

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.

--- END ---