
SUBSTITUTE HOUSE BILL 1773

State of Washington

67th Legislature

2022 Regular Session

By House Appropriations (originally sponsored by Representatives Taylor, Davis, Leavitt, Callan, Cody, Macri, Ormsby, and Harris-Talley)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to assisted outpatient treatment for persons with
2 behavioral health disorders; amending RCW 71.05.148, 71.05.150,
3 71.05.150, 71.05.156, 71.05.212, 71.05.230, 71.05.240, 71.05.240,
4 71.05.245, 71.05.280, 71.05.290, 71.05.365, 71.05.585, 10.77.175,
5 71.05.590, 71.05.590, 71.05.595, and 71.24.045; reenacting and
6 amending RCW 71.05.020, 71.05.020, 71.05.201, 71.05.212, 71.05.320,
7 71.05.320, and 71.29.045; reenacting and amending 2021 c 264 s 24 and
8 2021 c 263 s 21 (uncodified); adding a new section to chapter 71.34
9 RCW; creating a new section; providing effective dates; providing a
10 contingent effective date; and providing expiration dates.

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

12 **Sec. 1.** RCW 71.05.020 and 2021 c 264 s 21 and 2021 c 263 s 12
13 are each reenacted and amended to read as follows:

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

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

20 (2) "Alcoholism" means a disease, characterized by a dependency
21 on alcoholic beverages, loss of control over the amount and

1 circumstances of use, symptoms of tolerance, physiological or
2 psychological withdrawal, or both, if use is reduced or discontinued,
3 and impairment of health or disruption of social or economic
4 functioning;

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

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

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

16 (6) "Authority" means the Washington state health care authority;

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

21 (8) "Behavioral health service provider" means a public or
22 private agency that provides mental health, substance use disorder,
23 or co-occurring disorder services to persons with behavioral health
24 disorders as defined under this section and receives funding from
25 public sources. This includes, but is not limited to: Hospitals
26 licensed under chapter 70.41 RCW; evaluation and treatment facilities
27 as defined in this section; community mental health service delivery
28 systems or community behavioral health programs as defined in RCW
29 71.24.025; licensed or certified behavioral health agencies under RCW
30 71.24.037; facilities conducting competency evaluations and
31 restoration under chapter 10.77 RCW; approved substance use disorder
32 treatment programs as defined in this section; secure withdrawal
33 management and stabilization facilities as defined in this section;
34 and correctional facilities operated by state and local governments;

35 (9) "Co-occurring disorder specialist" means an individual
36 possessing an enhancement granted by the department of health under
37 chapter 18.205 RCW that certifies the individual to provide substance
38 use disorder counseling subject to the practice limitations under RCW
39 18.205.105;

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

4 (11) "Community behavioral health agency" has the same meaning as
5 "licensed or certified behavioral health agency" defined in RCW
6 71.24.025;

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

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

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

18 (15) "Department" means the department of health;

19 (16) "Designated crisis responder" means a mental health
20 professional appointed by the county, by an entity appointed by the
21 county, or by the authority in consultation with a federally
22 recognized Indian tribe or after meeting and conferring with an
23 Indian health care provider, to perform the duties specified in this
24 chapter;

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

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

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

37 (20) "Director" means the director of the authority;

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

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

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

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

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

36 (26) "Hearing" means any proceeding conducted in open court that
37 conforms to the requirements of RCW 71.05.820;

38 (27) "History of one or more violent acts" refers to the period
39 of time ten years prior to the filing of a petition under this
40 chapter, excluding any time spent, but not any violent acts

1 committed, in a behavioral health facility, or in confinement as a
2 result of a criminal conviction;

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

5 (29) "In need of assisted outpatient ~~((behavioral health))~~
6 treatment" ~~((means that a person, as a result of a behavioral health~~
7 ~~disorder: (a) Has been committed by a court to detention for~~
8 ~~involuntary behavioral health treatment during the preceding thirty-~~
9 ~~six months; (b) is unlikely to voluntarily participate in outpatient~~
10 ~~treatment without an order for less restrictive alternative~~
11 ~~treatment, based on a history of nonadherence with treatment or in~~
12 ~~view of the person's current behavior; (c) is likely to benefit from~~
13 ~~less restrictive alternative treatment; and (d) requires less~~
14 ~~restrictive alternative treatment to prevent a relapse,~~
15 ~~decompensation, or deterioration that is likely to result in the~~
16 ~~person presenting a likelihood of serious harm or the person becoming~~
17 ~~gravely disabled within a reasonably short period of time)) refers to~~
18 ~~a person who meets the criteria for assisted outpatient treatment~~
19 ~~established under RCW 71.05.148;~~

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

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

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

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

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

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

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

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

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

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

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

10 (34) "Less restrictive alternative treatment" means a program of
11 individualized treatment in a less restrictive setting than inpatient
12 treatment that includes the services described in RCW 71.05.585. This
13 term includes: Treatment pursuant to a less restrictive alternative
14 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant
15 to a conditional release under RCW 71.05.340; and treatment pursuant
16 to an assisted outpatient (~~behavioral health~~) treatment order under
17 RCW 71.05.148;

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

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

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

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

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

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

39 (39) "Mental health professional" means a psychiatrist,
40 psychologist, physician assistant working with a supervising

1 psychiatrist, psychiatric advanced registered nurse practitioner,
2 psychiatric nurse, or social worker, and such other mental health
3 professionals as may be defined by rules adopted by the secretary
4 pursuant to the provisions of this chapter;

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

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

11 (42) "Private agency" means any person, partnership, corporation,
12 or association that is not a public agency, whether or not financed
13 in whole or in part by public funds, which constitutes an evaluation
14 and treatment facility or private institution, or hospital, or
15 approved substance use disorder treatment program, which is conducted
16 for, or includes a department or ward conducted for, the care and
17 treatment of persons with behavioral health disorders;

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

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

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

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

36 (47) "Public agency" means any evaluation and treatment facility
37 or institution, secure withdrawal management and stabilization
38 facility, approved substance use disorder treatment program, or
39 hospital which is conducted for, or includes a department or ward
40 conducted for, the care and treatment of persons with behavioral

1 health disorders, if the agency is operated directly by federal,
2 state, county, or municipal government, or a combination of such
3 governments;

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

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

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

10 (51) "Secure withdrawal management and stabilization facility"
11 means a facility operated by either a public or private agency or by
12 the program of an agency which provides care to voluntary individuals
13 and individuals involuntarily detained and committed under this
14 chapter for whom there is a likelihood of serious harm or who are
15 gravely disabled due to the presence of a substance use disorder.
16 Secure withdrawal management and stabilization facilities must:

17 (a) Provide the following services:

18 (i) Assessment and treatment, provided by certified substance use
19 disorder professionals or co-occurring disorder specialists;

20 (ii) Clinical stabilization services;

21 (iii) Acute or subacute detoxification services for intoxicated
22 individuals; and

23 (iv) Discharge assistance provided by certified substance use
24 disorder professionals or co-occurring disorder specialists,
25 including facilitating transitions to appropriate voluntary or
26 involuntary inpatient services or to less restrictive alternatives as
27 appropriate for the individual;

28 (b) Include security measures sufficient to protect the patients,
29 staff, and community; and

30 (c) Be licensed or certified as such by the department of health;

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

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

1 (54) "Substance use disorder professional" means a person
2 certified as a substance use disorder professional by the department
3 of health under chapter 18.205 RCW;

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

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

26 (57) "Triage facility" means a short-term facility or a portion
27 of a facility licensed or certified by the department, which is
28 designed as a facility to assess and stabilize an individual or
29 determine the need for involuntary commitment of an individual, and
30 must meet department residential treatment facility standards. A
31 triage facility may be structured as a voluntary or involuntary
32 placement facility;

33 (58) "Video," unless the context clearly indicates otherwise,
34 means the delivery of behavioral health services through the use of
35 interactive audio and video technology, permitting real-time
36 communication between a person and a designated crisis responder, for
37 the purpose of evaluation. "Video" does not include the use of audio-
38 only telephone, facsimile, email, or store and forward technology.
39 "Store and forward technology" means use of an asynchronous
40 transmission of a person's medical information from a mental health

1 service provider to the designated crisis responder which results in
2 medical diagnosis, consultation, or treatment;

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

5 **Sec. 2.** RCW 71.05.020 and 2021 c 264 s 23 and 2021 c 263 s 14
6 are each reenacted and amended to read as follows:

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

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

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

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

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

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

30 (6) "Authority" means the Washington state health care authority;

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

35 (8) "Behavioral health service provider" means a public or
36 private agency that provides mental health, substance use disorder,
37 or co-occurring disorder services to persons with behavioral health
38 disorders as defined under this section and receives funding from
39 public sources. This includes, but is not limited to: Hospitals

1 licensed under chapter 70.41 RCW; evaluation and treatment facilities
2 as defined in this section; community mental health service delivery
3 systems or community behavioral health programs as defined in RCW
4 71.24.025; licensed or certified behavioral health agencies under RCW
5 71.24.037; facilities conducting competency evaluations and
6 restoration under chapter 10.77 RCW; approved substance use disorder
7 treatment programs as defined in this section; secure withdrawal
8 management and stabilization facilities as defined in this section;
9 and correctional facilities operated by state and local governments;

10 (9) "Co-occurring disorder specialist" means an individual
11 possessing an enhancement granted by the department of health under
12 chapter 18.205 RCW that certifies the individual to provide substance
13 use disorder counseling subject to the practice limitations under RCW
14 18.205.105;

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

18 (11) "Community behavioral health agency" has the same meaning as
19 "licensed or certified behavioral health agency" defined in RCW
20 71.24.025;

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

23 (13) "Crisis stabilization unit" means a short-term facility or a
24 portion of a facility licensed or certified by the department, such
25 as an evaluation and treatment facility or a hospital, which has been
26 designed to assess, diagnose, and treat individuals experiencing an
27 acute crisis without the use of long-term hospitalization;

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

32 (15) "Department" means the department of health;

33 (16) "Designated crisis responder" means a mental health
34 professional appointed by the county, by an entity appointed by the
35 county, or by the authority in consultation with a federally
36 recognized Indian tribe or after meeting and conferring with an
37 Indian health care provider, to perform the duties specified in this
38 chapter;

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

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

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

11 (20) "Director" means the director of the authority;

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

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

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

34 (24) "Gravely disabled" means a condition in which a person, as a
35 result of a behavioral health disorder: (a) Is in danger of serious
36 physical harm resulting from a failure to provide for his or her
37 essential human needs of health or safety; or (b) manifests severe
38 deterioration from safe behavior evidenced by repeated and escalating
39 loss of cognitive or volitional control over his or her actions and

1 is not receiving such care as is essential for his or her health or
2 safety;

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

11 (26) "Hearing" means any proceeding conducted in open court that
12 conforms to the requirements of RCW 71.05.820;

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

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

20 (29) "In need of assisted outpatient ~~((behavioral health))~~
21 treatment" ~~((means that a person, as a result of a behavioral health~~
22 ~~disorder: (a) Has been committed by a court to detention for~~
23 ~~involuntary behavioral health treatment during the preceding thirty-~~
24 ~~six months; (b) is unlikely to voluntarily participate in outpatient~~
25 ~~treatment without an order for less restrictive alternative~~
26 ~~treatment, based on a history of nonadherence with treatment or in~~
27 ~~view of the person's current behavior; (c) is likely to benefit from~~
28 ~~less restrictive alternative treatment; and (d) requires less~~
29 ~~restrictive alternative treatment to prevent a relapse,~~
30 ~~decompensation, or deterioration that is likely to result in the~~
31 ~~person presenting a likelihood of serious harm or the person becoming~~
32 ~~gravely disabled within a reasonably short period of time)) refers to~~
33 ~~a person who meets the criteria for assisted outpatient treatment~~
34 ~~established under RCW 71.05.148;~~

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

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

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

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

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

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

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

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

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

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

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

24 (34) "Less restrictive alternative treatment" means a program of
25 individualized treatment in a less restrictive setting than inpatient
26 treatment that includes the services described in RCW 71.05.585. This
27 term includes: Treatment pursuant to a less restrictive alternative
28 treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant
29 to a conditional release under RCW 71.05.340; and treatment pursuant
30 to an assisted outpatient (~~behavioral health~~) treatment order under
31 RCW 71.05.148;

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

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

36 (a) A substantial risk that: (i) Physical harm will be inflicted
37 by a person upon his or her own person, as evidenced by threats or
38 attempts to commit suicide or inflict physical harm on oneself; (ii)
39 physical harm will be inflicted by a person upon another, as
40 evidenced by behavior which has caused harm, substantial pain, or

1 which places another person or persons in reasonable fear of harm to
2 themselves or others; or (iii) physical harm will be inflicted by a
3 person upon the property of others, as evidenced by behavior which
4 has caused substantial loss or damage to the property of others; or

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

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

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

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

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

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

25 (42) "Private agency" means any person, partnership, corporation,
26 or association that is not a public agency, whether or not financed
27 in whole or in part by public funds, which constitutes an evaluation
28 and treatment facility or private institution, or hospital, or
29 approved substance use disorder treatment program, which is conducted
30 for, or includes a department or ward conducted for, the care and
31 treatment of persons with behavioral health disorders;

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

38 (44) "Psychiatric advanced registered nurse practitioner" means a
39 person who is licensed as an advanced registered nurse practitioner

1 pursuant to chapter 18.79 RCW; and who is board certified in advanced
2 practice psychiatric and mental health nursing;

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

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

11 (47) "Public agency" means any evaluation and treatment facility
12 or institution, secure withdrawal management and stabilization
13 facility, approved substance use disorder treatment program, or
14 hospital which is conducted for, or includes a department or ward
15 conducted for, the care and treatment of persons with behavioral
16 health disorders, if the agency is operated directly by federal,
17 state, county, or municipal government, or a combination of such
18 governments;

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

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

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

25 (51) "Secure withdrawal management and stabilization facility"
26 means a facility operated by either a public or private agency or by
27 the program of an agency which provides care to voluntary individuals
28 and individuals involuntarily detained and committed under this
29 chapter for whom there is a likelihood of serious harm or who are
30 gravely disabled due to the presence of a substance use disorder.
31 Secure withdrawal management and stabilization facilities must:

32 (a) Provide the following services:

33 (i) Assessment and treatment, provided by certified substance use
34 disorder professionals or co-occurring disorder specialists;

35 (ii) Clinical stabilization services;

36 (iii) Acute or subacute detoxification services for intoxicated
37 individuals; and

38 (iv) Discharge assistance provided by certified substance use
39 disorder professionals or co-occurring disorder specialists,
40 including facilitating transitions to appropriate voluntary or

1 involuntary inpatient services or to less restrictive alternatives as
2 appropriate for the individual;

3 (b) Include security measures sufficient to protect the patients,
4 staff, and community; and

5 (c) Be licensed or certified as such by the department of health;

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

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

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

20 (55) "Substance use disorder professional" means a person
21 certified as a substance use disorder professional by the department
22 of health under chapter 18.205 RCW;

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

29 (57) "Treatment records" include registration and all other
30 records concerning persons who are receiving or who at any time have
31 received services for behavioral health disorders, which are
32 maintained by the department of social and health services, the
33 department, the authority, behavioral health administrative services
34 organizations and their staffs, managed care organizations and their
35 staffs, and by treatment facilities. Treatment records include mental
36 health information contained in a medical bill including but not
37 limited to mental health drugs, a mental health diagnosis, provider
38 name, and dates of service stemming from a medical service. Treatment
39 records do not include notes or records maintained for personal use
40 by a person providing treatment services for the department of social

1 and health services, the department, the authority, behavioral health
2 administrative services organizations, managed care organizations, or
3 a treatment facility if the notes or records are not available to
4 others;

5 (58) "Triage facility" means a short-term facility or a portion
6 of a facility licensed or certified by the department, which is
7 designed as a facility to assess and stabilize an individual or
8 determine the need for involuntary commitment of an individual, and
9 must meet department residential treatment facility standards. A
10 triage facility may be structured as a voluntary or involuntary
11 placement facility;

12 (59) "Video," unless the context clearly indicates otherwise,
13 means the delivery of behavioral health services through the use of
14 interactive audio and video technology, permitting real-time
15 communication between a person and a designated crisis responder, for
16 the purpose of evaluation. "Video" does not include the use of audio-
17 only telephone, facsimile, email, or store and forward technology.
18 "Store and forward technology" means use of an asynchronous
19 transmission of a person's medical information from a mental health
20 service provider to the designated crisis responder which results in
21 medical diagnosis, consultation, or treatment;

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

24 **Sec. 3.** RCW 71.05.148 and 2019 c 446 s 21 are each amended to
25 read as follows:

26 ~~((This section establishes a process for initial evaluation and
27 filing of a petition for assisted outpatient behavioral health
28 treatment, but however does not preclude the filing of a petition for
29 assisted outpatient behavioral health treatment following a period of
30 inpatient detention in appropriate circumstances:))~~

31 (1) ~~((The designated crisis responder))~~ A person is in need of
32 assisted outpatient treatment if the court finds by clear, cogent,
33 and convincing evidence in response to a petition filed under this
34 section that:

35 (a) The person has a behavioral health disorder;

36 (b) Based on a clinical determination and in view of the person's
37 treatment history and current behavior, at least one of the following
38 is true:

1 (i) The person is unlikely to survive safely in the community
2 without supervision and the person's condition is substantially
3 deteriorating; or

4 (ii) The person is in need of assisted outpatient treatment in
5 order to prevent a relapse or deterioration that would be likely to
6 result in grave disability or a likelihood of serious harm to the
7 person or to others;

8 (c) The person has a history of lack of compliance with treatment
9 for his or her behavioral health disorder, in that at least one of
10 the following is true:

11 (i) The person's behavioral health disorder has, at least twice
12 within the 36-month period immediately preceding filing of the
13 petition or immediately preceding the most recent period of
14 hospitalization or incarceration if the petition is filed within 30
15 days of release from hospitalization or incarceration, been a
16 substantial factor in necessitating hospitalization, or receipt of
17 services in a forensic or other mental health unit of a state
18 correctional facility or local correctional facility;

19 (ii) The person's behavioral health disorder has, at least twice
20 within the last 36 months, been a substantial factor in necessitating
21 emergency medical care, a substantial factor necessitating
22 hospitalization for behavioral health-related medical conditions
23 including overdose, infected abscesses, sepsis, endocarditis, or
24 other maladies, or a substantial factor in behavior which resulted in
25 the person's incarceration in a state or local correctional facility;
26 or

27 (iii) The person's behavioral health disorder has resulted in one
28 or more violent acts, threats, or attempts to cause serious physical
29 harm to themselves or another within the 48-month period immediately
30 preceding filing of the petition or immediately preceding the most
31 recent period of hospitalization or incarceration if the petition is
32 filed within 30 days of release from hospitalization or
33 incarceration;

34 (d) The person has been offered an opportunity to participate in
35 a treatment plan, and the person declines voluntary services, or the
36 court finds, based on the person's current presentation or history of
37 noncompliance, that the person has not accepted voluntary services in
38 good faith;

1 (e) Participation in an assisted outpatient treatment program
2 would be the least restrictive alternative necessary to ensure the
3 person's recovery and stability; and

4 (f) The person will benefit from assisted outpatient treatment.

5 (2) The following individuals may directly file a petition for
6 less restrictive alternative treatment on the basis that a person is
7 in need of assisted outpatient treatment:

8 (a) The director of a hospital where the person is hospitalized;

9 (b) The director of a behavioral health service provider
10 providing behavioral health care or residential services to the
11 person;

12 (c) The person's treating mental health professional or substance
13 use disorder professional or one who has evaluated the person;

14 (d) A designated crisis responder;

15 (e) A release planner from a corrections facility; or

16 (f) An emergency room physician.

17 (3) A court order for less restrictive alternative treatment on
18 the basis that the person is in need of assisted outpatient treatment
19 may be effective for up to 18 months. The petitioner must personally
20 interview the person, unless the person refuses an interview, ((and))
21 to determine whether the person will voluntarily receive appropriate
22 ((evaluation and)) treatment ((at a mental health facility, secure
23 withdrawal management and stabilization facility, or approved
24 substance use disorder treatment program)).

25 ~~((2))~~ (4) The ((designated crisis responder)) petitioner must
26 ~~((investigate and evaluate the))~~ allege specific facts ~~((alleged~~
27 ~~and))~~ based on personal observation, evaluation, or investigation,
28 and must consider the reliability or credibility of any person
29 providing information~~((. The designated crisis responder may spend up~~
30 ~~to forty-eight hours to complete the investigation, provided that the~~
31 ~~person may not be held for investigation for any period except as~~
32 ~~authorized by RCW 71.05.050 or 71.05.153))~~ material to the petition.

33 ~~((3) If the designated crisis responder finds that the person is~~
34 ~~in need of assisted outpatient behavioral health treatment, they may~~
35 ~~file a petition requesting the court to enter an order for up to~~
36 ~~ninety days of less restrictive alternative treatment.))~~ (5) The
37 petition must include:

38 (a) A statement of the circumstances under which the person's
39 condition was made known and ((stating that there is evidence, as a
40 result of the designated crisis responder's)) the basis for the

1 opinion, from personal observation or investigation, that the person
2 is in need of assisted outpatient ((behavioral health)) treatment((
3 and stating the)). The petitioner must state which specific facts
4 ((known as a result of)) come from personal observation ((or
5 investigation, upon which the designated crisis responder bases)) and
6 specify what other sources of information the petitioner has relied
7 upon to form this belief;

8 (b) A declaration from a physician, physician assistant, advanced
9 registered nurse practitioner, or the person's treating mental health
10 professional or substance use disorder professional, who has examined
11 the person no more than 10 days prior to the submission of the
12 petition and who is willing to testify in support of the petition, or
13 who alternatively has made appropriate attempts to examine the person
14 within the same period but has not been successful in obtaining the
15 person's cooperation, and who is willing to testify to the reasons
16 they believe that the person meets the criteria for assisted
17 outpatient treatment. If the declaration is provided by the person's
18 treating mental health professional or substance use disorder
19 professional, it must be cosigned by a supervising physician,
20 physician assistant, or advanced registered nurse practitioner who
21 certifies that they have reviewed the declaration;

22 (c) The declarations of additional witnesses, if any, supporting
23 the petition for assisted outpatient ((behavioral health)) treatment;

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

27 (d) The name of an agency, provider, or facility ((which agreed))
28 that agrees to ((assume the responsibility of providing)) provide
29 less restrictive alternative treatment if the petition is granted by
30 the court; and

31 (e) ~~((A summons to appear in court at a specific time and place~~
32 ~~within five judicial days for a probable cause hearing, except as~~
33 ~~provided in subsection (4) of this section)) If the person is~~
34 detained in a state hospital, inpatient treatment facility, jail, or
35 correctional facility at the time the petition is filed, the
36 anticipated release date of the person and any other details needed
37 to facilitate successful reentry and transition into the community.

38 ~~((4) If the person is in the custody of jail or prison at the~~
39 ~~time of the investigation, a petition for assisted outpatient~~
40 ~~behavioral health treatment may be used to facilitate continuity of~~

1 ~~care after release from custody or the diversion of criminal charges~~
2 ~~as follows:~~

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

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

16 ~~(5))~~ (6) The petition must be served upon the ~~((person and the~~
17 ~~person's counsel with a notice of applicable rights))~~ prosecuting
18 attorney for the county. Proof of service must be filed with the
19 court. The prosecuting attorney shall review the petition. If
20 appropriate, the prosecutor shall consult with the petitioner to
21 conform the contents of the petition with the requirements of law.
22 The prosecutor may decline to proceed with a petition which does not
23 meet legal requirements. If the petition meets legal requirements,
24 the prosecutor shall schedule the petition for a hearing and cause
25 the petition, notice of rights, the name, business address, and
26 telephone number of appointed counsel, and summons to appear to be
27 served upon the person and their guardian, if any. Information about
28 appointed counsel need not be provided if the prosecutor has
29 knowledge that the person has retained counsel. Proof of service must
30 be filed with the court and all papers in the court file must be
31 provided to the person's designated attorney.

32 (7) If the petition involves a person whom the prosecutor knows,
33 or has reason to know, is an American Indian or Alaska Native who
34 receives medical or behavioral health services from a tribe within
35 this state, the prosecutor shall notify the tribe and Indian health
36 care provider. Notification shall be made in person or by telephonic
37 or electronic communication to the tribal contact listed in the
38 authority's tribal crisis coordination plan as soon as possible.

1 (~~(6)~~) (8) A petition for assisted outpatient (~~behavioral~~
2 ~~health~~) treatment filed under this section (~~(must)~~) shall be
3 adjudicated under RCW 71.05.240.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.34
5 RCW to read as follows:

6 (1) An adolescent is in need of assisted outpatient treatment if
7 the court finds by clear, cogent, and convincing evidence in response
8 to a petition filed under this section that:

9 (a) The adolescent has a behavioral health disorder;

10 (b) Based on a clinical determination and in view of the
11 adolescent's treatment history and current behavior, at least one of
12 the following is true:

13 (i) The adolescent is unlikely to survive safely in the community
14 without supervision and the adolescent's condition is substantially
15 deteriorating; or

16 (ii) The adolescent is in need of assisted outpatient treatment
17 in order to prevent a relapse or deterioration that would be likely
18 to result in grave disability or a likelihood of serious harm to the
19 adolescent or to others;

20 (c) The adolescent has a history of lack of compliance with
21 treatment for his or her behavioral health disorder, in that at least
22 one of the following is true:

23 (i) The adolescent's behavioral health disorder has, at least
24 twice within the 36-month period immediately preceding filing of the
25 petition or immediately preceding the most recent period of
26 hospitalization or incarceration if the petition is filed within 30
27 days of release from hospitalization or incarceration, been a
28 substantial factor in necessitating hospitalization, or receipt of
29 services in a forensic or other mental health unit of a state
30 correctional facility or local correctional facility;

31 (ii) The person's behavioral health disorder has, at least twice
32 within the last 36 months, been a substantial factor in necessitating
33 emergency medical care, a substantial factor necessitating
34 hospitalization for behavioral health-related medical conditions
35 including overdose, infected abscesses, sepsis, endocarditis, or
36 other maladies, or a substantial factor in behavior which resulted in
37 the person's incarceration in a state or local correctional facility;
38 or

1 (iii) The adolescent's behavioral health disorder has resulted in
2 one or more violent acts, threats, or attempts to cause serious
3 physical harm to themselves or another within the 48-month period
4 immediately preceding filing of the petition or immediately preceding
5 the most recent period of hospitalization or incarceration if the
6 petition is filed within 30 days of release from hospitalization or
7 incarceration;

8 (d) The adolescent has been offered an opportunity to participate
9 in a treatment plan, and the adolescent declines voluntary services,
10 or the court finds, based on the adolescent's current presentation or
11 history of noncompliance, that the adolescent has not accepted
12 voluntary services in good faith;

13 (e) Participation in an assisted outpatient treatment program
14 would be the least restrictive alternative necessary to ensure the
15 adolescent's recovery and stability; and

16 (f) The adolescent will benefit from assisted outpatient
17 treatment.

18 (2) The following individuals may directly file a petition for
19 less restrictive alternative treatment on the basis that an
20 adolescent is in need of assisted outpatient treatment:

21 (a) The director of a hospital where the adolescent is
22 hospitalized;

23 (b) The director of a behavioral health service provider
24 providing behavioral health care or residential services to the
25 adolescent;

26 (c) The adolescent's treating mental health professional or
27 substance use disorder professional or one who has evaluated the
28 person;

29 (d) A designated crisis responder;

30 (e) A release planner from a juvenile detention or rehabilitation
31 facility; or

32 (f) An emergency room physician.

33 (3) A court order for less restrictive alternative treatment on
34 the basis that the adolescent is in need of assisted outpatient
35 treatment may be effective for up to 18 months. The petitioner must
36 personally interview the adolescent, unless the adolescent refuses an
37 interview, to determine whether the adolescent will voluntarily
38 receive appropriate treatment.

39 (4) The petitioner must allege specific facts based on personal
40 observation, evaluation, or investigation, and must consider the

1 reliability or credibility of any person providing information
2 material to the petition.

3 (5) The petition must include:

4 (a) A statement of the circumstances under which the adolescent's
5 condition was made known and the basis for the opinion, from personal
6 observation or investigation, that the adolescent is in need of
7 assisted outpatient treatment. The petitioner must state which
8 specific facts come from personal observation and specify what other
9 sources of information the petitioner has relied upon to form this
10 belief;

11 (b) A declaration from a physician, physician assistant, or
12 advanced registered nurse practitioner, or the adolescent's treating
13 mental health professional or substance use disorder professional,
14 who has examined the adolescent no more than 10 days prior to the
15 submission of the petition and who is willing to testify in support
16 of the petition, or who alternatively has made appropriate attempts
17 to examine the adolescent within the same period but has not been
18 successful in obtaining the adolescent's cooperation, and who is
19 willing to testify to the reasons they believe that the adolescent
20 meets the criteria for assisted outpatient treatment. If the
21 declaration is provided by the adolescent's treating mental health
22 professional or substance use disorder professional, it must be
23 cosigned by a supervising physician, physician assistant, or advanced
24 registered nurse practitioner who certifies that they have reviewed
25 the declaration;

26 (c) The declarations of additional witnesses, if any, supporting
27 the petition for assisted outpatient treatment;

28 (d) The name of an agency, provider, or facility that agrees to
29 provide less restrictive alternative treatment if the petition is
30 granted by the court; and

31 (e) If the adolescent is detained in a state hospital, inpatient
32 treatment facility, or juvenile detention or rehabilitation facility
33 at the time the petition is filed, the anticipated release date of
34 the adolescent and any other details needed to facilitate successful
35 reentry and transition into the community.

36 (6) The petition must be served upon the prosecuting attorney for
37 the county. Proof of service must be filed with the court. The
38 prosecuting attorney shall review the petition. If appropriate, the
39 prosecutor shall consult with the petitioner to conform the contents
40 of the petition with the requirements of law. The prosecutor may

1 decline to proceed with a petition which does not meet legal
2 requirements. If the petition meets legal requirements, the
3 prosecutor shall schedule the petition for a hearing and cause the
4 petition, notice of rights, the name, business address, and telephone
5 number of appointed counsel, and summons to appear to be served upon
6 the adolescent and their guardian, if any. Information about
7 appointed counsel need not be provided if the prosecutor has
8 knowledge that the adolescent has retained counsel. Proof of service
9 must be filed with the court and all papers in the court file must be
10 provided to the adolescent's designated attorney.

11 (7) If the petition involves an adolescent whom the prosecutor
12 knows, or has reason to know, is an American Indian or Alaska Native
13 who receives medical or behavioral health services from a tribe
14 within this state, the prosecutor shall notify the tribe and Indian
15 health care provider. Notification shall be made in person or by
16 telephonic or electronic communication to the tribal contact listed
17 in the authority's tribal crisis coordination plan as soon as
18 possible.

19 (8) A petition for assisted outpatient treatment filed under this
20 section shall be adjudicated under RCW 71.34.740.

21 **Sec. 5.** RCW 71.05.150 and 2021 c 264 s 1 are each amended to
22 read as follows:

23 (1) When a designated crisis responder receives information
24 alleging that a person, as a result of a behavioral health disorder,
25 presents a likelihood of serious harm or is gravely disabled, (~~or~~
26 ~~that a person is in need of assisted outpatient behavioral health~~
27 ~~treatment;~~) the designated crisis responder may, after investigation
28 and evaluation of the specific facts alleged and of the reliability
29 and credibility of any person providing information to initiate
30 detention (~~or involuntary outpatient treatment~~), if satisfied that
31 the allegations are true and that the person will not voluntarily
32 seek appropriate treatment, file a petition for initial detention
33 under this section (~~or a petition for involuntary outpatient~~
34 ~~behavioral health treatment under RCW 71.05.148~~). Before filing the
35 petition, the designated crisis responder must personally interview
36 the person, unless the person refuses an interview, and determine
37 whether the person will voluntarily receive appropriate evaluation
38 and treatment at an evaluation and treatment facility, crisis
39 stabilization unit, triage facility, secure withdrawal management and

1 stabilization facility, or approved substance use disorder treatment
2 program. As part of the assessment, the designated crisis responder
3 must attempt to ascertain if the person has executed a mental health
4 advance directive under chapter 71.32 RCW. The interview performed by
5 the designated crisis responder may be conducted by video provided
6 that a licensed health care professional or professional person who
7 can adequately and accurately assist with obtaining any necessary
8 information is present with the person at the time of the interview.

9 (2)(a) A superior court judge may issue a warrant to detain a
10 person with a behavioral health disorder to a designated evaluation
11 and treatment facility, a secure withdrawal management and
12 stabilization facility, or an approved substance use disorder
13 treatment program, for a period of not more than one hundred twenty
14 hours for evaluation and treatment upon request of a designated
15 crisis responder, subject to (d) of this subsection, whenever it
16 appears to the satisfaction of the judge that:

17 (i) There is probable cause to support the petition; and

18 (ii) The person has refused or failed to accept appropriate
19 evaluation and treatment voluntarily.

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

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

28 (d) A court may not issue an order to detain a person to a secure
29 withdrawal management and stabilization facility or approved
30 substance use disorder treatment program unless there is an available
31 secure withdrawal management and stabilization facility or approved
32 substance use disorder treatment program that has adequate space for
33 the person.

34 (e) If the court does not issue an order to detain a person
35 pursuant to this subsection (2), the court shall issue an order to
36 dismiss the initial petition.

37 (3) The designated crisis responder shall then serve or cause to
38 be served on such person(~~(7)~~) and his or her guardian(~~(7—and~~
39 ~~conservator)~~), if any, a copy of the order together with a notice of
40 rights, and a petition for initial detention. After service on such

1 person the designated crisis responder shall file the return of
2 service in court and provide copies of all papers in the court file
3 to the evaluation and treatment facility, secure withdrawal
4 management and stabilization facility, or approved substance use
5 disorder treatment program, and the designated attorney. The
6 designated crisis responder shall notify the court and the
7 prosecuting attorney that a probable cause hearing will be held
8 within one hundred twenty hours of the date and time of outpatient
9 evaluation or admission to the evaluation and treatment facility,
10 secure withdrawal management and stabilization facility, or approved
11 substance use disorder treatment program. The person shall be
12 permitted to be accompanied by one or more of his or her relatives,
13 friends, an attorney, a personal physician, or other professional or
14 religious advisor to the place of evaluation. An attorney
15 accompanying the person to the place of evaluation shall be permitted
16 to be present during the admission evaluation. Any other individual
17 accompanying the person may be present during the admission
18 evaluation. The facility may exclude the individual if his or her
19 presence would present a safety risk, delay the proceedings, or
20 otherwise interfere with the evaluation.

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

30 (5) Tribal court orders for involuntary commitment shall be
31 recognized and enforced in accordance with superior court civil rule
32 82.5.

33 (6) In any investigation and evaluation of an individual under
34 (~~RCW 71.05.150~~) this section or RCW 71.05.153 in which the
35 designated crisis responder knows, or has reason to know, that the
36 individual is an American Indian or Alaska Native who receives
37 medical or behavioral health services from a tribe within this state,
38 the designated crisis responder shall notify the tribe and Indian
39 health care provider regarding whether or not a petition for initial
40 detention or involuntary outpatient treatment will be filed.

1 Notification shall be made in person or by telephonic or electronic
2 communication to the tribal contact listed in the authority's tribal
3 crisis coordination plan as soon as possible but no later than three
4 hours subject to the requirements in RCW 70.02.230(2)(ee) and (3). A
5 designated crisis responder may restrict the release of information
6 as necessary to comply with 42 C.F.R. Part 2.

7 **Sec. 6.** RCW 71.05.150 and 2021 c 264 s 2 are each amended to
8 read as follows:

9 (1) When a designated crisis responder receives information
10 alleging that a person, as a result of a behavioral health disorder,
11 presents a likelihood of serious harm or is gravely disabled, (~~or~~
12 ~~that a person is in need of assisted outpatient behavioral health~~
13 ~~treatment;~~) the designated crisis responder may, after investigation
14 and evaluation of the specific facts alleged and of the reliability
15 and credibility of any person providing information to initiate
16 detention (~~or involuntary outpatient treatment~~), if satisfied that
17 the allegations are true and that the person will not voluntarily
18 seek appropriate treatment, file a petition for initial detention
19 under this section (~~or a petition for involuntary outpatient~~
20 ~~behavioral health treatment under RCW 71.05.148~~). Before filing the
21 petition, the designated crisis responder must personally interview
22 the person, unless the person refuses an interview, and determine
23 whether the person will voluntarily receive appropriate evaluation
24 and treatment at an evaluation and treatment facility, crisis
25 stabilization unit, triage facility, secure withdrawal management and
26 stabilization facility, or approved substance use disorder treatment
27 program. As part of the assessment, the designated crisis responder
28 must attempt to ascertain if the person has executed a mental health
29 advance directive under chapter 71.32 RCW. The interview performed by
30 the designated crisis responder may be conducted by video provided
31 that a licensed health care professional or professional person who
32 can adequately and accurately assist with obtaining any necessary
33 information is present with the person at the time of the interview.

34 (2)(a) A superior court judge may issue a warrant to detain a
35 person with a behavioral health disorder to a designated evaluation
36 and treatment facility, a secure withdrawal management and
37 stabilization facility, or an approved substance use disorder
38 treatment program, for a period of not more than one hundred twenty
39 hours for evaluation and treatment upon request of a designated

1 crisis responder whenever it appears to the satisfaction of the judge
2 that:

3 (i) There is probable cause to support the petition; and

4 (ii) The person has refused or failed to accept appropriate
5 evaluation and treatment voluntarily.

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

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

14 (d) If the court does not issue an order to detain a person
15 pursuant to this subsection (2), the court shall issue an order to
16 dismiss the initial petition.

17 (3) The designated crisis responder shall then serve or cause to
18 be served on such person(~~(7)~~) and his or her guardian(~~(7—and~~
19 ~~conservator)~~), if any, a copy of the order together with a notice of
20 rights, and a petition for initial detention. After service on such
21 person the designated crisis responder shall file the return of
22 service in court and provide copies of all papers in the court file
23 to the evaluation and treatment facility, secure withdrawal
24 management and stabilization facility, or approved substance use
25 disorder treatment program, and the designated attorney. The
26 designated crisis responder shall notify the court and the
27 prosecuting attorney that a probable cause hearing will be held
28 within one hundred twenty hours of the date and time of outpatient
29 evaluation or admission to the evaluation and treatment facility,
30 secure withdrawal management and stabilization facility, or approved
31 substance use disorder treatment program. The person shall be
32 permitted to be accompanied by one or more of his or her relatives,
33 friends, an attorney, a personal physician, or other professional or
34 religious advisor to the place of evaluation. An attorney
35 accompanying the person to the place of evaluation shall be permitted
36 to be present during the admission evaluation. Any other individual
37 accompanying the person may be present during the admission
38 evaluation. The facility may exclude the individual if his or her
39 presence would present a safety risk, delay the proceedings, or
40 otherwise interfere with the evaluation.

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

10 (5) Tribal court orders for involuntary commitment shall be
11 recognized and enforced in accordance with superior court civil rule
12 82.5.

13 (6) In any investigation and evaluation of an individual under
14 (~~RCW 71.05.150~~) this section or RCW 71.05.153 in which the
15 designated crisis responder knows, or has reason to know, that the
16 individual is an American Indian or Alaska Native who receives
17 medical or behavioral health services from a tribe within this state,
18 the designated crisis responder shall notify the tribe and Indian
19 health care provider regarding whether or not a petition for initial
20 detention or involuntary outpatient treatment will be filed.
21 Notification shall be made in person or by telephonic or electronic
22 communication to the tribal contact listed in the authority's tribal
23 crisis coordination plan as soon as possible but no later than three
24 hours subject to the requirements in RCW 70.02.230(2)(ee) and (3). A
25 designated crisis responder may restrict the release of information
26 as necessary to comply with 42 C.F.R. Part 2.

27 **Sec. 7.** RCW 71.05.156 and 2018 c 291 s 12 are each amended to
28 read as follows:

29 A designated crisis responder who conducts an evaluation for
30 imminent likelihood of serious harm or imminent danger because of
31 being gravely disabled under RCW 71.05.153 must also evaluate the
32 person under RCW 71.05.150 for likelihood of serious harm or grave
33 disability that does not meet the imminent standard for emergency
34 detention (~~(, and to determine whether the person is in need of~~
35 ~~assisted outpatient behavioral health treatment)~~).

36 **Sec. 8.** RCW 71.05.201 and 2020 c 302 s 24 and 2020 c 256 s 304
37 are each reenacted and amended to read as follows:

1 (1) If a designated crisis responder decides not to detain a
2 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
3 or forty-eight hours have elapsed since a designated crisis responder
4 received a request for investigation and the designated crisis
5 responder has not taken action to have the person detained, an
6 immediate family member or guardian (~~or conservator~~) of the person,
7 or a federally recognized Indian tribe if the person is a member of
8 such tribe, may petition the superior court for the person's initial
9 detention.

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

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

25 (b) The petition must contain:

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

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

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

38 (5) Following the filing of the petition and before the court
39 reaches a decision, any person, including a mental health

1 professional, may submit a sworn declaration to the court in support
2 of or in opposition to initial detention.

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

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

17 (8) If the court enters an order for initial detention, it shall
18 provide the order to the designated crisis responder agency and issue
19 a written order for apprehension. The designated crisis responder
20 agency serving the jurisdiction of the court must collaborate and
21 coordinate with law enforcement regarding apprehensions and
22 detentions under this subsection, including sharing of information
23 relating to risk and which would assist in locating the person. A
24 person may not be detained to jail pursuant to a written order issued
25 under this subsection. An order for detention under this section
26 should contain the advisement of rights which the person would
27 receive if the person were detained by a designated crisis responder.
28 An order for initial detention under this section expires one hundred
29 eighty days from issuance.

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

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

37 **Sec. 9.** RCW 71.05.212 and 2020 c 256 s 305 are each amended to
38 read as follows:

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

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

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

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

12 (d) Prior commitments under this chapter.

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

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

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

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

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

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

1 (~~(5) The authority, in consultation with tribes and coordination~~
2 ~~with Indian health care providers and the American Indian health~~
3 ~~commission for Washington state, shall establish written guidelines~~
4 ~~by June 30, 2021, for conducting culturally appropriate evaluations~~
5 ~~of American Indians or Alaska Natives.~~)

6 **Sec. 10.** RCW 71.05.212 and 2020 c 302 s 28 and 2020 c 256 s 305
7 are each reenacted and amended to read as follows:

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

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

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

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

19 (d) Prior commitments under this chapter.

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

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

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

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

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

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

8 ~~((5) The authority, in consultation with tribes and coordination
9 with Indian health care providers and the American Indian health
10 commission for Washington state, shall establish written guidelines
11 by June 30, 2021, for conducting culturally appropriate evaluations
12 of American Indians or Alaska Natives.))~~

13 **Sec. 11.** RCW 71.05.230 and 2020 c 302 s 34 are each amended to
14 read as follows:

15 A person detained for one hundred twenty ~~((hour))~~ hours of
16 evaluation and treatment may be committed for not more than fourteen
17 additional days of involuntary intensive treatment or ninety
18 additional days of a less restrictive alternative treatment. A
19 petition may only be filed if the following conditions are met:

20 (1) The professional staff of the facility providing evaluation
21 services has analyzed the person's condition and finds that the
22 condition is caused by a behavioral health disorder and results in:
23 (a) A likelihood of serious harm; or (b) the person being gravely
24 disabled; ~~((or (c) the person being in need of assisted outpatient
25 behavioral health treatment;))~~ and are prepared to testify those
26 conditions are met; and

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

30 (3) The facility providing intensive treatment is certified to
31 provide such treatment by the department or under RCW 71.05.745; and

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

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

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

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

7 (b) If involuntary detention is sought the petition shall state
8 facts that support the finding that such person, as a result of a
9 behavioral health disorder, presents a likelihood of serious harm, or
10 is gravely disabled and that there are no less restrictive
11 alternatives to detention in the best interest of such person or
12 others. The petition shall state specifically that less restrictive
13 alternative treatment was considered and specify why treatment less
14 restrictive than detention is not appropriate. If an involuntary less
15 restrictive alternative is sought, the petition shall state facts
16 that support the finding that such person, as a result of a
17 behavioral health disorder, presents a likelihood of serious
18 harm((~~r~~)) or is gravely disabled(~~(, or is in need of assisted~~
19 ~~outpatient behavioral health treatment,~~) and shall set forth any
20 recommendations for less restrictive alternative treatment services;
21 and

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

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

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

31 (8) At the conclusion of the initial commitment period, the
32 professional staff of the agency or facility or the designated crisis
33 responder may petition for an additional period of either ((~~ninety~~))
34 90 days of less restrictive alternative treatment or ((~~ninety~~)) 90
35 days of involuntary intensive treatment as provided in RCW 71.05.290;
36 and

37 (9) If the hospital or facility designated to provide less
38 restrictive alternative treatment is other than the facility
39 providing involuntary treatment, the outpatient facility so

1 designated to provide less restrictive alternative treatment has
2 agreed to assume such responsibility.

3 **Sec. 12.** RCW 71.05.240 and 2021 c 264 s 8 are each amended to
4 read as follows:

5 (1) If a petition is filed for (~~fourteen-day~~) up to 14 days of
6 involuntary treatment (~~or ninety~~), 90 days of less restrictive
7 alternative treatment, or 18 months of less restrictive alternative
8 treatment under RCW 71.05.148, the court shall hold a probable cause
9 hearing within (~~one hundred twenty~~) 120 hours of the initial
10 detention (~~of such person as determined in~~) under RCW 71.05.180, or
11 at a time (~~determined~~) scheduled under RCW 71.05.148.

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

19 (3) If the person or his or her attorney alleges, prior to the
20 commencement of the hearing, that the person has in good faith
21 volunteered for treatment, the petitioner must show, by preponderance
22 of the evidence, that the person has not in good faith volunteered
23 for appropriate treatment. In order to qualify as a good faith
24 volunteer, the person must abide by procedures and a treatment plan
25 as prescribed by a treatment facility and professional staff.

26 (4) (a) Subject to (b) of this subsection, at the conclusion of
27 the probable cause hearing, if the court finds by a preponderance of
28 the evidence that (~~such~~) a person detained for behavioral health
29 treatment, as the result of a behavioral health disorder, presents a
30 likelihood of serious harm, or is gravely disabled, and, after
31 considering less restrictive alternatives to involuntary detention
32 and treatment, finds that no such alternatives are in the best
33 interests of such person or others, the court shall order that such
34 person be detained for involuntary treatment not to exceed
35 (~~fourteen~~) 14 days in a facility licensed or certified to provide
36 treatment by the department or under RCW 71.05.745.

37 (b) A court may only order commitment to a secure withdrawal
38 management and stabilization facility or approved substance use

1 disorder treatment program if there is an available facility with
2 adequate space for the person.

3 (c) At the conclusion of the probable cause hearing, if the court
4 finds by a preponderance of the evidence that ~~((such))~~ a person
5 detained for behavioral health treatment, as the result of a
6 behavioral health disorder, presents a likelihood of serious harm or
7 is gravely disabled, but that treatment in a less restrictive setting
8 than detention is in the best interest of such person or others, the
9 court shall order an appropriate less restrictive alternative course
10 of treatment for up to ninety days.

11 (d) If the court finds by a preponderance of the evidence that
12 ~~((such))~~ a person subject to a petition under RCW 71.05.148, as the
13 result of a behavioral health disorder, is in need of assisted
14 outpatient ~~((behavioral health))~~ treatment ~~((, and that the person~~
15 ~~does not present a likelihood of serious harm and is not gravely~~
16 ~~disabled))~~, the court shall order an appropriate less restrictive
17 alternative course of treatment for up to ~~((ninety days))~~ 18 months.

18 (5) An order for less restrictive alternative treatment must name
19 the behavioral health service provider responsible for identifying
20 the services the person will receive in accordance with RCW
21 71.05.585, and must include a requirement that the person cooperate
22 with the treatment recommendations of the behavioral health service
23 provider.

24 (6) The court shall notify the person orally and in writing that
25 if involuntary treatment is sought beyond the ~~((fourteen-day))~~ 14-day
26 inpatient or ~~((ninety-day))~~ 90-day less restrictive treatment period,
27 the person has the right to a full hearing or jury trial under RCW
28 71.05.310. If the commitment is for mental health treatment, the
29 court shall ~~((also))~~ notify the person orally and in writing that the
30 person is barred from the possession of firearms and that the
31 prohibition remains in effect until a court restores his or her right
32 to possess a firearm under RCW 9.41.047.

33 (7) If the court does not issue an order to detain or commit a
34 person under this section, the court shall issue an order to dismiss
35 the petition.

36 (8) Nothing in this section precludes the court from subsequently
37 modifying the terms of an order for less restrictive alternative
38 treatment under RCW 71.05.590(3).

1 **Sec. 13.** RCW 71.05.240 and 2021 c 264 s 9 are each amended to
2 read as follows:

3 (1) If a petition is filed for (~~fourteen-day~~) up to 14 days of
4 involuntary treatment (~~or ninety~~), 90 days of less restrictive
5 alternative treatment, or 18 months of less restrictive alternative
6 treatment under RCW 71.05.148, the court shall hold a probable cause
7 hearing within (~~one hundred twenty~~) 120 hours of the initial
8 detention (~~of such person as determined in~~) under RCW 71.05.180, or
9 at a time (~~determined~~) scheduled under RCW 71.05.148.

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

17 (3) If the person or his or her attorney alleges, prior to the
18 commencement of the hearing, that the person has in good faith
19 volunteered for treatment, the petitioner must show, by preponderance
20 of the evidence, that the person has not in good faith volunteered
21 for appropriate treatment. In order to qualify as a good faith
22 volunteer, the person must abide by procedures and a treatment plan
23 as prescribed by a treatment facility and professional staff.

24 (4)(a) At the conclusion of the probable cause hearing, if the
25 court finds by a preponderance of the evidence that (~~such~~) a person
26 detained for behavioral health treatment, as the result of a
27 behavioral health disorder, presents a likelihood of serious harm, or
28 is gravely disabled, and, after considering less restrictive
29 alternatives to involuntary detention and treatment, finds that no
30 such alternatives are in the best interests of such person or others,
31 the court shall order that such person be detained for involuntary
32 treatment not to exceed fourteen days in a facility licensed or
33 certified to provide treatment by the department or under RCW
34 71.05.745.

35 (b) At the conclusion of the probable cause hearing, if the court
36 finds by a preponderance of the evidence that (~~such~~) a person
37 detained for behavioral health treatment, as the result of a
38 behavioral health disorder, presents a likelihood of serious harm or
39 is gravely disabled, but that treatment in a less restrictive setting
40 than detention is in the best interest of such person or others, the

1 court shall order an appropriate less restrictive alternative course
2 of treatment for up to ninety days.

3 (c) If the court finds by a preponderance of the evidence that
4 (~~such~~) a person subject to a petition under RCW 71.05.148, as the
5 result of a behavioral health disorder, is in need of assisted
6 outpatient (~~behavioral health~~) treatment (~~(, and that the person~~
7 ~~does not present a likelihood of serious harm and is not gravely~~
8 ~~disabled)~~), the court shall order an appropriate less restrictive
9 alternative course of treatment for up to (~~ninety days~~) 18 months.

10 (5) An order for less restrictive alternative treatment must name
11 the behavioral health service provider responsible for identifying
12 the services the person will receive in accordance with RCW
13 71.05.585, and must include a requirement that the person cooperate
14 with the treatment recommendations of the behavioral health service
15 provider.

16 (6) The court shall notify the person orally and in writing that
17 if involuntary treatment is sought beyond the (~~fourteen-day~~) 14-day
18 inpatient or (~~ninety-day~~) 90-day less restrictive treatment period,
19 such person has the right to a full hearing or jury trial under RCW
20 71.05.310. If the commitment is for mental health treatment, the
21 court shall also notify the person orally and in writing that the
22 person is barred from the possession of firearms and that the
23 prohibition remains in effect until a court restores his or her right
24 to possess a firearm under RCW 9.41.047.

25 (7) If the court does not issue an order to detain or commit a
26 person under this section, the court shall issue an order to dismiss
27 the petition.

28 (8) Nothing in this section precludes the court from subsequently
29 modifying the terms of an order for less restrictive alternative
30 treatment under RCW 71.05.590(3).

31 **Sec. 14.** RCW 71.05.245 and 2018 c 291 s 14 are each amended to
32 read as follows:

33 (1) In making a determination of whether a person is gravely
34 disabled, presents a likelihood of serious harm, or is in need of
35 assisted outpatient (~~behavioral health~~) treatment in a hearing
36 conducted under RCW 71.05.240 or 71.05.320, the court must consider
37 the symptoms and behavior of the respondent in light of all available
38 evidence concerning the respondent's historical behavior.

1 (2) Symptoms or behavior which standing alone would not justify
2 civil commitment may support a finding of grave disability or
3 likelihood of serious harm, or a finding that the person is in need
4 of assisted outpatient (~~behavioral health~~) treatment, when: (a)
5 Such symptoms or behavior are closely associated with symptoms or
6 behavior which preceded and led to a past incident of involuntary
7 hospitalization, severe deterioration, or one or more violent acts;
8 (b) these symptoms or behavior represent a marked and concerning
9 change in the baseline behavior of the respondent; and (c) without
10 treatment, the continued deterioration of the respondent is probable.

11 (3) In making a determination of whether there is a likelihood of
12 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
13 the court shall give great weight to any evidence before the court
14 regarding whether the person has: (a) A recent history of one or more
15 violent acts; or (b) a recent history of one or more commitments
16 under this chapter or its equivalent provisions under the laws of
17 another state which were based on a likelihood of serious harm. The
18 existence of prior violent acts or commitments under this chapter or
19 its equivalent shall not be the sole basis for determining whether a
20 person presents a likelihood of serious harm.

21 For the purposes of this subsection "recent" refers to the period
22 of time not exceeding three years prior to the current hearing.

23 **Sec. 15.** RCW 71.05.280 and 2020 c 302 s 41 are each amended to
24 read as follows:

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

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

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

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

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

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

14 (4) Such person is gravely disabled(~~(; or~~

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

17 **Sec. 16.** RCW 71.05.290 and 2020 c 302 s 42 are each amended to
18 read as follows:

19 (1) At any time during a person's (~~fourteen~~) 14-day intensive
20 treatment period, the professional person in charge of a treatment
21 facility or his or her professional designee or the designated crisis
22 responder may petition the superior court for an order requiring such
23 person to undergo an additional period of treatment. Such petition
24 must be based on one or more of the grounds set forth in RCW
25 71.05.280.

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

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

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

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

38 (b) The affidavits shall describe in detail the behavior of the
39 detained person which supports the petition and shall explain what,

1 if any, less restrictive treatments which are alternatives to
2 detention are available to such person, and shall state the
3 willingness of the affiant to testify to such facts in subsequent
4 judicial proceedings under this chapter. If less restrictive
5 alternative treatment is sought, the petition shall set forth any
6 recommendations for less restrictive alternative treatment services.

7 (3) If a person has been determined to be incompetent pursuant to
8 RCW 10.77.086(4), then the professional person in charge of the
9 treatment facility or his or her professional designee or the
10 designated crisis responder may directly file a petition for (~~one~~
11 ~~hundred eighty-day~~) 180-day treatment under RCW 71.05.280(3), or for
12 (~~ninety-day~~) 90-day treatment under RCW 71.05.280 (1), (2), or (4)
13 (~~, or (5)~~). No petition for initial detention or (~~fourteen~~) 14-
14 detention is required before such a petition may be filed.

15 **Sec. 17.** RCW 71.05.320 and 2021 c 264 s 10 and 2021 c 263 s 2
16 are each reenacted and amended to read as follows:

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

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

31 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
32 commitment, then the period of treatment may be up to but not exceed
33 one hundred eighty days from the date of judgment to the custody of
34 the department of social and health services or to a facility
35 certified for (~~one hundred eighty-day~~) 180-day treatment by the
36 department or under RCW 71.05.745.

37 (2) If the court or jury finds that grounds set forth in RCW
38 71.05.280 have been proven, but finds that treatment less restrictive
39 than detention will be in the best interest of the person or others,

1 then the court shall remand him or her to the custody of the
2 department of social and health services or to a facility certified
3 for ninety day treatment by the department or to a less restrictive
4 alternative for a further period of less restrictive treatment not to
5 exceed (~~ninety~~) 90 days from the date of judgment. If the grounds
6 set forth in RCW 71.05.280(3) are the basis of commitment, then the
7 period of treatment may be up to but not exceed (~~one hundred~~
8 ~~eighty~~) 180 days from the date of judgment. If the court has made an
9 affirmative special finding under RCW 71.05.280(3)(b), the court
10 shall appoint a multidisciplinary transition team as provided in
11 subsection (6)(a)(i) of this section. (~~If the court or jury finds~~
12 ~~that the grounds set forth in RCW 71.05.280(5) have been proven, and~~
13 ~~provide the only basis for commitment, the court must enter an order~~
14 ~~for less restrictive alternative treatment for up to ninety days from~~
15 ~~the date of judgment and may not order inpatient treatment.))~~

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

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

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

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

39 (c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result
40 of a behavioral health disorder or developmental disability continues

1 to present a substantial likelihood of repeating acts similar to the
2 charged criminal behavior, when considering the person's life
3 history, progress in treatment, and the public safety.

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

19 (d) Continues to be gravely disabled(~~(; or~~

20 ~~(e) Is in need of assisted outpatient behavioral health~~
21 ~~treatment)).~~

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

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

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

34 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
35 and if the court or jury finds that the grounds for additional
36 confinement as set forth in this section are present, subject to
37 subsection (1)(b) of this section, the court may order the committed
38 person returned for an additional period of treatment not to exceed
39 (~~(one hundred eighty))~~ 180 days from the date of judgment, except as
40 provided in subsection (7) of this section. (~~(If the court's order is~~

1 ~~based solely on the grounds identified in subsection (4)(e) of this~~
2 ~~section, the court may enter an order for less restrictive~~
3 ~~alternative treatment not to exceed one hundred eighty days from the~~
4 ~~date of judgment, and may not enter an order for inpatient~~
5 ~~treatment.))~~ An order for less restrictive alternative treatment must
6 name the behavioral health service provider responsible for
7 identifying the services the person will receive in accordance with
8 RCW 71.05.585, and must include a requirement that the person
9 cooperate with the services planned by the behavioral health service
10 provider.

11 (i) In cases where the court has ordered less restrictive
12 alternative treatment and has previously made an affirmative special
13 finding under RCW 71.05.280(3)(b), the court shall appoint a
14 multidisciplinary transition team to supervise and assist the person
15 on the order for less restrictive treatment, which shall include a
16 representative of the community behavioral health agency providing
17 treatment under RCW 71.05.585, and a specially trained supervising
18 community corrections officer. The court may omit the appointment of
19 a community corrections officer if it makes a special finding that
20 the appointment of a community corrections officer would not
21 facilitate the success of the person, or the safety of the person and
22 the community under (a)(ii) of this subsection.

23 (ii) The role of the transition team shall be to facilitate the
24 success of the person on the less restrictive alternative order by
25 monitoring the person's progress in treatment, compliance with court-
26 ordered conditions, and to problem solve around extra support the
27 person may need or circumstances which may arise that threaten the
28 safety of the person or the community. The transition team may
29 develop a monitoring plan which may be carried out by any member of
30 the team. The transition team shall meet according to a schedule
31 developed by the team, and shall communicate as needed if issues
32 arise that require the immediate attention of the team.

33 (iii) The department of corrections shall collaborate with the
34 department to develop specialized training for community corrections
35 officers under this section. The lack of a trained community
36 corrections officer must not be the cause of delay to entry of a less
37 restrictive alternative order.

38 (b) At the end of the (~~one hundred eighty day~~) 180-day period
39 of commitment, or one-year period of commitment if subsection (7) of
40 this section applies, the committed person shall be released unless a

1 petition for an additional (~~one hundred eighty day~~) 180-day period
2 of continued treatment is filed and heard in the same manner as
3 provided in this section. Successive (~~one hundred eighty day~~) 180-
4 day commitments are permissible on the same grounds and pursuant to
5 the same procedures as the original (~~one hundred eighty day~~) 180-
6 day commitment.

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

11 (8) No person committed (~~as provided in~~) under this section may
12 be detained unless a valid order of commitment is in effect. No order
13 of commitment (~~can~~) under this section may exceed (~~one hundred~~
14 ~~eighty~~) 180 days in length except as provided in subsection (7) of
15 this section.

16 (9) Nothing in this section precludes the court from subsequently
17 modifying the terms of an order for less restrictive alternative
18 treatment under RCW 71.05.590(3).

19 **Sec. 18.** RCW 71.05.320 and 2021 c 264 s 11 and 2021 c 263 s 3
20 are each reenacted and amended to read as follows:

21 (1) If the court or jury finds that grounds set forth in RCW
22 71.05.280 have been proven and that the best interests of the person
23 or others will not be served by a less restrictive treatment which is
24 an alternative to detention, the court shall remand him or her to the
25 custody of the department of social and health services or to a
26 facility certified for ninety day treatment by the department for a
27 further period of intensive treatment not to exceed ninety days from
28 the date of judgment.

29 If the order for inpatient treatment is based on a substance use
30 disorder, treatment must take place at an approved substance use
31 disorder treatment program. If the grounds set forth in RCW
32 71.05.280(3) are the basis of commitment, then the period of
33 treatment may be up to but not exceed one hundred eighty days from
34 the date of judgment to the custody of the department of social and
35 health services or to a facility certified for (~~one hundred eighty-~~
36 ~~day~~) 180-day treatment by the department or under RCW 71.05.745.

37 (2) If the court or jury finds that grounds set forth in RCW
38 71.05.280 have been proven, but finds that treatment less restrictive
39 than detention will be in the best interest of the person or others,

1 then the court shall remand him or her to the custody of the
2 department of social and health services or to a facility certified
3 for ninety day treatment by the department or to a less restrictive
4 alternative for a further period of less restrictive treatment not to
5 exceed ((~~ninety~~)) 90 days from the date of judgment. If the grounds
6 set forth in RCW 71.05.280(3) are the basis of commitment, then the
7 period of treatment may be up to but not exceed ((~~one hundred~~
8 ~~eighty~~)) 180 days from the date of judgment. If the court has made an
9 affirmative special finding under RCW 71.05.280(3)(b), the court
10 shall appoint a multidisciplinary transition team as provided in
11 subsection (6)(a)(i) of this section. ((~~If the court or jury finds~~
12 ~~that the grounds set forth in RCW 71.05.280(5) have been proven, and~~
13 ~~provide the only basis for commitment, the court must enter an order~~
14 ~~for less restrictive alternative treatment for up to ninety days from~~
15 ~~the date of judgment and may not order inpatient treatment.~~))

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

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

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

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

39 (c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result
40 of a behavioral health disorder or developmental disability continues

1 to present a substantial likelihood of repeating acts similar to the
2 charged criminal behavior, when considering the person's life
3 history, progress in treatment, and the public safety.

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

19 (d) Continues to be gravely disabled(~~(; or~~

20 ~~(e) Is in need of assisted outpatient behavioral health~~
21 ~~treatment)).~~

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

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

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

34 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
35 and if the court or jury finds that the grounds for additional
36 confinement as set forth in this section are present, the court may
37 order the committed person returned for an additional period of
38 treatment not to exceed (~~(one hundred eighty))~~ 180 days from the date
39 of judgment, except as provided in subsection (7) of this section.

40 (~~(If the court's order is based solely on the grounds identified in~~

1 ~~subsection (4) (c) of this section, the court may enter an order for~~
2 ~~less restrictive alternative treatment not to exceed one hundred~~
3 ~~eighty days from the date of judgment, and may not enter an order for~~
4 ~~inpatient treatment.))~~ An order for less restrictive alternative
5 treatment must name the behavioral health service provider
6 responsible for identifying the services the person will receive in
7 accordance with RCW 71.05.585, and must include a requirement that
8 the person cooperate with the services planned by the behavioral
9 health service provider.

10 (i) In cases where the court has ordered less restrictive
11 alternative treatment and has previously made an affirmative special
12 finding under RCW 71.05.280(3)(b), the court shall appoint a
13 multidisciplinary transition team to supervise and assist the person
14 on the order for less restrictive treatment, which shall include a
15 representative of the community behavioral health agency providing
16 treatment under RCW 71.05.585, and a specially trained supervising
17 community corrections officer. The court may omit the appointment of
18 a community corrections officer if it makes a special finding that
19 the appointment of a community corrections officer would not
20 facilitate the success of the person, or the safety of the person and
21 the community under (a)(ii) of this subsection.

22 (ii) The role of the transition team shall be to facilitate the
23 success of the person on the less restrictive alternative order by
24 monitoring the person's progress in treatment, compliance with court-
25 ordered conditions, and to problem solve around extra support the
26 person may need or circumstances which may arise that threaten the
27 safety of the person or the community. The transition team may
28 develop a monitoring plan which may be carried out by any member of
29 the team. The transition team shall meet according to a schedule
30 developed by the team, and shall communicate as needed if issues
31 arise that require the immediate attention of the team.

32 (iii) The department of corrections shall collaborate with the
33 department to develop specialized training for community corrections
34 officers under this section. The lack of a trained community
35 corrections officer must not be the cause of delay to entry of a less
36 restrictive alternative order.

37 (b) At the end of the (~~one hundred eighty day~~) 180-day period
38 of commitment, or one-year period of commitment if subsection (7) of
39 this section applies, the committed person shall be released unless a
40 petition for an additional (~~one hundred eighty day~~) 180-day period

1 of continued treatment is filed and heard in the same manner as
2 provided in this section. Successive (~~(one hundred eighty-day)~~) 180-
3 day commitments are permissible on the same grounds and pursuant to
4 the same procedures as the original (~~(one hundred eighty-day)~~) 180-
5 day commitment.

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

10 (8) No person committed (~~(as provided in)~~) under this section may
11 be detained unless a valid order of commitment is in effect. No order
12 of commitment (~~(can)~~) under this section may exceed (~~(one hundred~~
13 ~~eighty)~~) 180 days in length except as provided in subsection (7) of
14 this section.

15 (9) Nothing in this section precludes the court from subsequently
16 modifying the terms of an order for less restrictive alternative
17 treatment under RCW 71.05.590(3).

18 **Sec. 19.** RCW 71.05.365 and 2019 c 325 s 3008 are each amended to
19 read as follows:

20 When a person has been involuntarily committed for treatment to a
21 hospital for a period of (~~(ninety)~~) 90 or (~~(one hundred eighty)~~) 180
22 days, and the superintendent or professional person in charge of the
23 hospital determines that the person no longer requires active
24 psychiatric treatment at an inpatient level of care, the behavioral
25 health administrative services organization, managed care
26 organization, or agency providing oversight of long-term care or
27 developmental disability services that is responsible for resource
28 management services for the person must work with the hospital to
29 develop an individualized discharge plan, including whether a
30 petition should be filed for less restrictive alternative treatment
31 on the basis that the person is in need of assisted outpatient
32 treatment, and arrange for a transition to the community in
33 accordance with the person's individualized discharge plan within
34 (~~(fourteen)~~) 14 days of the determination.

35 **Sec. 20.** RCW 71.05.585 and 2021 c 264 s 13 are each amended to
36 read as follows:

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

- 1 (a) Assignment of a care coordinator;
- 2 (b) An intake evaluation with the provider of the less
3 restrictive alternative treatment;
- 4 (c) A psychiatric evaluation, a substance use disorder
5 evaluation, or both;
- 6 (d) A schedule of regular contacts with the provider of the
7 treatment services for the duration of the order;
- 8 (e) A transition plan addressing access to continued services at
9 the expiration of the order;
- 10 (f) An individual crisis plan;
- 11 (g) Consultation about the formation of a mental health advance
12 directive under chapter 71.32 RCW; and
- 13 (h) Notification to the care coordinator assigned in (a) of this
14 subsection if reasonable efforts to engage the client fail to produce
15 substantial compliance with court-ordered treatment conditions.
- 16 (2) Less restrictive alternative treatment may additionally
17 include requirements to participate in the following services:
- 18 (a) Medication management;
- 19 (b) Psychotherapy;
- 20 (c) Nursing;
- 21 (d) Substance use disorder counseling;
- 22 (e) Residential treatment;
- 23 (f) Partial hospitalization;
- 24 (g) Support for housing, benefits, education, and employment; and
25 ~~((g))~~ (h) Periodic court review.
- 26 (3) If the person was provided with involuntary medication under
27 RCW 71.05.215 or pursuant to a judicial order during the involuntary
28 commitment period, the less restrictive alternative treatment order
29 may authorize the less restrictive alternative treatment provider or
30 its designee to administer involuntary antipsychotic medication to
31 the person if the provider has attempted and failed to obtain the
32 informed consent of the person and there is a concurring medical
33 opinion approving the medication by a psychiatrist, physician
34 assistant working with a supervising psychiatrist, psychiatric
35 advanced registered nurse practitioner, or physician or physician
36 assistant in consultation with an independent mental health
37 professional with prescribing authority.
- 38 (4) Less restrictive alternative treatment must be administered
39 by a provider that is certified or licensed to provide or coordinate

1 the full scope of services required under the less restrictive
2 alternative order and that has agreed to assume this responsibility.

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

10 (6) A care coordinator may disclose information and records
11 related to mental health services pursuant to RCW 70.02.230(2)(k) for
12 purposes of implementing less restrictive alternative treatment.

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

21 **Sec. 21.** RCW 10.77.175 and 2021 c 263 s 4 are each amended to
22 read as follows:

23 (1) Conditional release planning should start at admission and
24 proceed in coordination between the department and the person's
25 managed care organization, or behavioral health administrative
26 services organization if the person is not eligible for medical
27 assistance under chapter 74.09 RCW. If needed, the department shall
28 assist the person to enroll in medical assistance in suspense status
29 under RCW 74.09.670. The state hospital liaison for the managed care
30 organization or behavioral health administrative services
31 organization shall facilitate conditional release planning in
32 collaboration with the department.

33 (2) Less restrictive alternative treatment pursuant to a
34 conditional release order, at a minimum, includes the following
35 services:

36 (a) Assignment of a care coordinator;

37 (b) An intake evaluation with the provider of the conditional
38 treatment;

1 (c) A psychiatric evaluation or a substance use disorder
2 evaluation, or both;

3 (d) A schedule of regular contacts with the provider of the less
4 restrictive alternative treatment services for the duration of the
5 order;

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

8 (f) An individual crisis plan;

9 (g) Consultation about the formation of a mental health advance
10 directive under chapter 71.32 RCW; (~~and~~)

11 (h) Appointment of a transition team under RCW 10.77.150;
12 (~~and~~) and

13 (i) Notification to the care coordinator assigned in (a) of this
14 subsection and to the transition team as provided in RCW 10.77.150 if
15 reasonable efforts to engage the client fail to produce substantial
16 compliance with court-ordered treatment conditions.

17 (3) Less restrictive alternative treatment pursuant to a
18 conditional release order may additionally include requirements to
19 participate in the following services:

20 (a) Medication management;

21 (b) Psychotherapy;

22 (c) Nursing;

23 (d) Substance use disorder counseling;

24 (e) Residential treatment;

25 (f) Partial hospitalization;

26 (g) Support for housing, benefits, education, and employment; and

27 (~~(g)~~) (h) Periodic court review.

28 (4) Nothing in this section prohibits items in subsection (2) of
29 this section from beginning before the conditional release of the
30 individual.

31 (5) If the person was provided with involuntary medication under
32 RCW 10.77.094 or pursuant to a judicial order during the involuntary
33 commitment period, the less restrictive alternative treatment
34 pursuant to the conditional release order may authorize the less
35 restrictive alternative treatment provider or its designee to
36 administer involuntary antipsychotic medication to the person if the
37 provider has attempted and failed to obtain the informed consent of
38 the person and there is a concurring medical opinion approving the
39 medication by a psychiatrist, physician assistant working with a
40 supervising psychiatrist, psychiatric advanced registered nurse

1 practitioner, or physician or physician assistant in consultation
2 with an independent mental health professional with prescribing
3 authority.

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

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

17 (8) A care coordinator may disclose information and records
18 related to mental health treatment under RCW 70.02.230(2)(k) for
19 purposes of implementing less restrictive alternative treatment
20 pursuant to a conditional release order.

21 (9) For the purpose of this section, "care coordinator" means a
22 representative from the department of social and health services who
23 coordinates the activities of less restrictive alternative treatment
24 pursuant to a conditional release order. The care coordinator
25 coordinates activities with the person's transition team that are
26 necessary for enforcement and continuation of the conditional release
27 order and is responsible for coordinating service activities with
28 other agencies and establishing and maintaining a therapeutic
29 relationship with the individual on a continuing basis.

30 **Sec. 22.** RCW 71.05.590 and 2021 c 264 s 14 are each amended to
31 read as follows:

32 (1) Either an agency or facility designated to monitor or provide
33 services under a less restrictive alternative order or conditional
34 release, or a designated crisis responder, may take action to
35 enforce, modify, or revoke a less restrictive alternative treatment
36 order or conditional release order. The agency, facility, or
37 designated crisis responder must determine that:

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

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

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

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

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

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

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

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

31 (d) To ~~((cause))~~ detain the person ~~((to be transported by a peace
32 officer, designated crisis responder, or other means to the))~~ for up
33 to 12 hours for evaluation at an agency ~~((or))~~ facility ~~((monitoring
34 or))~~ providing services under the court order, ~~((or to a))~~ triage
35 facility, crisis stabilization unit, emergency department, evaluation
36 and treatment facility, secure withdrawal management and
37 stabilization facility with available space, or an approved substance
38 use disorder treatment program with available space. The ~~((person may
39 be detained at the facility for up to twelve hours for the))~~ purpose
40 of ~~((an))~~ the evaluation is to determine whether modification,

1 revocation, or commitment proceedings are necessary and appropriate
2 to stabilize the person and prevent decompensation, deterioration, or
3 physical harm. Temporary detention for evaluation under this
4 subsection is intended to occur only following a pattern of
5 noncompliance or the failure of reasonable attempts at outreach and
6 engagement, and may occur only when ~~((in the)), based on~~ clinical
7 judgment ~~((of a designated crisis responder or the professional
8 person in charge of an agency or facility designated to monitor less
9 restrictive alternative services)),~~ temporary detention is
10 appropriate. The agency, facility, or designated crisis responder may
11 request assistance from a peace officer for the purposes of temporary
12 detention under this subsection (2)(d). This subsection does not
13 limit the ability or obligation of the agency, facility, or
14 designated crisis responder to pursue revocation procedures under
15 subsection (5) of this section in appropriate circumstances; and

16 (e) To initiate revocation procedures under subsection (5) of
17 this section ~~((or, if the current commitment is solely based on the
18 person being in need of assisted outpatient behavioral health
19 treatment as defined in RCW 71.05.020, initiate initial inpatient
20 detention procedures under subsection (7) of this section)).~~

21 (3) A court may supervise a person on an order for less
22 restrictive alternative treatment or a conditional release. While the
23 person is under the order, the court may:

24 (a) Require appearance in court for periodic reviews; and

25 (b) Modify the order after considering input from the agency or
26 facility designated to provide or facilitate services. The court may
27 not remand the person into inpatient treatment except as provided
28 under subsection (5) of this section, but may take actions under
29 subsection (2)(a) through (d) of this section.

30 (4) The facility or agency designated to provide outpatient
31 treatment shall notify the secretary of the department of social and
32 health services or designated crisis responder when a person fails to
33 adhere to terms and conditions of court ordered treatment or
34 experiences substantial deterioration in his or her condition and, as
35 a result, presents an increased likelihood of serious harm.

36 (5) (a) ~~((Except as provided in subsection (7) of this section,~~
37 a)) A designated crisis responder or the secretary of the department
38 of social and health services may, upon their own motion or
39 ~~((notification by))~~ upon request of the facility or agency designated
40 to provide outpatient care ~~((order)),~~ cause a person ~~((subject to a~~

1 ~~court order under this chapter~~) to be (~~apprehended and taken into~~
2 ~~custody and temporary detention~~) detained in an evaluation and
3 treatment facility, (~~an~~) available secure withdrawal management and
4 stabilization facility with adequate space, or (~~an~~) available
5 approved substance use disorder treatment program with adequate
6 space(~~7~~) in or near the county in which he or she is receiving
7 outpatient treatment(~~. Proceedings under this subsection (5) may be~~
8 ~~initiated without ordering the apprehension and~~) for the purpose of
9 a hearing for revocation of a less restrictive alternative treatment
10 order or conditional release order under this chapter. The designated
11 crisis responder or secretary of the department of social and health
12 services shall file a petition for revocation within 24 hours and
13 serve the person, their guardian, if any, and their attorney. A
14 hearing for revocation of a less restrictive alternative treatment
15 order or conditional release order may be scheduled without detention
16 of the person.

17 (b) (~~Except as provided in subsection (7) of this section, a~~) A
18 person detained under this subsection (5) must be held until such
19 time, not exceeding five days, as a hearing can be scheduled to
20 determine whether or not the (~~person should be returned to the~~
21 ~~hospital or facility from which he or she had been released~~) order
22 for less restrictive alternative treatment or conditional release
23 should be revoked, modified, or retained. If the person is not
24 detained, the hearing must be scheduled within five days of service
25 on the person. The designated crisis responder or the secretary of
26 the department of social and health services may (~~modify or rescind~~
27 ~~the order at any time prior to commencement of~~) withdraw its
28 petition for revocation at any time before the court hearing.

29 (c) (~~The designated crisis responder or secretary of the~~
30 ~~department of social and health services shall file a revocation~~
31 ~~petition and order of apprehension and detention with the court of~~
32 ~~the county where the person is currently located or being detained.~~
33 ~~The designated crisis responder shall serve the person and their~~
34 ~~attorney, guardian, and conservator, if any. The~~) A person detained
35 under this subsection (5) has the same rights with respect to notice,
36 hearing, and counsel as in any involuntary treatment proceeding,
37 except as specifically set forth in this section. There is no right
38 to jury trial. The venue for proceedings is the county where the
39 petition is filed. Notice of the filing must be provided to the court
40 that originally ordered commitment, if different from the court where

1 the petition for revocation is filed, within two judicial days of the
2 person's detention.

3 ~~(d) ((Except as provided in subsection (7) of this section, the))~~
4 The issues for the court to determine are whether: (i) The person
5 adhered to the terms and conditions of the ~~((court))~~ order; (ii)
6 substantial deterioration in the person's functioning has occurred;
7 (iii) there is evidence of substantial decompensation with a
8 reasonable probability that the decompensation can be reversed by
9 further inpatient treatment; or (iv) there is a likelihood of serious
10 harm; and, if any of the above conditions apply, whether it is
11 appropriate for the court ~~((should))~~ to reinstate or modify the
12 person's less restrictive alternative treatment order or conditional
13 release order or order the person's detention for inpatient
14 treatment. The person may waive the court hearing and allow the court
15 to enter a stipulated order upon the agreement of all parties. If the
16 court orders detention for inpatient treatment, the treatment period
17 must be for ~~((fourteen))~~ 14 days from the revocation hearing if the
18 ~~((outpatient))~~ less restrictive alternative treatment order or
19 conditional release order was based on a petition under RCW
20 71.05.148, 71.05.160, or 71.05.230. If the court orders detention for
21 inpatient treatment and the ~~((outpatient))~~ less restrictive
22 alternative treatment order or conditional release order was based on
23 a petition under RCW 71.05.290 or 71.05.320, the number of days
24 remaining on the ~~((outpatient))~~ order must be converted to days of
25 inpatient treatment ~~((authorized in the original court order))~~. A
26 court may not ~~((issue an order to))~~ detain a person for inpatient
27 treatment ~~((in))~~ to a secure withdrawal management and stabilization
28 facility or approved substance use disorder treatment program under
29 this subsection unless there is a ~~((secure withdrawal management and~~
30 ~~stabilization))~~ facility or ~~((approved substance use disorder~~
31 ~~treatment))~~ program available ~~((and))~~ with adequate space for the
32 person.

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

39 ~~((7)(a) If the current commitment is solely based on the person~~
40 ~~being in need of assisted outpatient behavioral health treatment as~~

1 defined in RCW 71.05.020, a designated crisis responder may initiate
2 inpatient detention procedures under RCW 71.05.150 or 71.05.153 when
3 appropriate. A designated crisis responder or the secretary may, upon
4 their own motion or notification by the facility or agency designated
5 to provide outpatient care to a person subject to a less restrictive
6 alternative treatment order under RCW 71.05.320 subsequent to an
7 order for assisted outpatient behavioral health treatment entered
8 under RCW 71.05.148, order the person to be apprehended and taken
9 into custody and temporary detention for inpatient evaluation in an
10 evaluation and treatment facility, secure withdrawal management and
11 stabilization facility, or in an approved substance use disorder
12 treatment program, in or near the county in which he or she is
13 receiving outpatient treatment. Proceedings under this subsection may
14 be initiated without ordering the apprehension and detention of the
15 person.

16 (b) A person detained under this subsection may be held for
17 evaluation for up to one hundred twenty hours, excluding weekends and
18 holidays, pending a court hearing. If the person is not detained, the
19 hearing must be scheduled within one hundred twenty hours of service
20 on the person. The designated crisis responder or the secretary may
21 modify or rescind the order at any time prior to commencement of the
22 court hearing.

23 (c) The issues for the court to determine are whether to continue
24 the detention of the person for inpatient treatment or whether the
25 court should reinstate or modify the person's less restrictive
26 alternative order or order the person's detention for inpatient
27 treatment. To continue detention after the one hundred twenty hour
28 period, the court must find that the person, as a result of a
29 behavioral health disorder, presents a likelihood of serious harm or
30 is gravely disabled and, after considering less restrictive
31 alternatives to involuntary detention and treatment, that no such
32 alternatives are in the best interest of the person or others.

33 (d) A court may not issue an order to detain a person for
34 inpatient treatment in a secure withdrawal management and
35 stabilization facility or approved substance use disorder program
36 under this subsection unless there is a secure withdrawal management
37 and stabilization facility or approved substance use disorder
38 treatment program available and with adequate space for the person.))

1 **Sec. 23.** RCW 71.05.590 and 2021 c 264 s 15 are each amended to
2 read as follows:

3 (1) Either an agency or facility designated to monitor or provide
4 services under a less restrictive alternative order or conditional
5 release, or a designated crisis responder, may take action to
6 enforce, modify, or revoke a less restrictive alternative treatment
7 order or conditional release order. The agency, facility, or
8 designated crisis responder must determine that:

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

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

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

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

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

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

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

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

1 (d) To ~~((cause))~~ detain the person ~~((to be transported by a peace~~
2 ~~officer, designated crisis responder, or other means to the))~~ for up
3 to 12 hours for evaluation at an agency ~~((or))~~, facility ~~((monitoring~~
4 ~~or))~~ providing services under the court order, ~~((or to a))~~ triage
5 facility, crisis stabilization unit, emergency department, evaluation
6 and treatment facility, secure withdrawal management and
7 stabilization facility, or an approved substance use disorder
8 treatment program. The ~~((person may be detained at the facility for~~
9 ~~up to twelve hours for the))~~ purpose of ~~((an))~~ the evaluation is to
10 determine whether modification, revocation, or commitment proceedings
11 are necessary and appropriate to stabilize the person and prevent
12 decompensation, deterioration, or physical harm. Temporary detention
13 for evaluation under this subsection is intended to occur only
14 following a pattern of noncompliance or the failure of reasonable
15 attempts at outreach and engagement, and may occur only when ~~((in~~
16 ~~the))~~, based on clinical judgment ~~((of a designated crisis responder~~
17 ~~or the professional person in charge of an agency or facility~~
18 ~~designated to monitor less restrictive alternative services))~~,
19 temporary detention is appropriate. The agency, facility, or
20 designated crisis responder may request assistance from a peace
21 officer for the purposes of temporary detention under this subsection
22 (2)(d). This subsection does not limit the ability or obligation of
23 the agency, facility, or designated crisis responder to pursue
24 revocation procedures under subsection (5) of this section in
25 appropriate circumstances; and

26 (e) To initiate revocation procedures under subsection (5) of
27 this section ~~((or, if the current commitment is solely based on the~~
28 ~~person being in need of assisted outpatient behavioral health~~
29 ~~treatment as defined in RCW 71.05.020, initial inpatient detention~~
30 ~~procedures under subsection (7) of this section))~~.

31 (3) A court may supervise a person on an order for less
32 restrictive alternative treatment or a conditional release. While the
33 person is under the order, the court may:

34 (a) Require appearance in court for periodic reviews; and

35 (b) Modify the order after considering input from the agency or
36 facility designated to provide or facilitate services. The court may
37 not remand the person into inpatient treatment except as provided
38 under subsection (5) of this section, but may take actions under
39 subsection (2)(a) through (d) of this section.

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

7 (5) (a) (~~Except as provided in subsection (7) of this section,~~
8 a) A designated crisis responder or the secretary of the department
9 of social and health services may, upon their own motion or
10 ((notification by)) upon request of the facility or agency designated
11 to provide outpatient care ((order)), cause a person ((subject to a
12 court order under this chapter)) to be ((apprehended and taken into
13 eustody and temporary detention)) detained in an evaluation and

14 treatment facility, ((in a)) secure withdrawal management and
15 stabilization facility, or ((in an)) approved substance use disorder
16 treatment program((r)) in or near the county in which he or she is
17 receiving outpatient treatment((. Proceedings under this subsection
18 (5) may be initiated without ordering the apprehension and)) for the
19 purpose of a hearing for revocation of a less restrictive alternative
20 treatment order or conditional release order under this chapter. The
21 designated crisis responder or secretary of the department of social
22 and health services shall file a petition for revocation within 24
23 hours and serve the person, their guardian, if any, and their
24 attorney. A hearing for revocation of a less restrictive alternative
25 treatment order or conditional release order may be scheduled without
26 detention of the person.

27 (b) (~~Except as provided in subsection (7) of this section,~~ a) A
28 person detained under this subsection (5) must be held until such
29 time, not exceeding five days, as a hearing can be scheduled to
30 determine whether or not the ((person should be returned to the
31 hospital or facility from which he or she had been released)) order
32 for less restrictive alternative treatment or conditional release
33 should be revoked, modified, or retained. If the person is not
34 detained, the hearing must be scheduled within five days of service
35 on the person. The designated crisis responder or the secretary of
36 the department of social and health services may ((modify or rescind
37 the order at any time prior to commencement of)) withdraw its
38 petition for revocation at any time before the court hearing.

39 (c) (~~The designated crisis responder or secretary of the~~
40 ~~department of social and health services shall file a revocation~~

1 ~~petition and order of apprehension and detention with the court of~~
2 ~~the county where the person is currently located or being detained.~~
3 ~~The designated crisis responder shall serve the person and their~~
4 ~~attorney, guardian, and conservator, if any. The))~~ A person detained
5 under this subsection (5) has the same rights with respect to notice,
6 hearing, and counsel as in any involuntary treatment proceeding,
7 except as specifically set forth in this section. There is no right
8 to jury trial. The venue for proceedings is the county where the
9 petition is filed. Notice of the filing must be provided to the court
10 that originally ordered commitment, if different from the court where
11 the petition for revocation is filed, within two judicial days of the
12 person's detention.

13 (d) (~~Except as provided in subsection (7) of this section, the~~)
14 The issues for the court to determine are whether: (i) The person
15 adhered to the terms and conditions of the (~~court~~) order; (ii)
16 substantial deterioration in the person's functioning has occurred;
17 (iii) there is evidence of substantial decompensation with a
18 reasonable probability that the decompensation can be reversed by
19 further inpatient treatment; or (iv) there is a likelihood of serious
20 harm; and, if any of the above conditions apply, whether it is
21 appropriate for the court (~~should~~) to reinstate or modify the
22 person's less restrictive alternative treatment order or conditional
23 release order or order the person's detention for inpatient
24 treatment. The person may waive the court hearing and allow the court
25 to enter a stipulated order upon the agreement of all parties. If the
26 court orders detention for inpatient treatment, the treatment period
27 must be for (~~fourteen~~) 14 days from the revocation hearing if the
28 (~~outpatient~~) less restrictive alternative treatment order or
29 conditional release order was based on a petition under RCW
30 71.05.148, 71.05.160, or 71.05.230. If the court orders detention for
31 inpatient treatment and the (~~outpatient~~) less restrictive
32 alternative treatment order or conditional release order was based on
33 a petition under RCW 71.05.290 or 71.05.320, the number of days
34 remaining on the (~~outpatient~~) order must be converted to days of
35 inpatient treatment (~~authorized in the original court order~~).

36 (6) In determining whether or not to take action under this
37 section the designated crisis responder, agency, or facility must
38 consider the factors specified under RCW 71.05.212 and the court must
39 consider the factors specified under RCW 71.05.245 as they apply to

1 the question of whether to enforce, modify, or revoke a court order
2 for involuntary treatment.

3 ~~((7)(a) If the current commitment is solely based on the person
4 being in need of assisted outpatient behavioral health treatment as
5 defined in RCW 71.05.020, a designated crisis responder may initiate
6 inpatient detention procedures under RCW 71.05.150 or 71.05.153 when
7 appropriate. A designated crisis responder or the secretary may, upon
8 their own motion or notification by the facility or agency designated
9 to provide outpatient care to a person subject to a less restrictive
10 alternative treatment order under RCW 71.05.320 subsequent to an
11 order for assisted outpatient behavioral health treatment entered
12 under RCW 71.05.148, order the person to be apprehended and taken
13 into custody and temporary detention for inpatient evaluation in an
14 evaluation and treatment facility, in a secure withdrawal management
15 and stabilization facility, or in an approved substance use disorder
16 treatment program, in or near the county in which he or she is
17 receiving outpatient treatment. Proceedings under this subsection may
18 be initiated without ordering the apprehension and detention of the
19 person.~~

20 ~~(b) A person detained under this subsection may be held for
21 evaluation for up to one hundred twenty hours, excluding weekends and
22 holidays, pending a court hearing. The designated crisis responder or
23 the secretary may modify or rescind the order at any time prior to
24 commencement of the court hearing.~~

25 ~~(c) The issues for the court to determine are whether to continue
26 the detention of the person for inpatient treatment or whether the
27 court should reinstate or modify the person's less restrictive
28 alternative order or order the person's detention for inpatient
29 treatment. To continue detention after the one hundred twenty hour
30 period, the court must find that the person, as a result of a
31 behavioral health disorder, presents a likelihood of serious harm or
32 is gravely disabled and, after considering less restrictive
33 alternatives to involuntary detention and treatment, that no such
34 alternatives are in the best interest of the person or others.)~~

35 **Sec. 24.** RCW 71.05.595 and 2018 c 291 s 16 are each amended to
36 read as follows:

37 A court order for less restrictive alternative treatment for a
38 person found to be in need of assisted outpatient ~~((behavioral
39 health))~~ treatment must be terminated prior to the expiration of the

1 order when, in the opinion of the professional person in charge of
2 the less restrictive alternative treatment provider, (1) the person
3 is prepared to accept voluntary treatment, or (2) the outpatient
4 treatment ordered is no longer necessary to prevent a relapse,
5 decompensation, or deterioration that is likely to result in the
6 person presenting a likelihood of serious harm or the person becoming
7 gravely disabled within a reasonably short period of time.

8 **Sec. 25.** RCW 71.24.045 and 2021 c 263 s 17 are each amended to
9 read as follows:

10 (1) The behavioral health administrative services organization
11 contracted with the authority pursuant to RCW 71.24.381 shall:

12 (a) Administer crisis services for the assigned regional service
13 area. Such services must include:

14 (i) A behavioral health crisis hotline for its assigned regional
15 service area;

16 (ii) Crisis response services twenty-four hours a day, seven days
17 a week, three hundred sixty-five days a year;

18 (iii) Services related to involuntary commitments under chapters
19 71.05 and 71.34 RCW;

20 (iv) Tracking of less restrictive alternative orders issued
21 within the region by superior courts, and providing notification to a
22 managed care organization in the region when one of its enrollees
23 receives a less restrictive alternative order so that the managed
24 care organization may ensure that the person is connected to services
25 and that the requirements of RCW 71.05.585 are complied with. If the
26 person receives a less restrictive alternative order and is returning
27 to another region, the behavioral health administrative services
28 organization shall notify the behavioral health administrative
29 services organization in the home region of the less restrictive
30 alternative order so that the home behavioral health administrative
31 services organization may notify the person's managed care
32 organization or provide services if the person is not enrolled in
33 medicaid and does not have other insurance which can pay for those
34 services;

35 (v) Additional noncrisis behavioral health services, within
36 available resources, to individuals who meet certain criteria set by
37 the authority in its contracts with the behavioral health
38 administrative services organization. These services may include

1 services provided through federal grant funds, provisos, and general
2 fund state appropriations;

3 (vi) Care coordination, diversion services, and discharge
4 planning for nonmedicaid individuals transitioning from state
5 hospitals or inpatient settings to reduce rehospitalization and
6 utilization of crisis services, as required by the authority in
7 contract; and

8 (vii) Regional coordination, cross-system and cross-jurisdiction
9 coordination with tribal governments, and capacity building efforts,
10 such as supporting the behavioral health advisory board, the
11 behavioral health ombuds, and efforts to support access to services
12 or to improve the behavioral health system;

13 (b) Administer and provide for the availability of an adequate
14 network of evaluation and treatment services to ensure access to
15 treatment, investigation, transportation, court-related, and other
16 services provided as required under chapter 71.05 RCW;

17 (c) Coordinate services for individuals under RCW 71.05.365;

18 (d) Administer and provide for the availability of resource
19 management services, residential services, and community support
20 services as required under its contract with the authority;

21 (e) Contract with a sufficient number, as determined by the
22 authority, of licensed or certified providers for crisis services and
23 other behavioral health services required by the authority;

24 (f) Maintain adequate reserves or secure a bond as required by
25 its contract with the authority;

26 (g) Establish and maintain quality assurance processes;

27 (h) Meet established limitations on administrative costs for
28 agencies that contract with the behavioral health administrative
29 services organization; and

30 (i) Maintain patient tracking information as required by the
31 authority.

32 (2) The behavioral health administrative services organization
33 must collaborate with the authority and its contracted managed care
34 organizations to develop and implement strategies to coordinate care
35 with tribes and community behavioral health providers for individuals
36 with a history of frequent crisis system utilization.

37 (3) The behavioral health administrative services organization
38 shall:

1 (a) Assure that the special needs of minorities, older adults,
2 individuals with disabilities, children, and low-income persons are
3 met;

4 (b) Collaborate with local government entities to ensure that
5 policies do not result in an adverse shift of persons with mental
6 illness into state and local correctional facilities; and

7 (c) Work with the authority to expedite the enrollment or
8 reenrollment of eligible persons leaving state or local correctional
9 facilities and institutions for mental diseases.

10 (4) The behavioral health administrative services organization
11 shall employ an assisted outpatient treatment program coordinator to
12 oversee system coordination and legal compliance for assisted
13 outpatient treatment under RCW 71.05.148 and section 4 of this act.

14 **Sec. 26.** RCW 71.24.045 and 2021 c 263 s 17 and 2021 c 202 s 15
15 are each reenacted and amended to read as follows:

16 (1) The behavioral health administrative services organization
17 contracted with the authority pursuant to RCW 71.24.381 shall:

18 (a) Administer crisis services for the assigned regional service
19 area. Such services must include:

20 (i) A behavioral health crisis hotline for its assigned regional
21 service area;

22 (ii) Crisis response services twenty-four hours a day, seven days
23 a week, three hundred sixty-five days a year;

24 (iii) Services related to involuntary commitments under chapters
25 71.05 and 71.34 RCW;

26 (iv) Tracking of less restrictive alternative orders issued
27 within the region by superior courts, and providing notification to a
28 managed care organization in the region when one of its enrollees
29 receives a less restrictive alternative order so that the managed
30 care organization may ensure that the person is connected to services
31 and that the requirements of RCW 71.05.585 are complied with. If the
32 person receives a less restrictive alternative order and is returning
33 to another region, the behavioral health administrative services
34 organization shall notify the behavioral health administrative
35 services organization in the home region of the less restrictive
36 alternative order so that the home behavioral health administrative
37 services organization may notify the person's managed care
38 organization or provide services if the person is not enrolled in

1 medicaid and does not have other insurance which can pay for those
2 services;

3 (v) Additional noncrisis behavioral health services, within
4 available resources, to individuals who meet certain criteria set by
5 the authority in its contracts with the behavioral health
6 administrative services organization. These services may include
7 services provided through federal grant funds, provisos, and general
8 fund state appropriations;

9 (vi) Care coordination, diversion services, and discharge
10 planning for nonmedicaid individuals transitioning from state
11 hospitals or inpatient settings to reduce rehospitalization and
12 utilization of crisis services, as required by the authority in
13 contract; and

14 (vii) Regional coordination, cross-system and cross-jurisdiction
15 coordination with tribal governments, and capacity building efforts,
16 such as supporting the behavioral health advisory board and efforts
17 to support access to services or to improve the behavioral health
18 system;

19 (b) Administer and provide for the availability of an adequate
20 network of evaluation and treatment services to ensure access to
21 treatment, investigation, transportation, court-related, and other
22 services provided as required under chapter 71.05 RCW;

23 (c) Coordinate services for individuals under RCW 71.05.365;

24 (d) Administer and provide for the availability of resource
25 management services, residential services, and community support
26 services as required under its contract with the authority;

27 (e) Contract with a sufficient number, as determined by the
28 authority, of licensed or certified providers for crisis services and
29 other behavioral health services required by the authority;

30 (f) Maintain adequate reserves or secure a bond as required by
31 its contract with the authority;

32 (g) Establish and maintain quality assurance processes;

33 (h) Meet established limitations on administrative costs for
34 agencies that contract with the behavioral health administrative
35 services organization; and

36 (i) Maintain patient tracking information as required by the
37 authority.

38 (2) The behavioral health administrative services organization
39 must collaborate with the authority and its contracted managed care
40 organizations to develop and implement strategies to coordinate care

1 with tribes and community behavioral health providers for individuals
2 with a history of frequent crisis system utilization.

3 (3) The behavioral health administrative services organization
4 shall:

5 (a) Assure that the special needs of minorities, older adults,
6 individuals with disabilities, children, and low-income persons are
7 met;

8 (b) Collaborate with local government entities to ensure that
9 policies do not result in an adverse shift of persons with mental
10 illness into state and local correctional facilities; and

11 (c) Work with the authority to expedite the enrollment or
12 reenrollment of eligible persons leaving state or local correctional
13 facilities and institutions for mental diseases.

14 (4) The behavioral health administrative services organization
15 shall employ an assisted outpatient treatment program coordinator to
16 oversee system coordination and legal compliance for assisted
17 outpatient treatment under RCW 71.05.148 and section 4 of this act.

18 NEW SECTION. Sec. 27. Sections 1, 2, and 28 of this act take
19 effect July 1, 2022.

20 **Sec. 28.** 2021 c 264 s 24 (uncodified) and 2021 c 263 s 21
21 (uncodified) are each reenacted and amended to read as follows:

22 (1) Sections 4 and 28, chapter 302, Laws of 2020, sections 13 and
23 14, chapter 263, Laws of 2021, (~~and, until July 1, 2022, section 22,~~
24 ~~chapter 264, Laws of 2021 and, beginning July 1, 2022,~~) section 23,
25 chapter 264, Laws of 2021, and sections 2 and 10, chapter ... (this
26 act), Laws of 2022 take effect when monthly single-bed certifications
27 authorized under RCW 71.05.745 fall below 200 reports for 3
28 consecutive months.

29 (2) The health care authority must provide written notice of the
30 effective date of sections 4 and 28, chapter 302, Laws of 2020,
31 sections 13 and 14, chapter 263, Laws of 2021, (~~and sections 22~~
32 ~~and~~) section 23, chapter 264, Laws of 2021, and sections 2 and 10,
33 chapter ... (this act), Laws of 2022 to affected parties, the chief
34 clerk of the house of representatives, the secretary of the senate,
35 the office of the code reviser, and others as deemed appropriate by
36 the authority.

1 NEW SECTION. **Sec. 29.** Sections 5, 12, 17, and 22 of this act
2 expire July 1, 2026.

3 NEW SECTION. **Sec. 30.** Sections 6, 13, 18, and 23 of this act
4 take effect July 1, 2026.

5 NEW SECTION. **Sec. 31.** Section 25 of this act expires October 1,
6 2022.

7 NEW SECTION. **Sec. 32.** Section 26 of this act takes effect
8 October 1, 2022.

9 NEW SECTION. **Sec. 33.** If specific funding for the purposes of
10 this act, referencing this act by bill or chapter number, is not
11 provided by June 30, 2022, in the omnibus appropriations act, this
12 act is null and void.

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