
HOUSE BILL 1218

State of Washington

69th Legislature

2025 Regular Session

By Representatives Farivar and Macri; by request of Governor Inslee

Prefiled 01/09/25.

1 AN ACT Relating to persons referred for competency evaluation and
2 restoration services within the framework of the forensic mental
3 health care system consistent with the requirements agreed to in the
4 Trueblood settlement agreement; amending RCW 10.77.074, 10.77.084,
5 10.77.086, 10.77.088, and 10.77.092; reenacting and amending RCW
6 43.84.092 and 43.84.092; adding new sections to chapter 10.77 RCW;
7 creating a new section; providing an effective date; and providing
8 expiration dates.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that individuals
11 referred for services related to competency to stand trial requiring
12 admission into a psychiatric facility are experiencing significantly
13 reduced wait times for competency services. In order to preserve
14 these critical gains, for the benefit of the state and those
15 individuals awaiting services, the legislature finds that
16 implementing measures to reduce the continued growth of referrals to
17 the competency system are necessary. The state's forensic bed
18 capacity forecast model indicates that if the state continues to
19 receive competency referrals from local superior, district, and
20 municipal courts at the same volume, the state will again fall
21 behind.

1 The legislature further finds that historical investments and
2 policy changes have been made in behavioral health services over the
3 past several years, designed to both increase capacity to provide
4 competency to stand trial services and to reduce the need for them by
5 creating opportunities for diversion, prevention, and improved
6 community health. New construction at western state hospital has
7 resulted in the opening of 58 forensic psychiatric beds in the first
8 quarter of 2023, while emergency community hospital contracts
9 expanded to allow for the discharge or transfer of over 50 civil
10 conversion patients occupying forensic state hospital beds over the
11 same period. Sixteen beds for civil conversion patients opened at
12 Maple Lane school in the first quarter of 2023, with 30 additional
13 beds for patients acquitted by reason of insanity opened in early
14 2024. The state also acquired a new facility in 2024, now known as
15 Olympic Heritage behavioral health, which added to this historic rise
16 in bed capacity in the state of Washington. Over a longer time
17 period, 350 forensic beds are planned to open within a new forensic
18 hospital on the western state hospital campus between 2028 and 2029.
19 Policy and budget changes have increased capacity for assisted
20 outpatient treatment, 988 crisis response, use of medication for
21 opioid use disorders in jails and community settings, reentry
22 services, and mental health advance directives, and created new
23 behavioral health facility types, supportive housing, and supportive
24 employment services. Forensic navigator services, outpatient
25 competency restoration programs, clinical intervention specialists
26 and other specialty forensic services are now available and
27 continuing to be deployed in phase one, two, and three Trueblood
28 settlement regions.

29 The legislature further finds that these investments over a
30 period of many years have made significant improvements in the wait
31 times for competency services. Even so, there remains a need for
32 everyone to come together to find solutions to both reduce demand for
33 forensic services and shrink the number of individuals whose only
34 access to behavioral health care is through the criminal justice
35 system. Forensic services should be reserved only for those where the
36 state's interest is sufficient to justify the detention and greater
37 efforts are needed to prevent or divert individuals with behavioral
38 health needs from being unnecessarily incarcerated. The state needs
39 collaboration from local governments and other entities to provide
40 and develop services and supports to patients connected to the

1 forensic system, to reduce the flow of competency referrals coming
2 from municipal, district, and superior courts, and to improve
3 availability and effectiveness of behavioral health services provided
4 outside the criminal justice system.

5 **Sec. 2.** RCW 10.77.074 and 2023 c 453 s 5 are each amended to
6 read as follows:

7 (1) Subject to the limitations described in subsection (2) of
8 this section, a court may appoint an impartial forensic navigator
9 employed by or contracted by the department to assist individuals who
10 have been referred for competency evaluation for level B and level C
11 felonies and all misdemeanors and shall appoint a forensic navigator
12 in circumstances described under RCW 10.77.072. Level A felonies will
13 not be referred to forensic navigators unless requested by the court.

14 (2) A forensic navigator must assist the individual to access
15 services related to diversion and community outpatient competency
16 restoration. The forensic navigator must assist the individual,
17 prosecuting attorney, defense attorney, and the court to understand
18 the options available to the individual and be accountable as an
19 officer of the court for faithful execution of the responsibilities
20 outlined in this section.

21 (3) The duties of the forensic navigator include, but are not
22 limited to, the following:

23 (a) To collect relevant information about the individual,
24 including behavioral health services and supports available to the
25 individual that might support placement in outpatient restoration,
26 diversion, or some combination of these;

27 (b) To meet with, interview, and observe the individual;

28 (c) To assess the individual for appropriateness for assisted
29 outpatient treatment under chapter 71.05 RCW;

30 (d) To present information to the court in order to assist the
31 court in understanding the treatment options available to the
32 individual to support the entry of orders for diversion from the
33 forensic mental health system or for community outpatient competency
34 restoration, to facilitate that transition;

35 (e) To provide regular updates to the court and parties of the
36 status of the individual's participation in diversion or outpatient
37 services and be responsive to inquiries by the parties about
38 treatment status;

1 (f) When the individual is ordered to receive community
2 outpatient restoration, to provide services to the individual
3 including:

4 (i) Assisting the individual with attending appointments and
5 classes relating to outpatient competency restoration;

6 (ii) Coordinating access to housing for the individual;

7 (iii) Meeting with the individual on a regular basis;

8 (iv) Providing information to the court concerning the
9 individual's progress and compliance with court-ordered conditions of
10 release, which may include appearing at court hearings to provide
11 information to the court;

12 (v) Coordinating the individual's access to community case
13 management services and mental health services;

14 (vi) Assisting the individual with obtaining prescribed
15 medication and encouraging adherence with prescribed medication;

16 (vii) Assessing the individual for appropriateness for assisted
17 outpatient treatment under chapter 71.05 RCW and coordinating the
18 initiation of an assisted outpatient treatment order if appropriate;

19 (viii) Planning for a coordinated transition of the individual to
20 a case manager in the community behavioral health system;

21 (ix) Attempting to follow-up with the individual to check whether
22 the meeting with a community-based case manager took place;

23 (x) When the individual is a high utilizer, attempting to connect
24 the individual with high utilizer services; and

25 (xi) Attempting to check up on the individual at least once per
26 month for up to sixty days after coordinated transition to community
27 behavioral health services, without duplicating the services of the
28 community-based case manager;

29 (g) If the individual is an American Indian or Alaska Native who
30 receives medical, behavioral health, housing, or other supportive
31 services from a tribe within this state, to notify and coordinate
32 with the tribe and Indian health care provider. Notification shall be
33 made in person or by telephonic or electronic communication to the
34 tribal contact listed in the authority's tribal crisis coordination
35 plan as soon as possible.

36 (4) Forensic navigators may submit recommendations to the court
37 regarding treatment and restoration options for the individual, which
38 the court may consider and weigh in conjunction with the
39 recommendations of all of the parties.

1 (5) Forensic navigators shall be deemed officers of the court for
2 the purpose of immunity from civil liability.

3 (6) The signed order for competency evaluation from the court
4 shall serve as authority for the forensic navigator to be given
5 access to all records held by a behavioral health, educational, or
6 law enforcement agency or a correctional facility that relates to an
7 individual. Information that is protected by state or federal law,
8 including health information, shall not be entered into the court
9 record without the consent of the individual or their defense
10 attorney.

11 (7) Admissions made by the individual in the course of receiving
12 services from the forensic navigator may not be used against the
13 individual in the prosecution's case in chief.

14 (8) A court may not issue an order appointing a forensic
15 navigator unless the department certifies that there is adequate
16 forensic navigator capacity to provide these services at the time the
17 order is issued.

18 **Sec. 3.** RCW 10.77.084 and 2023 c 453 s 6 are each amended to
19 read as follows:

20 (1)(a) If at any time during the pendency of an action and prior
21 to judgment the court finds, following a report as provided in RCW
22 10.77.060, a defendant is incompetent, the court shall order the
23 proceedings against the defendant be stayed except as provided in
24 subsection (4) of this section. Beginning October 1, 2023, if the
25 defendant is charged with a serious traffic offense under RCW
26 9.94A.030, or a felony version of a serious traffic offense, the
27 court may order the clerk to transmit an order to the department of
28 licensing for revocation of the defendant's driver's license for a
29 period of one year.

30 (b) The court may order a defendant who has been found to be
31 incompetent to undergo competency restoration treatment at a facility
32 designated by the department if the defendant is eligible under RCW
33 10.77.086 or 10.77.088. At the end of each competency restoration
34 period or at any time a professional person determines competency has
35 been, or is unlikely to be, restored, the defendant shall be returned
36 to court for a hearing, except that if the opinion of the
37 professional person is that the defendant remains incompetent and the
38 hearing is held before the expiration of the current competency
39 restoration period, the parties may agree to waive the defendant's

1 presence, to remote participation by the defendant at a hearing, or
2 to presentation of an agreed order in lieu of a hearing. The facility
3 shall promptly notify the court and all parties of the date on which
4 the competency restoration period commences and expires so that a
5 timely hearing date may be scheduled.

6 (c) If, following notice and hearing or entry of an agreed order
7 under (b) of this subsection, the court finds that competency has
8 been restored, the court shall lift the stay entered under (a) of
9 this subsection. If the court finds that competency has not been
10 restored, the court shall dismiss the proceedings without prejudice,
11 except that the court may order a further period of competency
12 restoration treatment if it finds that further treatment within the
13 time limits established by RCW 10.77.086 or 10.77.088 is likely to
14 restore competency, and a further period of treatment is allowed
15 under RCW 10.77.086 or 10.77.088.

16 (d) If at any time during the proceeding the court finds,
17 following notice and hearing, a defendant is not likely to regain
18 competency, the court shall dismiss the proceedings without prejudice
19 and refer the defendant for civil commitment evaluation or
20 proceedings if appropriate under RCW 10.77.065, 10.77.086, or
21 10.77.088.

22 (e) Beginning October 1, 2023, if the court issues an order
23 directing revocation of the defendant's driver's license under (a) of
24 this subsection, and the court subsequently finds that the
25 defendant's competency has been restored, the court shall order the
26 clerk to transmit an order to the department of licensing for
27 reinstatement of the defendant's driver's license. The court may
28 direct the clerk to transmit an order reinstating the defendant's
29 driver's license before the end of one year for good cause upon the
30 petition of the defendant.

31 (2) If the defendant is referred for evaluation by a designated
32 crisis responder under this chapter, the designated crisis responder
33 shall provide prompt written notification of the results of the
34 evaluation and whether the person was detained. The notification
35 shall be provided to the court in which the criminal action was
36 pending, the prosecutor, the defense attorney in the criminal action,
37 and the facility that evaluated the defendant for competency.

38 (3) The fact that the defendant is unfit to proceed does not
39 preclude any pretrial proceedings which do not require the personal
40 participation of the defendant.

1 (4) A defendant receiving medication for either physical or
2 mental problems shall not be prohibited from standing trial, if the
3 medication either enables the defendant to understand the proceedings
4 against him or her and to assist in his or her own defense, or does
5 not disable him or her from so understanding and assisting in his or
6 her own defense.

7 (5) At or before the conclusion of any commitment period provided
8 for by this section, the facility providing evaluation and treatment
9 shall provide to the court a written report of evaluation which meets
10 the requirements of RCW 10.77.060(3). For defendants charged with a
11 felony, the report following the second competency restoration period
12 or first competency restoration period if the defendant's
13 incompetence is determined to be solely due to a developmental
14 disability or the evaluator concludes that the defendant is not
15 likely to regain competency must include an assessment of the
16 defendant's future dangerousness which is evidence-based regarding
17 predictive validity.

18 (6) For defendants who are on personal recognizance who are
19 waiting for competency restoration services, in a county with an
20 outpatient competency restoration program that has adequate space,
21 the department shall provide a recommended services plan to the court
22 and parties. Upon receipt of this recommended services plan, if
23 restoration is still required, the court shall order outpatient
24 competency restoration.

25 (7) If, after two attempts to schedule or admit a defendant on
26 personal recognizance status to a department facility for competency
27 evaluation or restoration, the department is not able to complete
28 scheduling the admission or the defendant does not arrive at the
29 scheduled time of the admission, the department shall submit a report
30 to the court and parties and include a date and time for another
31 admission which must be at least two weeks later. The court shall
32 provide notice to the defendant of the date and time of the
33 admission. If the defendant fails to appear at that admission, the
34 court shall recall the order for competency evaluation or restoration
35 and may issue a warrant for the failure to appear. The secretary may
36 adopt rules and regulations necessary to implement this section.

37 **Sec. 4.** RCW 10.77.086 and 2024 c 290 s 3 are each amended to
38 read as follows:

1 (1) (a) Except as otherwise provided in this section, if the
2 defendant is charged with a felony and determined to be incompetent,
3 until he or she has regained the competency necessary to understand
4 the proceedings against him or her and assist in his or her own
5 defense, but in any event for a period of no longer than 90 days, the
6 court shall commit the defendant to the custody of the secretary for
7 inpatient competency restoration, or may alternatively order the
8 defendant to receive outpatient competency restoration based on a
9 recommendation from a forensic navigator and input from the parties.

10 (b) For a defendant who is determined to be incompetent and whose
11 highest charge is a class C felony other than assault in the third
12 degree under RCW 9A.36.031(1) (d) or (f), felony physical control of
13 a vehicle under RCW 46.61.504(6), felony hit and run resulting in
14 injury under RCW 46.52.020(4)(b), a hate crime offense under RCW
15 9A.36.080, a class C felony with a domestic violence designation, a
16 class C felony sex offense as defined in RCW 9.94A.030, or a class C
17 felony with a sexual motivation allegation, the court shall first
18 consider all available and appropriate alternatives to inpatient
19 competency restoration. The court shall dismiss the proceedings
20 without prejudice upon agreement of the parties if the forensic
21 navigator has found an appropriate and available diversion program
22 willing to accept the defendant.

23 (2) (a) To be eligible for an order for outpatient competency
24 restoration, a defendant must be clinically appropriate and be
25 willing to:

26 (i) Adhere to medications or receive prescribed intramuscular
27 medication; and

28 (ii) ~~((Abstain from alcohol and unprescribed drugs; and~~

29 ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~
30 ~~needed)) Adhere to all rules and conditions of the identified~~

31 outpatient competency restoration.
32 (b) If the court orders inpatient competency restoration, the
33 department shall place the defendant in an appropriate facility of
34 the department for competency restoration.

35 (c) For a defendant ordered to inpatient competency restoration,
36 the department shall promptly notify the court and parties whenever
37 it appears the defendant's condition is such that a transfer to
38 outpatient competency restoration is appropriate. Any such notice to
39 the court and parties shall provide pertinent information concerning
40 the change in condition or the reasons supporting transfer to

1 outpatient competency restoration. Upon receipt of this notice, the
2 court shall schedule a hearing within five days to review the
3 information provided by the department, conditions of release of the
4 defendant, and anticipated release date from inpatient treatment. The
5 court shall issue appropriate orders if it finds that the defendant's
6 condition has so changed that they are a suitable candidate for
7 outpatient competency restoration.

8 (d) If the court orders outpatient competency restoration, the
9 court shall modify conditions of release as needed to authorize the
10 department to place the person in approved housing, which may include
11 access to supported housing, affiliated with a contracted outpatient
12 competency restoration program. The department, in conjunction with
13 the health care authority, must establish rules for conditions of
14 participation in the outpatient competency restoration program, which
15 must include the defendant being subject to medication management.
16 The court may order regular urinalysis testing. The outpatient
17 competency restoration program shall monitor the defendant during the
18 defendant's placement in the program and report any noncompliance or
19 significant changes with respect to the defendant to the department
20 and, if applicable, the forensic navigator.

21 ~~((d))~~ (e) If a defendant fails to comply with the restrictions
22 of the outpatient restoration program such that restoration is no
23 longer appropriate in that setting or the defendant is no longer
24 clinically appropriate for outpatient competency restoration, the
25 director of the outpatient competency restoration program shall
26 notify the authority and the department of the need to terminate the
27 outpatient competency restoration placement and intent to request
28 placement for the defendant in an appropriate facility of the
29 department for inpatient competency restoration. The outpatient
30 competency restoration program shall coordinate with the authority,
31 the department, and any law enforcement personnel under ~~((d))~~ (e)
32 (i) of this subsection to ensure that the time period between
33 termination and admission into the inpatient facility is as minimal
34 as possible. The time period for inpatient competency restoration
35 shall be reduced by the time period spent in active treatment within
36 the outpatient competency restoration program, excluding time periods
37 in which the defendant was absent from the program and all time from
38 notice of termination of the outpatient competency restoration period
39 through the defendant's admission to the facility. The department
40 shall obtain a placement for the defendant within seven days of the

1 notice of intent to terminate the outpatient competency restoration
2 placement.

3 (i) The department may authorize a peace officer to detain the
4 defendant into emergency custody for transport to the designated
5 inpatient competency restoration facility. If medical clearance is
6 required by the designated competency restoration facility before
7 admission, the peace officer must transport the defendant to a crisis
8 stabilization unit, evaluation and treatment facility, or emergency
9 department of a local hospital for medical clearance once a bed is
10 available at the designated inpatient competency restoration
11 facility. The signed outpatient competency restoration order of the
12 court shall serve as authority for the detention of the defendant
13 under this subsection. This subsection does not preclude voluntary
14 transportation of the defendant to a facility for inpatient
15 competency restoration or for medical clearance, or authorize
16 admission of the defendant into jail.

17 (ii) The department shall notify the court and parties of the
18 defendant's admission for inpatient competency restoration before the
19 close of the next judicial day. The court shall schedule a hearing
20 within five days to review the conditions of release of the defendant
21 and anticipated release from treatment and issue appropriate orders.

22 ~~((e))~~ (f) The court may not issue an order for outpatient
23 competency restoration unless the department certifies that there is
24 an available appropriate outpatient competency restoration program
25 that has adequate space for the person at the time the order is
26 issued or the court places the defendant under the guidance and
27 control of a professional person identified in the court order.

28 (3) For a defendant whose highest charge is a class C felony, or
29 a class B felony that is not classified as violent under RCW
30 9.94A.030, the maximum time allowed for the initial competency
31 restoration period is 45 days if the defendant is referred for
32 inpatient competency restoration, or 90 days if the defendant is
33 referred for outpatient competency restoration, provided that if the
34 outpatient competency restoration placement is terminated and the
35 defendant is subsequently admitted to an inpatient facility, the
36 period of inpatient treatment during the first competency restoration
37 period under this subsection shall not exceed 45 days.

38 (4) When any defendant whose highest charge is a class C felony
39 other than assault in the third degree under RCW 9A.36.031(1) (d) or
40 (f), felony physical control of a vehicle under RCW 46.61.504(6),

1 felony hit and run resulting in injury under RCW 46.52.020(4)(b), a
2 hate crime offense under RCW 9A.36.080, a class C felony with a
3 domestic violence designation, a class C felony sex offense as
4 defined in RCW 9.94A.030, or a class C felony with a sexual
5 motivation allegation is admitted for inpatient competency
6 restoration with an accompanying court order for involuntary
7 medication under RCW 10.77.092, and the defendant is found not
8 competent to stand trial following that period of competency
9 restoration, the court shall dismiss the charges pursuant to
10 subsection (7) of this section.

11 (5) If the court determines or the parties agree before the
12 initial competency restoration period or at any subsequent stage of
13 the proceedings that the defendant is unlikely to regain competency,
14 the court may dismiss the charges without prejudice without ordering
15 the defendant to undergo an initial or further period of competency
16 restoration treatment, in which case the court shall order that the
17 defendant be referred for evaluation for civil commitment in the
18 manner provided in subsection (7) of this section.

19 (6) On or before expiration of the initial competency restoration
20 period the court shall conduct a hearing to determine whether the
21 defendant is now competent to stand trial. If the court finds by a
22 preponderance of the evidence that the defendant is incompetent to
23 stand trial, the court may order an extension of the competency
24 restoration period for an additional period of 90 days, but the court
25 must at the same time set a date for a new hearing to determine the
26 defendant's competency to stand trial before the expiration of this
27 second restoration period. The defendant, the defendant's attorney,
28 and the prosecutor have the right to demand that the hearing be
29 before a jury. No extension shall be ordered for a second or third
30 competency restoration period if the defendant is ineligible for a
31 subsequent competency restoration period under subsection (4) of this
32 section or the defendant's incompetence has been determined by the
33 secretary to be solely the result of an intellectual or developmental
34 disability, dementia, or traumatic brain injury which is such that
35 competence is not reasonably likely to be regained during an
36 extension.

37 (7) (a) Except as provided in (b) of this subsection, at the
38 hearing upon the expiration of the second competency restoration
39 period, or at the end of the first competency restoration period if
40 the defendant is ineligible for a second or third competency

1 restoration period under subsection (4) or (6) of this section, if
2 the jury or court finds that the defendant is incompetent to stand
3 trial, the court shall dismiss the charges without prejudice and
4 order the defendant to be committed to the department for placement
5 in a facility operated or contracted by the department for up to 120
6 hours if the defendant has not undergone competency restoration
7 services or has engaged in outpatient competency restoration
8 services, and up to 72 hours if the defendant engaged in inpatient
9 competency restoration services starting from admission to the
10 facility, excluding Saturdays, Sundays, and holidays, for evaluation
11 for the purpose of filing a civil commitment petition under chapter
12 71.05 RCW. If at the time the order to dismiss the charges without
13 prejudice is entered by the court the defendant is already in a
14 facility operated or contracted by the department, the 72-hour or
15 120-hour period shall instead begin upon department receipt of the
16 court order.

17 (b) The court shall not dismiss the charges if the defendant is
18 eligible for a second or third competency restoration period under
19 subsection (6) of this section and the court or jury finds that: (i)
20 The defendant (A) is a substantial danger to other persons; or (B)
21 presents a substantial likelihood of committing criminal acts
22 jeopardizing public safety or security; and (ii) there is a
23 substantial probability that the defendant will regain competency
24 within a reasonable period of time. If the court or jury makes such a
25 finding, the court may extend the period of commitment for up to an
26 additional six months.

27 (8) Any period of competency restoration treatment under this
28 section includes only the time the defendant is actually at the
29 facility or is actively participating in an outpatient competency
30 restoration program and is in addition to reasonable time for
31 transport to or from the facility.

32 (9) If at any time the court dismisses charges based on
33 incompetency to stand trial under this section, the court shall issue
34 an order prohibiting the defendant from the possession of firearms
35 until a court restores his or her right to possess a firearm under
36 RCW 9.41.047. The court shall notify the defendant orally and in
37 writing that the defendant may not possess a firearm unless the
38 defendant's right to do so is restored by the superior court that
39 issued the order under RCW 9.41.047, and that the defendant must

1 immediately surrender all firearms and any concealed pistol license
2 to their local law enforcement agency.

3 **Sec. 5.** RCW 10.77.088 and 2024 c 290 s 4 are each amended to
4 read as follows:

5 (1) If the defendant is charged with a nonfelony crime which is a
6 serious offense as identified in RCW 10.77.092 and found by the court
7 to be not competent, the court shall first consider all available and
8 appropriate alternatives to inpatient competency restoration. If the
9 parties agree that there is an appropriate diversion program
10 available to accept the defendant, the court shall dismiss the
11 proceedings without prejudice and refer the defendant to the
12 recommended diversion program. If the parties do not agree that there
13 is an appropriate diversion program available to accept the
14 defendant, then the court:

15 (a) Shall dismiss the proceedings without prejudice and detain
16 the defendant pursuant to subsection (6) of this section, unless the
17 prosecutor objects to the dismissal and provides notice of a motion
18 for an order for competency restoration treatment, in which case the
19 court shall schedule a hearing within seven days.

20 (b) At the hearing, the prosecuting attorney must establish that
21 there is a compelling state interest to order competency restoration
22 treatment for the defendant. The court may consider prior criminal
23 history, prior history in treatment, prior history of violence, the
24 quality and severity of the pending charges, any history that
25 suggests whether competency restoration treatment is likely to be
26 successful, in addition to the factors listed under RCW 10.77.092. If
27 the defendant is subject to an order under chapter 71.05 RCW or
28 proceedings under chapter 71.05 RCW have been initiated, there is a
29 rebuttable presumption that there is no compelling state interest in
30 ordering competency restoration treatment. If the prosecuting
31 attorney proves by a preponderance of the evidence that there is a
32 compelling state interest in ordering competency restoration
33 treatment, then the court shall issue an order in accordance with
34 subsection (2) of this section.

35 (2)(a) If a court finds pursuant to subsection (1)(b) of this
36 section that there is a compelling state interest in pursuing
37 competency restoration treatment, the court shall order the defendant
38 to receive outpatient competency restoration consistent with the
39 recommendation of the forensic navigator, unless the court finds that

1 an order for outpatient competency restoration is inappropriate
2 considering the health and safety of the defendant and risks to
3 public safety.

4 (b) To be eligible for an order for outpatient competency
5 restoration, a defendant must be willing to:

6 (i) Adhere to medications or receive prescribed intramuscular
7 medication; and

8 (ii) ~~((Abstain from alcohol and unprescribed drugs; and~~

9 ~~(iii) Comply with urinalysis or breathalyzer monitoring if~~
10 ~~needed)) Adhere to the rules and conditions of the identified~~
11 outpatient competency restoration program.

12 (c) If the court orders inpatient competency restoration, the
13 department shall place the defendant in an appropriate facility of
14 the department for competency restoration under subsection (3) of
15 this section.

16 (d) For a defendant ordered to inpatient competency restoration,
17 the department shall promptly notify the court and parties whenever
18 it appears the defendant's condition is such that a transfer to
19 outpatient competency restoration is appropriate. Any such notice to
20 the court and parties shall provide pertinent information concerning
21 the change in condition or the reasons supporting transfer to
22 outpatient competency restoration. Upon receipt of this notice, the
23 court shall schedule a hearing within five days to review the
24 information provided by the department, conditions of release of the
25 defendant, and anticipated release date from inpatient treatment. The
26 court shall issue appropriate orders if it finds that the defendant's
27 condition has so changed that they are a suitable candidate for
28 outpatient competency restoration.

29 (e) If the court orders outpatient competency restoration, the
30 court shall modify conditions of release as needed to authorize the
31 department to place the person in approved housing, which may include
32 access to supported housing, affiliated with a contracted outpatient
33 competency restoration program. The department, in conjunction with
34 the health care authority, must establish rules for conditions of
35 participation in the outpatient competency restoration program, which
36 must include the defendant being subject to medication management.
37 The court may order regular urinalysis testing. The outpatient
38 competency restoration program shall monitor the defendant during the
39 defendant's placement in the program and report any noncompliance or

1 significant changes with respect to the defendant to the department
2 and, if applicable, the forensic navigator.

3 ~~((e))~~ (f) If a defendant fails to comply with the restrictions
4 of the outpatient competency restoration program such that
5 restoration is no longer appropriate in that setting or the defendant
6 is no longer clinically appropriate for outpatient competency
7 restoration, the director of the outpatient competency restoration
8 program shall notify the authority and the department of the need to
9 terminate the outpatient competency restoration placement and intent
10 to request placement for the defendant in an appropriate facility of
11 the department for inpatient competency restoration. The outpatient
12 competency restoration program shall coordinate with the authority,
13 the department, and any law enforcement personnel under ~~((e))~~ (f)
14 (i) of this subsection to ensure that the time period between
15 termination and admission into the inpatient facility is as minimal
16 as possible. The time period for inpatient competency restoration
17 shall be reduced by the time period spent in active treatment within
18 the outpatient competency restoration program, excluding time periods
19 in which the defendant was absent from the program and all time from
20 notice of termination of the outpatient competency restoration period
21 through the defendant's admission to the facility. The department
22 shall obtain a placement for the defendant within seven days of the
23 notice of intent to terminate the outpatient competency restoration
24 placement.

25 (i) The department may authorize a peace officer to detain the
26 defendant into emergency custody for transport to the designated
27 inpatient competency restoration facility. If medical clearance is
28 required by the designated competency restoration facility before
29 admission, the peace officer must transport the defendant to a crisis
30 stabilization unit, evaluation and treatment facility, or emergency
31 department of a local hospital for medical clearance once a bed is
32 available at the designated inpatient competency restoration
33 facility. The signed outpatient competency restoration order of the
34 court shall serve as authority for the detention of the defendant
35 under this subsection. This subsection does not preclude voluntary
36 transportation of the defendant to a facility for inpatient
37 competency restoration or for medical clearance, or authorize
38 admission of the defendant into jail.

39 (ii) The department shall notify the court and parties of the
40 defendant's admission for inpatient competency restoration before the

1 close of the next judicial day. The court shall schedule a hearing
2 within five days to review the conditions of release of the defendant
3 and anticipated release from treatment and issue appropriate orders.

4 ~~((f))~~ (g) The court may not issue an order for outpatient
5 competency restoration unless the department certifies that there is
6 an available appropriate outpatient restoration program that has
7 adequate space for the person at the time the order is issued or the
8 court places the defendant under the guidance and control of a
9 professional person identified in the court order.

10 ~~((g))~~ (h) If the court does not order the defendant to receive
11 outpatient competency restoration under (a) of this subsection, the
12 court shall commit the defendant to the department for placement in a
13 facility operated or contracted by the department for inpatient
14 competency restoration.

15 (3) The placement under subsection (2) of this section shall not
16 exceed 29 days if the defendant is ordered to receive inpatient
17 competency restoration, and shall not exceed 90 days if the defendant
18 is ordered to receive outpatient competency restoration. The court
19 may order any combination of this subsection, but the total period of
20 inpatient competency restoration may not exceed 29 days.

21 (4) Beginning October 1, 2023, if the defendant is charged with a
22 serious traffic offense under RCW 9.94A.030, the court may order the
23 clerk to transmit an order to the department of licensing for
24 revocation of the defendant's driver's license for a period of one
25 year. The court shall direct the clerk to transmit an order to the
26 department of licensing reinstating the defendant's driver's license
27 if the defendant is subsequently restored to competency, and may do
28 so at any time before the end of one year for good cause upon the
29 petition of the defendant.

30 (5) If the court has determined or the parties agree that the
31 defendant is unlikely to regain competency, the court may dismiss the
32 charges without prejudice without ordering the defendant to undergo
33 competency restoration treatment, in which case the court shall order
34 that the defendant be referred for evaluation for civil commitment in
35 the manner provided in subsection (6) of this section.

36 (6) (a) If the proceedings are dismissed under RCW 10.77.084 and
37 the defendant was on conditional release at the time of dismissal,
38 the court shall order the designated crisis responder within that
39 county to evaluate the defendant pursuant to chapter 71.05 RCW. The

1 evaluation may be conducted in any location chosen by the
2 professional.

3 (b) If the defendant was in custody and not on conditional
4 release at the time of dismissal, the defendant shall be detained and
5 sent to an evaluation and treatment facility for up to 120 hours if
6 the defendant has not undergone competency restoration services or
7 has engaged in outpatient competency restoration services and up to
8 72 hours if the defendant engaged in inpatient competency restoration
9 services, excluding Saturdays, Sundays, and holidays, for evaluation
10 for purposes of filing a petition under chapter 71.05 RCW. The 120-
11 hour or 72-hour period shall commence upon the next nonholiday
12 weekday following the court order and shall run to the end of the
13 last nonholiday weekday within the 120-hour or 72-hour period.

14 (7) If the defendant is charged with a nonfelony crime that is
15 not a serious offense as defined in RCW 10.77.092 and found by the
16 court to be not competent, the court may stay or dismiss proceedings
17 and detain the defendant for sufficient time to allow the designated
18 crisis responder to evaluate the defendant and consider initial
19 detention proceedings under chapter 71.05 RCW. The court must give
20 notice to all parties at least 24 hours before the dismissal of any
21 proceeding under this subsection, and provide an opportunity for a
22 hearing on whether to dismiss the proceedings.

23 (8) If at any time the court dismisses charges under subsections
24 (1) through (7) of this section, the court shall make a finding as to
25 whether the defendant has a history of one or more violent acts. If
26 the court so finds, the court shall issue an order prohibiting the
27 defendant from the possession of firearms until a court restores his
28 or her right to possess a firearm under RCW 9.41.047. The court shall
29 notify the defendant orally and in writing that the defendant may not
30 possess a firearm unless the defendant's right to do so is restored
31 by the superior court that issued the order under RCW 9.41.047, and
32 that the defendant must immediately surrender all firearms and any
33 concealed pistol license to their local law enforcement agency.

34 (9) Any period of competency restoration treatment under this
35 section includes only the time the defendant is actually at the
36 facility or is actively participating in an outpatient competency
37 restoration program and is in addition to reasonable time for
38 transport to or from the facility.

1 **Sec. 6.** RCW 10.77.092 and 2023 c 453 s 11 are each amended to
2 read as follows:

3 (1) For purposes of determining whether a court may authorize
4 involuntary medication for the purpose of competency restoration
5 pursuant to RCW 10.77.084 and for maintaining the level of
6 restoration in the jail following the restoration period, a pending
7 charge involving any one or more of the following crimes is a serious
8 offense per se in the context of competency restoration:

9 (a) Any violent offense, sex offense, serious traffic offense,
10 and most serious offense, as those terms are defined in RCW
11 9.94A.030;

12 (b) Any offense, except nonfelony counterfeiting offenses,
13 included in crimes against persons in RCW 9.94A.411;

14 (c) Any offense contained in chapter 9.41 RCW (firearms and
15 dangerous weapons);

16 (d) Any offense listed as domestic violence in RCW 10.99.020;

17 (e) Any offense listed as a harassment offense in chapter 9A.46
18 RCW, except for criminal trespass in the first or second degree;

19 (f) Any violation of chapter 69.50 RCW that is a class B felony;
20 or

21 (g) Any city or county ordinance or statute that is equivalent to
22 an offense referenced in this subsection.

23 (2) Upon order for inpatient competency restoration under RCW
24 10.77.086, if the court has sufficient information to determine the
25 criteria established under *Sell v. United States* has been
26 established, then the court must make a medication determination
27 under this section.

28 (3) Any time a petition is filed seeking a court order
29 authorizing the involuntary medication for purposes of competency
30 restoration pursuant to RCW 10.77.084, the petition must also seek
31 authorization to continue involuntary medication for purposes of
32 maintaining the level of restoration in the jail or juvenile
33 detention facility following the restoration period.

34 (~~(3)~~) (4) (a) In a particular case, a court may determine that a
35 pending charge not otherwise defined as serious by state or federal
36 law or by a city or county ordinance is, nevertheless, a serious
37 offense within the context of competency restoration treatment when
38 the conduct in the charged offense falls within the standards
39 established in (b) of this subsection.

1 (b) To determine that the particular case is a serious offense
2 within the context of competency restoration, the court must consider
3 the following factors and determine that one or more of the following
4 factors creates a situation in which the offense is serious:

5 (i) The charge includes an allegation that the defendant actually
6 inflicted bodily or emotional harm on another person or that the
7 defendant created a reasonable apprehension of bodily or emotional
8 harm to another;

9 (ii) The extent of the impact of the alleged offense on the basic
10 human need for security of the citizens within the jurisdiction;

11 (iii) The number and nature of related charges pending against
12 the defendant;

13 (iv) The length of potential confinement if the defendant is
14 convicted; and

15 (v) The number of potential and actual victims or persons
16 impacted by the defendant's alleged acts.

17 **Sec. 7.** RCW 43.84.092 and 2024 c 210 s 4 and 2024 c 168 s 12 are
18 each reenacted and amended to read as follows:

19 (1) All earnings of investments of surplus balances in the state
20 treasury shall be deposited to the treasury income account, which
21 account is hereby established in the state treasury.

22 (2) The treasury income account shall be utilized to pay or
23 receive funds associated with federal programs as required by the
24 federal cash management improvement act of 1990. The treasury income
25 account is subject in all respects to chapter 43.88 RCW, but no
26 appropriation is required for refunds or allocations of interest
27 earnings required by the cash management improvement act. Refunds of
28 interest to the federal treasury required under the cash management
29 improvement act fall under RCW 43.88.180 and shall not require
30 appropriation. The office of financial management shall determine the
31 amounts due to or from the federal government pursuant to the cash
32 management improvement act. The office of financial management may
33 direct transfers of funds between accounts as deemed necessary to
34 implement the provisions of the cash management improvement act, and
35 this subsection. Refunds or allocations shall occur prior to the
36 distributions of earnings set forth in subsection (4) of this
37 section.

38 (3) Except for the provisions of RCW 43.84.160, the treasury
39 income account may be utilized for the payment of purchased banking

1 services on behalf of treasury funds including, but not limited to,
2 depository, safekeeping, and disbursement functions for the state
3 treasury and affected state agencies. The treasury income account is
4 subject in all respects to chapter 43.88 RCW, but no appropriation is
5 required for payments to financial institutions. Payments shall occur
6 prior to distribution of earnings set forth in subsection (4) of this
7 section.

8 (4) Monthly, the state treasurer shall distribute the earnings
9 credited to the treasury income account. The state treasurer shall
10 credit the general fund with all the earnings credited to the
11 treasury income account except:

12 (a) The following accounts and funds shall receive their
13 proportionate share of earnings based upon each account's and fund's
14 average daily balance for the period: The abandoned recreational
15 vehicle disposal account, the aeronautics account, the Alaskan Way
16 viaduct replacement project account, the ambulance transport fund,
17 behavioral health diversion fund, the budget stabilization account,
18 the capital vessel replacement account, the capitol building
19 construction account, the Central Washington University capital
20 projects account, the charitable, educational, penal and reformatory
21 institutions account, the Chehalis basin account, the Chehalis basin
22 taxable account, the clean fuels credit account, the clean fuels
23 transportation investment account, the cleanup settlement account,
24 the climate active transportation account, the climate transit
25 programs account, the Columbia river basin water supply development
26 account, the Columbia river basin taxable bond water supply
27 development account, the Columbia river basin water supply revenue
28 recovery account, the common school construction fund, the community
29 forest trust account, the connecting Washington account, the county
30 arterial preservation account, the county criminal justice assistance
31 account, the covenant homeownership account, the deferred
32 compensation administrative account, the deferred compensation
33 principal account, the department of licensing services account, the
34 department of retirement systems expense account, the developmental
35 disabilities community services account, the diesel idle reduction
36 account, the opioid abatement settlement account, the drinking water
37 assistance account, the administrative subaccount of the drinking
38 water assistance account, the early learning facilities development
39 account, the early learning facilities revolving account, the Eastern
40 Washington University capital projects account, the education

1 construction fund, the education legacy trust account, the election
2 account, the electric vehicle account, the energy freedom account,
3 the energy recovery act account, the essential rail assistance
4 account, The Evergreen State College capital projects account, the
5 fair start for kids account, the family medicine workforce
6 development account, the ferry bond retirement fund, the fish,
7 wildlife, and conservation account, the freight mobility investment
8 account, the freight mobility multimodal account, the grade crossing
9 protective fund, the higher education retirement plan supplemental
10 benefit fund, the Washington student loan account, the highway bond
11 retirement fund, the highway infrastructure account, the highway
12 safety fund, the hospital safety net assessment fund, the Interstate
13 5 bridge replacement project account, the Interstate 405 and state
14 route number 167 express toll lanes account, the judges' retirement
15 account, the judicial retirement administrative account, the judicial
16 retirement principal account, the limited fish and wildlife account,
17 the local leasehold excise tax account, the local real estate excise
18 tax account, the local sales and use tax account, the marine
19 resources stewardship trust account, the medical aid account, the
20 money-purchase retirement savings administrative account, the money-
21 purchase retirement savings principal account, the motor vehicle
22 fund, the motorcycle safety education account, the move ahead WA
23 account, the move ahead WA flexible account, the multimodal
24 transportation account, the multiuse roadway safety account, the
25 municipal criminal justice assistance account, the oyster reserve
26 land account, the pension funding stabilization account, the
27 perpetual surveillance and maintenance account, the pilotage account,
28 the pollution liability insurance agency underground storage tank
29 revolving account, the public employees' retirement system plan 1
30 account, the public employees' retirement system combined plan 2 and
31 plan 3 account, the public facilities construction loan revolving
32 account, the public health supplemental account, the public works
33 assistance account, the Puget Sound capital construction account, the
34 Puget Sound ferry operations account, the Puget Sound Gateway
35 facility account, the Puget Sound taxpayer accountability account,
36 the real estate appraiser commission account, the recreational
37 vehicle account, the regional mobility grant program account, the
38 reserve officers' relief and pension principal fund, the resource
39 management cost account, the rural arterial trust account, the rural
40 mobility grant program account, the rural Washington loan fund, the

1 second injury fund, the sexual assault prevention and response
2 account, the site closure account, the skilled nursing facility
3 safety net trust fund, the small city pavement and sidewalk account,
4 the special category C account, the special wildlife account, the
5 state hazard mitigation revolving loan account, the state investment
6 board expense account, the state investment board commingled trust
7 fund accounts, the state patrol highway account, the state
8 reclamation revolving account, the state route number 520 civil
9 penalties account, the state route number 520 corridor account, the
10 statewide broadband account, the statewide tourism marketing account,
11 the supplemental pension account, the Tacoma Narrows toll bridge
12 account, the teachers' retirement system plan 1 account, the
13 teachers' retirement system combined plan 2 and plan 3 account, the
14 tobacco prevention and control account, the tobacco settlement
15 account, the toll facility bond retirement account, the
16 transportation 2003 account (nickel account), the transportation
17 equipment fund, the JUDY transportation future funding program
18 account, the transportation improvement account, the transportation
19 improvement board bond retirement account, the transportation
20 infrastructure account, the transportation partnership account, the
21 traumatic brain injury account, the tribal opioid prevention and
22 treatment account, the University of Washington bond retirement fund,
23 the University of Washington building account, the voluntary cleanup
24 account, the volunteer firefighters' relief and pension principal
25 fund, the volunteer firefighters' and reserve officers'
26 administrative fund, the vulnerable roadway user education account,
27 the Washington judicial retirement system account, the Washington law
28 enforcement officers' and firefighters' system plan 1 retirement
29 account, the Washington law enforcement officers' and firefighters'
30 system plan 2 retirement account, the Washington public safety
31 employees' plan 2 retirement account, the Washington school
32 employees' retirement system combined plan 2 and 3 account, the
33 Washington state patrol retirement account, the Washington State
34 University building account, the Washington State University bond
35 retirement fund, the water pollution control revolving administration
36 account, the water pollution control revolving fund, the Western
37 Washington University capital projects account, the Yakima integrated
38 plan implementation account, the Yakima integrated plan
39 implementation revenue recovery account, and the Yakima integrated
40 plan implementation taxable bond account. Earnings derived from

1 investing balances of the agricultural permanent fund, the normal
2 school permanent fund, the permanent common school fund, the
3 scientific permanent fund, and the state university permanent fund
4 shall be allocated to their respective beneficiary accounts.

5 (b) Any state agency that has independent authority over accounts
6 or funds not statutorily required to be held in the state treasury
7 that deposits funds into a fund or account in the state treasury
8 pursuant to an agreement with the office of the state treasurer shall
9 receive its proportionate share of earnings based upon each account's
10 or fund's average daily balance for the period.

11 (5) In conformance with Article II, section 37 of the state
12 Constitution, no treasury accounts or funds shall be allocated
13 earnings without the specific affirmative directive of this section.

14 **Sec. 8.** RCW 43.84.092 and 2024 c 210 s 5 and 2024 c 168 s 13 are
15 each reenacted and amended to read as follows:

16 (1) All earnings of investments of surplus balances in the state
17 treasury shall be deposited to the treasury income account, which
18 account is hereby established in the state treasury.

19 (2) The treasury income account shall be utilized to pay or
20 receive funds associated with federal programs as required by the
21 federal cash management improvement act of 1990. The treasury income
22 account is subject in all respects to chapter 43.88 RCW, but no
23 appropriation is required for refunds or allocations of interest
24 earnings required by the cash management improvement act. Refunds of
25 interest to the federal treasury required under the cash management
26 improvement act fall under RCW 43.88.180 and shall not require
27 appropriation. The office of financial management shall determine the
28 amounts due to or from the federal government pursuant to the cash
29 management improvement act. The office of financial management may
30 direct transfers of funds between accounts as deemed necessary to
31 implement the provisions of the cash management improvement act, and
32 this subsection. Refunds or allocations shall occur prior to the
33 distributions of earnings set forth in subsection (4) of this
34 section.

35 (3) Except for the provisions of RCW 43.84.160, the treasury
36 income account may be utilized for the payment of purchased banking
37 services on behalf of treasury funds including, but not limited to,
38 depository, safekeeping, and disbursement functions for the state
39 treasury and affected state agencies. The treasury income account is

1 subject in all respects to chapter 43.88 RCW, but no appropriation is
2 required for payments to financial institutions. Payments shall occur
3 prior to distribution of earnings set forth in subsection (4) of this
4 section.

5 (4) Monthly, the state treasurer shall distribute the earnings
6 credited to the treasury income account. The state treasurer shall
7 credit the general fund with all the earnings credited to the
8 treasury income account except:

9 (a) The following accounts and funds shall receive their
10 proportionate share of earnings based upon each account's and fund's
11 average daily balance for the period: The abandoned recreational
12 vehicle disposal account, the aeronautics account, the Alaskan Way
13 viaduct replacement project account, behavioral health diversion
14 fund, the budget stabilization account, the capital vessel
15 replacement account, the capitol building construction account, the
16 Central Washington University capital projects account, the
17 charitable, educational, penal and reformatory institutions account,
18 the Chehalis basin account, the Chehalis basin taxable account, the
19 clean fuels credit account, the clean fuels transportation investment
20 account, the cleanup settlement account, the climate active
21 transportation account, the climate transit programs account, the
22 Columbia river basin water supply development account, the Columbia
23 river basin taxable bond water supply development account, the
24 Columbia river basin water supply revenue recovery account, the
25 common school construction fund, the community forest trust account,
26 the connecting Washington account, the county arterial preservation
27 account, the county criminal justice assistance account, the covenant
28 homeownership account, the deferred compensation administrative
29 account, the deferred compensation principal account, the department
30 of licensing services account, the department of retirement systems
31 expense account, the developmental disabilities community services
32 account, the diesel idle reduction account, the opioid abatement
33 settlement account, the drinking water assistance account, the
34 administrative subaccount of the drinking water assistance account,
35 the early learning facilities development account, the early learning
36 facilities revolving account, the Eastern Washington University
37 capital projects account, the education construction fund, the
38 education legacy trust account, the election account, the electric
39 vehicle account, the energy freedom account, the energy recovery act
40 account, the essential rail assistance account, The Evergreen State

1 College capital projects account, the fair start for kids account,
2 the family medicine workforce development account, the ferry bond
3 retirement fund, the fish, wildlife, and conservation account, the
4 freight mobility investment account, the freight mobility multimodal
5 account, the grade crossing protective fund, the higher education
6 retirement plan supplemental benefit fund, the Washington student
7 loan account, the highway bond retirement fund, the highway
8 infrastructure account, the highway safety fund, the hospital safety
9 net assessment fund, the Interstate 5 bridge replacement project
10 account, the Interstate 405 and state route number 167 express toll
11 lanes account, the judges' retirement account, the judicial
12 retirement administrative account, the judicial retirement principal
13 account, the limited fish and wildlife account, the local leasehold
14 excise tax account, the local real estate excise tax account, the
15 local sales and use tax account, the marine resources stewardship
16 trust account, the medical aid account, the money-purchase retirement
17 savings administrative account, the money-purchase retirement savings
18 principal account, the motor vehicle fund, the motorcycle safety
19 education account, the move ahead WA account, the move ahead WA
20 flexible account, the multimodal transportation account, the multiuse
21 roadway safety account, the municipal criminal justice assistance
22 account, the oyster reserve land account, the pension funding
23 stabilization account, the perpetual surveillance and maintenance
24 account, the pilotage account, the pollution liability insurance
25 agency underground storage tank revolving account, the public
26 employees' retirement system plan 1 account, the public employees'
27 retirement system combined plan 2 and plan 3 account, the public
28 facilities construction loan revolving account, the public health
29 supplemental account, the public works assistance account, the Puget
30 Sound capital construction account, the Puget Sound ferry operations
31 account, the Puget Sound Gateway facility account, the Puget Sound
32 taxpayer accountability account, the real estate appraiser commission
33 account, the recreational vehicle account, the regional mobility
34 grant program account, the reserve officers' relief and pension
35 principal fund, the resource management cost account, the rural
36 arterial trust account, the rural mobility grant program account, the
37 rural Washington loan fund, the second injury fund, the sexual
38 assault prevention and response account, the site closure account,
39 the skilled nursing facility safety net trust fund, the small city
40 pavement and sidewalk account, the special category C account, the

1 special wildlife account, the state hazard mitigation revolving loan
2 account, the state investment board expense account, the state
3 investment board commingled trust fund accounts, the state patrol
4 highway account, the state reclamation revolving account, the state
5 route number 520 civil penalties account, the state route number 520
6 corridor account, the statewide broadband account, the statewide
7 tourism marketing account, the supplemental pension account, the
8 Tacoma Narrows toll bridge account, the teachers' retirement system
9 plan 1 account, the teachers' retirement system combined plan 2 and
10 plan 3 account, the tobacco prevention and control account, the
11 tobacco settlement account, the toll facility bond retirement
12 account, the transportation 2003 account (nickel account), the
13 transportation equipment fund, the JUDY transportation future funding
14 program account, the transportation improvement account, the
15 transportation improvement board bond retirement account, the
16 transportation infrastructure account, the transportation partnership
17 account, the traumatic brain injury account, the tribal opioid
18 prevention and treatment account, the University of Washington bond
19 retirement fund, the University of Washington building account, the
20 voluntary cleanup account, the volunteer firefighters' relief and
21 pension principal fund, the volunteer firefighters' and reserve
22 officers' administrative fund, the vulnerable roadway user education
23 account, the Washington judicial retirement system account, the
24 Washington law enforcement officers' and firefighters' system plan 1
25 retirement account, the Washington law enforcement officers' and
26 firefighters' system plan 2 retirement account, the Washington public
27 safety employees' plan 2 retirement account, the Washington school
28 employees' retirement system combined plan 2 and 3 account, the
29 Washington state patrol retirement account, the Washington State
30 University building account, the Washington State University bond
31 retirement fund, the water pollution control revolving administration
32 account, the water pollution control revolving fund, the Western
33 Washington University capital projects account, the Yakima integrated
34 plan implementation account, the Yakima integrated plan
35 implementation revenue recovery account, and the Yakima integrated
36 plan implementation taxable bond account. Earnings derived from
37 investing balances of the agricultural permanent fund, the normal
38 school permanent fund, the permanent common school fund, the
39 scientific permanent fund, and the state university permanent fund
40 shall be allocated to their respective beneficiary accounts.

1 (b) Any state agency that has independent authority over accounts
2 or funds not statutorily required to be held in the state treasury
3 that deposits funds into a fund or account in the state treasury
4 pursuant to an agreement with the office of the state treasurer shall
5 receive its proportionate share of earnings based upon each account's
6 or fund's average daily balance for the period.

7 (5) In conformance with Article II, section 37 of the state
8 Constitution, no treasury accounts or funds shall be allocated
9 earnings without the specific affirmative directive of this section.

10 NEW SECTION. **Sec. 9.** A new section is added to chapter 10.77
11 RCW to read as follows:

12 (1)(a) The department shall develop and implement a growth cap
13 program to manage inpatient competency orders under this chapter. The
14 department shall assess penalties as described in this section to
15 implement the growth cap program.

16 (b) The department shall establish a baseline cap for each county
17 by utilizing the average number of inpatient competency orders to the
18 department from any court within a county's jurisdiction in fiscal
19 years 2024 and 2025. For any county with an average of less than two
20 inpatient competency orders in fiscal years 2024 and 2025, the
21 baseline shall be set at one.

22 (c) The department shall establish an incentive cap for each
23 county by utilizing the average number of inpatient competency orders
24 to the department from any court within a county's jurisdiction in
25 fiscal years 2018 and 2019. For any county with an average less than
26 two inpatient competency orders in fiscal years 2017 and 2018, the
27 baseline shall be set at one individual.

28 (d) Commencing in fiscal year 2026 and each fiscal year
29 thereafter, for each inpatient competency order that exceeds the
30 baseline number identified in (b) of this subsection, a county shall
31 pay the penalty amount described in (f) of this subsection.

32 (e) The department shall reconcile the total county inpatient
33 competency orders against the baseline by August 15th each year. The
34 first reconciliation will be August 15, 2026.

35 (f) Calculations shall be based on the per day individual rate as
36 calculated by the department for state hospital treatment for
37 individuals referred for inpatient competency services, as follows:

38 (i) Each county shall make penalty payments equivalent to 25
39 percent of the rate for the third and fourth inpatient competency

1 orders over the baseline, 50 percent of the rate for the fifth,
2 sixth, and seventh inpatient competency orders over the baseline, 75
3 percent of the rate for the eighth and ninth inpatient competency
4 orders over the baseline, and 100 percent of the rate for the 10th
5 and all inpatient competency orders over the baseline;

6 (ii) Commencing with fiscal year 2027 and each fiscal year
7 thereafter, a county that creates a behavioral health diversion plan
8 as defined in section 14 of this act designed to prevent further
9 growth of inpatient competency orders, for the third and any
10 subsequent individual inpatient competency orders over the baseline,
11 shall make penalty payments equivalent to 100 percent of the rate;

12 (iii) Commencing with fiscal year 2027 and each fiscal year
13 thereafter, any county without a behavioral health diversion plan as
14 defined in section 14 of this act, for the third and any subsequent
15 individual inpatient competency orders over the baseline, shall make
16 penalty payments equivalent to 150 percent of the rate.

17 (g) Commencing with fiscal year 2026, each county shall remit
18 payment to the department in an amount equal to the amount identified
19 in the invoice issued to the county administrator or their designee
20 by the department. The penalty payment shall be due no later than 90
21 days after the date that the invoice is received by the county. The
22 penalty funds shall be collected as revenue by the department and
23 deposited into the behavioral health diversion fund, created in
24 section 10 of this act.

25 (h) A county may not use state funds to pay for any penalty under
26 this act.

27 NEW SECTION. **Sec. 10.** A new section is added to chapter 10.77
28 RCW to read as follows:

29 The behavioral health diversion fund is hereby created in the
30 state treasury. All penalty payments from each county as collected by
31 the department pursuant to section 9 of this act and all receipts
32 from assessed penalties pursuant to this act must be deposited into
33 the fund. Moneys in the fund may be spent only after appropriation.
34 Expenditures from the fund may only be used for services or supports
35 that either prevent individuals with behavioral health needs from
36 entering the criminal justice system or that diverts them away from
37 the criminal justice system once incarcerated.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 10.77
2 RCW to read as follows:

3 Any county that reduces its total annual inpatient competency
4 referrals below the incentive cap established by the department in
5 section 9(1)(c) of this act or that reduces its overall orders for
6 any competency service by at least 40 percent for a given fiscal year
7 shall be eligible to request an appropriation from the behavioral
8 health diversion fund. Any funds appropriated to a county from the
9 behavioral health diversion fund shall be used toward services or
10 supports that either prevent individuals with behavioral health needs
11 from entering the criminal justice system or that diverts them away
12 from the criminal justice system once incarcerated. Counties that
13 have an average incentive cap of less than five individuals may apply
14 based on a 50 percent or greater reduction in their total number of
15 inpatient competency orders.

16 NEW SECTION. **Sec. 12.** A new section is added to chapter 10.77
17 RCW to read as follows:

18 Commencing January 1, 2026, the department shall notify the
19 superior, district, and municipal courts and relevant county agencies
20 of each county including, but not limited to, the county
21 administrator, behavioral health department, sheriff, public
22 defender, and district attorney on a quarterly basis the total number
23 of inpatient competency restoration orders made in that county for
24 the current fiscal year compared to the baseline determination for
25 that county.

26 NEW SECTION. **Sec. 13.** A new section is added to chapter 10.77
27 RCW to read as follows:

28 (1) Beginning in fiscal year 2026 and commencing no later than
29 August 15, 2025, the department of social and health services in
30 partnership with the health care authority shall convene a taskforce
31 to determine rules, policies, protocols, and other related
32 requirements to implement a growth cap system for inpatient
33 competency services. This must include eligibility requirements on
34 the necessary elements for a behavioral health diversion plan to meet
35 the threshold as described in section 9(1)(f) of this act. The
36 taskforce must also include a determination on rules and requirements
37 to determine county of origin for purposes of this act. The taskforce
38 shall produce a report no later than June 1, 2026, to the governor

1 and appropriate committees of the legislature. The taskforce shall,
2 at a minimum, include partners from local government, the criminal
3 justice system, behavioral health providers, tribes, people with
4 lived experience, and disability rights Washington or a designee.

5 (2) This section expires December 31, 2026.

6 NEW SECTION. **Sec. 14.** A new section is added to chapter 10.77
7 RCW to read as follows:

8 (1) For purposes of this section, "behavioral health diversion"
9 means adult jail diversion, whereby a person who has a behavioral
10 health need may still have involvement with the criminal justice
11 system but spends little to no time in a jail facility and is instead
12 connected to community-based treatment and support services either
13 with or without court involvement or correctional supervision.

14 (2)(a) For purposes of this section, "behavioral health diversion
15 plan" means a plan or strategy to ensure the availability and
16 utilization of community-based treatment and support services
17 designed to reduce or eliminate the amount of time persons with
18 behavioral health needs spend in a jail facility.

19 (b) The department shall establish rules to determine the
20 eligibility, elements, and criteria needed to establish a behavioral
21 health diversion plan under this subsection.

22 NEW SECTION. **Sec. 15.** Section 7 of this act expires July 1,
23 2028.

24 NEW SECTION. **Sec. 16.** Section 8 of this act takes effect July
25 1, 2028.

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