

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 6491

Chapter 291, Laws of 2018

65th Legislature
2018 Regular Session

ASSISTED OUTPATIENT BEHAVIORAL HEALTH TREATMENT

EFFECTIVE DATE: June 7, 2018—Except for sections 1 through 4, 6, 7, 9, 11 through 13, and 15, which become effective April 1, 2018 and sections 5, 8, and 10, which become effective July 1, 2026.

Passed by the Senate March 6, 2018
Yeas 48 Nays 1

CYRUS HABIB

President of the Senate

Passed by the House March 1, 2018
Yeas 92 Nays 5

FRANK CHOPP

Speaker of the House of Representatives

Approved March 27, 2018 3:06 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6491** as passed by Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

March 29, 2018

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6491

AS AMENDED BY THE HOUSE

Passed Legislature - 2018 Regular Session

State of Washington 65th Legislature 2018 Regular Session

By Senate Ways & Means (originally sponsored by Senators O'Ban and Darneille)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to increasing the availability of assisted
2 outpatient behavioral health treatment; amending RCW 71.05.020,
3 71.05.150, 71.05.150, 71.05.230, 71.05.240, 71.05.590, 71.05.590,
4 71.05.201, 71.05.156, 71.05.212, 71.05.245, 71.05.280, and 71.05.595;
5 reenacting and amending RCW 71.05.585 and 71.05.240; adding a new
6 section to chapter 71.05 RCW; providing effective dates; providing an
7 expiration date; and declaring an emergency.

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

9 **Sec. 1.** RCW 71.05.020 and 2017 3rd sp.s. c 14 s 14 are each
10 amended to read as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

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

17 (2) "Alcoholism" means a disease, characterized by a dependency
18 on alcoholic beverages, loss of control over the amount and
19 circumstances of use, symptoms of tolerance, physiological or
20 psychological withdrawal, or both, if use is reduced or discontinued,

1 and impairment of health or disruption of social or economic
2 functioning;

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

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

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

14 (6) "Chemical dependency" means:

15 (a) Alcoholism;

16 (b) Drug addiction; or

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

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

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

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

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

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

38 (12) "Department" means the department of social and health
39 services;

1 (13) "Designated crisis responder" means a mental health
2 professional appointed by the county, an entity appointed by the
3 county, or the behavioral health organization to perform the duties
4 specified in this chapter;

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

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

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

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

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

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

39 (20) "Gravely disabled" means a condition in which a person, as a
40 result of a mental disorder, or as a result of the use of alcohol or

1 other psychoactive chemicals: (a) Is in danger of serious physical
2 harm resulting from a failure to provide for his or her essential
3 human needs of health or safety; or (b) manifests severe
4 deterioration in routine functioning evidenced by repeated and
5 escalating loss of cognitive or volitional control over his or her
6 actions and is not receiving such care as is essential for his or her
7 health or safety;

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

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

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

24 (24) "Individualized service plan" means a plan prepared by a
25 developmental disabilities professional with other professionals as a
26 team, for a person with developmental disabilities, which shall
27 state:

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

30 (b) The conditions and strategies necessary to achieve the
31 purposes of habilitation;

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

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

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

37 (f) Where relevant in light of past criminal behavior and due
38 consideration for public safety, the criteria for proposed movement
39 to less-restrictive settings, criteria for proposed eventual

1 discharge or release, and a projected possible date for discharge or
2 release; and

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

5 (25) "Information related to mental health services" means all
6 information and records compiled, obtained, or maintained in the
7 course of providing services to either voluntary or involuntary
8 recipients of services by a mental health service provider. This may
9 include documents of legal proceedings under this chapter or chapter
10 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

10 (31) "Licensed physician" means a person licensed to practice
11 medicine or osteopathic medicine and surgery in the state of
12 Washington;

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

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

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

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

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

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

37 (36) "Mental health service provider" means a public or private
38 agency that provides mental health services to persons with mental
39 disorders or substance use disorders as defined under this section
40 and receives funding from public sources. This includes, but is not

1 limited to, hospitals licensed under chapter 70.41 RCW, evaluation
2 and treatment facilities as defined in this section, community mental
3 health service delivery systems or behavioral health programs as
4 defined in RCW 71.24.025, facilities conducting competency
5 evaluations and restoration under chapter 10.77 RCW, approved
6 substance use disorder treatment programs as defined in this section,
7 secure detoxification facilities as defined in this section, and
8 correctional facilities operated by state and local governments;

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

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

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

23 (40) "Professional person" means a mental health professional,
24 chemical dependency professional, or designated crisis responder and
25 shall also mean a physician, physician assistant, psychiatric
26 advanced registered nurse practitioner, registered nurse, and such
27 others as may be defined by rules adopted by the secretary pursuant
28 to the provisions of this chapter;

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

33 (42) "Psychiatrist" means a person having a license as a
34 physician and surgeon in this state who has in addition completed
35 three years of graduate training in psychiatry in a program approved
36 by the American medical association or the American osteopathic
37 association and is certified or eligible to be certified by the
38 American board of psychiatry and neurology;

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

1 (44) "Public agency" means any evaluation and treatment facility
2 or institution, secure detoxification facility, approved substance
3 use disorder treatment program, or hospital which is conducted for,
4 or includes a department or ward conducted for, the care and
5 treatment of persons with mental illness, substance use disorders, or
6 both mental illness and substance use disorders, if the agency is
7 operated directly by federal, state, county, or municipal government,
8 or a combination of such governments;

9 (45) "Registration records" include all the records of the
10 department, behavioral health organizations, treatment facilities,
11 and other persons providing services to the department, county
12 departments, or facilities which identify persons who are receiving
13 or who at any time have received services for mental illness or
14 substance use disorders;

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

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

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

21 (49) "Secure detoxification facility" means a facility operated
22 by either a public or private agency or by the program of an agency
23 that:

24 (a) Provides for intoxicated persons:

25 (i) Evaluation and assessment, provided by certified chemical
26 dependency professionals;

27 (ii) Acute or subacute detoxification services; and

28 (iii) Discharge assistance provided by certified chemical
29 dependency professionals, including facilitating transitions to
30 appropriate voluntary or involuntary inpatient services or to less
31 restrictive alternatives as appropriate for the individual;

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

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

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

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

1 (52) "Substance use disorder" means a cluster of cognitive,
2 behavioral, and physiological symptoms indicating that an individual
3 continues using the substance despite significant substance-related
4 problems. The diagnosis of a substance use disorder is based on a
5 pathological pattern of behaviors related to the use of the
6 substances;

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

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

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

33 (56) "Violent act" means behavior that resulted in homicide,
34 attempted suicide, nonfatal injuries, or substantial damage to
35 property.

36 **Sec. 2.** RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45 s
37 5 are each reenacted and amended to read as follows:

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

1 (a) Assignment of a care coordinator;
2 (b) An intake evaluation with the provider of the less
3 restrictive alternative treatment;
4 (c) A psychiatric evaluation;
5 (d) ~~((Medication management;~~
6 ~~(+e+))~~ A schedule of regular contacts with the provider of the
7 less restrictive alternative treatment services for the duration of
8 the order;
9 ~~((+f+))~~ (e) A transition plan addressing access to continued
10 services at the expiration of the order; ~~((and~~
11 ~~(+g+))~~ (f) An individual crisis plan; and
12 (g) Notification to the care coordinator assigned in (a) of this
13 subsection if reasonable efforts to engage the client fail to produce
14 substantial compliance with court-ordered treatment conditions.

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

17 (a) Medication management;
18 (b) Psychotherapy;
19 ~~((+b+))~~ (c) Nursing;
20 ~~((+e+))~~ (d) Substance abuse counseling;
21 ~~((+d+))~~ (e) Residential treatment; and
22 ~~((+e+))~~ (f) Support for housing, benefits, education, and
23 employment.

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

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

35 (5) For the purpose of this section, "care coordinator" means a
36 clinical practitioner who coordinates the activities of less
37 restrictive alternative treatment. The care coordinator coordinates
38 activities with the designated crisis responders that are necessary
39 for enforcement and continuation of less restrictive alternative
40 orders and is responsible for coordinating service activities with

1 other agencies and establishing and maintaining a therapeutic
2 relationship with the individual on a continuing basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (6) A petition for assisted outpatient behavioral health
28 treatment filed under this section must be adjudicated under RCW
29 71.05.240.

30 **Sec. 4.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each amended
31 to read as follows:

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

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

17 (b)) under this section or a petition for involuntary outpatient
18 behavioral health treatment under section 3 of this act. Before
19 filing the petition, the designated crisis responder must personally
20 interview the person, unless the person refuses an interview, and
21 determine whether the person will voluntarily receive appropriate
22 evaluation and treatment at an evaluation and treatment facility,
23 crisis stabilization unit, triage facility, or approved substance use
24 disorder treatment program.

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

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

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

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

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

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

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

1 **Sec. 5.** RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each amended
2 to read as follows:

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

27 ~~(b))~~ under this section or a petition for involuntary outpatient
28 behavioral health treatment under section 3 of this act. Before
29 filing the petition, the designated crisis responder must personally
30 interview the person, unless the person refuses an interview, and
31 determine whether the person will voluntarily receive appropriate
32 evaluation and treatment at an evaluation and treatment facility,
33 crisis stabilization unit, triage facility, or approved substance use
34 disorder treatment program.

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

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

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

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

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

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

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

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

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

6 **Sec. 6.** RCW 71.05.230 and 2017 3rd sp.s. c 14 s 17 are each
7 amended to read as follows:

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

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

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

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

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

33 (A) One physician, physician assistant, or psychiatric advanced
34 registered nurse practitioner; and

35 (B) One physician, physician assistant, psychiatric advanced
36 registered nurse practitioner, or mental health professional.

37 (ii) If the petition is for substance use disorder treatment, the
38 petition may be signed by a chemical dependency professional instead
39 of a mental health professional and by an advanced registered nurse

1 practitioner instead of a psychiatric advanced registered nurse
2 practitioner. The persons signing the petition must have examined the
3 person.

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

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

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

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

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

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

38 **Sec. 7.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45 s
39 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

26 **Sec. 8.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each amended
27 to read as follows:

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

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

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

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

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

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

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

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

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

11 **Sec. 9.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 9 are each
12 amended to read as follows:

13 (1) Either an agency or facility designated to monitor or provide
14 services under a less restrictive alternative order or conditional
15 release order, or a designated crisis responder, may take action to
16 enforce, modify, or revoke a less restrictive alternative or
17 conditional release order. The agency, facility, or designated crisis
18 responder must determine that:

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

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

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

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

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

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

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

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

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

33 (e) To initiate revocation procedures under subsection (4) of
34 this section or, if the current commitment is solely based on the
35 person being in need of assisted outpatient behavioral health
36 treatment as defined in RCW 71.05.020, initiate initial inpatient
37 detention procedures under subsection (6) of this section.

38 (3) The facility or agency designated to provide outpatient
39 treatment shall notify the secretary or designated crisis responder
40 when a person fails to adhere to terms and conditions of court

1 ordered treatment or experiences substantial deterioration in his or
2 her condition and, as a result, presents an increased likelihood of
3 serious harm.

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

18 (b) Except as provided in subsection (6) of this section, a
19 person detained under this subsection (4) must be held until such
20 time, not exceeding five days, as a hearing can be scheduled to
21 determine whether or not the person should be returned to the
22 hospital or facility from which he or she had been released. If the
23 person is not detained, the hearing must be scheduled within five
24 days of service on the person. The designated crisis responder or the
25 secretary may modify or rescind the order at any time prior to
26 commencement of the court hearing.

27 (c) The designated crisis responder or secretary shall file a
28 revocation petition and order of apprehension and detention with the
29 court of the county where the person is currently located or being
30 detained. The designated crisis responder shall serve the person and
31 their attorney, guardian, and conservator, if any. The person has the
32 same rights with respect to notice, hearing, and counsel as in any
33 involuntary treatment proceeding, except as specifically set forth in
34 this section. There is no right to jury trial. The venue for
35 proceedings is the county where the petition is filed. Notice of the
36 filing must be provided to the court that originally ordered
37 commitment, if different from the court where the petition for
38 revocation is filed, within two judicial days of the person's
39 detention.

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

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

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

33 (6)(a) If the current commitment is solely based on the person
34 being in need of assisted outpatient behavioral health treatment as
35 defined in RCW 71.05.020, a designated crisis responder may initiate
36 inpatient detention procedures under RCW 71.05.150 or 71.05.153 when
37 appropriate. A designated crisis responder or the secretary may, upon
38 their own motion or notification by the facility or agency designated
39 to provide outpatient care to a person subject to a less restrictive
40 alternative treatment order under RCW 71.05.320 subsequent to an

1 order for assisted outpatient behavioral health treatment entered
2 under section 3 of this act, order the person to be apprehended and
3 taken into custody and temporary detention for inpatient evaluation
4 in an evaluation and treatment facility in or near the county in
5 which he or she is receiving outpatient treatment if the person is
6 committed for mental health treatment, or, if the person is committed
7 for substance use disorder treatment, in a secure detoxification
8 facility or approved substance use disorder treatment program if
9 either is available in or near the county in which he or she is
10 receiving outpatient treatment. Proceedings under this subsection may
11 be initiated without ordering the apprehension and detention of the
12 person.

13 (b) A person detained under this subsection may be held for
14 evaluation for up to seventy-two hours, excluding weekends and
15 holidays, pending a court hearing. If the person is not detained, the
16 hearing must be scheduled within seventy-two hours of service on the
17 person. The designated crisis responder or the secretary may modify
18 or rescind the order at any time prior to commencement of the court
19 hearing.

20 (c) The issues for the court to determine are whether to continue
21 the detention of the person for inpatient treatment or whether the
22 court should reinstate or modify the person's less restrictive
23 alternative order or order the person's detention for inpatient
24 treatment. To continue detention after the seventy-two hour period,
25 the court must find that the person, as a result of a mental disorder
26 or substance use disorder, presents a likelihood of serious harm or
27 is gravely disabled and, after considering less restrictive
28 alternatives to involuntary detention and treatment, that no such
29 alternatives are in the best interest of the person or others.

30 (d) A court may not issue an order to detain a person for
31 inpatient treatment in a secure detoxification facility or approved
32 substance use disorder program under this subsection unless there is
33 a secure detoxification facility or approved substance use disorder
34 treatment program available and with adequate space for the person.

35 **Sec. 10.** RCW 71.05.590 and 2017 3rd sp.s. c 14 s 10 are each
36 amended to read as follows:

37 (1) Either an agency or facility designated to monitor or provide
38 services under a less restrictive alternative order or conditional
39 release order, or a designated crisis responder, may take action to

1 enforce, modify, or revoke a less restrictive alternative or
2 conditional release order. The agency, facility, or designated crisis
3 responder must determine that:

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

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

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

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

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

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

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

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

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

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

16 (e) To initiate revocation procedures under subsection (4) of
17 this section or, if the current commitment is solely based on the
18 person being in need of assisted outpatient behavioral health
19 treatment as defined in RCW 71.05.020, initial inpatient detention
20 procedures under subsection (6) of this section.

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

27 (4)(a) Except as provided in subsection (6) of this section, a
28 designated crisis responder or the secretary may upon their own
29 motion or notification by the facility or agency designated to
30 provide outpatient care order a person subject to a court order under
31 this chapter to be apprehended and taken into custody and temporary
32 detention in an evaluation and treatment facility in or near the
33 county in which he or she is receiving outpatient treatment if the
34 person is committed for mental health treatment, or, if the person is
35 committed for substance use disorder treatment, in a secure
36 detoxification facility or approved substance use disorder treatment
37 program if either is available in or near the county in which he or
38 she is receiving outpatient treatment. Proceedings under this
39 subsection (4) may be initiated without ordering the apprehension and
40 detention of the person.

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

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

23 (d) Except as provided in subsection (6) of this section, the
24 issues for the court to determine are whether: (i) The person adhered
25 to the terms and conditions of the court order; (ii) substantial
26 deterioration in the person's functioning has occurred; (iii) there
27 is evidence of substantial decompensation with a reasonable
28 probability that the decompensation can be reversed by further
29 inpatient treatment; or (iv) there is a likelihood of serious harm;
30 and, if any of the above conditions apply, whether the court should
31 reinstate or modify the person's less restrictive alternative or
32 conditional release order or order the person's detention for
33 inpatient treatment. The person may waive the court hearing and allow
34 the court to enter a stipulated order upon the agreement of all
35 parties. If the court orders detention for inpatient treatment, the
36 treatment period may be for no longer than the period authorized in
37 the original court order.

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

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

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

10 (6)(a) If the current commitment is solely based on the person
11 being in need of assisted outpatient behavioral health treatment as
12 defined in RCW 71.05.020, a designated crisis responder may initiate
13 inpatient detention procedures under RCW 71.05.150 or 71.05.153 when
14 appropriate. A designated crisis responder or the secretary may, upon
15 their own motion or notification by the facility or agency designated
16 to provide outpatient care to a person subject to a less restrictive
17 alternative treatment order under RCW 71.05.320 subsequent to an
18 order for assisted outpatient behavioral health treatment entered
19 under section 3 of this act, order the person to be apprehended and
20 taken into custody and temporary detention for inpatient evaluation
21 in an evaluation and treatment facility in or near the county in
22 which he or she is receiving outpatient treatment if the person is
23 committed for mental health treatment, or, if the person is committed
24 for substance use disorder treatment, in a secure detoxification
25 facility or approved substance use disorder treatment program if
26 either is available in or near the county in which he or she is
27 receiving outpatient treatment. Proceedings under this subsection may
28 be initiated without ordering the apprehension and detention of the
29 person.

30 (b) A person detained under this subsection may be held for
31 evaluation for up to seventy-two hours, excluding weekends and
32 holidays, pending a court hearing. The designated crisis responder or
33 the secretary may modify or rescind the order at any time prior to
34 commencement of the court hearing.

35 (c) The issues for the court to determine are whether to continue
36 the detention of the person for inpatient treatment or whether the
37 court should reinstate or modify the person's less restrictive
38 alternative order or order the person's detention for inpatient
39 treatment. To continue detention after the seventy-two hour period,
40 the court must find that the person, as a result of a mental disorder

1 or substance use disorder, presents a likelihood of serious harm or
2 is gravely disabled and, after considering less restrictive
3 alternatives to involuntary detention and treatment, that no such
4 alternatives are in the best interest of the person or others.

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

10 **Sec. 11.** RCW 71.05.201 and 2017 3rd sp.s. c 14 s 2 are each
11 amended to read as follows:

12 (1) If a designated crisis responder decides not to detain a
13 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
14 or forty-eight hours have elapsed since a designated crisis responder
15 received a request for investigation and the designated crisis
16 responder has not taken action to have the person detained, an
17 immediate family member or guardian or conservator of the person may
18 petition the superior court for the person's initial detention.

19 (2) A petition under this section must be filed within ten
20 calendar days following the designated crisis responder investigation
21 or the request for a designated crisis responder investigation. If
22 more than ten days have elapsed, the immediate family member,
23 guardian, or conservator may request a new designated crisis
24 responder investigation.

25 (3)(a) The petition must be filed in the county in which the
26 designated crisis responder investigation occurred or was requested
27 to occur and must be submitted on forms developed by the
28 administrative office of the courts for this purpose. The petition
29 must be accompanied by a sworn declaration from the petitioner, and
30 other witnesses if desired, describing why the person should be
31 detained for evaluation and treatment. The description of why the
32 person should be detained may contain, but is not limited to, the
33 information identified in RCW 71.05.212.

34 (b) The petition must contain:

35 (i) A description of the relationship between the petitioner and
36 the person; and

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

1 (4) The court shall, within one judicial day, review the petition
2 to determine whether the petition raises sufficient evidence to
3 support the allegation. If the court so finds, it shall provide a
4 copy of the petition to the designated crisis responder agency with
5 an order for the agency to provide the court, within one judicial
6 day, with a written sworn statement describing the basis for the
7 decision not to seek initial detention and a copy of all information
8 material to the designated crisis responder's current decision.

9 (5) Following the filing of the petition and before the court
10 reaches a decision, any person, including a mental health
11 professional, may submit a sworn declaration to the court in support
12 of or in opposition to initial detention.

13 (6) The court shall dismiss the petition at any time if it finds
14 that a designated crisis responder has filed a petition for the
15 person's initial detention under RCW 71.05.150 or 71.05.153 or that
16 the person has voluntarily accepted appropriate treatment.

17 (7) The court must issue a final ruling on the petition within
18 five judicial days after it is filed. After reviewing all of the
19 information provided to the court, the court may enter an order for
20 initial detention or an order instructing the designated crisis
21 responder to file a petition for assisted outpatient behavioral
22 health treatment if the court finds that: (a) There is probable cause
23 to support a petition for detention or assisted outpatient behavioral
24 health treatment; and (b) the person has refused or failed to accept
25 appropriate evaluation and treatment voluntarily. The court shall
26 transmit its final decision to the petitioner.

27 (8) If the court enters an order for initial detention, it shall
28 provide the order to the designated crisis responder agency and issue
29 a written order for apprehension of the person by a peace officer for
30 delivery of the person to a facility or emergency room determined by
31 the designated crisis responder. The designated crisis responder
32 agency serving the jurisdiction of the court must collaborate and
33 coordinate with law enforcement regarding apprehensions and
34 detentions under this subsection, including sharing of information
35 relating to risk and which would assist in locating the person. A
36 person may not be detained to jail pursuant to a written order issued
37 under this subsection. An order for detention under this section
38 should contain the advisement of rights which the person would
39 receive if the person were detained by a designated crisis responder.

1 An order for initial detention under this section expires one hundred
2 eighty days from issuance.

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

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

10 **Sec. 12.** RCW 71.05.156 and 2016 sp.s. c 29 s 215 are each
11 amended to read as follows:

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

19 **Sec. 13.** RCW 71.05.212 and 2016 sp.s. c 29 s 226 are each
20 amended to read as follows:

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

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

28 (b) Historical behavior, including history of one or more violent
29 acts;

30 (c) Prior determinations of incompetency or insanity under
31 chapter 10.77 RCW; and

32 (d) Prior commitments under this chapter.

33 (2) Credible witnesses may include family members, landlords,
34 neighbors, or others with significant contact and history of
35 involvement with the person. If the designated crisis responder
36 relies upon information from a credible witness in reaching his or
37 her decision to detain the individual, then he or she must provide
38 contact information for any such witness to the prosecutor. The

1 designated crisis responder or prosecutor shall provide notice of the
2 date, time, and location of the probable cause hearing to such a
3 witness.

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

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

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

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

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

22 **Sec. 14.** RCW 71.05.245 and 2015 c 250 s 8 are each amended to
23 read as follows:

24 (1) In making a determination of whether a person is gravely
25 disabled, presents a likelihood of serious harm, or is in need of
26 assisted outpatient (~~mental~~) behavioral health treatment in a
27 hearing conducted under RCW 71.05.240 or 71.05.320, the court must
28 consider the symptoms and behavior of the respondent in light of all
29 available evidence concerning the respondent's historical behavior.

30 (2) Symptoms or behavior which standing alone would not justify
31 civil commitment may support a finding of grave disability or
32 likelihood of serious harm, or a finding that the person is in need
33 of assisted outpatient (~~mental~~) behavioral health treatment, when:

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

37 (b) these symptoms or behavior represent a marked and concerning
38 change in the baseline behavior of the respondent; and (c) without
39 treatment, the continued deterioration of the respondent is probable.

1 (3) In making a determination of whether there is a likelihood of
2 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,
3 the court shall give great weight to any evidence before the court
4 regarding whether the person has: (a) A recent history of one or more
5 violent acts; or (b) a recent history of one or more commitments
6 under this chapter or its equivalent provisions under the laws of
7 another state which were based on a likelihood of serious harm. The
8 existence of prior violent acts or commitments under this chapter or
9 its equivalent shall not be the sole basis for determining whether a
10 person presents a likelihood of serious harm.

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

13 **Sec. 15.** RCW 71.05.280 and 2016 sp.s. c 29 s 234 are each
14 amended to read as follows:

15 At the expiration of the fourteen-day period of intensive
16 treatment, a person may be committed for further treatment pursuant
17 to RCW 71.05.320 if:

18 (1) Such person after having been taken into custody for
19 evaluation and treatment has threatened, attempted, or inflicted: (a)
20 Physical harm upon the person of another or himself or herself, or
21 substantial damage upon the property of another, and (b) as a result
22 of mental disorder or substance use disorder presents a likelihood of
23 serious harm; or

24 (2) Such person was taken into custody as a result of conduct in
25 which he or she attempted or inflicted physical harm upon the person
26 of another or himself or herself, or substantial damage upon the
27 property of others, and continues to present, as a result of mental
28 disorder or substance use disorder, a likelihood of serious harm; or

29 (3) Such person has been determined to be incompetent and
30 criminal charges have been dismissed pursuant to RCW 10.77.086(4),
31 and has committed acts constituting a felony, and as a result of a
32 mental disorder, presents a substantial likelihood of repeating
33 similar acts.

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

37 (b) For any person subject to commitment under this subsection
38 where the charge underlying the finding of incompetence is for a
39 felony classified as violent under RCW 9.94A.030, the court shall

1 determine whether the acts the person committed constitute a violent
2 offense under RCW 9.94A.030; or

3 (4) Such person is gravely disabled; or

4 (5) Such person is in need of assisted outpatient (~~mental~~)
5 behavioral health treatment.

6 **Sec. 16.** RCW 71.05.595 and 2015 c 250 s 17 are each amended to
7 read as follows:

8 A court order for less restrictive alternative treatment for a
9 person found to be in need of assisted outpatient (~~mental~~)
10 behavioral health treatment must be terminated prior to the
11 expiration of the order when, in the opinion of the professional
12 person in charge of the less restrictive alternative treatment
13 provider, (1) the person is prepared to accept voluntary treatment,
14 or (2) the outpatient treatment ordered is no longer necessary to
15 prevent a relapse, decompensation, or deterioration that is likely to
16 result in the person presenting a likelihood of serious harm or the
17 person becoming gravely disabled within a reasonably short period of
18 time.

19 NEW SECTION. **Sec. 17.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 18.** Sections 1 through 4, 6, 7, 9, 11, 12,
24 13, and 15 of this act are necessary for the immediate preservation
25 of the public peace, health, or safety, or support of the state
26 government and its existing public institutions, and take effect
27 April 1, 2018.

28 NEW SECTION. **Sec. 19.** Sections 5, 8, and 10 of this act take
29 effect July 1, 2026.

30 NEW SECTION. **Sec. 20.** Sections 4, 7, and 9 of this act expire
31 July 1, 2026.

Passed by the Senate March 6, 2018.
Passed by the House March 1, 2018.
Approved by the Governor March 27, 2018.

Filed in Office of Secretary of State March 29, 2018.

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