

SSB 5894 - S AMD 161
By Senator O'Ban

ADOPTED 03/23/2017

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

3 "NEW SECTION. **Sec. 1.** This act establishes the path of reform
4 for the state behavioral health system over upcoming biennia
5 concerning provision of long-term psychiatric care. Over the ensuing
6 years Washington must transition purchasing of long-term involuntary
7 psychiatric care to a regionally based system under a managed care
8 framework which is responsive to the needs of the community and
9 accountable for quality and patient outcomes. During this time state
10 hospital practices must be modernized and state hospital resources
11 focused on service to forensic and higher acuity civil patients.
12 Treatment for patients under long-term civil commitment must be
13 transitioned into a managed care framework over a time frame
14 coinciding with the integration of physical and behavioral health
15 care, after which the state hospitals must provide civil commitment
16 services as part of a network of geographically diverse facilities
17 certified to provide long-term involuntary civil treatment. Many
18 components are required for the success of this vision. The state
19 must establish the foundation for growth of long-term involuntary
20 treatment capacity in the community and for performance measurement
21 and data collection which enables an acuity-informed comparison of
22 the costs and outcomes achieved in alternative certified community
23 facilities. New community placement options must be established for
24 persons with complex needs related to long-term care and
25 developmental disabilities. Other critical measures improve
26 availability and streamline filing procedures for assisted outpatient
27 mental health treatment, deploy crisis walk-in centers and
28 clubhouses, and expedite the movement of low-level, nonviolent
29 defendants with severe mental illness through the criminal justice
30 system.

31

Part I

1 (i) Managed care entities accountable to uphold the legal
2 requirements of the civil commitment system and the public policy
3 outcomes intended under RCW 71.05.010, 71.05.012, and 10.77.2101; and

4 (ii) Providers of long-term civil treatment, including state
5 hospitals, accountable for performance, including consideration of
6 the interaction between performance conditions and collective
7 bargaining agreements; and

8 (e) The availability of options for incentives for the aging and
9 long-term support administration and developmental disability
10 administration to ensure that long-term involuntary treatment
11 patients with specialized needs move to the appropriate level of care
12 within a reasonable time period.

13 (4) The risk model must be designed to allow managed care
14 entities to contract with any certified provider capable of providing
15 the level of inpatient psychiatric care required under civil
16 commitment within a fixed capitation rate, placing the entity at risk
17 for all hospital utilization above the capitation base.

18 (5) The contracts for consultant services in this section are
19 exempt from the competitive solicitation requirements in RCW
20 39.26.125.

21 **Part II**

22 **Development of Community Long-Term Involuntary Treatment Capacity**

23 NEW SECTION. **Sec. 201.** A new section is added to chapter 71.24
24 RCW to read as follows:

25 (1) The state intends to develop new capacity for delivery of
26 long-term treatment in the community in diverse regions of the state
27 prior to the effective date of the integration of risk for long-term
28 involuntary treatment into managed care, and to study the cost and
29 outcomes associated with treatment in community facilities. In
30 furtherance of this goal, the department shall purchase a portion of
31 the state's long-term treatment capacity allocated to behavioral
32 health organizations under RCW 71.24.310 in willing community
33 facilities capable of providing alternatives to treatment in a state
34 hospital. The state shall increase its purchasing of long-term
35 involuntary treatment capacity in the community over time.

36 (2) The department shall:

37 (a) Work with willing community hospitals licensed under chapters
38 70.41 and 71.12 RCW and evaluation and treatment facilities certified

1 under chapter 71.05 RCW to assess their capacity to become certified
2 to provide long-term mental health placements and to meet the
3 requirements of this chapter; and

4 (b) Enter into contracts and payment arrangements with such
5 hospitals and evaluation and treatment facilities choosing to provide
6 long-term mental health placements, to the extent that willing
7 certified facilities are available. Nothing in this chapter requires
8 any community hospital or evaluation and treatment facility to be
9 certified to provide long-term mental health placements.

10 (3) The department must establish rules for the certification of
11 facilities interested in providing care under this section.

12 (4) Contracts developed by the department to implement this
13 section must be constructed to allow the department to obtain
14 complete identification information and admission and discharge dates
15 for patients served under this authority. Prior to requesting
16 identification information and admission and discharge dates or
17 reports from certified facilities, the department must determine that
18 this information cannot be identified or obtained from existing data
19 sources available to state agencies. In addition, until January 1,
20 2022, facilities certified by the department to provide community
21 long-term involuntary treatment to adults shall report to the
22 department:

23 (a) All instances where a patient on a ninety or one hundred
24 eighty-day involuntary commitment order experiences an adverse event
25 required to be reported to the department of health pursuant to
26 chapter 70.56 RCW; and

27 (b) All hospital-based inpatient psychiatric service core
28 measures reported to the joint commission or other accrediting body
29 occurring from psychiatric departments, in the format in which the
30 report was made to the joint commission.

31 **Sec. 202.** RCW 71.24.310 and 2014 c 225 s 40 are each amended to
32 read as follows:

33 The legislature finds that administration of chapter 71.05 RCW
34 and this chapter can be most efficiently and effectively implemented
35 as part of the behavioral health organization defined in RCW
36 71.24.025. For this reason, the legislature intends that the
37 department and the behavioral health organizations shall work
38 together to implement chapter 71.05 RCW as follows:

1 (1) By June 1, 2006, behavioral health organizations shall
2 recommend to the department the number of state hospital beds that
3 should be allocated for use by each behavioral health organization.
4 The statewide total allocation shall not exceed the number of state
5 hospital beds offering long-term inpatient care, as defined in this
6 chapter, for which funding is provided in the biennial appropriations
7 act.

8 (2) If there is consensus among the behavioral health
9 organizations regarding the number of state hospital beds that should
10 be allocated for use by each behavioral health organization, the
11 department shall contract with each behavioral health organization
12 accordingly.

13 (3) If there is not consensus among the behavioral health
14 organizations regarding the number of beds that should be allocated
15 for use by each behavioral health organization, the department shall
16 establish by emergency rule the number of state hospital beds that
17 are available for use by each behavioral health organization. The
18 emergency rule shall be effective September 1, 2006. The primary
19 factor used in the allocation shall be the estimated number of adults
20 with acute and chronic mental illness in each behavioral health
21 organization area, based upon population-adjusted incidence and
22 utilization.

23 (4) The allocation formula shall be updated at least every three
24 years to reflect demographic changes, and new evidence regarding the
25 incidence of acute and chronic mental illness and the need for long-
26 term inpatient care. In the updates, the statewide total allocation
27 shall include (a) all state hospital beds offering long-term
28 inpatient care for which funding is provided in the biennial
29 appropriations act; plus (b) the estimated equivalent number of beds
30 or comparable diversion services contracted in accordance with
31 subsection (5) of this section.

32 (5)(a) The department (~~(is encouraged to enter)~~) shall enter into
33 performance-based contracts with ((behavioral health organizations))
34 facilities certified by the department to provide treatment to adults
35 on a ninety or one hundred eighty-day inpatient involuntary
36 commitment order to provide some or all of the behavioral health
37 organization's allocated long-term inpatient treatment capacity in
38 the community, rather than in the state hospital, to the extent that
39 willing certified facilities and funding are available. The
40 performance contracts shall specify the number of patient days of

1 care available for use by the behavioral health organization in the
2 state hospital and the number of patient days of care available for
3 use by the behavioral health organization in a facility certified by
4 the department to provide treatment to adults on a ninety or one
5 hundred eighty-day inpatient involuntary commitment order, including
6 hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation
7 and treatment facilities certified under chapter 71.05 RCW.

8 (b) A hospital licensed under chapter 70.41 or 71.12 RCW is not
9 required to undergo certification to treat patients on ninety or one
10 hundred eighty-day involuntary commitment orders in order to treat
11 adults who are waiting for placement at either the state hospital or
12 in certified facilities that voluntarily contract to provide
13 treatment to patients on ninety or one hundred eighty-day involuntary
14 commitment orders.

15 (6) If a behavioral health organization uses more state hospital
16 patient days of care than it has been allocated under subsection (3)
17 or (4) of this section, or than it has contracted to use under
18 subsection (5) of this section, whichever is less, it shall reimburse
19 the department for that care, except during the period of July 1,
20 2012, through December 31, 2013, where reimbursements may be
21 temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp.
22 sess. The reimbursement rate per day shall be the hospital's total
23 annual budget for long-term inpatient care, divided by the total
24 patient days of care assumed in development of that budget.

25 (7) One-half of any reimbursements received pursuant to
26 subsection (6) of this section shall be used to support the cost of
27 operating the state hospital and, during the 2007-2009 fiscal
28 biennium, implementing new services that will enable a behavioral
29 health organization to reduce its utilization of the state hospital.
30 The department shall distribute the remaining half of such
31 reimbursements among behavioral health organizations that have used
32 less than their allocated or contracted patient days of care at that
33 hospital, proportional to the number of patient days of care not
34 used.

35 NEW SECTION. Sec. 203. A new section is added to chapter 71.05
36 RCW to read as follows:

37 Treatment under RCW 71.05.320 may be provided at a state hospital
38 or any willing and able facility certified to provide ninety-day or
39 one hundred eighty-day care. The order for such treatment must remand

1 the person to the custody of the department or designee. A prepaid
2 inpatient health plan, managed care organization, or the department,
3 when responsible for the cost of care, may designate where treatment
4 is to be provided, at a willing certified facility or a state
5 hospital, after consultation with the facility currently providing
6 treatment. The prepaid inpatient health plan, managed care
7 organization, or the department, when responsible for the cost of
8 care, may not require prior authorization for treatment under RCW
9 71.05.320. The designation of a treatment facility must not result in
10 a delay of the transfer of the person to a state hospital or
11 certified treatment facility if there is an open bed available at
12 either the state hospital or a certified facility.

13 **Sec. 204.** RCW 71.05.320 and 2016 c 45 s 4 are each amended to
14 read as follows:

15 (1) If the court or jury finds that grounds set forth in RCW
16 71.05.280 have been proven and that the best interests of the person
17 or others will not be served by a less restrictive treatment which is
18 an alternative to detention, the court shall remand him or her (~~to~~
19 ~~the custody of the department or to a facility certified for ninety~~
20 ~~day treatment by the department~~) for a further period of intensive
21 treatment not to exceed ninety days from the date of judgment. If the
22 grounds set forth in RCW 71.05.280(3) are the basis of commitment,
23 then the period of treatment may be up to but not exceed one hundred
24 eighty days from the date of judgment in a facility certified for one
25 hundred eighty day treatment by the department.

26 (2) If the court or jury finds that grounds set forth in RCW
27 71.05.280 have been proven, but finds that treatment less restrictive
28 than detention will be in the best interest of the person or others,
29 then the court shall remand him or her to the custody of the
30 department or to a facility certified for ninety day treatment by the
31 department or to a less restrictive alternative for a further period
32 of less restrictive treatment not to exceed ninety days from the date
33 of judgment. If the grounds set forth in RCW 71.05.280(3) are the
34 basis of commitment, then the period of treatment may be up to but
35 not exceed one hundred eighty days from the date of judgment. If the
36 court or jury finds that the grounds set forth in RCW 71.05.280(5)
37 have been proven, and provide the only basis for commitment, the
38 court must enter an order for less restrictive alternative treatment

1 for up to ninety days from the date of judgment and may not order
2 inpatient treatment.

3 (3) An order for less restrictive alternative treatment entered
4 under subsection (2) of this section must name the mental health
5 service provider responsible for identifying the services the person
6 will receive in accordance with RCW 71.05.585, and must include a
7 requirement that the person cooperate with the services planned by
8 the mental health service provider.

9 (4) The person shall be released from involuntary treatment at
10 the expiration of the period of commitment imposed under subsection
11 (1) or (2) of this section unless the superintendent or professional
12 person in charge of the facility in which he or she is confined, or
13 in the event of a less restrictive alternative, the designated mental
14 health professional, files a new petition for involuntary treatment
15 on the grounds that the committed person:

16 (a) During the current period of court ordered treatment: (i) Has
17 threatened, attempted, or inflicted physical harm upon the person of
18 another, or substantial damage upon the property of another, and (ii)
19 as a result of mental disorder or developmental disability presents a
20 likelihood of serious harm; or

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

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

30 (ii) In cases under this subsection where the court has made an
31 affirmative special finding under RCW 71.05.280(3)(b), the commitment
32 shall continue for up to an additional one hundred eighty day period
33 whenever the petition presents prima facie evidence that the person
34 continues to suffer from a mental disorder or developmental
35 disability that results in a substantial likelihood of committing
36 acts similar to the charged criminal behavior, unless the person
37 presents proof through an admissible expert opinion that the person's
38 condition has so changed such that the mental disorder or
39 developmental disability no longer presents a substantial likelihood
40 of the person committing acts similar to the charged criminal

1 behavior. The initial or additional commitment period may include
2 transfer to a specialized program of intensive support and treatment,
3 which may be initiated prior to or after discharge (~~from the state~~
4 ~~hospital~~); or

5 (d) Continues to be gravely disabled; or

6 (e) Is in need of assisted outpatient (~~mental~~) behavioral
7 health treatment.

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

11 If less restrictive alternative treatment is sought, the petition
12 shall set forth any recommendations for less restrictive alternative
13 treatment services.

14 (5) A new petition for involuntary treatment filed under
15 subsection (4) of this section shall be filed and heard in the
16 superior court of the county of the facility which is filing the new
17 petition for involuntary treatment unless good cause is shown for a
18 change of venue. The cost of the proceedings shall be borne by the
19 state.

20 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
21 and if the court or jury finds that the grounds for additional
22 confinement as set forth in this section are present, the court may
23 order the committed person returned for an additional period of
24 treatment not to exceed one hundred eighty days from the date of
25 judgment, except as provided in subsection (7) of this section. If
26 the court's order is based solely on the grounds identified in
27 subsection (4)(e) of this section, the court may enter an order for
28 less restrictive alternative treatment not to exceed one hundred
29 eighty days from the date of judgment, and may not enter an order for
30 inpatient treatment. An order for less restrictive alternative
31 treatment must name the mental health service provider responsible
32 for identifying the services the person will receive in accordance
33 with RCW 71.05.585, and must include a requirement that the person
34 cooperate with the services planned by the mental health service
35 provider.

36 (b) At the end of the one hundred eighty day period of
37 commitment, or one-year period of commitment if subsection (7) of
38 this section applies, the committed person shall be released unless a
39 petition for an additional one hundred eighty day period of continued
40 treatment is filed and heard in the same manner as provided in this

1 section. Successive one hundred eighty day commitments are
2 permissible on the same grounds and pursuant to the same procedures
3 as the original one hundred eighty day commitment.

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

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

12 **Sec. 205.** RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45
13 s 4 are each reenacted and amended to read as follows:

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

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

28 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
29 commitment, then the period of treatment may be up to but not exceed
30 one hundred eighty days from the date of judgment in a facility
31 certified for one hundred eighty day treatment by the department.

32 (2) If the court or jury finds that grounds set forth in RCW
33 71.05.280 have been proven, but finds that treatment less restrictive
34 than detention will be in the best interest of the person or others,
35 then the court (~~shall remand him or her to the custody of the
36 department or to a facility certified for ninety day treatment by the
37 department~~) must commit him or her for a period of treatment of up
38 to ninety days or to a less restrictive alternative for a further
39 period of less restrictive treatment not to exceed ninety days from

1 the date of judgment. If the order for less restrictive treatment is
2 based on a substance use disorder, treatment must be provided by an
3 approved substance use disorder treatment program. If the grounds set
4 forth in RCW 71.05.280(3) are the basis of commitment, then the
5 period of treatment may be up to but not exceed one hundred eighty
6 days from the date of judgment. If the court or jury finds that the
7 grounds set forth in RCW 71.05.280(5) have been proven, and provide
8 the only basis for commitment, the court must enter an order for less
9 restrictive alternative treatment for up to ninety days from the date
10 of judgment and may not order inpatient treatment.

11 (3) An order for less restrictive alternative treatment entered
12 under subsection (2) of this section must name the mental health
13 service provider responsible for identifying the services the person
14 will receive in accordance with RCW 71.05.585, and must include a
15 requirement that the person cooperate with the services planned by
16 the mental health service provider.

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

24 (a) During the current period of court ordered treatment: (i) Has
25 threatened, attempted, or inflicted physical harm upon the person of
26 another, or substantial damage upon the property of another, and (ii)
27 as a result of a mental disorder, substance use disorder, or
28 developmental disability presents a likelihood of serious harm; or

29 (b) Was taken into custody as a result of conduct in which he or
30 she attempted or inflicted serious physical harm upon the person of
31 another, and continues to present, as a result of mental disorder,
32 substance use disorder, or developmental disability a likelihood of
33 serious harm; or

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

39 (ii) In cases under this subsection where the court has made an
40 affirmative special finding under RCW 71.05.280(3)(b), the commitment

1 shall continue for up to an additional one hundred eighty day period
2 whenever the petition presents prima facie evidence that the person
3 continues to suffer from a mental disorder or developmental
4 disability that results in a substantial likelihood of committing
5 acts similar to the charged criminal behavior, unless the person
6 presents proof through an admissible expert opinion that the person's
7 condition has so changed such that the mental disorder or
8 developmental disability no longer presents a substantial likelihood
9 of the person committing acts similar to the charged criminal
10 behavior. The initial or additional commitment period may include
11 transfer to a specialized program of intensive support and treatment,
12 which may be initiated prior to or after discharge (~~from the state~~
13 ~~hospital~~)); or

14 (d) Continues to be gravely disabled; or

15 (e) Is in need of assisted outpatient (~~mental~~) behavioral
16 health treatment.

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

20 If less restrictive alternative treatment is sought, the petition
21 shall set forth any recommendations for less restrictive alternative
22 treatment services.

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

29 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
30 and if the court or jury finds that the grounds for additional
31 confinement as set forth in this section are present, subject to
32 subsection (1)(b) of this section, the court may order the committed
33 person returned for an additional period of treatment not to exceed
34 one hundred eighty days from the date of judgment, except as provided
35 in subsection (7) of this section. If the court's order is based
36 solely on the grounds identified in subsection (4)(e) of this
37 section, the court may enter an order for less restrictive
38 alternative treatment not to exceed one hundred eighty days from the
39 date of judgment, and may not enter an order for inpatient treatment.
40 An order for less restrictive alternative treatment must name the

1 mental health service provider responsible for identifying the
2 services the person will receive in accordance with RCW 71.05.585,
3 and must include a requirement that the person cooperate with the
4 services planned by the mental health service provider.

5 (b) At the end of the one hundred eighty day period of
6 commitment, or one-year period of commitment if subsection (7) of
7 this section applies, the committed person shall be released unless a
8 petition for an additional one hundred eighty day period of continued
9 treatment is filed and heard in the same manner as provided in this
10 section. Successive one hundred eighty day commitments are
11 permissible on the same grounds and pursuant to the same procedures
12 as the original one hundred eighty day commitment.

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

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

21 **Sec. 206.** RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each
22 amended to read as follows:

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

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

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

1 then the court (~~shall remand him or her to the custody of the~~
2 ~~department or to a facility certified for ninety day treatment by the~~
3 ~~department~~)) must commit him or her for a period of treatment of up
4 to ninety days or to a less restrictive alternative for a further
5 period of less restrictive treatment not to exceed ninety days from
6 the date of judgment. If the order for less restrictive treatment is
7 based on a substance use disorder, treatment must be provided by an
8 approved substance use disorder treatment program. If the grounds set
9 forth in RCW 71.05.280(3) are the basis of commitment, then the
10 period of treatment may be up to but not exceed one hundred eighty
11 days from the date of judgment. If the court or jury finds that the
12 grounds set forth in RCW 71.05.280(5) have been proven, and provide
13 the only basis for commitment, the court must enter an order for less
14 restrictive alternative treatment for up to ninety days from the date
15 of judgment and may not order inpatient treatment.

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

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

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

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

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

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

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

19 (d) Continues to be gravely disabled; or

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

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

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

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

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

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

10 (b) At the end of the one hundred eighty day period of
11 commitment, or one-year period of commitment if subsection (7) of
12 this section applies, the committed person shall be released unless a
13 petition for an additional one hundred eighty day period of continued
14 treatment is filed and heard in the same manner as provided in this
15 section. Successive one hundred eighty day commitments are
16 permissible on the same grounds and pursuant to the same procedures
17 as the original one hundred eighty day commitment.

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

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

26 NEW SECTION. **Sec. 207.** The department of social and health
27 services shall confer with the department of health and hospitals
28 licensed under chapters 70.41 and 71.12 RCW to review laws and
29 regulations and identify changes that may be necessary to address
30 care delivery and cost-effective treatment for adults on ninety or
31 one hundred eighty day commitment orders which may be different than
32 the requirements for short-term psychiatric hospitalization. The
33 department of social and health services shall report its findings to
34 the select committee on quality improvement in state hospitals by
35 November 1, 2017.

1 **Part III**

2 **State Hospital Short-Term Reforms**

3 NEW SECTION. **Sec. 301.** The legislature intends to expand
4 capacity in the upcoming biennia for enhanced community placements
5 for complex patients to decrease utilization of state hospitals and
6 increase community stability. Capacity must be provided in settings
7 such as nursing homes, assisted living facilities, adult family
8 homes, enhanced service facilities, state-operated living
9 alternatives, and supported housing for persons with developmental
10 disabilities or long-term care needs. The funding must be
11 administered by the department of social and health services.

12 NEW SECTION. **Sec. 302.** A new section is added to chapter 71.05
13 RCW to read as follows:

14 Discharge planning in state hospitals and certified community
15 long-term involuntary treatment facilities must begin at admission.
16 Discharge planning must be collaborative across state agencies and
17 community providers, provide individualized treatment targeted
18 towards known risks of rehospitalization or recidivism, and work
19 ahead to resolve known discharge barriers that may prevent patients
20 from leaving the state hospital or certified community long-term
21 involuntary treatment facilities when they are deemed ready. To
22 ensure effective discharge planning, state hospitals, certified long-
23 term involuntary treatment facilities, and state agencies responsible
24 for the cost of the community care long-term involuntary treatment
25 patients must do the following:

26 (1) The aging and long-term support administration and
27 developmental disabilities administration or their successor agencies
28 must assume expanded responsibility beginning at admission for aiding
29 its clients to transition from state hospitals and certified long-
30 term involuntary treatment facilities into the community. This
31 responsibility may include interfacing with behavioral health
32 organizations and others to coordinate community treatment
33 arrangements for multiagency clients. State hospitals and certified
34 long-term treatment facilities must allow functional assessments to
35 be conducted on individuals identified as potential clients before
36 the patient is deemed eligible for discharge and allow necessary
37 access for agency staff to implement the goals of this subsection;

1 (2) State hospitals and certified long-term involuntary treatment
2 facilities must allow managed care entities responsible for the cost
3 of a state hospital patient's community care appropriate access to
4 the patient and patient records for purposes of coordinated care.
5 Managed care entities must be allowed to make assessments, provide
6 input into treatment and discharge planning, and otherwise engage in
7 appropriate rehabilitation case management activities; and

8 (3) State hospitals must screen patients upon admission for
9 medical necessity for substance use disorder treatment and provide
10 coordinated substance use disorder treatment services targeted to
11 reduce rehospitalization or recidivism to patients with an identified
12 need.

13 **Sec. 303.** RCW 71.05.365 and 2016 sp.s. c 37 s 15 are each
14 amended to read as follows:

15 (1) When a person has been involuntarily committed for treatment
16 to a state hospital for a period of ninety or one hundred eighty
17 days, and the superintendent or professional person in charge of the
18 state hospital determines that the person no longer requires active
19 psychiatric treatment at an inpatient level of care, the behavioral
20 health organization((~~r~~)) or full integration entity under RCW
21 71.24.380(~~(, or agency providing oversight of long term care or~~
22 developmental disability services that is responsible for resource
23 management services for the person must work with the hospital to
24 develop an individualized discharge plan and arrange for a transition
25 to the community in accordance with the person's individualized
26 discharge plan within fourteen days of the determination)) must
27 establish an individualized discharge plan arranging for transition
28 to an identified placement in the community within no more than
29 fourteen days of the determination. The individualized discharge plan
30 must provide for a date certain by which discharge must be completed.

31 (2) If the entity under subsection (1) of this section has not
32 fulfilled the obligation to establish an individualized discharge
33 plan for the patient, the entity must reimburse the department for
34 days of care provided after the fourteenth day following
35 determination that the person no longer requires active psychiatric
36 treatment at an inpatient level of care, until an individualized
37 discharge plan meeting the requirements of subsection (1) of this
38 section is established. The reimbursement rate per day shall be the
39 same reimbursement rate under RCW 71.24.310.

1 (3) The department must establish a process for appeal to the
2 secretary or the secretary's designee when entities under subsection
3 (1) of this section and the state hospital are unable to mutually
4 agree within fourteen days about a specific patient's readiness for
5 discharge, whether readiness for discharge is asserted by the state
6 hospital or by the managed care entity. The managed care entity may
7 use this process to request relief from a reimbursement obligation
8 under subsection (2) of this section if the managed care entity is
9 unable to establish a discharge plan due to the action or inaction of
10 a third party outside its contracting authority or control, such as a
11 state agency division responsible for a portion of the costs related
12 to the community care needs of the person or the court.

13 (4) The requirements of this section are suspended when the risk
14 for state hospital treatment or state-contracted inpatient treatment
15 in a certified community long-term involuntary treatment facility is
16 integrated into managed care contracts as provided under section 101
17 of this act.

18 NEW SECTION. Sec. 304. A new section is added to chapter 72.23
19 RCW to read as follows:

20 (1) The legislature finds that qualified psychiatric advanced
21 registered nurse practitioners and physician assistants supervised by
22 a psychiatrist have a role in participating in the direction of
23 psychiatric treatment at state psychiatric hospitals consistent with
24 practice at the top of their scope of license and capabilities,
25 including sharing duties for prescribing psychiatric medication and
26 other tasks historically performed by psychiatrists at the state
27 hospitals. The department should take reasonable steps available to
28 employ these professionals at state hospitals.

29 (2) The role of state hospital psychiatrists is expanded to
30 provide supervision to physician assistants specializing in
31 psychiatry and provide mentorship to psychiatric advanced registered
32 nurse practitioners necessary to allow these professionals to
33 practice at the top of their scope of license.

34 (3) In order to increase the use of psychiatric advanced
35 registered nurse practitioners and physician assistants to perform
36 work and tasks that are currently or have been historically performed
37 by psychiatrists at the state hospitals, the department shall work
38 with the University of Washington department of psychiatry and
39 behavioral sciences and the appropriate department of Washington

1 State University and appropriate schools of nursing to conduct an
2 analysis and develop a plan to create a training and supervision
3 program at western and eastern state hospitals for psychiatric
4 advanced registered nurse practitioners and physician assistants. The
5 plan shall include an appraisal of risks, barriers, and benefits to
6 implementation as well as an implementation timeline. The department
7 must report to the office of financial management and relevant policy
8 and fiscal committees of the legislature on findings and
9 recommendations by December 15, 2017.

10 **Part IV**

11 **Improving Access to Assisted Outpatient Mental Health Treatment**

12 **Sec. 401.** RCW 71.05.020 and 2016 c 155 s 1 are each reenacted
13 and amended to read as follows:

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

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

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

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

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

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

32 (6) "Crisis stabilization unit" means a short-term facility or a
33 portion of a facility licensed by the department of health and
34 certified by the department of social and health services under RCW
35 71.24.035, such as an evaluation and treatment facility or a
36 hospital, which has been designed to assess, diagnose, and treat
37 individuals experiencing an acute crisis without the use of long-term
38 hospitalization;

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

5 (8) "Department" means the department of social and health
6 services;

7 (9) "Designated chemical dependency specialist" means a person
8 designated by (~~the county alcoholism and other drug addiction~~
9 ~~program coordinator designated under RCW 70.96A.310~~) a behavioral
10 health organization as defined in RCW 71.24.025 to perform the
11 commitment duties described in chapters 70.96A and 70.96B RCW;

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

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

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

20 (13) "Developmental disabilities professional" means a person who
21 has specialized training and three years of experience in directly
22 treating or working with persons with developmental disabilities and
23 is a psychiatrist, physician assistant working with a supervising
24 psychiatrist, psychologist, psychiatric advanced registered nurse
25 practitioner, or social worker, and such other developmental
26 disabilities professionals as may be defined by rules adopted by the
27 secretary;

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

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

33 (16) "Evaluation and treatment facility" means any facility which
34 can provide directly, or by direct arrangement with other public or
35 private agencies, emergency evaluation and treatment, outpatient
36 care, and timely and appropriate inpatient care to persons suffering
37 from a mental disorder, and which is certified as such by the
38 department. The department may certify single beds as temporary
39 evaluation and treatment beds under RCW 71.05.745. A physically
40 separate and separately operated portion of a state hospital may be

1 designated as an evaluation and treatment facility. A facility which
2 is part of, or operated by, the department or any federal agency will
3 not require certification. No correctional institution or facility,
4 or jail, shall be an evaluation and treatment facility within the
5 meaning of this chapter;

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

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

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

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

29 (21) "In need of assisted outpatient mental health treatment"
30 means that a person, as a result of a mental disorder: (a) ~~((Has been
31 committed by a court to detention for involuntary mental health
32 treatment at least twice during the preceding thirty six months, or,
33 if the person is currently committed for involuntary mental health
34 treatment, the person has been committed to detention for involuntary
35 mental health treatment at least once during the thirty six months
36 preceding the date of initial detention of the current commitment
37 cycle; (b))~~ Is unlikely to voluntarily participate in outpatient
38 treatment without an order for less restrictive alternative
39 treatment, ~~((in view of the person's treatment history or current
40 behavior; (c) is unlikely to survive safely in the community without~~

1 ~~supervision; (d) is likely to benefit from less restrictive~~
2 ~~alternative treatment; and (e))~~ based on a history of nonadherence
3 with treatment or in view of the person's current behavior; (b) is
4 likely to benefit from less restrictive alternative treatment; and
5 (c) requires less restrictive alternative treatment to prevent a
6 relapse, decompensation, or deterioration that is likely to result in
7 the person presenting a likelihood of serious harm or the person
8 becoming gravely disabled within a reasonably short period of time((-
9 ~~For purposes of (a) of this subsection, time spent in a mental health~~
10 ~~facility or in confinement as a result of a criminal conviction is~~
11 ~~excluded from the thirty-six month calculation));~~

12 (22) "Individualized service plan" means a plan prepared by a
13 developmental disabilities professional with other professionals as a
14 team, for a person with developmental disabilities, which shall
15 state:

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

18 (b) The conditions and strategies necessary to achieve the
19 purposes of habilitation;

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

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

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

25 (f) Where relevant in light of past criminal behavior and due
26 consideration for public safety, the criteria for proposed movement
27 to less-restrictive settings, criteria for proposed eventual
28 discharge or release, and a projected possible date for discharge or
29 release; and

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

32 (23) "Information related to mental health services" means all
33 information and records compiled, obtained, or maintained in the
34 course of providing services to either voluntary or involuntary
35 recipients of services by a mental health service provider. This may
36 include documents of legal proceedings under this chapter or chapter
37 71.34 or 10.77 RCW, or somatic health care information;

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

1 (25) "Legal counsel" means attorneys and staff employed by county
2 prosecutor offices or the state attorney general acting in their
3 capacity as legal representatives of public mental health service
4 providers under RCW 71.05.130;

5 (26) "Less restrictive alternative treatment" means a program of
6 individualized treatment in a less restrictive setting than inpatient
7 treatment that includes the services described in RCW 71.05.585;

8 (27) "Likelihood of serious harm" means:

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

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

20 (28) "Medical clearance" means a physician or other health care
21 provider has determined that a person is medically stable and ready
22 for referral to the designated mental health professional;

23 (29) "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 (30) "Mental health professional" means a psychiatrist,
27 psychologist, physician assistant working with a supervising
28 psychiatrist, psychiatric advanced registered nurse practitioner,
29 psychiatric nurse, or social worker, and such other mental health
30 professionals as may be defined by rules adopted by the secretary
31 pursuant to the provisions of this chapter;

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

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

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

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

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

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

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

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

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

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

38 (40) "Registration records" include all the records of the
39 department, behavioral health organizations, treatment facilities,
40 and other persons providing services to the department, county

1 departments, or facilities which identify persons who are receiving
2 or who at any time have received services for mental illness;

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

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

7 (43) "Secretary" means the secretary of the department of social
8 and health services, or his or her designee;

9 (44) "Serious violent offense" has the same meaning as provided
10 in RCW 9.94A.030;

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

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

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

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

1 (49) "Violent act" means behavior that resulted in homicide,
2 attempted suicide, nonfatal injuries, or substantial damage to
3 property.

4 **Sec. 402.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155
5 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

29 (6) "Chemical dependency" means:

30 (a) Alcoholism;

31 (b) Drug addiction; or

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

34 (7) "Chemical dependency professional" means a person certified
35 as a chemical dependency professional by the department of health
36 under chapter 18.205 RCW;

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

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

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

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

14 (12) "Department" means the department of social and health
15 services;

16 (13) "Designated crisis responder" means a mental health
17 professional appointed by the behavioral health organization to
18 perform the duties specified in this chapter;

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

21 (15) "Developmental disabilities professional" means a person who
22 has specialized training and three years of experience in directly
23 treating or working with persons with developmental disabilities and
24 is a psychiatrist, physician assistant working with a supervising
25 psychiatrist, psychologist, psychiatric advanced registered nurse
26 practitioner, or social worker, and such other developmental
27 disabilities professionals as may be defined by rules adopted by the
28 secretary;

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

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

34 (18) "Drug addiction" means a disease, characterized by a
35 dependency on psychoactive chemicals, loss of control over the amount
36 and circumstances of use, symptoms of tolerance, physiological or
37 psychological withdrawal, or both, if use is reduced or discontinued,
38 and impairment of health or disruption of social or economic
39 functioning;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (26) "Intoxicated person" means a person whose mental or physical
26 functioning is substantially impaired as a result of the use of
27 alcohol or other psychoactive chemicals;

28 (27) "In need of assisted outpatient (~~mental~~) behavioral health
29 treatment" means that a person, as a result of a mental disorder or
30 substance use disorder: (a) (~~Has been committed by a court to~~
31 ~~detention for involuntary mental health treatment at least twice~~
32 ~~during the preceding thirty six months, or, if the person is~~
33 ~~currently committed for involuntary mental health treatment, the~~
34 ~~person has been committed to detention for involuntary mental health~~
35 ~~treatment at least once during the thirty six months preceding the~~
36 ~~date of initial detention of the current commitment cycle;~~ (b)) Is
37 unlikely to voluntarily participate in outpatient treatment without
38 an order for less restrictive alternative treatment, (~~in view of the~~
39 ~~person's treatment history or current behavior;~~ (c) ~~is unlikely to~~
40 ~~survive safely in the community without supervision;~~ (d) ~~is likely to~~

1 ~~benefit from less restrictive alternative treatment; and (e))~~ based
2 on a history of nonadherence with treatment or in view of the
3 person's current behavior; (b) is likely to benefit from less
4 restrictive alternative treatment; and (c) requires less restrictive
5 alternative treatment to prevent a relapse, decompensation, or
6 deterioration that is likely to result in the person presenting a
7 likelihood of serious harm or the person becoming gravely disabled
8 within a reasonably short period of time(~~(. For purposes of (a) of~~
9 ~~this subsection, time spent in a mental health facility or in~~
10 ~~confinement as a result of a criminal conviction is excluded from the~~
11 ~~thirty six month calculation));~~

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

14 (29) "Legal counsel" means attorneys and staff employed by county
15 prosecutor offices or the state attorney general acting in their
16 capacity as legal representatives of public mental health and
17 substance use disorder service providers under RCW 71.05.130;

18 (30) "Less restrictive alternative treatment" means a program of
19 individualized treatment in a less restrictive setting than inpatient
20 treatment that includes the services described in RCW 71.05.585;

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

24 (32) "Likelihood of serious harm" means:

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

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

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

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

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

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

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

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

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

36 (40) "Professional person" means a mental health professional or
37 designated crisis responder and shall also mean a physician,
38 physician assistant, psychiatric advanced registered nurse
39 practitioner, registered nurse, and such others as may be defined by

1 rules adopted by the secretary pursuant to the provisions of this
2 chapter;

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

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

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

15 (44) "Public agency" means any evaluation and treatment facility
16 or institution, secure detoxification facility, approved substance
17 use disorder treatment program, or hospital which is conducted for,
18 or includes a department or ward conducted for, the care and
19 treatment of persons with mental illness, substance use disorders, or
20 both mental illness and substance use disorders, if the agency is
21 operated directly by federal, state, county, or municipal government,
22 or a combination of such governments;

23 (45) "Registration records" include all the records of the
24 department, behavioral health organizations, treatment facilities,
25 and other persons providing services to the department, county
26 departments, or facilities which identify persons who are receiving
27 or who at any time have received services for mental illness or
28 substance use disorders;

29 (46) "Release" means legal termination of the commitment under
30 the provisions of this chapter;

31 (47) "Resource management services" has the meaning given in
32 chapter 71.24 RCW;

33 (48) "Secretary" means the secretary of the department of social
34 and health services, or his or her designee;

35 (49) "Secure detoxification facility" means a facility operated
36 by either a public or private agency or by the program of an agency
37 that:

38 (a) Provides for intoxicated persons:

39 (i) Evaluation and assessment, provided by certified chemical
40 dependency professionals;

1 (ii) Acute or subacute detoxification services; and
2 (iii) Discharge assistance provided by certified chemical
3 dependency professionals, including facilitating transitions to
4 appropriate voluntary or involuntary inpatient services or to less
5 restrictive alternatives as appropriate for the individual;

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

8 (c) Is certified as such by the department;

9 (50) "Serious violent offense" has the same meaning as provided
10 in RCW 9.94A.030;

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

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

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

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

38 (55) "Triage facility" means a short-term facility or a portion
39 of a facility licensed by the department of health and certified by
40 the department of social and health services under RCW 71.24.035,

1 which is designed as a facility to assess and stabilize an individual
2 or determine the need for involuntary commitment of an individual,
3 and must meet department of health residential treatment facility
4 standards. A triage facility may be structured as a voluntary or
5 involuntary placement facility;

6 (56) "Violent act" means behavior that resulted in homicide,
7 attempted suicide, nonfatal injuries, or substantial damage to
8 property.

9 **Sec. 403.** RCW 71.05.585 and 2016 c 45 s 5 are each amended to
10 read as follows:

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

13 (a) Assignment of a care coordinator;

14 (b) An intake evaluation with the provider of the less
15 restrictive alternative treatment;

16 (c) A psychiatric evaluation;

17 (d) ~~((Medication management;~~

18 ~~(+e))~~ A schedule of regular contacts with the provider of the
19 less restrictive alternative treatment services for the duration of
20 the order;

21 ~~((+f))~~ (e) A transition plan addressing access to continued
22 services at the expiration of the order; and

23 ~~((+g))~~ (f) An individual crisis plan.

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

26 (a) Medication management;

27 (b) Psychotherapy;

28 ~~((+b))~~ (c) Nursing;

29 ~~((+e))~~ (d) Substance abuse counseling;

30 ~~((+d))~~ (e) Residential treatment; and

31 ~~((+e))~~ (f) Support for housing, benefits, education, and
32 employment.

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

37 (4) The care coordinator assigned to a person ordered to less
38 restrictive alternative treatment must submit an individualized plan
39 for the person's treatment services to the court that entered the

1 order. An initial plan must be submitted as soon as possible
2 following the intake evaluation and a revised plan must be submitted
3 upon any subsequent modification in which a type of service is
4 removed from or added to the treatment plan.

5 (5) For the purpose of this section, "care coordinator" means a
6 clinical practitioner who coordinates the activities of less
7 restrictive alternative treatment. The care coordinator coordinates
8 activities with the designated mental health professionals necessary
9 for enforcement and continuation of less restrictive alternative
10 orders and is responsible for coordinating service activities with
11 other agencies and establishing and maintaining a therapeutic
12 relationship with the individual on a continuing basis.

13 **Sec. 404.** RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45
14 s 5 are each reenacted and amended to read as follows:

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

- 17 (a) Assignment of a care coordinator;
- 18 (b) An intake evaluation with the provider of the less
19 restrictive alternative treatment;
- 20 (c) A psychiatric evaluation;
- 21 (d) ~~((Medication management;~~
- 22 ~~(e)))~~ A schedule of regular contacts with the provider of the
23 less restrictive alternative treatment services for the duration of
24 the order;
- 25 ~~((f)))~~ (e) A transition plan addressing access to continued
26 services at the expiration of the order; and
- 27 ~~((g)))~~ (f) An individual crisis plan.

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

- 30 (a) Medication management;
- 31 (b) Psychotherapy;
- 32 ~~((b)))~~ (c) Nursing;
- 33 ~~((e)))~~ (d) Substance abuse counseling;
- 34 ~~((d)))~~ (e) Residential treatment; and
- 35 ~~((e)))~~ (f) Support for housing, benefits, education, and
36 employment.

37 (3) Less restrictive alternative treatment must be administered
38 by a provider that is certified or licensed to provide or coordinate

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

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

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

18 NEW SECTION. **Sec. 405.** A new section is added to chapter 71.05
19 RCW to read as follows:

20 This section establishes a process for initial evaluation and
21 filing of a petition for assisted outpatient treatment, but however
22 does not preclude the filing of a petition for assisted outpatient
23 treatment following a period of inpatient detention in appropriate
24 circumstances:

25 (1) The designated mental health professional must personally
26 interview the person, unless the person refuses an interview, and
27 determine whether the person will voluntarily receive appropriate
28 evaluation and treatment at a mental health facility.

29 (2) The designated mental health professional must investigate
30 and evaluate the specific facts alleged and the reliability or
31 credibility of any person providing information. The designated
32 mental health professional may spend up to forty-eight hours to
33 complete the investigation, provided that the person may not be held
34 for investigation for any period except as authorized by RCW
35 71.05.050 or 71.05.153.

36 (3) If the designated mental health professional finds that the
37 person is in need of assisted outpatient mental health treatment,
38 they may file a petition requesting the court to enter an order for

1 up to ninety days less restrictive alternative treatment. The
2 petition must include:

3 (a) A statement of the circumstances under which the person's
4 condition was made known and stating that there is evidence, as a
5 result of the designated mental health professional's personal
6 observation or investigation, that the person is in need of assisted
7 outpatient mental health treatment, and stating the specific facts
8 known as a result of personal observation or investigation, upon
9 which the designated mental health professional bases this belief;

10 (b) The declaration of additional witnesses, if any, supporting
11 the petition for assisted outpatient treatment;

12 (c) A designation of retained counsel for the person or, if
13 counsel is appointed, the name, business address, and telephone
14 number of the attorney appointed to represent the person;

15 (d) The name of an agency or facility which agreed to assume the
16 responsibility of providing less restrictive alternative treatment if
17 the petition is granted by the court;

18 (e) A summons to appear in court at a specific time and place
19 within five judicial days for a probable cause hearing, except as
20 provided in subsection (4) of this section.

21 (4) If the person is in the custody of jail or prison at the time
22 of the investigation, a petition for assisted outpatient mental
23 health treatment may be used to facilitate continuity of care after
24 release from custody or the diversion of criminal charges as follows:

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

29 (b) The hearing may be held prior to the person's release from
30 custody, provided that (i) the filing of the petition does not extend
31 the time the person would otherwise spend in the custody of jail or
32 prison; (ii) the charges or custody of the person is not a pretext to
33 detain the person for the purpose of the involuntary commitment
34 hearing; and (iii) the person's release from custody must be expected
35 to swiftly follow the adjudication of the petition. In this
36 circumstance, the time for hearing is shortened to three judicial
37 days after the filing of the petition.

38 (5) The petition must be served upon the person and the person's
39 counsel with a notice of applicable rights. Proof of service must be
40 filed with the court.

1 (6) A petition for assisted outpatient treatment filed under this
2 section must be adjudicated under RCW 71.05.240.

3 NEW SECTION. **Sec. 406.** A new section is added to chapter 71.05
4 RCW to read as follows:

5 This section establishes a process for initial evaluation and
6 filing of a petition for assisted outpatient treatment, but however
7 does not preclude the filing of a petition for assisted outpatient
8 treatment following a period of inpatient detention in appropriate
9 circumstances:

10 (1) The designated crisis responder must personally interview the
11 person, unless the person refuses an interview, and determine whether
12 the person will voluntarily receive appropriate evaluation and
13 treatment at a mental health facility, secure detoxification
14 facility, or approved substance use disorder treatment program.

15 (2) The designated crisis responder must investigate and evaluate
16 the specific facts alleged and the reliability or credibility of any
17 person providing information. The designated crisis responder may
18 spend up to forty-eight hours to complete the investigation, provided
19 that the person may not be held for investigation for any period
20 except as authorized by RCW 71.05.050 or 71.05.153.

21 (3) If the designated crisis responder finds that the person is
22 in need of assisted outpatient behavioral health treatment, they may
23 file a petition requesting the court to enter an order for up to
24 ninety days less restrictive alternative treatment. The petition must
25 include:

26 (a) A statement of the circumstances under which the person's
27 condition was made known and stating that there is evidence, as a
28 result of the designated crisis responder's personal observation or
29 investigation, that the person is in need of assisted outpatient
30 behavioral health treatment, and stating the specific facts known as
31 a result of personal observation or investigation, upon which the
32 designated crisis responder bases this belief;

33 (b) The declaration of additional witnesses, if any, supporting
34 the petition for assisted outpatient treatment;

35 (c) A designation of retained counsel for the person or, if
36 counsel is appointed, the name, business address, and telephone
37 number of the attorney appointed to represent the person;

1 (d) The name of an agency or facility which agreed to assume the
2 responsibility of providing less restrictive alternative treatment if
3 the petition is granted by the court;

4 (e) A summons to appear in court at a specific time and place
5 within five judicial days for a probable cause hearing, except as
6 provided in subsection (4) of this section.

7 (4) If the person is in the custody of jail or prison at the time
8 of the investigation, a petition for assisted outpatient behavioral
9 health treatment may be used to facilitate continuity of care after
10 release from custody or the diversion of criminal charges as follows:

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

15 (b) The hearing may be held prior to the person's release from
16 custody, provided that (i) the filing of the petition does not extend
17 the time the person would otherwise spend in the custody of jail or
18 prison; (ii) the charges or custody of the person is not a pretext to
19 detain the person for the purpose of the involuntary commitment
20 hearing; and (iii) the person's release from custody must be expected
21 to swiftly follow the adjudication of the petition. In this
22 circumstance, the time for hearing is shortened to three judicial
23 days after the filing of the petition.

24 (5) The petition must be served upon the person and the person's
25 counsel with a notice of applicable rights. Proof of service must be
26 filed with the court.

27 (6) A petition for assisted outpatient treatment filed under this
28 section must be adjudicated under RCW 71.05.240.

29 **Sec. 407.** RCW 71.05.150 and 2015 c 250 s 3 are each amended to
30 read as follows:

31 (1)((~~a~~)) When a designated mental health professional receives
32 information alleging that a person, as a result of a mental disorder:
33 ((~~i~~)) (a) Presents a likelihood of serious harm; ((~~ii~~)) (b) is
34 gravely disabled; or ((~~iii~~)) (c) is in need of assisted outpatient
35 mental health treatment; the designated mental health professional
36 may, after investigation and evaluation of the specific facts alleged
37 and of the reliability and credibility of any person providing
38 information to initiate detention or involuntary outpatient
39 evaluation, if satisfied that the allegations are true and that the

1 person will not voluntarily seek appropriate treatment, file a
2 petition for initial detention (~~(or involuntary outpatient~~
3 ~~evaluation. If the petition is filed solely on the grounds that the~~
4 ~~person is in need of assisted outpatient mental health treatment, the~~
5 ~~petition may only be for an involuntary outpatient evaluation. An~~
6 ~~involuntary outpatient evaluation may be conducted by any combination~~
7 ~~of licensed professionals authorized to petition for involuntary~~
8 ~~commitment under RCW 71.05.230 and must include involvement or~~
9 ~~consultation with the agency or facility which will provide~~
10 ~~monitoring or services under the proposed less restrictive~~
11 ~~alternative treatment order. If the petition is for an involuntary~~
12 ~~outpatient evaluation and the person is being held in a hospital~~
13 ~~emergency department, the person may be released once the hospital~~
14 ~~has satisfied federal and state legal requirements for appropriate~~
15 ~~screening and stabilization of patients.~~

16 ~~(b))~~ under this section or a petition for involuntary outpatient
17 treatment under section 405 of this act. Before filing the petition,
18 the designated mental health professional must personally interview
19 the person, unless the person refuses an interview, and determine
20 whether the person will voluntarily receive appropriate evaluation
21 and treatment at an evaluation and treatment facility, crisis
22 stabilization unit, or triage facility.

23 (2)(a) An order to detain to a designated evaluation and
24 treatment facility for not more than a seventy-two-hour evaluation
25 and treatment period(~~(, or an order for an involuntary outpatient~~
26 ~~evaluation,)) may be issued by a judge of the superior court upon
27 request of a designated mental health professional, whenever it
28 appears to the satisfaction of a judge of the superior court:~~

- 29 (i) That there is probable cause to support the petition; and
30 (ii) That the person has refused or failed to accept appropriate
31 evaluation and treatment voluntarily.

32 (b) The petition for initial detention (~~(or involuntary~~
33 ~~outpatient evaluation)), signed under penalty of perjury, or sworn~~
34 telephonic testimony may be considered by the court in determining
35 whether there are sufficient grounds for issuing the order.

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

1 (3) The designated mental health professional shall then serve or
2 cause to be served on such person, his or her guardian, and
3 conservator, if any, a copy of the order together with a notice of
4 rights, and a petition for initial detention (~~or involuntary~~
5 ~~outpatient evaluation~~). After service on such person the designated
6 mental health professional shall file the return of service in court
7 and provide copies of all papers in the court file to the evaluation
8 and treatment facility and the designated attorney. The designated
9 mental health professional shall notify the court and the prosecuting
10 attorney that a probable cause hearing will be held within seventy-
11 two hours of the date and time of outpatient evaluation or admission
12 to the evaluation and treatment facility. The person shall be
13 permitted to be accompanied by one or more of his or her relatives,
14 friends, an attorney, a personal physician, or other professional or
15 religious advisor to the place of evaluation. An attorney
16 accompanying the person to the place of evaluation shall be permitted
17 to be present during the admission evaluation. Any other individual
18 accompanying the person may be present during the admission
19 evaluation. The facility may exclude the individual if his or her
20 presence would present a safety risk, delay the proceedings, or
21 otherwise interfere with the evaluation.

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

29 **Sec. 408.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each
30 amended to read as follows:

31 (1)((~~a~~)) When a designated crisis responder receives
32 information alleging that a person, as a result of a mental disorder,
33 substance use disorder, or both presents a likelihood of serious harm
34 or is gravely disabled, or that a person is in need of assisted
35 outpatient (~~mental~~) behavioral health treatment; the designated
36 crisis responder may, after investigation and evaluation of the
37 specific facts alleged and of the reliability and credibility of any
38 person providing information to initiate detention or involuntary
39 outpatient evaluation, if satisfied that the allegations are true and

1 that the person will not voluntarily seek appropriate treatment, file
2 a petition for initial detention (~~(or involuntary outpatient~~
3 ~~evaluation. If the petition is filed solely on the grounds that the~~
4 ~~person is in need of assisted outpatient mental health treatment, the~~
5 ~~petition may only be for an involuntary outpatient evaluation. An~~
6 ~~involuntary outpatient evaluation may be conducted by any combination~~
7 ~~of licensed professionals authorized to petition for involuntary~~
8 ~~commitment under RCW 71.05.230 and must include involvement or~~
9 ~~consultation with the agency or facility which will provide~~
10 ~~monitoring or services under the proposed less restrictive~~
11 ~~alternative treatment order. If the petition is for an involuntary~~
12 ~~outpatient evaluation and the person is being held in a hospital~~
13 ~~emergency department, the person may be released once the hospital~~
14 ~~has satisfied federal and state legal requirements for appropriate~~
15 ~~screening and stabilization of patients.~~

16 ~~(b))~~ under this section or a petition for involuntary outpatient
17 treatment under section 405 of this act. Before filing the petition,
18 the designated crisis responder must personally interview the person,
19 unless the person refuses an interview, and determine whether the
20 person will voluntarily receive appropriate evaluation and treatment
21 at an evaluation and treatment facility, crisis stabilization unit,
22 triage facility, or approved substance use disorder treatment
23 program.

24 (2)(a) An order to detain a person with a mental disorder to a
25 designated evaluation and treatment facility, or to detain a person
26 with a substance use disorder to a secure detoxification facility or
27 approved substance use disorder treatment program, for not more than
28 a seventy-two-hour evaluation and treatment period(~~(, or an order for~~
29 ~~an involuntary outpatient evaluation,)~~) may be issued by a judge of
30 the superior court upon request of a designated crisis responder,
31 subject to (d) of this subsection, whenever it appears to the
32 satisfaction of a judge of the superior court:

33 (i) That there is probable cause to support the petition; and
34 (ii) That the person has refused or failed to accept appropriate
35 evaluation and treatment voluntarily.

36 (b) The petition for initial detention (~~(or involuntary~~
37 ~~outpatient evaluation)), signed under penalty of perjury, or sworn~~
38 telephonic testimony may be considered by the court in determining
39 whether there are sufficient grounds for issuing the order.

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

5 (d) A court may not issue an order to detain a person to a secure
6 detoxification facility or approved substance use disorder treatment
7 program unless there is an available secure detoxification facility
8 or approved substance use disorder treatment program that has
9 adequate space for the person.

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

33 (4) The designated crisis responder may notify a peace officer to
34 take such person or cause such person to be taken into custody and
35 placed in an evaluation and treatment facility, secure detoxification
36 facility, or approved substance use disorder treatment program. At
37 the time such person is taken into custody there shall commence to be
38 served on such person, his or her guardian, and conservator, if any,
39 a copy of the original order together with a notice of rights and a
40 petition for initial detention.

1 **Sec. 409.** RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each
2 amended to read as follows:

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

27 ~~(b))~~) under this section or a petition for involuntary outpatient
28 treatment under section 405 of this act. Before filing the petition,
29 the designated crisis responder must personally interview the person,
30 unless the person refuses an interview, and determine whether the
31 person will voluntarily receive appropriate evaluation and treatment
32 at an evaluation and treatment facility, crisis stabilization unit,
33 triage facility, or approved substance use disorder treatment
34 program.

35 (2)(a) An order to detain a person with a mental disorder to a
36 designated evaluation and treatment facility, or to detain a person
37 with a substance use disorder to a secure detoxification facility or
38 approved substance use disorder treatment program, for not more than
39 a seventy-two-hour evaluation and treatment period~~((, or an order for~~
40 ~~an involuntary outpatient evaluation,))~~ may be issued by a judge of

1 the superior court upon request of a designated crisis responder
2 whenever it appears to the satisfaction of a judge of the superior
3 court:

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

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

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

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

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

38 (4) The designated crisis responder may notify a peace officer to
39 take such person or cause such person to be taken into custody and
40 placed in an evaluation and treatment facility, secure detoxification

1 facility, or approved substance use disorder treatment program. At
2 the time such person is taken into custody there shall commence to be
3 served on such person, his or her guardian, and conservator, if any,
4 a copy of the original order together with a notice of rights and a
5 petition for initial detention.

6 **Sec. 410.** RCW 71.05.230 and 2016 c 155 s 5 and 2016 c 45 s 1 are
7 each reenacted and amended to read as follows:

8 A person detained (~~or committed~~) for seventy-two hour
9 evaluation and treatment (~~or for an outpatient evaluation for the~~
10 ~~purpose of filing a petition for a less restrictive alternative~~
11 ~~treatment order~~) may be committed for not more than fourteen
12 additional days of involuntary intensive treatment or ninety
13 additional days of a less restrictive alternative to involuntary
14 intensive treatment. A petition may only be filed if the following
15 conditions are met:

16 (1) The professional staff of the (~~agency or~~) facility
17 providing evaluation services has analyzed the person's condition and
18 finds that the condition is caused by mental disorder and results in
19 a likelihood of serious harm, results in the person being gravely
20 disabled, or results in the person being in need of assisted
21 outpatient mental health treatment, and are prepared to testify those
22 conditions are met; and

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

26 (3) The (~~agency or~~) facility providing intensive treatment (~~or~~
27 ~~which proposes to supervise the less restrictive alternative~~) is
28 certified to provide such treatment by the department; and

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

33 (a) Two physicians;

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

35 (c) One physician assistant and a mental health professional; or

36 (d) One psychiatric advanced registered nurse practitioner and a
37 mental health professional. The persons signing the petition must
38 have examined the person. If involuntary detention is sought the
39 petition shall state facts that support the finding that such person,

1 as a result of mental disorder, presents a likelihood of serious
2 harm, or is gravely disabled and that there are no less restrictive
3 alternatives to detention in the best interest of such person or
4 others. The petition shall state specifically that less restrictive
5 alternative treatment was considered and specify why treatment less
6 restrictive than detention is not appropriate. If an involuntary less
7 restrictive alternative is sought, the petition shall state facts
8 that support the finding that such person, as a result of mental
9 disorder, presents a likelihood of serious harm, is gravely disabled,
10 or is in need of assisted outpatient mental health treatment, and
11 shall set forth any recommendations for less restrictive alternative
12 treatment services; and

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

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

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

21 (8) At the conclusion of the initial commitment period, the
22 professional staff of the (~~agency or~~) facility or the designated
23 mental health professional may petition for an additional period of
24 either ninety days of less restrictive alternative treatment or
25 ninety days of involuntary intensive treatment as provided in RCW
26 71.05.290; and

27 (9) If the hospital or facility designated to provide less
28 restrictive alternative treatment is other than the facility
29 providing involuntary treatment, the outpatient facility so
30 designated to provide less restrictive alternative treatment has
31 agreed to assume such responsibility.

32 **Sec. 411.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s
33 5, and 2016 c 45 s 1 are each reenacted and amended to read as
34 follows:

35 A person detained (~~or committed~~) for seventy-two hour
36 evaluation and treatment (~~or for an outpatient evaluation for the~~
37 ~~purpose of filing a petition for a less restrictive alternative~~
38 ~~treatment order~~) may be committed for not more than fourteen
39 additional days of involuntary intensive treatment or ninety

1 additional days of a less restrictive alternative (~~to involuntary~~
2 ~~intensive~~) treatment. A petition may only be filed if the following
3 conditions are met:

4 (1) The professional staff of the (~~agency or~~) facility
5 providing evaluation services has analyzed the person's condition and
6 finds that the condition is caused by mental disorder or substance
7 use disorder and results in a likelihood of serious harm, results in
8 the person being gravely disabled, or results in the person being in
9 need of assisted outpatient (~~mental~~) behavioral health treatment,
10 and are prepared to testify those conditions are met; and

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

14 (3) The (~~agency or~~) facility providing intensive treatment (~~or~~
15 ~~which proposes to supervise the less restrictive alternative~~) is
16 certified to provide such treatment by the department; and

17 (4) The professional staff of the (~~agency or~~) facility or the
18 designated crisis responder has filed a petition with the court for a
19 fourteen day involuntary detention or a ninety day less restrictive
20 alternative. The petition must be signed either by:

21 (a) Two physicians;

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

23 (c) One physician assistant and a mental health professional; or

24 (d) One psychiatric advanced registered nurse practitioner and a
25 mental health professional. The persons signing the petition must
26 have examined the person. If involuntary detention is sought the
27 petition shall state facts that support the finding that such person,
28 as a result of a mental disorder or substance use disorder, presents
29 a likelihood of serious harm, or is gravely disabled and that there
30 are no less restrictive alternatives to detention in the best
31 interest of such person or others. The petition shall state
32 specifically that less restrictive alternative treatment was
33 considered and specify why treatment less restrictive than detention
34 is not appropriate. If an involuntary less restrictive alternative is
35 sought, the petition shall state facts that support the finding that
36 such person, as a result of a mental disorder or as a result of a
37 substance use disorder, presents a likelihood of serious harm, is
38 gravely disabled, or is in need of assisted outpatient (~~mental~~)
39 behavioral health treatment, and shall set forth any recommendations
40 for less restrictive alternative treatment services; and

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

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

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

10 (8) At the conclusion of the initial commitment period, the
11 professional staff of the agency or facility or the designated crisis
12 responder may petition for an additional period of either ninety days
13 of less restrictive alternative treatment or ninety days of
14 involuntary intensive treatment as provided in RCW 71.05.290; and

15 (9) If the hospital or facility designated to provide less
16 restrictive alternative treatment is other than the facility
17 providing involuntary treatment, the outpatient facility so
18 designated to provide less restrictive alternative treatment has
19 agreed to assume such responsibility.

20 **Sec. 412.** RCW 71.05.240 and 2016 c 45 s 2 are each amended to
21 read as follows:

22 (1) If a petition is filed for fourteen day involuntary treatment
23 or ninety days of less restrictive alternative treatment, the court
24 shall hold a probable cause hearing within seventy-two hours of the
25 initial detention (~~(or involuntary outpatient evaluation)~~) of such
26 person as determined in RCW 71.05.180, or at a time determined under
27 section 405 of this act. If requested by the person or his or her
28 attorney, the hearing may be postponed for a period not to exceed
29 forty-eight hours. The hearing may also be continued subject to the
30 conditions set forth in RCW 71.05.210 or subject to the petitioner's
31 showing of good cause for a period not to exceed twenty-four hours.

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

38 (3) At the conclusion of the probable cause hearing:

1 (a) If the court finds by a preponderance of the evidence that
2 such person, as the result of mental disorder, presents a likelihood
3 of serious harm, or is gravely disabled, and, after considering less
4 restrictive alternatives to involuntary detention and treatment,
5 finds that no such alternatives are in the best interests of such
6 person or others, the court shall order that such person be detained
7 for involuntary treatment not to exceed fourteen days in a facility
8 certified to provide treatment by the department. If the court finds
9 that such person, as the result of a mental disorder, presents a
10 likelihood of serious harm, or is gravely disabled, but that
11 treatment in a less restrictive setting than detention is in the best
12 interest of such person or others, the court shall order an
13 appropriate less restrictive alternative course of treatment for not
14 to exceed ninety days;

15 (b) If the court finds by a preponderance of the evidence that
16 such person, as the result of a mental disorder, is in need of
17 assisted outpatient mental health treatment, and that the person does
18 not present a likelihood of serious harm or grave disability, the
19 court shall order an appropriate less restrictive alternative course
20 of treatment not to exceed ninety days(~~(, and may not order inpatient~~
21 ~~treatment+)).~~

22 ~~((+e+))~~ (4) An order for less restrictive alternative treatment
23 must name the mental health service provider responsible for
24 identifying the services the person will receive in accordance with
25 RCW 71.05.585, and must include a requirement that the person
26 cooperate with the services planned by the mental health service
27 provider.

28 ~~((+4+))~~ (5) The court shall specifically state to such person and
29 give such person notice in writing that if involuntary treatment
30 beyond the fourteen day period or beyond the ninety days of less
31 restrictive treatment is to be sought, such person will have the
32 right to a full hearing or jury trial as required by RCW 71.05.310.
33 The court shall also state to the person and provide written notice
34 that the person is barred from the possession of firearms and that
35 the prohibition remains in effect until a court restores his or her
36 right to possess a firearm under RCW 9.41.047.

37 **Sec. 413.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45
38 s 2 are each reenacted and amended to read as follows:

1 (1) If a petition is filed for fourteen day involuntary treatment
2 or ninety days of less restrictive alternative treatment, the court
3 shall hold a probable cause hearing within seventy-two hours of the
4 initial detention (~~(or involuntary outpatient evaluation)~~) of such
5 person as determined in RCW 71.05.180, or at a time determined under
6 section 405 of this act. If requested by the person or his or her
7 attorney, the hearing may be postponed for a period not to exceed
8 forty-eight hours. The hearing may also be continued subject to the
9 conditions set forth in RCW 71.05.210 or subject to the petitioner's
10 showing of good cause for a period not to exceed twenty-four hours.

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

18 (3)(a) Subject to (b) of this subsection, at the conclusion of
19 the probable cause hearing, if the court finds by a preponderance of
20 the evidence that such person, as the result of a mental disorder or
21 substance use disorder, presents a likelihood of serious harm, or is
22 gravely disabled, and, after considering less restrictive
23 alternatives to involuntary detention and treatment, finds that no
24 such alternatives are in the best interests of such person or others,
25 the court shall order that such person be detained for involuntary
26 treatment not to exceed fourteen days in a facility certified to
27 provide treatment by the department.

28 (b) Commitment for up to fourteen days based on a substance use
29 disorder must be to either a secure detoxification facility or an
30 approved substance use disorder treatment program. A court may only
31 enter a commitment order based on a substance use disorder if there
32 is an available secure detoxification facility or approved substance
33 use disorder treatment program with adequate space for the person.

34 (c) At the conclusion of the probable cause hearing, if the court
35 finds by a preponderance of the evidence that such person, as the
36 result of a mental disorder or substance use disorder, presents a
37 likelihood of serious harm, or is gravely disabled, but that
38 treatment in a less restrictive setting than detention is in the best
39 interest of such person or others, the court shall order an

1 appropriate less restrictive alternative course of treatment for not
2 to exceed ninety days.

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

10 ~~((e))~~ (4) An order for less restrictive alternative treatment
11 must name the mental health service provider responsible for
12 identifying the services the person will receive in accordance with
13 RCW 71.05.585, and must include a requirement that the person
14 cooperate with the services planned by the mental health service
15 provider.

16 ~~((4))~~ (5) The court shall specifically state to such person and
17 give such person notice in writing that if involuntary treatment
18 beyond the fourteen day period or beyond the ninety days of less
19 restrictive treatment is to be sought, such person will have the
20 right to a full hearing or jury trial as required by RCW 71.05.310.
21 If the commitment is for mental health treatment, the court shall
22 also state to the person and provide written notice that the person
23 is barred from the possession of firearms and that the prohibition
24 remains in effect until a court restores his or her right to possess
25 a firearm under RCW 9.41.047.

26 **Sec. 414.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each
27 amended to read as follows:

28 (1) If a petition is filed for fourteen day involuntary treatment
29 or ninety days of less restrictive alternative treatment, the court
30 shall hold a probable cause hearing within seventy-two hours of the
31 initial detention ~~((or involuntary outpatient evaluation))~~ of such
32 person as determined in RCW 71.05.180, or at a time determined under
33 section 405 of this act. If requested by the person or his or her
34 attorney, the hearing may be postponed for a period not to exceed
35 forty-eight hours. The hearing may also be continued subject to the
36 conditions set forth in RCW 71.05.210 or subject to the petitioner's
37 showing of good cause for a period not to exceed twenty-four hours.

38 (2) If the petition is for mental health treatment, the court at
39 the time of the probable cause hearing and before an order of

1 commitment is entered shall inform the person both orally and in
2 writing that the failure to make a good faith effort to seek
3 voluntary treatment as provided in RCW 71.05.230 will result in the
4 loss of his or her firearm rights if the person is subsequently
5 detained for involuntary treatment under this section.

6 (3)(a) Subject to (b) of this subsection, at the conclusion of
7 the probable cause hearing, if the court finds by a preponderance of
8 the evidence that such person, as the result of a mental disorder or
9 substance use disorder, presents a likelihood of serious harm, or is
10 gravely disabled, and, after considering less restrictive
11 alternatives to involuntary detention and treatment, finds that no
12 such alternatives are in the best interests of such person or others,
13 the court shall order that such person be detained for involuntary
14 treatment not to exceed fourteen days in a facility certified to
15 provide treatment by the department.

16 (b) Commitment for up to fourteen days based on a substance use
17 disorder must be to either a secure detoxification facility or an
18 approved substance use disorder treatment program.

19 (c) At the conclusion of the probable cause hearing, if the court
20 finds by a preponderance of the evidence that such person, as the
21 result of a mental disorder or substance use disorder, presents a
22 likelihood of serious harm, or is gravely disabled, but that
23 treatment in a less restrictive setting than detention is in the best
24 interest of such person or others, the court shall order an
25 appropriate less restrictive alternative course of treatment for not
26 to exceed ninety days.

27 (d) If the court finds by a preponderance of the evidence that
28 such person, as the result of a mental disorder, is in need of
29 assisted outpatient ~~((mental))~~ behavioral health treatment, and that
30 the person does not present a likelihood of serious harm or grave
31 disability, the court shall order an appropriate less restrictive
32 alternative course of treatment not to exceed ninety days ~~((, and may
33 not order inpatient treatment))~~.

34 ~~((e))~~ (4) An order for less restrictive alternative treatment
35 must name the mental health service provider responsible for
36 identifying the services the person will receive in accordance with
37 RCW 71.05.585, and must include a requirement that the person
38 cooperate with the services planned by the mental health service
39 provider.

1 (~~(4)~~) (5) The court shall specifically state to such person and
2 give such person notice in writing that if involuntary treatment
3 beyond the fourteen day period or beyond the ninety days of less
4 restrictive treatment is to be sought, such person will have the
5 right to a full hearing or jury trial as required by RCW 71.05.310.
6 If the commitment is for mental health treatment, the court shall
7 also state to the person and provide written notice that the person
8 is barred from the possession of firearms and that the prohibition
9 remains in effect until a court restores his or her right to possess
10 a firearm under RCW 9.41.047.

11 **Sec. 415.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to
12 read as follows:

13 (1) An agency or facility designated to monitor or provide
14 services under a less restrictive alternative or conditional release
15 order or a designated mental health professional may take action to
16 enforce, modify, or revoke a less restrictive alternative or
17 conditional release order if the agency, facility, or designated
18 mental health professional determines that:

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

21 (b) Substantial deterioration in the person's functioning has
22 occurred;

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

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

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

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

36 (b) To increase the intensity of outpatient services provided to
37 the person by increasing the frequency of contacts with the provider,
38 referring the person for an assessment for assertive community
39 services, or by other means;

1 (c) To request a court hearing for review and modification of the
2 court order. The request must be made to the court with jurisdiction
3 over the order and specify the circumstances that give rise to the
4 request and what modification is being sought. The county prosecutor
5 shall assist the agency or facility in requesting this hearing and
6 issuing an appropriate summons to the person. This subsection does
7 not limit the inherent authority of a treatment provider to alter
8 conditions of treatment for clinical reasons, and is intended to be
9 used only when court intervention is necessary or advisable to secure
10 the person's compliance and prevent decompensation or deterioration;

11 (d) To cause the person to be transported by a peace officer,
12 designated mental health professional, or other means to the agency
13 or facility monitoring or providing services under the court order,
14 or to a triage facility, crisis stabilization unit, emergency
15 department, or evaluation and treatment facility for up to twelve
16 hours for the purpose of an evaluation to determine whether
17 modification, revocation, or commitment proceedings are necessary and
18 appropriate to stabilize the person and prevent decompensation,
19 deterioration, or physical harm. Temporary detention for evaluation
20 under this subsection is intended to occur only following a pattern
21 of noncompliance or the failure of reasonable attempts at outreach
22 and engagement, and may occur only when in the clinical judgment of a
23 designated mental health professional or the professional person in
24 charge of an agency or facility designated to monitor less
25 restrictive alternative services temporary detention is appropriate.
26 This subsection does not limit the ability or obligation to pursue
27 revocation procedures under subsection (4) of this section in
28 appropriate circumstances; and

29 (e) To initiate revocation procedures under subsection (4) of
30 this section.

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

37 (4)(a) A designated mental health professional or the secretary
38 may upon their own motion or notification by the facility or agency
39 designated to provide outpatient care order a person subject to a
40 court order under this section to be apprehended and taken into

1 custody and temporary detention in an evaluation and treatment
2 facility in or near the county in which he or she is receiving
3 outpatient treatment, or initiate proceedings under this subsection
4 (4) without ordering the apprehension and detention of the person.

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

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

24 (d) The issues for the court to determine are whether: (i) The
25 person adhered to the terms and conditions of the court order; (ii)
26 substantial deterioration in the person's functioning has occurred;
27 (iii) there is evidence of substantial decompensation with a
28 reasonable probability that the decompensation can be reversed by
29 further inpatient treatment; or (iv) there is a likelihood of serious
30 harm; and, if any of the above conditions apply, whether the court
31 should reinstate or modify the person's less restrictive alternative
32 or conditional release order or order the person's detention for
33 inpatient treatment. The person may waive the court hearing and allow
34 the court to enter a stipulated order upon the agreement of all
35 parties. If the court orders detention for inpatient treatment, the
36 treatment period may be for no longer than the period authorized in
37 the original court order.

38 ~~((e) Revocation proceedings under this subsection (4) are not~~
39 ~~allowable if the current commitment is solely based on the person~~
40 ~~being in need of assisted outpatient mental health treatment. In~~

1 ~~order to obtain a court order for detention for inpatient treatment~~
2 ~~under this circumstance, a petition must be filed under RCW 71.05.150~~
3 ~~or 71.05.153.)~~

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

10 **Sec. 416.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each
11 amended to read as follows:

12 (1) An agency or facility designated to monitor or provide
13 services under a less restrictive alternative or conditional release
14 order or a designated crisis responder may take action to enforce,
15 modify, or revoke a less restrictive alternative or conditional
16 release order if the agency, facility, or designated crisis responder
17 determines that:

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

20 (b) Substantial deterioration in the person's functioning has
21 occurred;

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

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

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

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

35 (b) To increase the intensity of outpatient services provided to
36 the person by increasing the frequency of contacts with the provider,
37 referring the person for an assessment for assertive community
38 services, or by other means;

1 (c) To request a court hearing for review and modification of the
2 court order. The request must be made to the court with jurisdiction
3 over the order and specify the circumstances that give rise to the
4 request and what modification is being sought. The county prosecutor
5 shall assist the agency or facility in requesting this hearing and
6 issuing an appropriate summons to the person. This subsection does
7 not limit the inherent authority of a treatment provider to alter
8 conditions of treatment for clinical reasons, and is intended to be
9 used only when court intervention is necessary or advisable to secure
10 the person's compliance and prevent decompensation or deterioration;

11 (d) To cause the person to be transported by a peace officer,
12 designated crisis responder, or other means to the agency or facility
13 monitoring or providing services under the court order, or to a
14 triage facility, crisis stabilization unit, emergency department, or
15 to an evaluation and treatment facility if the person is committed
16 for mental health treatment, or to a secure detoxification facility
17 with available space or an approved substance use disorder treatment
18 program with available space if the person is committed for substance
19 use disorder treatment. The person may be detained at the facility
20 for up to twelve hours for the purpose of an evaluation to determine
21 whether modification, revocation, or commitment proceedings are
22 necessary and appropriate to stabilize the person and prevent
23 decompensation, deterioration, or physical harm. Temporary detention
24 for evaluation under this subsection is intended to occur only
25 following a pattern of noncompliance or the failure of reasonable
26 attempts at outreach and engagement, and may occur only when in the
27 clinical judgment of a designated crisis responder or the
28 professional person in charge of an agency or facility designated to
29 monitor less restrictive alternative services temporary detention is
30 appropriate. This subsection does not limit the ability or obligation
31 to pursue revocation procedures under subsection (4) of this section
32 in appropriate circumstances; and

33 (e) To initiate revocation procedures under subsection (4) of
34 this section.

35 (3) The facility or agency designated to provide outpatient
36 treatment shall notify the secretary or designated crisis responder
37 when a person fails to adhere to terms and conditions of court
38 ordered treatment or experiences substantial deterioration in his or
39 her condition and, as a result, presents an increased likelihood of
40 serious harm.

1 (4)(a) A designated crisis responder or the secretary may upon
2 their own motion or notification by the facility or agency designated
3 to provide outpatient care order a person subject to a court order
4 under this chapter to be apprehended and taken into custody and
5 temporary detention in an evaluation and treatment facility in or
6 near the county in which he or she is receiving outpatient treatment
7 if the person is committed for mental health treatment, or, if the
8 person is committed for substance use disorder treatment, in a secure
9 detoxification facility or approved substance use disorder treatment
10 program if either is available in or near the county in which he or
11 she is receiving outpatient treatment and has adequate space.
12 Proceedings under this subsection (4) may be initiated without
13 ordering the apprehension and detention of the person.

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

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

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

1 inpatient treatment. The person may waive the court hearing and allow
2 the court to enter a stipulated order upon the agreement of all
3 parties. If the court orders detention for inpatient treatment, the
4 treatment period may be for no longer than the period authorized in
5 the original court order. A court may not issue an order to detain a
6 person for inpatient treatment in a secure detoxification facility or
7 approved substance use disorder treatment program under this
8 subsection unless there is a secure detoxification facility or
9 approved substance use disorder treatment program available and with
10 adequate space for the person.

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

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

23 **Sec. 417.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each
24 amended to read as follows:

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

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

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

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

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

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

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

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

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

24 (d) To cause the person to be transported by a peace officer,
25 designated crisis responder, or other means to the agency or facility
26 monitoring or providing services under the court order, or to a
27 triage facility, crisis stabilization unit, emergency department, or
28 to an evaluation and treatment facility if the person is committed
29 for mental health treatment, or to a secure detoxification facility
30 or an approved substance use disorder treatment program if the person
31 is committed for substance use disorder treatment. The person may be
32 detained at the facility for up to twelve hours for the purpose of an
33 evaluation to determine whether modification, revocation, or
34 commitment proceedings are necessary and appropriate to stabilize the
35 person and prevent decompensation, deterioration, or physical harm.
36 Temporary detention for evaluation under this subsection is intended
37 to occur only following a pattern of noncompliance or the failure of
38 reasonable attempts at outreach and engagement, and may occur only
39 when in the clinical judgment of a designated crisis responder or the
40 professional person in charge of an agency or facility designated to

1 monitor less restrictive alternative services temporary detention is
2 appropriate. This subsection does not limit the ability or obligation
3 to pursue revocation procedures under subsection (4) of this section
4 in appropriate circumstances; and

5 (e) To initiate revocation procedures under subsection (4) of
6 this section.

7 (3) The facility or agency designated to provide outpatient
8 treatment shall notify the secretary or designated crisis responder
9 when a person fails to adhere to terms and conditions of court
10 ordered treatment or experiences substantial deterioration in his or
11 her condition and, as a result, presents an increased likelihood of
12 serious harm.

13 (4)(a) A designated crisis responder or the secretary may upon
14 their own motion or notification by the facility or agency designated
15 to provide outpatient care order a person subject to a court order
16 under this chapter to be apprehended and taken into custody and
17 temporary detention in an evaluation and treatment facility in or
18 near the county in which he or she is receiving outpatient treatment
19 if the person is committed for mental health treatment, or, if the
20 person is committed for substance use disorder treatment, in a secure
21 detoxification facility or approved substance use disorder treatment
22 program if either is available in or near the county in which he or
23 she is receiving outpatient treatment. Proceedings under this
24 subsection (4) may be initiated without ordering the apprehension and
25 detention of the person.

26 (b) A person detained under this subsection (4) must be held
27 until such time, not exceeding five days, as a hearing can be
28 scheduled to determine whether or not the person should be returned
29 to the hospital or facility from which he or she had been released.
30 If the person is not detained, the hearing must be scheduled within
31 five days of service on the person. The designated crisis responder
32 or the secretary may modify or rescind the order at any time prior to
33 commencement of the court hearing.

34 (c) The designated crisis responder or secretary shall notify the
35 court that originally ordered commitment within two judicial days of
36 a person's detention and file a revocation petition and order of
37 apprehension and detention with the court and serve the person and
38 their attorney, guardian, and conservator, if any. The person has the
39 same rights with respect to notice, hearing, and counsel as in any
40 involuntary treatment proceeding, except as specifically set forth in

1 this section. There is no right to jury trial. The venue for
2 proceedings regarding a petition for modification or revocation must
3 be in the county in which the petition was filed.

4 (d) The issues for the court to determine are whether: (i) The
5 person adhered to the terms and conditions of the court order; (ii)
6 substantial deterioration in the person's functioning has occurred;
7 (iii) there is evidence of substantial decompensation with a
8 reasonable probability that the decompensation can be reversed by
9 further inpatient treatment; or (iv) there is a likelihood of serious
10 harm; and, if any of the above conditions apply, whether the court
11 should reinstate or modify the person's less restrictive alternative
12 or conditional release order or order the person's detention for
13 inpatient treatment. The person may waive the court hearing and allow
14 the court to enter a stipulated order upon the agreement of all
15 parties. If the court orders detention for inpatient treatment, the
16 treatment period may be for no longer than the period authorized in
17 the original court order.

18 ~~((e) Revocation proceedings under this subsection (4) are not
19 allowable if the current commitment is solely based on the person
20 being in need of assisted outpatient mental health treatment. In
21 order to obtain a court order for detention for inpatient treatment
22 under this circumstance, a petition must be filed under RCW 71.05.150
23 or 71.05.153.))~~

24 (5) In determining whether or not to take action under this
25 section the designated crisis responder, agency, or facility must
26 consider the factors specified under RCW 71.05.212 and the court must
27 consider the factors specified under RCW 71.05.245 as they apply to
28 the question of whether to enforce, modify, or revoke a court order
29 for involuntary treatment.

30 **Sec. 418.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107
31 s 1 are each reenacted and amended to read as follows:

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

1 (2)(a) The petition must be filed in the county in which the
2 designated (~~mental health professional~~) crisis responder
3 investigation occurred or was requested to occur and must be
4 submitted on forms developed by the administrative office of the
5 courts for this purpose. The petition must be accompanied by a sworn
6 declaration from the petitioner, and other witnesses if desired,
7 describing why the person should be detained for evaluation and
8 treatment. The description of why the person should be detained may
9 contain, but is not limited to, the information identified in RCW
10 71.05.212.

11 (b) The petition must contain:

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

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

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

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

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

32 (6) The court must issue a final ruling on the petition within
33 five judicial days after it is filed. After reviewing all of the
34 information provided to the court, the court may enter an order for
35 initial detention or an order instructing the designated crisis
36 responder to file a petition for assisted outpatient behavioral
37 health treatment if the court finds that: (a) There is probable cause
38 to support a petition for detention or assisted outpatient behavioral
39 health treatment; and (b) the person has refused or failed to accept

1 appropriate evaluation and treatment voluntarily. The court shall
2 transmit its final decision to the petitioner.

3 (7) If the court enters an order for initial detention, it shall
4 provide the order to the designated crisis responder agency, which
5 shall execute the order without delay. An order for initial detention
6 under this section expires one hundred eighty days from issuance.

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

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

14 Part V

15 Reducing Demand for Forensic Services

16 NEW SECTION. **Sec. 501.** (1) The legislature intends to implement
17 crisis walk-in centers, a new crisis service in Washington, to be
18 deployed in high-need urban areas. A crisis walk-in center allows
19 individuals to self-refer or be referred by emergency services or
20 police and stay up to twenty-three hours under observation. Services
21 with crisis walk-in centers generally include crisis stabilization
22 and intervention, general counseling, peer support, medication
23 management, education, and referral assistance. Studies indicate that
24 these centers reduce hospital admissions and increase enrollment in
25 community programs. The legislature intends for these centers to be
26 geographically distributed around the state.

27 (2) The legislature intends to expand availability of clubhouses
28 to provide community-based programs which promote rehabilitation,
29 recovery, and reintegration services to adults with persistent mental
30 illness. Clubhouses expanded under this section must show fidelity to
31 the evidence-based model and be credentialed through clubhouse
32 international.

33 **Sec. 502.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to
34 read as follows:

35 (1)(a) Whenever a defendant has pleaded not guilty by reason of
36 insanity, or there is reason to doubt his or her competency, the
37 court on its own motion or on the motion of any party shall either

1 appoint or request the secretary to designate a qualified expert or
2 professional person, who shall be approved by the prosecuting
3 attorney, to evaluate and report upon the mental condition of the
4 defendant.

5 (b) The signed order of the court shall serve as authority for
6 the evaluator to be given access to all records held by any mental
7 health, medical, educational, or correctional facility that relate to
8 the present or past mental, emotional, or physical condition of the
9 defendant. If the court is advised by any party that the defendant
10 may have a developmental disability, the evaluation must be performed
11 by a developmental disabilities professional.

12 (c) The evaluator shall assess the defendant in a jail, detention
13 facility, in the community, or in court to determine whether a period
14 of inpatient commitment will be necessary to complete an accurate
15 evaluation. If inpatient commitment is needed, the signed order of
16 the court shall serve as authority for the evaluator to request the
17 jail or detention facility to transport the defendant to a hospital
18 or secure mental health facility for a period of commitment not to
19 exceed (~~fifteen~~) eight days from the time of admission to the
20 facility. Otherwise, the evaluator shall complete the evaluation.

21 (d) The court may commit the defendant for evaluation to a
22 hospital or secure mental health facility without an assessment if:
23 (i) The defendant is charged with murder in the first or second
24 degree; (ii) the court finds that it is more likely than not that an
25 evaluation in the jail will be inadequate to complete an accurate
26 evaluation; or (iii) the court finds that an evaluation outside the
27 jail setting is necessary for the health, safety, or welfare of the
28 defendant. The court shall not order an initial inpatient evaluation
29 for any purpose other than a competency evaluation.

30 (e) The order shall indicate whether, in the event the defendant
31 is committed to a hospital or secure mental health facility for
32 evaluation, all parties agree to waive the presence of the defendant
33 or to the defendant's remote participation at a subsequent competency
34 hearing or presentation of an agreed order if the recommendation of
35 the evaluator is for continuation of the stay of criminal
36 proceedings, or if the opinion of the evaluator is that the defendant
37 remains incompetent and there is no remaining restoration period, and
38 the hearing is held prior to the expiration of the authorized
39 commitment period.

1 (f) When a defendant is ordered to be committed for inpatient
2 evaluation under this subsection (1), the court may delay granting
3 bail until the defendant has been evaluated for competency or sanity
4 and appears before the court. Following the evaluation, in
5 determining bail the court shall consider: (i) Recommendations of the
6 evaluator regarding the defendant's competency, sanity, or diminished
7 capacity; (ii) whether the defendant has a recent history of one or
8 more violent acts; (iii) whether the defendant has previously been
9 acquitted by reason of insanity or found incompetent; (iv) whether it
10 is reasonably likely the defendant will fail to appear for a future
11 court hearing; and (v) whether the defendant is a threat to public
12 safety.

13 (2) The court may direct that a qualified expert or professional
14 person retained by or appointed for the defendant be permitted to
15 witness the evaluation authorized by subsection (1) of this section,
16 and that the defendant shall have access to all information obtained
17 by the court appointed experts or professional persons. The
18 defendant's expert or professional person shall have the right to
19 file his or her own report following the guidelines of subsection (3)
20 of this section. If the defendant is indigent, the court shall upon
21 the request of the defendant assist him or her in obtaining an expert
22 or professional person.

23 (3) The report of the evaluation shall include the following:

24 (a) A description of the nature of the evaluation;

25 (b) A diagnosis or description of the current mental status of
26 the defendant;

27 (c) If the defendant suffers from a mental disease or defect, or
28 has a developmental disability, an opinion as to competency;

29 (d) If the defendant has indicated his or her intention to rely
30 on the defense of insanity pursuant to RCW 10.77.030, and an
31 evaluation and report by an expert or professional person has been
32 provided concluding that the defendant was criminally insane at the
33 time of the alleged offense, an opinion as to the defendant's sanity
34 at the time of the act, and an opinion as to whether the defendant
35 presents a substantial danger to other persons, or presents a
36 substantial likelihood of committing criminal acts jeopardizing
37 public safety or security, unless kept under further control by the
38 court or other persons or institutions, provided that no opinion
39 shall be rendered under this subsection (3)(d) unless the evaluator
40 or court determines that the defendant is competent to stand trial;

1 (e) When directed by the court, if an evaluation and report by an
2 expert or professional person has been provided concluding that the
3 defendant lacked the capacity at the time of the offense to form the
4 mental state necessary to commit the charged offense, an opinion as
5 to the capacity of the defendant to have a particular state of mind
6 which is an element of the offense charged;

7 (f) An opinion as to whether the defendant should be evaluated by
8 a designated mental health professional under chapter 71.05 RCW.

9 (4) The secretary may execute such agreements as appropriate and
10 necessary to implement this section and may choose to designate more
11 than one evaluator.

12 **Sec. 503.** RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each
13 amended to read as follows:

14 (1)(a) Whenever a defendant has pleaded not guilty by reason of
15 insanity, or there is reason to doubt his or her competency, the
16 court on its own motion or on the motion of any party shall either
17 appoint or request the secretary to designate a qualified expert or
18 professional person, who shall be approved by the prosecuting
19 attorney, to evaluate and report upon the mental condition of the
20 defendant.

21 (b) The signed order of the court shall serve as authority for
22 the evaluator to be given access to all records held by any mental
23 health, medical, educational, or correctional facility that relate to
24 the present or past mental, emotional, or physical condition of the
25 defendant. If the court is advised by any party that the defendant
26 may have a developmental disability, the evaluation must be performed
27 by a developmental disabilities professional.

28 (c) The evaluator shall assess the defendant in a jail, detention
29 facility, in the community, or in court to determine whether a period
30 of inpatient commitment will be necessary to complete an accurate
31 evaluation. If inpatient commitment is needed, the signed order of
32 the court shall serve as authority for the evaluator to request the
33 jail or detention facility to transport the defendant to a hospital
34 or secure mental health facility for a period of commitment not to
35 exceed (~~fifteen~~) eight days from the time of admission to the
36 facility. Otherwise, the evaluator shall complete the evaluation.

37 (d) The court may commit the defendant for evaluation to a
38 hospital or secure mental health facility without an assessment if:
39 (i) The defendant is charged with murder in the first or second

1 degree; (ii) the court finds that it is more likely than not that an
2 evaluation in the jail will be inadequate to complete an accurate
3 evaluation; or (iii) the court finds that an evaluation outside the
4 jail setting is necessary for the health, safety, or welfare of the
5 defendant. The court shall not order an initial inpatient evaluation
6 for any purpose other than a competency evaluation.

7 (e) The order shall indicate whether, in the event the defendant
8 is committed to a hospital or secure mental health facility for
9 evaluation, all parties agree to waive the presence of the defendant
10 or to the defendant's remote participation at a subsequent competency
11 hearing or presentation of an agreed order if the recommendation of
12 the evaluator is for continuation of the stay of criminal
13 proceedings, or if the opinion of the evaluator is that the defendant
14 remains incompetent and there is no remaining restoration period, and
15 the hearing is held prior to the expiration of the authorized
16 commitment period.

17 (f) When a defendant is ordered to be committed for inpatient
18 evaluation under this subsection (1), the court may delay granting
19 bail until the defendant has been evaluated for competency or sanity
20 and appears before the court. Following the evaluation, in
21 determining bail the court shall consider: (i) Recommendations of the
22 evaluator regarding the defendant's competency, sanity, or diminished
23 capacity; (ii) whether the defendant has a recent history of one or
24 more violent acts; (iii) whether the defendant has previously been
25 acquitted by reason of insanity or found incompetent; (iv) whether it
26 is reasonably likely the defendant will fail to appear for a future
27 court hearing; and (v) whether the defendant is a threat to public
28 safety.

29 (2) The court may direct that a qualified expert or professional
30 person retained by or appointed for the defendant be permitted to
31 witness the evaluation authorized by subsection (1) of this section,
32 and that the defendant shall have access to all information obtained
33 by the court appointed experts or professional persons. The
34 defendant's expert or professional person shall have the right to
35 file his or her own report following the guidelines of subsection (3)
36 of this section. If the defendant is indigent, the court shall upon
37 the request of the defendant assist him or her in obtaining an expert
38 or professional person.

39 (3) The report of the evaluation shall include the following:

40 (a) A description of the nature of the evaluation;

1 (b) A diagnosis or description of the current mental status of
2 the defendant;

3 (c) If the defendant suffers from a mental disease or defect, or
4 has a developmental disability, an opinion as to competency;

5 (d) If the defendant has indicated his or her intention to rely
6 on the defense of insanity pursuant to RCW 10.77.030, and an
7 evaluation and report by an expert or professional person has been
8 provided concluding that the defendant was criminally insane at the
9 time of the alleged offense, an opinion as to the defendant's sanity
10 at the time of the act, and an opinion as to whether the defendant
11 presents a substantial danger to other persons, or presents a
12 substantial likelihood of committing criminal acts jeopardizing
13 public safety or security, unless kept under further control by the
14 court or other persons or institutions, provided that no opinion
15 shall be rendered under this subsection (3)(d) unless the evaluator
16 or court determines that the defendant is competent to stand trial;

17 (e) When directed by the court, if an evaluation and report by an
18 expert or professional person has been provided concluding that the
19 defendant lacked the capacity at the time of the offense to form the
20 mental state necessary to commit the charged offense, an opinion as
21 to the capacity of the defendant to have a particular state of mind
22 which is an element of the offense charged;

23 (f) An opinion as to whether the defendant should be evaluated by
24 a designated crisis responder under chapter 71.05 RCW.

25 (4) The secretary may execute such agreements as appropriate and
26 necessary to implement this section and may choose to designate more
27 than one evaluator.

28 Part VI

29 Addressing Managed Care Entities to Provide Fully Integrated Care

30 NEW SECTION. **Sec. 601.** (1) The health care authority shall
31 establish a work group to examine options for the structuring of
32 integration of physical and behavioral health services by 2020. The
33 work group shall identify multiple options for structuring the
34 services delivery and financing for integrating behavioral health
35 services. Among the various structures for consideration, the work
36 group shall examine:

37 (a) A model in which the health care authority contracts directly
38 and separately with both a managed care organization to provide

1 behavioral health services in the regional service area and a county
2 administrative service organization to provide crisis services and
3 nonmedicaid services; and

4 (b) A model in which the health care authority approves an
5 organization operated by the county governments within a regional
6 service area to function as the coordinating entity for any managed
7 care organization that provides fully integrated medical care within
8 the regional service area. The organization's activities shall
9 include coordinating a network of behavioral health providers,
10 operating a health information technology infrastructure, providing
11 crisis services, and providing nonmedicaid services.

12 (2) The work group shall consist of no more than fifteen members
13 and shall include a representative of the health care authority, a
14 representative of the department of social and health services,
15 representatives of behavioral health organizations, representatives
16 of managed care organizations, representatives of behavioral health
17 providers, representatives of counties, and representatives from each
18 caucus in the house and senate. The director of the health care
19 authority, or his or her designee, shall serve as the chair.

20 (3) By December 1, 2017, and in compliance with RCW 43.01.036,
21 the work group shall submit a report to the legislature and the
22 governor. The report shall identify recommendations for reducing
23 barriers to the full integration of behavioral health and physical
24 health. The report shall provide a description of the different
25 alternative delivery and financing structure options that shall be
26 made available to regional service areas and allow counties within
27 the regional service areas to select the most appropriate structure
28 to meet the needs of the communities within the regional service
29 area.

30 NEW SECTION. **Sec. 602.** The health care authority and department
31 of social and health services shall work with the committees and
32 processes established under RCW 70.320.020 and 41.05.690 to define
33 which measures will be used to define value in integrated managed
34 care contracts and how the process of clinical integration will be
35 measured. These processes must ensure that adequate value and
36 accountability terms are employed to align integrated managed care
37 objectives with public policy objectives historically served by
38 behavioral health organizations and to detect and provide
39 disincentives against cost shifting onto crisis systems and jails.

1 **Part VII**

2 **Data Measurement**

3 NEW SECTION. **Sec. 701.** A new section is added to chapter 71.24
4 RCW to read as follows:

5 The Washington state institute for public policy shall evaluate
6 changes and the effectiveness of specific investments within the
7 adult behavioral health system. The goal for the effort is to provide
8 policymakers with additional information to aid in decision making on
9 an ongoing basis. Therefore, the institute shall consult with the
10 relevant legislative and agency staff when identifying research
11 questions and establishing evaluation timelines. The institute shall
12 provide a report to the appropriate committees of the legislature
13 upon completion of each evaluation.

14 **Part VIII**

15 **Miscellaneous Provisions**

16 NEW SECTION. **Sec. 801.** Sections 205, 402, 404, 406, 408, 411,
17 413, 416, 418, and 503 of this act take effect April 1, 2018.

18 NEW SECTION. **Sec. 802.** Sections 204, 401, 403, 405, 407, 410,
19 412, 415, and 502 of this act expire April 1, 2018.

20 NEW SECTION. **Sec. 803.** Section 303 of this act takes effect
21 July 1, 2018.

22 NEW SECTION. **Sec. 804.** Sections 206, 409, 414, and 417 of this
23 act take effect July 1, 2026.

24 NEW SECTION. **Sec. 805.** Sections 205, 408, 413, and 416 of this
25 act expire July 1, 2026."

SSB 5894 - S AMD 161
By Senator O'Ban

ADOPTED 03/23/2017

26 On page 1, line 1 of the title, after "reform;" strike the
27 remainder of the title and insert "amending RCW 71.24.310, 71.05.320,

1 71.05.320, 71.05.365, 71.05.585, 71.05.150, 71.05.150, 71.05.150,
2 71.05.240, 71.05.240, 71.05.590, 71.05.590, 71.05.590, 10.77.060, and
3 10.77.060; reenacting and amending RCW 71.05.320, 71.05.020,
4 71.05.020, 71.05.585, 71.05.230, 71.05.230, 71.05.240, and 71.05.201;
5 adding new sections to chapter 71.24 RCW; adding new sections to
6 chapter 71.05 RCW; adding a new section to chapter 72.23 RCW;
7 creating new sections; providing effective dates; and providing
8 expiration dates."

EFFECT: Makes technical amendments. Clarifies process for designation of a treatment facility for long-term involuntary care. Removes requirement for behavioral health organizations to coordinate delivery of community long-term treatment. Clarifies which discharge planning requirements applied to state hospitals also apply to community long-term involuntary treatment facilities. Exempts contract for consultant services from competitive solicitation requirements. Requires DSHS to also work with Washington State University to develop the training program for psychiatric advanced registered nurse practitioners and physician assistants. Requires DSHS and HCA to work through existing processes to develop performance terms for integrated managed care contracts. Requires DSHS and DOH to confer with hospitals to identify changes to laws and regulations necessary to address care delivery and cost-effective long-term involuntary treatment.

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