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**SENATE BILL 5720**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Dhingra, Wagoner, and Kuderer

AN ACT Relating to the involuntary treatment act; amending RCW 71.05.010, 71.05.012, 71.05.025, 71.05.026, 71.05.027, 71.05.030, 71.05.040, 71.05.050, 71.05.100, 71.05.132, 71.05.150, 71.05.150, 71.05.153, 71.05.153, 71.05.160, 71.05.170, 71.05.180, 71.05.190, 71.05.195, 71.05.201, 71.05.210, 71.05.210, 71.05.212, 71.05.214, 71.05.215, 71.05.217, 71.05.230, 71.05.235, 71.05.280, 71.05.290, 71.05.300, 71.05.310, 71.05.320, 71.05.320, 71.05.380, 71.05.445, 71.05.455, 71.05.457, 71.05.458, 71.05.525, 71.05.530, 71.05.585, 71.05.720, 71.05.740, 71.05.745, 71.05.750, 71.05.760, 71.34.010, 71.34.020, 71.34.305, 71.34.310, 71.34.355, 71.34.365, 71.34.410, 71.34.420, 71.34.500, 71.34.600, 71.34.650, 71.34.700, 71.34.700, 71.34.710, 71.34.710, 71.34.720, 71.34.720, 71.34.740, 71.34.740, 71.34.750, 71.34.780, 71.34.780, and 2.30.010; reenacting and amending RCW 71.05.020, 71.05.120, 71.05.240, 71.05.240, 71.05.590, 71.05.590, 71.34.730, and 71.34.750; adding new sections to chapter 71.05 RCW; adding new sections to chapter 71.34 RCW; recodifying RCW 71.05.525; repealing RCW 71.05.360 and 71.34.370; providing an effective date; and providing an expiration date.

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

**Sec.**  RCW 71.05.010 and 2016 sp.s. c 29 s 203 are each amended to read as follows:

(1) The provisions of this chapter apply to persons who are eighteen years of age or older and are intended by the legislature:

(a) To protect the health and safety of persons suffering from ((~~mental disorders and substance use~~)) behavioral health disorders and to protect public safety through use of the parens patriae and police powers of the state;

(b) To prevent inappropriate, indefinite commitment of ((~~mentally disordered persons and persons with substance use disorders~~)) persons living with behavioral health disorders and to eliminate legal disabilities that arise from such commitment;

(c) To provide prompt evaluation and timely and appropriate treatment of persons with serious ((~~mental disorders and substance use~~)) behavioral health disorders;

(d) To safeguard individual rights;

(e) To provide continuity of care for persons with serious ((~~mental disorders and substance use~~)) behavioral health disorders;

(f) To encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures; and

(g) To encourage, whenever appropriate, that services be provided within the community.

(2) When construing the requirements of this chapter the court must focus on the merits of the petition, except where requirements have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d 259, 281 (2002). A presumption in favor of deciding petitions on their merits furthers both public and private interests because the mental and physical well-being of individuals as well as public safety may be implicated by the decision to release an individual and discontinue his or her treatment.

**Sec.**  RCW 71.05.012 and 1997 c 112 s 1 are each amended to read as follows:

It is the intent of the legislature to enhance continuity of care for persons with serious ((~~mental~~)) behavioral health disorders that can be controlled or stabilized in a less restrictive alternative commitment. Within the guidelines stated in *In re LaBelle* 107 Wn. 2d 196 (1986), the legislature intends to encourage appropriate interventions at a point when there is the best opportunity to restore the person to or maintain satisfactory functioning.

For persons with a prior history or pattern of repeated hospitalizations or law enforcement interventions due to decompensation, the consideration of prior ((~~mental~~)) history is particularly relevant in determining whether the person would receive, if released, such care as is essential for his or her health or safety.

Therefore, the legislature finds that for persons who are currently under a commitment order, a prior history of decompensation leading to repeated hospitalizations or law enforcement interventions should be given great weight in determining whether a new less restrictive alternative commitment should be ordered.

**Sec.**  RCW 71.05.020 and 2018 c 305 s 1, 2018 c 291 s 1, and 2018 c 201 s 3001 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) "Authority" means the Washington state health care authority;

(7) ((~~"Chemical dependency"~~)) "Substance use disorder" means:

(a) Alcoholism;

(b) Drug addiction; or

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

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

(9) "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;

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

(11) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department 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;

(12) "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;

(13) "Department" means the department of health;

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

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

(16) "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 of the department of social and health services;

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

(18) "Director" means the director of the authority;

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

(20) "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;

(21) "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 licensed or certified as such by the department. The authority 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 of social and health services 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;

(22) "Gravely disabled" means a condition in which a person, as a result of a ((~~mental~~)) behavioral health 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~~)) from safe behavior 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;

(23) "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;

(24) "Hearing" means any proceeding conducted in open court((~~. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video~~)) that conforms to the requirements of section 89 of this act;

(25) "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~~)) behavioral health facility((~~, a long-term alcoholism or drug treatment facility~~)), or in confinement as a result of a criminal conviction;

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

(27) "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;

(28) "Information related to ((~~mental~~)) behavioral 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~~)) behavioral 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;

(29) "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;

(30) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a ((~~mental disorder or substance use~~)) behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) 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;

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

(32) "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~~)) behavioral health ((~~and substance use disorder~~)) service providers under RCW 71.05.130;

(33) "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;

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

(35) "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, physical pain, or trauma, or which places another person or persons in reasonable fear of ((~~sustaining such~~)) harm to themselves or others; 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;

(36) "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;

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

(38) "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;

(39) "((~~Mental~~)) Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with ((~~mental disorders or substance use~~)) behavioral health 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;

(40) "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;

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

(42) "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~~)) behavioral health disorders;

(43) "Professional person" means a mental health professional, chemical dependency 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;

(44) "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;

(45) "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;

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

(47) "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~~)) behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

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

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

(50) "Secretary" means the secretary of the department of health, or his or her designee;

(51) "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 licensed or certified as such by the department of health;

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

~~(53)~~)) "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;

((~~(54)~~)) (53) "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;

((~~(55)~~)) (54) "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;

((~~(56)~~)) (55) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for ((~~mental illness~~)) behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, 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 of social and health services, the department, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

((~~(57)~~)) (56) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department 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 residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

((~~(58)~~)) (57) "Violent act" means behavior that resulted in homicide, attempted suicide, ((~~nonfatal injuries~~)) injury, pain, or substantial loss or damage to property;

(58) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(59) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(60) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

**Sec.**  RCW 71.05.025 and 2016 sp.s. c 29 s 205 are each amended to read as follows:

The legislature intends that the procedures and services authorized in this chapter be integrated with those in chapter 71.24 RCW to the maximum extent necessary to assure ((~~a~~)) an appropriate continuum of care ((~~to~~)) for persons with ((~~mental illness or who have mental disorders or substance use~~)) behavioral health disorders, as defined in either or both this chapter and chapter 71.24 RCW. To this end, behavioral health organizations established in accordance with chapter 71.24 RCW shall institute procedures which require timely consultation with resource management services by designated crisis responders, evaluation and treatment facilities, secure detoxification facilities, and approved substance use disorder treatment programs to assure that determinations to admit, detain, commit, treat, discharge, or release persons with ((~~mental disorders or substance use~~)) behavioral health disorders under this chapter are made only after appropriate information regarding such person's treatment history and current treatment plan has been sought from resource management services.

**Sec.**  RCW 71.05.026 and 2018 c 201 s 3002 are each amended to read as follows:

(1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

(2) Except as expressly provided in contracts entered into between the authority and the behavioral health organizations after March 29, 2006, the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state or state agencies for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient ((~~mental~~)) behavioral health ((~~care or inpatient substance use~~)) disorder treatment and care.

(3) This section applies to counties, behavioral health organizations, and entities which contract to provide behavioral health organization services and their subcontractors, agents, or employees.

**Sec.**  RCW 71.05.027 and 2018 c 201 s 3003 are each amended to read as follows:

(1) Not later than January 1, 2007, all persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for ((~~chemical dependency and mental~~)) behavioral health disorders adopted pursuant to RCW 71.24.630 and shall document the numbers of clients with co-occurring mental disorders and substance ((~~abuse~~)) use disorders based on a quadrant system of low and high needs.

(2) Treatment providers and behavioral health organizations who fail to implement the integrated comprehensive screening and assessment process for ((~~chemical dependency and mental~~)) behavioral health disorders ((~~by July 1, 2007,~~)) shall be subject to contractual penalties established under RCW 71.24.630.

**Sec.**  RCW 71.05.030 and 1998 c 297 s 4 are each amended to read as follows:

Persons suffering from a ((~~mental~~)) behavioral health disorder may not be involuntarily committed for treatment of such disorder except pursuant to provisions of this chapter, chapter 10.77 RCW, chapter 71.06 RCW, chapter 71.34 RCW, transfer pursuant to RCW 72.68.031 through 72.68.037, or pursuant to court ordered evaluation and treatment not to exceed ninety days pending a criminal trial or sentencing.

**Sec.**  RCW 71.05.040 and 2018 c 201 s 3004 are each amended to read as follows:

Persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or ((~~as a result of a mental disorder such condition exists that constitutes~~)) to present a likelihood of serious harm. However, persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia and who otherwise meet the criteria for detention or judicial commitment are not ineligible for detention or commitment based on this condition alone.

**Sec.**  RCW 71.05.050 and 2016 sp.s. c 29 s 207 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a ((~~mental disorder or substance use~~)) behavioral health disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate discharge, and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment or possible discharge, at which time they shall again be advised of their right to discharge upon request.

(2) If the professional staff of any public or private agency or hospital regards a person voluntarily admitted who requests discharge as presenting, as a result of a ((~~mental disorder or substance use~~)) behavioral health disorder, an imminent likelihood of serious harm, or is gravely disabled, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day.

(3) If a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital regard such person as presenting as a result of a ((~~mental disorder or substance use~~)) behavioral health disorder an imminent likelihood of serious harm, or as presenting an imminent danger because of grave disability, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation treatment center, secure detoxification facility, or approved substance use disorder treatment program pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff notify the designated crisis responder of the need for evaluation, not counting time periods prior to medical clearance.

(4) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.

**Sec.**  RCW 71.05.100 and 2018 c 201 s 3005 are each amended to read as follows:

In addition to the responsibility provided for by RCW 43.20B.330, any person, or his or her estate, or his or her spouse, ((~~or the parents of a minor person~~)) who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department of social and health services shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his or her family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department of social and health services, or the authority, as appropriate, shall, pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Financial responsibility with respect to services and facilities of the department of social and health services shall continue to be as provided in RCW 43.20B.320 through 43.20B.360 and 43.20B.370.

**Sec.**  RCW 71.05.120 and 2016 sp.s. c 29 s 208 and 2016 c 158 s 4 are each reenacted and amended to read as follows:

(1) No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor any designated crisis responder, nor the state, a unit of local government, an evaluation and treatment facility, a secure detoxification facility, or an approved substance use disorder treatment program shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to admit, discharge, release, administer antipsychotic medications, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) Peace officers and their employing agencies are not liable for the referral of a person, or the failure to refer a person, to a ((~~mental~~)) behavioral health agency pursuant to a policy adopted pursuant to RCW 71.05.457 if such action or inaction is taken in good faith and without gross negligence.

(3) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

**Sec.**  RCW 71.05.132 and 2016 sp.s. c 29 s 209 are each amended to read as follows:

When any court orders a person to receive treatment under this chapter, the order shall include a statement that if the person is, or becomes, subject to supervision by the department of corrections, the person must notify the treatment provider and the person's ((~~mental health~~)) treatment ((~~information and substance use disorder treatment information~~)) records must be shared with the department of corrections for the duration of the offender's incarceration and supervision, under RCW 71.05.445. Upon a petition by a person who does not have a history of one or more violent acts, the court may, for good cause, find that public safety would not be enhanced by the sharing of this person's information.

**Sec.**  RCW 71.05.150 and 2018 c 291 s 4 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a ((~~mental~~)) behavioral health 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 behavioral 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 treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. 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~~)) A written order of apprehension to detain a person with a ((~~mental~~)) behavioral health disorder to a designated evaluation and treatment facility, ((~~or to detain a person with a substance use disorder to~~)) a secure detoxification facility, or an approved substance use disorder treatment program, for a period of not more than ((~~a seventy-two-hour~~)) five days for evaluation and treatment ((~~period~~)), 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, 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. 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~~)) five days 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 2018 c 291 s 5 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a ((~~mental~~)) behavioral health 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 behavioral 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 treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. 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~~)) A written order of apprehension to detain a person with a ((~~mental~~)) behavioral health disorder to a designated evaluation and treatment facility, ((~~or to detain a person with a substance use disorder to~~)) a secure detoxification facility, or an approved substance use disorder treatment program, for a period of not more than ((~~a seventy-two-hour~~)) five days for evaluation and treatment ((~~period~~)), 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, 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. 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~~)) five days 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 71.05.153 and 2016 sp.s. c 29 s 212 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a ((~~mental~~)) behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure detoxification facility if available with adequate space for the person, or approved substance use disorder treatment program if available with adequate space for the person, for not more than ((~~seventy-two hours~~)) five days as described in RCW 71.05.180.

(2) ((~~When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180, if a secure detoxification facility or approved substance use disorder treatment program is available and has adequate space for the person.~~

~~(3)~~))(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) ((~~or (2)~~)) of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a ((~~mental~~)) behavioral health disorder ((~~or substance use disorder~~)) and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, ((~~based on a substance use disorder,~~)) to a secure detoxification facility or approved substance use disorder treatment program is subject to the availability of a secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

((~~(4)~~)) (3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure detoxification facility, or approved substance use disorder treatment program by peace officers pursuant to subsection ((~~(3)~~)) (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

((~~(5)~~)) (4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or chemical dependency professional, whichever is more appropriate to the person's presentation. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the ((~~mental~~)) behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

((~~(6)~~)) (5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated ((~~mental health professional~~)) crisis responder has totally disregarded the requirements of this section.

**Sec.**  RCW 71.05.153 and 2016 sp.s. c 29 s 213 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a ((~~mental~~)) behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, for not more than ((~~seventy-two hours~~)) five days as described in RCW 71.05.180.

(2) ((~~When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180.~~

~~(3)~~)) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) ((~~or (2)~~)) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a ((~~mental~~)) behavioral health disorder ((~~or substance use disorder~~)) and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

((~~(4)~~)) (3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure detoxification facility, or approved substance use disorder treatment program by peace officers pursuant to subsection ((~~(3)~~)) (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

((~~(5)~~)) (4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or chemical dependency professional, whichever is more appropriate to the person's presentation. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the ((~~mental~~)) behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

((~~(6)~~)) (5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated ((~~mental health professional~~)) crisis responder has totally disregarded the requirements of this section.

**Sec.**  RCW 71.05.160 and 2016 sp.s. c 29 s 217 are each amended to read as follows:

Any facility receiving a person pursuant to RCW 71.05.150 or 71.05.153 shall require the designated crisis responder to prepare a petition for initial detention stating the circumstances under which the person's condition was made known and stating that there is evidence, as a result of his or her personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that he or she is gravely disabled, and stating the specific facts known to him or her as a result of his or her personal observation or investigation, upon which he or she bases the belief that such person should be detained for the purposes and under the authority of this chapter.

If a person is involuntarily placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program pursuant to RCW 71.05.150 or 71.05.153, on the next judicial day following the initial detention, the designated crisis responder or accepting evaluation and treatment facility shall file with the court and serve the designated attorney of the detained person the petition or supplemental petition for initial detention, proof of service of notice, and a copy of a notice of emergency detention.

**Sec.**  RCW 71.05.170 and 2016 sp.s. c 29 s 218 are each amended to read as follows:

Whenever the designated crisis responder petitions for detention of a person whose actions constitute a likelihood of serious harm, or who is gravely disabled, the facility providing ((~~seventy-two hour~~)) five-day evaluation and treatment must immediately accept on a provisional basis the petition and the person. The facility shall then evaluate the person's condition and admit, detain, transfer, or discharge such person in accordance with RCW 71.05.210. The facility shall notify in writing the court and the designated crisis responder of the date and time of the initial detention of each person involuntarily detained in order that a probable cause hearing shall be held no later than ((~~seventy-two hours~~)) five days after detention.

The duty of a state hospital to accept persons for evaluation and treatment under this section shall be limited by chapter 71.24 RCW.

**Sec.**  RCW 71.05.180 and 2016 sp.s. c 29 s 219 are each amended to read as follows:

If the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program admits the person, it may detain him or her for evaluation and treatment for a period not to exceed ((~~seventy-two hours~~)) five days from the time of acceptance as set forth in RCW 71.05.170. The computation of such ((~~seventy-two hour~~)) five-day period shall exclude Saturdays, Sundays, and holidays.

**Sec.**  RCW 71.05.190 and 2016 sp.s. c 29 s 220 are each amended to read as follows:

If the person is not approved for admission by a facility providing ((~~seventy-two hour~~)) five-day evaluation and treatment, and the individual has not been arrested, the facility shall furnish transportation, if not otherwise available, for the person to his or her place of residence or other appropriate place. If the individual has been arrested, the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program shall detain the individual for not more than eight hours at the request of the peace officer. The facility shall make reasonable attempts to contact the requesting peace officer during this time to inform the peace officer that the person is not approved for admission in order to enable a peace officer to return to the facility and take the individual back into custody.

**Sec.**  RCW 71.05.195 and 2016 sp.s. c 29 s 221 are each amended to read as follows:

(1) A civil commitment may be initiated under the procedures described in RCW 71.05.150 or 71.05.153 for a person who has been found not guilty by reason of insanity in a state other than Washington and who has fled from detention, commitment, or conditional release in that state, on the basis of a request by the state in which the person was found not guilty by reason of insanity for the person to be detained and transferred back to the custody or care of the requesting state. A finding of likelihood of serious harm or grave disability is not required for a commitment under this section. The detention may occur at either an evaluation and treatment facility or a state hospital. The petition for ((~~seventy-two hour~~)) five-day detention filed by the designated crisis responder must be accompanied by the following documents:

(a) A copy of an order for detention, commitment, or conditional release of the person in a state other than Washington on the basis of a judgment of not guilty by reason of insanity;

(b) A warrant issued by a magistrate in the state in which the person was found not guilty by reason of insanity indicating that the person has fled from detention, commitment, or conditional release in that state and authorizing the detention of the person within the state in which the person was found not guilty by reason of insanity;

(c) A statement from the executive authority of the state in which the person was found not guilty by reason of insanity requesting that the person be returned to the requesting state and agreeing to facilitate the transfer of the person to the requesting state.

(2) The person shall be entitled to a probable cause hearing within the time limits applicable to other detentions under this chapter and shall be afforded the rights described in this chapter including the right to counsel. At the probable cause hearing, the court shall determine the identity of the person and whether the other requirements of this section are met. If the court so finds, the court may order continued detention in a treatment facility for up to thirty days for the purpose of the transfer of the person to the custody or care of the requesting state. The court may order a less restrictive alternative to detention only under conditions which ensure the person's safe transfer to the custody or care of the requesting state within thirty days without undue risk to the safety of the person or others.

(3) For the purposes of this section, "not guilty by reason of insanity" shall be construed to include any provision of law which is generally equivalent to a finding of criminal insanity within the state of Washington; and "state" shall be construed to mean any state, district, or territory of the United States.

**Sec.**  RCW 71.05.201 and 2018 c 291 s 11 are each amended to read as follows:

(1) If a designated crisis responder decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2) A petition under this section must be filed within ten calendar days following the designated crisis responder investigation or the request for a designated crisis responder investigation. If more than ten days have elapsed, the immediate family member, guardian, or conservator may request a new designated crisis responder investigation.

(3)(a) The petition must be filed in the county in which the designated crisis responder investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated crisis responder.

(4) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated crisis responder agency with an order for the agency to provide the court, within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to the designated crisis responder's current decision.

(5) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

(6) The court shall dismiss the petition at any time if it finds that a designated crisis responder has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

(7) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention or an order instructing the designated crisis responder to file a petition for assisted outpatient behavioral health treatment if the court finds that: (a) There is probable cause to support a petition for detention or assisted outpatient behavioral health treatment; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

(8) If the court enters an order for initial detention, it shall provide the order to the designated crisis responder agency and issue a written order for apprehension ((~~of the person by a peace officer for delivery of the person to a facility or emergency room determined by the designated crisis responder~~)). The designated crisis responder agency serving the jurisdiction of the court must collaborate and coordinate with law enforcement regarding apprehensions and detentions under this subsection, including sharing of information relating to risk and which would assist in locating the person. A person may not be detained to jail pursuant to a written order issued under this subsection. An order for detention under this section should contain the advisement of rights which the person would receive if the person were detained by a designated crisis responder. An order for initial detention under this section expires one hundred eighty days from issuance.

(9) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

(10) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

**Sec.**  RCW 71.05.210 and 2017 3rd sp.s. c 14 s 15 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to ((~~seventy-two hours~~)) five days, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for ((~~seventy-two hours~~)) five days shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement; however, a person may only be referred to a secure detoxification facility or approved substance use disorder treatment program if there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

(3) An evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec.**  RCW 71.05.210 and 2017 3rd sp.s. c 14 s 16 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to ((~~seventy-two hours~~)) five days, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for ((~~seventy-two hours~~)) five days shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement.

(3) An evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec.**  RCW 71.05.212 and 2018 c 291 s 13 are each amended to read as follows:

(1) Whenever a designated crisis responder or professional person is conducting an evaluation under this chapter, consideration shall include all reasonably available information from credible witnesses and records regarding:

(a) Prior recommendations for evaluation of the need for civil commitments when the recommendation is made pursuant to an evaluation conducted under chapter 10.77 RCW;

(b) Historical behavior, including history of one or more violent acts;

(c) Prior determinations of incompetency or insanity under chapter 10.77 RCW; and

(d) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the person. If the designated crisis responder relies upon information from a credible witness in reaching his or her decision to detain the individual, then he or she must provide contact information for any such witness to the prosecutor. The designated crisis responder or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the respondent which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm, or a finding that the person is in need of assisted outpatient behavioral health treatment, when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration from safe behavior, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and

(c) Without treatment, the continued deterioration of the respondent is probable.

(4) When conducting an evaluation for offenders identified under RCW 72.09.370, the designated crisis responder or professional person shall consider an offender's history of judicially required or administratively ordered antipsychotic medication while in confinement.

**Sec.**  RCW 71.05.214 and 2018 c 201 s 3007 are each amended to read as follows:

The authority shall develop statewide protocols to be utilized by professional persons and designated crisis responders in administration of this chapter and chapters 10.77 and 71.34 RCW. The protocols shall be updated at least every three years. The protocols shall provide uniform development and application of criteria in evaluation and commitment recommendations, of persons who have, or are alleged to have, ((~~mental disorders or substance use~~)) behavioral health disorders and are subject to this chapter.

The initial protocols shall be developed not later than September 1, 1999. The authority shall develop and update the protocols in consultation with representatives of designated crisis responders, the department of social and health services, local government, law enforcement, county and city prosecutors, public defenders, and groups concerned with ((~~mental illness and substance use~~)) behavioral health disorders. The protocols shall be submitted to the governor and legislature upon adoption by the authority.

**Sec.**  RCW 71.05.215 and 2018 c 201 s 3008 are each amended to read as follows:

(1) A person found to be gravely disabled or ((~~presents~~)) to present a likelihood of serious harm as a result of a ((~~mental disorder or substance use~~)) behavioral health disorder has a right to refuse antipsychotic medication unless it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of that person.

(2) The authority shall adopt rules to carry out the purposes of this chapter. These rules shall include:

(a) An attempt to obtain the informed consent of the person prior to administration of antipsychotic medication.

(b) For short-term treatment up to thirty days, the right to refuse antipsychotic medications unless there is an additional concurring medical opinion approving medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority.

(c) For continued treatment beyond thirty days through the hearing on any petition filed under ((~~RCW 71.05.217~~)) section 29 of this act, the right to periodic review of the decision to medicate by the medical director or designee.

(d) Administration of antipsychotic medication in an emergency and review of this decision within twenty-four hours. An emergency exists if the person presents an imminent likelihood of serious harm, and medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and in the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner, the person's condition constitutes an emergency requiring the treatment be instituted prior to obtaining a second medical opinion.

(e) Documentation in the medical record of the attempt by the physician, physician assistant, or psychiatric advanced registered nurse practitioner to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent.

**Sec.**  RCW 71.05.217 and 2016 c 155 s 4 are each amended to read as follows:

(1) Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

((~~(1)~~)) (a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

((~~(2)~~)) (b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

((~~(3)~~)) (c) To have access to individual storage space for his or her private use;

((~~(4)~~)) (d) To have visitors at reasonable times;

((~~(5)~~)) (e) To have reasonable access to a telephone, both to make and receive confidential calls;

((~~(6)~~)) (f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

((~~(7)~~)) (g) To have the right to individualized care and adequate treatment;

(h) To discuss treatment plans and decisions with professional persons;

(i) To not be denied access to treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination;

(j) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(4) or the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction ((~~pursuant to the following standards and procedures:~~

~~(a) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.~~

~~(b) The court shall make specific findings of fact concerning: (i) The existence of one or more compelling state interests; (ii) the necessity and effectiveness of the treatment; and (iii) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.~~

~~(c) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (i) To be represented by an attorney; (ii) to present evidence; (iii) to cross-examine witnesses; (iv) to have the rules of evidence enforced; (v) to remain silent; (vi) to view and copy all petitions and reports in the court file; and (vii) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.~~

~~(d) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.~~

~~(e) Any person detained pursuant to RCW 71.05.320(4), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in this subsection.~~

~~(f) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:~~

~~(i) A person presents an imminent likelihood of serious harm;~~

~~(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and~~

~~(iii) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.~~

~~If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;~~

~~(8)~~)) under section 29 of this act;

(k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

((~~(9)~~)) (l) Not to have psychosurgery performed on him or her under any circumstances.

(2) Every person involuntarily detained or committed under the provisions of this chapter is entitled to all the rights set forth in this chapter and retains all rights not denied him or her under this chapter except as limited by chapter 9.41 RCW.

(3) No person may be presumed incompetent as a consequence of receiving evaluation or treatment for a behavioral health disorder. Competency may not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(4) Persons receiving evaluation or treatment under this chapter must be given a reasonable choice of an available physician, physician assistant, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained under this chapter, the person must be advised that unless the person is released or voluntarily admits himself or herself for treatment within five days of the initial detention, a judicial hearing must be held in a superior court within five days to determine whether there is probable cause to detain the person for up to an additional fourteen days based on an allegation that because of a behavioral health disorder the person presents a likelihood of serious harm or is gravely disabled, and that at the probable cause hearing the person has the following rights:

(a) To communicate immediately with an attorney; to have an attorney appointed if the person is indigent; and to be told the name and address of the attorney that has been designated;

(b) To remain silent, and to know that any statement the person makes may be used against him or her;

(c) To present evidence on the person's behalf;

(d) To cross-examine witnesses who testify against him or her;

(e) To be proceeded against by the rules of evidence;

(f) To have the court appoint a reasonably available independent professional person to examine the person and testify in the hearing, at public expense unless the person is able to bear the cost;

(g) To view and copy all petitions and reports in the court file; and

(h) To refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) The judicial hearing described in subsection (5) of this section must be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(7)(a) Privileges between patients and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges are waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(b) The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

(c) The record maker may not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(8) Nothing contained in this chapter prohibits the patient from petitioning by writ of habeas corpus for release.

(9) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

(10) The rights set forth under this section apply equally to ninety-day or one hundred eighty-day hearings under RCW 71.05.310.

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

(1) The involuntary administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

(2) The court shall make specific findings of fact concerning: (a) The existence of one or more compelling state interests; (b) the necessity and effectiveness of the treatment; and (c) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

(3) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (a) To be represented by an attorney; (b) to present evidence; (c) to cross-examine witnesses; (d) to have the rules of evidence enforced; (e) to remain silent; (f) to view and copy all petitions and reports in the court file; and (g) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

(4) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

(5) Any person detained pursuant to RCW 71.05.320(4), who subsequently refuses antipsychotic medication, is entitled to the procedures set forth in this subsection.

(6) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

(a) A person presents an imminent likelihood of serious harm;

(b) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

(c) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held. If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications must be filed on the next judicial day. The hearing must be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held.

**Sec.**  RCW 71.05.230 and 2018 c 291 s 6 are each amended to read as follows:

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

(1) The professional staff of the facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by ((~~mental disorder or substance use~~)) a behavioral health disorder and results in: (a) A likelihood of serious harm((~~, results in~~)); (b) the person being gravely disabled((~~,~~)); or ((~~results in~~)) (c) the person being in need of assisted outpatient behavioral 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 facility providing intensive treatment is certified to provide such treatment by the department or under RCW 71.05.745; and

(4)(a)(i) The professional staff of the 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 by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person.

(b) 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~~)) behavioral health 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~~)) behavioral health disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral 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 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 71.05.235 and 2016 sp.s. c 29 s 231 are each amended to read as follows:

(1) If an individual is referred to a designated crisis responder under RCW 10.77.088(1)(c)(i), the designated crisis responder shall examine the individual within forty-eight hours. If the designated crisis responder determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the designated crisis responder not later than the next judicial day. At the hearing the superior court shall review the determination of the designated crisis responder and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than ((~~seventy-two hours~~)) five days.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.088(1)(c)(ii), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under this chapter. Before expiration of the ((~~seventy-two hour~~)) five-day evaluation period authorized under RCW 10.77.088(1)(c)(ii), the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a ((~~seventy-two hour~~)) five-day evaluation and treatment period ((~~and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety-day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility to be brought before the court the next judicial day after detention~~)). If the evaluation and treatment facility files a ninety-day petition within the five-day period, the clerk shall set a hearing after the day of filing consistent with RCW 71.05.300. Upon the individual's first appearance in court after a petition has been filed, proceedings under RCW 71.05.310 and 71.05.320 shall commence. For an individual subject to this subsection, the ((~~prosecutor or~~)) professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

((~~The court shall conduct the hearing on the petition filed under this subsection within five judicial days of the date the petition is filed. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the date of the filing of the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).~~

~~During the proceeding the person named in the petition shall continue to be detained and treated until released by order of the court. If no order has been made within thirty days after the filing of the petition, not including any extensions of time requested by the detained person or his or her attorney, the detained person shall be released.~~))

(3) If a designated crisis responder or the professional person and prosecuting attorney for the county in which the criminal charge was dismissed or attorney general, as appropriate, stipulate that the individual does not present a likelihood of serious harm or is not gravely disabled, the hearing under this section is not required and the individual, if in custody, shall be released.

((~~(4) The individual shall have the rights specified in RCW 71.05.360 (8) and (9).~~))

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

(1) In any proceeding for involuntary commitment under this chapter, the court may continue or postpone such proceeding for a reasonable time on motion of the respondent for good cause, or on motion of the prosecuting attorney or the attorney general if:

(a) The respondent expressly consents to a continuance or delay and there is a showing of good cause; or

(b) Such continuance is required in the proper administration of justice and the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(2) The court may on its own motion continue the case when required in due administration of justice and when the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(3) The court shall state in any order of continuance or postponement the grounds for the continuance or postponement and whether detention will be extended.

**Sec.**  RCW 71.05.240 and 2018 c 291 s 7 and 2018 c 201 s 3009 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~~)) five days of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148. ((~~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 or the prosecutor 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) If the person or his or her attorney alleges, prior to the commencement of the hearing, that the person has in good faith volunteered for treatment, the petitioner must show, by preponderance of the evidence, that the person has not in good faith volunteered for appropriate treatment. In order to qualify as a good faith volunteer, the person must abide by procedures and a treatment plan as prescribed by a treatment facility and professional staff.

(4)(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~~)) behavioral health 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 licensed or certified to provide treatment by the department or under RCW 71.05.745.

(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~~)) commitment to a secure detoxification facility or approved substance use disorder treatment program if there is an available facility 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~~)) behavioral health 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~~)) up to ninety days.

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

((~~(4)~~)) (5) An order for less restrictive alternative treatment must name the ((~~mental~~)) behavioral 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~~)) treatment recommendations of the ((~~mental~~)) behavioral health service provider.

((~~(5)~~)) (6) The court shall ((~~specifically state to such person and give such person notice~~)) notify the person orally and in writing that if involuntary treatment is sought beyond the fourteen-day ((~~period~~)) inpatient or ((~~beyond the~~)) ninety-day((~~s of~~)) less restrictive treatment ((~~is to be sought~~)) period, ((~~such~~)) the person ((~~will have~~)) has the right to a full hearing or jury trial ((~~as required by~~)) under RCW 71.05.310. If the commitment is for mental health treatment, the court shall also ((~~state to~~)) notify the person ((~~and provide written notice~~)) orally and in writing 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 2018 c 291 s 8 and 2018 c 201 s 3010 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~~)) five days of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148. ((~~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 or the prosecutor 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) If the person or his or her attorney alleges, prior to the commencement of the hearing, that the person has in good faith volunteered for treatment, the petitioner must show, by preponderance of the evidence, that the person has not in good faith volunteered for appropriate treatment. In order to qualify as a good faith volunteer, the person must abide by procedures and a treatment plan as prescribed by a treatment facility and professional staff.

(4)(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~~)) behavioral health 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 licensed or certified to provide treatment by the department or under RCW 71.05.745.

(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~~)) behavioral health 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~~)) up to ninety days.

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

((~~(4)~~)) (5) An order for less restrictive alternative treatment must name the ((~~mental~~)) behavioral 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~~)) treatment recommendations of the ((~~mental~~)) behavioral health service provider.

((~~(5)~~)) (6) The court shall ((~~specifically state to such person and give such person notice~~)) notify the person orally and in writing that if involuntary treatment is sought beyond the fourteen-day ((~~period~~)) inpatient or ((~~beyond the~~)) ninety-day((~~s of~~)) less restrictive treatment ((~~is to be sought~~)) period, such person ((~~will have~~)) has the right to a full hearing or jury trial ((~~as required by~~)) under RCW 71.05.310. If the commitment is for mental health treatment, the court shall also ((~~state to~~)) notify the person ((~~and provide written notice~~)) orally and in writing 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 71.05.280 and 2018 c 291 s 15 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be committed for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of ((~~mental disorder or substance use~~)) a behavioral health disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of ((~~mental disorder or substance use~~)) a behavioral health disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.086(4), and has committed acts constituting a felony, and as a result of a ((~~mental~~)) behavioral health disorder, presents a substantial likelihood of repeating similar acts.

(a) In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime;

(b) For any person subject to commitment under this subsection where the charge underlying the finding of incompetence is for a felony classified as violent under RCW 9.94A.030, the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030; or

(4) Such person is gravely disabled; or

(5) Such person is in need of assisted outpatient behavioral health treatment.

**Sec.**  RCW 71.05.290 and 2017 3rd sp.s. c 14 s 18 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2)(a)(i) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner.

(b) The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for one hundred eighty-day treatment under RCW 71.05.280(3), or for ninety-day treatment under RCW 71.05.280 (1), (2), (4), or (5). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

**Sec.**  RCW 71.05.300 and 2017 3rd sp.s. c 14 s 19 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. ((~~At the time of filing such petition,~~)) The clerk shall set a ((~~time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall~~)) trial setting date as provided in RCW 71.05.310 on the next judicial day after the date of filing the petition and notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) ((~~At the time set for appearance~~)) The attorney for the detained person ((~~shall be brought before the court, unless such appearance has been waived and the court~~)) shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person((~~,~~)) designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(4), ((~~then~~)) the appointed professional person under this section shall be a developmental disabilities professional.

((~~(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.~~))

**Sec.**  RCW 71.05.310 and 2012 c 256 s 8 are each amended to read as follows:

The court shall ((~~conduct~~)) set a hearing on the petition for ninety-day or one hundred eighty-day treatment within five judicial days of the ((~~first court appearance after the probable cause hearing~~)) trial setting hearing, or within ten judicial days for a petition filed under RCW 71.05.280(3). The court may continue the hearing ((~~for good cause upon the written request of the person named in the petition or the person's attorney. The court may continue for good cause the hearing on a petition filed under RCW 71.05.280(3) upon written request by the person named in the petition, the person's attorney, or the petitioner~~)) in accordance with section 32 of this act. If the person named in the petition requests a jury trial, the trial ((~~shall commence~~)) must be set within ten judicial days of the ((~~first court appearance after the probable cause hearing~~)) next judicial day after the date of filing the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person ((~~shall~~)) has the right to be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence ((~~pursuant to RCW 71.05.360 (8) and (9)~~)) under RCW 71.05.217.

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court or discharged by the medical provider. If ((~~no order has been made~~)) the hearing has not commenced within thirty days after the filing of the petition, not including extensions of time ((~~requested by the detained person or his or her attorney, or the petitioner in the case of a petition filed under RCW 71.05.280(3)~~)) ordered under section 32 of this act, the detained person shall be released.

**Sec.**  RCW 71.05.320 and 2018 c 201 s 3012 are each 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 of social and health services 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 to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(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 of social and health services or to a facility certified for ninety day treatment by the department 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~~)) behavioral 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~~)) behavioral 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~~)) behavioral health 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~~)) a behavioral health 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~~)) a behavioral health 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~~)) behavioral health 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~~)) behavioral health 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~~)) behavioral 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~~)) behavioral 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~~)) behavioral 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 2018 c 201 s 3013 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 of social and health services 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 ((~~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 to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(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 of social and health services or to a facility certified for ninety day treatment by the department 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~~)) behavioral 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~~)) behavioral 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~~)) behavioral health 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~~)) a behavioral health 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~~)) a behavioral health 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~~)) behavioral health 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~~)) behavioral health 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~~)) behavioral 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~~)) behavioral 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~~)) behavioral 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 71.05.380 and 2016 sp.s. c 29 s 245 are each amended to read as follows:

All persons voluntarily entering or remaining in any facility, institution, or hospital providing evaluation and treatment for ((~~mental disorders or substance use~~)) behavioral health disorders shall have no less than all rights secured to involuntarily detained persons by RCW ((~~71.05.360 and~~)) 71.05.217.

**Sec.**  RCW 71.05.445 and 2018 c 201 s 3021 are each amended to read as follows:

(1)(a) When a ((~~mental~~)) behavioral health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her ((~~mental~~)) behavioral health service provider that he or she is subject to supervision by the department of corrections, the ((~~mental~~)) behavioral health service provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132 and the offender has provided the ((~~mental~~)) behavioral health service provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132, the ((~~mental~~)) behavioral health service provider is not required to notify the department of corrections that the ((~~mental~~)) behavioral health service provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by email or facsimile, so long as the notifying ((~~mental~~)) behavioral health service provider is clearly identified.

(2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties.

(3) The authority and the department of corrections, in consultation with behavioral health organizations, ((~~mental~~)) behavioral health service providers as defined in RCW 71.05.020, ((~~mental~~)) behavioral health consumers, and advocates for persons with ((~~mental illness~~)) behavioral health disorders, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received ((~~mental~~)) behavioral health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in this chapter, except as provided in RCW 72.09.585.

(5) No ((~~mental~~)) behavioral health service provider or individual employed by a ((~~mental~~)) behavioral health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(6) Whenever federal law or federal regulations restrict the release of information and records related to ((~~mental~~)) behavioral health services for any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(8) The authority shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific behavioral health organizations and ((~~mental~~)) behavioral health service providers that delivered ((~~mental~~)) behavioral health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the authority and the department of corrections.

**Sec.**  RCW 71.05.455 and 2016 c 158 s 2 are each amended to read as follows:

When funded, the Washington association of sheriffs and police chiefs, in consultation with the criminal justice training commission, must develop and adopt a model policy for use by law enforcement agencies relating to a law enforcement officer's referral of a person to a ((~~mental~~)) behavioral health agency after receiving a report of threatened or attempted suicide. The model policy must complement the criminal justice training commission's crisis intervention training curriculum.

**Sec.**  RCW 71.05.457 and 2016 c 158 s 3 are each amended to read as follows:

By July 1, 2017, all general authority Washington law enforcement agencies must adopt a policy establishing criteria and procedures for a law enforcement officer to refer a person to a ((~~mental~~)) behavioral health agency after receiving a report of threatened or attempted suicide.

**Sec.**  RCW 71.05.458 and 2016 c 158 s 5 are each amended to read as follows:

As soon as possible, but no later than twenty-four hours from receiving a referral from a law enforcement officer or law enforcement agency, excluding Saturdays, Sundays, and holidays, a mental health professional contacted by the designated ((~~mental health professional~~)) crisis responder agency must attempt to contact the referred person to determine whether additional mental health intervention is necessary including, if needed, an assessment by a designated ((~~mental health professional~~)) crisis responder for initial detention under RCW 71.05.150 or 71.05.153. Documentation of the mental health professional's attempt to contact and assess the person must be maintained by the designated ((~~mental health professional~~)) crisis responder agency.

**Sec.**  RCW 71.05.525 and 2018 c 201 s 3024 are each amended to read as follows:

When, in the judgment of the department of social and health services, the welfare of any person committed to or confined in any state juvenile correctional institution or facility necessitates that such a person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of juveniles with ((~~mental illness~~)) behavioral health disorders the secretary of the department of social and health services, or his or her designee, is authorized to order and effect such move or transfer: PROVIDED, HOWEVER, That the secretary of the department of social and health services shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined in such institution or facility for the care of juveniles with ((~~mental illness~~)) behavioral health disorders, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in state juvenile correctional institutions or facilities: PROVIDED, FURTHER, That the secretary of the department of social and health services shall notify the original committing court of such transfer.

**Sec.**  RCW 71.05.530 and 2016 sp.s. c 29 s 247 are each amended to read as follows:

Evaluation and treatment facilities and secure detoxification facilities authorized pursuant to this chapter may be part of the comprehensive community ((~~mental~~)) behavioral health services program conducted in counties pursuant to chapter 71.24 RCW, and may receive funding pursuant to the provisions thereof.

**Sec.**  RCW 71.05.585 and 2018 c 291 s 2 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) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;

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

(f) An individual crisis plan; and

(g) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

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

(a) Medication management;

(b) Psychotherapy;

(c) Nursing;

(d) Substance abuse counseling;

(e) Residential treatment; and

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

(3) If the person was provided with involuntary medication under RCW 71.05.215 or pursuant to a judicial order during the involuntary commitment period, the less restrictive alternative treatment order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(4) 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)~~)) (5) 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)~~)) (6) 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.

**Sec.**  RCW 71.05.590 and 2018 c 291 s 9 and 2018 c 201 s 3026 are each reenacted and amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order 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. The agency, facility, or designated crisis responder must determine 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 or advise 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 or by 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 or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initiate initial inpatient detention procedures under subsection (6) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services 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) Except as provided in subsection (6) of this section, a designated crisis responder or the secretary of the department of social and health services 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~~)), an available secure detoxification facility with adequate space, or an available approved substance use disorder treatment program ((~~if either is available~~)) with adequate space, 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) Except as provided in subsection (6) of this section, 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 of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall 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 is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection (6) of this section, 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~~)) must be for fourteen days from the revocation hearing if the outpatient order was based on a petition under RCW 71.05.160 or 71.05.230. If the court orders detention for inpatient treatment and the outpatient order was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining until the outpatient order must be converted to days of inpatient treatment 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.

(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.

(6)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation 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 in an 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 may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to ((~~seventy-two hours~~)) five days, excluding weekends and holidays, pending a court hearing. If the person is not detained, the hearing must be scheduled within ((~~seventy-two hours~~)) 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 issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the ((~~seventy-two hour~~)) five-day period, the court must find that the person, as a result of a ((~~mental disorder or substance use~~)) behavioral health disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

(d) A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder 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.

**Sec.**  RCW 71.05.590 and 2018 c 291 s 10 and 2018 c 201 s 3027 are each reenacted and amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order 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. The agency, facility, or designated crisis responder must determine 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 or advise 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 or by 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 or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initial inpatient detention procedures under subsection (6) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services 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) Except as provided in subsection (6) of this section, a designated crisis responder or the secretary of the department of social and health services 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 in an 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) Except as provided in subsection (6) of this section, 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 of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall 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 is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection (6) of this section, 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~~)) must be for fourteen days from the revocation hearing if the outpatient order was based on a petition under RCW 71.05.160 or 71.05.230. If the court orders detention for inpatient treatment and the outpatient order was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining until the outpatient order must be converted to days of inpatient treatment authorized in the original court order.

(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.

(6)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation 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 in an 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 may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to ((~~seventy-two hours~~)) five days, excluding weekends and holidays, pending a court hearing. 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 issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the ((~~seventy-two hour~~)) five-day period, the court must find that the person, as a result of a ((~~mental disorder or substance use~~)) behavioral health disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

((~~(d) A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder 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.~~))

**Sec.**  RCW 71.05.720 and 2018 c 201 s 3029 are each amended to read as follows:

Annually, all community mental health employees who work directly with clients shall be provided with training on safety and violence prevention topics described in RCW 49.19.030. The curriculum for the training shall be developed collaboratively among the authority, the department, contracted ((~~mental~~)) behavioral health service providers, and employee organizations that represent community mental health workers.

**Sec.**  RCW 71.05.740 and 2018 c 201 s 3031 are each amended to read as follows:

All behavioral health organizations in the state of Washington must forward historical ((~~mental~~)) behavioral health involuntary commitment information retained by the organization including identifying information and dates of commitment to the authority. As soon as feasible, the behavioral health organizations must arrange to report new commitment data to the authority within twenty-four hours. Commitment information under this section does not need to be resent if it is already in the possession of the authority. Behavioral health organizations and the authority shall be immune from liability related to the sharing of commitment information under this section.

**Sec.**  RCW 71.05.745 and 2018 c 201 s 3032 are each amended to read as follows:

(1) The authority may use a single bed certification process as outlined in rule to provide additional treatment capacity for a person suffering from a ((~~mental~~)) behavioral health disorder for whom an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

(2) A single bed certification must be specific to the patient receiving treatment.

(3) A designated crisis responder who submits an application for a single bed certification for treatment at a facility that is willing and able to provide timely and appropriate ((~~mental~~)) behavioral health treatment in good faith belief that the single bed certification is appropriate may presume that the single bed certification will be approved for the purpose of completing the detention process and responding to other emergency calls.

(4) The authority may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section.

**Sec.**  RCW 71.05.750 and 2018 c 201 s 3033 are each amended to read as follows:

(1) A designated crisis responder shall make a report to the authority when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or less restrictive alternative. Starting at the time when the designated crisis responder determines a person meets detention criteria and the investigation has been completed, the designated crisis responder has twenty-four hours to submit a completed report to the authority.

(2) The report required under subsection (1) of this section must contain at a minimum:

(a) The date and time that the investigation was completed;

(b) The identity of the responsible behavioral health organization;

(c) The county in which the person met detention criteria;

(d) A list of facilities which refused to admit the person; and

(e) Identifying information for the person, including age or date of birth.

(3) The authority shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The authority shall also determine the method for the transmission of the completed report from the designated crisis responder to the authority.

(4) The authority shall create quarterly reports displayed on its web site that summarize the information reported under subsection (2) of this section. At a minimum, the reports must display data by county and by month. The reports must also include the number of single bed certifications granted by category. The categories must include all of the reasons that the authority recognizes for issuing a single bed certification, as identified in rule.

(5) The reports provided according to this section may not display "protected health information" as that term is used in the federal health insurance portability and accountability act of 1996, nor information contained in "mental health treatment records" or "behavioral health treatment records" as ((~~that term is~~)) these terms are used in chapter 70.02 RCW or elsewhere in state law, and must otherwise be compliant with state and federal privacy laws.

(6) For purposes of this section, the term "single bed certification" means a situation in which an adult on a ((~~seventy-two hour~~)) five-day detention, fourteen-day commitment, ninety-day commitment, or one hundred eighty-day commitment is detained to a facility that is:

(a) Not licensed or certified as an inpatient evaluation and treatment facility; or

(b) A licensed or certified inpatient evaluation and treatment facility that is already at capacity.

**Sec.**  RCW 71.05.760 and 2018 c 201 s 3035 are each amended to read as follows:

(1)(a) By April 1, 2018, the authority, by rule, must combine the functions of a designated mental health professional and designated chemical dependency specialist by establishing a designated crisis responder who is authorized to conduct investigations, detain persons up to ((~~seventy-two hours~~)) five days to the proper facility, and carry out the other functions identified in this chapter and chapter 71.34 RCW. The behavioral health organizations shall provide training to the designated crisis responders as required by the authority.

(b)(i) To qualify as a designated crisis responder, a person must have received chemical dependency training as determined by the department and be a:

(A) Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;

(B) Person who is licensed by the department as a mental health counselor or mental health counselor associate, or marriage and family therapist or marriage and family therapist associate;

(C) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;

(D) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986;

(E) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department of social and health services before July 1, 2001; or

(F) Person who has been granted an exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary.

(ii) Training must include chemical dependency training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

(c) The authority must develop a transition process for any person who has been designated as a designated mental health professional or a designated chemical dependency specialist before April 1, 2018, to be converted to a designated crisis responder. The behavioral health organizations shall provide training, as required by the authority, to persons converting to designated crisis responders, which must include both mental health and chemical dependency training applicable to the designated crisis responder role.

(2)(a) The authority must ensure that at least one sixteen-bed secure detoxification facility is operational by April 1, 2018, and that at least two sixteen-bed secure detoxification facilities are operational by April 1, 2019.

(b) If, at any time during the implementation of secure detoxification facility capacity, federal funding becomes unavailable for federal match for services provided in secure detoxification facilities, then the authority must cease any expansion of secure detoxification facilities until further direction is provided by the legislature.

**Sec.**  RCW 71.34.010 and 2018 c 201 s 5001 are each amended to read as follows:

(1) It is the purpose of this chapter to assure that minors in need of ((~~mental~~)) behavioral health care and treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and involuntary treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the authority and the department that provide ((~~mental~~)) behavioral health services to minors shall jointly plan and deliver those services.

(2) It is also the purpose of this chapter to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment. The ((~~mental~~)) behavioral health care and treatment providers shall encourage the use of voluntary services and, whenever clinically appropriate, the providers shall offer less restrictive alternatives to inpatient treatment. Additionally, all ((~~mental~~)) behavioral health care and treatment providers shall assure that minors' parents are given an opportunity to participate in the treatment decisions for their minor children. The ((~~mental~~)) behavioral health care and treatment providers shall, to the extent possible, offer services that involve minors' parents or family.

(3)(a) It is the intent of the legislature to enhance continuity of care for minors with serious behavioral health disorders that can be controlled or stabilized in a less restrictive alternative commitment. Within the guidelines stated in *In re Labelle*, 107 Wn.2d 196 (1986), the legislature intends to encourage appropriate interventions at a point when there is the best opportunity to restore the minor to or maintain satisfactory functioning.

(b) For minors with a prior history or pattern of repeated hospitalizations or law enforcement interventions due to decompensation, the consideration of prior behavioral health history is particularly relevant in determining whether the minor would receive, if released, such care as is essential for his or her health or safety.

(c) Therefore, the legislature finds that for minors who are currently under a commitment order, a prior history of decompensation leading to repeated hospitalizations or law enforcement interventions should be given great weight in determining whether a new less restrictive alternative commitment should be ordered.

(4) It is also the purpose of this chapter to protect the health and safety of minors suffering from behavioral health disorders and to protect public safety through use of the parens patriae and police powers of the state. Accordingly, when construing the requirements of this chapter the court must focus on the merits of the petition, except where requirements have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d 259, 281 (2002). A presumption in favor of deciding petitions on their merits furthers both public and private interests because the mental and physical well-being of minors as well as public safety may be implicated by the decision to release a minor and discontinue his or her treatment.

(5) It is also the purpose of this chapter to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under this chapter.

**Sec.**  RCW 71.34.020 and 2018 c 201 s 5002 are each amended to read as follows:

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

(1) "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.

(2) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(3) "Authority" means the Washington state health care authority.

(4) "((~~Chemical dependency~~)) Substance use disorder" means:

(a) Alcoholism;

(b) Drug addiction; or

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

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

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

(7) "Children's mental health specialist" means:

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

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

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

(9) "Department" means the department of social and health services.

(10) "Designated crisis responder" means a person designated by a behavioral health organization to perform the duties specified in this chapter.

(11) "Director" means the director of the authority.

(12) "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.

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

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

(15) "Gravely disabled minor" means a minor who, as a result of a ((~~mental~~)) behavioral health 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~~)) from safe behavior 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.

(16) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure detoxification facility for minors, or approved substance use disorder treatment program for minors.

(17) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

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

(19) "Likelihood of serious harm" means ((~~either~~)):

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

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

(20) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

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

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

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

(24) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified service providers as identified by RCW 71.24.025.

(25) "Parent" means:

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

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

(26) "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, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

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

(28) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(29) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

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

(31) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(32) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, 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.

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

(34) "Secretary" means the secretary of the department or secretary's designee.

(35) "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 minors:

(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 minor;

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

(c) Is licensed or certified as such by the department of health.

(36) "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.

(37) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(38) "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.

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

(40) "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.

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

(42) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

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

(44) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department 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.

(45) "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.

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

(47) "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 of the department.

(48) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

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

(50) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(51) "Hearing" means any proceeding conducted in open court that conforms to the requirements of section 88 of this act.

(52) "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.

(53) "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 states:

(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.

(54) "Information related to behavioral health" 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 behavioral health service provider. This may include documents of legal proceedings under this chapter or chapter 71.05 or 10.77 RCW, or somatic health care information.

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

(56) "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 behavioral health service providers under RCW 71.05.130.

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

(58) "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.

(59) "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.

(60) "Release" means legal termination of the commitment under the provisions of this chapter.

(61) "Resource management services" has the meaning given in chapter 71.24 RCW.

(62) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior.

(63) "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.

(64) "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, the department of health, the authority, 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, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

(65) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department 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 residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

(66) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, pain, or substantial loss or damage to property.

(67) "Written order of apprehension" means an order of the court for a peace officer to deliver the named minor in the order to a facility or emergency room as determined by the designated crisis responder. Such orders must be entered into the Washington crime information center database.

**Sec.**  RCW 71.34.305 and 2016 sp.s. c 29 s 255 are each amended to read as follows:

School district personnel who contact a ((~~mental health or substance use~~)) behavioral health disorder inpatient treatment program or provider for the purpose of referring a student to inpatient treatment shall provide the parents with notice of the contact within forty-eight hours.

**Sec.**  RCW 71.34.310 and 1985 c 354 s 26 are each amended to read as follows:

(1) The superior court has jurisdiction over proceedings under this chapter.

(2) A record of all petitions and proceedings under this chapter shall be maintained by the clerk of the superior court in the county in which the petition or proceedings was initiated.

(3) Petitions for commitment shall be filed and venue for hearings under this chapter shall be in the county in which the minor is being detained. ((~~The court may, for good cause, transfer the proceeding to the county of the minor's residence, or to the county in which the alleged conduct evidencing need for commitment occurred. If the county of detention is changed, subsequent petitions may be filed in the county in which the minor is detained without the necessity of a change of venue.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

A peace officer may take or authorize a minor to be taken into custody and immediately delivered to an appropriate triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital when he or she has reasonable cause to believe that such minor is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is gravely disabled. Until July 1, 2026, a peace officer's delivery of a minor to a secure detoxification facility or approved substance use disorder treatment program is subject to the availability of a secure detoxification facility or approved substance use disorder treatment program with adequate space for the minor.

**Sec.**  RCW 71.34.355 and 2016 c 155 s 18 are each amended to read as follows:

(1) Absent a risk to self or others, minors treated under this chapter have the following rights, which shall be prominently posted in the evaluation and treatment facility:

((~~(1)~~)) (a) To wear their own clothes and to keep and use personal possessions;

((~~(2)~~)) (b) To keep and be allowed to spend a reasonable sum of their own money for canteen expenses and small purchases;

((~~(3)~~)) (c) To have individual storage space for private use;

((~~(4)~~)) (d) To have visitors at reasonable times;

((~~(5)~~)) (e) To have reasonable access to a telephone, both to make and receive confidential calls;

((~~(6)~~)) (f) To have ready access to letter-writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

((~~(7)~~)) (g) To discuss treatment plans and decisions with mental health professionals;

((~~(8)~~)) (h) To have the right to adequate care and individualized treatment;

((~~(9)~~)) (i) To not be denied access to treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination;

(j) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.34.750 or the performance of electroconvulsive treatment or surgery, except emergency lifesaving surgery, upon him or her, ((~~and not to have electro-convulsive treatment or nonemergency surgery in such circumstance~~)) unless ordered by a court ((~~pursuant to a judicial hearing in which the minor is present and represented by counsel, and the court shall appoint a psychiatrist, physician assistant, psychologist, psychiatric advanced registered nurse practitioner, or physician designated by the minor or the minor's counsel to testify on behalf of the minor~~)) under procedures described in section 29 of this act. The minor's parent may exercise this right on the minor's behalf, and must be informed of any impending treatment;

((~~(10)~~)) (k) Not to have psychosurgery performed on him or her under any circumstances.

(2)(a) Privileges between minors and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges are waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained minor or the public.

(b) The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained minor for purposes of a proceeding under this chapter. Upon motion by the detained minor or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

(c) The record maker may not be required to testify in order to introduce medical or psychological records of the detained minor so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained minor's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(3) No minor may be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder or substance use disorder, under this chapter or any prior laws of this state dealing with mental illness or substance use disorders.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

At the time a minor is involuntarily admitted to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the professional person in charge or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the detained minor. A copy of the inventory, signed by the staff member making it, must be given to the detained minor and must, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained minor. For purposes of this section, "responsible relative" includes the guardian, conservator, attorney, parent, or adult brother or sister of the minor. The facility shall not disclose the contents of the inventory to any other person without the consent of the minor or order of the court.

**Sec.**  RCW 71.34.365 and 2018 c 201 s 5004 are each amended to read as follows:

(1) If a minor is not accepted for admission or is released by an inpatient evaluation and treatment facility, the facility shall release the minor to the custody of the minor's parent or other responsible person. If not otherwise available, the facility shall furnish transportation for the minor to the minor's residence or other appropriate place. If the minor has been arrested, the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program shall detain the minor for not more than eight hours at the request of the peace officer. The facility shall make reasonable attempts to contact the requesting peace officer during this time to inform the peace officer that the minor is not approved for admission or is being released in order to enable a peace officer to return to the facility and take the minor back into custody.

(2) If the minor is released to someone other than the minor's parent, the facility shall make every effort to notify the minor's parent of the release as soon as possible.

(3) No indigent minor may be released to less restrictive alternative treatment or setting or discharged from inpatient treatment without suitable clothing, and the authority shall furnish this clothing. As funds are available, the director may provide necessary funds for the immediate welfare of indigent minors upon discharge or release to less restrictive alternative treatment.

**Sec.**  RCW 71.34.410 and 2016 sp.s. c 29 s 259 are each amended to read as follows:

(1) No public or private agency or governmental entity, nor officer of a public or private agency, nor the superintendent, or professional person in charge, his or her professional designee or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a ((~~person~~)) minor under this chapter, nor any designated crisis responder, nor professional person, nor evaluation and treatment facility, nor secure detoxification facility, nor approved substance use disorder treatment program shall be civilly or criminally liable for performing actions authorized in this chapter with regard to the decision of whether to admit, release, administer antipsychotic medications, or detain a ((~~person~~)) minor for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) This section does not relieve a person from giving the required duty to warn or to take reasonable precautions to provide protection from violent behavior where the minor has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

**Sec.**  RCW 71.34.420 and 2018 c 201 s 5012 are each amended to read as follows:

(1) The authority may use a single bed certification process as outlined in rule to provide additional treatment capacity for a minor suffering from a ((~~mental~~)) behavioral health disorder for whom an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

(2) A single bed certification must be specific to the minor receiving treatment.

(3) A designated crisis responder who submits an application for a single bed certification for treatment at a facility that is willing and able to provide timely and appropriate ((~~mental~~)) behavioral health treatment in good faith belief that the single bed certification is appropriate may presume that the single bed certification will be approved for the purpose of completing the detention process and responding to other emergency calls.

(4) The authority may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

Nothing in this chapter shall prohibit the professional person in charge of a treatment facility, or his or her professional designee, from permitting a minor detained for intensive treatment to leave the facility for prescribed periods during the term of the minor's detention, under such conditions as may be appropriate.

**Sec.**  RCW 71.34.500 and 2016 sp.s. c 29 s 261 are each amended to read as follows:

(1) A minor thirteen years or older may admit himself or herself to an evaluation and treatment facility for inpatient mental health treatment or an approved substance use disorder treatment program for inpatient substance use disorder treatment without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment. Parental authorization, or authorization from a person who may consent on behalf of the minor pursuant to RCW 7.70.065, is required for inpatient treatment of a minor under the age of thirteen.

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility or approved substance use disorder treatment program, there is reason to believe that a minor is in need of inpatient treatment because of a ((~~mental disorder or substance use~~)) behavioral health disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to the facility.

(3) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.

**Sec.**  RCW 71.34.600 and 2018 c 201 s 5013 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to:

(a) An evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment; or

(b) A secure detoxification facility or approved substance use disorder treatment program and request that a substance use disorder assessment be conducted by a professional person to determine whether the minor has a substance use disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor or authorizes the minor to be brought to the facility.

(3) An appropriately trained professional person may evaluate whether the minor has a ((~~mental disorder or has a substance use~~)) behavioral health disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than ((~~seventy-two hours~~)) five days for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the authority if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section except that no provider may refuse to treat a minor under the provisions of this section solely on the basis that the minor has not consented to the treatment. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.610, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

((~~(7) For the purposes of this section "professional person" means "professional person" as defined in RCW 71.05.020.~~))

**Sec.**  RCW 71.34.650 and 2016 sp.s. c 29 s 265 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to((~~:~~

~~(a)~~)) a provider of outpatient ((~~mental~~)) behavioral health treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a ((~~mental~~)) behavioral health disorder and is in need of outpatient treatment((~~; or~~

~~(b) A provider of outpatient substance use disorder treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a substance use disorder and is in need of outpatient treatment~~)).

(2) The consent of the minor is not required for evaluation if the parent brings the minor, or authorizes bringing the minor, to the provider.

(3) The professional person may evaluate whether the minor has a ((~~mental disorder or substance use~~)) behavioral health disorder and is in need of outpatient treatment.

(4) Any minor admitted to inpatient treatment under RCW 71.34.500 or 71.34.600 shall be discharged immediately from inpatient treatment upon written request of the parent.

**Sec.**  RCW 71.34.700 and 2016 sp.s. c 29 s 267 are each amended to read as follows:

(1) If a minor, thirteen years or older, is brought to an evaluation and treatment facility, secure detoxification facility with available space, approved substance use disorder treatment program with available space, or hospital emergency room for immediate ((~~mental~~)) behavioral health services, the professional person in charge of the facility shall evaluate the minor's ((~~mental~~)) condition, determine whether the minor suffers from a ((~~mental~~)) behavioral health disorder, and whether the minor is in need of immediate inpatient treatment.

(2) ((~~If a minor, thirteen years or older, is brought to a secure detoxification facility with available space, or a hospital emergency room for immediate substance use disorder treatment, the professional person in charge of the facility shall evaluate the minor's condition, determine whether the minor suffers from substance use disorder, and whether the minor is in need of immediate inpatient treatment.~~

~~(3)~~)) If it is determined under subsection (1) ((~~or (2)~~)) of this section that the minor suffers from a ((~~mental disorder or substance use~~)) behavioral health disorder, inpatient treatment is required, the minor is unwilling to consent to voluntary admission, and the professional person believes that the minor meets the criteria for initial detention ((~~set forth herein~~)), the facility may detain or arrange for the detention of the minor for up to twelve hours, not including time periods prior to medical clearance, in order to enable a designated crisis responder to evaluate the minor and commence initial detention proceedings under the provisions of this chapter.

(3) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

**Sec.**  RCW 71.34.700 and 2016 sp.s. c 29 s 268 are each amended to read as follows:

(1) If a minor, thirteen years or older, is brought to an evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or hospital emergency room for immediate ((~~mental~~)) behavioral health services, the professional person in charge of the facility shall evaluate the minor's ((~~mental~~)) condition, determine whether the minor suffers from a ((~~mental~~)) behavioral health disorder, and whether the minor is in need of immediate inpatient treatment.

(2) ((~~If a minor, thirteen years or older, is brought to a secure detoxification facility or a hospital emergency room for immediate substance use disorder treatment, the professional person in charge of the facility shall evaluate the minor's condition, determine whether the minor suffers from substance use disorder, and whether the minor is in need of immediate inpatient treatment.~~

~~(3)~~)) If it is determined under subsection (1) ((~~or (2)~~)) of this section that the minor suffers from a ((~~mental disorder or substance use~~)) behavioral health disorder, inpatient treatment is required, the minor is unwilling to consent to voluntary admission, and the professional person believes that the minor meets the criteria for initial detention ((~~set forth herein~~)), the facility may detain or arrange for the detention of the minor for up to twelve hours, not including time periods prior to medical clearance, in order to enable a designated crisis responder to evaluate the minor and commence initial detention proceedings under the provisions of this chapter.

(3) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

(1) Whenever a designated crisis responder or professional person is conducting an evaluation under this chapter, the designated crisis responder or professional person must consider all reasonably available information from credible witnesses and records regarding:

(a) Historical behavior, including history of one or more violent acts; and

(b) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the minor. If the designated crisis responder relies upon information from a credible witness in reaching his or her decision to detain the minor, then he or she must provide contact information for any such witness to the prosecutor. The designated crisis responder or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the minor which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm, when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration from safe behavior, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the minor; and

(c) Without treatment, the continued deterioration of the minor is probable.

**Sec.**  RCW 71.34.710 and 2016 sp.s. c 29 s 269 are each amended to read as follows:

(1)(a)((~~(i)~~)) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of a ((~~mental~~)) behavioral health disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing inpatient treatment.

((~~(ii) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of substance use disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to a secure detoxification facility or approved substance use disorder treatment program, if~~)) A secure detoxification facility or approved substance use disorder treatment program ((~~is~~)) must be available and ((~~has~~)) have adequate space for the minor.

(b) If ((~~the minor is not taken into custody for evaluation and treatment, the parent who has custody of the minor may seek review of that decision made by the designated crisis responder in court. The parent shall file notice with the court and provide a copy of the designated crisis responder's report or notes~~)) a designated crisis responder decides not to detain a minor for evaluation and treatment under RCW 71.34.700(2), or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the minor detained, an immediate family member or guardian or conservator of the minor may petition the superior court for the minor's detention using the procedures under RCW 71.05.201 and 71.05.203; however, when the court enters an order of initial detention, except as otherwise expressly stated in this chapter, all procedures must be followed as if the order has been entered under RCW 71.34.710(1)(a).

(2) Within twelve hours of the minor's arrival at the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the designated crisis responder shall serve on the minor a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder or evaluation and treatment facility shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder or evaluation and treatment facility shall commence service of the petition for initial detention and notice of the initial detention on the minor's parent and the minor's attorney as soon as possible following the initial detention.

(3)(a) At the time of initial detention, the designated crisis responder shall advise the minor both orally and in writing that if admitted to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within ((~~seventy-two hours~~)) five days of the minor's provisional acceptance to determine whether probable cause exists to commit the minor for further treatment.

(b) The minor shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the minor is indigent.

(4) Subject to subsection (5) of this section, whenever the designated crisis responder petitions for detention of a minor under this chapter, an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing ((~~seventy-two hour~~)) five-day evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the minor's arrival, the facility must evaluate the minor's condition and either admit or release the minor in accordance with this chapter.

(5) A designated crisis responder may not petition for detention of a minor to a secure detoxification facility or approved substance use disorder treatment program unless there is a secure detoxification facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(6) If a minor is not approved for admission by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the minor as necessary.

(7) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

**Sec.**  RCW 71.34.710 and 2016 sp.s. c 29 s 270 are each amended to read as follows:

(1)(a)((~~(i)~~)) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of a ((~~mental~~)) behavioral health disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing inpatient treatment.

((~~(ii) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of substance use disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to a secure detoxification facility or approved substance use disorder treatment program.~~))

(b) If ((~~the minor is not taken into custody for evaluation and treatment, the parent who has custody of the minor may seek review of that decision made by the designated crisis responder in court. The parent shall file notice with the court and provide a copy of the designated crisis responder's report or notes~~)) a designated crisis responder decides not to detain a minor for evaluation and treatment under RCW 71.34.700(2), or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the minor detained, an immediate family member or guardian or conservator of the minor may petition the superior court for the minor's detention using the procedures under RCW 71.05.201 and 71.05.203; however, when the court enters an order of initial detention, except as otherwise expressly stated in this chapter, all procedures must be followed as if the order has been entered under RCW 71.34.710(1)(a).

(2) Within twelve hours of the minor's arrival at the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the designated crisis responder shall serve on the minor a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder or evaluation and treatment facility shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder or evaluation and treatment facility shall commence service of the petition for initial detention and notice of the initial detention on the minor's parent and the minor's attorney as soon as possible following the initial detention.

(3)(a) At the time of initial detention, the designated crisis responder shall advise the minor both orally and in writing that if admitted to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within ((~~seventy-two hours~~)) five days of the minor's provisional acceptance to determine whether probable cause exists to commit the minor for further treatment.

(b) The minor shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the minor is indigent.

(4) Whenever the designated crisis responder petitions for detention of a minor under this chapter, an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing ((~~seventy-two hour~~)) five-day evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the minor's arrival, the facility must evaluate the minor's condition and either admit or release the minor in accordance with this chapter.

(5) If a minor is not approved for admission by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the minor as necessary.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

**Sec.**  RCW 71.34.720 and 2018 c 201 s 5017 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a chemical dependency professional, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement; however a minor may only be referred to a secure detoxification facility or approved substance use disorder treatment program if there is a secure detoxification facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial ((~~seventy-two hour~~)) five-day treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. ((~~In no event may the minor~~)) A minor must not be denied the opportunity to consult an attorney unless there is an immediate risk of harm to the minor or others.

(5) If the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed ((~~seventy-two hours~~)) five days from the time of provisional acceptance. The computation of such ((~~seventy-two hour~~)) five-day period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed ((~~seventy-two hours~~)) five days except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

**Sec.**  RCW 71.34.720 and 2018 c 201 s 5018 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a chemical dependency professional, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial ((~~seventy-two hour~~)) five-day treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. ((~~In no event may the minor~~)) A minor must not be denied the opportunity to consult an attorney unless there is an immediate risk of harm to the minor or others.

(5) If the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed ((~~seventy-two hours~~)) five days from the time of provisional acceptance. The computation of such ((~~seventy-two hour~~)) five-day period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed ((~~seventy-two hours~~)) five days except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

**Sec.**  RCW 71.34.730 and 2016 sp.s. c 29 s 273 and 2016 c 155 s 20 are each reenacted and amended to read as follows:

(1) The professional person in charge of an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program where a minor has been admitted involuntarily for the initial ((~~seventy-two hour~~)) five-day treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility ((~~or, in the case of a minor with a substance use disorder, to~~)), a secure detoxification facility, or an approved substance use disorder treatment program for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the facility does not petition to have the minor committed, the parent who has custody of the minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is ((~~residing or~~)) being detained.

(a) A petition for a fourteen-day commitment shall be signed by: (i) Two physicians; (ii) one physician and a mental health professional; (iii) one physician assistant and a mental health professional; or (iv) one psychiatric advanced registered nurse practitioner and a mental health professional. The person signing the petition must have examined the minor, and the petition must contain the following:

(A) The name and address of the petitioner;

(B) The name of the minor alleged to meet the criteria for fourteen-day commitment;

(C) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;

(D) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;

(E) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;

(F) If the petition is for mental health treatment, a statement that the minor has been advised of the loss of firearm rights if involuntarily committed;

(G) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and

(H) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(b) A copy of the petition shall be personally ((~~delivered to~~)) served on the minor by the petitioner or petitioner's designee. A copy of the petition shall be ((~~sent~~)) provided to the minor's attorney and the minor's parent.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

(1) In any proceeding for involuntary commitment under this chapter, the court may continue or postpone such proceeding for a reasonable time on motion of the respondent for good cause, or on motion of the prosecuting attorney or the attorney general if:

(a) The respondent expressly consents to a continuance or delay and there is a showing of good cause; or

(b) Such continuance is required in the proper administration of justice and the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(2) The court may on its own motion continue the case when required in due administration of justice and when the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(3) The court shall state in any order of continuance or postponement the grounds for the continuance or postponement and whether detention will be extended.

**Sec.**  RCW 71.34.740 and 2016 sp.s. c 29 s 274 are each amended to read as follows:

(1) A commitment hearing shall be held within ((~~seventy-two hours~~)) five days of the minor's admission, excluding Saturday, Sunday, and holidays, unless a continuance is ((~~requested by the minor or the minor's attorney~~)) ordered under section 78 of this act.

(2) The commitment hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the commitment hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the commitment hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the commitment hearing, the minor shall have the following rights:

(a) To be represented by an attorney;

(b) To present evidence on his or her own behalf;

(c) To question persons testifying in support of the petition.

(7) If the hearing is for commitment for mental health treatment, the court at the time of the commitment hearing and before an order of commitment is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently detained for involuntary treatment under this section.

(8) If the minor has received medication within twenty-four hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

(9) ((~~Rules of evidence shall not apply in fourteen-day commitment hearings.~~

~~(10)~~)) For a fourteen-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a ((~~mental disorder or substance use~~)) behavioral health disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor or others;

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment; and

(d) If commitment is for a substance use disorder, there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the minor.

((~~(11)~~)) (10) If the court finds that the minor meets the criteria for a fourteen-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a fourteen-day commitment, the minor shall be released.

((~~(12)~~)) (11)(a) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

(b) Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

((~~(13)~~)) (12) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for one hundred eighty-day commitment is pending before the court.

**Sec.**  RCW 71.34.740 and 2016 sp.s. c 29 s 275 are each amended to read as follows:

(1) A commitment hearing shall be held within ((~~seventy-two hours~~)) five days of the minor's admission, excluding Saturday, Sunday, and holidays, unless a continuance is ((~~requested by the minor or the minor's attorney~~)) ordered under section 78 of this act.

(2) The commitment hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the commitment hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the commitment hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the commitment hearing, the minor shall have the following rights:

(a) To be represented by an attorney;

(b) To present evidence on his or her own behalf;

(c) To question persons testifying in support of the petition.

(7) If the hearing is for commitment for mental health treatment, the court at the time of the commitment hearing and before an order of commitment is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently detained for involuntary treatment under this section.

(8) If the minor has received medication within twenty-four hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

(9) ((~~Rules of evidence shall not apply in fourteen-day commitment hearings.~~

~~(10)~~)) For a fourteen-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a ((~~mental disorder or substance use~~)) behavioral health disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor or others; and

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment.

((~~(11)~~)) (10) If the court finds that the minor meets the criteria for a fourteen-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a fourteen-day commitment, the minor shall be released.

((~~(12)~~)) (11)(a) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

(b) Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

((~~(13)~~)) (12) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for one hundred eighty-day commitment is pending before the court.

**Sec.**  RCW 71.34.750 and 2016 sp.s. c 29 s 276 and 2016 c 155 s 21 are each reenacted and amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist((~~[,]~~)), a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. ((~~The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days.~~)) If the hearing is not commenced within thirty days after the filing of the petition, including extensions of time requested by the detained person or his or her attorney or the court in the administration of justice under section 78 of this act, the minor must be released. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment:

(a) The court must find by clear, cogent, and convincing evidence that the minor:

(i) Is suffering from a mental disorder or substance use disorder;

(ii) Presents a likelihood of serious harm or is gravely disabled; and

(iii) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(b) If commitment is for a substance use disorder, the court must find that there is an available approved substance use disorder treatment program that has adequate space for the minor.

(7) In determining whether an inpatient or less restrictive alternative commitment is appropriate, great weight must be given to evidence of a prior history or pattern of decompensation and discontinuation of treatment resulting in: (a) Repeated hospitalizations; or (b) repeated peace officer interventions resulting in juvenile charges. Such evidence may be used to provide a factual basis for concluding that the minor would not receive, if released, such care as is essential for his or her health or safety.

(8)(a) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the secretary for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

(b) If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

((~~(8)~~)) (9) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least ((~~five~~)) three days prior to the expiration of the previous one hundred eighty-day commitment order.

**Sec.**  RCW 71.34.750 and 2016 sp.s. c 29 s 277 are each amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist((~~[,]~~)), a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. ((~~The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days.~~)) If the hearing is not commenced within thirty days after the filing of the petition, including extensions of time requested by the detained person or his or her attorney or the court in the administration of justice under section 78 of this act, the minor must be released. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

(a) Is suffering from a mental disorder or substance use disorder;

(b) Presents a likelihood of serious harm or is gravely disabled; and

(c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) In determining whether an inpatient or less restrictive alternative commitment is appropriate, great weight must be given to evidence of a prior history or pattern of decompensation and discontinuation of treatment resulting in: (a) Repeated hospitalizations; or (b) repeated peace officer interventions resulting in juvenile charges. Such evidence may be used to provide a factual basis for concluding that the minor would not receive, if released, such care as is essential for his or her health or safety.

(8)(a) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the secretary for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

(b) If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

((~~(8)~~)) (9) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least ((~~five~~)) three days prior to the expiration of the previous one hundred eighty-day commitment order.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

(1) Less restrictive alternative treatment, at a minimum, must include 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) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;

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

(f) An individual crisis plan; and

(g) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(2) Less restrictive alternative treatment may include the following additional services:

(a) Medication management;

(b) Psychotherapy;

(c) Nursing;

(d) Substance abuse counseling;

(e) Residential treatment; and

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

(3) If the minor was provided with involuntary medication during the involuntary commitment period, the less restrictive alternative treatment order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(4) 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.

(5) The care coordinator assigned to a minor ordered to less restrictive alternative treatment must submit an individualized plan for the minor'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.

(6) 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 treatment 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 71.34.780 and 2018 c 201 s 5020 are each amended to read as follows:

(1) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of the court order for less restrictive alternative treatment or the conditions for the conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor((~~, if committed for mental health treatment,~~)) be taken into custody and transported to an inpatient evaluation and treatment facility ((~~or, if committed for substance use disorder treatment, be taken into custody and transported to~~)), a secure detoxification facility, or an approved substance use disorder treatment program ((~~if there is an available~~)). A secure detoxification facility or approved substance use disorder treatment program that has adequate space for the minor must be available.

(2) The designated crisis responder ((~~or the~~)), director ((~~or~~)), secretary, or treatment facility, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(3) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director ((~~or~~)), secretary, or treatment facility, as appropriate, with the court in the county ((~~ordering the less restrictive alternative treatment~~)) where the minor is detained. The court shall conduct the hearing in that county. A petition for revocation of conditional release ((~~may be filed with the court in the county ordering inpatient treatment or the county where the minor on conditional release is residing~~)) must be filed in the county where the minor is detained. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. ((~~Upon motion for good cause, the hearing may be transferred to the county of the minor's residence or to the county in which the alleged violations occurred.~~)) The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or, subject to subsection (4) of this section, whether the minor should be returned to inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be returned to inpatient treatment. If the minor is returned to inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor returned to inpatient treatment or to less restrictive alternative treatment or conditional release on the same or modified conditions.

(4) A court may not order the return of a minor to inpatient treatment in a secure detoxification facility or approved substance use disorder treatment program unless there is a secure detoxification facility or approved substance use disorder treatment program available with adequate space for the minor.

**Sec.**  RCW 71.34.780 and 2018 c 201 s 5021 are each amended to read as follows:

(1) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of the court order for less restrictive alternative treatment or the conditions for the conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor((~~, if committed for mental health treatment,~~)) be taken into custody and transported to an inpatient evaluation and treatment facility ((~~or, if committed for substance use disorder treatment, be taken into custody and transported to~~)), a secure detoxification facility, or an approved substance use disorder treatment program.

(2) The designated crisis responder ((~~or the~~)), director ((~~or~~)), secretary, or treatment facility, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(3) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director ((~~or~~)), secretary, or treatment facility, as appropriate, with the court in the county ((~~ordering the less restrictive alternative treatment~~)) where the minor is detained. The court shall conduct the hearing in that county. A petition for revocation of conditional release ((~~may be filed with the court in the county ordering inpatient treatment or the county where the minor on conditional release is residing~~)) must be filed in the county where the minor is detained. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. ((~~Upon motion for good cause, the hearing may be transferred to the county of the minor's residence or to the county in which the alleged violations occurred.~~)) The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or whether the minor should be returned to inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be returned to inpatient treatment. If the minor is returned to inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor returned to inpatient treatment or to less restrictive alternative treatment or conditional release on the same or modified conditions.

**Sec.**  RCW 2.30.010 and 2015 c 291 s 1 are each amended to read as follows:

(1) The legislature finds that judges in the trial courts throughout the state effectively utilize what are known as therapeutic courts to remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or other issues before the court. Trial courts have proved adept at creative approaches in fashioning a wide variety of therapeutic courts addressing the spectrum of social issues that can contribute to criminal activity and engagement with the child welfare system.

(2) The legislature further finds that by focusing on the specific individual's needs, providing treatment for the issues presented, and ensuring rapid and appropriate accountability for program violations, therapeutic courts may decrease recidivism, improve the safety of the community, and improve the life of the program participant and the lives of the participant's family members by decreasing the severity and frequency of the specific behavior addressed by the therapeutic court.

(3) The legislature recognizes the inherent authority of the judiciary under Article IV, section 1 of the state Constitution to establish therapeutic courts, and the outstanding contribution to the state and local communities made by the establishment of therapeutic courts and desires to provide a general provision in statute acknowledging and encouraging the judiciary to provide for therapeutic court programs to address the particular needs within a given judicial jurisdiction.

(4) Therapeutic court programs may include, but are not limited to:

(a) Adult drug court;

(b) Juvenile drug court;

(c) Family dependency treatment court or family drug court;

(d) Mental health court, which may include participants with developmental disabilities;

(e) DUI court;

(f) Veterans treatment court;

(g) Truancy court;

(h) Domestic violence court;

(i) Gambling court;

(j) Community court;

(k) Homeless court;

(l) Treatment, responsibility, and accountability on campus (Back on TRAC) court; and

(m) Involuntary treatment court.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

(1) The files and records of court proceedings under this chapter and chapter 71.05 RCW shall be closed but shall be accessible to:

(a) The department;

(b) The department of health;

(c) The authority;

(d) The state hospitals as defined in RCW 72.23.010;

(e) Any person who is the subject of a petition;

(f) The attorney or guardian of the person;

(g) Resource management services for that person; and

(h) Service providers authorized to receive such information by resource management services.

(2) The authority shall adopt rules to implement this section.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, the interpreters, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used in this section includes any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow the respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged behavioral health disorder affects the respondent's ability to perceive or participate in the proceeding by video.

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

For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, the interpreters, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used in this section includes any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow the respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged behavioral health disorder affects the respondent's ability to perceive or participate in the proceeding by video.

NEW SECTION. **Sec.**  A new section is added to chapter 71.34 RCW to read as follows:

In addition to the responsibility provided for by RCW 43.20B.330, the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his or her family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department, or the authority, as appropriate, shall, pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Financial responsibility with respect to services and facilities of the department shall continue to be as provided in RCW 43.20B.320 through 43.20B.360 and 43.20B.370.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 71.05.360 (Rights of involuntarily detained persons) and 2017 3rd sp.s. c 14 s 20; and

(2)RCW 71.34.370 (Antipsychotic medication and shock treatment) and 1989 c 120 s 9.

NEW SECTION. **Sec.**  RCW 71.05.525 is recodified as a section in chapter 71.34 RCW.

NEW SECTION. **Sec.**  Sections 14, 16, 24, 34, 40, 50, 71, 74, 76, 80, 82, and 85 of this act take effect July 1, 2026.

NEW SECTION. **Sec.**  Sections 13, 15, 23, 33, 39, 49, 70, 73, 75, 79, 81, and 84 of this act expire July 1, 2026.

**--- END ---**