
SENATE BILL 5894

State of Washington

65th Legislature

2017 Regular Session

By Senators O'Ban, Darneille, Braun, Becker, Rossi, Brown, Miloscia, Cleveland, Ranker, Chase, Warnick, Keiser, Hunt, Hasegawa, Wellman, and Zeiger

Read first time 03/17/17. Referred to Committee on Ways & Means.

1 AN ACT Relating to behavioral health system reform; amending RCW
2 71.24.310, 71.24.380, 71.05.320, 71.05.320, 71.05.365, 71.05.585,
3 71.05.150, 71.05.150, 71.05.150, 71.05.240, 71.05.240, 71.05.590,
4 71.05.590, 71.05.590, 10.77.060, 10.77.060, 10.77.084, 10.77.084,
5 10.77.086, 10.77.088, and 10.77.088; reenacting and amending RCW
6 71.05.320, 71.05.020, 71.05.020, 71.05.585, 71.05.230, 71.05.230, and
7 71.05.240; adding new sections to chapter 71.24 RCW; adding new
8 sections to chapter 71.05 RCW; adding a new section to chapter 72.23
9 RCW; creating new sections; providing effective dates; and providing
10 expiration dates.

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

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

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

19 **Part I**

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

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24
23 RCW to read as follows:

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

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

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

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

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

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

18 (d) Performance metrics and other contract structures available
19 to hold:

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

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

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

32 Part II

33 Development of Community Long-Term Involuntary Treatment Capacity

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

36 (1) The state intends to develop new capacity for delivery of
37 long-term treatment in the community in diverse regions of the state
38 prior to the effective date of the integration of risk for long-term

1 involuntary treatment into managed care, and to study the cost and
2 outcomes associated with treatment in community facilities. In
3 furtherance of this goal, the department shall purchase a portion of
4 the state's long-term treatment capacity allocated to behavioral
5 health organizations under RCW 71.24.310 in willing community
6 facilities capable of providing alternatives to treatment in a state
7 hospital. The state shall increase its purchasing of long-term
8 involuntary treatment capacity in the community over time.

9 (2) The department and the entities identified in RCW 71.24.310
10 and 71.24.380 shall:

11 (a) Work with willing community hospitals licensed under chapters
12 70.41 and 71.12 RCW and evaluation and treatment facilities certified
13 under chapter 71.05 RCW to assess their capacity to become certified
14 to provide long-term mental health placements and to meet the
15 requirements of this chapter; and

16 (b) Enter into contracts and payment arrangements with such
17 hospitals and evaluation and treatment facilities choosing to provide
18 long-term mental health placements, to the extent that willing
19 certified facilities are available. Nothing in this chapter requires
20 any community hospital or evaluation and treatment facility to be
21 certified to provide long-term mental health placements.

22 (3) The department must establish rules for the certification of
23 facilities interested in providing care under this section, including
24 by establishing reporting requirements. The reporting standards must
25 allow the department to monitor the performance of the certified
26 facilities, measure the acuity of patients accepted for care in
27 comparison to state hospital patients, and compare results with the
28 state hospitals in a consistent format. The measures must align with
29 the data reported by the department to the select committee on
30 quality improvement in state hospitals, including the length of stay
31 of patients, outcomes after discharge, employee-related measures, and
32 demographic information. To further management of acuity and data
33 comparisons across long-term civil treatment settings, the department
34 must develop a standardized behavioral health assessment tool to
35 measure acuity among patients admitted to long-term civil treatment,
36 similar to the comprehensive assessment reporting evaluation tool
37 used by the aging and long-term support administration.

38 **Sec. 4.** RCW 71.24.310 and 2014 c 225 s 40 are each amended to
39 read as follows:

1 The legislature finds that administration of chapter 71.05 RCW
2 and this chapter can be most efficiently and effectively implemented
3 as part of the behavioral health organization defined in RCW
4 71.24.025. For this reason, the legislature intends that the
5 department and the behavioral health organizations shall work
6 together to implement chapter 71.05 RCW as follows:

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

14 (2) If there is consensus among the behavioral health
15 organizations regarding the number of state hospital beds that should
16 be allocated for use by each behavioral health organization, the
17 department shall contract with each behavioral health organization
18 accordingly.

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

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

38 (5)(a) The department (~~(is encouraged to enter)~~) shall enter into
39 performance-based contracts with behavioral health organizations to
40 provide some or all of the behavioral health organization's allocated

1 long-term inpatient treatment capacity in the community, rather than
2 in the state hospital, to the extent that willing certified
3 facilities and funding are available. The performance contracts shall
4 specify the number of patient days of care available for use by the
5 behavioral health organization in the state hospital and the number
6 of patient days of care available for use by the behavioral health
7 organization in a facility certified by the department to provide
8 treatment to adults on a ninety or one hundred eighty-day inpatient
9 involuntary commitment order, including hospitals licensed under
10 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
11 certified under chapter 71.05 RCW.

12 (b) Nothing in this section requires a hospital licensed under
13 chapter 70.41 or 71.12 RCW to contract or become certified to treat
14 patients on ninety or one hundred eighty-day involuntary commitment
15 orders as a condition for continuing to treat adults who are waiting
16 for placement at either the state hospital or in certified facilities
17 that voluntarily contract to provide treatment to patients on ninety
18 or one hundred eighty-day involuntary commitment orders.

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

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

1 **Sec. 5.** RCW 71.24.380 and 2014 c 225 s 5 are each amended to
2 read as follows:

3 (1) The secretary shall purchase mental health and chemical
4 dependency treatment services primarily through managed care
5 contracting, but may continue to purchase behavioral health services
6 directly from tribal clinics and other tribal providers.

7 (2)(a) The secretary shall request a detailed plan from the
8 entities identified in (b) of this subsection that demonstrates
9 compliance with the contractual elements of RCW 43.20A.894 and
10 federal regulations related to medicaid managed care contracting((7))
11 including, but not limited to: Having a sufficient network of
12 providers to provide adequate access to mental health and chemical
13 dependency services for residents of the regional service area that
14 meet eligibility criteria for services, ability to maintain and
15 manage adequate reserves, and maintenance of quality assurance
16 processes. In addition, such entities must demonstrate the ability to
17 contract for a minimum number of patient days, to be determined by
18 the secretary, in a facility certified by the department to provide
19 treatment for adults on a ninety or one hundred eighty-day inpatient
20 involuntary commitment order, including at hospitals licensed under
21 chapters 70.41 and 71.12 RCW and evaluation and treatment facilities
22 certified under chapter 71.05 RCW, to the extent that willing
23 certified facilities are available. Any responding entity that
24 submits a detailed plan that demonstrates that it can meet the
25 requirements of this section must be awarded the contract to serve as
26 the behavioral health organization.

27 (b)(i) For purposes of responding to the request for a detailed
28 plan under (a) of this subsection, the entities from which a plan
29 will be requested are:

30 (A) A county in a single county regional service area that
31 currently serves as the regional support network for that area;

32 (B) In the event that a county has made a decision prior to
33 January 1, 2014, not to contract as a regional support network, any
34 private entity that serves as the regional support network for that
35 area;

36 (C) All counties within a regional service area that includes
37 more than one county, which shall form a responding entity through
38 the adoption of an interlocal agreement. The interlocal agreement
39 must specify the terms by which the responding entity shall serve as
40 the behavioral health organization within the regional service area.

1 (ii) In the event that a regional service area is comprised of
2 multiple counties including one that has made a decision prior to
3 January 1, 2014, not to contract as a regional support network the
4 counties shall adopt an interlocal agreement and may respond to the
5 request for a detailed plan under (a) of this subsection and the
6 private entity may also respond to the request for a detailed plan.
7 If both responding entities meet the requirements of this section,
8 the responding entities shall follow the department's procurement
9 process established in subsection (3) of this section.

10 (3) If an entity that has received a request under this section
11 to submit a detailed plan does not respond to the request, a
12 responding entity under subsection (1) of this section is unable to
13 substantially meet the requirements of the request for a detailed
14 plan, or more than one responding entity substantially meets the
15 requirements for the request for a detailed plan, the department
16 shall use a procurement process in which other entities recognized by
17 the secretary may bid to serve as the behavioral health organization
18 in that regional service area.

19 (4) Contracts for behavioral health organizations must begin on
20 April 1, 2016.

21 (5) Upon request of all of the county authorities in a regional
22 service area, the department and the health care authority may
23 jointly purchase behavioral health services through an integrated
24 medical and behavioral health services contract with a behavioral
25 health organization or a managed health care system as defined in RCW
26 74.09.522, pursuant to standards to be developed jointly by the
27 secretary and the health care authority. Any contract for such a
28 purchase must comply with all federal medicaid and state law
29 requirements related to managed health care contracting.

30 (6) As an incentive to county authorities to become early
31 adopters of fully integrated purchasing of medical and behavioral
32 health services, the standards adopted by the secretary and the
33 health care authority under subsection (5) of this section shall
34 provide for an incentive payment to counties which elect to move to
35 full integration by January 1, 2016. Subject to federal approval, the
36 incentive payment shall be targeted at ten percent of savings
37 realized by the state within the regional service area in which the
38 fully integrated purchasing takes place. Savings shall be calculated
39 in alignment with the outcome and performance measures established in
40 RCW 43.20A.895, 70.320.020, and 71.36.025, and incentive payments for

1 early adopter counties shall be made available for up to a six-year
2 period, or until full integration of medical and behavioral health
3 services is accomplished statewide, whichever comes sooner, according
4 to rules to be developed by the secretary and health care authority.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 71.05
6 RCW to read as follows:

7 Treatment under RCW 71.05.320 may be provided at a state hospital
8 or any willing and able facility certified to provide ninety-day or
9 one hundred eighty-day care. A managed care entity responsible for
10 the cost of care may designate where treatment is to be provided, at
11 a willing certified facility or a state hospital, after consultation
12 with the facility providing current treatment, provided that
13 administrative approval must not be required for treatment under RCW
14 71.05.320.

15 **Sec. 7.** RCW 71.05.320 and 2016 c 45 s 4 are each amended to read
16 as follows:

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

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

1 If the court or jury finds that the grounds set forth in RCW
2 71.05.280(5) have been proven, and provide the only basis for
3 commitment, the court must enter an order for less restrictive
4 alternative treatment for up to ninety days from the date of judgment
5 and may not order inpatient treatment.

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

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

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

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

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

33 (ii) In cases under this subsection where the court has made an
34 affirmative special finding under RCW 71.05.280(3)(b), the commitment
35 shall continue for up to an additional one hundred eighty day period
36 whenever the petition presents prima facie evidence that the person
37 continues to suffer from a mental disorder or developmental
38 disability that results in a substantial likelihood of committing
39 acts similar to the charged criminal behavior, unless the person
40 presents proof through an admissible expert opinion that the person's

1 condition has so changed such that the mental disorder or
2 developmental disability no longer presents a substantial likelihood
3 of the person committing acts similar to the charged criminal
4 behavior. The initial or additional commitment period may include
5 transfer to a specialized program of intensive support and treatment,
6 which may be initiated prior to or after discharge (~~from the state~~
7 ~~hospital~~); or

8 (d) Continues to be gravely disabled; or

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

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

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

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

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

38 (b) At the end of the one hundred eighty day period of
39 commitment, or one-year period of commitment if subsection (7) of
40 this section applies, the committed person shall be released unless a

1 petition for an additional one hundred eighty day period of continued
2 treatment is filed and heard in the same manner as provided in this
3 section. Successive one hundred eighty day commitments are
4 permissible on the same grounds and pursuant to the same procedures
5 as the original one hundred eighty day commitment.

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

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

14 **Sec. 8.** RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45 s
15 4 are each reenacted and amended to read as follows:

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

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

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

34 (2) If the court or jury finds that grounds set forth in RCW
35 71.05.280 have been proven, but finds that treatment less restrictive
36 than detention will be in the best interest of the person or others,
37 then the court (~~shall remand him or her to the custody of the~~
38 ~~department or to a facility certified for ninety day treatment by the~~
39 ~~department~~)) must commit him or her for a period of treatment of up

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

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

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

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

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

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

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

16 (d) Continues to be gravely disabled; or

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

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

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

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

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

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

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

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

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

22 **Sec. 9.** RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each amended
23 to read as follows:

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

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

38 (2) If the court or jury finds that grounds set forth in RCW
39 71.05.280 have been proven, but finds that treatment less restrictive

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

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

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

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

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

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

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

21 (d) Continues to be gravely disabled; or

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

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

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

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

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

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

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

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

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

27 **Part III**

28 **State Hospital Short-Term Reforms**

29 NEW SECTION. **Sec. 10.** The legislature intends to expand
30 capacity in the upcoming biennia for enhanced community placements
31 for complex patients to decrease utilization of state hospitals and
32 increase community stability. Capacity must be provided in settings
33 such as nursing homes, assisted living facilities, adult family
34 homes, enhanced service facilities, state-operated living
35 alternatives, and supported housing for persons with developmental
36 disabilities or long-term care needs. The funding must be
37 administered by the department of social and health services.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.05
2 RCW to read as follows:

3 Discharge planning in state hospitals and certified community
4 long-term involuntary treatment facilities must begin at admission.
5 Discharge planning must be collaborative across state agencies and
6 community providers, provide individualized treatment targeted
7 towards known risks of rehospitalization or recidivism, and work
8 ahead to resolve known discharge barriers that may prevent patients
9 from leaving the state hospital when they are deemed ready. To ensure
10 effective discharge planning, state hospitals, certified long-term
11 involuntary treatment facilities, and state agencies responsible for
12 the cost of the community care long-term involuntary treatment
13 patients must do the following:

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

26 (2) State hospitals and certified long-term involuntary treatment
27 facilities must allow managed care entities responsible for the cost
28 of a state hospital patient's community care appropriate access to
29 the patient and patient records for purposes of coordinated care.
30 Managed care entities must be allowed to make assessments, provide
31 input into treatment plans and discharge planning, and otherwise
32 engage in appropriate rehabilitation case management activities
33 before the patient is deemed ready for discharge; and

34 (3) State hospitals must screen patients upon admission for
35 medical necessity for substance use disorder treatment and provide
36 coordinated substance use disorder treatment services targeted to
37 reduce rehospitalization or recidivism to patients with an identified
38 need.

1 **Sec. 12.** RCW 71.05.365 and 2016 sp.s. c 37 s 15 are each amended
2 to read as follows:

3 (1) When a person has been involuntarily committed for treatment
4 to a state hospital for a period of ninety or one hundred eighty
5 days, and the superintendent or professional person in charge of the
6 state hospital determines that the person no longer requires active
7 psychiatric treatment at an inpatient level of care, the behavioral
8 health organization((~~r~~)) or full integration entity under RCW
9 71.24.380(~~(, or agency providing oversight of long term care or~~
10 developmental disability services that is responsible for resource
11 management services for the person must work with the hospital to
12 develop an individualized discharge plan and arrange for a transition
13 to the community in accordance with the person's individualized
14 discharge plan within fourteen days of the determination)) must
15 establish an individualized discharge plan arranging for transition
16 to an identified placement in the community within no more than
17 fourteen days of the determination. The individualized discharge plan
18 must provide for a date certain by which discharge must be completed.

19 (2) If the entity under subsection (1) of this section has not
20 fulfilled the obligation to establish an individualized discharge
21 plan for the patient, the entity must reimburse the department for
22 days of care provided after the fourteenth day following
23 determination that the person no longer requires active psychiatric
24 treatment at an inpatient level of care, until an individualized
25 discharge plan meeting the requirements of subsection (1) of this
26 section is established. The reimbursement rate per day shall be the
27 same reimbursement rate under RCW 71.24.310.

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

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

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

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

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

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

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

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

28 (8) "Department" means the department of social and health
29 services;

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

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

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

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

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

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

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

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

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

37 (18) "Habilitative services" means those services provided by
38 program personnel to assist persons in acquiring and maintaining life
39 skills and in raising their levels of physical, mental, social, and
40 vocational functioning. Habilitative services include education,

1 training for employment, and therapy. The habilitative process shall
2 be undertaken with recognition of the risk to the public safety
3 presented by the person being assisted as manifested by prior charged
4 criminal conduct;

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

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

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

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

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

1 (b) The conditions and strategies necessary to achieve the
2 purposes of habilitation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (35) "Professional person" means a mental health professional and
38 shall also mean a physician, physician assistant, psychiatric
39 advanced registered nurse practitioner, registered nurse, and such

1 others as may be defined by rules adopted by the secretary pursuant
2 to the provisions of this chapter;

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

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

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

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

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

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

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

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

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

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

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

1 attorney, or defense counsel acting within the scope of therapeutic
2 court duties;

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

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

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

26 **Sec. 15.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155
27 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

12 (6) "Chemical dependency" means:

13 (a) Alcoholism;

14 (b) Drug addiction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (27) "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 (28) "Judicial commitment" means a commitment by a court pursuant
34 to the provisions of this chapter;

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

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

4 (31) "Licensed physician" means a person licensed to practice
5 medicine or osteopathic medicine and surgery in the state of
6 Washington;

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

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

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

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

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

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

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

1 secure detoxification facilities as defined in this section, and
2 correctional facilities operated by state and local governments;

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

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

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

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

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

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

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

35 (44) "Public agency" means any evaluation and treatment facility
36 or institution, secure detoxification facility, approved substance
37 use disorder treatment program, or hospital which is conducted for,
38 or includes a department or ward conducted for, the care and
39 treatment of persons with mental illness, substance use disorders, or
40 both mental illness and substance use disorders, if the agency is

1 operated directly by federal, state, county, or municipal government,
2 or a combination of such governments;

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

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

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

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

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

18 (a) Provides for intoxicated persons:

19 (i) Evaluation and assessment, provided by certified chemical
20 dependency professionals;

21 (ii) Acute or subacute detoxification services; and

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

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

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

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

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

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

1 (53) "Therapeutic court personnel" means the staff of a mental
2 health court or other therapeutic court which has jurisdiction over
3 defendants who are dually diagnosed with mental disorders, including
4 court personnel, probation officers, a court monitor, prosecuting
5 attorney, or defense counsel acting within the scope of therapeutic
6 court duties;

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

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

27 (56) "Violent act" means behavior that resulted in homicide,
28 attempted suicide, nonfatal injuries, or substantial damage to
29 property.

30 **Sec. 16.** RCW 71.05.585 and 2016 c 45 s 5 are each amended to
31 read as follows:

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

34 (a) Assignment of a care coordinator;

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

37 (c) A psychiatric evaluation;

38 (d) (~~Medication management;~~

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

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

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

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

9 (a) Medication management;

10 (b) Psychotherapy;

11 ~~((b))~~ (c) Nursing;

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

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

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

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

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

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

35 **Sec. 17.** RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45 s
36 5 are each reenacted and amended to read as follows:

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

39 (a) Assignment of a care coordinator;

1 (b) An intake evaluation with the provider of the less
2 restrictive alternative treatment;

3 (c) A psychiatric evaluation;

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

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

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

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

13 (a) Medication management;

14 (b) Psychotherapy;

15 ~~((b)))~~ (c) Nursing;

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

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

18 ~~((e)))~~ (f) Support for housing, benefits, education, and
19 employment.

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

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

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

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

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

8 (1) The designated mental health professional must personally
9 interview the person, unless the person refuses an interview, and
10 determine whether the person will voluntarily receive appropriate
11 evaluation and treatment at a mental health facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 This section establishes a process for initial evaluation and
29 filing of a petition for assisted outpatient treatment, but however
30 does not preclude the filing of a petition for assisted outpatient
31 treatment following a period of inpatient detention in appropriate
32 circumstances:

33 (1) The designated crisis responder must personally interview the
34 person, unless the person refuses an interview, and determine whether
35 the person will voluntarily receive appropriate evaluation and
36 treatment at a mental health facility.

37 (2) The designated crisis responder must investigate and evaluate
38 the specific facts alleged and the reliability or credibility of any
39 person providing information. The designated crisis responder may

1 spend up to forty-eight hours to complete the investigation, provided
2 that the person may not be held for investigation for any period
3 except as authorized by RCW 71.05.050 or 71.05.153.

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

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

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

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

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

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

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

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

35 (b) The hearing may be held prior to the person's release from
36 custody, provided that (i) the filing of the petition does not extend
37 the time the person would otherwise spend in the custody of jail or
38 prison; (ii) the charges or custody of the person is not a pretext to
39 detain the person for the purpose of the involuntary commitment
40 hearing; and (iii) the person's release from custody must be expected

1 to swiftly follow the adjudication of the petition. In this
2 circumstance, the time for hearing is shortened to three judicial
3 days after the filing of the petition.

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

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

9 **Sec. 20.** RCW 71.05.150 and 2015 c 250 s 3 are each amended to
10 read as follows:

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

35 ~~(b))~~ under this section or a petition for involuntary outpatient
36 treatment under section 18 of this act. Before filing the petition,
37 the designated mental health professional must personally interview
38 the person, unless the person refuses an interview, and determine
39 whether the person will voluntarily receive appropriate evaluation

1 and treatment at an evaluation and treatment facility, crisis
2 stabilization unit, or triage facility.

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

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

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

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

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

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

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

8 **Sec. 21.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each
9 amended to read as follows:

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

34 ~~(b))~~ under this section or a petition for involuntary outpatient
35 treatment under section 18 of this act. Before filing the petition,
36 the designated crisis responder must personally interview the person,
37 unless the person refuses an interview, and determine whether the
38 person will voluntarily receive appropriate evaluation and treatment
39 at an evaluation and treatment facility, crisis stabilization unit,

1 triage facility, or approved substance use disorder treatment
2 program.

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

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

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

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

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

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

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

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

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

19 **Sec. 22.** RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each
20 amended to read as follows:

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

1 ~~alternative treatment order. If the petition is for an involuntary~~
2 ~~outpatient evaluation and the person is being held in a hospital~~
3 ~~emergency department, the person may be released once the hospital~~
4 ~~has satisfied federal and state legal requirements for appropriate~~
5 ~~screening and stabilization of patients.~~

6 ~~(b))~~ under this section or a petition for involuntary outpatient
7 treatment under section 18 of this act. Before filing the petition,
8 the designated crisis responder must personally interview the person,
9 unless the person refuses an interview, and determine whether the
10 person will voluntarily receive appropriate evaluation and treatment
11 at an evaluation and treatment facility, crisis stabilization unit,
12 triage facility, or approved substance use disorder treatment
13 program.

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

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

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

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

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

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

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

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

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

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

35 (1) The professional staff of the (~~agency or~~) facility
36 providing evaluation services has analyzed the person's condition and
37 finds that the condition is caused by mental disorder and results in
38 a likelihood of serious harm, results in the person being gravely
39 disabled, or results in the person being in need of assisted

1 outpatient mental health treatment, and are prepared to testify those
2 conditions are met; and

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

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

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

13 (a) Two physicians;

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

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

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

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

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

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

1 (8) At the conclusion of the initial commitment period, the
2 professional staff of the ((agency—~~or~~)) facility or the designated
3 mental health professional may petition for an additional period of
4 either ninety days of less restrictive alternative treatment or
5 ninety days of involuntary intensive treatment as provided in RCW
6 71.05.290; and

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

12 **Sec. 24.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s
13 5, and 2016 c 45 s 1 are each reenacted and amended to read as
14 follows:

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

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

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

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

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

1 (a) Two physicians;
2 (b) One physician and a mental health professional;
3 (c) One physician assistant and a mental health professional; or
4 (d) One psychiatric advanced registered nurse practitioner and a
5 mental health professional. The persons signing the petition must
6 have examined the person. If involuntary detention is sought the
7 petition shall state facts that support the finding that such person,
8 as a result of a mental disorder or substance use disorder, presents
9 a likelihood of serious harm, or is gravely disabled and that there
10 are no less restrictive alternatives to detention in the best
11 interest of such person or others. The petition shall state
12 specifically that less restrictive alternative treatment was
13 considered and specify why treatment less restrictive than detention
14 is not appropriate. If an involuntary less restrictive alternative is
15 sought, the petition shall state facts that support the finding that
16 such person, as a result of a mental disorder or as a result of a
17 substance use disorder, presents a likelihood of serious harm, is
18 gravely disabled, or is in need of assisted outpatient mental health
19 treatment, and shall set forth any recommendations for less
20 restrictive alternative treatment services; and
21 (5) A copy of the petition has been served on the detained or
22 committed person, his or her attorney and his or her guardian or
23 conservator, if any, prior to the probable cause hearing; and
24 (6) The court at the time the petition was filed and before the
25 probable cause hearing has appointed counsel to represent such person
26 if no other counsel has appeared; and
27 (7) The petition reflects that the person was informed of the
28 loss of firearm rights if involuntarily committed for mental health
29 treatment; and
30 (8) At the conclusion of the initial commitment period, the
31 professional staff of the agency or facility or the designated crisis
32 responder may petition for an additional period of either ninety days
33 of less restrictive alternative treatment or ninety days of
34 involuntary intensive treatment as provided in RCW 71.05.290; and
35 (9) If the hospital or facility designated to provide less
36 restrictive alternative treatment is other than the facility
37 providing involuntary treatment, the outpatient facility so
38 designated to provide less restrictive alternative treatment has
39 agreed to assume such responsibility.

1 **Sec. 25.** RCW 71.05.240 and 2016 c 45 s 2 are each amended to
2 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 18 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) The court at the time of the probable cause hearing and
14 before an order of commitment is entered shall inform the person both
15 orally and in writing that the failure to make a good faith effort to
16 seek voluntary treatment as provided in RCW 71.05.230 will result in
17 the loss of his or her firearm rights if the person is subsequently
18 detained for involuntary treatment under this section.

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

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

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

1 (~~(4)~~) (4) An order for less restrictive alternative treatment
2 must name the mental health service provider responsible for
3 identifying the services the person will receive in accordance with
4 RCW 71.05.585, and must include a requirement that the person
5 cooperate with the services planned by the mental health service
6 provider.

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

16 **Sec. 26.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45 s
17 2 are each reenacted and amended to read as follows:

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

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

35 (3)(a) Subject to (b) of this subsection, at the conclusion of
36 the probable cause hearing, if the court finds by a preponderance of
37 the evidence that such person, as the result of a mental disorder or
38 substance use disorder, presents a likelihood of serious harm, or is
39 gravely disabled, and, after considering less restrictive

1 alternatives to involuntary detention and treatment, finds that no
2 such alternatives are in the best interests of such person or others,
3 the court shall order that such person be detained for involuntary
4 treatment not to exceed fourteen days in a facility certified to
5 provide treatment by the department.

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

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

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

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

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

1 remains in effect until a court restores his or her right to possess
2 a firearm under RCW 9.41.047.

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

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

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

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

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

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

1 interest of such person or others, the court shall order an
2 appropriate less restrictive alternative course of treatment for not
3 to exceed ninety days.

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

11 ~~((e))~~ (4) An order for less restrictive alternative treatment
12 must name the mental health service provider responsible for
13 identifying the services the person will receive in accordance with
14 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 ~~((f))~~ (5) The court shall specifically state to such person and
18 give such person notice in writing that if involuntary treatment
19 beyond the fourteen day period or beyond the ninety days of less
20 restrictive treatment is to be sought, such person will have the
21 right to a full hearing or jury trial as required by RCW 71.05.310.
22 If the commitment is for mental health treatment, the court shall
23 also state to the person and provide written notice that the person
24 is barred from the possession of firearms and that the prohibition
25 remains in effect until a court restores his or her right to possess
26 a firearm under RCW 9.41.047.

27 **Sec. 28.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to
28 read as follows:

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

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

37 (b) Substantial deterioration in the person's functioning has
38 occurred;

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

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

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

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

14 (b) To increase the intensity of outpatient services provided to
15 the person by increasing the frequency of contacts with the provider,
16 referring the person for an assessment for assertive community
17 services, or by other means;

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

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

1 charge of an agency or facility designated to monitor less
2 restrictive alternative services temporary detention is appropriate.
3 This subsection does not limit the ability or obligation to pursue
4 revocation procedures under subsection (4) of this section in
5 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 mental health
10 professional when a person fails to adhere to terms and conditions of
11 court ordered treatment or experiences substantial deterioration in
12 his or her condition and, as a result, presents an increased
13 likelihood of serious harm.

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

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

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

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

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

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

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

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

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

37 (b) Substantial deterioration in the person's functioning has
38 occurred;

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

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

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

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

14 (b) To increase the intensity of outpatient services provided to
15 the person by increasing the frequency of contacts with the provider,
16 referring the person for an assessment for assertive community
17 services, or by other means;

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

28 (d) To cause the person to be transported by a peace officer,
29 designated crisis responder, or other means to the agency or facility
30 monitoring or providing services under the court order, or to a
31 triage facility, crisis stabilization unit, emergency department, or
32 to an evaluation and treatment facility if the person is committed
33 for mental health treatment, or to a secure detoxification facility
34 with available space or an approved substance use disorder treatment
35 program with available space if the person is committed for substance
36 use disorder treatment. The person may be detained at the facility
37 for up to twelve hours for the purpose of an evaluation to determine
38 whether modification, revocation, or commitment proceedings are
39 necessary and appropriate to stabilize the person and prevent
40 decompensation, deterioration, or physical harm. Temporary detention

1 for evaluation under this subsection is intended to occur only
2 following a pattern of noncompliance or the failure of reasonable
3 attempts at outreach and engagement, and may occur only when in the
4 clinical judgment of a designated crisis responder or the
5 professional person in charge of an agency or facility designated to
6 monitor less restrictive alternative services temporary detention is
7 appropriate. This subsection does not limit the ability or obligation
8 to pursue revocation procedures under subsection (4) of this section
9 in appropriate circumstances; and

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

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

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

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

39 (c) The designated crisis responder or secretary shall notify the
40 court that originally ordered commitment within two judicial days of

1 a person's detention and file a revocation petition and order of
2 apprehension and detention with the court and serve the person and
3 their attorney, guardian, and conservator, if any. The person has the
4 same rights with respect to notice, hearing, and counsel as in any
5 involuntary treatment proceeding, except as specifically set forth in
6 this section. There is no right to jury trial. The venue for
7 proceedings regarding a petition for modification or revocation must
8 be in the county in which the petition was filed.

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

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

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

1 **Sec. 30.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each
2 amended to read as follows:

3 (1) An agency or facility designated to monitor or provide
4 services under a less restrictive alternative or conditional release
5 order or a designated crisis responder may take action to enforce,
6 modify, or revoke a less restrictive alternative or conditional
7 release order if the agency, facility, or designated crisis responder
8 determines that:

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

11 (b) Substantial deterioration in the person's functioning has
12 occurred;

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

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

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

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

26 (b) To increase the intensity of outpatient services provided to
27 the person by increasing the frequency of contacts with the provider,
28 referring the person for an assessment for assertive community
29 services, or by other means;

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

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

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

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

30 (4)(a) A designated crisis responder or the secretary may upon
31 their own motion or notification by the facility or agency designated
32 to provide outpatient care order a person subject to a court order
33 under this chapter to be apprehended and taken into custody and
34 temporary detention in an evaluation and treatment facility in or
35 near the county in which he or she is receiving outpatient treatment
36 if the person is committed for mental health treatment, or, if the
37 person is committed for substance use disorder treatment, in a secure
38 detoxification facility or approved substance use disorder treatment
39 program if either is available in or near the county in which he or
40 she is receiving outpatient treatment. Proceedings under this

1 subsection (4) may be initiated without ordering the apprehension and
2 detention of the person.

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

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

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

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

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

7 **Part V**

8 **Reducing Demand for Forensic Services**

9 NEW SECTION. **Sec. 31.** (1) The legislature intends to implement
10 crisis walk-in centers, a new crisis service in Washington, to be
11 deployed in high-need urban areas. A crisis walk-in center allows
12 individuals to self-refer or be referred by emergency services or
13 police and stay up to twenty-three hours under observation. Services
14 with crisis walk-in centers generally include crisis stabilization
15 and intervention, general counseling, peer support, medication
16 management, education, and referral assistance. Studies indicate that
17 these centers reduce hospital admissions and increase enrollment in
18 community programs. The legislature intends for these centers to be
19 geographically distributed around the state.

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

26 **Sec. 32.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to
27 read as follows:

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

35 (b) The signed order of the court shall serve as authority for
36 the evaluator to be given access to all records held by any mental
37 health, medical, educational, or correctional facility that relate to

1 the present or past mental, emotional, or physical condition of the
2 defendant. If the court is advised by any party that the defendant
3 may have a developmental disability, the evaluation must be performed
4 by a developmental disabilities professional.

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

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

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

33 (f) When a defendant is ordered to be committed for inpatient
34 evaluation under this subsection (1), the court may delay granting
35 bail until the defendant has been evaluated for competency or sanity
36 and appears before the court. Following the evaluation, in
37 determining bail the court shall consider: (i) Recommendations of the
38 evaluator regarding the defendant's competency, sanity, or diminished
39 capacity; (ii) whether the defendant has a recent history of one or
40 more violent acts; (iii) whether the defendant has previously been

1 acquitted by reason of insanity or found incompetent; (iv) whether it
2 is reasonably likely the defendant will fail to appear for a future
3 court hearing; and (v) whether the defendant is a threat to public
4 safety.

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

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

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

17 (b) A diagnosis or description of the current mental status of
18 the defendant;

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

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

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

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

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

4 **Sec. 33.** RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each
5 amended to read as follows:

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

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

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

29 (d) The court may commit the defendant for evaluation to a
30 hospital or secure mental health facility without an assessment if:

31 (i) The defendant is charged with murder in the first or second
32 degree; (ii) the court finds that it is more likely than not that an
33 evaluation in the jail will be inadequate to complete an accurate
34 evaluation; or (iii) the court finds that an evaluation outside the
35 jail setting is necessary for the health, safety, or welfare of the
36 defendant. The court shall not order an initial inpatient evaluation
37 for any purpose other than a competency evaluation.

38 (e) The order shall indicate whether, in the event the defendant
39 is committed to a hospital or secure mental health facility for

1 evaluation, all parties agree to waive the presence of the defendant
2 or to the defendant's remote participation at a subsequent competency
3 hearing or presentation of an agreed order if the recommendation of
4 the evaluator is for continuation of the stay of criminal
5 proceedings, or if the opinion of the evaluator is that the defendant
6 remains incompetent and there is no remaining restoration period, and
7 the hearing is held prior to the expiration of the authorized
8 commitment period.

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

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

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

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

33 (b) A diagnosis or description of the current mental status of
34 the defendant;

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

37 (d) If the defendant has indicated his or her intention to rely
38 on the defense of insanity pursuant to RCW 10.77.030, and an
39 evaluation and report by an expert or professional person has been
40 provided concluding that the defendant was criminally insane at the

1 time of the alleged offense, an opinion as to the defendant's sanity
2 at the time of the act, and an opinion as to whether the defendant
3 presents a substantial danger to other persons, or presents a
4 substantial likelihood of committing criminal acts jeopardizing
5 public safety or security, unless kept under further control by the
6 court or other persons or institutions, provided that no opinion
7 shall be rendered under this subsection (3)(d) unless the evaluator
8 or court determines that the defendant is competent to stand trial;

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

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

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

20 **Sec. 34.** RCW 10.77.084 and 2015 1st sp.s. c 7 s 4 are each
21 amended to read as follows:

22 (1)(a) If at any time during the pendency of an action and prior
23 to judgment the court finds, following a report as provided in RCW
24 10.77.060, a defendant is incompetent, the court shall order the
25 proceedings against the defendant be stayed except as provided in
26 subsection (4) of this section.

27 (b) The court may order a defendant who has been found to be
28 incompetent to undergo competency restoration treatment at a facility
29 designated by the department if the defendant is eligible under RCW
30 10.77.086 (~~or 10.77.088~~). At the end of each competency restoration
31 period or at any time a professional person determines competency has
32 been, or is unlikely to be, restored, the defendant shall be returned
33 to court for a hearing, except that if the opinion of the
34 professional person is that the defendant remains incompetent and the
35 hearing is held before the expiration of the current competency
36 restoration period, the parties may agree to waive the defendant's
37 presence, to remote participation by the defendant at a hearing, or
38 to presentation of an agreed order in lieu of a hearing. The facility
39 shall promptly notify the court and all parties of the date on which

1 the competency restoration period commences and expires so that a
2 timely hearing date may be scheduled.

3 (c) If, following notice and hearing or entry of an agreed order
4 under (b) of this subsection, the court finds that competency has
5 been restored, the court shall lift the stay entered under (a) of
6 this subsection. If the court finds that competency has not been
7 restored, the court shall dismiss the proceedings without prejudice,
8 except that the court may order a further period of competency
9 restoration treatment if it finds that further treatment within the
10 time limits established by RCW 10.77.086 (~~or 10.77.088~~) is likely
11 to restore competency, and a further period of treatment is allowed
12 under RCW 10.77.086 (~~or 10.77.088~~).

13 (d) If at any time during the proceeding the court finds,
14 following notice and hearing, a defendant is not likely to regain
15 competency, the court shall dismiss the proceedings without prejudice
16 and refer the defendant for civil commitment evaluation or
17 proceedings if appropriate under RCW 10.77.065, 10.77.086, or
18 10.77.088.

19 (2) If the defendant is referred for evaluation by a designated
20 mental health professional under this chapter, the designated mental
21 health professional shall provide prompt written notification of the
22 results of the evaluation and whether the person was detained. The
23 notification shall be provided to the court in which the criminal
24 action was pending, the prosecutor, the defense attorney in the
25 criminal action, and the facility that evaluated the defendant for
26 competency.

27 (3) The fact that the defendant is unfit to proceed does not
28 preclude any pretrial proceedings which do not require the personal
29 participation of the defendant.

30 (4) A defendant receiving medication for either physical or
31 mental problems shall not be prohibited from standing trial, if the
32 medication either enables the defendant to understand the proceedings
33 against him or her and to assist in his or her own defense, or does
34 not disable him or her from so understanding and assisting in his or
35 her own defense.

36 (5) At or before the conclusion of any commitment period provided
37 for by this section, the facility providing evaluation and treatment
38 shall provide to the court a written report of evaluation which meets
39 the requirements of RCW 10.77.060(3). For defendants charged with a
40 felony, the report following the second competency restoration period

1 or first competency restoration period if the defendant's
2 incompetence is determined to be solely due to a developmental
3 disability or the evaluator concludes that the defendant is not
4 likely to regain competency must include an assessment of the
5 defendant's future dangerousness which is evidence-based regarding
6 predictive validity.

7 **Sec. 35.** RCW 10.77.084 and 2016 sp.s. c 29 s 410 are each
8 amended to read as follows:

9 (1)(a) If at any time during the pendency of an action and prior
10 to judgment the court finds, following a report as provided in RCW
11 10.77.060, a defendant is incompetent, the court shall order the
12 proceedings against the defendant be stayed except as provided in
13 subsection (4) of this section.

14 (b) The court may order a defendant who has been found to be
15 incompetent to undergo competency restoration treatment at a facility
16 designated by the department if the defendant is eligible under RCW
17 10.77.086 (~~(or 10.77.088)~~). At the end of each competency restoration
18 period or at any time a professional person determines competency has
19 been, or is unlikely to be, restored, the defendant shall be returned
20 to court for a hearing, except that if the opinion of the
21 professional person is that the defendant remains incompetent and the
22 hearing is held before the expiration of the current competency
23 restoration period, the parties may agree to waive the defendant's
24 presence, to remote participation by the defendant at a hearing, or
25 to presentation of an agreed order in lieu of a hearing. The facility
26 shall promptly notify the court and all parties of the date on which
27 the competency restoration period commences and expires so that a
28 timely hearing date may be scheduled.

29 (c) If, following notice and hearing or entry of an agreed order
30 under (b) of this subsection, the court finds that competency has
31 been restored, the court shall lift the stay entered under (a) of
32 this subsection. If the court finds that competency has not been
33 restored, the court shall dismiss the proceedings without prejudice,
34 except that the court may order a further period of competency
35 restoration treatment if it finds that further treatment within the
36 time limits established by RCW 10.77.086 (~~(or 10.77.088)~~) is likely
37 to restore competency, and a further period of treatment is allowed
38 under RCW 10.77.086 (~~(or 10.77.088)~~).

1 (d) If at any time during the proceeding the court finds,
2 following notice and hearing, a defendant is not likely to regain
3 competency, the court shall dismiss the proceedings without prejudice
4 and refer the defendant for civil commitment evaluation or
5 proceedings if appropriate under RCW 10.77.065, 10.77.086, or
6 10.77.088.

7 (2) If the defendant is referred for evaluation by a designated
8 crisis responder under this chapter, the designated crisis responder
9 shall provide prompt written notification of the results of the
10 evaluation and whether the person was detained. The notification
11 shall be provided to the court in which the criminal action was
12 pending, the prosecutor, the defense attorney in the criminal action,
13 and the facility that evaluated the defendant for competency.

14 (3) The fact that the defendant is unfit to proceed does not
15 preclude any pretrial proceedings which do not require the personal
16 participation of the defendant.

17 (4) A defendant receiving medication for either physical or
18 mental problems shall not be prohibited from standing trial, if the
19 medication either enables the defendant to understand the proceedings
20 against him or her and to assist in his or her own defense, or does
21 not disable him or her from so understanding and assisting in his or
22 her own defense.

23 (5) At or before the conclusion of any commitment period provided
24 for by this section, the facility providing evaluation and treatment
25 shall provide to the court a written report of evaluation which meets
26 the requirements of RCW 10.77.060(3). For defendants charged with a
27 felony, the report following the second competency restoration period
28 or first competency restoration period if the defendant's
29 incompetence is determined to be solely due to a developmental
30 disability or the evaluator concludes that the defendant is not
31 likely to regain competency must include an assessment of the
32 defendant's future dangerousness which is evidence-based regarding
33 predictive validity.

34 **Sec. 36.** RCW 10.77.086 and 2015 1st sp.s. c 7 s 5 are each
35 amended to read as follows:

36 (1)(a)(i) If the defendant is charged with a felony and
37 determined to be incompetent, until he or she has regained the
38 competency necessary to understand the proceedings against him or her

1 and assist in his or her own defense, but in any event for a period
2 of no longer than ninety days, the court:

3 (A) Shall commit the defendant to the custody of the secretary
4 who shall place such defendant in an appropriate facility of the
5 department for evaluation and treatment; or

6 (B) May alternatively order the defendant to undergo evaluation
7 and treatment at some other facility or provider as determined by the
8 department, or under the guidance and control of a professional
9 person. The facilities or providers may include community mental
10 health providers or other local facilities that contract with the
11 department and are willing and able to provide treatment under this
12 section. During the 2015-2017 fiscal biennium, the department may
13 contract with one or more cities or counties to provide competency
14 restoration services in a city or county jail if the city or county
15 jail is willing and able to serve as a location for competency
16 restoration services and if the secretary determines that there is an
17 emergent need for beds and documents the justification, including a
18 plan to address the emergency. Patients receiving competency
19 restoration services in a city or county jail must be physically
20 separated from other populations at the jail and restoration
21 treatment services must be provided as much as possible within a
22 therapeutic environment.

23 (ii) The ninety day period for evaluation and treatment under
24 this subsection (1) includes only the time the defendant is actually
25 at the facility and is in addition to reasonable time for transport
26 to or from the facility.

27 (b) For a defendant whose highest charge is a class C felony, or
28 a class B felony that is not classified as violent under RCW
29 9.94A.030, the maximum time allowed for the initial period of
30 commitment for competency restoration is forty-five days. The forty-
31 five day period includes only the time the defendant is actually at
32 the facility and is in addition to reasonable time for transport to
33 or from the facility. This defendant is not eligible for a second or
34 third competency restoration period.

35 (c) If the court determines or the parties agree that the
36 defendant is unlikely to regain competency, the court may dismiss the
37 charges without prejudice without ordering the defendant to undergo
38 restoration treatment, in which case the court shall order that the
39 defendant be referred for evaluation for civil commitment in the
40 manner provided in subsection (4) of this section.

1 (2) On or before expiration of the initial period of commitment
2 under subsection (1) of this section the court shall conduct a
3 hearing, at which it shall determine whether or not the defendant is
4 incompetent.

5 (3) If the court finds by a preponderance of the evidence that a
6 defendant charged with a felony is incompetent, the court shall have
7 the option of extending the order of commitment or alternative
8 treatment for an additional period of ninety days, but the court must
9 at the time of extension set a date for a prompt hearing to determine
10 the defendant's competency before the expiration of the second
11 restoration period. The defendant, the defendant's attorney, or the
12 prosecutor has the right to demand that the hearing be before a jury.
13 No extension shall be ordered for a second or third restoration
14 period as provided in subsection (4) of this section if the
15 defendant's incompetence has been determined by the secretary to be
16 solely the result of a developmental disability which is such that
17 competence is not reasonably likely to be regained during an
18 extension. The ninety-day period includes only the time the defendant
19 is actually at the facility and is in addition to reasonable time for
20 transport to or from the facility.

21 (4) For persons charged with a felony, at the hearing upon the
22 expiration of the second restoration period or at the end of the
23 first restoration period in the case of a defendant with a
24 developmental disability, if the jury or court finds that the
25 defendant is incompetent, or if the court or jury at any stage finds
26 that the defendant is incompetent and the court determines that the
27 defendant is unlikely to regain competency, the charges shall be
28 dismissed without prejudice, and the court shall order the defendant
29 be committed to a state hospital as defined in RCW 72.23.010 for up
30 to seventy-two hours starting from admission to the facility,
31 excluding Saturdays, Sundays, and holidays, for evaluation for the
32 purpose of filing a civil commitment petition under chapter 71.05
33 RCW. The criminal charges shall not be dismissed if the court or jury
34 finds that: (a) The defendant (i) is a substantial danger to other
35 persons; or (ii) presents a substantial likelihood of committing
36 criminal acts jeopardizing public safety or security; and (b) there
37 is a substantial probability that the defendant will regain
38 competency within a reasonable period of time. In the event that the
39 court or jury makes such a finding, the court may extend the period
40 of commitment for up to an additional six months. The six-month

1 period includes only the time the defendant is actually at the
2 facility and is in addition to reasonable time for transport to or
3 from the facility.

4 **Sec. 37.** RCW 10.77.088 and 2015 1st sp.s. c 7 s 6 are each
5 amended to read as follows:

6 ~~(1)((a) If the defendant is charged with a nonfelony crime which~~
7 ~~is a serious offense as identified in RCW 10.77.092 and found by the~~
8 ~~court to be not competent, then the court:~~

9 ~~(i) Shall commit the defendant to the custody of the secretary~~
10 ~~who shall place such defendant in an appropriate facility of the~~
11 ~~department for evaluation and treatment;~~

12 ~~(ii) May alternatively order the defendant to undergo evaluation~~
13 ~~and treatment at some other facility or provider as determined by the~~
14 ~~department, or under the guidance and control of a professional~~
15 ~~person. The facilities or providers may include community mental~~
16 ~~health providers or other local facilities that contract with the~~
17 ~~department and are willing and able to provide treatment under this~~
18 ~~section. During the 2015-2017 fiscal biennium, the department may~~
19 ~~contract with one or more cities or counties to provide competency~~
20 ~~restoration services in a city or county jail if the city or county~~
21 ~~jail is willing and able to serve as a location for competency~~
22 ~~restoration services and if the secretary determines that there is an~~
23 ~~emergent need for beds and documents the justification, including a~~
24 ~~plan to address the emergency. Patients receiving competency~~
25 ~~restoration services in a city or county jail must be physically~~
26 ~~separated from other populations at the jail and restoration~~
27 ~~treatment services must be provided as much as possible within a~~
28 ~~therapeutic environment. The placement under (a)(i) and (ii) of this~~
29 ~~subsection shall not exceed fourteen days in addition to any unused~~
30 ~~time of the evaluation under RCW 10.77.060. The court shall compute~~
31 ~~this total period and include its computation in the order. The~~
32 ~~fourteen-day period plus any unused time of the evaluation under RCW~~
33 ~~10.77.060 shall be considered to include only the time the defendant~~
34 ~~is actually at the facility and shall be in addition to reasonable~~
35 ~~time for transport to or from the facility;~~

36 ~~(iii) May alternatively order that the defendant be placed on~~
37 ~~conditional release for up to ninety days for mental health treatment~~
38 ~~and restoration of competency; or~~

39 ~~(iv) May order any combination of this subsection.~~

1 ~~(b) If the court has determined or the parties agree that the~~
2 ~~defendant is unlikely to regain competency, the court may dismiss the~~
3 ~~charges without prejudice without ordering the defendant to undergo~~
4 ~~restoration treatment, in which case the court shall order that the~~
5 ~~defendant be referred for evaluation for civil commitment in the~~
6 ~~manner provided in (c) of this subsection.~~

7 ~~(c)(i) If the proceedings are dismissed under RCW 10.77.084 and~~
8 ~~the)) If the highest charge of the defendant is a nonfelony crime, no~~
9 ~~period of competency restoration treatment is available and the~~
10 ~~criminal charges must be dismissed without prejudice.~~

11 (2) If the defendant was on conditional release at the time of
12 dismissal, the court shall order the designated mental health
13 professional within that county to evaluate the defendant pursuant to
14 chapter 71.05 RCW. The evaluation may be conducted in any location
15 chosen by the professional.

16 ~~((+ii))~~ (3) If the defendant was in custody and not on
17 conditional release at the time of dismissal, and the defendant was
18 charged with a serious offense under RCW 10.77.092, the defendant
19 shall be detained and sent to an evaluation and treatment facility
20 for up to seventy-two hours, excluding Saturdays, Sundays, and
21 holidays, for evaluation for purposes of filing a petition under
22 chapter 71.05 RCW. The seventy-two hour period shall commence upon
23 the next nonholiday weekday following the court order and shall run
24 to the end of the last nonholiday weekday within the seventy-two-hour
25 period.

26 ~~((+2))~~ (4) If the defendant is charged with a nonfelony crime
27 that is not a serious offense as defined in RCW 10.77.092:

28 The court may stay or dismiss proceedings and detain the
29 defendant for sufficient time to allow the designated mental health
30 professional to evaluate the defendant and consider initial detention
31 proceedings under chapter 71.05 RCW. The court must give notice to
32 all parties at least twenty-four hours before the dismissal of any
33 proceeding under this subsection, and provide an opportunity for a
34 hearing on whether to dismiss the proceedings.

35 **Sec. 38.** RCW 10.77.088 and 2016 sp.s. c 29 s 411 are each
36 amended to read as follows:

37 ~~(1)((+a) If the defendant is charged with a nonfelony crime which~~
38 ~~is a serious offense as identified in RCW 10.77.092 and found by the~~
39 ~~court to be not competent, then the court:~~

1 ~~(i) Shall commit the defendant to the custody of the secretary~~
2 ~~who shall place such defendant in an appropriate facility of the~~
3 ~~department for evaluation and treatment;~~

4 ~~(ii) May alternatively order the defendant to undergo evaluation~~
5 ~~and treatment at some other facility or provider as determined by the~~
6 ~~department, or under the guidance and control of a professional~~
7 ~~person. The facilities or providers may include community mental~~
8 ~~health providers or other local facilities that contract with the~~
9 ~~department and are willing and able to provide treatment under this~~
10 ~~section. During the 2015-2017 fiscal biennium, the department may~~
11 ~~contract with one or more cities or counties to provide competency~~
12 ~~restoration services in a city or county jail if the city or county~~
13 ~~jail is willing and able to serve as a location for competency~~
14 ~~restoration services and if the secretary determines that there is an~~
15 ~~emergent need for beds and documents the justification, including a~~
16 ~~plan to address the emergency. Patients receiving competency~~
17 ~~restoration services in a city or county jail must be physically~~
18 ~~separated from other populations at the jail and restoration~~
19 ~~treatment services must be provided as much as possible within a~~
20 ~~therapeutic environment. The placement under (a)(i) and (ii) of this~~
21 ~~subsection shall not exceed fourteen days in addition to any unused~~
22 ~~time of the evaluation under RCW 10.77.060. The court shall compute~~
23 ~~this total period and include its computation in the order. The~~
24 ~~fourteen-day period plus any unused time of the evaluation under RCW~~
25 ~~10.77.060 shall be considered to include only the time the defendant~~
26 ~~is actually at the facility and shall be in addition to reasonable~~
27 ~~time for transport to or from the facility;~~

28 ~~(iii) May alternatively order that the defendant be placed on~~
29 ~~conditional release for up to ninety days for mental health treatment~~
30 ~~and restoration of competency; or~~

31 ~~(iv) May order any combination of this subsection.~~

32 ~~(b) If the court has determined or the parties agree that the~~
33 ~~defendant is unlikely to regain competency, the court may dismiss the~~
34 ~~charges without prejudice without ordering the defendant to undergo~~
35 ~~restoration treatment, in which case the court shall order that the~~
36 ~~defendant be referred for evaluation for civil commitment in the~~
37 ~~manner provided in (c) of this subsection.~~

38 ~~(c)(i) If the proceedings are dismissed under RCW 10.77.084 and~~
39 ~~the)) If the highest charge of the defendant is a nonfelony crime, no~~

1 period of competency restoration treatment is available and the
2 criminal charges must be dismissed without prejudice.

3 (2) If the defendant was on conditional release at the time of
4 dismissal, the court shall order the designated crisis responder
5 within that county to evaluate the defendant pursuant to chapter
6 71.05 RCW. The evaluation may be conducted in any location chosen by
7 the professional.

8 ~~((+ii))~~ (3) If the defendant was in custody and not on
9 conditional release at the time of dismissal, and the defendant was
10 charged with a serious offense under RCW 10.77.092, the defendant
11 shall be detained and sent to an evaluation and treatment facility
12 for up to seventy-two hours, excluding Saturdays, Sundays, and
13 holidays, for evaluation for purposes of filing a petition under
14 chapter 71.05 RCW. The seventy-two hour period shall commence upon
15 the next nonholiday weekday following the court order and shall run
16 to the end of the last nonholiday weekday within the seventy-two-hour
17 period.

18 ~~((+2))~~ (4) If the defendant is charged with a nonfelony crime
19 that is not a serious offense as defined in RCW 10.77.092:

20 The court may stay or dismiss proceedings and detain the
21 defendant for sufficient time to allow the designated crisis
22 responder to evaluate the defendant and consider initial detention
23 proceedings under chapter 71.05 RCW. The court must give notice to
24 all parties at least twenty-four hours before the dismissal of any
25 proceeding under this subsection, and provide an opportunity for a
26 hearing on whether to dismiss the proceedings.

27 **Part VI**

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

29 NEW SECTION. **Sec. 39.** (1) The health care authority shall
30 establish a work group to examine options for the structuring of
31 integration of physical and behavioral health services by 2020. The
32 work group shall identify multiple options for structuring the
33 services delivery and financing for integrating behavioral health
34 services. Among the various structures for consideration, the work
35 group shall examine:

36 (a) A model in which the health care authority contracts directly
37 and separately with both a managed care organization to provide
38 behavioral health services in the regional service area and a county

1 administrative service organization to provide crisis services and
2 nonmedicaid services; and

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

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

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

29 NEW SECTION. **Sec. 40.** The health care authority and department
30 of social and health services shall form a small work group to
31 develop a set of performance expectations for purchasing fully
32 integrated care through managed care entities. The purpose of the
33 work group is to bring performance expectations of physical health
34 and behavioral health providers into alignment for purposes of value-
35 based purchasing under fully integrated managed care. The work group
36 must define what clinical integration looks like and how it should be
37 measured in integrated contracts. Performance expectations drafted by
38 the work group must be tested against larger groups of stakeholders
39 such as those assembled under sections 533 through 544, chapter 29,

1 Laws of 2016 and be used to develop expectations used in procurement
2 and contracts for fully integrated managed care entities.

3 **Part VII**

4 **Data Measurement**

5 NEW SECTION. **Sec. 41.** A new section is added to chapter 71.24
6 RCW to read as follows:

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

16 **Part VIII**

17 **Miscellaneous Provisions**

18 NEW SECTION. **Sec. 42.** Sections 8, 15, 17, 19, 21, 24, 26, 29,
19 33, 35, and 38 of this act take effect April 1, 2018.

20 NEW SECTION. **Sec. 43.** Sections 7, 14, 16, 18, 20, 23, 25, 28,
21 32, 34, and 37 of this act expire April 1, 2018.

22 NEW SECTION. **Sec. 44.** Section 12 of this act takes effect July
23 1, 2018.

24 NEW SECTION. **Sec. 45.** Sections 9, 22, 27, and 30 of this act
25 take effect July 1, 2026.

26 NEW SECTION. **Sec. 46.** Sections 8, 21, 26, and 29 of this act
27 expire July 1, 2026.

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