
ENGROSSED SUBSTITUTE SENATE BILL 5894

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators O'Ban, Darneille, Braun, Becker, Rossi, Brown, Miloscia, Cleveland, Ranker, Chase, Warnick, Keiser, Hunt, Hasegawa, Wellman, and Zeiger)

READ FIRST TIME 03/23/17.

1 AN ACT Relating to behavioral health system reform; amending RCW
2 71.24.310, 71.05.320, 71.05.320, 71.05.365, 71.05.585, 71.05.150,
3 71.05.150, 71.05.150, 71.05.240, 71.05.240, 71.05.590, 71.05.590,
4 71.05.590, 10.77.060, and 10.77.060; reenacting and amending RCW
5 71.05.320, 71.05.020, 71.05.020, 71.05.585, 71.05.230, 71.05.230,
6 71.05.240, and 71.05.201; adding new sections to chapter 71.24 RCW;
7 adding new sections to chapter 71.05 RCW; adding a new section to
8 chapter 72.23 RCW; creating new sections; providing effective dates;
9 and providing expiration dates.

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

11 NEW SECTION. **Sec. 1.** This act establishes the path of reform
12 for the state behavioral health system over upcoming biennia
13 concerning provision of long-term psychiatric care. Over the ensuing
14 years Washington must transition purchasing of long-term involuntary
15 psychiatric care to a regionally based system under a managed care
16 framework which is responsive to the needs of the community and
17 accountable for quality and patient outcomes. During this time state
18 hospital practices must be modernized and state hospital resources
19 focused on service to forensic and higher acuity civil patients.
20 Treatment for patients under long-term civil commitment must be
21 transitioned into a managed care framework over a time frame

1 coinciding with the integration of physical and behavioral health
2 care, after which the state hospitals must provide civil commitment
3 services as part of a network of geographically diverse facilities
4 certified to provide long-term involuntary civil treatment. Many
5 components are required for the success of this vision. The state
6 must establish the foundation for growth of long-term involuntary
7 treatment capacity in the community and for performance measurement
8 and data collection which enables an acuity-informed comparison of
9 the costs and outcomes achieved in alternative certified community
10 facilities. New community placement options must be established for
11 persons with complex needs related to long-term care and
12 developmental disabilities. Other critical measures improve
13 availability and streamline filing procedures for assisted outpatient
14 mental health treatment, deploy crisis walk-in centers and
15 clubhouses, and expedite the movement of low-level, nonviolent
16 defendants with severe mental illness through the criminal justice
17 system.

18 **Part I**

19 **Integrating Risk for Long-Term Civil Involuntary Treatment Into**
20 **Managed Care**

21 NEW SECTION. **Sec. 101.** A new section is added to chapter 71.24
22 RCW to read as follows:

23 (1) To promote the development of effective community-based
24 resources for treatment and prevention and align the system financial
25 structure with the goal of reducing inpatient utilization concurrent
26 with the integration of physical and behavioral health care, the
27 authority shall integrate risk for long-term involuntary civil
28 treatment provided by state hospitals into managed care contracts by
29 January 1, 2020.

30 (2) The office of financial management shall engage a consultant
31 to create a state psychiatric hospital managed care risk model to be
32 submitted to the governor and select committee on quality improvement
33 in state hospitals by December 31, 2017. The design of this model
34 shall support placing full integration managed care entities at risk
35 for the long-term involuntary civil treatment benefit effective
36 January 1, 2020.

37 (3) The risk model must include analysis and recommendations to
38 address the following:

1 (a) Necessary fiscal or actuarial analysis to determine how much
2 of the state hospital budget to place in the capitation base;

3 (b) Steps to develop capacity within the state hospitals to
4 contract with risk-bearing managed care entities by January 1, 2020,
5 as part of a network of regional providers of long-term civil
6 treatment and to collaborate effectively with managed care entities
7 on development of patient treatment plans and discharge decisions;

8 (c) Special considerations related to the application of the
9 managed care model to civilly committed patients subject to RCW
10 71.05.325, 71.05.330(2), 71.05.425, 71.05.280(3)(b), and patients
11 civilly committed under chapter 10.77 RCW. Analysis should consider
12 the level of risk observed with these patients and the comparative
13 advantages of reasonable alternative approaches. Patients undergoing
14 competency evaluation and competency restoration treatment are
15 excluded from the risk model;

16 (d) Performance metrics and other contract structures available
17 to hold:

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

21 (ii) Providers of long-term civil treatment, including state
22 hospitals, accountable for performance, including consideration of
23 the interaction between performance conditions and collective
24 bargaining agreements; and

25 (e) The availability of options for incentives for the aging and
26 long-term support administration and developmental disability
27 administration to ensure that long-term involuntary treatment
28 patients with specialized needs move to the appropriate level of care
29 within a reasonable time period.

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

35 (5) The contracts for consultant services in this section are
36 exempt from the competitive solicitation requirements in RCW
37 39.26.125.

1 **Part II**

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

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

5 (1) The state intends to develop new capacity for delivery of
6 long-term treatment in the community in diverse regions of the state
7 prior to the effective date of the integration of risk for long-term
8 involuntary treatment into managed care, and to study the cost and
9 outcomes associated with treatment in community facilities. In
10 furtherance of this goal, the department shall purchase a portion of
11 the state's long-term treatment capacity allocated to behavioral
12 health organizations under RCW 71.24.310 in willing community
13 facilities capable of providing alternatives to treatment in a state
14 hospital. The state shall increase its purchasing of long-term
15 involuntary treatment capacity in the community over time.

16 (2) The department shall:

17 (a) Work with willing community hospitals licensed under chapters
18 70.41 and 71.12 RCW and evaluation and treatment facilities certified
19 under chapter 71.05 RCW to assess their capacity to become certified
20 to provide long-term mental health placements and to meet the
21 requirements of this chapter; and

22 (b) Enter into contracts and payment arrangements with such
23 hospitals and evaluation and treatment facilities choosing to provide
24 long-term mental health placements, to the extent that willing
25 certified facilities are available. Nothing in this chapter requires
26 any community hospital or evaluation and treatment facility to be
27 certified to provide long-term mental health placements.

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

30 (4) Contracts developed by the department to implement this
31 section must be constructed to allow the department to obtain
32 complete identification information and admission and discharge dates
33 for patients served under this authority. Prior to requesting
34 identification information and admission and discharge dates or
35 reports from certified facilities, the department must determine that
36 this information cannot be identified or obtained from existing data
37 sources available to state agencies. In addition, until January 1,
38 2022, facilities certified by the department to provide community

1 long-term involuntary treatment to adults shall report to the
2 department:

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

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

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

13 The legislature finds that administration of chapter 71.05 RCW
14 and this chapter can be most efficiently and effectively implemented
15 as part of the behavioral health organization defined in RCW
16 71.24.025. For this reason, the legislature intends that the
17 department and the behavioral health organizations shall work
18 together to implement chapter 71.05 RCW as follows:

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

26 (2) If there is consensus among the behavioral health
27 organizations regarding the number of state hospital beds that should
28 be allocated for use by each behavioral health organization, the
29 department shall contract with each behavioral health organization
30 accordingly.

31 (3) If there is not consensus among the behavioral health
32 organizations regarding the number of beds that should be allocated
33 for use by each behavioral health organization, the department shall
34 establish by emergency rule the number of state hospital beds that
35 are available for use by each behavioral health organization. The
36 emergency rule shall be effective September 1, 2006. The primary
37 factor used in the allocation shall be the estimated number of adults
38 with acute and chronic mental illness in each behavioral health

1 organization area, based upon population-adjusted incidence and
2 utilization.

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

12 (5)(a) The department ((is encouraged to enter)) shall enter into
13 performance-based contracts with ((behavioral health organizations))
14 facilities certified by the department to provide treatment to adults
15 on a ninety or one hundred eighty-day inpatient involuntary
16 commitment order to provide some or all of the behavioral health
17 organization's allocated long-term inpatient treatment capacity in
18 the community, rather than in the state hospital, to the extent that
19 willing certified facilities and funding are available. The
20 performance contracts shall specify the number of patient days of
21 care available for use by the behavioral health organization in the
22 state hospital and the number of patient days of care available for
23 use by the behavioral health organization in a facility certified by
24 the department to provide treatment to adults on a ninety or one
25 hundred eighty-day inpatient involuntary commitment order, including
26 hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation
27 and treatment facilities certified under chapter 71.05 RCW.

28 (b) A hospital licensed under chapter 70.41 or 71.12 RCW is not
29 required to undergo certification to treat patients on ninety or one
30 hundred eighty-day involuntary commitment orders in order to treat
31 adults who are waiting for placement at either the state hospital or
32 in certified facilities that voluntarily contract to provide
33 treatment to patients on ninety or one hundred eighty-day involuntary
34 commitment orders.

35 (6) If a behavioral health organization uses more state hospital
36 patient days of care than it has been allocated under subsection (3)
37 or (4) of this section, or than it has contracted to use under
38 subsection (5) of this section, whichever is less, it shall reimburse
39 the department for that care, except during the period of July 1,
40 2012, through December 31, 2013, where reimbursements may be

1 temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp.
2 sess. The reimbursement rate per day shall be the hospital's total
3 annual budget for long-term inpatient care, divided by the total
4 patient days of care assumed in development of that budget.

5 (7) One-half of any reimbursements received pursuant to
6 subsection (6) of this section shall be used to support the cost of
7 operating the state hospital and, during the 2007-2009 fiscal
8 biennium, implementing new services that will enable a behavioral
9 health organization to reduce its utilization of the state hospital.
10 The department shall distribute the remaining half of such
11 reimbursements among behavioral health organizations that have used
12 less than their allocated or contracted patient days of care at that
13 hospital, proportional to the number of patient days of care not
14 used.

15 NEW SECTION. **Sec. 203.** A new section is added to chapter 71.05
16 RCW to read as follows:

17 Treatment under RCW 71.05.320 may be provided at a state hospital
18 or any willing and able facility certified to provide ninety-day or
19 one hundred eighty-day care. The order for such treatment must remand
20 the person to the custody of the department or designee. A prepaid
21 inpatient health plan, managed care organization, or the department,
22 when responsible for the cost of care, may designate where treatment
23 is to be provided, at a willing certified facility or a state
24 hospital, after consultation with the facility currently providing
25 treatment. The prepaid inpatient health plan, managed care
26 organization, or the department, when responsible for the cost of
27 care, may not require prior authorization for treatment under RCW
28 71.05.320. The designation of a treatment facility must not result in
29 a delay of the transfer of the person to a state hospital or
30 certified treatment facility if there is an open bed available at
31 either the state hospital or a certified facility.

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

34 (1) If the court or jury finds that grounds set forth in RCW
35 71.05.280 have been proven and that the best interests of the person
36 or others will not be served by a less restrictive treatment which is
37 an alternative to detention, the court shall remand him or her (~~to~~
38 ~~the custody of the department or to a facility certified for ninety~~

1 ~~day treatment by the department~~) for a further period of intensive
2 treatment not to exceed ninety days from the date of judgment. If the
3 grounds set forth in RCW 71.05.280(3) are the basis of commitment,
4 then the period of treatment may be up to but not exceed one hundred
5 eighty days from the date of judgment in a facility certified for one
6 hundred eighty day treatment by the department.

7 (2) If the court or jury finds that grounds set forth in RCW
8 71.05.280 have been proven, but finds that treatment less restrictive
9 than detention will be in the best interest of the person or others,
10 then the court shall remand him or her to the custody of the
11 department or to a facility certified for ninety day treatment by the
12 department or to a less restrictive alternative for a further period
13 of less restrictive treatment not to exceed ninety days from the date
14 of judgment. If the grounds set forth in RCW 71.05.280(3) are the
15 basis of commitment, then the period of treatment may be up to but
16 not exceed one hundred eighty days from the date of judgment. If the
17 court or jury finds that the grounds set forth in RCW 71.05.280(5)
18 have been proven, and provide the only basis for commitment, the
19 court must enter an order for less restrictive alternative treatment
20 for up to ninety days from the date of judgment and may not order
21 inpatient treatment.

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

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

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

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

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

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

25 (d) Continues to be gravely disabled; or

26 (e) Is in need of assisted outpatient (~~mental~~) behavioral
27 health treatment.

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

31 If less restrictive alternative treatment is sought, the petition
32 shall set forth any recommendations for less restrictive alternative
33 treatment services.

34 (5) A new petition for involuntary treatment filed under
35 subsection (4) of this section shall be filed and heard in the
36 superior court of the county of the facility which is filing the new
37 petition for involuntary treatment unless good cause is shown for a
38 change of venue. The cost of the proceedings shall be borne by the
39 state.

1 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
2 and if the court or jury finds that the grounds for additional
3 confinement as set forth in this section are present, the court may
4 order the committed person returned for an additional period of
5 treatment not to exceed one hundred eighty days from the date of
6 judgment, except as provided in subsection (7) of this section. If
7 the court's order is based solely on the grounds identified in
8 subsection (4)(e) of this section, the court may enter an order for
9 less restrictive alternative treatment not to exceed one hundred
10 eighty days from the date of judgment, and may not enter an order for
11 inpatient treatment. An order for less restrictive alternative
12 treatment must name the mental health service provider responsible
13 for identifying the services the person will receive in accordance
14 with RCW 71.05.585, and must include a requirement that the person
15 cooperate with the services planned by the mental health service
16 provider.

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

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

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

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

35 (1)(a) Subject to (b) of this subsection, if the court or jury
36 finds that grounds set forth in RCW 71.05.280 have been proven and
37 that the best interests of the person or others will not be served by
38 a less restrictive treatment which is an alternative to detention,
39 the court shall remand him or her to the custody of the department or

1 to a facility certified for ninety day treatment by the department
2 for a further period of intensive treatment not to exceed ninety days
3 from the date of judgment.

4 (b) If the order for inpatient treatment is based on a substance
5 use disorder, treatment must take place at an approved substance use
6 disorder treatment program. The court may only enter an order for
7 commitment based on a substance use disorder if there is an available
8 approved substance use disorder treatment program with adequate space
9 for the person.

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

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

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

38 (4) The person shall be released from involuntary treatment at
39 the expiration of the period of commitment imposed under subsection
40 (1) or (2) of this section unless the superintendent or professional

1 person in charge of the facility in which he or she is confined, or
2 in the event of a less restrictive alternative, the designated crisis
3 responder, files a new petition for involuntary treatment on the
4 grounds that the committed person:

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

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

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

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

35 (d) Continues to be gravely disabled; or

36 (e) Is in need of assisted outpatient (~~mental~~) behavioral
37 health treatment.

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

1 If less restrictive alternative treatment is sought, the petition
2 shall set forth any recommendations for less restrictive alternative
3 treatment services.

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

10 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
11 and if the court or jury finds that the grounds for additional
12 confinement as set forth in this section are present, subject to
13 subsection (1)(b) of this section, the court may order the committed
14 person returned for an additional period of treatment not to exceed
15 one hundred eighty days from the date of judgment, except as provided
16 in subsection (7) of this section. If the court's order is based
17 solely on the grounds identified in subsection (4)(e) of this
18 section, the court may enter an order for less restrictive
19 alternative treatment not to exceed one hundred eighty days from the
20 date of judgment, and may not enter an order for inpatient treatment.
21 An order for less restrictive alternative treatment must name the
22 mental health service provider responsible for identifying the
23 services the person will receive in accordance with RCW 71.05.585,
24 and must include a requirement that the person cooperate with the
25 services planned by the mental health service provider.

26 (b) At the end of the one hundred eighty day period of
27 commitment, or one-year period of commitment if subsection (7) of
28 this section applies, the committed person shall be released unless a
29 petition for an additional one hundred eighty day period of continued
30 treatment is filed and heard in the same manner as provided in this
31 section. Successive one hundred eighty day commitments are
32 permissible on the same grounds and pursuant to the same procedures
33 as the original one hundred eighty day commitment.

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

38 (8) No person committed as provided in this section may be
39 detained unless a valid order of commitment is in effect. No order of

1 commitment can exceed one hundred eighty days in length except as
2 provided in subsection (7) of this section.

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

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

12 (b) If the order for inpatient treatment is based on a substance
13 use disorder, treatment must take place at an approved substance use
14 disorder treatment program. If the grounds set forth in RCW
15 71.05.280(3) are the basis of commitment, then the period of
16 treatment may be up to but not exceed one hundred eighty days from
17 the date of judgment in a facility certified for one hundred eighty
18 day treatment by the department.

19 (2) If the court or jury finds that grounds set forth in RCW
20 71.05.280 have been proven, but finds that treatment less restrictive
21 than detention will be in the best interest of the person or others,
22 then the court (~~shall remand him or her to the custody of the~~
23 ~~department or to a facility certified for ninety day treatment by the~~
24 ~~department~~)) must commit him or her for a period of treatment of up
25 to ninety days or to a less restrictive alternative for a further
26 period of less restrictive treatment not to exceed ninety days from
27 the date of judgment. If the order for less restrictive treatment is
28 based on a substance use disorder, treatment must be provided by an
29 approved substance use disorder treatment program. If the grounds set
30 forth in RCW 71.05.280(3) are the basis of commitment, then the
31 period of treatment may be up to but not exceed one hundred eighty
32 days from the date of judgment. If the court or jury finds that the
33 grounds set forth in RCW 71.05.280(5) have been proven, and provide
34 the only basis for commitment, the court must enter an order for less
35 restrictive alternative treatment for up to ninety days from the date
36 of judgment and may not order inpatient treatment.

37 (3) An order for less restrictive alternative treatment entered
38 under subsection (2) of this section must name the mental health
39 service provider responsible for identifying the services the person

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

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

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

16 (b) Was taken into custody as a result of conduct in which he or
17 she attempted or inflicted serious physical harm upon the person of
18 another, and continues to present, as a result of mental disorder,
19 substance use disorder, or developmental disability a likelihood of
20 serious harm; or

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

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

1 (d) Continues to be gravely disabled; or

2 (e) Is in need of assisted outpatient (~~mental~~) behavioral
3 health treatment.

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

7 If less restrictive alternative treatment is sought, the petition
8 shall set forth any recommendations for less restrictive alternative
9 treatment services.

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

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

32 (b) At the end of the one hundred eighty day period of
33 commitment, or one-year period of commitment if subsection (7) of
34 this section applies, the committed person shall be released unless a
35 petition for an additional one hundred eighty day period of continued
36 treatment is filed and heard in the same manner as provided in this
37 section. Successive one hundred eighty day commitments are
38 permissible on the same grounds and pursuant to the same procedures
39 as the original one hundred eighty day commitment.

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

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

9 NEW SECTION. **Sec. 207.** The department of social and health
10 services shall confer with the department of health and hospitals
11 licensed under chapters 70.41 and 71.12 RCW to review laws and
12 regulations and identify changes that may be necessary to address
13 care delivery and cost-effective treatment for adults on ninety or
14 one hundred eighty day commitment orders which may be different than
15 the requirements for short-term psychiatric hospitalization. The
16 department of social and health services shall report its findings to
17 the select committee on quality improvement in state hospitals by
18 November 1, 2017.

19 **Part III**

20 **State Hospital Short-Term Reforms**

21 NEW SECTION. **Sec. 301.** The legislature intends to expand
22 capacity in the upcoming biennia for enhanced community placements
23 for complex patients to decrease utilization of state hospitals and
24 increase community stability. Capacity must be provided in settings
25 such as nursing homes, assisted living facilities, adult family
26 homes, enhanced service facilities, state-operated living
27 alternatives, and supported housing for persons with developmental
28 disabilities or long-term care needs. The funding must be
29 administered by the department of social and health services.

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

32 Discharge planning in state hospitals and certified community
33 long-term involuntary treatment facilities must begin at admission.
34 Discharge planning must be collaborative across state agencies and
35 community providers, provide individualized treatment targeted
36 towards known risks of rehospitalization or recidivism, and work

1 ahead to resolve known discharge barriers that may prevent patients
2 from leaving the state hospital or certified community long-term
3 involuntary treatment facilities when they are deemed ready. To
4 ensure effective discharge planning, state hospitals, certified long-
5 term involuntary treatment facilities, and state agencies responsible
6 for the cost of the community care long-term involuntary treatment
7 patients must do the following:

8 (1) The aging and long-term support administration and
9 developmental disabilities administration or their successor agencies
10 must assume expanded responsibility beginning at admission for aiding
11 its clients to transition from state hospitals and certified long-
12 term involuntary treatment facilities into the community. This
13 responsibility may include interfacing with behavioral health
14 organizations and others to coordinate community treatment
15 arrangements for multiagency clients. State hospitals and certified
16 long-term treatment facilities must allow functional assessments to
17 be conducted on individuals identified as potential clients before
18 the patient is deemed eligible for discharge and allow necessary
19 access for agency staff to implement the goals of this subsection;

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

27 (3) State hospitals must screen patients upon admission for
28 medical necessity for substance use disorder treatment and provide
29 coordinated substance use disorder treatment services targeted to
30 reduce rehospitalization or recidivism to patients with an identified
31 need.

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

34 (1) When a person has been involuntarily committed for treatment
35 to a state hospital for a period of ninety or one hundred eighty
36 days, and the superintendent or professional person in charge of the
37 state hospital determines that the person no longer requires active
38 psychiatric treatment at an inpatient level of care, the behavioral
39 health organization((τ)) or full integration entity under RCW

1 71.24.380(~~(, or agency providing oversight of long term care or~~
2 ~~developmental disability services that is responsible for resource~~
3 ~~management services for the person must work with the hospital to~~
4 ~~develop an individualized discharge plan and arrange for a transition~~
5 ~~to the community in accordance with the person's individualized~~
6 ~~discharge plan within fourteen days of the determination)) must
7 establish an individualized discharge plan arranging for transition
8 to an identified placement in the community within no more than
9 fourteen days of the determination. The individualized discharge plan
10 must provide for a date certain by which discharge must be completed.~~

11 (2) If the entity under subsection (1) of this section has not
12 fulfilled the obligation to establish an individualized discharge
13 plan for the patient, the entity must reimburse the department for
14 days of care provided after the fourteenth day following
15 determination that the person no longer requires active psychiatric
16 treatment at an inpatient level of care, until an individualized
17 discharge plan meeting the requirements of subsection (1) of this
18 section is established. The reimbursement rate per day shall be the
19 same reimbursement rate under RCW 71.24.310.

20 (3) The department must establish a process for appeal to the
21 secretary or the secretary's designee when entities under subsection
22 (1) of this section and the state hospital are unable to mutually
23 agree within fourteen days about a specific patient's readiness for
24 discharge, whether readiness for discharge is asserted by the state
25 hospital or by the managed care entity. The managed care entity may
26 use this process to request relief from a reimbursement obligation
27 under subsection (2) of this section if the managed care entity is
28 unable to establish a discharge plan due to the action or inaction of
29 a third party outside its contracting authority or control, such as a
30 state agency division responsible for a portion of the costs related
31 to the community care needs of the person or the court.

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

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

1 (1) The legislature finds that qualified psychiatric advanced
2 registered nurse practitioners and physician assistants supervised by
3 a psychiatrist have a role in participating in the direction of
4 psychiatric treatment at state psychiatric hospitals consistent with
5 practice at the top of their scope of license and capabilities,
6 including sharing duties for prescribing psychiatric medication and
7 other tasks historically performed by psychiatrists at the state
8 hospitals. The department should take reasonable steps available to
9 employ these professionals at state hospitals.

10 (2) The role of state hospital psychiatrists is expanded to
11 provide supervision to physician assistants specializing in
12 psychiatry and provide mentorship to psychiatric advanced registered
13 nurse practitioners necessary to allow these professionals to
14 practice at the top of their scope of license.

15 (3) In order to increase the use of psychiatric advanced
16 registered nurse practitioners and physician assistants to perform
17 work and tasks that are currently or have been historically performed
18 by psychiatrists at the state hospitals, the department shall work
19 with the University of Washington department of psychiatry and
20 behavioral sciences and the appropriate department of Washington
21 State University and appropriate schools of nursing to conduct an
22 analysis and develop a plan to create a training and supervision
23 program at western and eastern state hospitals for psychiatric
24 advanced registered nurse practitioners and physician assistants. The
25 plan shall include an appraisal of risks, barriers, and benefits to
26 implementation as well as an implementation timeline. The department
27 must report to the office of financial management and relevant policy
28 and fiscal committees of the legislature on findings and
29 recommendations by December 15, 2017.

30 **Part IV**

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

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

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Admission" or "admit" means a decision by a physician,
37 physician assistant, or psychiatric advanced registered nurse

1 practitioner that a person should be examined or treated as a patient
2 in a hospital;

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

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

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

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

15 (6) "Crisis stabilization unit" means a short-term facility or a
16 portion of a facility licensed by the department of health and
17 certified by the department of social and health services under RCW
18 71.24.035, such as an evaluation and treatment facility or a
19 hospital, which has been designed to assess, diagnose, and treat
20 individuals experiencing an acute crisis without the use of long-term
21 hospitalization;

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

26 (8) "Department" means the department of social and health
27 services;

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

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

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

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

1 (13) "Developmental disabilities professional" means a person who
2 has specialized training and three years of experience in directly
3 treating or working with persons with developmental disabilities and
4 is a psychiatrist, physician assistant working with a supervising
5 psychiatrist, psychologist, psychiatric advanced registered nurse
6 practitioner, or social worker, and such other developmental
7 disabilities professionals as may be defined by rules adopted by the
8 secretary;

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

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

14 (16) "Evaluation and treatment facility" means any facility which
15 can provide directly, or by direct arrangement with other public or
16 private agencies, emergency evaluation and treatment, outpatient
17 care, and timely and appropriate inpatient care to persons suffering
18 from a mental disorder, and which is certified as such by the
19 department. The department may certify single beds as temporary
20 evaluation and treatment beds under RCW 71.05.745. A physically
21 separate and separately operated portion of a state hospital may be
22 designated as an evaluation and treatment facility. A facility which
23 is part of, or operated by, the department or any federal agency will
24 not require certification. No correctional institution or facility,
25 or jail, shall be an evaluation and treatment facility within the
26 meaning of this chapter;

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

35 (18) "Habilitative services" means those services provided by
36 program personnel to assist persons in acquiring and maintaining life
37 skills and in raising their levels of physical, mental, social, and
38 vocational functioning. Habilitative services include education,
39 training for employment, and therapy. The habilitative process shall
40 be undertaken with recognition of the risk to the public safety

1 presented by the person being assisted as manifested by prior charged
2 criminal conduct;

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

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

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

33 (22) "Individualized service plan" means a plan prepared by a
34 developmental disabilities professional with other professionals as a
35 team, for a person with developmental disabilities, which shall
36 state:

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

39 (b) The conditions and strategies necessary to achieve the
40 purposes of habilitation;

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

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

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

6 (f) Where relevant in light of past criminal behavior and due
7 consideration for public safety, the criteria for proposed movement
8 to less-restrictive settings, criteria for proposed eventual
9 discharge or release, and a projected possible date for discharge or
10 release; and

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

13 (23) "Information related to mental health services" means all
14 information and records compiled, obtained, or maintained in the
15 course of providing services to either voluntary or involuntary
16 recipients of services by a mental health service provider. This may
17 include documents of legal proceedings under this chapter or chapter
18 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (47) "Treatment records" include registration and all other
2 records concerning persons who are receiving or who at any time have
3 received services for mental illness, which are maintained by the
4 department, by behavioral health organizations and their staffs, and
5 by treatment facilities. Treatment records include mental health
6 information contained in a medical bill including but not limited to
7 mental health drugs, a mental health diagnosis, provider name, and
8 dates of service stemming from a medical service. Treatment records
9 do not include notes or records maintained for personal use by a
10 person providing treatment services for the department, behavioral
11 health organizations, or a treatment facility if the notes or records
12 are not available to others;

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

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

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

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

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

32 (2) "Alcoholism" means a disease, characterized by a dependency
33 on alcoholic beverages, loss of control over the amount and
34 circumstances of use, symptoms of tolerance, physiological or
35 psychological withdrawal, or both, if use is reduced or discontinued,
36 and impairment of health or disruption of social or economic
37 functioning;

38 (3) "Antipsychotic medications" means that class of drugs
39 primarily used to treat serious manifestations of mental illness

1 associated with thought disorders, which includes, but is not limited
2 to atypical antipsychotic medications;

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

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

10 (6) "Chemical dependency" means:

11 (a) Alcoholism;

12 (b) Drug addiction; or

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

15 (7) "Chemical dependency professional" means a person certified
16 as a chemical dependency professional by the department of health
17 under chapter 18.205 RCW;

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

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

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

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

34 (12) "Department" means the department of social and health
35 services;

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

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

1 (15) "Developmental disabilities professional" means a person who
2 has specialized training and three years of experience in directly
3 treating or working with persons with developmental disabilities and
4 is a psychiatrist, physician assistant working with a supervising
5 psychiatrist, psychologist, psychiatric advanced registered nurse
6 practitioner, or social worker, and such other developmental
7 disabilities professionals as may be defined by rules adopted by the
8 secretary;

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

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

14 (18) "Drug addiction" means a disease, characterized by a
15 dependency on psychoactive chemicals, loss of control over the amount
16 and circumstances of use, symptoms of tolerance, physiological or
17 psychological withdrawal, or both, if use is reduced or discontinued,
18 and impairment of health or disruption of social or economic
19 functioning;

20 (19) "Evaluation and treatment facility" means any facility which
21 can provide directly, or by direct arrangement with other public or
22 private agencies, emergency evaluation and treatment, outpatient
23 care, and timely and appropriate inpatient care to persons suffering
24 from a mental disorder, and which is certified as such by the
25 department. The department may certify single beds as temporary
26 evaluation and treatment beds under RCW 71.05.745. A physically
27 separate and separately operated portion of a state hospital may be
28 designated as an evaluation and treatment facility. A facility which
29 is part of, or operated by, the department or any federal agency will
30 not require certification. No correctional institution or facility,
31 or jail, shall be an evaluation and treatment facility within the
32 meaning of this chapter;

33 (20) "Gravely disabled" means a condition in which a person, as a
34 result of a mental disorder, or as a result of the use of alcohol or
35 other psychoactive chemicals: (a) Is in danger of serious physical
36 harm resulting from a failure to provide for his or her essential
37 human needs of health or safety; or (b) manifests severe
38 deterioration in routine functioning evidenced by repeated and
39 escalating loss of cognitive or volitional control over his or her

1 actions and is not receiving such care as is essential for his or her
2 health or safety;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (31) "Licensed physician" means a person licensed to practice
2 medicine or osteopathic medicine and surgery in the state of
3 Washington;

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

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

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

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

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

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

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

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

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

7 (39) "Private agency" means any person, partnership, corporation,
8 or association that is not a public agency, whether or not financed
9 in whole or in part by public funds, which constitutes an evaluation
10 and treatment facility or private institution, or hospital, or
11 approved substance use disorder treatment program, which is conducted
12 for, or includes a department or ward conducted for, the care and
13 treatment of persons with mental illness, substance use disorders, or
14 both mental illness and substance use disorders;

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

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

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

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

33 (44) "Public agency" means any evaluation and treatment facility
34 or institution, secure detoxification facility, approved substance
35 use disorder treatment program, or hospital which is conducted for,
36 or includes a department or ward conducted for, the care and
37 treatment of persons with mental illness, substance use disorders, or
38 both mental illness and substance use disorders, if the agency is
39 operated directly by federal, state, county, or municipal government,
40 or a combination of such governments;

1 (45) "Registration records" include all the records of the
2 department, behavioral health organizations, treatment facilities,
3 and other persons providing services to the department, county
4 departments, or facilities which identify persons who are receiving
5 or who at any time have received services for mental illness or
6 substance use disorders;

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

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

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

13 (49) "Secure detoxification facility" means a facility operated
14 by either a public or private agency or by the program of an agency
15 that:

16 (a) Provides for intoxicated persons:

17 (i) Evaluation and assessment, provided by certified chemical
18 dependency professionals;

19 (ii) Acute or subacute detoxification services; and

20 (iii) Discharge assistance provided by certified chemical
21 dependency professionals, including facilitating transitions to
22 appropriate voluntary or involuntary inpatient services or to less
23 restrictive alternatives as appropriate for the individual;

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

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

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

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

32 (52) "Substance use disorder" means a cluster of cognitive,
33 behavioral, and physiological symptoms indicating that an individual
34 continues using the substance despite significant substance-related
35 problems. The diagnosis of a substance use disorder is based on a
36 pathological pattern of behaviors related to the use of the
37 substances;

38 (53) "Therapeutic court personnel" means the staff of a mental
39 health court or other therapeutic court which has jurisdiction over
40 defendants who are dually diagnosed with mental disorders, including

1 court personnel, probation officers, a court monitor, prosecuting
2 attorney, or defense counsel acting within the scope of therapeutic
3 court duties;

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

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

24 (56) "Violent act" means behavior that resulted in homicide,
25 attempted suicide, nonfatal injuries, or substantial damage to
26 property.

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

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

31 (a) Assignment of a care coordinator;

32 (b) An intake evaluation with the provider of the less
33 restrictive alternative treatment;

34 (c) A psychiatric evaluation;

35 (d) ~~((Medication management;~~

36 ~~(e))~~) A schedule of regular contacts with the provider of the
37 less restrictive alternative treatment services for the duration of
38 the order;

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

3 ~~((g))~~ (f) An individual crisis plan.

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

6 (a) Medication management;

7 (b) Psychotherapy;

8 ~~((b))~~ (c) Nursing;

9 ~~((e))~~ (d) Substance abuse counseling;

10 ~~((d))~~ (e) Residential treatment; and

11 ~~((e))~~ (f) Support for housing, benefits, education, and
12 employment.

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

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

24 (5) For the purpose of this section, "care coordinator" means a
25 clinical practitioner who coordinates the activities of less
26 restrictive alternative treatment. The care coordinator coordinates
27 activities with the designated mental health professionals necessary
28 for enforcement and continuation of less restrictive alternative
29 orders and is responsible for coordinating service activities with
30 other agencies and establishing and maintaining a therapeutic
31 relationship with the individual on a continuing basis.

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

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

36 (a) Assignment of a care coordinator;

37 (b) An intake evaluation with the provider of the less
38 restrictive alternative treatment;

39 (c) A psychiatric evaluation;

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

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

7 (~~(g))~~) (f) An individual crisis plan.

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

10 (a) Medication management;

11 (b) Psychotherapy;

12 (~~(b))~~) (c) Nursing;

13 (~~(e))~~) (d) Substance abuse counseling;

14 (~~(d))~~) (e) Residential treatment; and

15 (~~(e))~~) (f) Support for housing, benefits, education, and
16 employment.

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

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

28 (5) For the purpose of this section, "care coordinator" means a
29 clinical practitioner who coordinates the activities of less
30 restrictive alternative treatment. The care coordinator coordinates
31 activities with the designated crisis responders that are necessary
32 for enforcement and continuation of less restrictive alternative
33 orders and is responsible for coordinating service activities with
34 other agencies and establishing and maintaining a therapeutic
35 relationship with the individual on a continuing basis.

36 NEW SECTION. Sec. 405. A new section is added to chapter 71.05
37 RCW to read as follows:

38 This section establishes a process for initial evaluation and
39 filing of a petition for assisted outpatient treatment, but however

1 does not preclude the filing of a petition for assisted outpatient
2 treatment following a period of inpatient detention in appropriate
3 circumstances:

4 (1) The designated mental health professional must personally
5 interview the person, unless the person refuses an interview, and
6 determine whether the person will voluntarily receive appropriate
7 evaluation and treatment at a mental health facility.

8 (2) The designated mental health professional must investigate
9 and evaluate the specific facts alleged and the reliability or
10 credibility of any person providing information. The designated
11 mental health professional may spend up to forty-eight hours to
12 complete the investigation, provided that the person may not be held
13 for investigation for any period except as authorized by RCW
14 71.05.050 or 71.05.153.

15 (3) If the designated mental health professional finds that the
16 person is in need of assisted outpatient mental health treatment,
17 they may file a petition requesting the court to enter an order for
18 up to ninety days less restrictive alternative treatment. The
19 petition must include:

20 (a) A statement of the circumstances under which the person's
21 condition was made known and stating that there is evidence, as a
22 result of the designated mental health professional's personal
23 observation or investigation, that the person is in need of assisted
24 outpatient mental health treatment, and stating the specific facts
25 known as a result of personal observation or investigation, upon
26 which the designated mental health professional bases this belief;

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

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

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

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

38 (4) If the person is in the custody of jail or prison at the time
39 of the investigation, a petition for assisted outpatient mental

1 health treatment may be used to facilitate continuity of care after
2 release from custody or the diversion of criminal charges as follows:

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

7 (b) The hearing may be held prior to the person's release from
8 custody, provided that (i) the filing of the petition does not extend
9 the time the person would otherwise spend in the custody of jail or
10 prison; (ii) the charges or custody of the person is not a pretext to
11 detain the person for the purpose of the involuntary commitment
12 hearing; and (iii) the person's release from custody must be expected
13 to swiftly follow the adjudication of the petition. In this
14 circumstance, the time for hearing is shortened to three judicial
15 days after the filing of the petition.

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

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

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

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

28 (1) The designated crisis responder must personally interview the
29 person, unless the person refuses an interview, and determine whether
30 the person will voluntarily receive appropriate evaluation and
31 treatment at a mental health facility, secure detoxification
32 facility, or approved substance use disorder treatment program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 ~~(b))~~ under this section or a petition for involuntary outpatient
33 treatment under section 405 of this act. Before filing the petition,
34 the designated mental health professional must personally interview
35 the person, unless the person refuses an interview, and determine
36 whether the person will voluntarily receive appropriate evaluation
37 and treatment at an evaluation and treatment facility, crisis
38 stabilization unit, or triage facility.

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

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

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

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

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

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

39 (4) The designated mental health professional may notify a peace
40 officer to take such person or cause such person to be taken into

1 custody and placed in an evaluation and treatment facility. At the
2 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. 408.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each
7 amended to read as follows:

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

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

1 (2)(a) An order to detain a person with a mental disorder to a
2 designated evaluation and treatment facility, or to detain a person
3 with a substance use disorder to a secure detoxification facility or
4 approved substance use disorder treatment program, for not more than
5 a seventy-two-hour evaluation and treatment period(~~(, or an order for~~
6 ~~an involuntary outpatient evaluation,~~) may be issued by a judge of
7 the superior court upon request of a designated crisis responder,
8 subject to (d) of this subsection, whenever it appears to the
9 satisfaction of a judge of the superior court:

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

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

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

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

21 (d) A court may not issue an order to detain a person to a secure
22 detoxification facility or approved substance use disorder treatment
23 program unless there is an available secure detoxification facility
24 or approved substance use disorder treatment program that has
25 adequate space for the person.

26 (3) The designated crisis responder shall then serve or cause to
27 be served on such person, his or her guardian, and conservator, if
28 any, a copy of the order together with a notice of rights, and a
29 petition for initial detention (~~(or involuntary outpatient~~
30 ~~evaluation)~~). After service on such person the designated crisis
31 responder shall file the return of service in court and provide
32 copies of all papers in the court file to the evaluation and
33 treatment facility, secure detoxification facility, or approved
34 substance use disorder treatment program, and the designated
35 attorney. The designated crisis responder shall notify the court and
36 the prosecuting attorney that a probable cause hearing will be held
37 within seventy-two hours of the date and time of outpatient
38 evaluation or admission to the evaluation and treatment facility,
39 secure detoxification facility, or approved substance use disorder
40 treatment program. The person shall be permitted to be accompanied by

1 one or more of his or her relatives, friends, an attorney, a personal
2 physician, or other professional or religious advisor to the place of
3 evaluation. An attorney accompanying the person to the place of
4 evaluation shall be permitted to be present during the admission
5 evaluation. Any other individual accompanying the person may be
6 present during the admission evaluation. The facility may exclude the
7 individual if his or her presence would present a safety risk, delay
8 the proceedings, or otherwise interfere with the evaluation.

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

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

19 (1)((~~a~~)) When a designated crisis responder receives
20 information alleging that a person, as a result of a mental disorder,
21 substance use disorder, or both presents a likelihood of serious harm
22 or is gravely disabled, or that a person is in need of assisted
23 outpatient (~~mental~~) behavioral health treatment; the designated
24 crisis responder may, after investigation and evaluation of the
25 specific facts alleged and of the reliability and credibility of any
26 person providing information to initiate detention or involuntary
27 outpatient evaluation, if satisfied that the allegations are true and
28 that the person will not voluntarily seek appropriate treatment, file
29 a petition for initial detention (~~or involuntary outpatient~~
30 ~~evaluation. If the petition is filed solely on the grounds that the~~
31 ~~person is in need of assisted outpatient mental health treatment, the~~
32 ~~petition may only be for an involuntary outpatient evaluation. An~~
33 ~~involuntary outpatient evaluation may be conducted by any combination~~
34 ~~of licensed professionals authorized to petition for involuntary~~
35 ~~commitment under RCW 71.05.230 and must include involvement or~~
36 ~~consultation with the agency or facility which will provide~~
37 ~~monitoring or services under the proposed less restrictive~~
38 ~~alternative treatment order. If the petition is for an involuntary~~
39 ~~outpatient evaluation and the person is being held in a hospital~~

1 emergency department, the person may be released once the hospital
2 has satisfied federal and state legal requirements for appropriate
3 screening and stabilization of patients.

4 ~~(b))~~ under this section or a petition for involuntary outpatient
5 treatment under section 405 of this act. Before filing the petition,
6 the designated crisis responder must personally interview the person,
7 unless the person refuses an interview, and determine whether the
8 person will voluntarily receive appropriate evaluation and treatment
9 at an evaluation and treatment facility, crisis stabilization unit,
10 triage facility, or approved substance use disorder treatment
11 program.

12 (2)(a) An order to detain a person with a mental disorder to a
13 designated evaluation and treatment facility, or to detain a person
14 with a substance use disorder to a secure detoxification facility or
15 approved substance use disorder treatment program, for not more than
16 a seventy-two-hour evaluation and treatment period(~~(, or an order for~~
17 ~~an involuntary outpatient evaluation,~~)) may be issued by a judge of
18 the superior court upon request of a designated crisis responder
19 whenever it appears to the satisfaction of a judge of the superior
20 court:

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

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

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

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

32 (3) The designated crisis responder shall then serve or cause to
33 be served on such person, his or her guardian, and conservator, if
34 any, a copy of the order together with a notice of rights, and a
35 petition for initial detention (~~(or involuntary outpatient~~
36 ~~evaluation)~~). After service on such person the designated crisis
37 responder shall file the return of service in court and provide
38 copies of all papers in the court file to the evaluation and
39 treatment facility, secure detoxification facility, or approved
40 substance use disorder treatment program, and the designated

1 attorney. The designated crisis responder shall notify the court and
2 the prosecuting attorney that a probable cause hearing will be held
3 within seventy-two hours of the date and time of outpatient
4 evaluation or admission to the evaluation and treatment facility,
5 secure detoxification facility, or approved substance use disorder
6 treatment program. The person shall be permitted to be accompanied by
7 one or more of his or her relatives, friends, an attorney, a personal
8 physician, or other professional or religious advisor to the place of
9 evaluation. An attorney accompanying the person to the place of
10 evaluation shall be permitted to be present during the admission
11 evaluation. Any other individual accompanying the person may be
12 present during the admission evaluation. The facility may exclude the
13 individual if his or her presence would present a safety risk, delay
14 the proceedings, or otherwise interfere with the evaluation.

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

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

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

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

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

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

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

11 (a) Two physicians;

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

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

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

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

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

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

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

1 either ninety days of less restrictive alternative treatment or
2 ninety days of involuntary intensive treatment as provided in RCW
3 71.05.290; and

4 (9) If the hospital or facility designated to provide less
5 restrictive alternative treatment is other than the facility
6 providing involuntary treatment, the outpatient facility so
7 designated to provide less restrictive alternative treatment has
8 agreed to assume such responsibility.

9 **Sec. 411.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s
10 5, and 2016 c 45 s 1 are each reenacted and amended to read as
11 follows:

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

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

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

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

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

37 (a) Two physicians;

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

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

1 (d) One psychiatric advanced registered nurse practitioner and a
2 mental health professional. The persons signing the petition must
3 have examined the person. If involuntary detention is sought the
4 petition shall state facts that support the finding that such person,
5 as a result of a mental disorder or substance use disorder, presents
6 a likelihood of serious harm, or is gravely disabled and that there
7 are no less restrictive alternatives to detention in the best
8 interest of such person or others. The petition shall state
9 specifically that less restrictive alternative treatment was
10 considered and specify why treatment less restrictive than detention
11 is not appropriate. If an involuntary less restrictive alternative is
12 sought, the petition shall state facts that support the finding that
13 such person, as a result of a mental disorder or as a result of a
14 substance use disorder, presents a likelihood of serious harm, is
15 gravely disabled, or is in need of assisted outpatient (~~mental~~)
16 behavioral health treatment, and shall set forth any recommendations
17 for less restrictive alternative treatment services; and

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

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

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

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

32 (9) If the hospital or facility designated to provide less
33 restrictive alternative treatment is other than the facility
34 providing involuntary treatment, the outpatient facility so
35 designated to provide less restrictive alternative treatment has
36 agreed to assume such responsibility.

37 **Sec. 412.** RCW 71.05.240 and 2016 c 45 s 2 are each amended to
38 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) The court at the time of the probable cause hearing and
12 before an order of commitment is entered shall inform the person both
13 orally and in writing that the failure to make a good faith effort to
14 seek voluntary treatment as provided in RCW 71.05.230 will result in
15 the loss of his or her firearm rights if the person is subsequently
16 detained for involuntary treatment under this section.

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

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

32 (b) If the court finds by a preponderance of the evidence that
33 such person, as the result of a mental disorder, is in need of
34 assisted outpatient mental health treatment, and that the person does
35 not present a likelihood of serious harm or grave disability, the
36 court shall order an appropriate less restrictive alternative course
37 of treatment not to exceed ninety days(~~(, and may not order inpatient~~
38 ~~treatment;))~~).

39 ((+e)) (4) An order for less restrictive alternative treatment
40 must name the mental health service provider responsible for

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

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

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

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

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

33 (3)(a) Subject to (b) of this subsection, at the conclusion of
34 the probable cause hearing, if the court finds by a preponderance of
35 the evidence that such person, as the result of a mental disorder or
36 substance use disorder, presents a likelihood of serious harm, or is
37 gravely disabled, and, after considering less restrictive
38 alternatives to involuntary detention and treatment, finds that no
39 such alternatives are in the best interests of such person or others,

1 the court shall order that such person be detained for involuntary
2 treatment not to exceed fourteen days in a facility certified to
3 provide treatment by the department.

4 (b) Commitment for up to fourteen days based on a substance use
5 disorder must be to either a secure detoxification facility or an
6 approved substance use disorder treatment program. A court may only
7 enter a commitment order based on a substance use disorder if there
8 is an available secure detoxification facility or approved substance
9 use disorder treatment program with adequate space for the person.

10 (c) At the conclusion of the probable cause hearing, if the court
11 finds by a preponderance of the evidence that such person, as the
12 result of a mental disorder or substance use disorder, presents a
13 likelihood of serious harm, or is gravely disabled, but that
14 treatment in a less restrictive setting than detention is in the best
15 interest of such person or others, the court shall order an
16 appropriate less restrictive alternative course of treatment for not
17 to exceed ninety days.

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

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

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

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

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

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

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

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

33 (c) At the conclusion of the probable cause hearing, if the court
34 finds by a preponderance of the evidence that such person, as the
35 result of a mental disorder or substance use disorder, presents a
36 likelihood of serious harm, or is gravely disabled, but that
37 treatment in a less restrictive setting than detention is in the best
38 interest of such person or others, the court shall order an
39 appropriate less restrictive alternative course of treatment for not
40 to exceed ninety days.

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

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

14 ((~~4~~)) (5) The court shall specifically state to such person and
15 give such person notice in writing that if involuntary treatment
16 beyond the fourteen day period or beyond the ninety days of less
17 restrictive treatment is to be sought, such person will have the
18 right to a full hearing or jury trial as required by RCW 71.05.310.
19 If the commitment is for mental health treatment, the court shall
20 also state to the person and provide written notice that the person
21 is barred from the possession of firearms and that the prohibition
22 remains in effect until a court restores his or her right to possess
23 a firearm under RCW 9.41.047.

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

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

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

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

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

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

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

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

10 (b) To increase the intensity of outpatient services provided to
11 the person by increasing the frequency of contacts with the provider,
12 referring the person for an assessment for 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 mental health professional, or other means to the agency
26 or facility monitoring or providing services under the court order,
27 or to a triage facility, crisis stabilization unit, emergency
28 department, or evaluation and treatment facility for up to twelve
29 hours for the purpose of an evaluation to determine whether
30 modification, revocation, or commitment proceedings are necessary and
31 appropriate to stabilize the person and prevent decompensation,
32 deterioration, or physical harm. Temporary detention for evaluation
33 under this subsection is intended to occur only following a pattern
34 of noncompliance or the failure of reasonable attempts at outreach
35 and engagement, and may occur only when in the clinical judgment of a
36 designated mental health professional or the professional person in
37 charge of an agency or facility designated to monitor less
38 restrictive alternative services temporary detention is appropriate.
39 This subsection does not limit the ability or obligation to pursue

1 revocation procedures under subsection (4) of this section in
2 appropriate circumstances; and

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

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

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

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

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

38 (d) The issues for the court to determine are whether: (i) The
39 person adhered to the terms and conditions of the court order; (ii)
40 substantial deterioration in the person's functioning has occurred;

1 (iii) there is evidence of substantial decompensation with a
2 reasonable probability that the decompensation can be reversed by
3 further inpatient treatment; or (iv) there is a likelihood of serious
4 harm; and, if any of the above conditions apply, whether the court
5 should reinstate or modify the person's less restrictive alternative
6 or conditional release order or order the person's detention for
7 inpatient treatment. The person may waive the court hearing and allow
8 the court to enter a stipulated order upon the agreement of all
9 parties. If the court orders detention for inpatient treatment, the
10 treatment period may be for no longer than the period authorized in
11 the original court order.

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

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

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

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

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

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

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

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

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

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

10 (b) To increase the intensity of outpatient services provided to
11 the person by increasing the frequency of contacts with the provider,
12 referring the person for an assessment for 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 with available space or an approved substance use disorder treatment
31 program with available space if the person is committed for substance
32 use disorder treatment. The person may be detained at the facility
33 for up to twelve hours for the purpose of an evaluation to determine
34 whether modification, revocation, or commitment proceedings are
35 necessary and appropriate to stabilize the person and prevent
36 decompensation, deterioration, or physical harm. Temporary detention
37 for evaluation under this subsection is intended to occur only
38 following a pattern of noncompliance or the failure of reasonable
39 attempts at outreach and engagement, and may occur only when in the
40 clinical judgment of a designated crisis responder or the

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

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

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

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

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

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

1 involuntary treatment proceeding, except as specifically set forth in
2 this section. There is no right to jury trial. The venue for
3 proceedings regarding a petition for modification or revocation must
4 be in the county in which the petition was filed.

5 (d) The issues for the court to determine are whether: (i) The
6 person adhered to the terms and conditions of the court order; (ii)
7 substantial deterioration in the person's functioning has occurred;
8 (iii) there is evidence of substantial decompensation with a
9 reasonable probability that the decompensation can be reversed by
10 further inpatient treatment; or (iv) there is a likelihood of serious
11 harm; and, if any of the above conditions apply, whether the court
12 should reinstate or modify the person's less restrictive alternative
13 or conditional release order or order the person's detention for
14 inpatient treatment. The person may waive the court hearing and allow
15 the court to enter a stipulated order upon the agreement of all
16 parties. If the court orders detention for inpatient treatment, the
17 treatment period may be for no longer than the period authorized in
18 the original court order. A court may not issue an order to detain a
19 person for inpatient treatment in a secure detoxification facility or
20 approved substance use disorder treatment program under this
21 subsection unless there is a secure detoxification facility or
22 approved substance use disorder treatment program available and with
23 adequate space for the person.

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

30 (5) In determining whether or not to take action under this
31 section the designated crisis responder, agency, or facility must
32 consider the factors specified under RCW 71.05.212 and the court must
33 consider the factors specified under RCW 71.05.245 as they apply to
34 the question of whether to enforce, modify, or revoke a court order
35 for involuntary treatment.

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

38 (1) An agency or facility designated to monitor or provide
39 services under a less restrictive alternative or conditional release

1 order or a designated crisis responder may take action to enforce,
2 modify, or revoke a less restrictive alternative or conditional
3 release order if the agency, facility, or designated crisis responder
4 determines that:

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

7 (b) Substantial deterioration in the person's functioning has
8 occurred;

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

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

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

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

22 (b) To increase the intensity of outpatient services provided to
23 the person by increasing the frequency of contacts with the provider,
24 referring the person for an assessment for assertive community
25 services, or by other means;

26 (c) To request a court hearing for review and modification of the
27 court order. The request must be made to the court with jurisdiction
28 over the order and specify the circumstances that give rise to the
29 request and what modification is being sought. The county prosecutor
30 shall assist the agency or facility in requesting this hearing and
31 issuing an appropriate summons to the person. This subsection does
32 not limit the inherent authority of a treatment provider to alter
33 conditions of treatment for clinical reasons, and is intended to be
34 used only when court intervention is necessary or advisable to secure
35 the person's compliance and prevent decompensation or deterioration;

36 (d) To cause the person to be transported by a peace officer,
37 designated crisis responder, or other means to the agency or facility
38 monitoring or providing services under the court order, or to a
39 triage facility, crisis stabilization unit, emergency department, or
40 to an evaluation and treatment facility if the person is committed

1 for mental health treatment, or to a secure detoxification facility
2 or an approved substance use disorder treatment program if the person
3 is committed for substance use disorder treatment. The person may be
4 detained at the facility for up to twelve hours for the purpose of an
5 evaluation to determine whether modification, revocation, or
6 commitment proceedings are necessary and appropriate to stabilize the
7 person and prevent decompensation, deterioration, or physical harm.
8 Temporary detention for evaluation under this subsection is intended
9 to occur only following a pattern of noncompliance or the failure of
10 reasonable attempts at outreach and engagement, and may occur only
11 when in the clinical judgment of a designated crisis responder or the
12 professional person in charge of an agency or facility designated to
13 monitor less restrictive alternative services temporary detention is
14 appropriate. This subsection does not limit the ability or obligation
15 to pursue revocation procedures under subsection (4) of this section
16 in appropriate circumstances; and

17 (e) To initiate revocation procedures under subsection (4) of
18 this section.

19 (3) The facility or agency designated to provide outpatient
20 treatment shall notify the secretary or designated crisis responder
21 when a person fails to adhere to terms and conditions of court
22 ordered treatment or experiences substantial deterioration in his or
23 her condition and, as a result, presents an increased likelihood of
24 serious harm.

25 (4)(a) A designated crisis responder or the secretary may upon
26 their own motion or notification by the facility or agency designated
27 to provide outpatient care order a person subject to a court order
28 under this chapter to be apprehended and taken into custody and
29 temporary detention in an evaluation and treatment facility in or
30 near the county in which he or she is receiving outpatient treatment
31 if the person is committed for mental health treatment, or, if the
32 person is committed for substance use disorder treatment, in a secure
33 detoxification facility or approved substance use disorder treatment
34 program if either is available in or near the county in which he or
35 she is receiving outpatient treatment. Proceedings under this
36 subsection (4) may be initiated without ordering the apprehension and
37 detention of the person.

38 (b) A person detained under this subsection (4) must be held
39 until such time, not exceeding five days, as a hearing can be
40 scheduled to determine whether or not the person should be returned

1 to the hospital or facility from which he or she had been released.
2 If the person is not detained, the hearing must be scheduled within
3 five days of service on the person. The designated crisis responder
4 or the secretary may modify or rescind the order at any time prior to
5 commencement of the court hearing.

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

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

30 ~~((c) Revocation proceedings under this subsection (4) are not~~
31 ~~allowable if the current commitment is solely based on the person~~
32 ~~being in need of assisted outpatient mental health treatment. In~~
33 ~~order to obtain a court order for detention for inpatient treatment~~
34 ~~under this circumstance, a petition must be filed under RCW 71.05.150~~
35 ~~or 71.05.153.))~~

36 (5) In determining whether or not to take action under this
37 section the designated crisis responder, agency, or facility must
38 consider the factors specified under RCW 71.05.212 and the court must
39 consider the factors specified under RCW 71.05.245 as they apply to

1 the question of whether to enforce, modify, or revoke a court order
2 for involuntary treatment.

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

5 (1) If a designated crisis responder decides not to detain a
6 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
7 or forty-eight hours have elapsed since a designated crisis responder
8 received a request for investigation and the designated crisis
9 responder has not taken action to have the person detained, an
10 immediate family member or guardian or conservator of the person may
11 petition the superior court for the person's initial detention.

12 (2)(a) The petition must be filed in the county in which the
13 designated ((~~mental health professional~~)) crisis responder
14 investigation occurred or was requested to occur and must be
15 submitted on forms developed by the administrative office of the
16 courts for this purpose. The petition must be accompanied by a sworn
17 declaration from the petitioner, and other witnesses if desired,
18 describing why the person should be detained for evaluation and
19 treatment. The description of why the person should be detained may
20 contain, but is not limited to, the information identified in RCW
21 71.05.212.

22 (b) The petition must contain:

23 (i) A description of the relationship between the petitioner and
24 the person; and

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

27 (3) The court shall, within one judicial day, review the petition
28 to determine whether the petition raises sufficient evidence to
29 support the allegation. If the court so finds, it shall provide a
30 copy of the petition to the designated crisis responder agency with
31 an order for the agency to provide the court, within one judicial
32 day, with a written sworn statement describing the basis for the
33 decision not to seek initial detention and a copy of all information
34 material to the designated crisis responder's current decision.

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

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

5 (6) The court must issue a final ruling on the petition within
6 five judicial days after it is filed. After reviewing all of the
7 information provided to the court, the court may enter an order for
8 initial detention or an order instructing the designated crisis
9 responder to file a petition for assisted outpatient behavioral
10 health treatment if the court finds that: (a) There is probable cause
11 to support a petition for detention or assisted outpatient behavioral
12 health treatment; and (b) the person has refused or failed to accept
13 appropriate evaluation and treatment voluntarily. The court shall
14 transmit its final decision to the petitioner.

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

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

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

26 Part V

27 Reducing Demand for Forensic Services

28 NEW SECTION. **Sec. 501.** (1) The legislature intends to implement
29 crisis walk-in centers, a new crisis service in Washington, to be
30 deployed in high-need urban areas. A crisis walk-in center allows
31 individuals to self-refer or be referred by emergency services or
32 police and stay up to twenty-three hours under observation. Services
33 with crisis walk-in centers generally include crisis stabilization
34 and intervention, general counseling, peer support, medication
35 management, education, and referral assistance. Studies indicate that
36 these centers reduce hospital admissions and increase enrollment in
37 community programs. The legislature intends for these centers to be
38 geographically distributed around the state.

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

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

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

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

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

32 (d) The court may commit the defendant for evaluation to a
33 hospital or secure mental health facility without an assessment if:
34 (i) The defendant is charged with murder in the first or second
35 degree; (ii) the court finds that it is more likely than not that an
36 evaluation in the jail will be inadequate to complete an accurate
37 evaluation; or (iii) the court finds that an evaluation outside the
38 jail setting is necessary for the health, safety, or welfare of the

1 defendant. The court shall not order an initial inpatient evaluation
2 for any purpose other than a competency evaluation.

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

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

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

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

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

37 (b) A diagnosis or description of the current mental status of
38 the defendant;

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

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

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

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

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

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

26 (1)(a) Whenever a defendant has pleaded not guilty by reason of
27 insanity, or there is reason to doubt his or her competency, the
28 court on its own motion or on the motion of any party shall either
29 appoint or request the secretary to designate a qualified expert or
30 professional person, who shall be approved by the prosecuting
31 attorney, to evaluate and report upon the mental condition of the
32 defendant.

33 (b) The signed order of the court shall serve as authority for
34 the evaluator to be given access to all records held by any mental
35 health, medical, educational, or correctional facility that relate to
36 the present or past mental, emotional, or physical condition of the
37 defendant. If the court is advised by any party that the defendant
38 may have a developmental disability, the evaluation must be performed
39 by a developmental disabilities professional.

1 (c) The evaluator shall assess the defendant in a jail, detention
2 facility, in the community, or in court to determine whether a period
3 of inpatient commitment will be necessary to complete an accurate
4 evaluation. If inpatient commitment is needed, the signed order of
5 the court shall serve as authority for the evaluator to request the
6 jail or detention facility to transport the defendant to a hospital
7 or secure mental health facility for a period of commitment not to
8 exceed (~~fifteen~~) eight days from the time of admission to the
9 facility. Otherwise, the evaluator shall complete the evaluation.

10 (d) The court may commit the defendant for evaluation to a
11 hospital or secure mental health facility without an assessment if:
12 (i) The defendant is charged with murder in the first or second
13 degree; (ii) the court finds that it is more likely than not that an
14 evaluation in the jail will be inadequate to complete an accurate
15 evaluation; or (iii) the court finds that an evaluation outside the
16 jail setting is necessary for the health, safety, or welfare of the
17 defendant. The court shall not order an initial inpatient evaluation
18 for any purpose other than a competency evaluation.

19 (e) The order shall indicate whether, in the event the defendant
20 is committed to a hospital or secure mental health facility for
21 evaluation, all parties agree to waive the presence of the defendant
22 or to the defendant's remote participation at a subsequent competency
23 hearing or presentation of an agreed order if the recommendation of
24 the evaluator is for continuation of the stay of criminal
25 proceedings, or if the opinion of the evaluator is that the defendant
26 remains incompetent and there is no remaining restoration period, and
27 the hearing is held prior to the expiration of the authorized
28 commitment period.

29 (f) When a defendant is ordered to be committed for inpatient
30 evaluation under this subsection (1), the court may delay granting
31 bail until the defendant has been evaluated for competency or sanity
32 and appears before the court. Following the evaluation, in
33 determining bail the court shall consider: (i) Recommendations of the
34 evaluator regarding the defendant's competency, sanity, or diminished
35 capacity; (ii) whether the defendant has a recent history of one or
36 more violent acts; (iii) whether the defendant has previously been
37 acquitted by reason of insanity or found incompetent; (iv) whether it
38 is reasonably likely the defendant will fail to appear for a future
39 court hearing; and (v) whether the defendant is a threat to public
40 safety.

1 (2) The court may direct that a qualified expert or professional
2 person retained by or appointed for the defendant be permitted to
3 witness the evaluation authorized by subsection (1) of this section,
4 and that the defendant shall have access to all information obtained
5 by the court appointed experts or professional persons. The
6 defendant's expert or professional person shall have the right to
7 file his or her own report following the guidelines of subsection (3)
8 of this section. If the defendant is indigent, the court shall upon
9 the request of the defendant assist him or her in obtaining an expert
10 or professional person.

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

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

13 (b) A diagnosis or description of the current mental status of
14 the defendant;

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

17 (d) If the defendant has indicated his or her intention to rely
18 on the defense of insanity pursuant to RCW 10.77.030, and an
19 evaluation and report by an expert or professional person has been
20 provided concluding that the defendant was criminally insane at the
21 time of the alleged offense, an opinion as to the defendant's sanity
22 at the time of the act, and an opinion as to whether the defendant
23 presents a substantial danger to other persons, or presents a
24 substantial likelihood of committing criminal acts jeopardizing
25 public safety or security, unless kept under further control by the
26 court or other persons or institutions, provided that no opinion
27 shall be rendered under this subsection (3)(d) unless the evaluator
28 or court determines that the defendant is competent to stand trial;

29 (e) When directed by the court, if an evaluation and report by an
30 expert or professional person has been provided concluding that the
31 defendant lacked the capacity at the time of the offense to form the
32 mental state necessary to commit the charged offense, an opinion as
33 to the capacity of the defendant to have a particular state of mind
34 which is an element of the offense charged;

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

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

1 **Part VI**

2 **Addressing Managed Care Entities to Provide Fully Integrated Care**

3 NEW SECTION. **Sec. 601.** (1) The health care authority shall
4 establish a work group to examine options for the structuring of
5 integration of physical and behavioral health services by 2020. The
6 work group shall identify multiple options for structuring the
7 services delivery and financing for integrating behavioral health
8 services. Among the various structures for consideration, the work
9 group shall examine:

10 (a) A model in which the health care authority contracts directly
11 and separately with both a managed care organization to provide
12 behavioral health services in the regional service area and a county
13 administrative service organization to provide crisis services and
14 nonmedicaid services; and

15 (b) A model in which the health care authority approves an
16 organization operated by the county governments within a regional
17 service area to function as the coordinating entity for any managed
18 care organization that provides fully integrated medical care within
19 the regional service area. The organization's activities shall
20 include coordinating a network of behavioral health providers,
21 operating a health information technology infrastructure, providing
22 crisis services, and providing nonmedicaid services.

23 (2) The work group shall consist of no more than fifteen members
24 and shall include a representative of the health care authority, a
25 representative of the department of social and health services,
26 representatives of behavioral health organizations, representatives
27 of managed care organizations, representatives of behavioral health
28 providers, representatives of counties, and representatives from each
29 caucus in the house and senate. The director of the health care
30 authority, or his or her designee, shall serve as the chair.

31 (3) By December 1, 2017, and in compliance with RCW 43.01.036,
32 the work group shall submit a report to the legislature and the
33 governor. The report shall identify recommendations for reducing
34 barriers to the full integration of behavioral health and physical
35 health. The report shall provide a description of the different
36 alternative delivery and financing structure options that shall be
37 made available to regional service areas and allow counties within
38 the regional service areas to select the most appropriate structure

1 to meet the needs of the communities within the regional service
2 area.

3 NEW SECTION. **Sec. 602.** The health care authority and department
4 of social and health services shall work with the committees and
5 processes established under RCW 70.320.020 and 41.05.690 to define
6 which measures will be used to define value in integrated managed
7 care contracts and how the process of clinical integration will be
8 measured. These processes must ensure that adequate value and
9 accountability terms are employed to align integrated managed care
10 objectives with public policy objectives historically served by
11 behavioral health organizations and to detect and provide
12 disincentives against cost shifting onto crisis systems and jails.

13 **Part VII**
14 **Data Measurement**

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

17 The Washington state institute for public policy shall evaluate
18 changes and the effectiveness of specific investments within the
19 adult behavioral health system. The goal for the effort is to provide
20 policymakers with additional information to aid in decision making on
21 an ongoing basis. Therefore, the institute shall consult with the
22 relevant legislative and agency staff when identifying research
23 questions and establishing evaluation timelines. The institute shall
24 provide a report to the appropriate committees of the legislature
25 upon completion of each evaluation.

26 **Part VIII**
27 **Miscellaneous Provisions**

28 NEW SECTION. **Sec. 801.** Sections 205, 402, 404, 406, 408, 411,
29 413, 416, 418, and 503 of this act take effect April 1, 2018.

30 NEW SECTION. **Sec. 802.** Sections 204, 401, 403, 405, 407, 410,
31 412, 415, and 502 of this act expire April 1, 2018.

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

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

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

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