
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5649

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Darneille, Miloscia, Fraser, Keiser, Parlette, Benton, McCoy, and Dammeier)

1 AN ACT Relating to the involuntary treatment act; amending RCW
2 71.05.010, 71.05.050, 71.05.210, 71.24.035, 71.24.300, 71.24.300,
3 71.05.150, 71.05.156, 71.05.212, 71.05.230, 71.05.240, 71.05.245,
4 71.05.280, and 71.05.320; reenacting and amending RCW 71.05.153,
5 71.05.020, and 71.05.020; adding new sections to chapter 71.05 RCW;
6 adding a new section to chapter 71.24 RCW; adding a new section to
7 chapter 71.34 RCW; creating a new section; providing an effective
8 date; providing an expiration date; and declaring an emergency.

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

10 **PART I: INITIAL DETENTION**

11 **Sec. 101.** RCW 71.05.010 and 1998 c 297 s 2 are each amended to
12 read as follows:

13 (1) The provisions of this chapter are intended by the
14 legislature:

15 ((+1)) (a) To protect the health and safety of persons suffering
16 from mental disorders and to protect public safety through use of the
17 parens patriae and police powers of the state;

18 (b) To prevent inappropriate, indefinite commitment of mentally
19 disordered persons and to eliminate legal disabilities that arise
20 from such commitment;

1 ((+2)) (c) To provide prompt evaluation and timely and
2 appropriate treatment of persons with serious mental disorders;

3 ((+3)) (d) To safeguard individual rights;

4 ((+4)) (e) To provide continuity of care for persons with
5 serious mental disorders;

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

9 ((+6)) (g) To encourage, whenever appropriate, that services be
10 provided within the community((+

11 ~~(7) To protect the public safety~~)).

12 (2) When construing the requirements of this chapter the court
13 must focus on the merits of the petition, except where requirements
14 have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d
15 259, 281 (2002). A presumption in favor of deciding petitions on
16 their merits furthers both public and private interests because the
17 mental and physical well-being of individuals as well as public
18 safety may be implicated by the decision to release an individual and
19 discontinue his or her treatment.

20 NEW SECTION. Sec. 102. A new section is added to chapter 71.05
21 RCW to read as follows:

22 (1) The department may use a single bed certification process to
23 provide additional treatment capacity for a person suffering from a
24 mental disorder for whom an evaluation and treatment bed is not
25 available. The facility that is the proposed site of the single bed
26 certification must be a facility that is willing and able to provide
27 the person with timely and appropriate treatment either directly or
28 by arrangement with other public or private agencies. Appropriate
29 settings for single bed certifications may include, but are not
30 limited to, any of the following settings where the facility is
31 willing and able to provide timely and appropriate treatment to the
32 person:

33 (a) A hospital with or without a psychiatric unit;

34 (b) A psychiatric hospital;

35 (c) A hospital that is willing and able to provide timely and
36 appropriate mental health treatment or medical treatment to a person
37 with a co-occurring mental disorder and medical condition such that
38 it prevents transfer to an evaluation and treatment facility or state
39 hospital; or

1 (d) A residential treatment facility.

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

4 (3) A designated mental health professional who submits an
5 application for a single bed certification for treatment at a
6 facility which is willing and able to provide timely and appropriate
7 mental health treatment, or medical treatment to an individual with a
8 co-occurring mental disorder and medical condition, in good faith
9 belief that the single bed certification is appropriate may presume
10 that the single bed certification will be approved for the purpose of
11 completing the detention process and responding to other emergency
12 calls.

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

16 NEW SECTION. **Sec. 103.** A new section is added to chapter 71.05
17 RCW to read as follows:

18 (1) A designated mental health professional shall make a report
19 to the department when he or she determines a person meets detention
20 criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and
21 there are not any beds available at an evaluation and treatment
22 facility, the person has not been provisionally accepted for
23 admission by a facility, and the person cannot be served on a single
24 bed certification or less restrictive alternative. Starting at the
25 time when the designated mental health professional determines a
26 person meets detention criteria and the investigation has been
27 completed, the designated mental health professional has twenty-four
28 hours to submit a completed report to the department.

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

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

32 (b) The identity of the responsible regional support network or
33 behavioral health organization;

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

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

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

38 (3) The department shall develop a standardized reporting form or
39 modify the current form used for single bed certifications for the

1 report required under subsection (2) of this section and may require
2 additional reporting elements as it determines are necessary or
3 supportive. The department shall also determine the method for the
4 transmission of the completed report from the designated mental
5 health professional to the department.

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

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

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

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

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

27 NEW SECTION. **Sec. 104.** A new section is added to chapter 71.05
28 RCW to read as follows:

29 (1) Submission of a report as provided in section 103 of this act
30 constitutes prima facie evidence that the responsible regional
31 support network or behavioral health organization is in breach of its
32 duty under RCW 71.24.300(6)(b) and 43.20A.894(1)(d) to provide for
33 adequate network of evaluation and treatment services within its
34 regional service area.

35 (2) The department shall promptly share reports it receives under
36 section 103 of this act with the responsible regional support network
37 or behavioral health organization. The regional support network or
38 behavioral health organization receiving this notification must
39 attempt to engage the person in appropriate services for which the

1 person is eligible and report back within seven days to the
2 department.

3 (3) The department shall track and analyze reports submitted
4 under section 103 of this act. The department must initiate
5 corrective action when appropriate to ensure that each regional
6 support network or behavioral health organization has implemented an
7 adequate plan to provide evaluation and treatment services.
8 Corrective actions may include remedies under RCW 71.24.330 and
9 43.20A.894, including requiring expenditure of reserve funds. An
10 adequate plan may include development of less restrictive
11 alternatives to involuntary commitment such as crisis triage, crisis
12 diversion, voluntary treatment, or prevention programs reasonably
13 calculated to reduce demand for evaluation and treatment under this
14 chapter.

15 **Sec. 105.** RCW 71.05.050 and 2000 c 94 s 3 are each amended to
16 read as follows:

17 (1) Nothing in this chapter shall be construed to limit the right
18 of any person to apply voluntarily to any public or private agency or
19 practitioner for treatment of a mental disorder, either by direct
20 application or by referral. Any person voluntarily admitted for
21 inpatient treatment to any public or private agency shall be released
22 immediately upon his or her request. Any person voluntarily admitted
23 for inpatient treatment to any public or private agency shall orally
24 be advised of the right to immediate discharge, and further advised
25 of such rights in writing as are secured to them pursuant to this
26 chapter and their rights of access to attorneys, courts, and other
27 legal redress. Their condition and status shall be reviewed at least
28 once each one hundred eighty days for evaluation as to the need for
29 further treatment or possible discharge, at which time they shall
30 again be advised of their right to discharge upon request(~~(+PROVIDED~~
31 ~~HOWEVER, That)~~).

32 (2) If the professional staff of any public or private agency or
33 hospital regards a person voluntarily admitted who requests discharge
34 as presenting, as a result of a mental disorder, an imminent
35 likelihood of serious harm, or is gravely disabled, they may detain
36 such person for sufficient time to notify the ((~~county~~)) designated
37 mental health professional of such person's condition to enable the
38 ((~~county~~)) designated mental health professional to authorize such
39 person being further held in custody or transported to an evaluation

1 and treatment center pursuant to the provisions of this chapter,
2 which shall in ordinary circumstances be no later than the next
3 judicial day(~~(+ PROVIDED FURTHER, That)~~).

4 (3) If a person is brought to the emergency room of a public or
5 private agency or hospital for observation or treatment, the person
6 refuses voluntary admission, and the professional staff of the public
7 or private agency or hospital regard such person as presenting as a
8 result of a mental disorder an imminent likelihood of serious harm,
9 or as presenting an imminent danger because of grave disability, they
10 may detain such person for sufficient time to notify the ((county))
11 designated mental health professional of such person's condition to
12 enable the ((county)) designated mental health professional to
13 authorize such person being further held in custody or transported to
14 an evaluation treatment center pursuant to the conditions in this
15 chapter, but which time shall be no more than six hours from the time
16 the professional staff ((determine that an evaluation by)) notify the
17 ((county)) designated mental health professional ((is necessary)) of
18 the need for evaluation, not counting time periods prior to medical
19 clearance.

20 (4) Dismissal of a commitment petition is not the appropriate
21 remedy for a violation of the timeliness requirements of this section
22 based on the intent of this chapter under RCW 71.05.010 except in the
23 few cases where the facility staff or designated mental health
24 professional has totally disregarded the requirements of this
25 section.

26 **Sec. 106.** RCW 71.05.153 and 2011 c 305 s 8 and 2011 c 148 s 2
27 are each reenacted and amended to read as follows:

28 (1) When a designated mental health professional receives
29 information alleging that a person, as the result of a mental
30 disorder, presents an imminent likelihood of serious harm, or is in
31 imminent danger because of being gravely disabled, after
32 investigation and evaluation of the specific facts alleged and of the
33 reliability and credibility of the person or persons providing the
34 information if any, the designated mental health professional may
35 take such person, or cause by oral or written order such person to be
36 taken into emergency custody in an evaluation and treatment facility
37 for not more than seventy-two hours as described in RCW 71.05.180.

38 (2) A peace officer may take or cause such person to be taken
39 into custody and immediately delivered to a triage facility, crisis

1 stabilization unit, evaluation and treatment facility, or the
2 emergency department of a local hospital under the following
3 circumstances:

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

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

9 (3) Persons delivered to a crisis stabilization unit, evaluation
10 and treatment facility, emergency department of a local hospital, or
11 triage facility that has elected to operate as an involuntary
12 facility by peace officers pursuant to subsection (2) of this section
13 may be held by the facility for a period of up to twelve hours, not
14 counting time periods prior to medical clearance.

15 (4) Within three hours (~~(of)~~) after arrival, not counting time
16 periods prior to medical clearance, the person must be examined by a
17 mental health professional. Within twelve hours of (~~arrival~~) notice
18 of the need for evaluation, not counting time periods prior to
19 medical clearance, the designated mental health professional must
20 determine whether the individual meets detention criteria. If the
21 individual is detained, the designated mental health professional
22 shall file a petition for detention or a supplemental petition as
23 appropriate and commence service on the designated attorney for the
24 detained person. If the individual is released to the community, the
25 mental health provider shall inform the peace officer of the release
26 within a reasonable period of time after the release if the peace
27 officer has specifically requested notification and provided contact
28 information to the provider.

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

35 **Sec. 107.** RCW 71.05.210 and 2009 c 217 s 1 are each amended to
36 read as follows:

37 Each person involuntarily detained and accepted or admitted at an
38 evaluation and treatment facility (1) shall, within twenty-four hours
39 of his or her admission or acceptance at the facility, not counting

1 time periods prior to medical clearance, be examined and evaluated by
2 (a) a licensed physician who may be assisted by a physician assistant
3 according to chapter 18.71A RCW and a mental health professional, (b)
4 an advanced registered nurse practitioner according to chapter 18.79
5 RCW and a mental health professional, or (c) a licensed physician and
6 a psychiatric advanced registered nurse practitioner and (2) shall
7 receive such treatment and care as his or her condition requires
8 including treatment on an outpatient basis for the period that he or
9 she is detained, except that, beginning twenty-four hours prior to a
10 trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310,
11 71.05.320, 71.05.340, or 71.05.217, the individual may refuse
12 psychiatric medications, but may not refuse: (a) Any other medication
13 previously prescribed by a person licensed under Title 18 RCW; or (b)
14 emergency lifesaving treatment, and the individual shall be informed
15 at an appropriate time of his or her right of such refusal. The
16 person shall be detained up to seventy-two hours, if, in the opinion
17 of the professional person in charge of the facility, or his or her
18 professional designee, the person presents a likelihood of serious
19 harm, or is gravely disabled. A person who has been detained for
20 seventy-two hours shall no later than the end of such period be
21 released, unless referred for further care on a voluntary basis, or
22 detained pursuant to court order for further treatment as provided in
23 this chapter.

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

30 An evaluation and treatment center admitting or accepting any
31 person pursuant to this chapter whose physical condition reveals the
32 need for hospitalization shall assure that such person is transferred
33 to an appropriate hospital for evaluation or admission for treatment.
34 Notice of such fact shall be given to the court, the designated
35 attorney, and the designated mental health professional and the court
36 shall order such continuance in proceedings under this chapter as may
37 be necessary, but in no event may this continuance be more than
38 fourteen days.

1 **Sec. 108.** RCW 71.24.035 and 2014 c 225 s 11 are each amended to
2 read as follows:

3 (1) The department is designated as the state mental health
4 authority.

5 (2) The secretary shall provide for public, client, tribal, and
6 licensed service provider participation in developing the state
7 mental health program, developing contracts with behavioral health
8 organizations, and any waiver request to the federal government under
9 medicaid.

10 (3) The secretary shall provide for participation in developing
11 the state mental health program for children and other underserved
12 populations, by including representatives on any committee
13 established to provide oversight to the state mental health program.

14 (4) The secretary shall be designated as the behavioral health
15 organization if the behavioral health organization fails to meet
16 state minimum standards or refuses to exercise responsibilities under
17 its contract or RCW 71.24.045, until such time as a new behavioral
18 health organization is designated.

19 (5) The secretary shall:

20 (a) Develop a biennial state mental health program that
21 incorporates regional biennial needs assessments and regional mental
22 health service plans and state services for adults and children with
23 mental illness;

24 (b) Assure that any behavioral health organization or county
25 community mental health program provides medically necessary services
26 to medicaid recipients consistent with the state's medicaid state
27 plan or federal waiver authorities, and nonmedicaid services
28 consistent with priorities established by the department;

29 (c) Develop and adopt rules establishing state minimum standards
30 for the delivery of mental health services pursuant to RCW 71.24.037
31 including, but not limited to:

32 (i) Licensed service providers. These rules shall permit a
33 county-operated mental health program to be licensed as a service
34 provider subject to compliance with applicable statutes and rules.
35 The secretary shall provide for deeming of compliance with state
36 minimum standards for those entities accredited by recognized
37 behavioral health accrediting bodies recognized and having a current
38 agreement with the department;

39 (ii) Inpatient services, an adequate network of evaluation and
40 treatment services and facilities under chapter 71.05 RCW to ensure

1 access to treatment, resource management services, and community
2 support services;

3 (d) Assure that the special needs of persons who are minorities,
4 elderly, disabled, children, low-income, and parents who are
5 respondents in dependency cases are met within the priorities
6 established in this section;

7 (e) Establish a standard contract or contracts, consistent with
8 state minimum standards which shall be used in contracting with
9 behavioral health organizations. The standard contract shall include
10 a maximum fund balance, which shall be consistent with that required
11 by federal regulations or waiver stipulations;

12 (f) Establish, to the extent possible, a standardized auditing
13 procedure which is designed to assure compliance with contractual
14 agreements authorized by this chapter and minimizes paperwork
15 requirements of behavioral health organizations and licensed service
16 providers. The audit procedure shall focus on the outcomes of service
17 as provided in RCW 43.20A.895, 70.320.020, and 71.36.025;

18 (g) Develop and maintain an information system to be used by the
19 state and behavioral health organizations that includes a tracking
20 method which allows the department and behavioral health
21 organizations to identify mental health clients' participation in any
22 mental health service or public program on an immediate basis. The
23 information system shall not include individual patient's case
24 history files. Confidentiality of client information and records
25 shall be maintained as provided in this chapter and chapter 70.02
26 RCW;

27 (h) License service providers who meet state minimum standards;

28 (i) Periodically monitor the compliance of behavioral health
29 organizations and their network of licensed service providers for
30 compliance with the contract between the department, the behavioral
31 health organization, and federal and state rules at reasonable times
32 and in a reasonable manner;

33 (j) Fix fees to be paid by evaluation and treatment centers to
34 the secretary for the required inspections;

35 (k) Monitor and audit behavioral health organizations and
36 licensed service providers as needed to assure compliance with
37 contractual agreements authorized by this chapter;

38 (l) Adopt such rules as are necessary to implement the
39 department's responsibilities under this chapter;

1 (m) License or certify crisis stabilization units that meet state
2 minimum standards;

3 (n) License or certify clubhouses that meet state minimum
4 standards; and

5 (o) License or certify triage facilities that meet state minimum
6 standards.

7 (6) The secretary shall use available resources only for
8 behavioral health organizations, except:

9 (a) To the extent authorized, and in accordance with any
10 priorities or conditions specified, in the biennial appropriations
11 act; or

12 (b) To incentivize improved performance with respect to the
13 client outcomes established in RCW 43.20A.895, 70.320.020, and
14 71.36.025, integration of behavioral health and medical services at
15 the clinical level, and improved care coordination for individuals
16 with complex care needs.

17 (7) Each behavioral health organization and licensed service
18 provider shall file with the secretary, on request, such data,
19 statistics, schedules, and information as the secretary reasonably
20 requires. A behavioral health organization or licensed service
21 provider which, without good cause, fails to furnish any data,
22 statistics, schedules, or information as requested, or files
23 fraudulent reports thereof, may be subject to the behavioral health
24 organization contractual remedies in RCW 43.20A.894 or may have its
25 service provider certification or license revoked or suspended.

26 (8) The secretary may suspend, revoke, limit, or restrict a
27 certification or license, or refuse to grant a certification or
28 license for failure to conform to: (a) The law; (b) applicable rules
29 and regulations; (c) applicable standards; or (d) state minimum
30 standards.

31 (9) The superior court may restrain any behavioral health
32 organization or service provider from operating without a contract,
33 certification, or a license or any other violation of this section.
34 The court may also review, pursuant to procedures contained in
35 chapter 34.05 RCW, any denial, suspension, limitation, restriction,
36 or revocation of certification or license, and grant other relief
37 required to enforce the provisions of this chapter.

38 (10) Upon petition by the secretary, and after hearing held upon
39 reasonable notice to the facility, the superior court may issue a
40 warrant to an officer or employee of the secretary authorizing him or

1 her to enter at reasonable times, and examine the records, books, and
2 accounts of any behavioral health organization(~~(s-[organization])~~) or
3 service provider refusing to consent to inspection or examination by
4 the authority.

5 (11) Notwithstanding the existence or pursuit of any other
6 remedy, the secretary may file an action for an injunction or other
7 process against any person or governmental unit to restrain or
8 prevent the establishment, conduct, or operation of a behavioral
9 health organization or service provider without a contract,
10 certification, or a license under this chapter.

11 (12) The standards for certification or licensure of evaluation
12 and treatment facilities shall include standards relating to
13 maintenance of good physical and mental health and other services to
14 be afforded persons pursuant to this chapter and chapters 71.05 and
15 71.34 RCW, and shall otherwise assure the effectuation of the
16 purposes of these chapters.

17 (13) The standards for certification or licensure of crisis
18 stabilization units shall include standards that:

19 (a) Permit location of the units at a jail facility if the unit
20 is physically separate from the general population of the jail;

21 (b) Require administration of the unit by mental health
22 professionals who direct the stabilization and rehabilitation
23 efforts; and

24 (c) Provide an environment affording security appropriate with
25 the alleged criminal behavior and necessary to protect the public
26 safety.

27 (14) The standards for certification or licensure of a clubhouse
28 shall at a minimum include:

29 (a) The facilities may be peer-operated and must be
30 recovery-focused;

31 (b) Members and employees must work together;

32 (c) Members must have the opportunity to participate in all the
33 work of the clubhouse, including administration, research, intake and
34 orientation, outreach, hiring, training and evaluation of staff,
35 public relations, advocacy, and evaluation of clubhouse
36 effectiveness;

37 (d) Members and staff and ultimately the clubhouse director must
38 be responsible for the operation of the clubhouse, central to this
39 responsibility is the engagement of members and staff in all aspects
40 of clubhouse operations;

1 (e) Clubhouse programs must be comprised of structured activities
2 including but not limited to social skills training, vocational
3 rehabilitation, employment training and job placement, and community
4 resource development;

5 (f) Clubhouse programs must provide in-house educational programs
6 that significantly utilize the teaching and tutoring skills of
7 members and assist members by helping them to take advantage of adult
8 education opportunities in the community;

9 (g) Clubhouse programs must focus on strengths, talents, and
10 abilities of its members;

11 (h) The work-ordered day may not include medication clinics, day
12 treatment, or other therapy programs within the clubhouse.

13 (15) The department shall distribute appropriated state and
14 federal funds in accordance with any priorities, terms, or conditions
15 specified in the appropriations act.

16 (16) The secretary shall assume all duties assigned to the
17 nonparticipating behavioral health organizations under chapters 71.05
18 and 71.34 RCW and this chapter. Such responsibilities shall include
19 those which would have been assigned to the nonparticipating counties
20 in regions where there are not participating behavioral health
21 organizations.

22 The behavioral health organizations, or the secretary's
23 assumption of all responsibilities under chapters 71.05 and 71.34 RCW
24 and this chapter, shall be included in all state and federal plans
25 affecting the state mental health program including at least those
26 required by this chapter, the medicaid program, and P.L. 99-660.
27 Nothing in these plans shall be inconsistent with the intent and
28 requirements of this chapter.

29 (17) The secretary shall:

30 (a) Disburse funds for the behavioral health organizations within
31 sixty days of approval of the biennial contract. The department must
32 either approve or reject the biennial contract within sixty days of
33 receipt.

34 (b) Enter into biennial contracts with behavioral health
35 organizations. The contracts shall be consistent with available
36 resources. No contract shall be approved that does not include
37 progress toward meeting the goals of this chapter by taking
38 responsibility for: (i) Short-term commitments; (ii) residential
39 care; and (iii) emergency response systems.

1 (c) Notify behavioral health organizations of their allocation of
2 available resources at least sixty days prior to the start of a new
3 biennial contract period.

4 (d) Deny all or part of the funding allocations to behavioral
5 health organizations based solely upon formal findings of
6 noncompliance with the terms of the behavioral health organization's
7 contract with the department. Behavioral health organizations
8 disputing the decision of the secretary to withhold funding
9 allocations are limited to the remedies provided in the department's
10 contracts with the behavioral health organizations.

11 (18) The department, in cooperation with the state congressional
12 delegation, shall actively seek waivers of federal requirements and
13 such modifications of federal regulations as are necessary to allow
14 federal medicaid reimbursement for services provided by freestanding
15 evaluation and treatment facilities certified under chapter 71.05
16 RCW. The department shall periodically report its efforts to the
17 appropriate committees of the senate and the house of
18 representatives.

19 **Sec. 109.** RCW 71.24.300 and 2008 c 261 s 4 are each amended to
20 read as follows:

21 (1) Upon the request of a tribal authority or authorities within
22 a regional support network the joint operating agreement or the
23 county authority shall allow for the inclusion of the tribal
24 authority to be represented as a party to the regional support
25 network.

26 (2) The roles and responsibilities of the county and tribal
27 authorities shall be determined by the terms of that agreement
28 including a determination of membership on the governing board and
29 advisory committees, the number of tribal representatives to be party
30 to the agreement, and the provisions of law and shall assure the
31 provision of culturally competent services to the tribes served.

32 (3) The state mental health authority may not determine the roles
33 and responsibilities of county authorities as to each other under
34 regional support networks by rule, except to assure that all duties
35 required of regional support networks are assigned and that counties
36 and the regional support network do not duplicate functions and that
37 a single authority has final responsibility for all available
38 resources and performance under the regional support network's
39 contract with the secretary.

1 (4) If a regional support network is a private entity, the
2 department shall allow for the inclusion of the tribal authority to
3 be represented as a party to the regional support network.

4 (5) The roles and responsibilities of the private entity and the
5 tribal authorities shall be determined by the department, through
6 negotiation with the tribal authority.

7 (6) Regional support networks shall submit an overall six-year
8 operating and capital plan, timeline, and budget and submit progress
9 reports and an updated two-year plan biennially thereafter, to assume
10 within available resources all of the following duties:

11 (a) Administer and provide for the availability of all resource
12 management services, residential services, and community support
13 services.

14 (b) Administer and provide for the availability of an adequate
15 network of evaluation and treatment services to ensure access to
16 treatment, all investigation, transportation, court-related, and
17 other services provided by the state or counties pursuant to chapter
18 71.05 RCW.

19 (c) Provide within the boundaries of each regional support
20 network evaluation and treatment services for at least ninety percent
21 of persons detained or committed for periods up to seventeen days
22 according to chapter 71.05 RCW. Regional support networks may
23 contract to purchase evaluation and treatment services from other
24 networks if they are unable to provide for appropriate resources
25 within their boundaries. Insofar as the original intent of serving
26 persons in the community is maintained, the secretary is authorized
27 to approve exceptions on a case-by-case basis to the requirement to
28 provide evaluation and treatment services within the boundaries of
29 each regional support network. Such exceptions are limited to:

30 (i) Contracts with neighboring or contiguous regions; or

31 (ii) Individuals detained or committed for periods up to
32 seventeen days at the state hospitals at the discretion of the
33 secretary.

34 (d) Administer and provide for the availability of all other
35 mental health services, which shall include patient counseling, day
36 treatment, consultation, education services, employment services as
37 (~~defined~~) described in RCW 71.24.035, and mental health services to
38 children.

1 (e) Establish standards and procedures for reviewing individual
2 service plans and determining when that person may be discharged from
3 resource management services.

4 (7) A regional support network may request that any state-owned
5 land, building, facility, or other capital asset which was ever
6 purchased, deeded, given, or placed in trust for the care of the
7 persons with mental illness and which is within the boundaries of a
8 regional support network be made available to support the operations
9 of the regional support network. State agencies managing such capital
10 assets shall give first priority to requests for their use pursuant
11 to this chapter.

12 (8) Each regional support network shall appoint a mental health
13 advisory board which shall review and provide comments on plans and
14 policies developed under this chapter, provide local oversight
15 regarding the activities of the regional support network, and work
16 with the regional support network to resolve significant concerns
17 regarding service delivery and outcomes. The department shall
18 establish statewide procedures for the operation of regional advisory
19 committees including mechanisms for advisory board feedback to the
20 department regarding regional support network performance. The
21 composition of the board shall be broadly representative of the
22 demographic character of the region and shall include, but not be
23 limited to, representatives of consumers and families, law
24 enforcement, and where the county is not the regional support
25 network, county elected officials. Composition and length of terms of
26 board members may differ between regional support networks but shall
27 be included in each regional support network's contract and approved
28 by the secretary.

29 (9) Regional support networks shall assume all duties specified
30 in their plans and joint operating agreements through biennial
31 contractual agreements with the secretary.

32 (10) Regional support networks may receive technical assistance
33 from the housing trust fund and may identify and submit projects for
34 housing and housing support services to the housing trust fund
35 established under chapter 43.185 RCW. Projects identified or
36 submitted under this subsection must be fully integrated with the
37 regional support network six-year operating and capital plan,
38 timeline, and budget required by subsection (6) of this section.

1 **Sec. 110.** RCW 71.24.300 and 2014 c 225 s 39 are each amended to
2 read as follows:

3 (1) Upon the request of a tribal authority or authorities within
4 a behavioral health organization the joint operating agreement or the
5 county authority shall allow for the inclusion of the tribal
6 authority to be represented as a party to the behavioral health
7 organization.

8 (2) The roles and responsibilities of the county and tribal
9 authorities shall be determined by the terms of that agreement
10 including a determination of membership on the governing board and
11 advisory committees, the number of tribal representatives to be party
12 to the agreement, and the provisions of law and shall assure the
13 provision of culturally competent services to the tribes served.

14 (3) The state mental health authority may not determine the roles
15 and responsibilities of county authorities as to each other under
16 behavioral health organizations by rule, except to assure that all
17 duties required of behavioral health organizations are assigned and
18 that counties and the behavioral health organization do not duplicate
19 functions and that a single authority has final responsibility for
20 all available resources and performance under the behavioral health
21 organization's contract with the secretary.

22 (4) If a behavioral health organization is a private entity, the
23 department shall allow for the inclusion of the tribal authority to
24 be represented as a party to the behavioral health organization.

25 (5) The roles and responsibilities of the private entity and the
26 tribal authorities shall be determined by the department, through
27 negotiation with the tribal authority.

28 (6) Behavioral health organizations shall submit an overall six-
29 year operating and capital plan, timeline, and budget and submit
30 progress reports and an updated two-year plan biennially thereafter,
31 to assume within available resources all of the following duties:

32 (a) Administer and provide for the availability of all resource
33 management services, residential services, and community support
34 services.

35 (b) Administer and provide for the availability of an adequate
36 network of evaluation and treatment services to ensure access to
37 treatment, all investigation, transportation, court-related, and
38 other services provided by the state or counties pursuant to chapter
39 71.05 RCW.

1 (c) Provide within the boundaries of each behavioral health
2 organization evaluation and treatment services for at least ninety
3 percent of persons detained or committed for periods up to seventeen
4 days according to chapter 71.05 RCW. Behavioral health organizations
5 may contract to purchase evaluation and treatment services from other
6 organizations if they are unable to provide for appropriate resources
7 within their boundaries. Insofar as the original intent of serving
8 persons in the community is maintained, the secretary is authorized
9 to approve exceptions on a case-by-case basis to the requirement to
10 provide evaluation and treatment services within the boundaries of
11 each behavioral health organization. Such exceptions are limited to:

- 12 (i) Contracts with neighboring or contiguous regions; or
13 (ii) Individuals detained or committed for periods up to
14 seventeen days at the state hospitals at the discretion of the
15 secretary.

16 (d) Administer and provide for the availability of all other
17 mental health services, which shall include patient counseling, day
18 treatment, consultation, education services, employment services as
19 described in RCW 71.24.035, and mental health services to children.

20 (e) Establish standards and procedures for reviewing individual
21 service plans and determining when that person may be discharged from
22 resource management services.

23 (7) A behavioral health organization may request that any state-
24 owned land, building, facility, or other capital asset which was ever
25 purchased, deeded, given, or placed in trust for the care of the
26 persons with mental illness and which is within the boundaries of a
27 behavioral health organization be made available to support the
28 operations of the behavioral health organization. State agencies
29 managing such capital assets shall give first priority to requests
30 for their use pursuant to this chapter.

31 (8) Each behavioral health organization shall appoint a mental
32 health advisory board which shall review and provide comments on
33 plans and policies developed under this chapter, provide local
34 oversight regarding the activities of the behavioral health
35 organization, and work with the behavioral health organization to
36 resolve significant concerns regarding service delivery and outcomes.
37 The department shall establish statewide procedures for the operation
38 of regional advisory committees including mechanisms for advisory
39 board feedback to the department regarding behavioral health
40 organization performance. The composition of the board shall be

1 broadly representative of the demographic character of the region and
2 shall include, but not be limited to, representatives of consumers
3 and families, law enforcement, and where the county is not the
4 behavioral health organization, county elected officials. Composition
5 and length of terms of board members may differ between behavioral
6 health organizations but shall be included in each behavioral health
7 organization's contract and approved by the secretary.

8 (9) Behavioral health organizations shall assume all duties
9 specified in their plans and joint operating agreements through
10 biennial contractual agreements with the secretary.

11 (10) Behavioral health organizations may receive technical
12 assistance from the housing trust fund and may identify and submit
13 projects for housing and housing support services to the housing
14 trust fund established under chapter 43.185 RCW. Projects identified
15 or submitted under this subsection must be fully integrated with the
16 behavioral health organization six-year operating and capital plan,
17 timeline, and budget required by subsection (6) of this section.

18 NEW SECTION. **Sec. 111.** A new section is added to chapter 71.24
19 RCW to read as follows:

20 The department must collaborate with regional support networks or
21 behavioral health organizations and the Washington state institute
22 for public policy to estimate the capacity needs for evaluation and
23 treatment services within each regional service area. Estimated
24 capacity needs shall include consideration of the average occupancy
25 rates needed to provide an adequate network of evaluation and
26 treatment services to ensure access to treatment. A regional service
27 network or behavioral health organization must develop and maintain
28 an adequate plan to provide for evaluation and treatment needs.

29 NEW SECTION. **Sec. 112.** A new section is added to chapter 71.34
30 RCW to read as follows:

31 (1) The department may use a single bed certification process to
32 provide additional treatment capacity for a minor suffering from a
33 mental disorder for whom an evaluation and treatment bed is not
34 available. The facility that is the proposed site of the single bed
35 certification must be a facility that is willing and able to provide
36 the person with timely and appropriate treatment either directly or
37 by arrangement with other public or private agencies. Appropriate
38 settings for single bed certifications may include, but are not

1 limited to, any of the following settings where the facility is
2 willing and able to provide timely and appropriate treatment to the
3 person:

4 (a) A hospital with or without a psychiatric unit;

5 (b) A psychiatric hospital;

6 (c) A hospital that is willing and able to provide timely and
7 appropriate mental health treatment or medical treatment to a minor
8 with a co-occurring mental disorder and medical condition such that
9 it prevents transfer to an evaluation and treatment facility or state
10 hospital; or

11 (d) A residential treatment facility.

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

14 (3) A designated mental health professional who submits an
15 application for a single bed certification for treatment at a
16 facility which is willing and able to provide timely and appropriate
17 mental health treatment, or medical treatment to an individual with a
18 co-occurring mental disorder and medical condition, in good faith
19 belief that the single bed certification is appropriate may presume
20 that the single bed certification will be approved for the purpose of
21 completing the detention process and responding to other emergency
22 calls.

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

26 **PART II: ASSISTED OUTPATIENT TREATMENT**

27 **Sec. 201.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14
28 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (16) "Evaluation and treatment facility" means any facility which
7 can provide directly, or by direct arrangement with other public or
8 private agencies, emergency evaluation and treatment, outpatient
9 care, and timely and appropriate inpatient care to persons suffering
10 from a mental disorder, and which is certified as such by the
11 department. The department may certify single beds as temporary
12 evaluation and treatment beds under section 102 of this act. A
13 physically separate and separately operated portion of a state
14 hospital may be designated as an evaluation and treatment facility. A
15 facility which is part of, or operated by, the department or any
16 federal agency will not require certification. No correctional
17 institution or facility, or jail, shall be an evaluation and
18 treatment facility within the meaning of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

23 (22) "Information related to mental health services" means all
24 information and records compiled, obtained, or maintained in the
25 course of providing services to either voluntary or involuntary
26 recipients of services by a mental health service provider. This may
27 include documents of legal proceedings under this chapter or chapter
28 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

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

15 (28) "Mental health service provider" means a public or private
16 agency that provides mental health services to persons with mental
17 disorders as defined under this section and receives funding from
18 public sources. This includes, but is not limited to, hospitals
19 licensed under chapter 70.41 RCW, evaluation and treatment facilities
20 as defined in this section, community mental health service delivery
21 systems or community mental health programs as defined in RCW
22 71.24.025, facilities conducting competency evaluations and
23 restoration under chapter 10.77 RCW, and correctional facilities
24 operated by state and local governments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (44) "Treatment records" include registration and all other
10 records concerning persons who are receiving or who at any time have
11 received services for mental illness, which are maintained by the
12 department, by regional support networks and their staffs, and by
13 treatment facilities. Treatment records include mental health
14 information contained in a medical bill including but not limited to
15 mental health drugs, a mental health diagnosis, provider name, and
16 dates of service stemming from a medical service. Treatment records
17 do not include notes or records maintained for personal use by a
18 person providing treatment services for the department, regional
19 support networks, or a treatment facility if the notes or records are
20 not available to others;

21 (45) "Violent act" means behavior that resulted in homicide,
22 attempted suicide, nonfatal injuries, or substantial damage to
23 property;

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

1 as a result of a criminal conviction is excluded from the thirty-six
2 month calculation;

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

6 **Sec. 202.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted
7 and amended to read as follows:

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

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

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

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

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

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

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

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

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

38 (9) "Designated chemical dependency specialist" means a person
39 designated by the county alcoholism and other drug addiction program

1 coordinator designated under RCW 70.96A.310 to perform the commitment
2 duties described in chapters 70.96A and 70.96B RCW;

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

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

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

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

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

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

23 (16) "Evaluation and treatment facility" means any facility which
24 can provide directly, or by direct arrangement with other public or
25 private agencies, emergency evaluation and treatment, outpatient
26 care, and timely and appropriate inpatient care to persons suffering
27 from a mental disorder, and which is certified as such by the
28 department. The department may certify single beds as temporary
29 evaluation and treatment beds under section 102 of this act. A
30 physically separate and separately operated portion of a state
31 hospital may be designated as an evaluation and treatment facility. A
32 facility which is part of, or operated by, the department or any
33 federal agency will not require certification. No correctional
34 institution or facility, or jail, shall be an evaluation and
35 treatment facility within the meaning of this chapter;

36 (17) "Gravely disabled" means a condition in which a person, as a
37 result of a mental disorder: (a) Is in danger of serious physical
38 harm resulting from a failure to provide for his or her essential
39 human needs of health or safety; or (b) manifests severe
40 deterioration in routine functioning evidenced by repeated and

1 escalating loss of cognitive or volitional control over his or her
2 actions and is not receiving such care as is essential for his or her
3 health or safety;

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

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

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

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

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

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

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

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

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

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

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

39 (22) "Information related to mental health services" means all
40 information and records compiled, obtained, or maintained in the

1 course of providing services to either voluntary or involuntary
2 recipients of services by a mental health service provider. This may
3 include documents of legal proceedings under this chapter or chapter
4 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

31 (28) "Mental health service provider" means a public or private
32 agency that provides mental health services to persons with mental
33 disorders as defined under this section and receives funding from
34 public sources. This includes, but is not limited to, hospitals
35 licensed under chapter 70.41 RCW, evaluation and treatment facilities
36 as defined in this section, community mental health service delivery
37 systems or community mental health programs as defined in RCW
38 71.24.025, facilities conducting competency evaluations and
39 restoration under chapter 10.77 RCW, and correctional facilities
40 operated by state and local governments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (45) "Violent act" means behavior that resulted in homicide,
37 attempted suicide, nonfatal injuries, or substantial damage to
38 property;

39 (46) "In need of assisted outpatient treatment" means that a
40 person, as a result of a mental disorder: (a) Has been committed by a

1 court to detention for involuntary mental health treatment at least
2 twice during the preceding thirty-six months, or, if the person is
3 currently committed for involuntary mental health treatment, the
4 person has been committed to detention for involuntary mental health
5 treatment at least once during the thirty-six months preceding the
6 date of initial detention of the current commitment cycle; (b) in
7 view of the person's treatment history or current behavior, the
8 person is unlikely to voluntarily participate in outpatient treatment
9 without an order for less restrictive treatment; and (c) outpatient
10 treatment that would be provided under a less restrictive treatment
11 order is necessary to prevent a relapse, decompensation, or
12 deterioration that is likely to result in the person presenting a
13 likelihood of serious harm or the person becoming gravely disabled
14 within a reasonably short period of time. For purposes of (a) of this
15 subsection, time spent in a mental health facility or in confinement
16 as a result of a criminal conviction is excluded from the thirty-six
17 month calculation;

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

21 **Sec. 203.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to
22 read as follows:

23 (1)(a) When a designated mental health professional receives
24 information alleging that a person, as a result of a mental disorder:
25 (i) Presents a likelihood of serious harm; ~~((e*))~~ (ii) is gravely
26 disabled; or (iii) is in need of assisted outpatient treatment; the
27 designated mental health professional may, after investigation and
28 evaluation of the specific facts alleged and of the reliability and
29 credibility of any person providing information to initiate detention
30 or outpatient evaluation, if satisfied that the allegations are true
31 and that the person will not voluntarily seek appropriate treatment,
32 file a petition for initial detention or outpatient evaluation. If
33 the petition is filed solely on the grounds that the person is in
34 need of assisted outpatient treatment, the petition may only be for
35 outpatient evaluation. If the petition is for assisted outpatient
36 treatment, and the person is being held in a hospital emergency
37 department, the person may be released once the hospital has
38 satisfied federal and state legal requirements for appropriate
39 screening and stabilization of patients.

1 **(b)** Before filing the petition, the designated mental health
2 professional must personally interview the person, unless the person
3 refuses an interview, and determine whether the person will
4 voluntarily receive appropriate evaluation and treatment at an
5 evaluation and treatment facility, crisis stabilization unit, or
6 triage facility.

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

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

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

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

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

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

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

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

12 **Sec. 204.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to
13 read as follows:

14 A designated mental health professional who conducts an
15 evaluation for imminent likelihood of serious harm or imminent danger
16 because of being gravely disabled under RCW 71.05.153 must also
17 evaluate the person under RCW 71.05.150 for likelihood of serious
18 harm or grave disability that does not meet the imminent standard for
19 emergency detention, and determine whether the person is in need of
20 assisted outpatient treatment.

21 **Sec. 205.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to
22 read as follows:

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

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

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

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

34 (d) Prior commitments under this chapter.

35 (2) Credible witnesses may include family members, landlords,
36 neighbors, or others with significant contact and history of
37 involvement with the person. If the designated mental health
38 professional relies upon information from a credible witness in

1 reaching his or her decision to detain the individual, then he or she
2 must provide contact information for any such witness to the
3 prosecutor. The designated mental health professional or prosecutor
4 shall provide notice of the date, time, and location of the probable
5 cause hearing to such a witness.

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

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

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

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

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

23 **Sec. 206.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to
24 read as follows:

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

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

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

4 (3) The facility providing intensive treatment is certified to
5 provide such treatment by the department; and

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

10 (a) Two physicians;

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

12 (c) Two psychiatric advanced registered nurse practitioners;

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

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

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

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

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

38 (8) At the conclusion of the initial commitment period, the
39 professional staff of the agency or facility or the designated mental
40 health professional may petition for an additional period of either

1 ninety days of less restrictive alternative treatment or ninety days
2 of involuntary intensive treatment as provided in RCW 71.05.290; and
3 (9) If the hospital or facility designated to provide outpatient
4 treatment is other than the facility providing involuntary treatment,
5 the outpatient facility so designated has agreed to assume such
6 responsibility.

7 **Sec. 207.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to
8 read as follows:

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

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

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

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

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

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

16 **Sec. 208.** RCW 71.05.245 and 2010 c 280 s 3 are each amended to
17 read as follows:

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

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

34 (3) In making a determination of whether there is a likelihood of
35 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
36 the court shall give great weight to any evidence before the court
37 regarding whether the person has: (a) A recent history of one or more
38 violent acts; or (b) a recent history of one or more commitments
39 under this chapter or its equivalent provisions under the laws of

1 another state which were based on a likelihood of serious harm. The
2 existence of prior violent acts or commitments under this chapter or
3 its equivalent shall not be the sole basis for determining whether a
4 person presents a likelihood of serious harm.

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

7 **Sec. 209.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to
8 read as follows:

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

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

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

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

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

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

35 (4) Such person is gravely disabled; or

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

37 **Sec. 210.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to
38 read as follows:

1 (1) If the court or jury finds that grounds set forth in RCW
2 71.05.280 have been proven and that the best interests of the person
3 or others will not be served by a less restrictive treatment which is
4 an alternative to detention, the court shall remand him or her to the
5 custody of the department or to a facility certified for ninety day
6 treatment by the department for a further period of intensive
7 treatment not to exceed ninety days from the date of judgment. If the
8 grounds set forth in RCW 71.05.280(3) are the basis of commitment,
9 then the period of treatment may be up to but not exceed one hundred
10 eighty days from the date of judgment in a facility certified for one
11 hundred eighty day treatment by the department.

12 (2) If the court or jury finds that grounds set forth in RCW
13 71.05.280 have been proven, but finds that treatment less restrictive
14 than detention will be in the best interest of the person or others,
15 then the court shall remand him or her to the custody of the
16 department or to a facility certified for ninety day treatment by the
17 department or to a less restrictive alternative for a further period
18 of less restrictive treatment not to exceed ninety days from the date
19 of judgment. If the grounds set forth in RCW 71.05.280(3) are the
20 basis of commitment, then the period of treatment may be up to but
21 not exceed one hundred eighty days from the date of judgment. If the
22 grounds set forth in RCW 71.05.280(5) provide the only basis for
23 commitment, the court must order an appropriate less restrictive
24 course of treatment not to exceed ninety days, and may not order
25 inpatient treatment.

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

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

38 (b) Was taken into custody as a result of conduct in which he or
39 she attempted or inflicted serious physical harm upon the person of

1 another, and continues to present, as a result of mental disorder or
2 developmental disability a likelihood of serious harm; or

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

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

23 (d) Continues to be gravely disabled; or

24 (e) Is in need of assisted outpatient treatment.

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

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

33 ~~(a) The person was previously committed by a court to detention
34 for involuntary mental health treatment during the thirty six months
35 that preceded the person's initial detention date during the current
36 involuntary commitment cycle, excluding any time spent in a mental
37 health facility or in confinement as a result of a criminal
38 conviction;~~

39 ~~(b) In view of the person's treatment history or current
40 behavior, the person is unlikely to voluntarily participate in~~

1 ~~outpatient treatment without an order for less restrictive treatment;~~
2 ~~and~~

3 ~~(c) Outpatient treatment that would be provided under a less~~
4 ~~restrictive treatment order is 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 ~~(5))~~ A new petition for involuntary treatment filed under
9 subsection (3) ~~((or (4))~~ of this section shall be filed and heard in
10 the superior court of the county of the facility which is filing the
11 new petition for involuntary treatment unless good cause is shown for
12 a change of venue. The cost of the proceedings shall be borne by the
13 state.

14 ~~((6))~~ (5) The hearing shall be held as provided in RCW
15 71.05.310, and if the court or jury finds that the grounds for
16 additional confinement as set forth in this section are present, the
17 court may order the committed person returned for an additional
18 period of treatment not to exceed one hundred eighty days from the
19 date of judgment. If the court's order is based solely on the grounds
20 identified in subsection (3)(e) of this section, the court may enter
21 an order for less restrictive alternative treatment not to exceed one
22 hundred eighty days, and may not enter an order for inpatient
23 treatment. At the end of the one hundred eighty day period of
24 commitment, the committed person shall be released unless a petition
25 for another one hundred eighty day period of continued treatment is
26 filed and heard in the same manner as provided in this section.
27 Successive one hundred eighty day commitments are permissible on the
28 same grounds and pursuant to the same procedures as the original one
29 hundred eighty day commitment. However, a commitment solely on the
30 grounds identified in subsection (3)(e) of this section is not
31 permissible under subsection ~~((4))~~ (3) of this section if: (i)
32 Thirty-six months have passed since the last date of discharge from
33 detention for inpatient treatment that preceded the current less
34 restrictive alternative order, ((nor shall a commitment under
35 subsection (4) of this section be permissible if)) or (ii) the
36 likelihood of serious harm ((in subsection (4)(c) of this section))
37 as described in RCW 71.05.020(46)(c) is based solely on harm to the
38 property of others.

