A.44.079 if, because of the difference in age between the  
28 offender and the victim, no rebuttable presumption exists under (d) of  
29 this subsection;

30 (C) RCW 9A.44.086 if, because of the difference in age between the  
31 offender and the victim, no rebuttable presumption exists under (d) of  
32 this subsection;

33 (D) RCW 9A.44.089;

34 (E) RCW 9A.44.093;

35 (F) RCW 9A.44.096;

36 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age

1 between the offender and the victim, no rebuttable presumption exists  
2 under (d) of this subsection;

3 (H) Chapter 9.68A RCW;

4 (I) Any predecessor or antecedent statute for the offenses listed  
5 in (a)(iv)(A) through (H) of this subsection;

6 (J) Any statute from any other jurisdiction that describes an  
7 offense analogous to the offenses listed in (a)(iv)(A) through (H) of  
8 this subsection.

9 This subsection (2)(a) shall not apply when (c) or (d) of this  
10 subsection applies.

11 (b) The parent's visitation with the child shall be limited if it  
12 is found that the parent resides with a person who has engaged in any  
13 of the following conduct: (i) Physical, sexual, or a pattern of  
14 emotional abuse of a child; (ii) a history of acts of domestic violence  
15 as defined in RCW 26.50.010(1) or an assault or sexual assault that  
16 causes grievous bodily harm or the fear of such harm; or (iii) the  
17 person has been convicted as an adult or as a juvenile has been  
18 adjudicated of a sex offense under:

19 (A) RCW 9A.44.076 if, because of the difference in age between the  
20 offender and the victim, no rebuttable presumption exists under (e) of  
21 this subsection;

22 (B) RCW 9A.44.079 if, because of the difference in age between the  
23 offender and the victim, no rebuttable presumption exists under (e) of  
24 this subsection;

25 (C) RCW 9A.44.086 if, because of the difference in age between the  
26 offender and the victim, no rebuttable presumption exists under (e) of  
27 this subsection;

28 (D) RCW 9A.44.089;

29 (E) RCW 9A.44.093;

30 (F) RCW 9A.44.096;

31 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
32 between the offender and the victim, no rebuttable presumption exists  
33 under (e) of this subsection;

34 (H) Chapter 9.68A RCW;

35 (I) Any predecessor or antecedent statute for the offenses listed  
36 in (b)(iii)(A) through (H) of this subsection;

37 (J) Any statute from any other jurisdiction that describes an

1 offense analogous to the offenses listed in (b)(iii)(A) through (H) of  
2 this subsection.

3 This subsection (2)(b) shall not apply when (c) or (e) of this  
4 subsection applies.

5 (c) If a parent has been found to be a sexual predator under  
6 chapter 71.09 RCW or under an analogous statute of any other  
7 jurisdiction, the court shall restrain the parent from contact with a  
8 child that would otherwise be allowed under this chapter. If a parent  
9 resides with an adult or a juvenile who has been found to be a sexual  
10 predator under chapter 71.09 RCW or under an analogous statute of any  
11 other jurisdiction, the court shall restrain the parent from contact  
12 with the parent's child except contact that occurs outside that  
13 person's presence.

14 (d) There is a rebuttable presumption that a parent who has been  
15 convicted as an adult of a sex offense listed in (d)(i) through (ix) of  
16 this subsection poses a present danger to a child. Unless the parent  
17 rebuts this presumption, the court shall restrain the parent from  
18 contact with a child that would otherwise be allowed under this  
19 chapter:

20 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
21 was at least five years older than the other person;

22 (ii) RCW 9A.44.073;

23 (iii) RCW 9A.44.076, provided that the person convicted was at  
24 least eight years older than the victim;

25 (iv) RCW 9A.44.079, provided that the person convicted was at least  
26 eight years older than the victim;

27 (v) RCW 9A.44.083;

28 (vi) RCW 9A.44.086, provided that the person convicted was at least  
29 eight years older than the victim;

30 (vii) RCW 9A.44.100;

31 (viii) Any predecessor or antecedent statute for the offenses  
32 listed in (d)(i) through (vii) of this subsection;

33 (ix) Any statute from any other jurisdiction that describes an  
34 offense analogous to the offenses listed in (d)(i) through (vii) of  
35 this subsection.

36 (e) There is a rebuttable presumption that a parent who resides  
37 with a person who, as an adult, has been convicted, or as a juvenile  
38 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)

1 of this subsection places a child at risk of abuse or harm when that  
2 parent exercises visitation in the presence of the convicted or  
3 adjudicated person. Unless the parent rebuts the presumption, the  
4 court shall restrain the parent from contact with the parent's child  
5 except for contact that occurs outside of the convicted or adjudicated  
6 person's presence:

7 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
8 was at least five years older than the other person;

9 (ii) RCW 9A.44.073;

10 (iii) RCW 9A.44.076, provided that the person convicted was at  
11 least eight years older than the victim;

12 (iv) RCW 9A.44.079, provided that the person convicted was at least  
13 eight years older than the victim;

14 (v) RCW 9A.44.083;

15 (vi) RCW 9A.44.086, provided that the person convicted was at least  
16 eight years older than the victim;

17 (vii) RCW 9A.44.100;

18 (viii) Any predecessor or antecedent statute for the offenses  
19 listed in (e)(i) through (vii) of this subsection;

20 (ix) Any statute from any other jurisdiction that describes an  
21 offense analogous to the offenses listed in (e)(i) through (vii) of  
22 this subsection.

23 (f) The presumption established in (d) of this subsection may be  
24 rebutted only after a written finding that:

25 (i) If the child was not the victim of the sex offense committed by  
26 the parent requesting visitation, (A) contact between the child and the  
27 offending parent is appropriate and poses minimal risk to the child,  
28 and (B) the offending parent has successfully engaged in treatment for  
29 sex offenders or is engaged in and making progress in such treatment,  
30 if any was ordered by a court, and the treatment provider believes such  
31 contact is appropriate and poses minimal risk to the child; or

32 (ii) If the child was the victim of the sex offense committed by  
33 the parent requesting visitation, (A) contact between the child and the  
34 offending parent is appropriate and poses minimal risk to the child,  
35 (B) if the child is in or has been in therapy for victims of sexual  
36 abuse, the child's counselor believes such contact between the child  
37 and the offending parent is in the child's best interest, and (C) the  
38 offending parent has successfully engaged in treatment for sex

1 offenders or is engaged in and making progress in such treatment, if  
2 any was ordered by a court, and the treatment provider believes such  
3 contact is appropriate and poses minimal risk to the child.

4 (g) The presumption established in (e) of this subsection may be  
5 rebutted only after a written finding that:

6 (i) If the child was not the victim of the sex offense committed by  
7 the person who is residing with the parent requesting visitation, (A)  
8 contact between the child and the parent residing with the convicted or  
9 adjudicated person is appropriate and that parent is able to protect  
10 the child in the presence of the convicted or adjudicated person, and  
11 (B) the convicted or adjudicated person has successfully engaged in  
12 treatment for sex offenders or is engaged in and making progress in  
13 such treatment, if any was ordered by a court, and the treatment  
14 provider believes such contact is appropriate and poses minimal risk to  
15 the child; or

16 (ii) If the child was the victim of the sex offense committed by  
17 the person who is residing with the parent requesting visitation, (A)  
18 contact between the child and the parent in the presence of the  
19 convicted or adjudicated person is appropriate and poses minimal risk  
20 to the child, (B) if the child is in or has been in therapy for victims  
21 of sexual abuse, the child's counselor believes such contact between  
22 the child and the parent residing with the convicted or adjudicated  
23 person in the presence of the convicted or adjudicated person is in the  
24 child's best interest, and (C) the convicted or adjudicated person has  
25 successfully engaged in treatment for sex offenders or is engaged in  
26 and making progress in such treatment, if any was ordered by a court,  
27 and the treatment provider believes contact between the parent and  
28 child in the presence of the convicted or adjudicated person is  
29 appropriate and poses minimal risk to the child.

30 (h) If the court finds that the parent has met the burden of  
31 rebutting the presumption under (f) of this subsection, the court may  
32 allow a parent who has been convicted as an adult of a sex offense  
33 listed in (d)(i) through (ix) of this subsection to have visitation  
34 with the child supervised by a neutral and independent adult and  
35 pursuant to an adequate plan for supervision of such visitation. The  
36 court shall not approve of a supervisor for contact between the child  
37 and the parent unless the court finds, based on the evidence, that the  
38 supervisor is willing and capable of protecting the child from harm.

1 The court shall revoke court approval of the supervisor upon finding,  
2 based on the evidence, that the supervisor has failed to protect the  
3 child or is no longer willing or capable of protecting the child.

4 (i) If the court finds that the parent has met the burden of  
5 rebutting the presumption under (g) of this subsection, the court may  
6 allow a parent residing with a person who has been adjudicated as a  
7 juvenile of a sex offense listed in (e)(i) through (ix) of this  
8 subsection to have visitation with the child in the presence of the  
9 person adjudicated as a juvenile, supervised by a neutral and  
10 independent adult and pursuant to an adequate plan for supervision of  
11 such visitation. The court shall not approve of a supervisor for  
12 contact between the child and the parent unless the court finds, based  
13 on the evidence, that the supervisor is willing and capable of  
14 protecting the child from harm. The court shall revoke court approval  
15 of the supervisor upon finding, based on the evidence, that the  
16 supervisor has failed to protect the child or is no longer willing or  
17 capable of protecting the child.

18 (j) If the court finds that the parent has met the burden of  
19 rebutting the presumption under (g) of this subsection, the court may  
20 allow a parent residing with a person who, as an adult, has been  
21 convicted of a sex offense listed in (e)(i) through (ix) of this  
22 subsection to have visitation with the child in the presence of the  
23 convicted person supervised by a neutral and independent adult and  
24 pursuant to an adequate plan for supervision of such visitation. The  
25 court shall not approve of a supervisor for contact between the child  
26 and the parent unless the court finds, based on the evidence, that the  
27 supervisor is willing and capable of protecting the child from harm.  
28 The court shall revoke court approval of the supervisor upon finding,  
29 based on the evidence, that the supervisor has failed to protect the  
30 child or is no longer willing or capable of protecting the child.

31 (k) A court shall not order unsupervised contact between the  
32 offending parent and a child of the offending parent who was sexually  
33 abused by that parent. A court may order unsupervised contact between  
34 the offending parent and a child who was not sexually abused by the  
35 parent after the presumption under (d) of this subsection has been  
36 rebutted and supervised visitation has occurred for at least two years  
37 with no further arrests or convictions of sex offenses involving  
38 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW

1 and (i) the sex offense of the offending parent was not committed  
2 against a child of the offending parent, and (ii) the court finds that  
3 unsupervised contact between the child and the offending parent is  
4 appropriate and poses minimal risk to the child, after consideration of  
5 the testimony of a state-certified therapist, mental health counselor,  
6 or social worker with expertise in treating child sexual abuse victims  
7 who has supervised at least one period of visitation between the parent  
8 and the child, and after consideration of evidence of the offending  
9 parent's compliance with community supervision requirements, if any.  
10 If the offending parent was not ordered by a court to participate in  
11 treatment for sex offenders, then the parent shall obtain a  
12 psychosexual evaluation conducted by a certified sex offender treatment  
13 provider or a certified affiliate sex offender treatment provider  
14 indicating that the offender has the lowest likelihood of risk to  
15 reoffend before the court grants unsupervised contact between the  
16 parent and a child.

17 (1) A court may order unsupervised contact between the parent and  
18 a child which may occur in the presence of a juvenile adjudicated of a  
19 sex offense listed in (e)(i) through (ix) of this subsection who  
20 resides with the parent after the presumption under (e) of this  
21 subsection has been rebutted and supervised visitation has occurred for  
22 at least two years during which time the adjudicated juvenile has had  
23 no further arrests, adjudications, or convictions of sex offenses  
24 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter  
25 9.68A RCW, and (i) the court finds that unsupervised contact between  
26 the child and the parent that may occur in the presence of the  
27 adjudicated juvenile is appropriate and poses minimal risk to the  
28 child, after consideration of the testimony of a state-certified  
29 therapist, mental health counselor, or social worker with expertise in  
30 treatment of child sexual abuse victims who has supervised at least one  
31 period of visitation between the parent and the child in the presence  
32 of the adjudicated juvenile, and after consideration of evidence of the  
33 adjudicated juvenile's compliance with community supervision or parole  
34 requirements, if any. If the adjudicated juvenile was not ordered by  
35 a court to participate in treatment for sex offenders, then the  
36 adjudicated juvenile shall obtain a psychosexual evaluation conducted  
37 by a certified sex offender treatment provider or a certified affiliate  
38 sex offender treatment provider indicating that the adjudicated



1 juvenile has the lowest likelihood of risk to reoffend before the court  
2 grants unsupervised contact between the parent and a child which may  
3 occur in the presence of the adjudicated juvenile who is residing with  
4 the parent.

5 (m)(i) The limitations imposed by the court under (a) or (b) of  
6 this subsection shall be reasonably calculated to protect the child  
7 from the physical, sexual, or emotional abuse or harm that could result  
8 if the child has contact with the parent requesting visitation. If the  
9 court expressly finds based on the evidence that limitations on  
10 visitation with the child will not adequately protect the child from  
11 the harm or abuse that could result if the child has contact with the  
12 parent requesting visitation, the court shall restrain the person  
13 seeking visitation from all contact with the child.

14 (ii) The court shall not enter an order under (a) of this  
15 subsection allowing a parent to have contact with a child if the parent  
16 has been found by clear and convincing evidence in a civil action or by  
17 a preponderance of the evidence in a dependency action to have sexually  
18 abused the child, except upon recommendation by an evaluator or  
19 therapist for the child that the child is ready for contact with the  
20 parent and will not be harmed by the contact. The court shall not  
21 enter an order allowing a parent to have contact with the child in the  
22 offender's presence if the parent resides with a person who has been  
23 found by clear and convincing evidence in a civil action or by a  
24 preponderance of the evidence in a dependency action to have sexually  
25 abused a child, unless the court finds that the parent accepts that the  
26 person engaged in the harmful conduct and the parent is willing to and  
27 capable of protecting the child from harm from the person.

28 (iii) If the court limits visitation under (a) or (b) of this  
29 subsection to require supervised contact between the child and the  
30 parent, the court shall not approve of a supervisor for contact between  
31 a child and a parent who has engaged in physical, sexual, or a pattern  
32 of emotional abuse of the child unless the court finds based upon the  
33 evidence that the supervisor accepts that the harmful conduct occurred  
34 and is willing to and capable of protecting the child from harm. The  
35 court shall revoke court approval of the supervisor upon finding, based  
36 on the evidence, that the supervisor has failed to protect the child or  
37 is no longer willing to or capable of protecting the child.

1 (n) If the court expressly finds based on the evidence that  
2 contact between the parent and the child will not cause physical,  
3 sexual, or emotional abuse or harm to the child and that the  
4 probability that the parent's or other person's harmful or abusive  
5 conduct will recur is so remote that it would not be in the child's  
6 best interests to apply the limitations of (a), (b), and (m)(i) and  
7 (iii) of this subsection, or if the court expressly finds that the  
8 parent's conduct did not have an impact on the child, then the court  
9 need not apply the limitations of (a), (b), and (m)(i) and (iii) of  
10 this subsection. The weight given to the existence of a protection  
11 order issued under chapter 26.50 RCW as to domestic violence is within  
12 the discretion of the court. This subsection shall not apply when (c),  
13 (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this  
14 subsection apply.

15 (3) Any person may petition the court for visitation rights at any  
16 time including, but not limited to, custody proceedings. The court may  
17 order visitation rights for any person when visitation may serve the  
18 best interest of the child whether or not there has been any change of  
19 circumstances.

20 (4) The court may modify an order granting or denying visitation  
21 rights whenever modification would serve the best interests of the  
22 child. Modification of a parent's visitation rights shall be subject  
23 to the requirements of subsection (2) of this section.

24 (5) For the purposes of this section(~~(7)~~):

25 (a) "A parent's child" means that parent's natural child, adopted  
26 child, or stepchild; and

27 (b) "Social worker" means a person with a master's or further  
28 advanced degree from a social work educational program accredited and  
29 approved as provided in section 2 of this act.

30 **Sec. 8.** RCW 28A.170.080 and 2005 c 497 s 213 are each amended to  
31 read as follows:

32 (1) Grants provided under RCW 28A.170.090 may be used solely for  
33 services provided by a substance abuse intervention specialist or for  
34 dedicated staff time for counseling and intervention services provided  
35 by any school district certificated employee who has been trained by  
36 and has access to consultation with a substance abuse intervention  
37 specialist. Services shall be directed at assisting students in

1 kindergarten through twelfth grade in overcoming problems of drug and  
2 alcohol abuse, and in preventing abuse and addiction to such  
3 substances, including nicotine. The grants shall require local  
4 matching funds so that the grant amounts support a maximum of eighty  
5 percent of the costs of the services funded. The services of a  
6 substance abuse intervention specialist may be obtained by means of a  
7 contract with a state or community services agency or a drug treatment  
8 center. Services provided by a substance abuse intervention specialist  
9 may include:

- 10 (a) Individual and family counseling, including preventive  
11 counseling;
- 12 (b) Assessment and referral for treatment;
- 13 (c) Referral to peer support groups;
- 14 (d) Aftercare;
- 15 (e) Development and supervision of student mentor programs;
- 16 (f) Staff training, including training in the identification of  
17 high-risk children and effective interaction with those children in the  
18 classroom; and
- 19 (g) Development and coordination of school drug and alcohol core  
20 teams, involving staff, students, parents, and community members.

21 (2) For the purposes of this section, "substance abuse intervention  
22 specialist" means any one of the following, except that diagnosis and  
23 assessment, counseling and aftercare specifically identified with  
24 treatment of chemical dependency shall be performed only by personnel  
25 who meet the same qualifications as are required of a qualified  
26 chemical dependency counselor employed by an alcoholism or drug  
27 treatment program approved by the department of social and health  
28 services.

29 (a) An educational staff associate employed by a school district or  
30 educational service district who holds certification as a school  
31 counselor, school psychologist, school nurse, or school social worker  
32 under Washington professional educator standards board rules adopted  
33 pursuant to RCW 28A.410.210;

34 (b) An individual who meets the definition of a qualified drug or  
35 alcohol counselor established by the bureau of alcohol and substance  
36 abuse;

37 (c) A (~~counselor, social worker, or other~~) qualified professional  
38 employed by the department of social and health services;

- 1 (d) A psychologist licensed under chapter 18.83 RCW; or
- 2 (e) A children's mental health specialist as defined in RCW
- 3 71.34.020.

4 **Sec. 9.** RCW 70.96A.037 and 2009 c 579 s 1 are each amended to read  
5 as follows:

6 (1) The department of social and health services shall contract for  
7 chemical dependency specialist services at division of children and  
8 family services offices to enhance the timeliness and quality of child  
9 protective services assessments and to better connect families to  
10 needed treatment services.

11 (2) The chemical dependency specialist's duties may include, but  
12 are not limited to: Conducting on-site chemical dependency screening  
13 and assessment, facilitating progress reports to department (~~social~~  
14 ~~workers~~) employees, in-service training of department (~~social~~  
15 ~~workers~~) employees and staff on substance abuse issues, referring  
16 clients from the department to treatment providers, and providing  
17 consultation on cases to department (~~social workers~~) employees.

18 (3) The department of social and health services shall provide  
19 training in and ensure that each case-carrying (~~social worker~~)  
20 employee is trained in uniform screening for mental health and chemical  
21 dependency.

22 **Sec. 10.** RCW 70.96B.010 and 2008 c 320 s 3 are each amended to  
23 read as follows:

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) "Admission" or "admit" means a decision by a physician that a  
27 person should be examined or treated as a patient in a hospital, an  
28 evaluation and treatment facility, or other inpatient facility, or a  
29 decision by a professional person in charge or his or her designee that  
30 a person should be detained as a patient for evaluation and treatment  
31 in a secure detoxification facility or other certified chemical  
32 dependency provider.

33 (2) "Antipsychotic medications" means that class of drugs primarily  
34 used to treat serious manifestations of mental illness associated with  
35 thought disorders, which includes but is not limited to atypical  
36 antipsychotic medications.

1 (3) "Approved treatment program" means a discrete program of  
2 chemical dependency treatment provided by a treatment program certified  
3 by the department as meeting standards adopted under chapter 70.96A  
4 RCW.

5 (4) "Attending staff" means any person on the staff of a public or  
6 private agency having responsibility for the care and treatment of a  
7 patient.

8 (5) "Chemical dependency" means:

9 (a) Alcoholism;

10 (b) Drug addiction; or

11 (c) Dependence on alcohol and one or more other psychoactive  
12 chemicals, as the context requires.

13 (6) "Chemical dependency professional" means a person certified as  
14 a chemical dependency professional by the department of health under  
15 chapter 18.205 RCW.

16 (7) "Commitment" means the determination by a court that a person  
17 should be detained for a period of either evaluation or treatment, or  
18 both, in an inpatient or a less restrictive setting.

19 (8) "Conditional release" means a revocable modification of a  
20 commitment that may be revoked upon violation of any of its terms.

21 (9) "Custody" means involuntary detention under either chapter  
22 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of  
23 unconditional release from commitment from a facility providing  
24 involuntary care and treatment.

25 (10) "Department" means the department of social and health  
26 services.

27 (11) "Designated chemical dependency specialist" or "specialist"  
28 means a person designated by the county alcoholism and other drug  
29 addiction program coordinator designated under RCW 70.96A.310 to  
30 perform the commitment duties described in RCW 70.96A.140 and this  
31 chapter, and qualified to do so by meeting standards adopted by the  
32 department.

33 (12) "Designated crisis responder" means a person designated by the  
34 county or regional support network to perform the duties specified in  
35 this chapter.

36 (13) "Designated mental health professional" means a mental health  
37 professional designated by the county or other authority authorized in  
38 rule to perform the duties specified in this chapter.

1 (14) "Detention" or "detain" means the lawful confinement of a  
2 person under this chapter, or chapter 70.96A or 71.05 RCW.

3 (15) "Developmental disabilities professional" means a person who  
4 has specialized training and three years of experience in directly  
5 treating or working with individuals with developmental disabilities  
6 and is a psychiatrist, psychologist, or social worker, and such other  
7 developmental disabilities professionals as may be defined by rules  
8 adopted by the secretary.

9 (16) "Developmental disability" means that condition defined in RCW  
10 71A.10.020.

11 (17) "Discharge" means the termination of facility authority. The  
12 commitment may remain in place, be terminated, or be amended by court  
13 order.

14 (18) "Evaluation and treatment facility" means any facility that  
15 can provide directly, or by direct arrangement with other public or  
16 private agencies, emergency evaluation and treatment, outpatient care,  
17 and timely and appropriate inpatient care to persons suffering from a  
18 mental disorder, and that is certified as such by the department. A  
19 physically separate and separately operated portion of a state hospital  
20 may be designated as an evaluation and treatment facility. A facility  
21 that is part of, or operated by, the department or any federal agency  
22 does not require certification. No correctional institution or  
23 facility, or jail, may be an evaluation and treatment facility within  
24 the meaning of this chapter.

25 (19) "Facility" means either an evaluation and treatment facility  
26 or a secure detoxification facility.

27 (20) "Gravely disabled" means a condition in which a person, as a  
28 result of a mental disorder, or as a result of the use of alcohol or  
29 other psychoactive chemicals:

30 (a) Is in danger of serious physical harm resulting from a failure  
31 to provide for his or her essential human needs of health or safety; or

32 (b) Manifests severe deterioration in routine functioning evidenced  
33 by repeated and escalating loss of cognitive or volitional control over  
34 his or her actions and is not receiving such care as is essential for  
35 his or her health or safety.

36 (21) "History of one or more violent acts" refers to the period of  
37 time ten years before the filing of a petition under this chapter, or  
38 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any

1 violent acts committed, in a mental health facility or a long-term  
2 alcoholism or drug treatment facility, or in confinement as a result of  
3 a criminal conviction.

4 (22) "Imminent" means the state or condition of being likely to  
5 occur at any moment or near at hand, rather than distant or remote.

6 (23) "Intoxicated person" means a person whose mental or physical  
7 functioning is substantially impaired as a result of the use of alcohol  
8 or other psychoactive chemicals.

9 (24) "Judicial commitment" means a commitment by a court under this  
10 chapter.

11 (25) "Licensed physician" means a person licensed to practice  
12 medicine or osteopathic medicine and surgery in the state of  
13 Washington.

14 (26) "Likelihood of serious harm" means:

15 (a) A substantial risk that:

16 (i) Physical harm will be inflicted by a person upon his or her own  
17 person, as evidenced by threats or attempts to commit suicide or  
18 inflict physical harm on oneself;

19 (ii) Physical harm will be inflicted by a person upon another, as  
20 evidenced by behavior that has caused such harm or that places another  
21 person or persons in reasonable fear of sustaining such harm; or

22 (iii) Physical harm will be inflicted by a person upon the property  
23 of others, as evidenced by behavior that has caused substantial loss or  
24 damage to the property of others; or

25 (b) The person has threatened the physical safety of another and  
26 has a history of one or more violent acts.

27 (27) "Mental disorder" means any organic, mental, or emotional  
28 impairment that has substantial adverse effects on a person's cognitive  
29 or volitional functions.

30 (28) "Mental health professional" means a psychiatrist,  
31 psychologist, psychiatric nurse, or social worker, and such other  
32 mental health professionals as may be defined by rules adopted by the  
33 secretary under the authority of chapter 71.05 RCW.

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

1 (30) "Person in charge" means a physician or chemical dependency  
2 counselor as defined in rule by the department, who is empowered by a  
3 certified treatment program with authority to make assessment,  
4 admission, continuing care, and discharge decisions on behalf of the  
5 certified program.

6 (31) "Private agency" means any person, partnership, corporation,  
7 or association that is not a public agency, whether or not financed in  
8 whole or in part by public funds, that constitutes an evaluation and  
9 treatment facility or private institution, or hospital, or approved  
10 treatment program, that is conducted for, or includes a department or  
11 ward conducted for, the care and treatment of persons who are mentally  
12 ill and/or chemically dependent.

13 (32) "Professional person" means a mental health professional or  
14 chemical dependency professional and shall also mean a physician,  
15 registered nurse, and such others as may be defined by rules adopted by  
16 the secretary pursuant to the provisions of this chapter.

17 (33) "Psychiatrist" means a person having a license as a physician  
18 and surgeon in this state who has in addition completed three years of  
19 graduate training in psychiatry in a program approved by the American  
20 medical association or the American osteopathic association and is  
21 certified or eligible to be certified by the American board of  
22 psychiatry and neurology.

23 (34) "Psychologist" means a person who has been licensed as a  
24 psychologist under chapter 18.83 RCW.

25 (35) "Public agency" means any evaluation and treatment facility or  
26 institution, or hospital, or approved treatment program that is  
27 conducted for, or includes a department or ward conducted for, the care  
28 and treatment of persons who are mentally ill and/or chemically  
29 dependent, if the agency is operated directly by federal, state,  
30 county, or municipal government, or a combination of such governments.

31 (36) "Registration records" means all the records of the  
32 department, regional support networks, treatment facilities, and other  
33 persons providing services to the department, county departments, or  
34 facilities which identify persons who are receiving or who at any time  
35 have received services for mental illness.

36 (37) "Release" means legal termination of the commitment under  
37 chapter 70.96A or 71.05 RCW or this chapter.



1 (38) "Secretary" means the secretary of the department or the  
2 secretary's designee.

3 (39) "Secure detoxification facility" means a facility operated by  
4 either a public or private agency or by the program of an agency that  
5 serves the purpose of providing evaluation and assessment, and acute  
6 and/or subacute detoxification services for intoxicated persons and  
7 includes security measures sufficient to protect the patients, staff,  
8 and community.

9 (40) "Social worker" means a person with a master's or further  
10 advanced degree from (~~(an accredited school of social work or a degree~~  
11 ~~deemed equivalent under rules adopted by the secretary)) a social work  
12 educational program accredited and approved as provided in section 2 of  
13 this act.~~

14 (41) "Treatment records" means registration records and all other  
15 records concerning persons who are receiving or who at any time have  
16 received services for mental illness, which are maintained by the  
17 department, by regional support networks and their staffs, and by  
18 treatment facilities. Treatment records do not include notes or  
19 records maintained for personal use by a person providing treatment  
20 services for the department, regional support networks, or a treatment  
21 facility if the notes or records are not available to others.

22 (42) "Violent act" means behavior that resulted in homicide,  
23 attempted suicide, nonfatal injuries, or substantial damage to  
24 property.

25 **Sec. 11.** RCW 70.97.010 and 2005 c 504 s 403 are each amended to  
26 read as follows:

27 The definitions in this section apply throughout this chapter  
28 unless the context clearly requires otherwise.

29 (1) "Antipsychotic medications" means that class of drugs primarily  
30 used to treat serious manifestations of mental illness associated with  
31 thought disorders, which includes but is not limited to atypical  
32 antipsychotic medications.

33 (2) "Attending staff" means any person on the staff of a public or  
34 private agency having responsibility for the care and treatment of a  
35 patient.

36 (3) "Chemical dependency" means alcoholism, drug addiction, or

1 dependence on alcohol and one or more other psychoactive chemicals, as  
2 the context requires and as those terms are defined in chapter 70.96A  
3 RCW.

4 (4) "Chemical dependency professional" means a person certified as  
5 a chemical dependency professional by the department of health under  
6 chapter 18.205 RCW.

7 (5) "Commitment" means the determination by a court that an  
8 individual should be detained for a period of either evaluation or  
9 treatment, or both, in an inpatient or a less restrictive setting.

10 (6) "Conditional release" means a modification of a commitment that  
11 may be revoked upon violation of any of its terms.

12 (7) "Custody" means involuntary detention under chapter 71.05 or  
13 70.96A RCW, uninterrupted by any period of unconditional release from  
14 commitment from a facility providing involuntary care and treatment.

15 (8) "Department" means the department of social and health  
16 services.

17 (9) "Designated responder" means a designated mental health  
18 professional, a designated chemical dependency specialist, or a  
19 designated crisis responder as those terms are defined in chapter  
20 70.96A, 71.05, or 70.96B RCW.

21 (10) "Detention" or "detain" means the lawful confinement of an  
22 individual under chapter 70.96A or 71.05 RCW.

23 (11) "Discharge" means the termination of facility authority. The  
24 commitment may remain in place, be terminated, or be amended by court  
25 order.

26 (12) "Enhanced services facility" means a facility that provides  
27 treatment and services to persons for whom acute inpatient treatment is  
28 not medically necessary and who have been determined by the department  
29 to be inappropriate for placement in other licensed facilities due to  
30 the complex needs that result in behavioral and security issues.

31 (13) "Expanded community services program" means a nonsecure  
32 program of enhanced behavioral and residential support provided to  
33 long-term and residential care providers serving specifically eligible  
34 clients who would otherwise be at risk for hospitalization at state  
35 hospital geriatric units.

36 (14) "Facility" means an enhanced services facility.

37 (15) "Gravely disabled" means a condition in which an individual,

1 as a result of a mental disorder, as a result of the use of alcohol or  
2 other psychoactive chemicals, or both:

3 (a) Is in danger of serious physical harm resulting from a failure  
4 to provide for his or her essential human needs of health or safety; or

5 (b) Manifests severe deterioration in routine functioning evidenced  
6 by repeated and escalating loss of cognitive or volitional control over  
7 his or her actions and is not receiving such care as is essential for  
8 his or her health or safety.

9 (16) "History of one or more violent acts" refers to the period of  
10 time ten years before the filing of a petition under this chapter, or  
11 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any  
12 violent acts committed, in a mental health facility or a long-term  
13 alcoholism or drug treatment facility, or in confinement as a result of  
14 a criminal conviction.

15 (17) "Licensed physician" means a person licensed to practice  
16 medicine or osteopathic medicine and surgery in the state of  
17 Washington.

18 (18) "Likelihood of serious harm" means:

19 (a) A substantial risk that:

20 (i) Physical harm will be inflicted by an individual upon his or  
21 her own person, as evidenced by threats or attempts to commit suicide  
22 or inflict physical harm on oneself;

23 (ii) Physical harm will be inflicted by an individual upon another,  
24 as evidenced by behavior that has caused such harm or that places  
25 another person or persons in reasonable fear of sustaining such harm;  
26 or

27 (iii) Physical harm will be inflicted by an individual upon the  
28 property of others, as evidenced by behavior that has caused  
29 substantial loss or damage to the property of others; or

30 (b) The individual has threatened the physical safety of another  
31 and has a history of one or more violent acts.

32 (19) "Mental disorder" means any organic, mental, or emotional  
33 impairment that has substantial adverse effects on an individual's  
34 cognitive or volitional functions.

35 (20) "Mental health professional" means a psychiatrist,  
36 psychologist, psychiatric nurse, or social worker, and such other  
37 mental health professionals as may be defined by rules adopted by the  
38 secretary under the authority of chapter 71.05 RCW.

1 (21) "Professional person" means a mental health professional and  
2 also means a physician, registered nurse, and such others as may be  
3 defined in rules adopted by the secretary pursuant to the provisions of  
4 this chapter.

5 (22) "Psychiatrist" means a person having a license as a physician  
6 and surgeon in this state who has in addition completed three years of  
7 graduate training in psychiatry in a program approved by the American  
8 medical association or the American osteopathic association and is  
9 certified or eligible to be certified by the American board of  
10 psychiatry and neurology.

11 (23) "Psychologist" means a person who has been licensed as a  
12 psychologist under chapter 18.83 RCW.

13 (24) "Registration records" include all the records of the  
14 department, regional support networks, treatment facilities, and other  
15 persons providing services to the department, county departments, or  
16 facilities which identify individuals who are receiving or who at any  
17 time have received services for mental illness.

18 (25) "Release" means legal termination of the commitment under  
19 chapter 70.96A or 71.05 RCW.

20 (26) "Resident" means a person admitted to an enhanced services  
21 facility.

22 (27) "Secretary" means the secretary of the department or the  
23 secretary's designee.

24 (28) "Significant change" means:

25 (a) A deterioration in a resident's physical, mental, or  
26 psychosocial condition that has caused or is likely to cause clinical  
27 complications or life-threatening conditions; or

28 (b) An improvement in the resident's physical, mental, or  
29 psychosocial condition that may make the resident eligible for release  
30 or for treatment in a less intensive or less secure setting.

31 (29) "Social worker" means a person with a master's or further  
32 advanced degree from (~~(an accredited school of social work or a degree~~  
33 ~~deemed equivalent under rules adopted by the secretary)) a social work  
34 educational program accredited and approved as provided in section 2 of  
35 this act.~~

36 (30) "Treatment" means the broad range of emergency,  
37 detoxification, residential, inpatient, and outpatient services and  
38 care, including diagnostic evaluation, mental health or chemical

1 dependency education and counseling, medical, psychiatric,  
2 psychological, and social service care, vocational rehabilitation, and  
3 career counseling, which may be extended to persons with mental  
4 disorders, chemical dependency disorders, or both, and their families.

5 (31) "Treatment records" include registration and all other records  
6 concerning individuals who are receiving or who at any time have  
7 received services for mental illness, which are maintained by the  
8 department, by regional support networks and their staffs, and by  
9 treatment facilities. "Treatment records" do not include notes or  
10 records maintained for personal use by an individual providing  
11 treatment services for the department, regional support networks, or a  
12 treatment facility if the notes or records are not available to others.

13 (32) "Violent act" means behavior that resulted in homicide,  
14 attempted suicide, nonfatal injuries, or substantial damage to  
15 property.

16 **Sec. 12.** RCW 70.126.020 and 1984 c 22 s 5 are each amended to read  
17 as follows:

18 (1) Home health care shall be provided by a home health agency and  
19 shall:

20 (a) Be delivered by a registered nurse, physical therapist,  
21 occupational therapist, speech therapist, or home health aide on a  
22 part-time or intermittent basis;

23 (b) Include, as applicable under the written plan, supplies and  
24 equipment such as:

25 (i) Drugs and medicines that are legally obtainable only upon a  
26 physician's written prescription, and insulin;

27 (ii) Rental of durable medical apparatus and medical equipment such  
28 as wheelchairs, hospital beds, respirators, splints, trusses, braces,  
29 or crutches needed for treatment;

30 (iii) Supplies normally used for hospital inpatients and dispensed  
31 by the home health agency such as oxygen, catheters, needles, syringes,  
32 dressings, materials used in aseptic techniques, irrigation solutions,  
33 and intravenous fluids.

34 (2) The following services may be included when medically  
35 necessary, ordered by the attending physician, and included in the  
36 approved plan of treatment:

37 (a) Licensed practical nurses;

1 (b) Respiratory therapists;

2 (c) Social workers holding a master's degree or further advanced  
3 degree from a social work educational program accredited and approved  
4 as provided in section 2 of this act;

5 (d) Ambulance service that is certified by the physician as  
6 necessary in the approved plan of treatment because of the patient's  
7 physical condition or for unexpected emergency situations.

8 (3) Services not included in home health care include:

9 (a) Nonmedical, custodial, or housekeeping services except by home  
10 health aides as ordered in the approved plan of treatment;

11 (b) "Meals on Wheels" or similar food services;

12 (c) Nutritional guidance;

13 (d) Services performed by family members;

14 (e) Services not included in an approved plan of treatment;

15 (f) Supportive environmental materials such as handrails, ramps,  
16 telephones, air conditioners, and similar appliances and devices.

17 **Sec. 13.** RCW 70.127.010 and 2003 c 140 s 7 are each amended to  
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout this chapter.

21 (1) "Administrator" means an individual responsible for managing  
22 the operation of an agency.

23 (2) "Department" means the department of health.

24 (3) "Director of clinical services" means an individual responsible  
25 for nursing, therapy, nutritional, social, and related services that  
26 support the plan of care provided by in-home health and hospice  
27 agencies.

28 (4) "Family" means individuals who are important to, and designated  
29 by, the patient or client and who need not be relatives.

30 (5) "Home care agency" means a person administering or providing  
31 home care services directly or through a contract arrangement to  
32 individuals in places of temporary or permanent residence. A home care  
33 agency that provides delegated tasks of nursing under RCW  
34 18.79.260(3)(e) is not considered a home health agency for the purposes  
35 of this chapter.

36 (6) "Home care services" means nonmedical services and assistance  
37 provided to ill, disabled, or vulnerable individuals that enable them

1 to remain in their residences. Home care services include, but are not  
2 limited to: Personal care such as assistance with dressing, feeding,  
3 and personal hygiene to facilitate self-care; homemaker assistance with  
4 household tasks, such as housekeeping, shopping, meal planning and  
5 preparation, and transportation; respite care assistance and support  
6 provided to the family; or other nonmedical services or delegated tasks  
7 of nursing under RCW 18.79.260(3)(e).

8 (7) "Home health agency" means a person administering or providing  
9 two or more home health services directly or through a contract  
10 arrangement to individuals in places of temporary or permanent  
11 residence. A person administering or providing nursing services only  
12 may elect to be designated a home health agency for purposes of  
13 licensure.

14 (8) "Home health services" means services provided to ill,  
15 disabled, or vulnerable individuals. These services include but are  
16 not limited to nursing services, home health aide services, physical  
17 therapy services, occupational therapy services, speech therapy  
18 services, respiratory therapy services, nutritional services, medical  
19 social services, and home medical supplies or equipment services.

20 (9) "Home health aide services" means services provided by a home  
21 health agency or a hospice agency under the supervision of a registered  
22 nurse, physical therapist, occupational therapist, or speech therapist  
23 who is employed by or under contract to a home health or hospice  
24 agency. Such care includes ambulation and exercise, assistance with  
25 self-administered medications, reporting changes in patients'  
26 conditions and needs, completing appropriate records, and personal care  
27 or homemaker services.

28 (10) "Home medical supplies" or "equipment services" means  
29 diagnostic, treatment, and monitoring equipment and supplies provided  
30 for the direct care of individuals within a plan of care.

31 (11) "Hospice agency" means a person administering or providing  
32 hospice services directly or through a contract arrangement to  
33 individuals in places of temporary or permanent residence under the  
34 direction of an interdisciplinary team composed of at least a nurse,  
35 social worker, physician, spiritual counselor, and a volunteer.

36 (12) "Hospice care center" means a homelike, noninstitutional  
37 facility where hospice services are provided, and that meets the  
38 requirements for operation under RCW 70.127.280.

1 (13) "Hospice services" means symptom and pain management provided  
2 to a terminally ill individual, and emotional, spiritual, and  
3 bereavement support for the individual and family in a place of  
4 temporary or permanent residence, and may include the provision of home  
5 health and home care services for the terminally ill individual.

6 (14) "In-home services agency" means a person licensed to  
7 administer or provide home health, home care, hospice services, or  
8 hospice care center services directly or through a contract arrangement  
9 to individuals in a place of temporary or permanent residence.

10 (15) "Person" means any individual, business, firm, partnership,  
11 corporation, company, association, joint stock association, public or  
12 private agency or organization, or the legal successor thereof that  
13 employs or contracts with two or more individuals.

14 (16) "Plan of care" means a written document based on assessment of  
15 individual needs that identifies services to meet these needs.

16 (17) "Quality improvement" means reviewing and evaluating  
17 appropriateness and effectiveness of services provided under this  
18 chapter.

19 (18) "Service area" means the geographic area in which the  
20 department has given prior approval to a licensee to provide home  
21 health, hospice, or home care services.

22 (19) "Social worker" means a person with a degree from a social  
23 work educational program accredited and approved as provided in section  
24 2 of this act or who meets qualifications provided in 42 C.F.R. Sec.  
25 418.114 as it existed on the effective date of this section.

26 (20) "Survey" means an inspection conducted by the department to  
27 evaluate and monitor an agency's compliance with this chapter.

28 **Sec. 14.** RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 are  
29 each reenacted and amended to read as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) "Admission" or "admit" means a decision by a physician or  
33 psychiatric advanced registered nurse practitioner that a person should  
34 be examined or treated as a patient in a hospital;

35 (2) "Antipsychotic medications" means that class of drugs primarily  
36 used to treat serious manifestations of mental illness associated with



1 thought disorders, which includes, but is not limited to atypical  
2 antipsychotic medications;

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

6 (4) "Commitment" means the determination by a court that a person  
7 should be detained for a period of either evaluation or treatment, or  
8 both, in an inpatient or a less restrictive setting;

9 (5) "Conditional release" means a revocable modification of a  
10 commitment, which may be revoked upon violation of any of its terms;

11 (6) "Crisis stabilization unit" means a short-term facility or a  
12 portion of a facility licensed by the department of health and  
13 certified by the department of social and health services under RCW  
14 71.24.035, such as an evaluation and treatment facility or a hospital,  
15 which has been designed to assess, diagnose, and treat individuals  
16 experiencing an acute crisis without the use of long-term  
17 hospitalization;

18 (7) "Custody" means involuntary detention under the provisions of  
19 this chapter or chapter 10.77 RCW, uninterrupted by any period of  
20 unconditional release from commitment from a facility providing  
21 involuntary care and treatment;

22 (8) "Department" means the department of social and health  
23 services;

24 (9) "Designated chemical dependency specialist" means a person  
25 designated by the county alcoholism and other drug addiction program  
26 coordinator designated under RCW 70.96A.310 to perform the commitment  
27 duties described in chapters 70.96A and 70.96B RCW;

28 (10) "Designated crisis responder" means a mental health  
29 professional appointed by the county or the regional support network to  
30 perform the duties specified in this chapter;

31 (11) "Designated mental health professional" means a mental health  
32 professional designated by the county or other authority authorized in  
33 rule to perform the duties specified in this chapter;

34 (12) "Detention" or "detain" means the lawful confinement of a  
35 person, under the provisions of this chapter;

36 (13) "Developmental disabilities professional" means a person who  
37 has specialized training and three years of experience in directly  
38 treating or working with persons with developmental disabilities and is

1 a psychiatrist, psychologist, psychiatric advanced registered nurse  
2 practitioner, or social worker, and such other developmental  
3 disabilities professionals as may be defined by rules adopted by the  
4 secretary;

5 (14) "Developmental disability" means that condition defined in RCW  
6 71A.10.020(3);

7 (15) "Discharge" means the termination of hospital medical  
8 authority. The commitment may remain in place, be terminated, or be  
9 amended by court order;

10 (16) "Evaluation and treatment facility" means any facility which  
11 can provide directly, or by direct arrangement with other public or  
12 private agencies, emergency evaluation and treatment, outpatient care,  
13 and timely and appropriate inpatient care to persons suffering from a  
14 mental disorder, and which is certified as such by the department. A  
15 physically separate and separately operated portion of a state hospital  
16 may be designated as an evaluation and treatment facility. A facility  
17 which is part of, or operated by, the department or any federal agency  
18 will not require certification. No correctional institution or  
19 facility, or jail, shall be an evaluation and treatment facility within  
20 the meaning of this chapter;

21 (17) "Gravely disabled" means a condition in which a person, as a  
22 result of a mental disorder: (a) Is in danger of serious physical harm  
23 resulting from a failure to provide for his or her essential human  
24 needs of health or safety; or (b) manifests severe deterioration in  
25 routine functioning evidenced by repeated and escalating loss of  
26 cognitive or volitional control over his or her actions and is not  
27 receiving such care as is essential for his or her health or safety;

28 (18) "Habilitative services" means those services provided by  
29 program personnel to assist persons in acquiring and maintaining life  
30 skills and in raising their levels of physical, mental, social, and  
31 vocational functioning. Habilitative services include education,  
32 training for employment, and therapy. The habilitative process shall  
33 be undertaken with recognition of the risk to the public safety  
34 presented by the person being assisted as manifested by prior charged  
35 criminal conduct;

36 (19) "History of one or more violent acts" refers to the period of  
37 time ten years prior to the filing of a petition under this chapter,

1 excluding any time spent, but not any violent acts committed, in a  
2 mental health facility or in confinement as a result of a criminal  
3 conviction;

4 (20) "Imminent" means the state or condition of being likely to  
5 occur at any moment or near at hand, rather than distant or remote;

6 (21) "Individualized service plan" means a plan prepared by a  
7 developmental disabilities professional with other professionals as a  
8 team, for a person with developmental disabilities, which shall state:

9 (a) The nature of the person's specific problems, prior charged  
10 criminal behavior, and habilitation needs;

11 (b) The conditions and strategies necessary to achieve the purposes  
12 of habilitation;

13 (c) The intermediate and long-range goals of the habilitation  
14 program, with a projected timetable for the attainment;

15 (d) The rationale for using this plan of habilitation to achieve  
16 those intermediate and long-range goals;

17 (e) The staff responsible for carrying out the plan;

18 (f) Where relevant in light of past criminal behavior and due  
19 consideration for public safety, the criteria for proposed movement to  
20 less-restrictive settings, criteria for proposed eventual discharge or  
21 release, and a projected possible date for discharge or release; and

22 (g) The type of residence immediately anticipated for the person  
23 and possible future types of residences;

24 (22) "Information related to mental health services" means all  
25 information and records compiled, obtained, or maintained in the course  
26 of providing services to either voluntary or involuntary recipients of  
27 services by a mental health service provider. This may include  
28 documents of legal proceedings under this chapter or chapter 71.34 or  
29 10.77 RCW, or somatic health care information;

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

32 (24) "Legal counsel" means attorneys and staff employed by county  
33 prosecutor offices or the state attorney general acting in their  
34 capacity as legal representatives of public mental health service  
35 providers under RCW 71.05.130;

36 (25) "Likelihood of serious harm" means:

37 (a) A substantial risk that: (i) Physical harm will be inflicted  
38 by a person upon his or her own person, as evidenced by threats or

1 attempts to commit suicide or inflict physical harm on oneself; (ii)  
2 physical harm will be inflicted by a person upon another, as evidenced  
3 by behavior which has caused such harm or which places another person  
4 or persons in reasonable fear of sustaining such harm; or (iii)  
5 physical harm will be inflicted by a person upon the property of  
6 others, as evidenced by behavior which has caused substantial loss or  
7 damage to the property of others; or

8 (b) The person has threatened the physical safety of another and  
9 has a history of one or more violent acts;

10 (26) "Mental disorder" means any organic, mental, or emotional  
11 impairment which has substantial adverse effects on a person's  
12 cognitive or volitional functions;

13 (27) "Mental health professional" means a psychiatrist,  
14 psychologist, psychiatric advanced registered nurse practitioner,  
15 psychiatric nurse, or social worker, and such other mental health  
16 professionals as may be defined by rules adopted by the secretary  
17 pursuant to the provisions of this chapter;

18 (28) "Mental health service provider" means a public or private  
19 agency that provides mental health services to persons with mental  
20 disorders as defined under this section and receives funding from  
21 public sources. This includes, but is not limited to, hospitals  
22 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
23 as defined in this section, community mental health service delivery  
24 systems or community mental health programs as defined in RCW  
25 71.24.025, facilities conducting competency evaluations and restoration  
26 under chapter 10.77 RCW, and correctional facilities operated by state  
27 and local governments;

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

32 (30) "Private agency" means any person, partnership, corporation,  
33 or association that is not a public agency, whether or not financed in  
34 whole or in part by public funds, which constitutes an evaluation and  
35 treatment facility or private institution, or hospital, which is  
36 conducted for, or includes a department or ward conducted for, the care  
37 and treatment of persons who are mentally ill;

1 (31) "Professional person" means a mental health professional and  
2 shall also mean a physician, psychiatric advanced registered nurse  
3 practitioner, registered nurse, and such others as may be defined by  
4 rules adopted by the secretary pursuant to the provisions of this  
5 chapter;

6 (32) "Psychiatric advanced registered nurse practitioner" means a  
7 person who is licensed as an advanced registered nurse practitioner  
8 pursuant to chapter 18.79 RCW; and who is board certified in advanced  
9 practice psychiatric and mental health nursing;

10 (33) "Psychiatrist" means a person having a license as a physician  
11 and surgeon in this state who has in addition completed three years of  
12 graduate training in psychiatry in a program approved by the American  
13 medical association or the American osteopathic association and is  
14 certified or eligible to be certified by the American board of  
15 psychiatry and neurology;

16 (34) "Psychologist" means a person who has been licensed as a  
17 psychologist pursuant to chapter 18.83 RCW;

18 (35) "Public agency" means any evaluation and treatment facility or  
19 institution, or hospital which is conducted for, or includes a  
20 department or ward conducted for, the care and treatment of persons  
21 with mental illness, if the agency is operated directly by, federal,  
22 state, county, or municipal government, or a combination of such  
23 governments;

24 (36) "Registration records" include all the records of the  
25 department, regional support networks, treatment facilities, and other  
26 persons providing services to the department, county departments, or  
27 facilities which identify persons who are receiving or who at any time  
28 have received services for mental illness;

29 (37) "Release" means legal termination of the commitment under the  
30 provisions of this chapter;

31 (38) "Resource management services" has the meaning given in  
32 chapter 71.24 RCW;

33 (39) "Secretary" means the secretary of the department of social  
34 and health services, or his or her designee;

35 (40) "Serious violent offense" has the same meaning as provided in  
36 RCW 9.94A.030;

37 (41) "Social worker" means a person with a master's or further  
38 advanced degree from (~~an accredited school of social work or a degree~~

1 ~~deemed equivalent under rules adopted by the secretary))~~ a social work  
2 educational program accredited and approved as provided in section 2 of  
3 this act;

4 (42) "Therapeutic court personnel" means the staff of a mental  
5 health court or other therapeutic court which has jurisdiction over  
6 defendants who are dually diagnosed with mental disorders, including  
7 court personnel, probation officers, a court monitor, prosecuting  
8 attorney, or defense counsel acting within the scope of therapeutic  
9 court duties;

10 (43) "Treatment records" include registration and all other records  
11 concerning persons who are receiving or who at any time have received  
12 services for mental illness, which are maintained by the department, by  
13 regional support networks and their staffs, and by treatment  
14 facilities. Treatment records include mental health information  
15 contained in a medical bill including but not limited to mental health  
16 drugs, a mental health diagnosis, provider name, and dates of service  
17 stemming from a medical service. Treatment records do not include  
18 notes or records maintained for personal use by a person providing  
19 treatment services for the department, regional support networks, or a  
20 treatment facility if the notes or records are not available to others;

21 (44) "Violent act" means behavior that resulted in homicide,  
22 attempted suicide, nonfatal injuries, or substantial damage to  
23 property.

24 **Sec. 15.** RCW 71.32.020 and 2003 c 283 s 2 are each amended to read  
25 as follows:

26 The definitions in this section apply throughout this chapter  
27 unless the context clearly requires otherwise.

28 (1) "Adult" means any individual who has attained the age of  
29 majority or is an emancipated minor.

30 (2) "Agent" has the same meaning as an attorney-in-fact or agent as  
31 provided in chapter 11.94 RCW.

32 (3) "Capacity" means that an adult has not been found to be  
33 incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

34 (4) "Court" means a superior court under chapter 2.08 RCW.

35 (5) "Health care facility" means a hospital, as defined in RCW  
36 70.41.020; an institution, as defined in RCW 71.12.455; a state

1 hospital, as defined in RCW 72.23.010; a nursing home, as defined in  
2 RCW 18.51.010; or a clinic that is part of a community mental health  
3 service delivery system, as defined in RCW 71.24.025.

4 (6) "Health care provider" means an osteopathic physician or  
5 osteopathic physician's assistant licensed under chapter 18.57 or  
6 18.57A RCW, a physician or physician's assistant licensed under chapter  
7 18.71 or 18.71A RCW, or an advanced registered nurse practitioner  
8 licensed under RCW 18.79.050.

9 (7) "Incapacitated" means an adult who: (a) Is unable to  
10 understand the nature, character, and anticipated results of proposed  
11 treatment or alternatives; understand the recognized serious possible  
12 risks, complications, and anticipated benefits in treatments and  
13 alternatives, including nontreatment; or communicate his or her  
14 understanding or treatment decisions; or (b) has been found to be  
15 incompetent pursuant to RCW 11.88.010(1)(e).

16 (8) "Informed consent" means consent that is given after the  
17 person: (a) Is provided with a description of the nature, character,  
18 and anticipated results of proposed treatments and alternatives, and  
19 the recognized serious possible risks, complications, and anticipated  
20 benefits in the treatments and alternatives, including nontreatment, in  
21 language that the person can reasonably be expected to understand; or  
22 (b) elects not to be given the information included in (a) of this  
23 subsection.

24 (9) "Long-term care facility" has the same meaning as defined in  
25 RCW 43.190.020.

26 (10) "Mental disorder" means any organic, mental, or emotional  
27 impairment which has substantial adverse effects on an individual's  
28 cognitive or volitional functions.

29 (11) "Mental health advance directive" or "directive" means a  
30 written document in which the principal makes a declaration of  
31 instructions or preferences or appoints an agent to make decisions on  
32 behalf of the principal regarding the principal's mental health  
33 treatment, or both, and that is consistent with the provisions of this  
34 chapter.

35 (12) "Mental health professional" means a psychiatrist,  
36 psychologist, psychiatric nurse, or social worker, and such other  
37 mental health professionals as may be defined by rules adopted by the  
38 secretary pursuant to the provisions of chapter 71.05 RCW.

1 (13) "Principal" means an adult who has executed a mental health  
2 advance directive.

3 (14) "Professional person" means a mental health professional and  
4 shall also mean a physician, registered nurse, and such others as may  
5 be defined by rules adopted by the secretary pursuant to the provisions  
6 of chapter 71.05 RCW.

7 (15) "Social worker" means a person with a master's or further  
8 advanced degree from a social work educational program accredited and  
9 approved as provided in section 2 of this act.

10 **Sec. 16.** RCW 71.34.020 and 2010 c 94 s 20 are each amended to read  
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in  
13 this section apply throughout this chapter.

14 (1) "Child psychiatrist" means a person having a license as a  
15 physician and surgeon in this state, who has had graduate training in  
16 child psychiatry in a program approved by the American Medical  
17 Association or the American Osteopathic Association, and who is board  
18 eligible or board certified in child psychiatry.

19 (2) "Children's mental health specialist" means:

20 (a) A mental health professional who has completed a minimum of one  
21 hundred actual hours, not quarter or semester hours, of specialized  
22 training devoted to the study of child development and the treatment of  
23 children; and

24 (b) A mental health professional who has the equivalent of one year  
25 of full-time experience in the treatment of children under the  
26 supervision of a children's mental health specialist.

27 (3) "Commitment" means a determination by a judge or court  
28 commissioner, made after a commitment hearing, that the minor is in  
29 need of inpatient diagnosis, evaluation, or treatment or that the minor  
30 is in need of less restrictive alternative treatment.

31 (4) "Department" means the department of social and health  
32 services.

33 (5) "Designated mental health professional" means a mental health  
34 professional designated by one or more counties to perform the  
35 functions of a designated mental health professional described in this  
36 chapter.



1 (6) "Evaluation and treatment facility" means a public or private  
2 facility or unit that is certified by the department to provide  
3 emergency, inpatient, residential, or outpatient mental health  
4 evaluation and treatment services for minors. A physically separate  
5 and separately-operated portion of a state hospital may be designated  
6 as an evaluation and treatment facility for minors. A facility which  
7 is part of or operated by the department or federal agency does not  
8 require certification. No correctional institution or facility,  
9 juvenile court detention facility, or jail may be an evaluation and  
10 treatment facility within the meaning of this chapter.

11 (7) "Evaluation and treatment program" means the total system of  
12 services and facilities coordinated and approved by a county or  
13 combination of counties for the evaluation and treatment of minors  
14 under this chapter.

15 (8) "Gravely disabled minor" means a minor who, as a result of a  
16 mental disorder, is in danger of serious physical harm resulting from  
17 a failure to provide for his or her essential human needs of health or  
18 safety, or manifests severe deterioration in routine functioning  
19 evidenced by repeated and escalating loss of cognitive or volitional  
20 control over his or her actions and is not receiving such care as is  
21 essential for his or her health or safety.

22 (9) "Inpatient treatment" means twenty-four-hour-per-day mental  
23 health care provided within a general hospital, psychiatric hospital,  
24 or residential treatment facility certified by the department as an  
25 evaluation and treatment facility for minors.

26 (10) "Less restrictive alternative" or "less restrictive setting"  
27 means outpatient treatment provided to a minor who is not residing in  
28 a facility providing inpatient treatment as defined in this chapter.

29 (11) "Likelihood of serious harm" means either: (a) A substantial  
30 risk that physical harm will be inflicted by an individual upon his or  
31 her own person, as evidenced by threats or attempts to commit suicide  
32 or inflict physical harm on oneself; (b) a substantial risk that  
33 physical harm will be inflicted by an individual upon another, as  
34 evidenced by behavior which has caused such harm or which places  
35 another person or persons in reasonable fear of sustaining such harm;  
36 or (c) a substantial risk that physical harm will be inflicted by an  
37 individual upon the property of others, as evidenced by behavior which  
38 has caused substantial loss or damage to the property of others.

1 (12) "Medical necessity" for inpatient care means a requested  
2 service which is reasonably calculated to: (a) Diagnose, correct,  
3 cure, or alleviate a mental disorder; or (b) prevent the worsening of  
4 mental conditions that endanger life or cause suffering and pain, or  
5 result in illness or infirmity or threaten to cause or aggravate a  
6 handicap, or cause physical deformity or malfunction, and there is no  
7 adequate less restrictive alternative available.

8 (13) "Mental disorder" means any organic, mental, or emotional  
9 impairment that has substantial adverse effects on an individual's  
10 cognitive or volitional functions. The presence of alcohol abuse, drug  
11 abuse, juvenile criminal history, antisocial behavior, or intellectual  
12 disabilities alone is insufficient to justify a finding of "mental  
13 disorder" within the meaning of this section.

14 (14) "Mental health professional" means a psychiatrist,  
15 psychologist, psychiatric nurse, or social worker, and such other  
16 mental health professionals as may be defined by rules adopted by the  
17 secretary under this chapter.

18 (15) "Minor" means any person under the age of eighteen years.

19 (16) "Outpatient treatment" means any of the nonresidential  
20 services mandated under chapter 71.24 RCW and provided by licensed  
21 services providers as identified by RCW 71.24.025.

22 (17) "Parent" means:

23 (a) A biological or adoptive parent who has legal custody of the  
24 child, including either parent if custody is shared under a joint  
25 custody agreement; or

26 (b) A person or agency judicially appointed as legal guardian or  
27 custodian of the child.

28 (18) "Professional person in charge" or "professional person" means  
29 a physician or other mental health professional empowered by an  
30 evaluation and treatment facility with authority to make admission and  
31 discharge decisions on behalf of that facility.

32 (19) "Psychiatric nurse" means a registered nurse who has a  
33 bachelor's degree from an accredited college or university, and who has  
34 had, in addition, at least two years' experience in the direct  
35 treatment of persons who have a mental illness or who are emotionally  
36 disturbed, such experience gained under the supervision of a mental  
37 health professional. "Psychiatric nurse" shall also mean any other  
38 registered nurse who has three years of such experience.

1 (20) "Psychiatrist" means a person having a license as a physician  
2 in this state who has completed residency training in psychiatry in a  
3 program approved by the American Medical Association or the American  
4 Osteopathic Association, and is board eligible or board certified in  
5 psychiatry.

6 (21) "Psychologist" means a person licensed as a psychologist under  
7 chapter 18.83 RCW.

8 (22) "Responsible other" means the minor, the minor's parent or  
9 estate, or any other person legally responsible for support of the  
10 minor.

11 (23) "Secretary" means the secretary of the department or  
12 secretary's designee.

13 (24) "Social worker" means a person with a master's or further  
14 advanced degree from a social work educational program accredited and  
15 approved as provided in section 2 of this act.

16 (25) "Start of initial detention" means the time of arrival of the  
17 minor at the first evaluation and treatment facility offering inpatient  
18 treatment if the minor is being involuntarily detained at the time.  
19 With regard to voluntary patients, "start of initial detention" means  
20 the time at which the minor gives notice of intent to leave under the  
21 provisions of this chapter.

22 **Sec. 17.** RCW 74.13.029 and 2009 c 491 s 8 are each amended to read  
23 as follows:

24 Once a dependency is established under chapter 13.34 RCW, the  
25 (~~social worker~~) department employee assigned to the case shall  
26 provide the dependent child age twelve years and older with a document  
27 containing the information described in RCW 74.13.031(16). The  
28 (~~social worker~~) department employee shall explain the contents of the  
29 document to the child and direct the child to the department's web site  
30 for further information. The (~~social worker~~) department employee  
31 shall document, in the electronic data system, that this requirement  
32 was met.

33 **Sec. 18.** RCW 74.34.020 and 2010 c 133 s 2 are each amended to read  
34 as follows:

35 Unless the context clearly requires otherwise, the definitions in  
36 this section apply throughout this chapter.

1 (1) "Abandonment" means action or inaction by a person or entity  
2 with a duty of care for a vulnerable adult that leaves the vulnerable  
3 person without the means or ability to obtain necessary food, clothing,  
4 shelter, or health care.

5 (2) "Abuse" means the willful action or inaction that inflicts  
6 injury, unreasonable confinement, intimidation, or punishment on a  
7 vulnerable adult. In instances of abuse of a vulnerable adult who is  
8 unable to express or demonstrate physical harm, pain, or mental  
9 anguish, the abuse is presumed to cause physical harm, pain, or mental  
10 anguish. Abuse includes sexual abuse, mental abuse, physical abuse,  
11 and exploitation of a vulnerable adult, which have the following  
12 meanings:

13 (a) "Sexual abuse" means any form of nonconsensual sexual contact,  
14 including but not limited to unwanted or inappropriate touching, rape,  
15 sodomy, sexual coercion, sexually explicit photographing, and sexual  
16 harassment. Sexual abuse includes any sexual contact between a staff  
17 person, who is not also a resident or client, of a facility or a staff  
18 person of a program authorized under chapter 71A.12 RCW, and a  
19 vulnerable adult living in that facility or receiving service from a  
20 program authorized under chapter 71A.12 RCW, whether or not it is  
21 consensual.

22 (b) "Physical abuse" means the willful action of inflicting bodily  
23 injury or physical mistreatment. Physical abuse includes, but is not  
24 limited to, striking with or without an object, slapping, pinching,  
25 choking, kicking, shoving, prodding, or the use of chemical restraints  
26 or physical restraints unless the restraints are consistent with  
27 licensing requirements, and includes restraints that are otherwise  
28 being used inappropriately.

29 (c) "Mental abuse" means any willful action or inaction of mental  
30 or verbal abuse. Mental abuse includes, but is not limited to,  
31 coercion, harassment, inappropriately isolating a vulnerable adult from  
32 family, friends, or regular activity, and verbal assault that includes  
33 ridiculing, intimidating, yelling, or swearing.

34 (d) "Exploitation" means an act of forcing, compelling, or exerting  
35 undue influence over a vulnerable adult causing the vulnerable adult to  
36 act in a way that is inconsistent with relevant past behavior, or  
37 causing the vulnerable adult to perform services for the benefit of  
38 another.

1 (3) "Consent" means express written consent granted after the  
2 vulnerable adult or his or her legal representative has been fully  
3 informed of the nature of the services to be offered and that the  
4 receipt of services is voluntary.

5 (4) "Department" means the department of social and health  
6 services.

7 (5) "Facility" means a residence licensed or required to be  
8 licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW,  
9 nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36  
10 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation  
11 centers; or any other facility licensed by the department.

12 (6) "Financial exploitation" means the illegal or improper use of  
13 the property, income, resources, or trust funds of the vulnerable adult  
14 by any person for any person's profit or advantage other than for the  
15 vulnerable adult's profit or advantage.

16 (7) "Financial institution" has the same meaning as in RCW  
17 30.22.040 and 30.22.041. For purposes of this chapter only, "financial  
18 institution" also means a "broker-dealer" or "investment adviser" as  
19 defined in RCW 21.20.005.

20 (8) "Incapacitated person" means a person who is at a significant  
21 risk of personal or financial harm under RCW 11.88.010(1) (a), (b),  
22 (c), or (d).

23 (9) "Individual provider" means a person under contract with the  
24 department to provide services in the home under chapter 74.09 or  
25 74.39A RCW.

26 (10) "Interested person" means a person who demonstrates to the  
27 court's satisfaction that the person is interested in the welfare of  
28 the vulnerable adult, that the person has a good faith belief that the  
29 court's intervention is necessary, and that the vulnerable adult is  
30 unable, due to incapacity, undue influence, or duress at the time the  
31 petition is filed, to protect his or her own interests.

32 (11) "Mandated reporter" is an employee of the department; law  
33 enforcement officer; social worker; professional school personnel;  
34 individual provider; an employee of a facility; an operator of a  
35 facility; an employee of a social service, welfare, mental health,  
36 adult day health, adult day care, home health, home care, or hospice  
37 agency; county coroner or medical examiner; Christian Science  
38 practitioner; or health care provider subject to chapter 18.130 RCW.

1 (12) "Neglect" means (a) a pattern of conduct or inaction by a  
2 person or entity with a duty of care that fails to provide the goods  
3 and services that maintain physical or mental health of a vulnerable  
4 adult, or that fails to avoid or prevent physical or mental harm or  
5 pain to a vulnerable adult; or (b) an act or omission that demonstrates  
6 a serious disregard of consequences of such a magnitude as to  
7 constitute a clear and present danger to the vulnerable adult's health,  
8 welfare, or safety, including but not limited to conduct prohibited  
9 under RCW 9A.42.100.

10 (13) "Permissive reporter" means any person, including, but not  
11 limited to, an employee of a financial institution, attorney, or  
12 volunteer in a facility or program providing services for vulnerable  
13 adults.

14 (14) "Protective services" means any services provided by the  
15 department to a vulnerable adult with the consent of the vulnerable  
16 adult, or the legal representative of the vulnerable adult, who has  
17 been abandoned, abused, financially exploited, neglected, or in a state  
18 of self-neglect. These services may include, but are not limited to  
19 case management, social casework, home care, placement, arranging for  
20 medical evaluations, psychological evaluations, day care, or referral  
21 for legal assistance.

22 (15) "Self-neglect" means the failure of a vulnerable adult, not  
23 living in a facility, to provide for himself or herself the goods and  
24 services necessary for the vulnerable adult's physical or mental  
25 health, and the absence of which impairs or threatens the vulnerable  
26 adult's well-being. This definition may include a vulnerable adult who  
27 is receiving services through home health, hospice, or a home care  
28 agency, or an individual provider when the neglect is not a result of  
29 inaction by that agency or individual provider.

30 (16) "Social worker" means:

31 (a) A social worker as defined in section 2(2) of this act; or

32 (b) Anyone engaged in a professional capacity during the regular  
33 course of employment in encouraging or promoting the health, welfare,  
34 support, or education of vulnerable adults, or providing social  
35 services to vulnerable adults, whether in an individual capacity or as  
36 an employee or agent of any public or private organization or  
37 institution.

38 (17) "Vulnerable adult" includes a person:

- 1 (a) Sixty years of age or older who has the functional, mental, or  
2 physical inability to care for himself or herself; or  
3 (b) Found incapacitated under chapter 11.88 RCW; or  
4 (c) Who has a developmental disability as defined under RCW  
5 71A.10.020; or  
6 (d) Admitted to any facility; or  
7 (e) Receiving services from home health, hospice, or home care  
8 agencies licensed or required to be licensed under chapter 70.127 RCW;  
9 or  
10 (f) Receiving services from an individual provider.

11 **Sec. 19.** RCW 74.42.010 and 2010 c 94 s 27 are each reenacted and  
12 amended to read as follows:

13 Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter.

15 (1) "Department" means the department of social and health services  
16 and the department's employees.

17 (2) "Facility" refers to a nursing home as defined in RCW  
18 18.51.010.

19 (3) "Licensed practical nurse" means a person licensed to practice  
20 practical nursing under chapter 18.79 RCW.

21 (4) "Medicaid" means Title XIX of the Social Security Act enacted  
22 by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79  
23 Stat. 343), as amended.

24 (5) "Nurse practitioner" means a person licensed to practice  
25 advanced registered nursing under chapter 18.79 RCW.

26 (6) "Nursing care" means that care provided by a registered nurse,  
27 an advanced registered nurse practitioner, a licensed practical nurse,  
28 or a nursing assistant in the regular performance of their duties.

29 (7) "Physician assistant" means a person practicing pursuant to  
30 chapters 18.57A and 18.71A RCW.

31 (8) "Qualified therapist" means:

32 (a) An activities specialist who has specialized education,  
33 training, or experience specified by the department.

34 (b) An audiologist who is eligible for a certificate of clinical  
35 competence in audiology or who has the equivalent education and  
36 clinical experience.

37 (c) A mental health professional as defined in chapter 71.05 RCW.

1 (d) An intellectual disabilities professional who is a qualified  
2 therapist or a therapist approved by the department and has specialized  
3 training or one year experience in treating or working with persons  
4 with intellectual or developmental disabilities.

5 (e) An occupational therapist who is a graduate of a program in  
6 occupational therapy or who has equivalent education or training.

7 (f) A physical therapist as defined in chapter 18.74 RCW.

8 (g) A social worker (~~who is a graduate of a school of social~~  
9 ~~work~~) as defined in section 2(2) of this act.

10 (h) A speech pathologist who is eligible for a certificate of  
11 clinical competence in speech pathology or who has equivalent education  
12 and clinical experience.

13 (9) "Registered nurse" means a person licensed to practice  
14 registered nursing under chapter 18.79 RCW.

15 (10) "Resident" means an individual residing in a nursing home, as  
16 defined in RCW 18.51.010.

17 NEW SECTION. **Sec. 20.** Sections 1 through 3 of this act constitute  
18 a new chapter in Title 18 RCW.

19 NEW SECTION. **Sec. 21.** This act takes effect January 1, 2012.

--- END ---