
SUBSTITUTE SENATE BILL 5562

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Prentice, Wojahn and Deccio)

Read first time 03/05/97.

1 AN ACT Relating to the involuntary commitment of mentally ill
2 persons; amending RCW 71.05.010, 71.05.040, 71.05.050, 71.05.100,
3 71.05.110, 71.05.150, 71.05.155, 71.05.160, 71.05.170, 71.05.180,
4 71.05.190, 71.05.200, 71.05.210, 71.05.215, 71.05.220, 71.05.230,
5 71.05.240, 71.05.260, 71.05.270, 71.05.280, 71.05.290, 71.05.300,
6 71.05.320, 71.05.330, 71.05.340, 71.05.350, 71.05.360, 71.05.370,
7 71.05.410, 71.05.460, 71.05.470, 71.05.490, 71.05.525, 9A.44.010, and
8 71.24.025; reenacting and amending RCW 71.05.020; adding a new section
9 to chapter 71.05 RCW; and creating new sections.

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

11 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
12 enhance continuity of care for persons with serious mental disorders
13 that can be controlled or stabilized in a less restrictive alternative
14 commitment. Within the guidelines stated in *In Re LaBelle* 107 Wn. 2d
15 196 (1986), the legislature intends to encourage appropriate
16 interventions at a point when there is the best opportunity to restore
17 the person to or maintain satisfactory functioning.

18 For persons with a prior history or pattern of repeated
19 hospitalizations or law enforcement interventions due to

1 decompensation, the consideration of prior mental history is
2 particularly relevant in determining whether the person would receive,
3 if released, such care as is essential for his or her health or safety.

4 Therefore, the legislature finds that for persons who are currently
5 under a commitment order, a prior history of decompensation leading to
6 repeated hospitalizations or law enforcement interventions should be
7 given great weight in determining whether a new less restrictive
8 alternative commitment should be ordered.

9 **Sec. 2.** RCW 71.05.010 and 1989 c 120 s 1 are each amended to read
10 as follows:

11 The provisions of this chapter are intended by the legislature:

12 (1) To end inappropriate, indefinite commitment of mentally
13 disordered persons and to eliminate legal disabilities that arise from
14 such commitment;

15 (2) To provide prompt evaluation and (~~short-term~~) timely and
16 appropriate treatment of persons with serious mental disorders;

17 (3) To safeguard individual rights;

18 (4) To provide continuity of care for persons with serious mental
19 disorders;

20 (5) To encourage the full use of all existing agencies,
21 professional personnel, and public funds to prevent duplication of
22 services and unnecessary expenditures;

23 (6) To encourage, whenever appropriate, that services be provided
24 within the community;

25 (7) To protect the public safety.

26 **Sec. 3.** RCW 71.05.020 and 1989 c 420 s 13, 1989 c 205 s 8, and
27 1989 c 120 s 2 are each reenacted and amended to read as follows:

28 For the purposes of this chapter:

29 (1) "Antipsychotic medications," also referred to as
30 "neuroleptics," means that class of drugs primarily used to treat
31 serious manifestations of mental illness associated with thought
32 disorders and currently includes phenothiazines, thioxanthenes,
33 butyrophenone, dihydroindolone, and dibenzoxazipine;

34 (2) "Attending staff" means any person on the staff of a public or
35 private agency having responsibility for the care and treatment of a
36 patient;

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

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

7 (5) "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 is
10 a psychiatrist, psychologist, or social worker, and such other
11 developmental disabilities professionals as may be defined by rules
12 adopted by the secretary;

13 (6) "Developmental disability" means that condition defined in RCW
14 71A.10.020(2);

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

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

33 ~~((+2))~~ (9) "Habilitative services" means those services provided
34 by program personnel to assist persons in acquiring and maintaining
35 life skills and in raising their levels of physical, mental, social,
36 and vocational functioning. Habilitative services include education,
37 training for employment, and therapy. The habilitative process shall
38 be undertaken with recognition of the risk to the public safety

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

3 (10) "Individualized service plan" means a plan prepared by a
4 developmental disabilities professional with other professionals as a
5 team, for an individual with developmental disabilities, which shall
6 state:

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

9 (b) The conditions and strategies necessary to achieve the purposes
10 of habilitation;

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

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

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

16 (f) Where relevant in light of past criminal behavior and due
17 consideration for public safety, the criteria for proposed movement to
18 less-restrictive settings, criteria for proposed eventual discharge
19 from involuntary confinement, and a projected possible date for
20 discharge from involuntary confinement; and

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

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

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

35 (13) "Mental disorder" means any organic, mental, or emotional
36 impairment which has substantial adverse effects on an individual's
37 cognitive or volitional functions;

38 ~~((3) "Likelihood of serious harm" means either: (a) A substantial~~
39 ~~risk that physical harm will be inflicted by an individual upon his or~~

1 her own person, as evidenced by threats or attempts to commit suicide
2 or inflict physical harm on one's self, (b) a substantial risk that
3 physical harm will be inflicted by an individual upon another, as
4 evidenced by behavior which has caused such harm or which places
5 another person or persons in reasonable fear of sustaining such harm,
6 or (c) a substantial risk that physical harm will be inflicted by an
7 individual upon the property of others, as evidenced by behavior which
8 has caused substantial loss or damage to the property of others;

9 (4)) (14) "Mental health professional" means a psychiatrist,
10 psychologist, psychiatric nurse, or social worker, and such other
11 mental health professionals as may be defined by rules adopted by the
12 secretary pursuant to the provisions of this chapter;

13 (15) "Peace officer" means a law enforcement official of a public
14 agency or governmental unit, and includes persons specifically given
15 peace officer powers by any state law, local ordinance, or judicial
16 order of appointment;

17 ((5) "Judicial commitment" means a commitment by a court pursuant
18 to the provisions of this chapter;

19 (6) "Public agency" means any evaluation and treatment facility or
20 institution, hospital, or sanitarium which is conducted for, or
21 includes a department or ward conducted for, the care and treatment of
22 persons who are mentally ill or deranged, if the agency is operated
23 directly by, federal, state, county, or municipal government, or a
24 combination of such governments;

25 (7)) (16) "Private agency" means any person, partnership,
26 corporation, or association not defined as a public agency, whether or
27 not financed in whole or in part by public funds, which constitutes an
28 evaluation and treatment facility or private institution, hospital, or
29 sanitarium, which is conducted for, or includes a department or ward
30 conducted for the care and treatment of persons who are mentally ill;

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

34 (9) "Department" means the department of social and health services
35 of the state of Washington;

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

38 (11) "Secretary" means the secretary of the department of social
39 and health services, or his designee;

1 ~~(12) "Mental health professional" means a psychiatrist,~~
2 ~~psychologist, psychiatric nurse, or social worker, and such other~~
3 ~~mental health professionals as may be defined by rules and regulations~~
4 ~~adopted by the secretary pursuant to the provisions of this chapter;~~

5 ~~(13))~~ (17) "Professional person" shall mean a mental health
6 professional, as above defined, and shall also mean a physician,
7 registered nurse, and such others as may be defined by rules ~~((and~~
8 ~~regulations))~~ adopted by the secretary pursuant to the provisions of
9 this chapter;

10 ~~((14))~~ (18) "Psychiatrist" means a person having a license as a
11 physician and surgeon in this state who has in addition completed three
12 years of graduate training in psychiatry in a program approved by the
13 American medical association or the American osteopathic association
14 and is certified or eligible to be certified by the American board of
15 psychiatry and neurology;

16 ~~((15) "Psychologist" means a person who has been licensed as a~~
17 ~~psychologist pursuant to chapter 18.83 RCW;~~

18 ~~(16) "Social worker" means a person with a master's or further~~
19 ~~advanced degree from an accredited school of social work or a degree~~
20 ~~from a graduate school deemed equivalent under rules and regulations~~
21 ~~adopted by the secretary;~~

22 ~~(17) "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 care,~~
25 ~~and short term inpatient care to persons suffering from a mental~~
26 ~~disorder, and which is certified as such by the department of social~~
27 ~~and health services: PROVIDED, That a physically separate and~~
28 ~~separately operated portion of a state hospital may be designated as an~~
29 ~~evaluation and treatment facility: PROVIDED FURTHER, That a facility~~
30 ~~which is part of, or operated by, the department of social and health~~
31 ~~services or any federal agency will not require certification: AND~~
32 ~~PROVIDED FURTHER, That no correctional institution or facility, or~~
33 ~~jail, shall be an evaluation and treatment facility within the meaning~~
34 ~~of this chapter;~~

35 ~~(18) "Antipsychotic medications," also referred to as~~
36 ~~"neuroleptics," means that class of drugs primarily used to treat~~
37 ~~serious manifestations of mental illness associated with thought~~
38 ~~disorders and currently includes phenothiazines, thioxanthenes,~~
39 ~~butyrophenone, dihydroindolone, and dibenzoxazipine.~~

1 ~~(19) "Developmental disability" means that condition defined in RCW~~
2 ~~71A.10.020(2);~~

3 ~~(20) "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 is~~
6 ~~a psychiatrist or psychologist, or a social worker, and such other~~
7 ~~developmental disabilities professionals as may be defined by rules~~
8 ~~adopted by the secretary;~~

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

17 ~~(22)) (19) "Psychologist" means a person who has been licensed as~~
18 ~~a psychologist pursuant to chapter 18.83 RCW;~~

19 ~~((23)) (20) "Public agency" means any evaluation and treatment~~
20 ~~facility or institution, hospital, or sanitarium which is conducted~~
21 ~~for, or includes a department or ward conducted for, the care and~~
22 ~~treatment of persons who are mentally ill or deranged, if the agency is~~
23 ~~operated directly by, federal, state, county, or municipal government,~~
24 ~~or a combination of such governments;~~

25 ~~(21) "Resource management services" has the meaning given in~~
26 ~~chapter 71.24 RCW;~~

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

29 ~~(23) "Social worker" means a person with a master's or further~~
30 ~~advanced degree from an accredited school of social work or a degree~~
31 ~~deemed equivalent under rules adopted by the secretary((;~~

32 ~~(24) "Individualized service plan" means a plan prepared by a~~
33 ~~developmental disabilities professional with other professionals as a~~
34 ~~team, for an individual with developmental disabilities, which shall~~
35 ~~state:~~

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

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

1 ~~(c) The intermediate and long range goals of the habilitation~~
2 ~~program, with a projected timetable for the attainment;~~
3 ~~(d) The rationale for using this plan of habilitation to achieve~~
4 ~~those intermediate and long range goals;~~
5 ~~(e) The staff responsible for carrying out the plan;~~
6 ~~(f) Where relevant in light of past criminal behavior and due~~
7 ~~consideration for public safety, the criteria for proposed movement to~~
8 ~~less restrictive settings, criteria for proposed eventual discharge~~
9 ~~from involuntary confinement, and a projected possible date for~~
10 ~~discharge from involuntary confinement; and~~
11 ~~(g) The type of residence immediately anticipated for the person~~
12 ~~and possible future types of residences)).~~

13 **Sec. 4.** RCW 71.05.040 and 1987 c 439 s 1 are each amended to read
14 as follows:

15 Persons who are developmentally disabled, impaired by chronic
16 alcoholism or drug abuse, or (~~senile~~) suffering from dementia shall
17 not be detained for evaluation and treatment or judicially committed
18 solely by reason of that condition unless such condition causes a
19 person to be gravely disabled or as a result of a mental disorder such
20 condition exists that constitutes a likelihood of serious harm (~~to~~
21 ~~self or others~~)).

22 **Sec. 5.** RCW 71.05.050 and 1979 ex.s. c 215 s 6 are each amended to
23 read as follows:

24 Nothing in this chapter shall be construed to limit the right of
25 any person to apply voluntarily to any public or private agency or
26 practitioner for treatment of a mental disorder, either by direct
27 application or by referral. Any person voluntarily admitted for
28 inpatient treatment to any public or private agency shall be released
29 immediately upon his or her request. Any person voluntarily admitted
30 for inpatient treatment to any public or private agency shall orally be
31 advised of the right to immediate release and further advised of such
32 rights in writing as are secured to them pursuant to this chapter and
33 their rights of access to attorneys, courts, and other legal redress.
34 Their condition and status shall be reviewed at least once each one
35 hundred eighty days for evaluation as to the need for further treatment
36 and/or possible release, at which time they shall again be advised of
37 their right to release upon request: PROVIDED HOWEVER, That if the

1 professional staff of any public or private agency or hospital regards
2 a person voluntarily admitted who requests release as presenting, as a
3 result of a mental disorder, an imminent likelihood of serious harm
4 (~~to himself or others~~), or is gravely disabled, they may detain such
5 person for sufficient time to notify the designated county mental
6 health professional of such person's condition to enable such mental
7 health professional to authorize such person being further held in
8 custody or transported to an evaluation and treatment center pursuant
9 to the provisions of this chapter, which shall in ordinary
10 circumstances be no later than the next judicial day: PROVIDED
11 FURTHER, That if a person is brought to the emergency room of a public
12 or private agency or hospital for observation or treatment, (~~said~~)
13 the person refuses voluntary admission, and the professional staff of
14 the public or private agency or hospital regard(~~s~~) such person as
15 presenting as a result of a mental disorder an imminent likelihood of
16 serious harm (~~to himself or others~~), or as presenting an imminent
17 danger because of grave disability, they may detain such person for
18 sufficient time to notify the designated county mental health
19 professional of such person's condition to enable such mental health
20 professional to authorize such person being further held in custody or
21 transported to an evaluation treatment center pursuant to the
22 conditions in this chapter, but which time shall be no more than six
23 hours from the time the professional staff determine that an evaluation
24 by the county designated mental health professional is necessary.

25 **Sec. 6.** RCW 71.05.100 and 1987 c 75 s 18 are each amended to read
26 as follows:

27 In addition to the responsibility provided for by RCW 43.20B.330,
28 any person, or his or her estate, or his or her spouse, or the parents
29 of a minor person who is involuntarily detained pursuant to this
30 chapter for the purpose of treatment and evaluation outside of a
31 facility maintained and operated by the department shall be responsible
32 for the cost of such care and treatment. In the event that an
33 individual is unable to pay for such treatment or in the event payment
34 would result in a substantial hardship upon the individual or his or
35 her family, then the county of residence of such person shall be
36 responsible for such costs. If it is not possible to determine the
37 county of residence of the person, the cost shall be borne by the
38 county where the person was originally detained. The department shall,

1 pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to
2 pay in whole or in part, (2) a definition of substantial hardship, and
3 (3) appropriate payment schedules. Such standards shall be applicable
4 to all county mental health administrative boards. Financial
5 responsibility with respect to department services and facilities shall
6 continue to be as provided in RCW 43.20B.320 through 43.20B.360 and
7 43.20B.370.

8 **Sec. 7.** RCW 71.05.110 and 1973 1st ex.s. c 142 s 16 are each
9 amended to read as follows:

10 Attorneys appointed for persons pursuant to this chapter shall be
11 compensated for their services as follows: (1) The person for whom an
12 attorney is appointed shall, if he or she is financially able pursuant
13 to standards as to financial capability and indigency set by the
14 superior court of the county in which the proceeding is held, bear the
15 costs of such legal services; (2) if such person is indigent pursuant
16 to such standards, the costs of such services shall be borne by the
17 county in which the proceeding is held, subject however to the
18 responsibility for costs provided in RCW 71.05.320(2).

19 **Sec. 8.** RCW 71.05.150 and 1984 c 233 s 1 are each amended to read
20 as follows:

21 (1)(a) When a mental health professional designated by the county
22 receives information alleging that a person, as a result of a mental
23 disorder(~~(7)~~): (i) Presents a likelihood of serious harm (~~(to others~~
24 ~~or himself)~~), or (ii) is gravely disabled(~~(7)~~); such mental health
25 professional, after investigation and evaluation of the specific facts
26 alleged, and of the reliability and credibility of the person or
27 persons, if any, providing information to initiate detention, may, if
28 satisfied that the allegations are true and that the person will not
29 voluntarily seek appropriate treatment, file a petition for initial
30 detention. Before filing the petition, the county designated mental
31 health professional must personally interview the person, unless the
32 person refuses an interview, and determine whether the person will
33 voluntarily receive appropriate evaluation and treatment at an
34 evaluation and treatment facility.

35 (b) Whenever it appears, by petition for initial detention, to the
36 satisfaction of a judge of the superior court that a person presents,
37 as a result of a mental disorder, a likelihood of serious harm (~~(to~~

1 ~~others or himself~~)), or is gravely disabled, and that the person has
2 refused or failed to accept appropriate evaluation and treatment
3 voluntarily, the judge may issue an order requiring the person to
4 appear (~~not less than~~) within twenty-four hours after service of the
5 order at a designated evaluation and treatment facility for not more
6 than a seventy-two hour evaluation and treatment period. The order
7 shall state the address of the evaluation and treatment facility to
8 which the person is to report and whether the required seventy-two hour
9 evaluation and treatment services may be delivered on an outpatient or
10 inpatient basis and that if the person named in the order fails to
11 appear at the evaluation and treatment facility at or before the date
12 and time stated in the order, such person may be involuntarily taken
13 into custody for evaluation and treatment. The order shall also
14 designate retained counsel or, if counsel is appointed from a list
15 provided by the court, the name, business address, and telephone number
16 of the attorney appointed to represent the person.

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

38 (d) If the person ordered to appear does appear on or before the
39 date and time specified, the evaluation and treatment facility may

1 admit such person as required by RCW 71.05.170 or may provide treatment
2 on an outpatient basis. If the person ordered to appear fails to
3 appear on or before the date and time specified, the evaluation and
4 treatment facility shall immediately notify the mental health
5 professional designated by the county who may notify a peace officer to
6 take such person or cause such person to be taken into custody and
7 placed in an evaluation and treatment facility. Should the mental
8 health professional notify a peace officer authorizing him or her to
9 take a person into custody under the provisions of this subsection, he
10 or she shall file with the court a copy of such authorization and a
11 notice of detention. At the time such person is taken into custody
12 there shall commence to be served on such person, his or her guardian,
13 and conservator, if any, a copy of the original order together with a
14 notice of detention, a notice of rights, and a petition for initial
15 detention.

16 (2) When a mental health professional designated by the county
17 receives information alleging that a person, as the result of a mental
18 disorder, presents an imminent likelihood of serious harm (~~to himself~~
19 ~~or others~~), or is in imminent danger because of being gravely
20 disabled, after investigation and evaluation of the specific facts
21 alleged and of the reliability and credibility of the person or persons
22 providing the information if any, the mental health professional may
23 take such person, or cause by oral or written order such person to be
24 taken into emergency custody in an evaluation and treatment facility
25 for not more than seventy-two hours as described in RCW 71.05.180.

26 (3) A peace officer may take such person or cause such person to be
27 taken into custody and placed in an evaluation and treatment facility
28 pursuant to subsection (1)(d) of this section.

29 (4) A peace officer may, without prior notice of the proceedings
30 provided for in subsection (1) of this section, take or cause such
31 person to be taken into custody and immediately delivered to an
32 evaluation and treatment facility or the emergency department of a
33 local hospital:

34 (a) Only pursuant to subsections (1)(d) and (2) of this section; or

35 (b) When he or she has reasonable cause to believe that such person
36 is suffering from a mental disorder and presents an imminent likelihood
37 of serious harm (~~to others or himself~~) or is in imminent danger
38 because of being gravely disabled.

1 (5) Persons delivered to evaluation and treatment facilities by
2 peace officers pursuant to subsection (4)(b) of this section may be
3 held by the facility for a period of up to twelve hours: PROVIDED,
4 That they are examined by a mental health professional within three
5 hours of their arrival. Within twelve hours of their arrival, the
6 designated county mental health professional must file a supplemental
7 petition for detention, and commence service on the designated attorney
8 for the detained person.

9 **Sec. 9.** RCW 71.05.155 and 1979 ex.s. c 215 s 10 are each amended
10 to read as follows:

11 When a mental health professional is requested by a representative
12 of a law enforcement agency, including a police officer, sheriff, a
13 municipal attorney, or prosecuting attorney to undertake an
14 investigation under RCW 71.05.150, (~~as now or hereafter amended,~~) the
15 mental health professional shall, if requested to do so, advise
16 (~~said~~) the representative in writing of the results of the
17 investigation including a statement of reasons for the decision to
18 detain or release the person investigated. Such written report shall
19 be submitted within seventy-two hours of the completion of the
20 investigation or the request from the law enforcement representative,
21 whichever occurs later.

22 **Sec. 10.** RCW 71.05.160 and 1974 ex.s. c 145 s 9 are each amended
23 to read as follows:

24 Any facility receiving a person pursuant to RCW 71.05.150 shall
25 require a petition for initial detention stating the circumstances
26 under which the person's condition was made known and stating that such
27 officer or person has evidence, as a result of his or her personal
28 observation or investigation, that the actions of the person for which
29 application is made constitute a likelihood of serious harm (~~to~~
30 ~~himself or others~~), or that he or she is gravely disabled, and stating
31 the specific facts known to him or her as a result of his or her
32 personal observation or investigation, upon which he or she bases the
33 belief that such person should be detained for the purposes and under
34 the authority of this chapter.

35 If a person is involuntarily placed in an evaluation and treatment
36 facility pursuant to RCW 71.05.150, on the next judicial day following
37 the initial detention, the mental health professional designated by the

1 county shall file with the court and serve the designated attorney of
2 the detained person the petition or supplemental petition for initial
3 detention, proof of service of notice, and a copy of a notice of
4 emergency detention.

5 **Sec. 11.** RCW 71.05.170 and 1989 c 205 s 10 are each amended to
6 read as follows:

7 Whenever the designated county mental health professional petitions
8 for detention of a person whose actions constitute a likelihood of
9 serious harm (~~(to himself or others)~~), or who is gravely disabled, the
10 facility providing seventy-two hour evaluation and treatment must
11 immediately accept on a provisional basis the petition and the person.
12 The facility shall then evaluate the person's condition and admit or
13 release such person in accordance with RCW 71.05.210. The facility
14 shall notify in writing the court and the designated county mental
15 health professional of the date and time of the initial detention of
16 each person involuntarily detained in order that a probable cause
17 hearing shall be held no later than seventy-two hours after detention.

18 The duty of a state hospital to accept persons for evaluation and
19 treatment under this section shall be limited by chapter 71.24 RCW.

20 **Sec. 12.** RCW 71.05.180 and 1979 ex.s. c 215 s 11 are each amended
21 to read as follows:

22 If the evaluation and treatment facility admits the person, it may
23 detain him or her for evaluation and treatment for a period not to
24 exceed seventy-two hours from the time of acceptance as set forth in
25 RCW 71.05.170. The computation of such seventy-two hour period shall
26 exclude Saturdays, Sundays and holidays.

27 **Sec. 13.** RCW 71.05.190 and 1979 ex.s. c 215 s 12 are each amended
28 to read as follows:

29 If the person is not approved for admission by a facility providing
30 seventy-two hour evaluation and treatment, and the individual has not
31 been arrested, the facility shall furnish transportation, if not
32 otherwise available, for the person to his or her place of residence or
33 other appropriate place. If the individual has been arrested, the
34 evaluation and treatment facility shall detain the individual for not
35 more than eight hours at the request of the peace officer in order to

1 enable a peace officer to return to the facility and take the
2 individual back into custody.

3 **Sec. 14.** RCW 71.05.200 and 1989 c 120 s 5 are each amended to read
4 as follows:

5 (1) Whenever any person is detained for evaluation and treatment
6 pursuant to this chapter, both the person and, if possible, a
7 responsible member of his or her immediate family, guardian, or
8 conservator, if any, shall be advised as soon as possible in writing or
9 orally, by the officer or person taking him or her into custody or by
10 personnel of the evaluation and treatment facility where the person is
11 detained that unless the person is released or voluntarily admits
12 himself or herself for treatment within seventy-two hours of the
13 initial detention:

14 (a) That a judicial hearing in a superior court, either by a judge
15 or court commissioner thereof, shall be held not more than seventy-two
16 hours after the initial detention to determine whether there is
17 probable cause to detain the person after the seventy-two hours have
18 expired for up to an additional fourteen days without further automatic
19 hearing for the reason that the person is a mentally ill person whose
20 mental disorder presents a likelihood of serious harm (~~to others or~~
21 ~~himself or herself~~) or that the person is gravely disabled;

22 (b) That the person has a right to communicate immediately with an
23 attorney; has a right to have an attorney appointed to represent him or
24 her before and at the probable cause hearing if he or she is indigent;
25 and has the right to be told the name and address of the attorney the
26 mental health professional has designated pursuant to this chapter;

27 (c) That the person has the right to remain silent and that any
28 statement he or she makes may be used against him or her;

29 (d) That the person has the right to present evidence and to cross-
30 examine witnesses who testify against him or her at the probable cause
31 hearing; and

32 (e) That the person has the right to refuse medications, including
33 antipsychotic medication beginning twenty-four hours prior to the
34 probable cause hearing.

35 (2) When proceedings are initiated under RCW 71.05.150 (2), (3), or
36 (4)(b), no later than twelve hours after such person is admitted to the
37 evaluation and treatment facility the personnel of the evaluation and
38 treatment facility or the designated mental health professional shall

1 serve on such person a copy of the petition for initial detention and
2 the name, business address, and phone number of the designated attorney
3 and shall forthwith commence service of a copy of the petition for
4 initial detention on ~~((said))~~ the designated attorney.

5 (3) The judicial hearing described in subsection (1) of this
6 section is hereby authorized, and shall be held according to the
7 provisions of subsection (1) of this section and rules promulgated by
8 the supreme court.

9 **Sec. 15.** RCW 71.05.210 and 1994 sp.s. c 9 s 747 are each amended
10 to read as follows:

11 Each person involuntarily admitted to an evaluation and treatment
12 facility shall, within twenty-four hours of his or her admission, be
13 examined and evaluated by a licensed physician who may be assisted by
14 a physician assistant according to chapter 18.71A RCW or an advanced
15 registered nurse practitioner according to chapter 18.79 RCW and a
16 mental health professional as defined in this chapter, and shall
17 receive such treatment and care as his or her condition requires
18 including treatment on an outpatient basis for the period that he or
19 she is detained, except that, beginning twenty-four hours prior to a
20 court proceeding, the individual may refuse all but emergency life-
21 saving treatment, and the individual shall be informed at an
22 appropriate time of his or her right to such refusal of treatment.
23 Such person shall be detained up to seventy-two hours, if, in the
24 opinion of the professional person in charge of the facility, or his or
25 her professional designee, the person presents a likelihood of serious
26 harm ~~((to himself or herself or others))~~, or is gravely disabled. A
27 person who has been detained for seventy-two hours shall no later than
28 the end of such period be released, unless referred for further care on
29 a voluntary basis, or detained pursuant to court order for further
30 treatment as provided in this chapter.

31 If, after examination and evaluation, the licensed physician and
32 mental health professional determine that the initial needs of the
33 person would be better served by placement in a chemical dependency
34 treatment facility, then the person shall be referred to an approved
35 treatment program defined under RCW 70.96A.020.

36 An evaluation and treatment center admitting any person pursuant to
37 this chapter whose physical condition reveals the need for
38 hospitalization shall assure that such person is transferred to an

1 appropriate hospital for treatment. Notice of such fact shall be given
2 to the court, the designated attorney, and the designated county mental
3 health professional and the court shall order such continuance in
4 proceedings under this chapter as may be necessary, but in no event may
5 this continuance be more than fourteen days.

6 **Sec. 16.** RCW 71.05.215 and 1991 c 105 s 1 are each amended to read
7 as follows:

8 (1) A person found to be gravely disabled or presents a likelihood
9 of serious harm as a result of a mental disorder has a right to refuse
10 antipsychotic medication unless it is determined that the failure to
11 medicate may result in a likelihood of serious harm or substantial
12 deterioration or substantially prolong the length of involuntary
13 commitment and there is no less intrusive course of treatment than
14 medication in the best interest of that person.

15 (2) The department shall adopt rules to carry out the purposes of
16 this chapter. These rules shall include:

17 (a) An attempt to obtain the informed consent of the person prior
18 to administration of antipsychotic medication.

19 (b) For short-term treatment up to thirty days, the right to refuse
20 antipsychotic medications unless there is an additional concurring
21 medical opinion approving medication.

22 (c) For continued treatment beyond thirty days through the hearing
23 on any petition filed under RCW 71.05.370(7), the right to periodic
24 review of the decision to medicate by the medical director or designee.

25 (d) Administration of antipsychotic medication in an emergency and
26 review of this decision within twenty-four hours. An emergency exists
27 if the person presents an imminent likelihood of serious harm (~~to self~~
28 ~~or others~~), and medically acceptable alternatives to administration of
29 antipsychotic medications are not available or are unlikely to be
30 successful; and in the opinion of the physician, the person's condition
31 constitutes an emergency requiring the treatment be instituted prior to
32 obtaining a second medical opinion.

33 (e) Documentation in the medical record of the physician's attempt
34 to obtain informed consent and the reasons why antipsychotic medication
35 is being administered over the person's objection or lack of consent.

36 **Sec. 17.** RCW 71.05.220 and 1973 1st ex.s. c 142 s 27 are each
37 amended to read as follows:

1 At the time a person is involuntarily admitted to an evaluation and
2 treatment facility, the professional person in charge or his or her
3 designee shall take reasonable precautions to inventory and safeguard
4 the personal property of the person detained. A copy of the inventory,
5 signed by the staff member making it, shall be given to the person
6 detained and shall, in addition, be open to inspection to any
7 responsible relative, subject to limitations, if any, specifically
8 imposed by the detained person. For purposes of this section,
9 "responsible relative" includes the guardian, conservator, attorney,
10 spouse, parent, adult child, or adult brother or sister of the person.
11 The facility shall not disclose the contents of the inventory to any
12 other person without the consent of the patient or order of the court.

13 **Sec. 18.** RCW 71.05.230 and 1987 c 439 s 3 are each amended to read
14 as follows:

15 A person detained for seventy-two hour evaluation and treatment may
16 be detained for not more than fourteen additional days of involuntary
17 intensive treatment or ninety additional days of a less restrictive
18 alternative to involuntary intensive treatment if the following
19 conditions are met:

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

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

29 (3) The facility providing intensive treatment is certified to
30 provide such treatment by the department (~~of social and health~~
31 ~~services~~); and

32 (4) The professional staff of the agency or facility or the mental
33 health professional designated by the county has filed a petition for
34 fourteen day involuntary detention or a ninety day less restrictive
35 alternative with the court. The petition must be signed either by two
36 physicians or by one physician and a mental health professional who
37 have examined the person. If involuntary detention is sought the
38 petition shall state facts that support the finding that such person,

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

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

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

19 (7) The court has ordered a fourteen day involuntary intensive
20 treatment or a ninety day less restrictive alternative treatment after
21 a probable cause hearing has been held pursuant to RCW 71.05.240; and

22 (8) At the conclusion of the initial commitment period, the
23 professional staff of the agency or facility or the mental health
24 professional designated by the county may petition for an additional
25 period of either ninety days of less restrictive alternative treatment
26 or ninety days of involuntary intensive treatment as provided in RCW
27 71.05.290; and

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

32 **Sec. 19.** RCW 71.05.240 and 1992 c 168 s 3 are each amended to read
33 as follows:

34 If a petition is filed for fourteen day involuntary treatment or
35 ninety days of less restrictive alternative treatment, the court shall
36 hold a probable cause hearing within seventy-two hours of the initial
37 detention of such person as determined in RCW 71.05.180(~~(, as now or~~
38 ~~hereafter amended)~~). If requested by the detained person or his or her

1 attorney, the hearing may be postponed for a period not to exceed
2 forty-eight hours. The hearing may also be continued subject to the
3 conditions set forth in RCW 71.05.210 or subject to the petitioner's
4 showing of good cause for a period not to exceed twenty-four hours.

5 At the conclusion of the probable cause hearing, if the court finds
6 by a preponderance of the evidence that such person, as the result of
7 mental disorder, presents a likelihood of serious harm (~~((to others or
8 himself or herself))~~), or is gravely disabled, and, after considering
9 less restrictive alternatives to involuntary detention and treatment,
10 finds that no such alternatives are in the best interests of such
11 person or others, the court shall order that such person be detained
12 for involuntary treatment not to exceed fourteen days in a facility
13 certified to provide treatment by the department (~~((of social and health
14 services))~~). If the court finds that such person, as the result of a
15 mental disorder, presents a likelihood of serious harm (~~((to others or
16 himself or herself))~~), or is gravely disabled, but that treatment in a
17 less restrictive setting than detention is in the best interest of such
18 person or others, the court shall order an appropriate less restrictive
19 course of treatment for not to exceed ninety days.

20 The court shall specifically state to such person and give such
21 person notice in writing that if involuntary treatment beyond the
22 fourteen day period or beyond the ninety days of less restrictive
23 treatment is to be sought, such person will have the right to a full
24 hearing or jury trial as required by RCW 71.05.310. The court shall
25 also provide written notice that the person is barred from the
26 possession of firearms.

27 **Sec. 20.** RCW 71.05.260 and 1987 c 439 s 7 are each amended to read
28 as follows:

29 (1) Involuntary intensive treatment ordered at the time of the
30 probable cause hearing shall be for no more than fourteen days, and
31 shall terminate sooner when, in the opinion of the professional person
32 in charge of the facility or his or her professional designee, (a) the
33 person no longer constitutes a likelihood of serious harm (~~((to himself
34 or herself or others))~~), or (b) no longer is gravely disabled, or (c) is
35 prepared to accept voluntary treatment upon referral, or (d) is to
36 remain in the facility providing intensive treatment on a voluntary
37 basis.

1 (2) A person who has been detained for fourteen days of intensive
2 treatment shall be released at the end of the fourteen days unless one
3 of the following applies: (a) Such person agrees to receive further
4 treatment on a voluntary basis; or (b) such person is a patient to whom
5 RCW 71.05.280 is applicable.

6 **Sec. 21.** RCW 71.05.270 and 1973 1st ex.s. c 142 s 32 are each
7 amended to read as follows:

8 Nothing in this chapter shall prohibit the professional person in
9 charge of a treatment facility, or his or her professional designee,
10 from permitting a person detained for intensive treatment to leave the
11 facility for prescribed periods during the term of the person's
12 detention, under such conditions as may be appropriate.

13 **Sec. 22.** RCW 71.05.280 and 1986 c 67 s 3 are each amended to read
14 as follows:

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

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

29 (3) Such person has been determined to be incompetent and criminal
30 charges have been dismissed pursuant to RCW 10.77.090(3), (~~(as now or~~
31 ~~hereafter amended,~~) and has committed acts constituting a felony, and
32 as a result of a mental disorder, presents a substantial likelihood of
33 repeating similar acts. In any proceeding pursuant to this subsection
34 it shall not be necessary to show intent, wilfulness, or state of mind
35 as an element of the felony; or

36 (4) Such person is gravely disabled.

1 (~~For the purposes of this chapter "custody" shall mean involuntary~~
2 ~~detention under the provisions of this chapter or chapter 10.77 RCW,~~
3 ~~uninterrupted by any period of unconditional release from a facility~~
4 ~~providing involuntary care and treatment.))~~

5 NEW SECTION. **Sec. 23.** A new section is added to chapter 71.05 RCW
6 to read as follows:

7 For the purposes of continued less restrictive alternative
8 commitment under the process provided in RCW 71.05.280 and
9 71.05.320(2), in determining whether or not the person is gravely
10 disabled, great weight shall be given to evidence of a prior history or
11 pattern of decompensation and discontinuation of treatment resulting
12 in: (1) Repeated hospitalizations; or (2) repeated peace officer
13 interventions resulting in juvenile offenses, criminal charges,
14 diversion programs, or jail admissions. Such evidence may be used to
15 provide a factual basis for concluding that the individual would not
16 receive, if released, such care as is essential for his or her health
17 or safety.

18 **Sec. 24.** RCW 71.05.290 and 1986 c 67 s 4 are each amended to read
19 as follows:

20 (1) At any time during a person's fourteen day intensive treatment
21 period, the professional person in charge of a treatment facility or
22 his or her professional designee or the designated county mental health
23 professional may petition the superior court for an order requiring
24 such person to undergo an additional period of treatment. Such
25 petition must be based on one or more of the grounds set forth in RCW
26 71.05.280.

27 (2) The petition shall summarize the facts which support the need
28 for further confinement and shall be supported by affidavits signed by
29 two examining physicians, or by one examining physician and examining
30 mental health professional. The affidavits shall describe in detail
31 the behavior of the detained person which supports the petition and
32 shall explain what, if any, less restrictive treatments which are
33 alternatives to detention are available to such person, and shall state
34 the willingness of the affiant to testify to such facts in subsequent
35 judicial proceedings under this chapter.

36 (3) If a person has been determined to be incompetent pursuant to
37 RCW 10.77.090(3) (~~as now existing or hereafter amended~~), then the

1 professional person in charge of the treatment facility or his or her
2 professional designee or the county designated mental health
3 professional may directly file a petition for one hundred eighty day
4 treatment under RCW 71.05.280(3). No petition for initial detention or
5 fourteen day detention is required before such a petition may be filed.

6 **Sec. 25.** RCW 71.05.300 and 1989 c 420 s 14 are each amended to
7 read as follows:

8 The petition for ninety day treatment shall be filed with the clerk
9 of the superior court at least three days before expiration of the
10 fourteen-day period of intensive treatment. At the time of filing such
11 petition, the clerk shall set a time for the person to come before the
12 court on the next judicial day after the day of filing unless such
13 appearance is waived by the person's attorney, and the clerk shall
14 notify the designated county mental health professional. The
15 designated county mental health professional shall immediately notify
16 the person detained, his or her attorney, if any, and his or her
17 guardian or conservator, if any, and the prosecuting attorney, and
18 provide a copy of the petition to such persons as soon as possible.

19 At the time set for appearance the detained person shall be brought
20 before the court, unless such appearance has been waived and the court
21 shall advise him or her of his or her right to be represented by an
22 attorney and of his or her right to a jury trial. If the detained
23 person is not represented by an attorney, or is indigent or is
24 unwilling to retain an attorney, the court shall immediately appoint an
25 attorney to represent him or her. The court shall, if requested,
26 appoint a reasonably available licensed physician, psychologist, or
27 psychiatrist, designated by the detained person to examine and testify
28 on behalf of the detained person.

29 The court may, if requested, also appoint a professional person as
30 defined in RCW 71.05.020(~~(12)~~) to seek less restrictive alternative
31 courses of treatment and to testify on behalf of the detained person.
32 In the case of a developmentally disabled person who has been
33 determined to be incompetent pursuant to RCW 10.77.090(3), then the
34 appointed professional person under this section shall be a
35 developmental disabilities professional.

36 The court shall also set a date for a full hearing on the petition
37 as provided in RCW 71.05.310.

1 **Sec. 26.** RCW 71.05.320 and 1989 c 420 s 15 are each amended to
2 read as follows:

3 (1) If the court or jury finds that grounds set forth in RCW
4 71.05.280 have been proven and that the best interests of the person or
5 others will not be served by a less restrictive treatment which is an
6 alternative to detention, the court shall remand him or her to the
7 custody of the department (~~((of social and health services))~~) or to a
8 facility certified for ninety day treatment by the department (~~((of~~
9 ~~social and health services))~~) for a further period of intensive
10 treatment not to exceed ninety days from the date of judgment:
11 PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the
12 basis of commitment, then the period of treatment may be up to but not
13 exceed one hundred eighty days from the date of judgment in a facility
14 certified for one hundred eighty day treatment by the department. If
15 the committed person is developmentally disabled and has been
16 determined incompetent pursuant to RCW 10.77.090(3), and the best
17 interests of the person or others will not be served by a less-
18 restrictive treatment which is an alternative to detention, the court
19 shall remand him or her to the custody of the department (~~((of social~~
20 ~~and health services))~~) or to a facility certified for one hundred
21 eighty-day treatment by the department. When appropriate and subject
22 to available funds, treatment and training of such persons must be
23 provided in a program specifically reserved for the treatment and
24 training of developmentally disabled persons. A person so committed
25 shall receive habilitation services pursuant to an individualized
26 service plan specifically developed to treat the behavior which was the
27 subject of the criminal proceedings. (~~((Said))~~) The treatment program
28 shall be administered by developmental disabilities professionals and
29 others trained specifically in the needs of developmentally disabled
30 persons. The department may limit admissions to this specialized
31 program in order to ensure that expenditures for services do not exceed
32 amounts appropriated by the legislature and allocated by the department
33 for such services. The department may establish admission priorities
34 in the event that the number of eligible persons exceeds the limits set
35 by the department. An order for treatment less restrictive than
36 involuntary detention may include conditions, and if such conditions
37 are not adhered to, the designated mental health professional or
38 developmental disabilities professional may order the person

1 apprehended under the terms and conditions of RCW 71.05.340 (~~as now or~~
2 ~~hereafter amended~~)).

3 If the court or jury finds that grounds set forth in RCW 71.05.280
4 have been proven, but finds that treatment less restrictive than
5 detention will be in the best interest of the person or others, then
6 the court shall remand him or her to the custody of the department (~~of~~
7 ~~social and health services~~) or to a facility certified for ninety day
8 treatment by the department (~~of social and health services~~) or to a
9 less restrictive alternative for a further period of less restrictive
10 treatment not to exceed ninety days from the date of judgment:
11 PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the
12 basis of commitment, then the period of treatment may be up to but not
13 exceed one hundred eighty days from the date of judgment.

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

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

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

31 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of
32 mental disorder or developmental disability presents a substantial
33 likelihood of repeating similar acts considering the charged criminal
34 behavior, life history, progress in treatment, and the public safety;
35 or

36 (d) Continues to be gravely disabled.

37 If the conduct required to be proven in (~~subsections~~) (b) and (c)
38 of this (~~section~~) subsection was found by a judge or jury in a prior
39 trial under this chapter, it shall not be necessary to reprove that

1 element. Such new petition for involuntary treatment shall be filed
2 and heard in the superior court of the county of the facility which is
3 filing the new petition for involuntary treatment unless good cause is
4 shown for a change of venue. The cost of the proceedings shall be
5 borne by the state.

6 The hearing shall be held as provided in RCW 71.05.310, and if the
7 court or jury finds that the grounds for additional confinement as set
8 forth in this subsection are present, the court may order the committed
9 person returned for an additional period of treatment not to exceed one
10 hundred eighty days from the date of judgment. At the end of the one
11 hundred eighty day period of commitment, the committed person shall be
12 released unless a petition for another one hundred eighty day period of
13 continued treatment is filed and heard in the same manner as provided
14 (~~herein above~~) in this subsection. Successive one hundred eighty day
15 commitments are permissible on the same grounds and pursuant to the
16 same procedures as the original one hundred eighty day commitment.

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

20 **Sec. 27.** RCW 71.05.330 and 1986 c 67 s 1 are each amended to read
21 as follows:

22 (1) Nothing in this chapter shall prohibit the superintendent or
23 professional person in charge of the hospital or facility in which the
24 person is being involuntarily treated from releasing him or her prior
25 to the expiration of the commitment period when, in the opinion of the
26 superintendent or professional person in charge, the person being
27 involuntarily treated no longer presents a likelihood of serious harm
28 (~~to others~~).

29 Whenever the superintendent or professional person in charge of a
30 hospital or facility providing involuntary treatment pursuant to this
31 chapter releases a person prior to the expiration of the period of
32 commitment, the superintendent or professional person in charge shall
33 in writing notify the court which committed the person for treatment.

34 (2) Before a person committed under grounds set forth in RCW
35 71.05.280(3) or 71.05.320(2)(c) is released under this section, the
36 superintendent or professional person in charge shall in writing notify
37 the prosecuting attorney of the county in which the criminal charges
38 against the committed person were dismissed, of the release date.

1 Notice shall be provided at least thirty days before the release date.
2 Within twenty days after receiving notice, the prosecuting attorney may
3 petition the court in the county in which the person is being
4 involuntarily treated for a hearing to determine whether the person is
5 to be released. The prosecuting attorney shall provide a copy of the
6 petition to the superintendent or professional person in charge of the
7 hospital or facility providing involuntary treatment, the attorney, if
8 any, and the guardian or conservator of the committed person. The
9 court shall conduct a hearing on the petition within ten days of filing
10 the petition. The committed person shall have the same rights with
11 respect to notice, hearing, and counsel as for an involuntary treatment
12 proceeding, except as set forth in this subsection and except that
13 there shall be no right to jury trial. The issue to be determined at
14 the hearing is whether or not the person may be released without
15 substantial danger to other persons, or substantial likelihood of
16 committing felonious acts jeopardizing public safety or security. If
17 the court disapproves of the release, it may do so only on the basis of
18 substantial evidence. Pursuant to the determination of the court upon
19 the hearing, the committed person shall be released or shall be
20 returned for involuntary treatment subject to release at the end of the
21 period for which he or she was committed, or otherwise in accordance
22 with the provisions of this chapter.

23 **Sec. 28.** RCW 71.05.340 and 1987 c 439 s 10 are each amended to
24 read as follows:

25 (1)(a) When, in the opinion of the superintendent or the
26 professional person in charge of the hospital or facility providing
27 involuntary treatment, the committed person can be appropriately served
28 by outpatient treatment prior to or at the expiration of the period of
29 commitment, then such outpatient care may be required as a condition
30 for early release for a period which, when added to the inpatient
31 treatment period, shall not exceed the period of commitment. If the
32 hospital or facility designated to provide outpatient treatment is
33 other than the facility providing involuntary treatment, the outpatient
34 facility so designated must agree in writing to assume such
35 responsibility. A copy of the conditions for early release shall be
36 given to the patient, the designated county mental health professional
37 in the county in which the patient is to receive outpatient treatment,
38 and to the court of original commitment.

1 (b) Before a person committed under grounds set forth in RCW
2 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of
3 this subsection, the superintendent or professional person in charge of
4 the hospital or facility providing involuntary treatment shall in
5 writing notify the prosecuting attorney of the county in which the
6 criminal charges against the committed person were dismissed, of the
7 decision to conditionally release the person. Notice and a copy of the
8 conditions for early release shall be provided at least thirty days
9 before the person is released from inpatient care. Within twenty days
10 after receiving notice, the prosecuting attorney may petition the court
11 in the county that issued the commitment order to hold a hearing to
12 determine whether the person may be conditionally released and the
13 terms of the conditional release. The prosecuting attorney shall
14 provide a copy of the petition to the superintendent or professional
15 person in charge of the hospital or facility providing involuntary
16 treatment, the attorney, if any, and guardian or conservator of the
17 committed person, and the court of original commitment. If the county
18 in which the committed person is to receive outpatient treatment is the
19 same county in which the criminal charges against the committed person
20 were dismissed, then the court shall, upon the motion of the
21 prosecuting attorney, transfer the proceeding to the court in that
22 county. The court shall conduct a hearing on the petition within ten
23 days of the filing of the petition. The committed person shall have
24 the same rights with respect to notice, hearing, and counsel as for an
25 involuntary treatment proceeding, except as set forth in this
26 subsection and except that there shall be no right to jury trial. The
27 issue to be determined at the hearing is whether or not the person may
28 be conditionally released without substantial danger to other persons,
29 or substantial likelihood of committing felonious acts jeopardizing
30 public safety or security. If the court disapproves of the conditional
31 release, it may do so only on the basis of substantial evidence.
32 Pursuant to the determination of the court upon the hearing, the
33 conditional release of the person shall be approved by the court on the
34 same or modified conditions or the person shall be returned for
35 involuntary treatment on an inpatient basis subject to release at the
36 end of the period for which he or she was committed, or otherwise in
37 accordance with the provisions of this chapter.

38 (2) The hospital or facility designated to provide outpatient care
39 or the secretary may modify the conditions for continued release when

1 such modification is in the best interest of the person. Notification
2 of such changes shall be sent to all persons receiving a copy of the
3 original conditions.

4 (3)(a) If the hospital or facility designated to provide outpatient
5 care, the designated county mental health professional, or the
6 secretary determines that a conditionally released person is failing to
7 adhere to the terms and conditions of his or her release, (~~or~~) that
8 substantial deterioration in the person's functioning has occurred,
9 there is evidence of substantial decompensation with a high probability
10 that the decompensation can be reversed by further inpatient treatment,
11 or there is a likelihood of serious harm, then, upon notification by
12 the hospital or facility designated to provide outpatient care, or on
13 his or her own motion, the designated county mental health professional
14 or the secretary may order that the conditionally released person be
15 apprehended and taken into custody and temporarily detained in an
16 evaluation and treatment facility in or near the county in which he or
17 she is receiving outpatient treatment. The person shall be detained
18 until such time, not exceeding five days, as a hearing can be scheduled
19 to determine whether or not the person should be returned to the
20 hospital or facility from which he or she had been conditionally
21 released. The designated county mental health professional or the
22 secretary may modify or rescind such order at any time prior to
23 commencement of the court hearing.

24 (b) The court that originally ordered commitment shall be notified
25 within two judicial days of a person's detention under the provisions
26 of this section, and the designated county mental health professional
27 or the secretary shall file his or her petition and order of
28 apprehension and detention with the court and serve them upon the
29 person detained. His or her attorney, if any, and his or her guardian
30 or conservator, if any, shall receive a copy of such papers as soon as
31 possible. Such person shall have the same rights with respect to
32 notice, hearing, and counsel as for an involuntary treatment
33 proceeding, except as specifically set forth in this section and except
34 that there shall be no right to jury trial. The issues to be
35 determined shall be: (i) Whether the conditionally released person did
36 or did not adhere to the terms and conditions of his or her release
37 (~~or~~); (ii) that substantial deterioration in the person's functioning
38 has occurred; (iii) there is evidence of substantial decompensation
39 with a high probability that the decompensation can be reversed by

1 further inpatient treatment; or (iv) there is a likelihood of serious
2 harm; and, if ((he or she failed to adhere to such terms and
3 conditions, or that substantial deterioration in the person's
4 functioning has)) any of the conditions listed in this subsection
5 (3)(b) have occurred, whether the conditions of release should be
6 modified or the person should be returned to the facility.

7 (c) Pursuant to the determination of the court upon such hearing,
8 the conditionally released person shall either continue to be
9 conditionally released on the same or modified conditions or shall be
10 returned for involuntary treatment on an inpatient basis subject to
11 release at the end of the period for which he or she was committed for
12 involuntary treatment, or otherwise in accordance with the provisions
13 of this chapter. Such hearing may be waived by the person and his or
14 her counsel and his or her guardian or conservator, if any, but shall
15 not be waivable unless all such persons agree to waive, and upon such
16 waiver the person may be returned for involuntary treatment or
17 continued on conditional release on the same or modified conditions.

18 (4) The proceedings set forth in subsection (3) of this section may
19 be initiated by the designated county mental health professional or the
20 secretary on the same basis set forth therein without requiring or
21 ordering the apprehension and detention of the conditionally released
22 person, in which case the court hearing shall take place in not less
23 than five days from the date of service of the petition upon the
24 conditionally released person.

25 Upon expiration of the period of commitment, or when the person is
26 released from outpatient care, notice in writing to the court which
27 committed the person for treatment shall be provided.

28 (5) The grounds and procedures for revocation of less restrictive
29 alternative treatment shall be the same as those set forth in this
30 section for conditional releases.

31 (6) In the event of a revocation of a conditional release, the
32 subsequent treatment period may be for no longer than the actual period
33 authorized in the original court order.

34 **Sec. 29.** RCW 71.05.350 and 1973 1st ex.s. c 142 s 40 are each
35 amended to read as follows:

36 No indigent patient shall be conditionally released or discharged
37 from involuntary treatment without suitable clothing, and the
38 superintendent of a state hospital shall furnish the same, together

1 with such sum of money as he (~~shall~~) or she deems necessary for the
2 immediate welfare of the patient. Such sum of money shall be the same
3 as the amount required by RCW 72.02.100 to be provided to persons in
4 need being released from correctional institutions. As funds are
5 available, the secretary may provide payment to indigent persons
6 conditionally released pursuant to this chapter consistent with the
7 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules
8 and regulations to do so.

9 **Sec. 30.** RCW 71.05.360 and 1974 ex.s. c 145 s 25 are each amended
10 to read as follows:

11 (1) Every person involuntarily detained or committed under the
12 provisions of this chapter shall be entitled to all the rights set
13 forth in this chapter and shall retain all rights not denied him or her
14 under this chapter.

15 (2) Each person involuntarily detained or committed pursuant to
16 this chapter shall have the right to adequate care and individualized
17 treatment.

18 **Sec. 31.** RCW 71.05.370 and 1991 c 105 s 5 are each amended to read
19 as follows:

20 Insofar as danger to the individual or others is not created, each
21 person involuntarily detained, treated in a less restrictive
22 alternative course of treatment, or committed for treatment and
23 evaluation pursuant to this chapter shall have, in addition to other
24 rights not specifically withheld by law, the following rights, a list
25 of which shall be prominently posted in all facilities, institutions,
26 and hospitals providing such services:

27 (1) To wear his or her own clothes and to keep and use his or her
28 own personal possessions, except when deprivation of same is essential
29 to protect the safety of the resident or other persons;

30 (2) To keep and be allowed to spend a reasonable sum of his or her
31 own money for canteen expenses and small purchases;

32 (3) To have access to individual storage space for his or her
33 private use;

34 (4) To have visitors at reasonable times;

35 (5) To have reasonable access to a telephone, both to make and
36 receive confidential calls;

1 (6) To have ready access to letter writing materials, including
2 stamps, and to send and receive uncensored correspondence through the
3 mails;

4 (7) Not to consent to the administration of antipsychotic
5 medications beyond the hearing conducted pursuant to RCW 71.05.320(2)
6 or the performance of electroconvulsant therapy or surgery, except
7 emergency life-saving surgery, unless ordered by a court of competent
8 jurisdiction pursuant to the following standards and procedures:

9 (a) The administration of antipsychotic medication or
10 electroconvulsant therapy shall not be ordered unless the petitioning
11 party proves by clear, cogent, and convincing evidence that there
12 exists a compelling state interest that justifies overriding the
13 patient's lack of consent to the administration of antipsychotic
14 medications or electroconvulsant therapy, that the proposed treatment
15 is necessary and effective, and that medically acceptable alternative
16 forms of treatment are not available, have not been successful, or are
17 not likely to be effective.

18 (b) The court shall make specific findings of fact concerning: (i)
19 The existence of one or more compelling state interests; (ii) the
20 necessity and effectiveness of the treatment; and (iii) the person's
21 desires regarding the proposed treatment. If the patient is unable to
22 make a rational and informed decision about consenting to or refusing
23 the proposed treatment, the court shall make a substituted judgment for
24 the patient as if he or she were competent to make such a
25 determination.

26 (c) The person shall be present at any hearing on a request to
27 administer antipsychotic medication or electroconvulsant therapy filed
28 pursuant to this subsection. The person has the right: (i) To be
29 represented by an attorney; (ii) to present evidence; (iii) to cross-
30 examine witnesses; (iv) to have the rules of evidence enforced; (v) to
31 remain silent; (vi) to view and copy all petitions and reports in the
32 court file; and (vii) to be given reasonable notice and an opportunity
33 to prepare for the hearing. The court may appoint a psychiatrist,
34 psychologist within their scope of practice, or physician to examine
35 and testify on behalf of such person. The court shall appoint a
36 psychiatrist, psychologist within their scope of practice, or physician
37 designated by such person or the person's counsel to testify on behalf
38 of the person in cases where an order for electroconvulsant therapy is
39 sought.

1 (d) An order for the administration of antipsychotic medications
2 entered following a hearing conducted pursuant to this section shall be
3 effective for the period of the current involuntary treatment order,
4 and any interim period during which the person is awaiting trial or
5 hearing on a new petition for involuntary treatment or involuntary
6 medication.

7 (e) Any person detained pursuant to RCW 71.05.320(2), who
8 subsequently refuses antipsychotic medication, shall be entitled to the
9 procedures set forth in RCW 71.05.370(7).

10 (f) Antipsychotic medication may be administered to a nonconsenting
11 person detained or committed pursuant to this chapter without a court
12 order pursuant to RCW 71.05.215(2) or under the following
13 circumstances:

14 (i) A person presents an imminent likelihood of serious harm ((~~to~~
15 ~~self or others~~));

16 (ii) Medically acceptable alternatives to administration of
17 antipsychotic medications are not available, have not been successful,
18 or are not likely to be effective; and

19 (iii) In the opinion of the physician with responsibility for
20 treatment of the person, or his or her designee, the person's condition
21 constitutes an emergency requiring the treatment be instituted before
22 a judicial hearing as authorized pursuant to this section can be held.

23 If antipsychotic medications are administered over a person's lack
24 of consent pursuant to this subsection, a petition for an order
25 authorizing the administration of antipsychotic medications shall be
26 filed on the next judicial day. The hearing shall be held within two
27 judicial days. If deemed necessary by the physician with
28 responsibility for the treatment of the person, administration of
29 antipsychotic medications may continue until the hearing is held;

30 (8) To dispose of property and sign contracts unless such person
31 has been adjudicated an incompetent in a court proceeding directed to
32 that particular issue;

33 (9) Not to have psychosurgery performed on him or her under any
34 circumstances.

35 **Sec. 32.** RCW 71.05.410 and 1973 2nd ex.s. c 24 s 7 are each
36 amended to read as follows:

37 When a patient would otherwise be subject to the provisions of RCW
38 71.05.390 and disclosure is necessary for the protection of the patient

1 or others due to his or her unauthorized disappearance from the
2 facility, and his or her whereabouts is unknown, notice of such
3 disappearance, along with relevant information, may be made to
4 relatives and governmental law enforcement agencies designated by the
5 physician in charge of the patient or the professional person in charge
6 of the facility, or his or her professional designee.

7 **Sec. 33.** RCW 71.05.460 and 1973 1st ex.s. c 142 s 51 are each
8 amended to read as follows:

9 Every person involuntarily detained shall immediately be informed
10 of his or her right to a hearing to review the legality of his or her
11 detention and of his or her right to counsel, by the professional
12 person in charge of the facility providing evaluation and treatment, or
13 his or her designee, and, when appropriate, by the court. If the
14 person so elects, the court shall immediately appoint an attorney to
15 assist him or her.

16 **Sec. 34.** RCW 71.05.470 and 1973 1st ex.s. c 142 s 52 are each
17 amended to read as follows:

18 A person challenging his or her detention or his or her attorney,
19 shall have the right to designate and have the court appoint a
20 reasonably available independent physician or licensed mental health
21 professional to examine the person detained, the results of which
22 examination may be used in the proceeding. The person shall, if he or
23 she is financially able, bear the cost of such expert information,
24 otherwise such expert examination shall be at public expense.

25 **Sec. 35.** RCW 71.05.490 and 1973 1st ex.s. c 142 s 54 are each
26 amended to read as follows:

27 Nothing in this chapter shall prohibit a person committed on or
28 prior to January 1, 1974, from exercising a right available to him or
29 her at or prior to January 1, 1974, for obtaining release from
30 confinement.

31 **Sec. 36.** RCW 71.05.525 and 1975 1st ex.s. c 199 s 12 are each
32 amended to read as follows:

33 When, in the judgment of the department (~~of social and health~~
34 ~~services)), the welfare of any person committed to or confined in any~~
35 state juvenile correctional institution or facility necessitates that

1 such a person be transferred or moved for observation, diagnosis or
2 treatment to any state institution or facility for the care of mentally
3 ill juveniles the secretary, or his or her designee, is authorized to
4 order and effect such move or transfer: PROVIDED, HOWEVER, That the
5 secretary shall adopt and implement procedures to assure that persons
6 so transferred shall, while detained or confined in such institution or
7 facility for the care of mentally ill juveniles, be provided with
8 substantially similar opportunities for parole or early release
9 evaluation and determination as persons detained or confined in state
10 juvenile correctional institutions or facilities: PROVIDED, FURTHER,
11 That the secretary shall notify the original committing court of such
12 transfer.

13 **Sec. 37.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to
14 read as follows:

15 As used in this chapter:

16 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
17 upon any penetration, however slight, and

18 (b) Also means any penetration of the vagina or anus however
19 slight, by an object, when committed on one person by another, whether
20 such persons are of the same or opposite sex, except when such
21 penetration is accomplished for medically recognized treatment or
22 diagnostic purposes, and

23 (c) Also means any act of sexual contact between persons involving
24 the sex organs of one person and the mouth or anus of another whether
25 such persons are of the same or opposite sex.

26 (2) "Sexual contact" means any touching of the sexual or other
27 intimate parts of a person done for the purpose of gratifying sexual
28 desire of either party or a third party.

29 (3) "Married" means one who is legally married to another, but does
30 not include a person who is living separate and apart from his or her
31 spouse and who has filed in an appropriate court for legal separation
32 or for dissolution of his or her marriage.

33 (4) "Mental incapacity" is that condition existing at the time of
34 the offense which prevents a person from understanding the nature or
35 consequences of the act of sexual intercourse whether that condition is
36 produced by illness, defect, the influence of a substance or from some
37 other cause.

1 (5) "Physically helpless" means a person who is unconscious or for
2 any other reason is physically unable to communicate unwillingness to
3 an act.

4 (6) "Forcible compulsion" means physical force which overcomes
5 resistance, or a threat, express or implied, that places a person in
6 fear of death or physical injury to herself or himself or another
7 person, or in fear that she or he or another person will be kidnapped.

8 (7) "Consent" means that at the time of the act of sexual
9 intercourse or sexual contact there are actual words or conduct
10 indicating freely given agreement to have sexual intercourse or sexual
11 contact.

12 (8) "Significant relationship" means a situation in which the
13 perpetrator is:

14 (a) A person who undertakes the responsibility, professionally or
15 voluntarily, to provide education, health, welfare, or organized
16 recreational activities principally for minors; or

17 (b) A person who in the course of his or her employment supervises
18 minors.

19 (9) "Abuse of a supervisory position" means a direct or indirect
20 threat or promise to use authority to the detriment or benefit of a
21 minor.

22 (10) "Developmentally disabled," for purposes of RCW
23 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
24 developmental disability as defined in RCW 71A.10.020.

25 (11) "Person with supervisory authority," for purposes of RCW
26 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
27 proprietor or employee of any public or private care or treatment
28 facility who directly supervises developmentally disabled, mentally
29 disordered, or chemically dependent persons at the facility.

30 (12) "Mentally disordered person" for the purposes of RCW
31 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
32 disorder" as defined in RCW 71.05.020((+2)).

33 (13) "Chemically dependent person" for purposes of RCW
34 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
35 dependent" as defined in RCW 70.96A.020(4).

36 (14) "Health care provider" for purposes of RCW 9A.44.050 and
37 9A.44.100 means a person who is, holds himself or herself out to be, or
38 provides services as if he or she were: (a) A member of a health care
39 profession under chapter 18.130 RCW; or (b) registered or certified

1 under chapter 18.19 RCW, regardless of whether the health care provider
2 is licensed, certified, or registered by the state.

3 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means
4 the active delivery of professional services by a health care provider
5 which the health care provider holds himself or herself out to be
6 qualified to provide.

7 **Sec. 38.** RCW 71.24.025 and 1995 c 96 s 4 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Acutely mentally ill" means a condition which is limited to a
12 short-term severe crisis episode of:

13 (a) A mental disorder as defined in RCW 71.05.020(~~((+2))~~) or, in the
14 case of a child, as defined in RCW 71.34.020(~~((+12))~~);

15 (b) Being gravely disabled as defined in RCW 71.05.020(~~((+1))~~) or,
16 in the case of a child, a gravely disabled minor as defined in RCW
17 71.34.020(~~((+8))~~); or

18 (c) Presenting a likelihood of serious harm as defined in RCW
19 71.05.020(~~((+3))~~) or, in the case of a child, as defined in RCW
20 71.34.020(~~((+11))~~).

21 (2) "Available resources" means those funds which shall be
22 appropriated under this chapter by the legislature during any biennium
23 for the purpose of providing community mental health programs under RCW
24 71.24.045. When regional support networks are established or after
25 July 1, 1995, "available resources" means federal funds, except those
26 provided according to Title XIX of the Social Security Act, and state
27 funds appropriated under this chapter or chapter 71.05 RCW by the
28 legislature during any biennium for the purpose of providing
29 residential services, resource management services, community support
30 services, and other mental health services. This does not include
31 funds appropriated for the purpose of operating and administering the
32 state psychiatric hospitals, except as negotiated according to RCW
33 71.24.300(1)(d).

34 (3) "Licensed service provider" means an entity licensed according
35 to this chapter or chapter 71.05 RCW that meets state minimum standards
36 or individuals licensed under chapter 18.57, 18.71, 18.83, or 18.79
37 RCW, as it applies to registered nurses and advanced registered nurse
38 practitioners.

1 (4) "Child" means a person under the age of eighteen years.

2 (5) "Chronically mentally ill adult" means an adult who has a
3 mental disorder and meets at least one of the following criteria:
4 (a) Has undergone two or more episodes of hospital care for a
5 mental disorder within the preceding two years; or
6 (b) Has experienced a continuous psychiatric hospitalization or
7 residential treatment exceeding six months' duration within the
8 preceding year; or
9 (c) Has been unable to engage in any substantial gainful activity
10 by reason of any mental disorder which has lasted for a continuous
11 period of not less than twelve months. "Substantial gainful activity"
12 shall be defined by the department by rule consistent with Public Law
13 92-603, as amended.

14 (6) "Severely emotionally disturbed child" means an infant or child
15 who has been determined by the regional support network to be
16 experiencing a mental disorder as defined in chapter 71.34 RCW,
17 including those mental disorders that result in a behavioral or conduct
18 disorder, that is clearly interfering with the child's functioning in
19 family or school or with peers and who meets at least one of the
20 following criteria:
21 (a) Has undergone inpatient treatment or placement outside of the
22 home related to a mental disorder within the last two years;
23 (b) Has undergone involuntary treatment under chapter 71.34 RCW
24 within the last two years;
25 (c) Is currently served by at least one of the following child-
26 serving systems: Juvenile justice, child-protection/welfare, special
27 education, or developmental disabilities;
28 (d) Is at risk of escalating maladjustment due to:
29 (i) Chronic family dysfunction involving a mentally ill or
30 inadequate caretaker;
31 (ii) Changes in custodial adult;
32 (iii) Going to, residing in, or returning from any placement
33 outside of the home, for example, psychiatric hospital, short-term
34 inpatient, residential treatment, group or foster home, or a
35 correctional facility;
36 (iv) Subject to repeated physical abuse or neglect;
37 (v) Drug or alcohol abuse; or
38 (vi) Homelessness.

1 (7) "Community mental health service delivery system" means public
2 or private agencies that provide services specifically to persons with
3 mental disorders as defined under RCW 71.05.020 and receive funding
4 from various public sources including: (a) Federal medicare, medicaid,
5 or early periodic screening, diagnostic, and treatment programs; or (b)
6 state funds from the division of mental health, division of children
7 and family services, division of alcohol and substance abuse, or
8 division of vocational rehabilitation of the department of social and
9 health services.

10 (8) "Community mental health program" means all mental health
11 services established by a county authority. After July 1, 1995, or
12 when the regional support networks are established, "community mental
13 health program" means all activities or programs using available
14 resources.

15 (9) "Community support services" means services for acutely
16 mentally ill persons, chronically mentally ill adults, and severely
17 emotionally disturbed children and includes: (a) Discharge planning
18 for clients leaving state mental hospitals, other acute care inpatient
19 facilities, inpatient psychiatric facilities for persons under twenty-
20 one years of age, and other children's mental health residential
21 treatment facilities; (b) sufficient contacts with clients, families,
22 schools, or significant others to provide for an effective program of
23 community maintenance; and (c) medication monitoring. After July 1,
24 1995, or when regional support networks are established, for adults and
25 children "community support services" means services authorized,
26 planned, and coordinated through resource management services
27 including, at least, assessment, diagnosis, emergency crisis
28 intervention available twenty-four hours, seven days a week,
29 prescreening determinations for mentally ill persons being considered
30 for placement in nursing homes as required by federal law, screening
31 for patients being considered for admission to residential services,
32 diagnosis and treatment for acutely mentally ill and severely
33 emotionally disturbed children discovered under screening through the
34 federal Title XIX early and periodic screening, diagnosis, and
35 treatment program, investigation, legal, and other nonresidential
36 services under chapter 71.05 RCW, case management services, psychiatric
37 treatment including medication supervision, counseling, psychotherapy,
38 assuring transfer of relevant patient information between service
39 providers, other services determined by regional support networks, and

1 maintenance of a patient tracking system for chronically mentally ill
2 adults and severely emotionally disturbed children.

3 (10) "County authority" means the board of county commissioners,
4 county council, or county executive having authority to establish a
5 community mental health program, or two or more of the county
6 authorities specified in this subsection which have entered into an
7 agreement to provide a community mental health program.

8 (11) "Department" means the department of social and health
9 services.

10 (12) "Mental health services" means community services pursuant to
11 RCW 71.24.035(5)(b) and other services provided by the state for the
12 mentally ill. When regional support networks are established, or after
13 July 1, 1995, "mental health services" shall include all services
14 provided by regional support networks.

15 (13) "Mentally ill persons" and "the mentally ill" mean persons and
16 conditions defined in subsections (1), (5), (6), and (17) of this
17 section.

18 (14) "Regional support network" means a county authority or group
19 of county authorities recognized by the secretary that enter into joint
20 operating agreements to contract with the secretary pursuant to this
21 chapter.

22 (15) "Residential services" means a facility or distinct part
23 thereof which provides food and shelter, and may include treatment
24 services.

25 When regional support networks are established, or after July 1,
26 1995, for adults and children "residential services" means a complete
27 range of residences and supports authorized by resource management
28 services and which may involve a facility, a distinct part thereof, or
29 services which support community living, for acutely mentally ill
30 persons, chronically mentally ill adults, severely emotionally
31 disturbed children, or seriously disturbed adults determined by the
32 regional support network to be at risk of becoming acutely or
33 chronically mentally ill. The services shall include at least
34 evaluation and treatment services as defined in chapter 71.05 RCW,
35 acute crisis respite care, long-term adaptive and rehabilitative care,
36 and supervised and supported living services, and shall also include
37 any residential services developed to service mentally ill persons in
38 nursing homes. Residential services for children in out-of-home
39 placements related to their mental disorder shall not include the costs

1 of food and shelter, except for children's long-term residential
2 facilities existing prior to January 1, 1991.

3 (16) "Resource management services" mean the planning,
4 coordination, and authorization of residential services and community
5 support services administered pursuant to an individual service plan
6 for acutely mentally ill adults and children, chronically mentally ill
7 adults, severely emotionally disturbed children, or seriously disturbed
8 adults determined by the regional support network at their sole
9 discretion to be at risk of becoming acutely or chronically mentally
10 ill. Such planning, coordination, and authorization shall include
11 mental health screening for children eligible under the federal Title
12 XIX early and periodic screening, diagnosis, and treatment program.
13 Resource management services include seven day a week, twenty-four hour
14 a day availability of information regarding mentally ill adults' and
15 children's enrollment in services and their individual service plan to
16 county-designated mental health professionals, evaluation and treatment
17 facilities, and others as determined by the regional support network.

18 (17) "Seriously disturbed person" means a person who:

19 (a) Is gravely disabled or presents a likelihood of serious harm to
20 ~~((oneself))~~ himself or herself or others, or to the property of others,
21 as a result of a mental disorder as defined in chapter 71.05 RCW;

22 (b) Has been on conditional release status at some time during the
23 preceding two years from an evaluation and treatment facility or a
24 state mental health hospital;

25 (c) Has a mental disorder which causes major impairment in several
26 areas of daily living;

27 (d) Exhibits suicidal preoccupation or attempts; or

28 (e) Is a child diagnosed by a mental health professional, as
29 defined in RCW 71.05.020, as experiencing a mental disorder which is
30 clearly interfering with the child's functioning in family or school or
31 with peers or is clearly interfering with the child's personality
32 development and learning.

33 (18) "Secretary" means the secretary of social and health services.

34 (19) "State minimum standards" means: (a) Minimum requirements for
35 delivery of mental health services as established by departmental rules
36 and necessary to implement this chapter, including but not limited to
37 licensing service providers and services; (b) minimum service
38 requirements for licensed service providers for the provision of mental
39 health services as established by departmental rules pursuant to

1 chapter 34.05 RCW as necessary to implement this chapter, including,
2 but not limited to: Qualifications for staff providing services
3 directly to mentally ill persons; the intended result of each service;
4 and the rights and responsibilities of persons receiving mental health
5 services pursuant to this chapter; (c) minimum requirements for
6 residential services as established by the department in rule based on
7 clients' functional abilities and not solely on their diagnoses,
8 limited to health and safety, staff qualifications, and program
9 outcomes. Minimum requirements for residential services are those
10 developed in collaboration with consumers, families, counties,
11 regulators, and residential providers serving the mentally ill.
12 Minimum requirements encourage the development of broad-range
13 residential programs, including integrated housing and cross-systems
14 programs where appropriate, and do not unnecessarily restrict
15 programming flexibility; and (d) minimum standards for community
16 support services and resource management services, including at least
17 qualifications for resource management services, client tracking
18 systems, and the transfer of patient information between service
19 providers.

20 (20) "Tribal authority," for the purposes of this section and RCW
21 71.24.300 only, means: The federally recognized Indian tribes and the
22 major Indian organizations recognized by the secretary insofar as these
23 organizations do not have a financial relationship with any regional
24 support network that would present a conflict of interest.

25 NEW SECTION. **Sec. 39.** The joint legislative audit and review
26 committee shall perform an evaluation of the effect of this act upon
27 persons who have been repeatedly involuntarily committed and shall
28 measure the overall fiscal impact of this act. The committee shall
29 report its findings to the appropriate committees of the legislature by
30 January 1, 2000.

--- END ---