

E2SHB 1450 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

ADOPTED AS AMENDED 4/14/2015

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are
4 each reenacted and amended to read as follows:

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

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

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

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

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

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

22 (6) "Crisis stabilization unit" means a short-term facility or a
23 portion of a facility licensed by the department of health and
24 certified by the department of social and health services under RCW
25 71.24.035, such as an evaluation and treatment facility or a
26 hospital, which has been designed to assess, diagnose, and treat
27 individuals experiencing an acute crisis without the use of long-term
28 hospitalization;

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

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

3 (9) "Designated chemical dependency specialist" means a person
4 designated by the county alcoholism and other drug addiction program
5 coordinator designated under RCW 70.96A.310 to perform the commitment
6 duties described in chapters 70.96A and 70.96B RCW;

7 (10) "Designated crisis responder" means a mental health
8 professional appointed by the county or the regional support network
9 to perform the duties specified in this chapter;

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

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

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

22 (14) "Developmental disability" means that condition defined in
23 RCW 71A.10.020(~~((3))~~) (5);

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

27 (16) "Evaluation and treatment facility" means any facility which
28 can provide directly, or by direct arrangement with other public or
29 private agencies, emergency evaluation and treatment, outpatient
30 care, and timely and appropriate inpatient care to persons suffering
31 from a mental disorder, and which is certified as such by the
32 department. A physically separate and separately operated portion of
33 a state hospital may be designated as an evaluation and treatment
34 facility. A facility which is part of, or operated by, the department
35 or any federal agency will not require certification. No correctional
36 institution or facility, or jail, shall be an evaluation and
37 treatment facility within the meaning of this chapter;

38 (17) "Gravely disabled" means a condition in which a person, as a
39 result of a mental disorder: (a) Is in danger of serious physical
40 harm resulting from a failure to provide for his or her essential

1 human needs of health or safety; or (b) manifests severe
2 deterioration in routine functioning evidenced by repeated and
3 escalating loss of cognitive or volitional control over his or her
4 actions and is not receiving such care as is essential for his or her
5 health or safety;

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

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

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

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

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

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

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

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

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

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

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

1 (22) "Information related to mental health services" means all
2 information and records compiled, obtained, or maintained in the
3 course of providing services to either voluntary or involuntary
4 recipients of services by a mental health service provider. This may
5 include documents of legal proceedings under this chapter or chapter
6 71.34 or 10.77 RCW, or somatic health care information;

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

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

13 (25) "Likelihood of serious harm" means:

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

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

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

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

33 (28) "Mental health service provider" means a public or private
34 agency that provides mental health services to persons with mental
35 disorders as defined under this section and receives funding from
36 public sources. This includes, but is not limited to, hospitals
37 licensed under chapter 70.41 RCW, evaluation and treatment facilities
38 as defined in this section, community mental health service delivery
39 systems or community mental health programs as defined in RCW
40 71.24.025, facilities conducting competency evaluations and

1 restoration under chapter 10.77 RCW, and correctional facilities
2 operated by state and local governments;

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

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

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

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

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

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

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

36 (36) "Registration records" include all the records of the
37 department, regional support networks, treatment facilities, and
38 other persons providing services to the department, county
39 departments, or facilities which identify persons who are receiving
40 or who at any time have received services for mental illness;

1 (37) "Release" means legal termination of the commitment under
2 the provisions of this chapter;

3 (38) "Resource management services" has the meaning given in
4 chapter 71.24 RCW;

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

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

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

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

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

26 (44) "Treatment records" include registration and all other
27 records concerning persons who are receiving or who at any time have
28 received services for mental illness, which are maintained by the
29 department, by regional support networks and their staffs, and by
30 treatment facilities. Treatment records include mental health
31 information contained in a medical bill including but not limited to
32 mental health drugs, a mental health diagnosis, provider name, and
33 dates of service stemming from a medical service. Treatment records
34 do not include notes or records maintained for personal use by a
35 person providing treatment services for the department, regional
36 support networks, or a treatment facility if the notes or records are
37 not available to others;

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

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

22 (47) "Less restrictive alternative treatment" means a program of
23 individualized treatment in a less restrictive setting that includes
24 the services described in section 16 of this act.

25 **Sec. 2.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and
26 amended to read as follows:

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

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

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

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

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

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

6 (6) "Crisis stabilization unit" means a short-term facility or a
7 portion of a facility licensed by the department of health and
8 certified by the department of social and health services under RCW
9 71.24.035, such as an evaluation and treatment facility or a
10 hospital, which has been designed to assess, diagnose, and treat
11 individuals experiencing an acute crisis without the use of long-term
12 hospitalization;

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

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

19 (9) "Designated chemical dependency specialist" means a person
20 designated by the county alcoholism and other drug addiction program
21 coordinator designated under RCW 70.96A.310 to perform the commitment
22 duties described in chapters 70.96A and 70.96B RCW;

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

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

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

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

38 (14) "Developmental disability" means that condition defined in
39 RCW 71A.10.020(~~(4)~~) (5);

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

4 (16) "Evaluation and treatment facility" means any facility which
5 can provide directly, or by direct arrangement with other public or
6 private agencies, emergency evaluation and treatment, outpatient
7 care, and timely and appropriate inpatient care to persons suffering
8 from a mental disorder, and which is certified as such by the
9 department. A physically separate and separately operated portion of
10 a state hospital may be designated as an evaluation and treatment
11 facility. A facility which is part of, or operated by, the department
12 or any federal agency will not require certification. No correctional
13 institution or facility, or jail, shall be an evaluation and
14 treatment facility within the meaning of this chapter;

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

23 (18) "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 person being assisted as manifested by prior charged
30 criminal conduct;

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

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

38 (21) "Individualized service plan" means a plan prepared by a
39 developmental disabilities professional with other professionals as a

1 team, for a person with developmental disabilities, which shall
2 state:

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

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

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

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

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

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

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

19 (22) "Information related to mental health services" means all
20 information and records compiled, obtained, or maintained in the
21 course of providing services to either voluntary or involuntary
22 recipients of services by a mental health service provider. This may
23 include documents of legal proceedings under this chapter or chapter
24 71.34 or 10.77 RCW, or somatic health care information;

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

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

31 (25) "Likelihood of serious harm" means:

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

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

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

6 (27) "Mental health professional" means a psychiatrist,
7 psychologist, psychiatric advanced registered nurse practitioner,
8 psychiatric nurse, or social worker, and such other mental health
9 professionals as may be defined by rules adopted by the secretary
10 pursuant to the provisions of this chapter;

11 (28) "Mental health service provider" means a public or private
12 agency that provides mental health services to persons with mental
13 disorders as defined under this section and receives funding from
14 public sources. This includes, but is not limited to, hospitals
15 licensed under chapter 70.41 RCW, evaluation and treatment facilities
16 as defined in this section, community mental health service delivery
17 systems or community mental health programs as defined in RCW
18 71.24.025, facilities conducting competency evaluations and
19 restoration under chapter 10.77 RCW, and correctional facilities
20 operated by state and local governments;

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

25 (30) "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, which is
29 conducted for, or includes a department or ward conducted for, the
30 care and treatment of persons who are mentally ill;

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

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

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

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

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

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

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

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

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

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

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

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

37 (43) "Treatment records" include registration and all other
38 records concerning persons who are receiving or who at any time have
39 received services for mental illness, which are maintained by the
40 department, by behavioral health organizations and their staffs, and

1 by treatment facilities. Treatment records include mental health
2 information contained in a medical bill including but not limited to
3 mental health drugs, a mental health diagnosis, provider name, and
4 dates of service stemming from a medical service. Treatment records
5 do not include notes or records maintained for personal use by a
6 person providing treatment services for the department, behavioral
7 health organizations, or a treatment facility if the notes or records
8 are not available to others;

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

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

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

1 (47) "Less restrictive alternative treatment" means a program of
2 individualized treatment in a less restrictive setting than inpatient
3 treatment that includes the services described in section 16 of this
4 act.

5 **Sec. 3.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to
6 read as follows:

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

30 (b) Before filing the petition, the designated mental health
31 professional must personally interview the person, unless the person
32 refuses an interview, and determine whether the person will
33 voluntarily receive appropriate evaluation and treatment at an
34 evaluation and treatment facility, crisis stabilization unit, or
35 triage facility.

36 (2)(a) An order to detain to a designated evaluation and
37 treatment facility for not more than a seventy-two-hour evaluation
38 and treatment period, or an order for an involuntary outpatient
39 evaluation, may be issued by a judge of the superior court upon

1 request of a designated mental health professional, whenever it
2 appears to the satisfaction of a judge of the superior court:

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

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

6 (b) The petition for initial detention or involuntary outpatient
7 evaluation, signed under penalty of perjury, or sworn telephonic
8 testimony may be considered by the court in determining whether there
9 are sufficient grounds for issuing the 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 (3) The designated mental health professional shall then serve or
15 cause to be served on such person, his or her guardian, and
16 conservator, if any, a copy of the order together with a notice of
17 rights, and a petition for initial detention or involuntary
18 outpatient evaluation. After service on such person the designated
19 mental health professional shall file the return of service in court
20 and provide copies of all papers in the court file to the evaluation
21 and treatment facility and the designated attorney. The designated
22 mental health professional shall notify the court and the prosecuting
23 attorney that a probable cause hearing will be held within seventy-
24 two hours of the date and time of outpatient evaluation or admission
25 to the evaluation and treatment facility. The person shall be
26 permitted to be accompanied by one or more of his or her relatives,
27 friends, an attorney, a personal physician, or other professional or
28 religious advisor to the place of evaluation. An attorney
29 accompanying the person to the place of evaluation shall be permitted
30 to be present during the admission evaluation. Any other individual
31 accompanying the person may be present during the admission
32 evaluation. The facility may exclude the individual if his or her
33 presence would present a safety risk, delay the proceedings, or
34 otherwise interfere with the evaluation.

35 (4) The designated mental health professional may notify a peace
36 officer to take such person or cause such person to be taken into
37 custody and placed in an evaluation and treatment facility. At the
38 time such person is taken into custody there shall commence to be
39 served on such person, his or her guardian, and conservator, if any,

1 a copy of the original order together with a notice of rights and a
2 petition for initial detention.

3 **Sec. 4.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to
4 read as follows:

5 A designated mental health professional who conducts an
6 evaluation for imminent likelihood of serious harm or imminent danger
7 because of being gravely disabled under RCW 71.05.153 must also
8 evaluate the person under RCW 71.05.150 for likelihood of serious
9 harm or grave disability that does not meet the imminent standard for
10 emergency detention, and to determine whether the person is in need
11 of assisted outpatient mental health treatment.

12 **Sec. 5.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to
13 read as follows:

14 (1) Whenever a designated mental health professional or
15 professional person is conducting an evaluation under this chapter,
16 consideration shall include all reasonably available information from
17 credible witnesses and records regarding:

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

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

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

25 (d) Prior commitments under this chapter.

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

35 (3) Symptoms and behavior of the respondent which standing alone
36 would not justify civil commitment may support a finding of grave
37 disability or likelihood of serious harm, or a finding that the

1 person is in need of assisted outpatient mental health treatment,
2 when:

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

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

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

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

16 **Sec. 6.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to
17 read as follows:

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

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

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

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

38 (4) The professional staff of the agency or facility or the
39 designated mental health professional has filed a petition with the

1 court for a fourteen day involuntary detention or a ninety day less
2 restrictive alternative (~~((with the court))~~). The petition must be
3 signed either by:

4 (a) Two physicians;

5 (b) One physician and a mental health professional;

6 (c) Two psychiatric advanced registered nurse practitioners;

7 (d) One psychiatric advanced registered nurse practitioner and a
8 mental health professional; or

9 (e) A physician and a psychiatric advanced registered nurse
10 practitioner. The persons signing the petition must have examined the
11 person. If involuntary detention is sought the petition shall state
12 facts that support the finding that such person, as a result of
13 mental disorder, presents a likelihood of serious harm, or is gravely
14 disabled and that there are no less restrictive alternatives to
15 detention in the best interest of such person or others. The petition
16 shall state specifically that less restrictive alternative treatment
17 was considered and specify why treatment less restrictive than
18 detention is not appropriate. If an involuntary less restrictive
19 alternative is sought, the petition shall state facts that support
20 the finding that such person, as a result of mental disorder,
21 presents a likelihood of serious harm, (~~((or))~~) is gravely disabled, or
22 is in need of assisted outpatient mental health treatment, and shall
23 set forth a plan for the less restrictive alternative treatment
24 proposed by the facility in accordance with section 16 of this act;
25 and

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

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

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

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

39 (9) If the hospital or facility designated to provide
40 (~~((outpatient))~~) less restrictive alternative treatment is other than

1 the facility providing involuntary treatment, the outpatient facility
2 so designated to provide less restrictive alternative treatment has
3 agreed to assume such responsibility.

4 **Sec. 7.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to
5 read as follows:

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

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

22 (3) At the conclusion of the probable cause hearing(~~(, if the~~
23 ~~court finds by a preponderance of the evidence that)~~):

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

38 (b) If the court finds by a preponderance of the evidence that
39 such person, as the result of a mental disorder, is in need of

1 assisted outpatient mental health treatment, and that the person does
2 not present a likelihood of serious harm or grave disability, the
3 court shall order an appropriate less restrictive alternative course
4 of treatment not to exceed ninety days, and may not order inpatient
5 treatment.

6 (c) An order for less restrictive alternative treatment must
7 identify the services the person will receive, in accordance with
8 section 16 of this act. The court may order additional evaluation of
9 the person if necessary to identify appropriate services.

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

19 **Sec. 8.** RCW 71.05.245 and 2010 c 280 s 3 are each amended to
20 read as follows:

21 (1) In making a determination of whether a person is gravely
22 disabled (~~(or)~~), presents a likelihood of serious harm, or is in need
23 of assisted outpatient mental health treatment in a hearing conducted
24 under RCW 71.05.240 or 71.05.320, the court must consider the
25 symptoms and behavior of the respondent in light of all available
26 evidence concerning the respondent's historical behavior.

27 (2) Symptoms or behavior which standing alone would not justify
28 civil commitment may support a finding of grave disability or
29 likelihood of serious harm, or a finding that the person is in need
30 of assisted outpatient mental health treatment, when: (a) Such
31 symptoms or behavior are closely associated with symptoms or behavior
32 which preceded and led to a past incident of involuntary
33 hospitalization, severe deterioration, or one or more violent acts;
34 (b) these symptoms or behavior represent a marked and concerning
35 change in the baseline behavior of the respondent; and (c) without
36 treatment, the continued deterioration of the respondent is probable.

37 (3) In making a determination of whether there is a likelihood of
38 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
39 the court shall give great weight to any evidence before the court

1 regarding whether the person has: (a) A recent history of one or more
2 violent acts; or (b) a recent history of one or more commitments
3 under this chapter or its equivalent provisions under the laws of
4 another state which were based on a likelihood of serious harm. The
5 existence of prior violent acts or commitments under this chapter or
6 its equivalent shall not be the sole basis for determining whether a
7 person presents a likelihood of serious harm.

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

10 **Sec. 9.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to
11 read as follows:

12 At the expiration of the fourteen-day period of intensive
13 treatment, a person may be (~~confined~~) committed for further
14 treatment pursuant to RCW 71.05.320 if:

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

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

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

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

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

38 (4) Such person is gravely disabled; or

1 (5) Such person is in need of assisted outpatient mental health
2 treatment.

3 **Sec. 10.** RCW 71.05.290 and 2009 c 217 s 3 are each amended to
4 read as follows:

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

12 (2) The petition shall summarize the facts which support the need
13 for further (~~confinement~~) commitment and shall be supported by
14 affidavits signed by:

15 (a) Two examining physicians;

16 (b) One examining physician and examining mental health
17 professional;

18 (c) Two psychiatric advanced registered nurse practitioners;

19 (d) One psychiatric advanced registered nurse practitioner and a
20 mental health professional; or

21 (e) An examining physician and an examining psychiatric advanced
22 registered nurse practitioner. The affidavits shall describe in
23 detail the behavior of the detained person which supports the
24 petition and shall explain what, if any, less restrictive treatments
25 which are alternatives to detention are available to such person, and
26 shall state the willingness of the affiant to testify to such facts
27 in subsequent judicial proceedings under this chapter. If less
28 restrictive alternative treatment is sought, the petition shall set
29 forth a proposed plan for less restrictive alternative treatment in
30 accordance with section 16 of this act.

31 (3) If a person has been determined to be incompetent pursuant to
32 RCW 10.77.086(4), then the professional person in charge of the
33 treatment facility or his or her professional designee or the
34 designated mental health professional may directly file a petition
35 for one hundred eighty day treatment under RCW 71.05.280(3). No
36 petition for initial detention or fourteen day detention is required
37 before such a petition may be filed.

1 **Sec. 11.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
2 read as follows:

3 (1) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven and that the best interests of the person
5 or others will not be served by a less restrictive treatment which is
6 an alternative to detention, the court shall remand him or her to the
7 custody of the department or to a facility certified for ninety day
8 treatment by the department for a further period of intensive
9 treatment not to exceed ninety days from the date of judgment. If the
10 grounds set forth in RCW 71.05.280(3) are the basis of commitment,
11 then the period of treatment may be up to but not exceed one hundred
12 eighty days from the date of judgment in a facility certified for one
13 hundred eighty day treatment by the department.

14 (2) If the court or jury finds that grounds set forth in RCW
15 71.05.280 have been proven, but finds that treatment less restrictive
16 than detention will be in the best interest of the person or others,
17 then the court shall remand him or her to the custody of the
18 department or to a facility certified for ninety day treatment by the
19 department or to a less restrictive alternative for a further period
20 of less restrictive treatment not to exceed ninety days from the date
21 of judgment. If the grounds set forth in RCW 71.05.280(3) are the
22 basis of commitment, then the period of treatment may be up to but
23 not exceed one hundred eighty days from the date of judgment. If the
24 court or jury finds that the grounds set forth in RCW 71.05.280(5)
25 have been proven, and provide the only basis for commitment, the
26 court must enter an order for less restrictive alternative treatment
27 for up to ninety days from the date of judgment and may not order
28 inpatient treatment.

29 (3) An order for less restrictive alternative treatment entered
30 under subsection (2) of this section must identify the services the
31 person will receive, in accordance with section 16 of this act. The
32 court may order additional evaluation of the person if necessary to
33 identify appropriate services.

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

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

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

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

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

30 (d) Continues to be gravely disabled; or

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

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

35 ~~((4) For a person committed under subsection (2) of this section~~
36 ~~who has been remanded to a period of less restrictive treatment, in~~
37 ~~addition to the grounds specified in subsection (3) of this section,~~
38 ~~the designated mental health professional may file a new petition for~~
39 ~~continued less restrictive treatment if:~~

1 ~~(a) The person was previously committed by a court to detention~~
2 ~~for involuntary mental health treatment during the thirty-six months~~
3 ~~that preceded the person's initial detention date during the current~~
4 ~~involuntary commitment cycle, excluding any time spent in a mental~~
5 ~~health facility or in confinement as a result of a criminal~~
6 ~~conviction;~~

7 ~~(b) In view of the person's treatment history or current~~
8 ~~behavior, the person is unlikely to voluntarily participate in~~
9 ~~outpatient treatment without an order for less restrictive treatment;~~
10 ~~and~~

11 ~~(c) Outpatient treatment that would be provided under a less~~
12 ~~restrictive treatment order is necessary to prevent a relapse,~~
13 ~~decompensation, or deterioration that is likely to result in the~~
14 ~~person presenting a likelihood of serious harm or the person becoming~~
15 ~~gravely disabled within a reasonably short period of time.) If less~~
16 ~~restrictive alternative treatment is sought, the petition shall set~~
17 ~~forth a proposed plan for less restrictive alternative services in~~
18 ~~accordance with section 16 of this act.~~

19 (5) A new petition for involuntary treatment filed under
20 subsection ~~((3) or))~~ (4) of this section shall be filed and heard in
21 the superior court of the county of the facility which is filing the
22 new petition for involuntary treatment unless good cause is shown for
23 a change of venue. The cost of the proceedings shall be borne by the
24 state.

25 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
26 and if the court or jury finds that the grounds for additional
27 confinement as set forth in this section are present, the court may
28 order the committed person returned for an additional period of
29 treatment not to exceed one hundred eighty days from the date of
30 judgment, except as provided in subsection (7) of this section. If
31 the court's order is based solely on the grounds identified in
32 subsection (4)(e) of this section, the court may enter an order for
33 less restrictive alternative treatment not to exceed one hundred
34 eighty days from the date of judgment, and may not enter an order for
35 inpatient treatment. An order for less restrictive alternative
36 treatment must identify the services the person will receive, in
37 accordance with section 16 of this act. The court may order
38 additional evaluation of the person if necessary to identify
39 appropriate services.

1 **(b)** At the end of the one hundred eighty day period of
2 commitment, or one-year period of commitment if subsection (7) of
3 this section applies, the committed person shall be released unless a
4 petition for ~~((another))~~ an additional one hundred eighty day period
5 of continued treatment is filed and heard in the same manner as
6 provided in this section. Successive one hundred eighty day
7 commitments are permissible on the same grounds and pursuant to the
8 same procedures as the original one hundred eighty day commitment.
9 ~~((However, a commitment is not permissible under subsection (4) of~~
10 ~~this section if thirty-six months have passed since the last date of~~
11 ~~discharge from detention for inpatient treatment that preceded the~~
12 ~~current less restrictive alternative order, nor shall a commitment~~
13 ~~under subsection (4) of this section be permissible if the likelihood~~
14 ~~of serious harm in subsection (4)(c) of this section is based solely~~
15 ~~on harm to the property of others.))~~

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

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

24 **Sec. 12.** RCW 71.05.340 and 2009 c 322 s 1 are each amended to
25 read as follows:

26 **(1)(a)** When, in the opinion of the superintendent or the
27 professional person in charge of the hospital or facility providing
28 involuntary treatment, the committed person can be appropriately
29 served by outpatient treatment prior to or at the expiration of the
30 period of commitment, then such outpatient care may be required as a
31 term of conditional release for a period which, when added to the
32 inpatient treatment period, shall not exceed the period of
33 commitment. If the ~~((hospital or))~~ facility or agency designated to
34 provide outpatient treatment is other than the facility providing
35 involuntary treatment, the outpatient facility so designated must
36 agree in writing to assume such responsibility. A copy of the terms
37 of conditional release shall be given to the patient, the designated
38 mental health professional in the county in which the patient is to

1 receive outpatient treatment, and to the court of original
2 commitment.

3 (b) Before a person committed under grounds set forth in RCW
4 71.05.280(3) or 71.05.320(~~(+3+)~~) (4)(c) is conditionally released
5 under (a) of this subsection, the superintendent or professional
6 person in charge of the hospital or facility providing involuntary
7 treatment shall in writing notify the prosecuting attorney of the
8 county in which the criminal charges against the committed person
9 were dismissed, of the decision to conditionally release the person.
10 Notice and a copy of the terms of conditional release shall be
11 provided at least thirty days before the person is released from
12 inpatient care. Within twenty days after receiving notice, the
13 prosecuting attorney may petition the court in the county that issued
14 the commitment order to hold a hearing to determine whether the
15 person may be conditionally released and the terms of the conditional
16 release. The prosecuting attorney shall provide a copy of the
17 petition to the superintendent or professional person in charge of
18 the hospital or facility providing involuntary treatment, the
19 attorney, if any, and guardian or conservator of the committed
20 person, and the court of original commitment. If the county in which
21 the committed person is to receive outpatient treatment is the same
22 county in which the criminal charges against the committed person
23 were dismissed, then the court shall, upon the motion of the
24 prosecuting attorney, transfer the proceeding to the court in that
25 county. The court shall conduct a hearing on the petition within ten
26 days of the filing of the petition. The committed person shall have
27 the same rights with respect to notice, hearing, and counsel as for
28 an involuntary treatment proceeding, except as set forth in this
29 subsection and except that there shall be no right to jury trial. The
30 issue to be determined at the hearing is whether or not the person
31 may be conditionally released without substantial danger to other
32 persons, or substantial likelihood of committing criminal acts
33 jeopardizing public safety or security. If the court disapproves of
34 the conditional release, it may do so only on the basis of
35 substantial evidence. Pursuant to the determination of the court upon
36 the hearing, the conditional release of the person shall be approved
37 by the court on the same or modified conditions or the person shall
38 be returned for involuntary treatment on an inpatient basis subject
39 to release at the end of the period for which he or she was

1 committed, or otherwise in accordance with the provisions of this
2 chapter.

3 (2) The (~~hospital or~~) facility or agency designated to provide
4 outpatient care or the secretary may modify the conditions for
5 continued release when such modification is in the best interest of
6 the person. Notification of such changes shall be sent to all persons
7 receiving a copy of the original conditions. Enforcement or
8 revocation proceedings related to a conditional release order may
9 occur as provided under section 13 of this act.

10 (~~(3)(a) If the hospital or facility designated to provide~~
11 ~~outpatient care, the designated mental health professional, or the~~
12 ~~secretary determines that:~~

13 (i) ~~A conditionally released person is failing to adhere to the~~
14 ~~terms and conditions of his or her release;~~

15 (ii) ~~Substantial deterioration in a conditionally released~~
16 ~~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~~

20 (iv) ~~The person poses a likelihood of serious harm.~~

21 ~~Upon notification by the hospital or facility designated to~~
22 ~~provide outpatient care, or on his or her own motion, the designated~~
23 ~~mental health professional or the secretary may order that the~~
24 ~~conditionally released person be apprehended and taken into custody~~
25 ~~and temporarily detained in an evaluation and treatment facility in~~
26 ~~or near the county in which he or she is receiving outpatient~~
27 ~~treatment.~~

28 (b) ~~The hospital or facility designated to provide outpatient~~
29 ~~treatment shall notify the secretary or designated mental health~~
30 ~~professional when a conditionally released person fails to adhere to~~
31 ~~terms and conditions of his or her conditional release or experiences~~
32 ~~substantial deterioration in his or her condition and, as a result,~~
33 ~~presents an increased likelihood of serious harm. The designated~~
34 ~~mental health professional or secretary shall order the person~~
35 ~~apprehended and temporarily detained in an evaluation and treatment~~
36 ~~facility in or near the county in which he or she is receiving~~
37 ~~outpatient treatment.~~

38 (c) ~~A person detained under this subsection (3) shall be held~~
39 ~~until such time, not exceeding five days, as a hearing can be~~
40 ~~scheduled to determine whether or not the person should be returned~~

1 to the hospital or facility from which he or she had been
2 conditionally released. The designated mental health professional or
3 the secretary may modify or rescind such order at any time prior to
4 commencement of the court hearing.

5 (d) The court that originally ordered commitment shall be
6 notified within two judicial days of a person's detention under the
7 provisions of this section, and the designated mental health
8 professional or the secretary shall file his or her petition and
9 order of apprehension and detention with the court that originally
10 ordered commitment or with the court in the county in which the
11 person is detained and serve them upon the person detained. His or
12 her attorney, if any, and his or her guardian or conservator, if any,
13 shall receive a copy of such papers as soon as possible. Such person
14 shall have the same rights with respect to notice, hearing, and
15 counsel as for an involuntary treatment proceeding, except as
16 specifically set forth in this section and except that there shall be
17 no right to jury trial. The venue for proceedings regarding a
18 petition for modification or revocation of an order for conditional
19 release shall be in the county in which the petition was filed. The
20 issues to be determined shall be: (i) Whether the conditionally
21 released person did or did not adhere to the terms and conditions of
22 his or her conditional release; (ii) that substantial deterioration
23 in the person's functioning has occurred; (iii) there is evidence of
24 substantial decompensation with a reasonable probability that the
25 decompensation can be reversed by further inpatient treatment; or
26 (iv) there is a likelihood of serious harm; and, if any of the
27 conditions listed in this subsection (3)(d) have occurred, whether
28 the terms of conditional release should be modified or the person
29 should be returned to the facility.

30 (e) Pursuant to the determination of the court upon such hearing,
31 the conditionally released person shall either continue to be
32 conditionally released on the same or modified conditions or shall be
33 returned for involuntary treatment on an inpatient basis subject to
34 release at the end of the period for which he or she was committed
35 for involuntary treatment, or otherwise in accordance with the
36 provisions of this chapter. Such hearing may be waived by the person
37 and his or her counsel and his or her guardian or conservator, if
38 any, but shall not be waivable unless all such persons agree to
39 waive, and upon such waiver the person may be returned for

1 ~~involuntary treatment or continued on conditional release on the same~~
2 ~~or modified conditions.~~

3 ~~(4) The proceedings set forth in subsection (3) of this section~~
4 ~~may be initiated by the designated mental health professional or the~~
5 ~~secretary on the same basis set forth therein without requiring or~~
6 ~~ordering the apprehension and detention of the conditionally released~~
7 ~~person, in which case the court hearing shall take place in not less~~
8 ~~than five days from the date of service of the petition upon the~~
9 ~~conditionally released person. The petition may be filed in the court~~
10 ~~that originally ordered commitment or with the court in the county in~~
11 ~~which the person is present. The venue for the proceedings regarding~~
12 ~~the petition for modification or revocation of an order for~~
13 ~~conditional release shall be in the county in which the petition was~~
14 ~~filed.~~

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

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

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

24 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.05
25 RCW to read as follows:

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

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

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

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

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

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

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

10 (b) To increase the intensity of outpatient services provided to
11 the person by increasing the frequency of contacts with the provider,
12 referring the person for an assessment for monitored medication
13 administration, assertive community services, or injectable
14 medication, or by other means;

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

25 (d) To cause the person to be transported by a peace officer,
26 designated mental health professional, or other means to the agency
27 or facility monitoring or providing services under the court order,
28 or to a triage facility, crisis stabilization unit, emergency
29 department, or evaluation and treatment facility for up to twelve
30 hours for the purpose of an evaluation to determine whether
31 modification, revocation, or commitment proceedings are necessary and
32 appropriate to stabilize the person and prevent decompensation,
33 deterioration, or physical harm. Temporary detention for evaluation
34 under this subsection is intended to occur only following a pattern
35 of noncompliance or the failure of reasonable attempts at outreach
36 and engagement. This subsection does not limit the ability or
37 obligation to pursue revocation procedures under subsection (4) of
38 this section in appropriate circumstances; and

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

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

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

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

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

34 (d) The issues for the court to determine are whether: (i) The
35 person adhered to the terms and conditions of the court order; (ii)
36 substantial deterioration in the person's functioning has occurred;
37 (iii) there is evidence of substantial decompensation with a
38 reasonable probability that the decompensation can be reversed by
39 further inpatient treatment; or (iv) there is a likelihood of serious
40 harm; and, if any of the above conditions apply, whether the court

1 should reinstate or modify the person's less restrictive alternative
2 or conditional release order or order the person's detention for
3 inpatient treatment. The person may waive the court hearing and allow
4 the court to enter a stipulated order upon the agreement of all
5 parties. If the court orders detention for inpatient treatment, the
6 treatment period may be for no longer than the period authorized in
7 the original court order.

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

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

20 **Sec. 14.** RCW 71.05.730 and 2011 c 343 s 2 are each amended to
21 read as follows:

22 (1) A county may apply to its regional support network on a
23 quarterly basis for reimbursement of its direct costs in providing
24 judicial services for civil commitment cases under this chapter and
25 chapter 71.34 RCW. The regional support network shall in turn be
26 entitled to reimbursement from the regional support network that
27 serves the county of residence of the individual who is the subject
28 of the civil commitment case. Reimbursements under this section shall
29 be paid out of the regional support network's nonmedicaid
30 appropriation.

31 (2) Reimbursement for judicial services shall be provided per
32 civil commitment case at a rate to be determined based on an
33 independent assessment of the county's actual direct costs. This
34 assessment must be based on an average of the expenditures for
35 judicial services within the county over the past three years. In the
36 event that a baseline cannot be established because there is no
37 significant history of similar cases within the county, the
38 reimbursement rate shall be equal to eighty percent of the median

1 reimbursement rate of counties included in the independent
2 assessment.

3 (3) For the purposes of this section:

4 (a) "Civil commitment case" includes all judicial hearings
5 related to a single episode of hospitalization((~~τ~~)) or less
6 restrictive alternative ((~~detention in lieu of hospitalization~~))
7 treatment, except that the filing of a petition for a one hundred
8 eighty-day commitment under this chapter or a petition for a
9 successive one hundred eighty-day commitment under chapter 71.34 RCW
10 shall be considered to be a new case regardless of whether there has
11 been a break in detention. "Civil commitment case" does not include
12 the filing of a petition for a one hundred eighty-day commitment
13 under this chapter on behalf of a patient at a state psychiatric
14 hospital.

15 (b) "Judicial services" means a county's reasonable direct costs
16 in providing prosecutor services, assigned counsel and defense
17 services, court services, and court clerk services for civil
18 commitment cases under this chapter and chapter 71.34 RCW.

19 (4) To the extent that resources have shared purpose, the
20 regional support network may only reimburse counties to the extent
21 such resources are necessary for and devoted to judicial services as
22 described in this section.

23 (5) No filing fee may be charged or collected for any civil
24 commitment case subject to reimbursement under this section.

25 **Sec. 15.** RCW 71.05.730 and 2014 c 225 s 87 are each amended to
26 read as follows:

27 (1) A county may apply to its behavioral health organization on a
28 quarterly basis for reimbursement of its direct costs in providing
29 judicial services for civil commitment cases under this chapter and
30 chapter 71.34 RCW. The behavioral health organization shall in turn
31 be entitled to reimbursement from the behavioral health organization
32 that serves the county of residence of the individual who is the
33 subject of the civil commitment case. Reimbursements under this
34 section shall be paid out of the behavioral health organization's
35 nonmedicaid appropriation.

36 (2) Reimbursement for judicial services shall be provided per
37 civil commitment case at a rate to be determined based on an
38 independent assessment of the county's actual direct costs. This
39 assessment must be based on an average of the expenditures for

1 judicial services within the county over the past three years. In the
2 event that a baseline cannot be established because there is no
3 significant history of similar cases within the county, the
4 reimbursement rate shall be equal to eighty percent of the median
5 reimbursement rate of counties included in the independent
6 assessment.

7 (3) For the purposes of this section:

8 (a) "Civil commitment case" includes all judicial hearings
9 related to a single episode of hospitalization((~~τ~~)) or less
10 restrictive alternative ((~~detention in lieu of hospitalization~~))
11 treatment, except that the filing of a petition for a one hundred
12 eighty-day commitment under this chapter or a petition for a
13 successive one hundred eighty-day commitment under chapter 71.34 RCW
14 shall be considered to be a new case regardless of whether there has
15 been a break in detention. "Civil commitment case" does not include
16 the filing of a petition for a one hundred eighty-day commitment
17 under this chapter on behalf of a patient at a state psychiatric
18 hospital.

19 (b) "Judicial services" means a county's reasonable direct costs
20 in providing prosecutor services, assigned counsel and defense
21 services, court services, and court clerk services for civil
22 commitment cases under this chapter and chapter 71.34 RCW.

23 (4) To the extent that resources have shared purpose, the
24 behavioral health organization may only reimburse counties to the
25 extent such resources are necessary for and devoted to judicial
26 services as described in this section.

27 (5) No filing fee may be charged or collected for any civil
28 commitment case subject to reimbursement under this section.

29 NEW SECTION. **Sec. 16.** A new section is added to chapter 71.05
30 RCW to read as follows:

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

33 (a) Assignment of a care coordinator;

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

36 (c) A psychiatric evaluation;

37 (d) Medication management;

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

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

6 (g) An individual crisis plan.

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

9 (a) Psychotherapy;

10 (b) Nursing;

11 (c) Substance abuse counseling;

12 (d) Residential treatment; and

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

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

18 (4) For the purpose of this section, "care coordinator" means a
19 clinical practitioner who coordinates the activities of less
20 restrictive alternative treatment. The care coordinator coordinates
21 activities with the designated mental health professionals necessary
22 for enforcement and continuation of less restrictive alternative
23 orders. The care coordinator is responsible for coordinating service
24 activities with other agencies and establishing and maintaining a
25 therapeutic relationship with the individual on a continuing basis,
26 including providing individual supportive therapy and providing
27 primary support and education to the individual's family and support
28 system. The care coordinator retains these responsibilities when the
29 individual is in the hospital, in the community, or involved with
30 other agencies, and must collaborate with the individual to write
31 treatment, transition, and care plans that offer options and choices
32 to the individual. The care coordinator ensures that immediate
33 changes are made to these plans in response to changes to the
34 individual's needs.

35 NEW SECTION. **Sec. 17.** A new section is added to chapter 71.05
36 RCW to read as follows:

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

1 when, in the opinion of the professional person in charge of the less
2 restrictive alternative treatment provider, (1) the person is
3 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. 18.** RCW 71.24.330 and 2013 c 320 s 9 are each amended to
9 read as follows:

10 (1)(a) Contracts between a regional support network and the
11 department shall include mechanisms for monitoring performance under
12 the contract and remedies for failure to substantially comply with
13 the requirements of the contract including, but not limited to,
14 financial penalties, termination of the contract, and reprocurement
15 of the contract.

16 (b) The department shall incorporate the criteria to measure the
17 performance of service coordination organizations into contracts with
18 regional support networks as provided in chapter 70.320 RCW.

19 (2) The regional support network procurement processes shall
20 encourage the preservation of infrastructure previously purchased by
21 the community mental health service delivery system, the maintenance
22 of linkages between other services and delivery systems, and
23 maximization of the use of available funds for services versus
24 profits. However, a regional support network selected through the
25 procurement process is not required to contract for services with any
26 county-owned or operated facility. The regional support network
27 procurement process shall provide that public funds appropriated by
28 the legislature shall not be used to promote or deter, encourage, or
29 discourage employees from exercising their rights under Title 29,
30 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

31 (3) In addition to the requirements of RCW 71.24.035, contracts
32 shall:

33 (a) Define administrative costs and ensure that the regional
34 support network does not exceed an administrative cost of ten percent
35 of available funds;

36 (b) Require effective collaboration with law enforcement,
37 criminal justice agencies, and the chemical dependency treatment
38 system;

1 (c) Require substantial implementation of department adopted
2 integrated screening and assessment process and matrix of best
3 practices;

4 (d) Maintain the decision-making independence of designated
5 mental health professionals;

6 (e) Except at the discretion of the secretary or as specified in
7 the biennial budget, require regional support networks to pay the
8 state for the costs associated with individuals who are being served
9 on the grounds of the state hospitals and who are not receiving long-
10 term inpatient care as defined in RCW 71.24.025;

11 (f) Include a negotiated alternative dispute resolution clause;
12 (~~and~~))

13 (g) Include a provision requiring either party to provide one
14 hundred eighty days' notice of any issue that may cause either party
15 to voluntarily terminate, refuse to renew, or refuse to sign a
16 mandatory amendment to the contract to act as a regional support
17 network. If either party decides to voluntarily terminate, refuse to
18 renew, or refuse to sign a mandatory amendment to the contract to
19 serve as a regional support network they shall provide ninety days'
20 advance notice in writing to the other party;

21 (h) Require regional support networks to provide services as
22 identified in section 16 of this act to individuals committed for
23 involuntary commitment under less restrictive alternative court
24 orders when:

25 (i) The individual is enrolled in the medicaid program and meets
26 regional support network access to care standards; or

27 (ii) The individual is not enrolled in medicaid, does not have
28 other insurance which can pay for the services, and the regional
29 support network has adequate available resources to provide the
30 services; and

31 (i) Establish caseload guidelines for care coordinators who
32 supervise less restrictive alternative orders and guidelines for
33 response times during and immediately following periods of
34 hospitalization or incarceration.

35 **Sec. 19.** RCW 71.24.330 and 2014 c 225 s 51 are each amended to
36 read as follows:

37 (1)(a) Contracts between a behavioral health organization and the
38 department shall include mechanisms for monitoring performance under
39 the contract and remedies for failure to substantially comply with

1 the requirements of the contract including, but not limited to,
2 financial penalties, termination of the contract, and reprocurement
3 of the contract.

4 (b) The department shall incorporate the criteria to measure the
5 performance of service coordination organizations into contracts with
6 behavioral health organizations as provided in chapter 70.320 RCW.

7 (2) The behavioral health organization procurement processes
8 shall encourage the preservation of infrastructure previously
9 purchased by the community mental health service delivery system, the
10 maintenance of linkages between other services and delivery systems,
11 and maximization of the use of available funds for services versus
12 profits. However, a behavioral health organization selected through
13 the procurement process is not required to contract for services with
14 any county-owned or operated facility. The behavioral health
15 organization procurement process shall provide that public funds
16 appropriated by the legislature shall not be used to promote or
17 deter, encourage, or discourage employees from exercising their
18 rights under Title 29, chapter 7, subchapter II, United States Code
19 or chapter 41.56 RCW.

20 (3) In addition to the requirements of RCW 71.24.035, contracts
21 shall:

22 (a) Define administrative costs and ensure that the behavioral
23 health organization does not exceed an administrative cost of ten
24 percent of available funds;

25 (b) Require effective collaboration with law enforcement,
26 criminal justice agencies, and the chemical dependency treatment
27 system;

28 (c) Require substantial implementation of department adopted
29 integrated screening and assessment process and matrix of best
30 practices;

31 (d) Maintain the decision-making independence of designated
32 mental health professionals;

33 (e) Except at the discretion of the secretary or as specified in
34 the biennial budget, require behavioral health organizations to pay
35 the state for the costs associated with individuals who are being
36 served on the grounds of the state hospitals and who are not
37 receiving long-term inpatient care as defined in RCW 71.24.025;

38 (f) Include a negotiated alternative dispute resolution clause;
39 ((and))

1 (g) Include a provision requiring either party to provide one
2 hundred eighty days' notice of any issue that may cause either party
3 to voluntarily terminate, refuse to renew, or refuse to sign a
4 mandatory amendment to the contract to act as a behavioral health
5 organization. If either party decides to voluntarily terminate,
6 refuse to renew, or refuse to sign a mandatory amendment to the
7 contract to serve as a behavioral health organization they shall
8 provide ninety days' advance notice in writing to the other party;

9 (h) Require behavioral health organizations to provide services
10 as identified in section 16 of this act to individuals committed for
11 involuntary commitment under less restrictive alternative court
12 orders when:

13 (i) The individual is enrolled in the medicaid program and meets
14 behavioral health organization access to care standards; or

15 (ii) The individual is not enrolled in medicaid, does not have
16 other insurance which can pay for the services, and the behavioral
17 health organization has adequate available resources to provide the
18 services; and

19 (i) Establish caseload guidelines for care coordinators who
20 supervise less restrictive alternative orders and guidelines for
21 response times during and immediately following periods of
22 hospitalization or incarceration.

23 **Sec. 20.** RCW 71.05.210 and 2009 c 217 s 1 are each amended to
24 read as follows:

25 Each person involuntarily detained and accepted or admitted at an
26 evaluation and treatment facility (1) shall, within twenty-four hours
27 of his or her admission or acceptance at the facility, be examined
28 and evaluated by (a) a licensed physician who may be assisted by a
29 physician assistant according to chapter 18.71A RCW and a mental
30 health professional, (b) an advanced registered nurse practitioner
31 according to chapter 18.79 RCW and a mental health professional, or
32 (c) a licensed physician and a psychiatric advanced registered nurse
33 practitioner and (2) shall receive such treatment and care as his or
34 her condition requires including treatment on an outpatient basis for
35 the period that he or she is detained, except that, beginning twenty-
36 four hours prior to a trial or hearing pursuant to RCW 71.05.215,
37 71.05.240, 71.05.310, 71.05.320, (~~71.05.340~~) section 13 of this
38 act, or 71.05.217, the individual may refuse psychiatric medications,
39 but may not refuse: (a) Any other medication previously prescribed by

1 a person licensed under Title 18 RCW; or (b) emergency lifesaving
2 treatment, and the individual shall be informed at an appropriate
3 time of his or her right of such refusal. The person shall be
4 detained up to seventy-two hours, if, in the opinion of the
5 professional person in charge of the facility, or his or her
6 professional designee, the person presents a likelihood of serious
7 harm, or is gravely disabled. A person who has been detained for
8 seventy-two hours shall no later than the end of such period be
9 released, unless referred for further care on a voluntary basis, or
10 detained pursuant to court order for further treatment as provided in
11 this chapter.

12 If, after examination and evaluation, the mental health
13 professional and licensed physician or psychiatric advanced
14 registered nurse practitioner determine that the initial needs of the
15 person would be better served by placement in a chemical dependency
16 treatment facility, then the person shall be referred to an approved
17 treatment program defined under RCW 70.96A.020.

18 An evaluation and treatment center admitting or accepting any
19 person pursuant to this chapter whose physical condition reveals the
20 need for hospitalization shall assure that such person is transferred
21 to an appropriate hospital for evaluation or admission for treatment.
22 Notice of such fact shall be given to the court, the designated
23 attorney, and the designated mental health professional and the court
24 shall order such continuance in proceedings under this chapter as may
25 be necessary, but in no event may this continuance be more than
26 fourteen days.

27 **Sec. 21.** 2009 c 323 s 1 (uncodified) is amended to read as
28 follows:

29 (1) The legislature finds that many persons who are released from
30 involuntary mental health treatment in an inpatient setting would
31 benefit from an order for less restrictive treatment in order to
32 provide the structure and support necessary to facilitate long-term
33 stability and success in the community.

34 (2) The legislature intends to make it easier to renew orders for
35 less restrictive treatment following a period of inpatient commitment
36 in cases in which a person has been involuntarily committed more than
37 once and is likely to benefit from a renewed order for less
38 restrictive treatment.

1 (3) The legislature finds that public safety is enhanced when a
2 designated mental health professional is able to file a petition to
3 revoke an order for less restrictive treatment under ((RCW
4 ~~71.05.340~~) section 13 of this act before a person who is the subject
5 of the petition becomes ill enough to present a likelihood of serious
6 harm.

7 NEW SECTION. Sec. 22. Sections 1, 14, and 18 of this act expire
8 April 1, 2016.

9 NEW SECTION. Sec. 23. Sections 2, 15, and 19 of this act take
10 effect April 1, 2016.

11 NEW SECTION. Sec. 24. If specific funding for the purposes of
12 this act, referencing this act by bill or chapter number, is not
13 provided by June 30, 2015, in the omnibus appropriations act, this
14 act is null and void."

E2SHB 1450 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

ADOPTED AS AMENDED 4/14/2015

15 On page 1, line 2 of the title, after "treatment;" strike the
16 remainder of the title and insert "amending RCW 71.05.150, 71.05.156,
17 71.05.212, 71.05.230, 71.05.240, 71.05.245, 71.05.280, 71.05.290,
18 71.05.320, 71.05.340, 71.05.730, 71.05.730, 71.24.330, 71.24.330, and
19 71.05.210; amending 2009 c 323 s 1 (uncodified); reenacting and
20 amending RCW 71.05.020 and 71.05.020; adding new sections to chapter
21 71.05 RCW; creating a new section; providing an effective date; and
22 providing an expiration date."

EFFECT: New enforcement provisions are provided for LRA and conditional release orders, authorizing agencies, facilities, or DMHPs to take a flexible range of actions of varying intensity appropriate to the circumstances and consistent with the interests of the individual and the public in individual autonomy, safety, recovery, and compliance. Available actions may include: (1) To counsel, advise, or admonish the individual, or provide appropriate incentives; (2) to increase the intensity of outpatient services; (3) to request a court hearing for review and modification of the court order; (4) to temporarily detain the person for up to 12 hours to a treatment agency, triage facility, crisis stabilization unit, emergency department, or evaluation and treatment facility for the purpose of an evaluation to determine whether modification,

revocation, or commitment proceedings are necessary and appropriate; and (5) traditional revocation proceedings. Twelve-hour detention for evaluation is intended to occur only after a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement. All procedures on this list except traditional revocation proceedings are available for persons committed based on being in need of assisted outpatient mental health treatment.

DSHS must establish caseload guidelines for care coordinators who supervise LRA orders and guidelines for response times during and immediately following periods of hospitalization or incarceration. Residential treatment may be required as part of an LRA order if appropriate. LRA treatment must be administered by an entity that is certified or licensed to provide or coordinate the full scope of required services. A definition of "care coordinator" is provided.

Language is removed authorizing the court to postpone issuing a decision at a commitment hearing for five judicial days and requiring less restrictive alternative orders to be proposed by the petitioner. An involuntary outpatient evaluation may be performed by any combination of professionals authorized to petition for involuntary commitment under RCW 71.05.230 and include involvement of or consultation with the agency or facility which will provide monitoring or services under the proposed LRA treatment order.

--- END ---