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**SENATE BILL 5894**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators O'Ban, Darneille, Braun, Becker, Rossi, Brown, Miloscia, Cleveland, Ranker, Chase, Warnick, Keiser, Hunt, Hasegawa, Wellman, and Zeiger

AN ACT Relating to behavioral health system reform; amending RCW 71.24.310, 71.24.380, 71.05.320, 71.05.320, 71.05.365, 71.05.585, 71.05.150, 71.05.150, 71.05.150, 71.05.240, 71.05.240, 71.05.590, 71.05.590, 71.05.590, 10.77.060, 10.77.060, 10.77.084, 10.77.084, 10.77.086, 10.77.088, and 10.77.088; reenacting and amending RCW 71.05.320, 71.05.020, 71.05.020, 71.05.585, 71.05.230, 71.05.230, and 71.05.240; adding new sections to chapter 71.24 RCW; adding new sections to chapter 71.05 RCW; adding a new section to chapter 72.23 RCW; creating new sections; providing effective dates; and providing expiration dates.

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

NEW SECTION. **Sec.**  This act establishes the path of reform for the state behavioral health system over upcoming biennia concerning provision of long-term psychiatric care. Over the ensuing years Washington must transition purchasing of long-term involuntary psychiatric care to a regionally based system under a managed care framework which is responsive to the needs of the community and accountable for quality and patient outcomes. During this time state hospital practices must be modernized and state hospital resources focused on service to forensic and higher acuity civil patients. Treatment for patients under long-term civil commitment must be transitioned into a managed care framework over a time frame coinciding with the integration of physical and behavioral health care, after which the state hospitals must provide civil commitment services as part of a network of geographically diverse facilities certified to provide long-term involuntary civil treatment. Many components are required for the success of this vision. The state must establish the foundation for growth of long-term involuntary treatment capacity in the community and for performance measurement and data collection, adjusted by a standardized measure of patient acuity, which enables comparison of the costs and outcomes achieved in alternative certified community facilities. New community placement options must be established for persons with complex needs related to long-term care and developmental disabilities. Other critical measures improve availability and streamline filing procedures for assisted outpatient mental health treatment, deploy crisis walk-in centers and clubhouses, and expedite the movement of low-level, nonviolent defendants with severe mental illness through the criminal justice system.

**Part I**

**Integrating Risk for Long-Term Civil Involuntary Treatment Into Managed Care**

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

(1) To promote the development of effective community-based resources for treatment and prevention and align the system financial structure with the goal of reducing inpatient utilization concurrent with the integration of physical and behavioral health care, the authority shall integrate risk for long-term involuntary civil treatment provided by state hospitals into managed care contracts by January 1, 2020.

(2) The office of financial management shall engage a consultant to create a state psychiatric hospital managed care risk model to be submitted to the governor and select committee on quality improvement in state hospitals by December 31, 2017. The design of this model shall support placing full integration managed care entities at risk for the long-term involuntary civil treatment benefit effective January 1, 2020.

(3) The risk model must include analysis and recommendations to address the following:

(a) Necessary fiscal or actuarial analysis to determine how much of the state hospital budget to place in the capitation base;

(b) Steps to develop capacity within the state hospitals to contract with risk-bearing managed care entities by January 1, 2020, as part of a network of regional providers of long-term civil treatment and to collaborate effectively with managed care entities on development of patient treatment plans and discharge decisions;

(c) Special considerations related to the application of the managed care model to civilly committed patients subject to RCW 71.05.325, 71.05.330(2), 71.05.425, 71.05.280(3)(b), and patients civilly committed under chapter 10.77 RCW. Analysis should consider the level of risk observed with these patients and the comparative advantages of reasonable alternative approaches. Patients undergoing competency evaluation and competency restoration treatment are excluded from the risk model; and

(d) Performance metrics and other contract structures available to hold:

(i) Managed care entities accountable to uphold the legal requirements of the civil commitment system and the public policy outcomes intended under RCW 71.05.010, 71.05.012, and 10.77.2101; and

(ii) Providers of long-term civil treatment, including state hospitals, accountable for performance, including consideration of the interaction between performance conditions and collective bargaining agreements.

(4) The risk model must be designed to allow managed care entities to contract with any certified provider capable of providing the level of inpatient psychiatric care required under civil commitment within a fixed capitation rate, placing the entity at risk for all hospital utilization above the capitation base.

**Part II**

**Development of Community Long-Term Involuntary Treatment Capacity**

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

(1) The state intends to develop new capacity for delivery of long-term treatment in the community in diverse regions of the state prior to the effective date of the integration of risk for long-term involuntary treatment into managed care, and to study the cost and outcomes associated with treatment in community facilities. In furtherance of this goal, the department shall purchase a portion of the state's long-term treatment capacity allocated to behavioral health organizations under RCW 71.24.310 in willing community facilities capable of providing alternatives to treatment in a state hospital. The state shall increase its purchasing of long-term involuntary treatment capacity in the community over time.

(2) The department and the entities identified in RCW 71.24.310 and 71.24.380 shall:

(a) Work with willing community hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW to assess their capacity to become certified to provide long-term mental health placements and to meet the requirements of this chapter; and

(b) Enter into contracts and payment arrangements with such hospitals and evaluation and treatment facilities choosing to provide long-term mental health placements, to the extent that willing certified facilities are available. Nothing in this chapter requires any community hospital or evaluation and treatment facility to be certified to provide long-term mental health placements.

(3) The department must establish rules for the certification of facilities interested in providing care under this section, including by establishing reporting requirements. The reporting standards must allow the department to monitor the performance of the certified facilities, measure the acuity of patients accepted for care in comparison to state hospital patients, and compare results with the state hospitals in a consistent format. The measures must align with the data reported by the department to the select committee on quality improvement in state hospitals, including the length of stay of patients, outcomes after discharge, employee-related measures, and demographic information. To further management of acuity and data comparisons across long-term civil treatment settings, the department must develop a standardized behavioral health assessment tool to measure acuity among patients admitted to long-term civil treatment, similar to the comprehensive assessment reporting evaluation tool used by the aging and long-term support administration.

**Sec.**  RCW 71.24.310 and 2014 c 225 s 40 are each amended to read as follows:

The legislature finds that administration of chapter 71.05 RCW and this chapter can be most efficiently and effectively implemented as part of the behavioral health organization defined in RCW 71.24.025. For this reason, the legislature intends that the department and the behavioral health organizations shall work together to implement chapter 71.05 RCW as follows:

(1) By June 1, 2006, behavioral health organizations shall recommend to the department the number of state hospital beds that should be allocated for use by each behavioral health organization. The statewide total allocation shall not exceed the number of state hospital beds offering long-term inpatient care, as defined in this chapter, for which funding is provided in the biennial appropriations act.

(2) If there is consensus among the behavioral health organizations regarding the number of state hospital beds that should be allocated for use by each behavioral health organization, the department shall contract with each behavioral health organization accordingly.

(3) If there is not consensus among the behavioral health organizations regarding the number of beds that should be allocated for use by each behavioral health organization, the department shall establish by emergency rule the number of state hospital beds that are available for use by each behavioral health organization. The emergency rule shall be effective September 1, 2006. The primary factor used in the allocation shall be the estimated number of adults with acute and chronic mental illness in each behavioral health organization area, based upon population-adjusted incidence and utilization.

(4) The allocation formula shall be updated at least every three years to reflect demographic changes, and new evidence regarding the incidence of acute and chronic mental illness and the need for long-term inpatient care. In the updates, the statewide total allocation shall include (a) all state hospital beds offering long-term inpatient care for which funding is provided in the biennial appropriations act; plus (b) the estimated equivalent number of beds or comparable diversion services contracted in accordance with subsection (5) of this section.

(5)(a) The department ((~~is encouraged to enter~~)) shall enter into performance-based contracts with behavioral health organizations to provide some or all of the behavioral health organization's allocated long-term inpatient treatment capacity in the community, rather than in the state hospital, to the extent that willing certified facilities and funding are available. The performance contracts shall specify the number of patient days of care available for use by the behavioral health organization in the state hospital and the number of patient days of care available for use by the behavioral health organization in a facility certified by the department to provide treatment to adults on a ninety or one hundred eighty-day inpatient involuntary commitment order, including hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW.

(b) Nothing in this section requires a hospital licensed under chapter 70.41 or 71.12 RCW to contract or become certified to treat patients on ninety or one hundred eighty-day involuntary commitment orders as a condition for continuing to treat adults who are waiting for placement at either the state hospital or in certified facilities that voluntarily contract to provide treatment to patients on ninety or one hundred eighty-day involuntary commitment orders.

(6) If a behavioral health organization uses more state hospital patient days of care than it has been allocated under subsection (3) or (4) of this section, or than it has contracted to use under subsection (5) of this section, whichever is less, it shall reimburse the department for that care, except during the period of July 1, 2012, through December 31, 2013, where reimbursements may be temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp. sess. The reimbursement rate per day shall be the hospital's total annual budget for long-term inpatient care, divided by the total patient days of care assumed in development of that budget.

(7) One-half of any reimbursements received pursuant to subsection (6) of this section shall be used to support the cost of operating the state hospital and, during the 2007-2009 fiscal biennium, implementing new services that will enable a behavioral health organization to reduce its utilization of the state hospital. The department shall distribute the remaining half of such reimbursements among behavioral health organizations that have used less than their allocated or contracted patient days of care at that hospital, proportional to the number of patient days of care not used.

**Sec.**  RCW 71.24.380 and 2014 c 225 s 5 are each amended to read as follows:

(1) The secretary shall purchase mental health and chemical dependency treatment services primarily through managed care contracting, but may continue to purchase behavioral health services directly from tribal clinics and other tribal providers.

(2)(a) The secretary shall request a detailed plan from the entities identified in (b) of this subsection that demonstrates compliance with the contractual elements of RCW 43.20A.894 and federal regulations related to medicaid managed care contracting((~~,~~)) including, but not limited to: Having a sufficient network of providers to provide adequate access to mental health and chemical dependency services for residents of the regional service area that meet eligibility criteria for services, ability to maintain and manage adequate reserves, and maintenance of quality assurance processes. In addition, such entities must demonstrate the ability to contract for a minimum number of patient days, to be determined by the secretary, in a facility certified by the department to provide treatment for adults on a ninety or one hundred eighty-day inpatient involuntary commitment order, including at hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities certified under chapter 71.05 RCW, to the extent that willing certified facilities are available. Any responding entity that submits a detailed plan that demonstrates that it can meet the requirements of this section must be awarded the contract to serve as the behavioral health organization.

(b)(i) For purposes of responding to the request for a detailed plan under (a) of this subsection, the entities from which a plan will be requested are:

(A) A county in a single county regional service area that currently serves as the regional support network for that area;

(B) In the event that a county has made a decision prior to January 1, 2014, not to contract as a regional support network, any private entity that serves as the regional support network for that area;

(C) All counties within a regional service area that includes more than one county, which shall form a responding entity through the adoption of an interlocal agreement. The interlocal agreement must specify the terms by which the responding entity shall serve as the behavioral health organization within the regional service area.

(ii) In the event that a regional service area is comprised of multiple counties including one that has made a decision prior to January 1, 2014, not to contract as a regional support network the counties shall adopt an interlocal agreement and may respond to the request for a detailed plan under (a) of this subsection and the private entity may also respond to the request for a detailed plan. If both responding entities meet the requirements of this section, the responding entities shall follow the department's procurement process established in subsection (3) of this section.

(3) If an entity that has received a request under this section to submit a detailed plan does not respond to the request, a responding entity under subsection (1) of this section is unable to substantially meet the requirements of the request for a detailed plan, or more than one responding entity substantially meets the requirements for the request for a detailed plan, the department shall use a procurement process in which other entities recognized by the secretary may bid to serve as the behavioral health organization in that regional service area.

(4) Contracts for behavioral health organizations must begin on April 1, 2016.

(5) Upon request of all of the county authorities in a regional service area, the department and the health care authority may jointly purchase behavioral health services through an integrated medical and behavioral health services contract with a behavioral health organization or a managed health care system as defined in RCW 74.09.522, pursuant to standards to be developed jointly by the secretary and the health care authority. Any contract for such a purchase must comply with all federal medicaid and state law requirements related to managed health care contracting.

(6) As an incentive to county authorities to become early adopters of fully integrated purchasing of medical and behavioral health services, the standards adopted by the secretary and the health care authority under subsection (5) of this section shall provide for an incentive payment to counties which elect to move to full integration by January 1, 2016. Subject to federal approval, the incentive payment shall be targeted at ten percent of savings realized by the state within the regional service area in which the fully integrated purchasing takes place. Savings shall be calculated in alignment with the outcome and performance measures established in RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for early adopter counties shall be made available for up to a six-year period, or until full integration of medical and behavioral health services is accomplished statewide, whichever comes sooner, according to rules to be developed by the secretary and health care authority.

NEW SECTION. **Sec.**  A new section is added to chapter 71.05 RCW to read as follows:

Treatment under RCW 71.05.320 may be provided at a state hospital or any willing and able facility certified to provide ninety-day or one hundred eighty-day care. A managed care entity responsible for the cost of care may designate where treatment is to be provided, at a willing certified facility or a state hospital, after consultation with the facility providing current treatment, provided that administrative approval must not be required for treatment under RCW 71.05.320.

**Sec.**  RCW 71.05.320 and 2016 c 45 s 4 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court ((~~shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department~~)) must commit him or her for a period of treatment of up to ninety days or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated mental health professional, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty day period whenever the petition presents prima facie evidence that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the mental disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge ((~~from the state hospital~~)); or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient mental health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(b) At the end of the one hundred eighty day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

**Sec.**  RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45 s 4 are each reenacted and amended to read as follows:

(1)(a) Subject to (b) of this subsection, if the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

(b) If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. The court may only enter an order for commitment based on a substance use disorder if there is an available approved substance use disorder treatment program with adequate space for the person.

(c) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court ((~~shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department~~)) must commit him or her for a period of treatment of up to ninety days or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the order for less restrictive treatment is based on a substance use disorder, treatment must be provided by an approved substance use disorder treatment program. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a mental disorder, substance use disorder, or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder, substance use disorder, or developmental disability a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty day period whenever the petition presents prima facie evidence that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the mental disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge ((~~from the state hospital~~)); or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient mental health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, subject to subsection (1)(b) of this section, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(b) At the end of the one hundred eighty day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

**Sec.**  RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each amended to read as follows:

(1)(a) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

(b) If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court ((~~shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department~~)) must commit him or her for a period of treatment of up to ninety days or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the order for less restrictive treatment is based on a substance use disorder, treatment must be provided by an approved substance use disorder treatment program. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a mental disorder, substance use disorder, or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder, substance use disorder, or developmental disability a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty day period whenever the petition presents prima facie evidence that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the mental disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge ((~~from the state hospital~~)); or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient mental health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

(b) At the end of the one hundred eighty day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

**Part III**

**State Hospital Short-Term Reforms**

NEW SECTION. **Sec.**  The legislature intends to expand capacity in the upcoming biennia for enhanced community placements for complex patients to decrease utilization of state hospitals and increase community stability. Capacity must be provided in settings such as nursing homes, assisted living facilities, adult family homes, enhanced service facilities, state-operated living alternatives, and supported housing for persons with developmental disabilities or long-term care needs. The funding must be administered by the department of social and health services.

NEW SECTION. **Sec.**  A new section is added to chapter 71.05 RCW to read as follows:

Discharge planning in state hospitals and certified community long-term involuntary treatment facilities must begin at admission. Discharge planning must be collaborative across state agencies and community providers, provide individualized treatment targeted towards known risks of rehospitalization or recidivism, and work ahead to resolve known discharge barriers that may prevent patients from leaving the state hospital when they are deemed ready. To ensure effective discharge planning, state hospitals, certified long-term involuntary treatment facilities, and state agencies responsible for the cost of the community care long-term involuntary treatment patients must do the following:

(1) The aging and long-term support administration and developmental disabilities administration or their successor agencies must assume expanded responsibility beginning at admission for aiding its clients to transition from state hospitals and long-term involuntary treatment facilities into the community. This responsibility may include interfacing with behavioral health organizations and others to coordinate community treatment arrangements for multiagency clients. State hospitals must allow functional assessments to be conducted on individuals identified as potential clients before the patient is deemed eligible for discharge and allow necessary access for agency staff to implement the goals of this subsection;

(2) State hospitals and certified long-term involuntary treatment facilities must allow managed care entities responsible for the cost of a state hospital patient's community care appropriate access to the patient and patient records for purposes of coordinated care. Managed care entities must be allowed to make assessments, provide input into treatment plans and discharge planning, and otherwise engage in appropriate rehabilitation case management activities before the patient is deemed ready for discharge; and

(3) State hospitals must screen patients upon admission for medical necessity for substance use disorder treatment and provide coordinated substance use disorder treatment services targeted to reduce rehospitalization or recidivism to patients with an identified need.

**Sec.**  RCW 71.05.365 and 2016 sp.s. c 37 s 15 are each amended to read as follows:

(1) When a person has been involuntarily committed for treatment to a state hospital for a period of ninety or one hundred eighty days, and the superintendent or professional person in charge of the state hospital determines that the person no longer requires active psychiatric treatment at an inpatient level of care, the behavioral health organization((~~,~~)) or full integration entity under RCW 71.24.380((~~, or agency providing oversight of long-term care or developmental disability services that is responsible for resource management services for the person must work with the hospital to develop an individualized discharge plan and arrange for a transition to the community in accordance with the person's individualized discharge plan within fourteen days of the determination~~)) must establish an individualized discharge plan arranging for transition to an identified placement in the community within no more than fourteen days of the determination. The individualized discharge plan must provide for a date certain by which discharge must be completed.

(2) If the entity under subsection (1) of this section has not fulfilled the obligation to establish an individualized discharge plan for the patient, the entity must reimburse the department for days of care provided after the fourteenth day following determination that the person no longer requires active psychiatric treatment at an inpatient level of care, until an individualized discharge plan meeting the requirements of subsection (1) of this section is established. The reimbursement rate per day shall be the same reimbursement rate under RCW 71.24.310.

(3) The department must establish a process for appeal to the secretary or the secretary's designee when entities under subsection (1) of this section and the state hospital are unable to mutually agree within fourteen days about a specific patient's readiness for discharge, whether readiness for discharge is asserted by the state hospital or by the managed care entity. The managed care entity may use this process to request relief from a reimbursement obligation under subsection (2) of this section if the managed care entity is unable to establish a discharge plan due to the action or inaction of a third party outside its contracting authority or control, such as a state agency division responsible for a portion of the costs related to the community care needs of the person.

(4) The requirements of this section are suspended when the risk of state hospital treatment is integrated into managed care contracts as provided under section 2 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 72.23 RCW to read as follows:

(1) The legislature finds that qualified psychiatric advanced registered nurse practitioners and physician assistants supervised by a psychiatrist have a role in participating in the direction of psychiatric treatment at state psychiatric hospitals consistent with practice at the top of their scope of license and capabilities, including sharing duties for prescribing psychiatric medication and other tasks historically performed by psychiatrists at the state hospitals. The department should take reasonable steps available to employ these professionals at state hospitals.

(2) The role of state hospital psychiatrists is expanded to provide supervision to psychiatric advanced registered nurse practitioners and physician assistants specializing in psychiatry necessarily to allow these professionals to practice at the top of their scope of license.

(3) In order to increase the use of psychiatric advanced registered nurse practitioners to perform work and tasks that are currently or have been historically performed by psychiatrists at the state hospitals, the department shall work with the University of Washington department of psychiatry and behavioral sciences to conduct an analysis and develop a plan to create a residency program at western and eastern state hospitals for psychiatric advanced registered nurse practitioners. The plan shall include an appraisal of risks, barriers, and benefits to implementation as well as an implementation timeline. The department must report to the office of financial management and relevant policy and fiscal committees of the legislature on findings and recommendations by December 15, 2017.

**Part IV**

**Improving Access to Assisted Outpatient Mental Health Treatment**

**Sec.**  RCW 71.05.020 and 2016 c 155 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

(9) "Designated chemical dependency specialist" means a person designated by ((~~the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310~~)) a behavioral health organization as defined in RCW 71.24.025 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the behavioral health organization to perform the duties specified in this chapter;

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

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

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

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

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

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. The department may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

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

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

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

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

(21) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental disorder: (a) ((~~Has been committed by a court to detention for involuntary mental health treatment at least twice during the preceding thirty-six months, or, if the person is currently committed for involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six months preceding the date of initial detention of the current commitment cycle; (b)~~)) Is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, ((~~in view of the person's treatment history or current behavior; (c) is unlikely to survive safely in the community without supervision; (d) is likely to benefit from less restrictive alternative treatment; and (e)~~)) based on a history of nonadherence with treatment or in view of the person's current behavior; (b) is likely to benefit from less restrictive alternative treatment; and (c) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time((~~. For purposes of (a) of this subsection, time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six month calculation~~));

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

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

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

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

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

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

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

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

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

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

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

(26) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(27) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

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

(28) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated mental health professional;

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

(30) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

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

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

(33) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

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

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

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

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

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

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

(40) "Registration records" include all the records of the department, behavioral health organizations, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(41) "Release" means legal termination of the commitment under the provisions of this chapter;

(42) "Resource management services" has the meaning given in chapter 71.24 RCW;

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

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

(45) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

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

(47) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

(48) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

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

**Sec.**  RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155 s 1 are each reenacted and amended to read as follows:

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

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

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

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

(6) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more psychoactive chemicals, as the context requires;

(7) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW;

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

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

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

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

(12) "Department" means the department of social and health services;

(13) "Designated crisis responder" means a mental health professional appointed by the behavioral health organization to perform the duties specified in this chapter;

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

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

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

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

(18) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(19) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. The department may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

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

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

(22) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

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

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

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

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

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

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

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

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

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

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

(26) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(27) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental disorder: (a) ((~~Has been committed by a court to detention for involuntary mental health treatment at least twice during the preceding thirty-six months, or, if the person is currently committed for involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six months preceding the date of initial detention of the current commitment cycle; (b)~~)) Is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, ((~~in view of the person's treatment history or current behavior; (c) is unlikely to survive safely in the community without supervision; (d) is likely to benefit from less restrictive alternative treatment; and (e)~~)) based on a history of nonadherence with treatment or in view of the person's current behavior; (b) is likely to benefit from less restrictive alternative treatment; and (c) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time((~~. For purposes of (a) of this subsection, time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six month calculation~~));

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

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

(30) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(31) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(32) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

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

(33) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

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

(35) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(36) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure detoxification facilities as defined in this section, and correctional facilities operated by state and local governments;

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

(38) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(39) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

(40) "Professional person" means a mental health professional or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

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

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

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

(44) "Public agency" means any evaluation and treatment facility or institution, secure detoxification facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(45) "Registration records" include all the records of the department, behavioral health organizations, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness or substance use disorders;

(46) "Release" means legal termination of the commitment under the provisions of this chapter;

(47) "Resource management services" has the meaning given in chapter 71.24 RCW;

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

(49) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated persons:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is certified as such by the department;

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

(51) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

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

(54) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

(55) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

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

**Sec.**  RCW 71.05.585 and 2016 c 45 s 5 are each amended to read as follows:

(1) Less restrictive alternative treatment, at a minimum, includes the following services:

(a) Assignment of a care coordinator;

(b) An intake evaluation with the provider of the less restrictive alternative treatment;

(c) A psychiatric evaluation;

(d) ((~~Medication management;~~

~~(e)~~)) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;

((~~(f)~~)) (e) A transition plan addressing access to continued services at the expiration of the order; and

((~~(g)~~)) (f) An individual crisis plan.

(2) Less restrictive alternative treatment may additionally include requirements to participate in the following services:

(a) Medication management;

(b) Psychotherapy;

((~~(b)~~)) (c) Nursing;

((~~(c)~~)) (d) Substance abuse counseling;

((~~(d)~~)) (e) Residential treatment; and

((~~(e)~~)) (f) Support for housing, benefits, education, and employment.

(3) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(4) The care coordinator assigned to a person ordered to less restrictive alternative treatment must submit an individualized plan for the person's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(5) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated mental health professionals necessary for enforcement and continuation of less restrictive alternative orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

**Sec.**  RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45 s 5 are each reenacted and amended to read as follows:

(1) Less restrictive alternative treatment, at a minimum, includes the following services:

(a) Assignment of a care coordinator;

(b) An intake evaluation with the provider of the less restrictive alternative treatment;

(c) A psychiatric evaluation;

(d) ((~~Medication management;~~

~~(e)~~)) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;

((~~(f)~~)) (e) A transition plan addressing access to continued services at the expiration of the order; and

((~~(g)~~)) (f) An individual crisis plan.

(2) Less restrictive alternative treatment may additionally include requirements to participate in the following services:

(a) Medication management;

(b) Psychotherapy;

((~~(b)~~)) (c) Nursing;

((~~(c)~~)) (d) Substance abuse counseling;

((~~(d)~~)) (e) Residential treatment; and

((~~(e)~~)) (f) Support for housing, benefits, education, and employment.

(3) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(4) The care coordinator assigned to a person ordered to less restrictive alternative treatment must submit an individualized plan for the person's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(5) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated crisis responders that are necessary for enforcement and continuation of less restrictive alternative orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

NEW SECTION. **Sec.**  A new section is added to chapter 71.05 RCW to read as follows:

This section establishes a process for initial evaluation and filing of a petition for assisted outpatient treatment, but however does not preclude the filing of a petition for assisted outpatient treatment following a period of inpatient detention in appropriate circumstances:

(1) The designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at a mental health facility.

(2) The designated mental health professional must investigate and evaluate the specific facts alleged and the reliability or credibility of any person providing information. The designated mental health professional may spend up to forty-eight hours to complete the investigation, provided that the person may not be held for investigation for any period except as authorized by RCW 71.05.050 or 71.05.153.

(3) If the designated mental health professional finds that the person is in need of assisted outpatient mental health treatment, they may file a petition requesting the court to enter an order for up to ninety days less restrictive alternative treatment. The petition must include:

(a) A statement of the circumstances under which the person's condition was made known and stating that there is evidence, as a result of the designated mental health professional's personal observation or investigation, that the person is in need of assisted outpatient mental health treatment, and stating the specific facts known as a result of personal observation or investigation, upon which the designated mental health professional bases this belief;

(b) The declaration of additional witnesses, if any, supporting the petition for assisted outpatient treatment;

(c) A designation of retained counsel for the person or, if counsel is appointed, the name, business address, and telephone number of the attorney appointed to represent the person;

(d) The name of an agency or facility which agreed to assume the responsibility of providing less restrictive alternative treatment if the petition is granted by the court;

(e) A summons to appear in court at a specific time and place within five judicial days for a probable cause hearing, except as provided in subsection (4) of this section.

(4) If the person is in the custody of jail or prison at the time of the investigation, a petition for assisted outpatient mental health treatment may be used to facilitate continuity of care after release from custody or the diversion of criminal charges as follows:

(a) If the petition is filed in anticipation of the person's release from custody, the summons may be for a date up to five judicial days following the person's anticipated release date, provided that a clear time and place for the hearing is provided; or

(b) The hearing may be held prior to the person's release from custody, provided that (i) the filing of the petition does not extend the time the person would otherwise spend in the custody of jail or prison; (ii) the charges or custody of the person is not a pretext to detain the person for the purpose of the involuntary commitment hearing; and (iii) the person's release from custody must be expected to swiftly follow the adjudication of the petition. In this circumstance, the time for hearing is shortened to three judicial days after the filing of the petition.

(5) The petition must be served upon the person and the person's counsel with a notice of applicable rights. Proof of service must be filed with the court.

(6) A petition for assisted outpatient treatment filed under this section must be adjudicated under RCW 71.05.240.

NEW SECTION. **Sec.**  A new section is added to chapter 71.05 RCW to read as follows:

This section establishes a process for initial evaluation and filing of a petition for assisted outpatient treatment, but however does not preclude the filing of a petition for assisted outpatient treatment following a period of inpatient detention in appropriate circumstances:

(1) The designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at a mental health facility.

(2) The designated crisis responder must investigate and evaluate the specific facts alleged and the reliability or credibility of any person providing information. The designated crisis responder may spend up to forty-eight hours to complete the investigation, provided that the person may not be held for investigation for any period except as authorized by RCW 71.05.050 or 71.05.153.

(3) If the designated crisis responder finds that the person is in need of assisted outpatient mental health treatment, they may file a petition requesting the court to enter an order for up to ninety days less restrictive alternative treatment. The petition must include:

(a) A statement of the circumstances under which the person's condition was made known and stating that there is evidence, as a result of the designated crisis responder's personal observation or investigation, that the person is in need of assisted outpatient mental health treatment, and stating the specific facts known as a result of personal observation or investigation, upon which the designated crisis responder bases this belief;

(b) The declaration of additional witnesses, if any, supporting the petition for assisted outpatient treatment;

(c) A designation of retained counsel for the person or, if counsel is appointed, the name, business address, and telephone number of the attorney appointed to represent the person;

(d) The name of an agency or facility which agreed to assume the responsibility of providing less restrictive alternative treatment if the petition is granted by the court;

(e) A summons to appear in court at a specific time and place within five judicial days for a probable cause hearing, except as provided in subsection (4) of this section.

(4) If the person is in the custody of jail or prison at the time of the investigation, a petition for assisted outpatient mental health treatment may be used to facilitate continuity of care after release from custody or the diversion of criminal charges as follows:

(a) If the petition is filed in anticipation of the person's release from custody, the summons may be for a date up to five judicial days following the person's anticipated release date, provided that a clear time and place for the hearing is provided; or

(b) The hearing may be held prior to the person's release from custody, provided that (i) the filing of the petition does not extend the time the person would otherwise spend in the custody of jail or prison; (ii) the charges or custody of the person is not a pretext to detain the person for the purpose of the involuntary commitment hearing; and (iii) the person's release from custody must be expected to swiftly follow the adjudication of the petition. In this circumstance, the time for hearing is shortened to three judicial days after the filing of the petition.

(5) The petition must be served upon the person and the person's counsel with a notice of applicable rights. Proof of service must be filed with the court.

(6) A petition for assisted outpatient treatment filed under this section must be adjudicated under RCW 71.05.240.

**Sec.**  RCW 71.05.150 and 2015 c 250 s 3 are each amended to read as follows:

(1)((~~(a)~~)) When a designated mental health professional receives information alleging that a person, as a result of a mental disorder: ((~~(i)~~)) (a) Presents a likelihood of serious harm; ((~~(ii)~~)) (b) is gravely disabled; or ((~~(iii)~~)) (c) is in need of assisted outpatient mental health treatment; the designated mental health professional may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient evaluation, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention ((~~or involuntary outpatient evaluation. If the petition is filed solely on the grounds that the person is in need of assisted outpatient mental health treatment, the petition may only be for an involuntary outpatient evaluation. An involuntary outpatient evaluation may be conducted by any combination of licensed professionals authorized to petition for involuntary commitment under RCW 71.05.230 and must include involvement or consultation with the agency or facility which will provide monitoring or services under the proposed less restrictive alternative treatment order. If the petition is for an involuntary outpatient evaluation and the person is being held in a hospital emergency department, the person may be released once the hospital has satisfied federal and state legal requirements for appropriate screening and stabilization of patients.~~

~~(b)~~)) under this section or a petition for involuntary outpatient treatment under section 18 of this act. Before filing the petition, the designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, or triage facility.

(2)(a) An order to detain to a designated evaluation and treatment facility for not more than a seventy-two-hour evaluation and treatment period((~~, or an order for an involuntary outpatient evaluation,~~)) may be issued by a judge of the superior court upon request of a designated mental health professional, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention ((~~or involuntary outpatient evaluation~~)), signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated mental health professional shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention ((~~or involuntary outpatient evaluation~~)). After service on such person the designated mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The designated mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated mental health professional may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

**Sec.**  RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each amended to read as follows:

(1)((~~(a)~~)) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient mental health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient evaluation, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention ((~~or involuntary outpatient evaluation. If the petition is filed solely on the grounds that the person is in need of assisted outpatient mental health treatment, the petition may only be for an involuntary outpatient evaluation. An involuntary outpatient evaluation may be conducted by any combination of licensed professionals authorized to petition for involuntary commitment under RCW 71.05.230 and must include involvement or consultation with the agency or facility which will provide monitoring or services under the proposed less restrictive alternative treatment order. If the petition is for an involuntary outpatient evaluation and the person is being held in a hospital emergency department, the person may be released once the hospital has satisfied federal and state legal requirements for appropriate screening and stabilization of patients.~~

~~(b)~~)) under this section or a petition for involuntary outpatient treatment under section 18 of this act. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure detoxification facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period((~~, or an order for an involuntary outpatient evaluation,~~)) may be issued by a judge of the superior court upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention ((~~or involuntary outpatient evaluation~~)), signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) A court may not issue an order to detain a person to a secure detoxification facility or approved substance use disorder treatment program unless there is an available secure detoxification facility or approved substance use disorder treatment program that has adequate space for the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention ((~~or involuntary outpatient evaluation~~)). After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

**Sec.**  RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each amended to read as follows:

(1)((~~(a)~~)) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient mental health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient evaluation, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention ((~~or involuntary outpatient evaluation. If the petition is filed solely on the grounds that the person is in need of assisted outpatient mental health treatment, the petition may only be for an involuntary outpatient evaluation. An involuntary outpatient evaluation may be conducted by any combination of licensed professionals authorized to petition for involuntary commitment under RCW 71.05.230 and must include involvement or consultation with the agency or facility which will provide monitoring or services under the proposed less restrictive alternative treatment order. If the petition is for an involuntary outpatient evaluation and the person is being held in a hospital emergency department, the person may be released once the hospital has satisfied federal and state legal requirements for appropriate screening and stabilization of patients.~~

~~(b)~~)) under this section or a petition for involuntary outpatient treatment under section 18 of this act. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure detoxification facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period((~~, or an order for an involuntary outpatient evaluation,~~)) may be issued by a judge of the superior court upon request of a designated crisis responder whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention ((~~or involuntary outpatient evaluation~~)), signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention ((~~or involuntary outpatient evaluation~~)). After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

**Sec.**  RCW 71.05.230 and 2016 c 155 s 5 and 2016 c 45 s 1 are each reenacted and amended to read as follows:

A person detained ((~~or committed~~)) for seventy-two hour evaluation and treatment ((~~or for an outpatient evaluation for the purpose of filing a petition for a less restrictive alternative treatment order~~)) may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the ((~~agency or~~)) facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and results in a likelihood of serious harm, results in the person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The ((~~agency or~~)) facility providing intensive treatment ((~~or which proposes to supervise the less restrictive alternative~~)) is certified to provide such treatment by the department; and

(4) The professional staff of the ((~~agency or~~)) facility or the designated mental health professional has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) One physician assistant and a mental health professional; or

(d) One psychiatric advanced registered nurse practitioner and a mental health professional. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient mental health treatment, and shall set forth any recommendations for less restrictive alternative treatment services; and

(5) A copy of the petition has been served on the detained ((~~or committed~~)) person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

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

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed; and

(8) At the conclusion of the initial commitment period, the professional staff of the ((~~agency or~~)) facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

**Sec.**  RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s 5, and 2016 c 45 s 1 are each reenacted and amended to read as follows:

A person detained ((~~or committed~~)) for seventy-two hour evaluation and treatment ((~~or for an outpatient evaluation for the purpose of filing a petition for a less restrictive alternative treatment order~~)) may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative ((~~to involuntary intensive~~)) treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the ((~~agency or~~)) facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder or substance use disorder and results in a likelihood of serious harm, results in the person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The ((~~agency or~~)) facility providing intensive treatment ((~~or which proposes to supervise the less restrictive alternative~~)) is certified to provide such treatment by the department; and

(4) The professional staff of the ((~~agency or~~)) facility or the designated crisis responder has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) One physician assistant and a mental health professional; or

(d) One psychiatric advanced registered nurse practitioner and a mental health professional. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of a mental disorder or as a result of a substance use disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient mental health treatment, and shall set forth any recommendations for less restrictive alternative treatment services; and

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

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

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed for mental health treatment; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated crisis responder may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

**Sec.**  RCW 71.05.240 and 2016 c 45 s 2 are each amended to read as follows:

(1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention ((~~or involuntary outpatient evaluation~~)) of such person as determined in RCW 71.05.180, or at a time determined under section 18 of this act. If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

(2) The court at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3) At the conclusion of the probable cause hearing:

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

(b) If the court finds by a preponderance of the evidence that such person, as the result of a mental disorder, is in need of assisted outpatient mental health treatment, and that the person does not present a likelihood of serious harm or grave disability, the court shall order an appropriate less restrictive alternative course of treatment not to exceed ninety days((~~, and may not order inpatient treatment;~~)).

((~~(c)~~)) (4) An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

((~~(4)~~)) (5) The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. The court shall also state to the person and provide written notice that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

**Sec.**  RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45 s 2 are each reenacted and amended to read as follows:

(1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention ((~~or involuntary outpatient evaluation~~)) of such person as determined in RCW 71.05.180, or at a time determined under section 18 of this act. If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

(2) If the petition is for mental health treatment, the court at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3)(a) Subject to (b) of this subsection, at the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department.

(b) Commitment for up to fourteen days based on a substance use disorder must be to either a secure detoxification facility or an approved substance use disorder treatment program. A court may only enter a commitment order based on a substance use disorder if there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

(c) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive alternative course of treatment for not to exceed ninety days.

(d) If the court finds by a preponderance of the evidence that such person, as the result of a mental disorder, is in need of assisted outpatient mental health treatment, and that the person does not present a likelihood of serious harm or grave disability, the court shall order an appropriate less restrictive alternative course of treatment not to exceed ninety days((~~, and may not order inpatient treatment~~)).

((~~(e)~~)) (4) An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

((~~(4)~~)) (5) The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. If the commitment is for mental health treatment, the court shall also state to the person and provide written notice that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

**Sec.**  RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each amended to read as follows:

(1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention ((~~or involuntary outpatient evaluation~~)) of such person as determined in RCW 71.05.180, or at a time determined under section 18 of this act. If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

(2) If the petition is for mental health treatment, the court at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3)(a) Subject to (b) of this subsection, at the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department.

(b) Commitment for up to fourteen days based on a substance use disorder must be to either a secure detoxification facility or an approved substance use disorder treatment program.

(c) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive alternative course of treatment for not to exceed ninety days.

(d) If the court finds by a preponderance of the evidence that such person, as the result of a mental disorder, is in need of assisted outpatient mental health treatment, and that the person does not present a likelihood of serious harm or grave disability, the court shall order an appropriate less restrictive alternative course of treatment not to exceed ninety days((~~, and may not order inpatient treatment~~)).

((~~(e)~~)) (4) An order for less restrictive alternative treatment must name the mental health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider.

((~~(4)~~)) (5) The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. If the commitment is for mental health treatment, the court shall also state to the person and provide written notice that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

**Sec.**  RCW 71.05.590 and 2015 c 250 s 13 are each amended to read as follows:

(1) An agency or facility designated to monitor or provide services under a less restrictive alternative or conditional release order or a designated mental health professional may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order if the agency, facility, or designated mental health professional determines that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel, advise, or admonish the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated mental health professional, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or evaluation and treatment facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated mental health professional or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated mental health professional when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated mental health professional or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this section to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment, or initiate proceedings under this subsection (4) without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated mental health professional or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated mental health professional or secretary shall notify the court that originally ordered commitment within two judicial days of a person's detention and file a revocation petition and order of apprehension and detention with the court and serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings regarding a petition for modification or revocation must be in the county in which the petition was filed.

(d) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order.

((~~(e) Revocation proceedings under this subsection (4) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.~~))

(5) In determining whether or not to take action under this section the designated mental health professional, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

**Sec.**  RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each amended to read as follows:

(1) An agency or facility designated to monitor or provide services under a less restrictive alternative or conditional release order or a designated crisis responder may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order if the agency, facility, or designated crisis responder determines that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel, advise, or admonish the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure detoxification facility with available space or an approved substance use disorder treatment program with available space if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated crisis responder or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure detoxification facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment and has adequate space. Proceedings under this subsection (4) may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary shall notify the court that originally ordered commitment within two judicial days of a person's detention and file a revocation petition and order of apprehension and detention with the court and serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings regarding a petition for modification or revocation must be in the county in which the petition was filed.

(d) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order. A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder treatment program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.

((~~(e) Revocation proceedings under this subsection (4) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.~~))

(5) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

**Sec.**  RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each amended to read as follows:

(1) An agency or facility designated to monitor or provide services under a less restrictive alternative or conditional release order or a designated crisis responder may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order if the agency, facility, or designated crisis responder determines that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel, advise, or admonish the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure detoxification facility or an approved substance use disorder treatment program if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated crisis responder or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure detoxification facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection (4) may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary shall notify the court that originally ordered commitment within two judicial days of a person's detention and file a revocation petition and order of apprehension and detention with the court and serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings regarding a petition for modification or revocation must be in the county in which the petition was filed.

(d) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order.

((~~(e) Revocation proceedings under this subsection (4) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.~~))

(5) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

**Part V**

**Reducing Demand for Forensic Services**

NEW SECTION. **Sec.**  (1) The legislature intends to implement crisis walk-in centers, a new crisis service in Washington, to be deployed in high-need urban areas. A crisis walk-in center allows individuals to self-refer or be referred by emergency services or police and stay up to twenty-three hours under observation. Services with crisis walk-in centers generally include crisis stabilization and intervention, general counseling, peer support, medication management, education, and referral assistance. Studies indicate that these centers reduce hospital admissions and increase enrollment in community programs. The legislature intends for these centers to be geographically distributed around the state.

(2) The legislature intends to expand availability of clubhouses to provide community-based programs which promote rehabilitation, recovery, and reintegration services to adults with persistent mental illness. Clubhouses expanded under this section must show fidelity to the evidence-based model and be credentialed through clubhouse international.

**Sec.**  RCW 10.77.060 and 2012 c 256 s 3 are each amended to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(b) The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional.

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant to a hospital or secure mental health facility for a period of commitment not to exceed ((~~fifteen~~)) eight days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation.

(e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be committed for inpatient evaluation under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis or description of the current mental status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated mental health professional under chapter 71.05 RCW.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

**Sec.**  RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each amended to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(b) The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional.

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant to a hospital or secure mental health facility for a period of commitment not to exceed ((~~fifteen~~)) eight days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation.

(e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be committed for inpatient evaluation under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis or description of the current mental status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated crisis responder under chapter 71.05 RCW.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

**Sec.**  RCW 10.77.084 and 2015 1st sp.s. c 7 s 4 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section.

(b) The court may order a defendant who has been found to be incompetent to undergo competency restoration treatment at a facility designated by the department if the defendant is eligible under RCW 10.77.086 ((~~or 10.77.088~~)). At the end of each competency restoration period or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing, except that if the opinion of the professional person is that the defendant remains incompetent and the hearing is held before the expiration of the current competency restoration period, the parties may agree to waive the defendant's presence, to remote participation by the defendant at a hearing, or to presentation of an agreed order in lieu of a hearing. The facility shall promptly notify the court and all parties of the date on which the competency restoration period commences and expires so that a timely hearing date may be scheduled.

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

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

(2) If the defendant is referred for evaluation by a designated mental health professional under this chapter, the designated mental health professional shall provide prompt written notification of the results of the evaluation and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.

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

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

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

**Sec.**  RCW 10.77.084 and 2016 sp.s. c 29 s 410 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section.

(b) The court may order a defendant who has been found to be incompetent to undergo competency restoration treatment at a facility designated by the department if the defendant is eligible under RCW 10.77.086 ((~~or 10.77.088~~)). At the end of each competency restoration period or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing, except that if the opinion of the professional person is that the defendant remains incompetent and the hearing is held before the expiration of the current competency restoration period, the parties may agree to waive the defendant's presence, to remote participation by the defendant at a hearing, or to presentation of an agreed order in lieu of a hearing. The facility shall promptly notify the court and all parties of the date on which the competency restoration period commences and expires so that a timely hearing date may be scheduled.

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

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

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

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

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

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

**Sec.**  RCW 10.77.086 and 2015 1st sp.s. c 7 s 5 are each amended to read as follows:

(1)(a)(i) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than ninety days, the court:

(A) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or

(B) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment.

(ii) The ninety day period for evaluation and treatment under this subsection (1) includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days. The forty-five day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility. This defendant is not eligible for a second or third competency restoration period.

(c) If the court determines or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (4) of this section.

(2) On or before expiration of the initial period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second restoration period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third restoration period as provided in subsection (4) of this section if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. The ninety-day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(4) For persons charged with a felony, at the hearing upon the expiration of the second restoration period or at the end of the first restoration period in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, or if the court or jury at any stage finds that the defendant is incompetent and the court determines that the defendant is unlikely to regain competency, the charges shall be dismissed without prejudice, and the court shall order the defendant be committed to a state hospital as defined in RCW 72.23.010 for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. The six-month period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

**Sec.**  RCW 10.77.088 and 2015 1st sp.s. c 7 s 6 are each amended to read as follows:

(1)((~~(a) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:~~

~~(i) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment;~~

~~(ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment. The placement under (a)(i) and (ii) of this subsection shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060 shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility;~~

~~(iii) May alternatively order that the defendant be placed on conditional release for up to ninety days for mental health treatment and restoration of competency; or~~

~~(iv) May order any combination of this subsection.~~

~~(b) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in (c) of this subsection.~~

~~(c)(i) If the proceedings are dismissed under RCW 10.77.084 and the~~)) If the highest charge of the defendant is a nonfelony crime, no period of competency restoration treatment is available and the criminal charges must be dismissed without prejudice.

(2) If the defendant was on conditional release at the time of dismissal, the court shall order the designated mental health professional within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

((~~(ii)~~)) (3) If the defendant was in custody and not on conditional release at the time of dismissal, and the defendant was charged with a serious offense under RCW 10.77.092, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

((~~(2)~~)) (4) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092:

The court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated mental health professional to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

**Sec.**  RCW 10.77.088 and 2016 sp.s. c 29 s 411 are each amended to read as follows:

(1)((~~(a) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:~~

~~(i) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment;~~

~~(ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment. The placement under (a)(i) and (ii) of this subsection shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060 shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility;~~

~~(iii) May alternatively order that the defendant be placed on conditional release for up to ninety days for mental health treatment and restoration of competency; or~~

~~(iv) May order any combination of this subsection.~~

~~(b) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in (c) of this subsection.~~

~~(c)(i) If the proceedings are dismissed under RCW 10.77.084 and the~~)) If the highest charge of the defendant is a nonfelony crime, no period of competency restoration treatment is available and the criminal charges must be dismissed without prejudice.

(2) If the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

((~~(ii)~~)) (3) If the defendant was in custody and not on conditional release at the time of dismissal, and the defendant was charged with a serious offense under RCW 10.77.092, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

((~~(2)~~)) (4) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092:

The court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

**Part VI**

**Addressing Managed Care Entities to Provide Fully Integrated Care**

NEW SECTION. **Sec.**  (1) The health care authority shall establish a work group to examine options for the structuring of integration of physical and behavioral health services by 2020. The work group shall identify multiple options for structuring the services delivery and financing for integrating behavioral health services. Among the various structures for consideration, the work group shall examine:

(a) A model in which the health care authority contracts directly and separately with both a managed care organization to provide behavioral health services in the regional service area and a county administrative service organization to provide crisis services and nonmedicaid services; and

(b) A model in which the health care authority approves an organization operated by the county governments within a regional service area to function as the coordinating entity for any managed care organization that provides fully integrated medical care within the regional service area. The organization's activities shall include coordinating a network of behavioral health providers, operating a health information technology infrastructure, providing crisis services, and providing nonmedicaid services.

(2) The work group shall consist of no more than fifteen members and shall include a representative of the health care authority, a representative of the department of social and health services, representatives of behavioral health organizations, representatives of managed care organizations, representatives of behavioral health providers, representatives of counties, and representatives from each caucus in the house and senate. The director of the health care authority, or his or her designee, shall serve as the chair.

(3) By December 1, 2017, and in compliance with RCW 43.01.036, the work group shall submit a report to the legislature and the governor. The report shall identify recommendations for reducing barriers to the full integration of behavioral health and physical health. The report shall provide a description of the different alternative delivery and financing structure options that shall be made available to regional service areas and allow counties within the regional service areas to select the most appropriate structure to meet the needs of the communities within the regional service area.

NEW SECTION. **Sec.**  The health care authority and department of social and health services shall form a small work group to develop a set of performance expectations for purchasing fully integrated care through managed care entities. The purpose of the work group is to bring performance expectations of physical health and behavioral health providers into alignment for purposes of value-based purchasing under fully integrated managed care. The work group must define what clinical integration looks like and how it should be measured in integrated contracts. Performance expectations drafted by the work group must be tested against larger groups of stakeholders such as those assembled under sections 533 through 544, chapter 29, Laws of 2016 and be used to develop expectations used in procurement and contracts for fully integrated managed care entities.

**Part VII**

**Data Measurement**

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

The Washington state institute for public policy shall evaluate changes and the effectiveness of specific investments within the adult behavioral health system. The goal for the effort is to provide policymakers with additional information to aid in decision making on an ongoing basis. Therefore, the institute shall consult with the relevant legislative and agency staff when identifying research questions and establishing evaluation timelines. The institute shall provide a report to the appropriate committees of the legislature upon completion of each evaluation.

**Part VIII**

**Miscellaneous Provisions**

NEW SECTION. **Sec.**  Sections 8, 15, 17, 19, 21, 24, 26, 29, 33, 35, and 38 of this act take effect April 1, 2018.

NEW SECTION. **Sec.**  Sections 7, 14, 16, 18, 20, 23, 25, 28, 32, 34, and 37 of this act expire April 1, 2018.

NEW SECTION. **Sec.**  Section 12 of this act takes effect July 1, 2018.

NEW SECTION. **Sec.**  Sections 9, 22, 27, and 30 of this act take effect July 1, 2026.

NEW SECTION. **Sec.**  Sections 8, 21, 26, and 29 of this act expire July 1, 2026.

**--- END ---**