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**SENATE BILL 5157**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senator Wagoner

1 AN ACT Relating to providing incentives to reduce involvement by  
2 persons with behavioral disorders in the criminal justice system;  
3 amending RCW 70.320.020 and 70.320.030; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in 2013 the  
6 legislature adopted outcome expectations for entities that contract  
7 with the state to provide health services in order to guide  
8 purchasing strategies by the health care authority and department of  
9 social and health services. Since then, the health care authority has  
10 established a performance measures coordinating committee and  
11 implemented performance terms in managed care contracts including,  
12 but not limited to, performance measurement requirements, mandatory  
13 performance improvement projects, and value-based purchasing terms.

14 The legislature finds that two outcomes established by chapter  
15 320, Laws of 2013 (Engrossed Substitute House Bill No. 1519) and  
16 chapter 338, Laws of 2013 (Second Substitute Senate Bill No. 5732)  
17 which are key to the integration of behavioral health into primary  
18 health networks are (1) reduction in client involvement with the  
19 criminal justice system; and (2) reduction in avoidable costs in  
20 jails and prisons. These outcomes reflect Washington's priorities to  
21 incentivize cross-system collaboration between health networks,

1 government entities, and the criminal justice system; to emphasize  
2 prevention over crisis response; and to remove individuals whose  
3 offending is driven primarily by health status instead of criminality  
4 from the criminal justice system.

5 The legislature further finds that indicators since 2013 show  
6 worsening trends for interaction between persons with behavioral  
7 health disorders and the criminal justice system. According to data  
8 presented in October 2018 by the research and data administration of  
9 the department of social and health services, arrests of persons  
10 enrolled in public health with an identified mental health or  
11 substance use disorder condition increased by 67 percent during this  
12 five-year period, while the overall rate of arrest declined by 11  
13 percent. According to the same data source, referrals for state  
14 mental health services related to competency to stand trial have  
15 increased by 64 percent, incurring substantial liability for the  
16 state in the case of *Trueblood v. Department of Social and Health*  
17 *Services*. The purpose of this act is to focus the health care  
18 authority's purchasing efforts on providing incentives to its  
19 contractors to reverse these trends and achieve the outcome of  
20 reduced criminal justice system involvement for public health system  
21 clients with behavioral health disorders.

22 **Sec. 2.** RCW 70.320.020 and 2017 c 226 s 8 are each amended to  
23 read as follows:

24 (1) The authority and the department shall base contract  
25 performance measures developed under RCW 70.320.030 on the following  
26 outcomes when contracting with service contracting entities:  
27 Improvements in client health status and wellness; increases in  
28 client participation in meaningful activities; reductions in client  
29 involvement with criminal justice systems; reductions in avoidable  
30 costs in hospitals, emergency rooms, crisis services, and jails and  
31 prisons; increases in stable housing in the community; improvements  
32 in client satisfaction with quality of life; and reductions in  
33 population-level health disparities.

34 (2) The performance measures must demonstrate the manner in which  
35 the following principles are achieved within each of the outcomes  
36 under subsection (1) of this section:

37 (a) Maximization of the use of evidence-based practices will be  
38 given priority over the use of research-based and promising  
39 practices, and research-based practices will be given priority over

1 the use of promising practices. The agencies will develop strategies  
2 to identify programs that are effective with ethnically diverse  
3 clients and to consult with tribal governments, experts within  
4 ethnically diverse communities and community organizations that serve  
5 diverse communities;

6 (b) The maximization of the client's independence, recovery, and  
7 employment;

8 (c) The maximization of the client's participation in treatment  
9 decisions; and

10 (d) The collaboration between consumer-based support programs in  
11 providing services to the client.

12 (3) In developing performance measures under RCW 70.320.030, the  
13 authority and the department shall consider expected outcomes  
14 relevant to the general populations that each agency serves. The  
15 authority and the department may adapt the outcomes to account for  
16 the unique needs and characteristics of discrete subcategories of  
17 populations receiving services, including ethnically diverse  
18 communities.

19 (4) The authority and the department shall coordinate the  
20 establishment of the expected outcomes and the performance measures  
21 between each agency as well as each program to identify expected  
22 outcomes and performance measures that are common to the clients  
23 enrolled in multiple programs and to eliminate conflicting standards  
24 among the agencies and programs.

25 (5) (a) The authority and the department shall establish timelines  
26 and mechanisms for service contracting entities to report data  
27 related to performance measures and outcomes, including phased  
28 implementation of public reporting of outcome and performance  
29 measures in a form that allows for comparison of performance measures  
30 and levels of improvement between geographic regions of Washington.

31 (b) The authority and the department may not release any public  
32 reports of client outcomes unless the data has been deidentified and  
33 aggregated in such a way that the identity of individual clients  
34 cannot be determined through directly identifiable data or the  
35 combination of multiple data elements.

36 (6) (a) The ((authority and department)) performance measures  
37 coordinating committee must establish ((a)): (i) A performance  
38 measure to be integrated into the statewide common measure set which  
39 tracks effective integration practices of behavioral health services  
40 in primary care settings; (ii) performance measures which track rates

1 of criminal justice system involvement among public health system  
2 clients with an identified behavioral health need including, but not  
3 limited to, rates of arrest and incarceration; and (iii) improvement  
4 targets related to these measures.

5 (b) The performance measures coordinating committee must report  
6 to the governor and appropriate committees of the legislature  
7 regarding the implementation of this subsection by December 1, 2021.

8 **Sec. 3.** RCW 70.320.030 and 2015 c 209 s 1 are each amended to  
9 read as follows:

10 ~~((By September 1, 2014:))~~

11 (1) The authority shall adopt performance measures to determine  
12 whether service contracting entities are achieving the outcomes  
13 described in RCW 70.320.020 and 41.05.690 for clients enrolled in  
14 medical managed care programs operated according to Title XIX or XXI  
15 of the federal social security act.

16 (2) The ~~((department))~~ authority shall adopt performance measures  
17 to determine whether service contracting entities are achieving the  
18 outcomes described in RCW 70.320.020 for clients receiving mental  
19 health, long-term care, or chemical dependency services.

20 (3) The authority shall amend managed health care contracts with  
21 service contracting entities by July 1, 2022, to require contractors  
22 to implement mandatory performance improvement projects related to  
23 achieving outcomes under RCW 70.320.020 related to reducing client  
24 involvement with criminal justice systems where there is an  
25 identifiable behavioral health need.

26 (4) The authority shall integrate value-based purchasing terms  
27 relating to criminal justice outcomes under RCW 70.320.020 and this  
28 section into managed health care contracts by January 1, 2023.

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