

---

SENATE BILL 6766

---

State of Washington

54th Legislature

1996 Regular Session

By Senator Thibaudeau

Read first time 02/05/96. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to treatment of persons with mental illness;  
2 amending RCW 71.05.010, 71.05.050, 71.05.150, 71.05.200, 71.05.280,  
3 71.05.320, and 71.05.340; and reenacting and amending RCW 71.05.020.

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

5 **Sec. 1.** RCW 71.05.010 and 1989 c 120 s 1 are each amended to read  
6 as follows:

7 The provisions of this chapter are intended by the legislature:

8 (1) To end inappropriate, indefinite commitment of mentally  
9 disordered persons and to eliminate legal disabilities that arise from  
10 such commitment;

11 (2) To provide prompt evaluation and (~~short-term~~) timely and  
12 appropriate treatment of persons with serious mental disorders;

13 (3) To safeguard individual rights;

14 (4) To provide continuity of care for persons with serious mental  
15 disorders;

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

1 (6) To encourage, whenever appropriate, that services be provided  
2 within the community;

3 (7) To protect the public safety.

4 **Sec. 2.** RCW 71.05.020 and 1989 c 420 s 13, 1989 c 205 s 8, and  
5 1989 c 120 s 2 are each reenacted and amended to read as follows:

6 For the purposes of this chapter:

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

14 (2) "Mental disorder" means any organic, mental, or emotional  
15 impairment which has substantial adverse effects on an individual's  
16 cognitive or volitional functions;

17 (3) "Likelihood of serious harm" means either: (a) A substantial  
18 risk that physical harm will be inflicted by an individual upon his or  
19 her own person, as evidenced by threats or attempts to commit suicide  
20 or inflict physical harm on one's self, (b) a substantial risk that  
21 physical harm will be inflicted by an individual upon another, as  
22 evidenced by behavior which has caused such harm or which places  
23 another person or persons in reasonable fear of sustaining such harm,  
24 or (c) a substantial risk that physical harm will be inflicted by an  
25 individual upon the property of others, as evidenced by behavior which  
26 has caused substantial loss or damage to the property of others;

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

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

33 (6) "Public agency" means any evaluation and treatment facility or  
34 institution, hospital, or sanitarium which is conducted for, or  
35 includes a department or ward conducted for, the care and treatment of  
36 persons who are mentally ill or deranged, if the agency is operated  
37 directly by, federal, state, county, or municipal government, or a  
38 combination of such governments;

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

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

10 (9) "Department" means the department of social and health services  
11 of the state of Washington;

12 (10) "Resource management services" has the meaning given in  
13 chapter 71.24 RCW;

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

16 (12) "Mental health professional" means a psychiatrist,  
17 psychologist, psychiatric nurse, or social worker, and such other  
18 mental health professionals as may be defined by rules and regulations  
19 adopted by the secretary pursuant to the provisions of this chapter;

20 (13) "Professional person" shall mean a mental health professional,  
21 as above defined, and shall also mean a physician, registered nurse,  
22 and such others as may be defined by rules and regulations adopted by  
23 the secretary pursuant to the provisions of this chapter;

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

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

32 (16) "Social worker" means a person with a master's or further  
33 advanced degree from an accredited school of social work or a degree  
34 from a graduate school deemed equivalent under rules and regulations  
35 adopted by the secretary;

36 (17) "Evaluation and treatment facility" means any facility which  
37 can provide directly, or by direct arrangement with other public or  
38 private agencies, emergency evaluation and treatment, outpatient care,  
39 and short term inpatient care to persons suffering from a mental

1 disorder, and which is certified as such by the department of social  
2 and health services: PROVIDED, That a physically separate and  
3 separately operated portion of a state hospital may be designated as an  
4 evaluation and treatment facility: PROVIDED FURTHER, That a facility  
5 which is part of, or operated by, the department of social and health  
6 services or any federal agency will not require certification: AND  
7 PROVIDED FURTHER, That no correctional institution or facility, or  
8 jail, shall be an evaluation and treatment facility within the meaning  
9 of this chapter;

10 (18) "Antipsychotic medications," also referred to as  
11 "neuroleptics," means that class of drugs primarily used to treat  
12 serious manifestations of mental illness associated with thought  
13 disorders and currently includes phenothiazines, thioxanthenes,  
14 butyrophenone, dihydroindolone, and dibenzoxazipine.

15 (19) "Developmental disability" means that condition defined in RCW  
16 71A.10.020(2);

17 (20) "Developmental disabilities professional" means a person who  
18 has specialized training and three years of experience in directly  
19 treating or working with persons with developmental disabilities and is  
20 a psychiatrist or psychologist, or a social worker, and such other  
21 developmental disabilities professionals as may be defined by rules  
22 adopted by the secretary;

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

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

33 (23) "Social worker" means a person with a master's or further  
34 advanced degree from an accredited school of social work or a degree  
35 deemed equivalent under rules adopted by the secretary;

36 (24) "Individualized service plan" means a plan prepared by a  
37 developmental disabilities professional with other professionals as a  
38 team, for an individual with developmental disabilities, which shall  
39 state:

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

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

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

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

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

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

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

17 (25) "Medically necessary admission" means an admission that  
18 follows intensive outpatient treatment that has failed to produce  
19 expected improvement, or an admission to treat a decompensated patient  
20 with a potential for significant improvement, or an admission intended  
21 to provide immediate twenty-four hour supervision in order to  
22 reestablish and maintain safety.

23 **Sec. 3.** RCW 71.05.050 and 1979 ex.s. c 215 s 6 are each amended to  
24 read as follows:

25 Nothing in this chapter shall be construed to limit the right of  
26 any person to apply voluntarily to any public or private agency or  
27 practitioner for treatment of a mental disorder, either by direct  
28 application or by referral. Any person voluntarily admitted for  
29 inpatient treatment to any public or private agency shall be released  
30 immediately upon his or her request. Any person voluntarily admitted  
31 for inpatient treatment to any public or private agency shall orally be  
32 advised of the right to immediate release and further advised of such  
33 rights in writing as are secured to them pursuant to this chapter and  
34 their rights of access to attorneys, courts, and other legal redress.  
35 Their condition and status shall be reviewed at least once each one  
36 hundred eighty days for evaluation as to the need for further treatment  
37 and/or possible release, at which time they shall again be advised of  
38 their right to release upon request: PROVIDED HOWEVER, That if the

1 professional staff of any public or private agency or hospital regards  
2 a person voluntarily admitted who requests release as presenting, as a  
3 result of a mental disorder, an imminent likelihood of serious harm to  
4 himself or herself, or others, or is gravely disabled, they may detain  
5 such person for sufficient time to notify the designated county mental  
6 health professional of such person's condition to enable such mental  
7 health professional to authorize such person being further held in  
8 custody or transported to an evaluation and treatment center pursuant  
9 to the provisions of this chapter, which shall in ordinary  
10 circumstances be no later than the next judicial day: PROVIDED  
11 FURTHER, That if a person is brought to the emergency room of a public  
12 or private agency or hospital for observation or treatment, said person  
13 refuses voluntary admission, and the professional staff of the public  
14 or private agency or hospital regards such person as presenting as a  
15 result of a mental disorder an imminent likelihood of serious harm to  
16 himself or herself, or others or as presenting an imminent danger  
17 because of grave disability, they may detain such person for sufficient  
18 time to notify the designated county mental health professional of such  
19 person's condition to enable such mental health professional to  
20 authorize such person being further held in custody or transported to  
21 an evaluation treatment center pursuant to the conditions in this  
22 chapter, but which time shall be no more than six hours from the time  
23 the professional staff determines that an evaluation by the designated  
24 county mental health professional is necessary.

25 **Sec. 4.** RCW 71.05.150 and 1984 c 233 s 1 are each amended to read  
26 as follows:

27 (1)(a) When a mental health professional designated by the county  
28 receives information alleging that a person, as a result of a mental  
29 disorder, presents a likelihood of serious harm to others or himself or  
30 herself, or is gravely disabled, or is a danger to property, such  
31 mental health professional, after investigation and evaluation of the  
32 specific facts alleged, and of the reliability and credibility of the  
33 person or persons, if any, providing information to initiate detention,  
34 may, if satisfied that the allegations are true and that the person  
35 will not voluntarily seek appropriate treatment, file a petition for  
36 initial detention. Before filing the petition, the county designated  
37 mental health professional must personally interview the person, unless  
38 the person refuses an interview, and determine whether the person will

1 voluntarily receive appropriate evaluation and treatment at an  
2 evaluation and treatment facility.

3 (b) Whenever it appears, by petition for initial detention, to the  
4 satisfaction of a judge of the superior court that a person presents,  
5 as a result of a mental disorder, a likelihood of serious harm to  
6 others or himself or herself, or is gravely disabled, and that the  
7 person has refused or failed to accept appropriate evaluation and  
8 treatment voluntarily, the judge may issue an order requiring the  
9 person to appear (~~not less than~~) within twenty-four hours after  
10 service of the order at a designated evaluation and treatment facility  
11 for not more than a seventy-two hour evaluation and treatment period.  
12 The order shall state the address of the evaluation and treatment  
13 facility to which the person is to report and whether the required  
14 seventy-two hour evaluation and treatment services may be delivered on  
15 an outpatient or inpatient basis and that if the person named in the  
16 order fails to appear at the evaluation and treatment facility at or  
17 before the date and time stated in the order, such person may be  
18 involuntarily taken into custody for evaluation and treatment. The  
19 order shall also designate retained counsel or, if counsel is appointed  
20 from a list provided by the court, the name, business address, and  
21 telephone number of the attorney appointed to represent the person.

22 (c) The mental health professional shall then serve or cause to be  
23 served on such person, his or her guardian, and conservator, if any, a  
24 copy of the order to appear together with a notice of rights and a  
25 petition for initial detention. After service on such person the  
26 mental health professional shall file the return of service in court  
27 and provide copies of all papers in the court file to the evaluation  
28 and treatment facility and the designated attorney. The mental health  
29 professional shall notify the court and the prosecuting attorney that  
30 a probable cause hearing will be held within seventy-two hours of the  
31 date and time of outpatient evaluation or admission to the evaluation  
32 and treatment facility. The person shall be permitted to remain in his  
33 or her home or other place of his or her choosing prior to the time of  
34 evaluation and shall be permitted to be accompanied by one or more of  
35 his or her relatives, friends, an attorney, a personal physician, or  
36 other professional or religious advisor to the place of evaluation. An  
37 attorney accompanying the person to the place of evaluation shall be  
38 permitted to be present during the admission evaluation. Any other  
39 individual accompanying the person may be present during the admission

1 evaluation. The facility may exclude the individual if his or her  
2 presence would present a safety risk, delay the proceedings, or  
3 otherwise interfere with the evaluation.

4 (d) If the person ordered to appear does appear on or before the  
5 date and time specified, the evaluation and treatment facility may  
6 admit such person as required by RCW 71.05.170 or may provide treatment  
7 on an outpatient basis. If the person ordered to appear fails to  
8 appear on or before the date and time specified, the evaluation and  
9 treatment facility shall immediately notify the mental health  
10 professional designated by the county who may notify a peace officer to  
11 take such person or cause such person to be taken into custody and  
12 placed in an evaluation and treatment facility. Should the mental  
13 health professional notify a peace officer authorizing him or her to  
14 take a person into custody under the provisions of this subsection, he  
15 or she shall file with the court a copy of such authorization and a  
16 notice of detention. At the time such person is taken into custody  
17 there shall commence to be served on such person, his or her guardian,  
18 and conservator, if any, a copy of the original order together with a  
19 notice of detention, a notice of rights, and a petition for initial  
20 detention.

21 (2) When a mental health professional designated by the county  
22 receives information alleging that a person, as the result of a mental  
23 disorder, presents an imminent likelihood of serious harm to himself or  
24 herself, or others, or property, or is in imminent danger because of  
25 being gravely disabled, after investigation and evaluation of the  
26 specific facts alleged and of the reliability and credibility of the  
27 person or persons providing the information if any, the mental health  
28 professional may take such person, or cause by oral or written order  
29 such person to be taken into emergency custody in an evaluation and  
30 treatment facility for not more than seventy-two hours as described in  
31 RCW 71.05.180.

32 (3) A peace officer may take such person or cause such person to be  
33 taken into custody and placed in an evaluation and treatment facility  
34 pursuant to subsection (1)(d) of this section.

35 (4) A peace officer may, without prior notice of the proceedings  
36 provided for in subsection (1) of this section, take or cause such  
37 person to be taken into custody and immediately delivered to an  
38 evaluation and treatment facility or the emergency department of a  
39 local hospital:

1 (a) Only pursuant to subsections (1)(d) and (2) of this section; or

2 (b) When he or she has reasonable cause to believe that such person  
3 is suffering from a mental disorder and presents an imminent likelihood  
4 of serious harm to others or himself or herself, or is a danger to  
5 property, or is in imminent danger because of being gravely disabled.

6 (5) Persons delivered to evaluation and treatment facilities or  
7 hospital emergency departments by peace officers pursuant to subsection  
8 (4)(b) of this section may be held by the facility for a period of up  
9 to twelve hours: PROVIDED, That they are examined by a mental health  
10 professional within three hours of their arrival. Within twelve hours  
11 of their arrival, the designated county mental health professional must  
12 file a supplemental petition for detention, and commence service on the  
13 designated attorney for the detained person.

14 **Sec. 5.** RCW 71.05.200 and 1989 c 120 s 5 are each amended to read  
15 as follows:

16 (1) Whenever any person is detained for evaluation and treatment  
17 pursuant to this chapter, both the person and, if possible, a  
18 responsible member of his or her immediate family, guardian, or  
19 conservator, if any, shall be advised as soon as possible in writing or  
20 orally, by the officer or person taking him or her into custody or by  
21 personnel of the evaluation and treatment facility where the person is  
22 detained that unless the person is released or voluntarily admits  
23 himself or herself for treatment within seventy-two hours of the  
24 initial detention:

25 (a) That a judicial hearing in a superior court, either by a judge  
26 or court commissioner thereof, shall be held not more than seventy-two  
27 hours after the initial detention to determine whether there is  
28 probable cause to detain the person after the seventy-two hours have  
29 expired for up to an additional fourteen days without further automatic  
30 hearing for the reason that the person is a mentally ill person whose  
31 mental disorder presents a likelihood of serious harm to others or  
32 himself or herself or that the person is gravely disabled;

33 (b) That the person has a right to communicate immediately with an  
34 attorney; has a right to have an attorney appointed to represent him or  
35 her before and at the probable cause hearing if he or she is indigent;  
36 and has the right to be told the name and address of the attorney the  
37 mental health professional has designated pursuant to this chapter;

1 (c) That the person has the right to (~~remain silent and~~) be  
2 informed that any statement he or she makes may be used against him or  
3 her;

4 (d) That the person has the right to present evidence and to cross-  
5 examine witnesses who testify against him or her at the probable cause  
6 hearing; and

7 (e) That the person has the right to refuse medications, including  
8 antipsychotic medication beginning twenty-four hours prior to the  
9 probable cause hearing.

10 (2) When proceedings are initiated under RCW 71.05.150 (2), (3), or  
11 (4)(b), no later than twelve hours after such person is admitted to the  
12 evaluation and treatment facility the personnel of the evaluation and  
13 treatment facility or the designated mental health professional shall  
14 serve on such person a copy of the petition for initial detention and  
15 the name, business address, and phone number of the designated attorney  
16 and shall forthwith commence service of a copy of the petition for  
17 initial detention on said designated attorney.

18 (3) The judicial hearing described in subsection (1) of this  
19 section is hereby authorized, and shall be held according to the  
20 provisions of subsection (1) of this section and rules promulgated by  
21 the supreme court.

22 **Sec. 6.** RCW 71.05.280 and 1986 c 67 s 3 are each amended to read  
23 as follows:

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

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

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

1 (3) Such person has been determined to be incompetent and criminal  
2 charges have been dismissed pursuant to RCW 10.77.090(3), as now or  
3 hereafter amended, and has committed acts constituting a felony, and as  
4 a result of a mental disorder, presents a substantial likelihood of  
5 repeating similar acts. In any proceeding pursuant to this subsection  
6 it shall not be necessary to show intent, wilfulness, or state of mind  
7 as an element of the felony; or

8 (4) Such person is gravely disabled. Substantial risk of harm does  
9 not require evidence by recent, overt acts, but does require evidence  
10 of danger of serious physical harm or probable harmful consequences  
11 from failure to receive care essential for health and safety. Evidence  
12 that an individual would not receive such care as is essential for his  
13 or her health and safety resulting in a high probability of harmful  
14 consequences may be shown by a prior history or pattern of  
15 decompensation and discontinuation of treatment resulting in repeated  
16 hospitalizations or peace officer intervention resulting in a juvenile  
17 offense, criminal charge, or diversion program.

18 For the purposes of this chapter "custody" shall mean involuntary  
19 detention under the provisions of this chapter or chapter 10.77 RCW,  
20 uninterrupted by any period of unconditional release from a facility  
21 providing involuntary care and treatment.

22 **Sec. 7.** RCW 71.05.320 and 1989 c 420 s 15 are each amended to read  
23 as follows:

24 (1) If the court or jury finds that grounds set forth in RCW  
25 71.05.280 have been proven and that the best interests of the person or  
26 others will not be served by a less restrictive treatment which is an  
27 alternative to detention, the court shall remand him or her to the  
28 custody of the department of social and health services or to a  
29 facility certified for ninety day treatment by the department of social  
30 and health services for a further period of intensive treatment not to  
31 exceed ninety days from the date of judgment: PROVIDED, That if the  
32 grounds set forth in RCW 71.05.280(3) are the basis of commitment, then  
33 the period of treatment may be up to but not exceed one hundred eighty  
34 days from the date of judgment in a facility certified for one hundred  
35 eighty day treatment by the department. If the committed person is  
36 developmentally disabled and has been determined incompetent pursuant  
37 to RCW 10.77.090(3), and the best interests of the person or others  
38 will not be served by a less-restrictive treatment which is an

1 alternative to detention, the court shall remand him or her to the  
2 custody of the department of social and health services or to a  
3 facility certified for one hundred eighty-day treatment by the  
4 department. When appropriate and subject to available funds, treatment  
5 and training of such persons must be provided in a program specifically  
6 reserved for the treatment and training of developmentally disabled  
7 persons. A person so committed shall receive habilitation services  
8 pursuant to an individualized service plan specifically developed to  
9 treat the behavior which was the subject of the criminal proceedings.  
10 Said treatment program shall be administered by developmental  
11 disabilities professionals and others trained specifically in the needs  
12 of developmentally disabled persons. The department may limit  
13 admissions to this specialized program in order to ensure that  
14 expenditures for services do not exceed amounts appropriated by the  
15 legislature and allocated by the department for such services. The  
16 department may establish admission priorities in the event that the  
17 number of eligible persons exceeds the limits set by the department.  
18 An order for treatment less restrictive than involuntary detention may  
19 include conditions, and if such conditions are not adhered to, the  
20 designated mental health professional or developmental disabilities  
21 professional may order the person apprehended under the terms and  
22 conditions of RCW 71.05.340 as now or hereafter amended.

23 If the court or jury finds that grounds set forth in RCW 71.05.280  
24 have been proven, but finds that treatment less restrictive than  
25 detention will be in the best interest of the person or others, then  
26 the court shall remand him or her to the custody of the department of  
27 social and health services or to a facility certified for ninety day  
28 treatment by the department of social and health services or to a less  
29 restrictive alternative for a further period of less restrictive  
30 treatment not to exceed ninety days from the date of judgment:  
31 PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the  
32 basis of commitment, then the period of treatment may be up to but not  
33 exceed one hundred eighty days from the date of judgment.

34 (2) Said person shall be released from involuntary treatment at the  
35 expiration of the period of commitment imposed under subsection (1) of  
36 this section unless the superintendent or professional person in charge  
37 of the facility in which he or she is confined, or in the event of a  
38 less restrictive alternative, the designated mental health professional

1 or developmental disabilities professional, files a new petition for  
2 involuntary treatment on the grounds that the committed person;

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

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

12 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of  
13 mental disorder or developmental disability presents a substantial  
14 likelihood of repeating similar acts considering the charged criminal  
15 behavior, life history, progress in treatment, and the public safety;  
16 or

17 (d) Continues to be gravely disabled. Substantial risk of harm  
18 does not require evidence by recent, overt acts, but does require  
19 evidence of danger of serious physical harm or probable harmful  
20 consequences from failure to receive care essential for health and  
21 safety. Evidence that an individual would not receive such care as is  
22 essential for his or her health and safety resulting in a high  
23 probability of harmful consequences may be shown by a prior history or  
24 pattern of decompensation and discontinuation of treatment resulting in  
25 repeated hospitalizations or peace officer intervention resulting in a  
26 juvenile offense, misdemeanor, criminal charge, or diversion program.

27 If the conduct required to be proven in subsections (b) and (c) of  
28 this section was found by a judge or jury in a prior trial under this  
29 chapter, it shall not be necessary to reprove that element. Such new  
30 petition for involuntary treatment shall be filed and heard in the  
31 superior court of the county of the facility which is filing the new  
32 petition for involuntary treatment unless good cause is shown for a  
33 change of venue. The cost of the proceedings shall be borne by the  
34 state.

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

1 hundred eighty day period of commitment, the committed person shall be  
2 released unless a petition for another one hundred eighty day period of  
3 continued treatment is filed and heard in the same manner as provided  
4 herein above. Successive one hundred eighty day commitments are  
5 permissible on the same grounds and pursuant to the same procedures as  
6 the original one hundred eighty day commitment. No person committed as  
7 herein provided may be detained unless a valid order of commitment is  
8 in effect. No order of commitment can exceed one hundred eighty days  
9 in length.

10 **Sec. 8.** RCW 71.05.340 and 1987 c 439 s 10 are each amended to read  
11 as follows:

12 (1)(a) When, in the opinion of the superintendent or the  
13 professional person in charge of the hospital or facility providing  
14 involuntary treatment, the committed person can be appropriately served  
15 by outpatient treatment prior to or at the expiration of the period of  
16 commitment, then such outpatient care may be required as a condition  
17 for early release for a period which, when added to the inpatient  
18 treatment period, shall not exceed the period of commitment. If the  
19 hospital or facility designated to provide outpatient treatment is  
20 other than the facility providing involuntary treatment, the outpatient  
21 facility so designated must agree in writing to assume such  
22 responsibility. A copy of the conditions for early release shall be  
23 given to the patient, the designated county mental health professional  
24 in the county in which the patient is to receive outpatient treatment,  
25 and to the court of original commitment.

26 (b) Before a person committed under grounds set forth in RCW  
27 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of  
28 this subsection, the superintendent or professional person in charge of  
29 the hospital or facility providing involuntary treatment shall in  
30 writing notify the prosecuting attorney of the county in which the  
31 criminal charges against the committed person were dismissed, of the  
32 decision to conditionally release the person. Notice and a copy of the  
33 conditions for early release shall be provided at least thirty days  
34 before the person is released from inpatient care. Within twenty days  
35 after receiving notice, the prosecuting attorney may petition the court  
36 in the county that issued the commitment order to hold a hearing to  
37 determine whether the person may be conditionally released and the  
38 terms of the conditional release. The prosecuting attorney shall

1 provide a copy of the petition to the superintendent or professional  
2 person in charge of the hospital or facility providing involuntary  
3 treatment, the attorney, if any, and guardian or conservator of the  
4 committed person, and the court of original commitment. If the county  
5 in which the committed person is to receive outpatient treatment is the  
6 same county in which the criminal charges against the committed person  
7 were dismissed, then the court shall, upon the motion of the  
8 prosecuting attorney, transfer the proceeding to the court in that  
9 county. The court shall conduct a hearing on the petition within ten  
10 days of the filing of the petition. The committed person shall have  
11 the same rights with respect to notice, hearing, and counsel as for an  
12 involuntary treatment proceeding, except as set forth in this  
13 subsection and except that there shall be no right to jury trial. The  
14 issue to be determined at the hearing is whether or not the person may  
15 be conditionally released without substantial danger to other persons,  
16 or substantial likelihood of committing felonious acts jeopardizing  
17 public safety or security. If the court disapproves of the conditional  
18 release, it may do so only on the basis of substantial evidence.  
19 Pursuant to the determination of the court upon the hearing, the  
20 conditional release of the person shall be approved by the court on the  
21 same or modified conditions or the person shall be returned for  
22 involuntary treatment on an inpatient basis subject to release at the  
23 end of the period for which he or she was committed, or otherwise in  
24 accordance with the provisions of this chapter.

25 (2) The hospital or facility designated to provide outpatient care  
26 or the secretary may modify the conditions for continued release when  
27 such modification is in the best interest of the person. Notification  
28 of such changes shall be sent to all persons receiving a copy of the  
29 original conditions.

30 (3) If the hospital or facility designated to provide outpatient  
31 care, the designated county mental health professional or the secretary  
32 determines that a conditionally released person is failing to adhere to  
33 the terms and conditions of his or her release, or that substantial  
34 deterioration in the person's functioning has occurred to the extent  
35 that rehospitalization is a medically necessary admission, then, upon  
36 notification by the hospital or facility designated to provide  
37 outpatient care, or on his or her own motion, the designated county  
38 mental health professional or the secretary may order that the  
39 conditionally released person be apprehended and taken into custody and

1 temporarily detained in an evaluation and treatment facility in or near  
2 the county in which he or she is receiving outpatient treatment until  
3 such time, not exceeding five days, as a hearing can be scheduled to  
4 determine whether or not the person should be returned to the hospital  
5 or facility from which he or she had been conditionally released. The  
6 designated county mental health professional or the secretary may  
7 modify or rescind such order at any time prior to commencement of the  
8 court hearing. The court that originally ordered commitment shall be  
9 notified within two judicial days of a person's detention under the  
10 provisions of this section, and the designated county mental health  
11 professional or the secretary shall file his or her petition and order  
12 of apprehension and detention with the court and serve them upon the  
13 person detained. His or her attorney, if any, and his or her guardian  
14 or conservator, if any, shall receive a copy of such papers as soon as  
15 possible. Such person shall have the same rights with respect to  
16 notice, hearing, and counsel as for an involuntary treatment  
17 proceeding, except as specifically set forth in this section and except  
18 that there shall be no right to jury trial. The issues to be  
19 determined shall be whether the conditionally released person did or  
20 did not adhere to the terms and conditions of his or her release or  
21 that substantial deterioration in the person's functioning has  
22 occurred; and, if he or she failed to adhere to such terms and  
23 conditions, or that substantial deterioration in the person's  
24 functioning has occurred, whether the conditions of release should be  
25 modified or the person should be returned to the facility. Pursuant to  
26 the determination of the court upon such hearing, the conditionally  
27 released person shall either continue to be conditionally released on  
28 the same or modified conditions or shall be returned for involuntary  
29 treatment on an inpatient basis subject to release at the end of the  
30 period for which he or she was committed for involuntary treatment, or  
31 otherwise in accordance with the provisions of this chapter. Such  
32 hearing may be waived by the person and his or her counsel and his or  
33 her guardian or conservator, if any, but shall not be waivable unless  
34 all such persons agree to waive, and upon such waiver the person may be  
35 returned for involuntary treatment or continued on conditional release  
36 on the same or modified conditions.

37 (4) The proceedings set forth in subsection (3) of this section may  
38 be initiated by the designated county mental health professional or the  
39 secretary on the same basis set forth therein without requiring or

1 ordering the apprehension and detention of the conditionally released  
2 person, in which case the court hearing shall take place in not less  
3 than five days from the date of service of the petition upon the  
4 conditionally released person.

5       Upon expiration of the period of commitment, or when the person is  
6 released from outpatient care, notice in writing to the court which  
7 committed the person for treatment shall be provided.

8       (5) The grounds and procedures for revocation of less restrictive  
9 alternative treatment shall be the same as those set forth in this  
10 section for conditional releases.

11       (6) In the event of a revocation of a conditional release, the  
12 subsequent treatment period may be for no longer than the actual period  
13 authorized in the original court order.

--- END ---