
SENATE BILL 5562

State of Washington

55th Legislature

1997 Regular Session

By Senators Long, Prentice, Wojahn and Deccio

Read first time 01/31/97. Referred to Committee on Human Services & Corrections.

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, 71.05.160, 71.05.170, 71.05.180, 71.05.190,
4 71.05.200, 71.05.210, 71.05.215, 71.05.220, 71.05.230, 71.05.240,
5 71.05.260, 71.05.270, 71.05.280, 71.05.290, 71.05.300, 71.05.320,
6 71.05.330, 71.05.340, 71.05.350, 71.05.360, 71.05.370, 71.05.410,
7 71.05.460, 71.05.470, 71.05.490, 71.05.525, 9A.44.010, and 71.24.025;
8 reenacting and amending RCW 71.05.020; adding a new section to chapter
9 71.05 RCW; and creating a new section.

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

11 **Sec. 1.** RCW 71.05.010 and 1989 c 120 s 1 are each amended to read
12 as follows:

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

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

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

19 (3) To safeguard individual rights;

1 (4) To provide continuity of care for persons with serious mental
2 disorders;

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

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

8 (7) To protect the public safety.

9 **Sec. 2.** RCW 71.05.020 and 1989 c 420 s 13, 1989 c 205 s 8, and
10 1989 c 120 s 2 are each reenacted and amended to read as follows:

11 For the purposes of this chapter:

12 (1) "Antipsychotic medications," also referred to as
13 "neuroleptics," means that class of drugs primarily used to treat
14 serious manifestations of mental illness associated with thought
15 disorders and currently includes phenothiazines, thioxanthenes,
16 butyrophenone, dihydroindolone, and dibenzoxazipine;

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

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

24 (4) "Department" means the department of social and health
25 services;

26 (5) "Developmental disabilities professional" means a person who
27 has specialized training and three years of experience in directly
28 treating or working with persons with developmental disabilities and is
29 a psychiatrist, psychologist, or social worker, and such other
30 developmental disabilities professionals as may be defined by rules
31 adopted by the secretary;

32 (6) "Developmental disability" means that condition defined in RCW
33 71A.10.020(2);

34 (7) "Evaluation and treatment facility" means any facility which
35 can provide directly, or by direct arrangement with other public or
36 private agencies, emergency evaluation and treatment, outpatient care,
37 and short-term inpatient care to persons suffering from a mental
38 disorder, and which is certified as such by the department: PROVIDED,

1 That a physically separate and separately operated portion of a state
2 hospital may be designated as an evaluation and treatment facility:
3 PROVIDED FURTHER, That a facility which is part of, or operated by, the
4 department or any federal agency will not require certification: AND
5 PROVIDED FURTHER, That no correctional institution or facility, or
6 jail, shall be an evaluation and treatment facility within the meaning
7 of this chapter;

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

15 ~~((+2+))~~ (9) "Habilitative services" means those services provided
16 by program personnel to assist persons in acquiring and maintaining
17 life skills and in raising their levels of physical, mental, social,
18 and vocational functioning. Habilitative services include education,
19 training for employment, and therapy. The habilitative process shall
20 be undertaken with recognition of the risk to the public safety
21 presented by the individual being assisted as manifested by prior
22 charged criminal conduct;

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

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

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

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

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

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

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

1 from involuntary confinement, and a projected possible date for
2 discharge from involuntary confinement; and

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

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

7 (12) "Likelihood of serious harm" means either: (a) A substantial
8 risk that physical harm will be inflicted by an individual upon his or
9 her own person, as evidenced by threats or attempts to commit suicide
10 or inflict physical harm on one's self, (b) a substantial risk that
11 physical harm will be inflicted by an individual upon another, as
12 evidenced by behavior which has caused such harm or which places
13 another person or persons in reasonable fear of sustaining such harm,
14 or (c) a substantial risk that physical harm will be inflicted by an
15 individual upon the property of others, as evidenced by behavior which
16 has caused substantial loss or damage to the property of others;

17 (13) "Medically necessary admission" means an admission which
18 follows intensive outpatient treatment that has failed to produce
19 expected improvement, or an admission to treat a decompensated patient
20 with a potential for significant improvement, or an admission intended
21 to provide immediate twenty-four-hour supervision in order to
22 reestablish and maintain safety;

23 (14) "Mental disorder" means any organic, mental, or emotional
24 impairment which has substantial adverse effects on an individual's
25 cognitive or volitional functions;

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

36 ~~(4))~~ (15) "Mental health professional" means a psychiatrist,
37 psychologist, psychiatric nurse, or social worker, and such other
38 mental health professionals as may be defined by rules adopted by the
39 secretary pursuant to the provisions of this chapter;

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

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

7 ~~(6) "Public agency" means any evaluation and treatment facility or
8 institution, hospital, or sanitarium which is conducted for, or
9 includes a department or ward conducted for, the care and treatment of
10 persons who are mentally ill or deranged, if the agency is operated
11 directly by, federal, state, county, or municipal government, or a
12 combination of such governments;~~

13 ~~(7))~~ (17) "Private agency" means any person, partnership,
14 corporation, or association not defined as a public agency, whether or
15 not financed in whole or in part by public funds, which constitutes an
16 evaluation and treatment facility or private institution, hospital, or
17 sanitarium, which is conducted for, or includes a department or ward
18 conducted for the care and treatment of persons who are mentally ill;

19 ~~((8) "Attending staff" means any person on the staff of a public
20 or private agency having responsibility for the care and treatment of
21 a patient;~~

22 ~~(9) "Department" means the department of social and health services
23 of the state of Washington;~~

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

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

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

32 ~~(13))~~ (18) "Professional person" shall mean a mental health
33 professional, as above defined, and shall also mean a physician,
34 registered nurse, and such others as may be defined by rules ~~((and
35 regulations))~~ adopted by the secretary pursuant to the provisions of
36 this chapter;

37 ~~((14))~~ (19) "Psychiatrist" means a person having a license as a
38 physician and surgeon in this state who has in addition completed three
39 years of graduate training in psychiatry in a program approved by the

1 American medical association or the American osteopathic association
2 and is certified or eligible to be certified by the American board of
3 psychiatry and neurology;

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

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

10 ~~(17) "Evaluation and treatment facility" means any facility which
11 can provide directly, or by direct arrangement with other public or
12 private agencies, emergency evaluation and treatment, outpatient care,
13 and short term inpatient care to persons suffering from a mental
14 disorder, and which is certified as such by the department of social
15 and health services:— PROVIDED, That a physically separate and
16 separately operated portion of a state hospital may be designated as an
17 evaluation and treatment facility:— PROVIDED FURTHER, That a facility
18 which is part of, or operated by, the department of social and health
19 services or any federal agency will not require certification:— AND
20 PROVIDED FURTHER, That no correctional institution or facility, or
21 jail, shall be an evaluation and treatment facility within the meaning
22 of this chapter;~~

23 ~~(18) "Antipsychotic medications," also referred to as
24 "neuroleptics," means that class of drugs primarily used to treat
25 serious manifestations of mental illness associated with thought
26 disorders and currently includes phenothiazines, thioxanthenes,
27 butyrophenone, dihydroindolone, and dibenzoxazipine.~~

28 ~~(19) "Developmental disability" means that condition defined in RCW
29 71A.10.020(2);~~

30 ~~(20) "Developmental disabilities professional" means a person who
31 has specialized training and three years of experience in directly
32 treating or working with persons with developmental disabilities and is
33 a psychiatrist or psychologist, or a social worker, and such other
34 developmental disabilities professionals as may be defined by rules
35 adopted by the secretary;~~

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

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

5 ~~(22))~~ (20) "Psychologist" means a person who has been licensed as
6 a psychologist pursuant to chapter 18.83 RCW;

7 (21) "Public agency" means any evaluation and treatment facility or
8 institution, hospital, or sanitarium which is conducted for, or
9 includes a department or ward conducted for, the care and treatment of
10 persons who are mentally ill or deranged, if the agency is operated
11 directly by, federal, state, county, or municipal government, or a
12 combination of such governments;

13 (22) "Resource management services" has the meaning given in
14 chapter 71.24 RCW;

15 (23) "Secretary" means the secretary of the department of social
16 and health services, or his or her designee;

17 (24) "Social worker" means a person with a master's or further
18 advanced degree from an accredited school of social work or a degree
19 deemed equivalent under rules adopted by the secretary((;

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

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

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

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

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

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

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

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

1 **Sec. 3.** RCW 71.05.040 and 1987 c 439 s 1 are each amended to read
2 as follows:

3 Persons who are developmentally disabled, impaired by chronic
4 alcoholism or drug abuse, or senile shall not be detained for
5 evaluation and treatment or judicially committed solely by reason of
6 that condition unless such condition causes a person to be gravely
7 disabled or as a result of a mental disorder such condition exists that
8 constitutes a likelihood of serious harm to self or others, or to the
9 property of others.

10 **Sec. 4.** RCW 71.05.050 and 1979 ex.s. c 215 s 6 are each amended to
11 read as follows:

12 Nothing in this chapter shall be construed to limit the right of
13 any person to apply voluntarily to any public or private agency or
14 practitioner for treatment of a mental disorder, either by direct
15 application or by referral. Any person voluntarily admitted for
16 inpatient treatment to any public or private agency shall be released
17 immediately upon his or her request. Any person voluntarily admitted
18 for inpatient treatment to any public or private agency shall orally be
19 advised of the right to immediate release and further advised of such
20 rights in writing as are secured to them pursuant to this chapter and
21 their rights of access to attorneys, courts, and other legal redress.
22 Their condition and status shall be reviewed at least once each one
23 hundred eighty days for evaluation as to the need for further treatment
24 and/or possible release, at which time they shall again be advised of
25 their right to release upon request: PROVIDED HOWEVER, That if the
26 professional staff of any public or private agency or hospital regards
27 a person voluntarily admitted who requests release as presenting, as a
28 result of a mental disorder, an imminent likelihood of serious harm to
29 himself or herself or others, or the property of others, or is gravely
30 disabled, they may detain such person for sufficient time to notify the
31 designated county mental health professional of such person's condition
32 to enable such mental health professional to authorize such person
33 being further held in custody or transported to an evaluation and
34 treatment center pursuant to the provisions of this chapter, which
35 shall in ordinary circumstances be no later than the next judicial day:
36 PROVIDED FURTHER, That if a person is brought to the emergency room of
37 a public or private agency or hospital for observation or treatment,
38 ((said)) the person refuses voluntary admission, and the professional

1 staff of the public or private agency or hospital regards such person
2 as presenting as a result of a mental disorder an imminent likelihood
3 of serious harm to himself or herself or others, or the property of
4 others, or as presenting an imminent danger because of grave
5 disability, they may detain such person for sufficient time to notify
6 the designated county mental health professional of such person's
7 condition to enable such mental health professional to authorize such
8 person being further held in custody or transported to an evaluation
9 treatment center pursuant to the conditions in this chapter, but which
10 time shall be no more than six hours from the time the professional
11 staff determine that an evaluation by the county designated mental
12 health professional is necessary.

13 **Sec. 5.** RCW 71.05.100 and 1987 c 75 s 18 are each amended to read
14 as follows:

15 In addition to the responsibility provided for by RCW 43.20B.330,
16 any person, or his or her estate, or his or her spouse, or the parents
17 of a minor person who is involuntarily detained pursuant to this
18 chapter for the purpose of treatment and evaluation outside of a
19 facility maintained and operated by the department shall be responsible
20 for the cost of such care and treatment. In the event that an
21 individual is unable to pay for such treatment or in the event payment
22 would result in a substantial hardship upon the individual or his or
23 her family, then the county of residence of such person shall be
24 responsible for such costs. If it is not possible to determine the
25 county of residence of the person, the cost shall be borne by the
26 county where the person was originally detained. The department shall,
27 pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to
28 pay in whole or in part, (2) a definition of substantial hardship, and
29 (3) appropriate payment schedules. Such standards shall be applicable
30 to all county mental health administrative boards. Financial
31 responsibility with respect to department services and facilities shall
32 continue to be as provided in RCW 43.20B.320 through 43.20B.360 and
33 43.20B.370.

34 **Sec. 6.** RCW 71.05.110 and 1973 1st ex.s. c 142 s 16 are each
35 amended to read as follows:

36 Attorneys appointed for persons pursuant to this chapter shall be
37 compensated for their services as follows: (1) The person for whom an

1 attorney is appointed shall, if he or she is financially able pursuant
2 to standards as to financial capability and indigency set by the
3 superior court of the county in which the proceeding is held, bear the
4 costs of such legal services; (2) if such person is indigent pursuant
5 to such standards, the costs of such services shall be borne by the
6 county in which the proceeding is held, subject however to the
7 responsibility for costs provided in RCW 71.05.320(2).

8 **Sec. 7.** RCW 71.05.150 and 1984 c 233 s 1 are each amended to read
9 as follows:

10 (1)(a) When a mental health professional designated by the county
11 receives information alleging that a person, as a result of a mental
12 disorder((~~7~~)): (i) Presents a likelihood of serious harm to others or
13 himself or herself, or the property of others, or (ii) is gravely
14 disabled((~~7~~)); such mental health professional, after investigation and
15 evaluation of the specific facts alleged, and of the reliability and
16 credibility of the person or persons, if any, providing information to
17 initiate detention, may, if satisfied that the allegations are true and
18 that the person will not voluntarily seek appropriate treatment, file
19 a petition for initial detention. Before filing the petition, the
20 county designated mental health professional must personally interview
21 the person, unless the person refuses an interview, and determine
22 whether the person will voluntarily receive appropriate evaluation and
23 treatment at an evaluation and treatment facility.

24 (b) Whenever it appears, by petition for initial detention, to the
25 satisfaction of a judge of the superior court that a person presents,
26 as a result of a mental disorder, a likelihood of serious harm to
27 others or himself or herself, or the property of others, or is gravely
28 disabled, and that the person has refused or failed to accept
29 appropriate evaluation and treatment voluntarily, the judge may issue
30 an order requiring the person to appear ((~~not less than~~)) within
31 twenty-four hours after service of the order at a designated evaluation
32 and treatment facility for not more than a seventy-two hour evaluation
33 and treatment period. The order shall state the address of the
34 evaluation and treatment facility to which the person is to report and
35 whether the required seventy-two hour evaluation and treatment services
36 may be delivered on an outpatient or inpatient basis and that if the
37 person named in the order fails to appear at the evaluation and
38 treatment facility at or before the date and time stated in the order,

1 such person may be involuntarily taken into custody for evaluation and
2 treatment. The order shall also designate retained counsel or, if
3 counsel is appointed from a list provided by the court, the name,
4 business address, and telephone number of the attorney appointed to
5 represent the person.

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

27 (d) If the person ordered to appear does appear on or before the
28 date and time specified, the evaluation and treatment facility may
29 admit such person as required by RCW 71.05.170 or may provide treatment
30 on an outpatient basis. If the person ordered to appear fails to
31 appear on or before the date and time specified, the evaluation and
32 treatment facility shall immediately notify the mental health
33 professional designated by the county who may notify a peace officer to
34 take such person or cause such person to be taken into custody and
35 placed in an evaluation and treatment facility. Should the mental
36 health professional notify a peace officer authorizing him or her to
37 take a person into custody under the provisions of this subsection, he
38 or she shall file with the court a copy of such authorization and a
39 notice of detention. At the time such person is taken into custody

1 there shall commence to be served on such person, his or her guardian,
2 and conservator, if any, a copy of the original order together with a
3 notice of detention, a notice of rights, and a petition for initial
4 detention.

5 (2) When a mental health professional designated by the county
6 receives information alleging that a person, as the result of a mental
7 disorder, presents an imminent likelihood of serious harm to himself or
8 herself or others, or the property of others, or is in imminent danger
9 because of being gravely disabled, after investigation and evaluation
10 of the specific facts alleged and of the reliability and credibility of
11 the person or persons providing the information if any, the mental
12 health professional may take such person, or cause by oral or written
13 order such person to be taken into emergency custody in an evaluation
14 and treatment facility for not more than seventy-two hours as described
15 in RCW 71.05.180.

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

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

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

25 (b) When he or she has reasonable cause to believe that such person
26 is suffering from a mental disorder and presents an imminent likelihood
27 of serious harm to others or himself or herself, or the property of
28 others, or is in imminent danger because of being gravely disabled.

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

37 **Sec. 8.** RCW 71.05.160 and 1974 ex.s. c 145 s 9 are each amended to
38 read as follows:

1 Any facility receiving a person pursuant to RCW 71.05.150 shall
2 require a petition for initial detention stating the circumstances
3 under which the person's condition was made known and stating that such
4 officer or person has evidence, as a result of his or her personal
5 observation or investigation, that the actions of the person for which
6 application is made constitute a likelihood of serious harm to himself
7 or herself or others, or the property of others, or that he or she is
8 gravely disabled, and stating the specific facts known to him or her as
9 a result of his or her personal observation or investigation, upon
10 which he or she bases the belief that such person should be detained
11 for the purposes and under the authority of this chapter.

12 If a person is involuntarily placed in an evaluation and treatment
13 facility pursuant to RCW 71.05.150, on the next judicial day following
14 the initial detention, the mental health professional designated by the
15 county shall file with the court and serve the designated attorney of
16 the detained person the petition or supplemental petition for initial
17 detention, proof of service of notice, and a copy of a notice of
18 emergency detention.

19 **Sec. 9.** RCW 71.05.170 and 1989 c 205 s 10 are each amended to read
20 as follows:

21 Whenever the designated county mental health professional petitions
22 for detention of a person whose actions constitute a likelihood of
23 serious harm to himself or herself or others, or the property of
24 others, or who is gravely disabled, the facility providing seventy-two
25 hour evaluation and treatment must immediately accept on a provisional
26 basis the petition and the person. The facility shall then evaluate
27 the person's condition and admit or release such person in accordance
28 with RCW 71.05.210. The facility shall notify in writing the court and
29 the designated county mental health professional of the date and time
30 of the initial detention of each person involuntarily detained in order
31 that a probable cause hearing shall be held no later than seventy-two
32 hours after detention.

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

35 **Sec. 10.** RCW 71.05.180 and 1979 ex.s. c 215 s 11 are each amended
36 to read as follows:

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

6 **Sec. 11.** RCW 71.05.190 and 1979 ex.s. c 215 s 12 are each amended
7 to read as follows:

8 If the person is not approved for admission by a facility providing
9 seventy-two hour evaluation and treatment, and the individual has not
10 been arrested, the facility shall furnish transportation, if not
11 otherwise available, for the person to his or her place of residence or
12 other appropriate place. If the individual has been arrested, the
13 evaluation and treatment facility shall detain the individual for not
14 more than eight hours at the request of the peace officer in order to
15 enable a peace officer to return to the facility and take the
16 individual back into custody.

17 **Sec. 12.** RCW 71.05.200 and 1989 c 120 s 5 are each amended to read
18 as follows:

19 (1) Whenever any person is detained for evaluation and treatment
20 pursuant to this chapter, both the person and, if possible, a
21 responsible member of his or her immediate family, guardian, or
22 conservator, if any, shall be advised as soon as possible in writing or
23 orally, by the officer or person taking him or her into custody or by
24 personnel of the evaluation and treatment facility where the person is
25 detained that unless the person is released or voluntarily admits
26 himself or herself for treatment within seventy-two hours of the
27 initial detention:

28 (a) That a judicial hearing in a superior court, either by a judge
29 or court commissioner thereof, shall be held not more than seventy-two
30 hours after the initial detention to determine whether there is
31 probable cause to detain the person after the seventy-two hours have
32 expired for up to an additional fourteen days without further automatic
33 hearing for the reason that the person is a mentally ill person whose
34 mental disorder presents a likelihood of serious harm to others or
35 himself or herself, or the property of others, or that the person is
36 gravely disabled;

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

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

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

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

14 (2) When proceedings are initiated under RCW 71.05.150 (2), (3), or
15 (4)(b), no later than twelve hours after such person is admitted to the
16 evaluation and treatment facility the personnel of the evaluation and
17 treatment facility or the designated mental health professional shall
18 serve on such person a copy of the petition for initial detention and
19 the name, business address, and phone number of the designated attorney
20 and shall forthwith commence service of a copy of the petition for
21 initial detention on ((said)) the designated attorney.

22 (3) The judicial hearing described in subsection (1) of this
23 section is hereby authorized, and shall be held according to the
24 provisions of subsection (1) of this section and rules promulgated by
25 the supreme court.

26 **Sec. 13.** RCW 71.05.210 and 1994 sp.s. c 9 s 747 are each amended
27 to read as follows:

28 Each person involuntarily admitted to an evaluation and treatment
29 facility shall, within twenty-four hours of his or her admission, be
30 examined and evaluated by a licensed physician who may be assisted by
31 a physician assistant according to chapter 18.71A RCW or an advanced
32 registered nurse practitioner according to chapter 18.79 RCW and a
33 mental health professional as defined in this chapter, and shall
34 receive such treatment and care as his or her condition requires
35 including treatment on an outpatient basis for the period that he or
36 she is detained, except that, beginning twenty-four hours prior to a
37 court proceeding, the individual may refuse all but emergency life-
38 saving treatment, and the individual shall be informed at an

1 appropriate time of his or her right to such refusal of treatment.
2 Such person shall be detained up to seventy-two hours, if, in the
3 opinion of the professional person in charge of the facility, or his or
4 her professional designee, the person presents a likelihood of serious
5 harm to himself or herself or others, or the property of others, or is
6 gravely disabled. A person who has been detained for seventy-two hours
7 shall no later than the end of such period be released, unless referred
8 for further care on a voluntary basis, or detained pursuant to court
9 order for further treatment as provided in this chapter.

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

15 An evaluation and treatment center admitting any person pursuant to
16 this chapter whose physical condition reveals the need for
17 hospitalization shall assure that such person is transferred to an
18 appropriate hospital for treatment. Notice of such fact shall be given
19 to the court, the designated attorney, and the designated county mental
20 health professional and the court shall order such continuance in
21 proceedings under this chapter as may be necessary, but in no event may
22 this continuance be more than fourteen days.

23 **Sec. 14.** RCW 71.05.215 and 1991 c 105 s 1 are each amended to read
24 as follows:

25 (1) A person found to be gravely disabled or presents a likelihood
26 of serious harm as a result of a mental disorder has a right to refuse
27 antipsychotic medication unless it is determined that the failure to
28 medicate may result in a likelihood of serious harm or substantial
29 deterioration or substantially prolong the length of involuntary
30 commitment and there is no less intrusive course of treatment than
31 medication in the best interest of that person.

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

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

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

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

4 (d) Administration of antipsychotic medication in an emergency and
5 review of this decision within twenty-four hours. An emergency exists
6 if the person presents an imminent likelihood of serious harm to self
7 or others, or to the property of others, and medically acceptable
8 alternatives to administration of antipsychotic medications are not
9 available or are unlikely to be successful; and in the opinion of the
10 physician, the person's condition constitutes an emergency requiring
11 the treatment be instituted prior to obtaining a second medical
12 opinion.

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

16 **Sec. 15.** RCW 71.05.220 and 1973 1st ex.s. c 142 s 27 are each
17 amended to read as follows:

18 At the time a person is involuntarily admitted to an evaluation and
19 treatment facility, the professional person in charge or his or her
20 designee shall take reasonable precautions to inventory and safeguard
21 the personal property of the person detained. A copy of the inventory,
22 signed by the staff member making it, shall be given to the person
23 detained and shall, in addition, be open to inspection to any
24 responsible relative, subject to limitations, if any, specifically
25 imposed by the detained person. For purposes of this section,
26 "responsible relative" includes the guardian, conservator, attorney,
27 spouse, parent, adult child, or adult brother or sister of the person.
28 The facility shall not disclose the contents of the inventory to any
29 other person without the consent of the patient or order of the court.

30 **Sec. 16.** RCW 71.05.230 and 1987 c 439 s 3 are each amended to read
31 as follows:

32 A person detained for seventy-two hour evaluation and treatment may
33 be detained for not more than fourteen additional days of involuntary
34 intensive treatment or ninety additional days of a less restrictive
35 alternative to involuntary intensive treatment if the following
36 conditions are met:

1 (1) The professional staff of the agency or facility providing
2 evaluation services has analyzed the person's condition and finds that
3 (~~said~~) the condition is caused by mental disorder and either results
4 in a likelihood of serious harm to the person detained or to others, or
5 to the property of others, or results in the detained person being
6 gravely disabled and are prepared to testify those conditions are met;
7 and

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

11 (3) The facility providing intensive treatment is certified to
12 provide such treatment by the department (~~of social and health~~
13 ~~services)); and~~

14 (4) The professional staff of the agency or facility or the mental
15 health professional designated by the county has filed a petition for
16 fourteen day involuntary detention or a ninety day less restrictive
17 alternative with the court. The petition must be signed either by two
18 physicians or by one physician and a mental health professional who
19 have examined the person. If involuntary detention is sought the
20 petition shall state facts that support the finding that such person,
21 as a result of mental disorder, presents a likelihood of serious harm
22 to others or himself or herself, or to the property of others, or is
23 gravely disabled and that there are no less restrictive alternatives to
24 detention in the best interest of such person or others. The petition
25 shall state specifically that less restrictive alternative treatment
26 was considered and specify why treatment less restrictive than
27 detention is not appropriate. If an involuntary less restrictive
28 alternative is sought, the petition shall state facts that support the
29 finding that such person, as a result of mental disorder, presents a
30 likelihood of serious harm to others or himself or herself, or to the
31 property of others, or is gravely disabled and shall set forth the less
32 restrictive alternative proposed by the facility; and

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

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

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

4 (8) At the conclusion of the initial commitment period, the
5 professional staff of the agency or facility or the mental health
6 professional designated by the county may petition for an additional
7 period of either ninety days of less restrictive alternative treatment
8 or ninety days of involuntary intensive treatment as provided in RCW
9 71.05.290; and

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

14 **Sec. 17.** RCW 71.05.240 and 1992 c 168 s 3 are each amended to read
15 as follows:

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

25 At the conclusion of the probable cause hearing, if the court finds
26 by a preponderance of the evidence that such person, as the result of
27 mental disorder, presents a likelihood of serious harm to others or
28 himself or herself, or to the property of others, or is gravely
29 disabled, and, after considering less restrictive alternatives to
30 involuntary detention and treatment, finds that no such alternatives
31 are in the best interests of such person or others, the court shall
32 order that such person be detained for involuntary treatment not to
33 exceed fourteen days in a facility certified to provide treatment by
34 the department (~~(of social and health services)~~). If the court finds
35 that such person, as the result of a mental disorder, presents a
36 likelihood of serious harm to others or himself or herself, or to the
37 property of others, or is gravely disabled, but that treatment in a
38 less restrictive setting than detention is in the best interest of such

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

3 The court shall specifically state to such person and give such
4 person notice in writing that if involuntary treatment beyond the
5 fourteen day period or beyond the ninety days of less restrictive
6 treatment is to be sought, such person will have the right to a full
7 hearing or jury trial as required by RCW 71.05.310. The court shall
8 also provide written notice that the person is barred from the
9 possession of firearms.

10 **Sec. 18.** RCW 71.05.260 and 1987 c 439 s 7 are each amended to read
11 as follows:

12 (1) Involuntary intensive treatment ordered at the time of the
13 probable cause hearing shall be for no more than fourteen days, and
14 shall terminate sooner when, in the opinion of the professional person
15 in charge of the facility or his or her professional designee, (a) the
16 person no longer constitutes a likelihood of serious harm to himself or
17 herself or others, or to the property of others, or (b) no longer is
18 gravely disabled, or (c) is prepared to accept voluntary treatment upon
19 referral, or (d) is to remain in the facility providing intensive
20 treatment on a voluntary basis.

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

26 **Sec. 19.** RCW 71.05.270 and 1973 1st ex.s. c 142 s 32 are each
27 amended to read as follows:

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

33 **Sec. 20.** RCW 71.05.280 and 1986 c 67 s 3 are each amended to read
34 as follows:

1 At the expiration of the fourteen day period of intensive
2 treatment, a person may be confined for further treatment pursuant to
3 RCW 71.05.320 if:

4 (1) Such person after having been taken into custody for evaluation
5 and treatment has threatened, attempted, or inflicted: (a) Physical
6 harm upon the person of another or himself or herself, or substantial
7 damage upon the property of another, and (b) as a result of mental
8 disorder presents a likelihood of serious harm to others or himself or
9 herself, or to the property of others; or

10 (2) Such person was taken into custody as a result of conduct in
11 which he or she attempted or inflicted physical harm upon the person of
12 another or himself or herself, or upon the property of others, and
13 continues to present, as a result of mental disorder, a likelihood of
14 serious harm to others or himself or herself, or to the property of
15 others; or

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

23 (4) Such person is gravely disabled.

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

28 NEW SECTION. Sec. 21. A new section is added to chapter 71.05 RCW
29 to read as follows:

30 For the purposes of continued commitment under the process provided
31 in RCW 71.05.280 and 71.05.320(2), "substantial risk of harm," as used
32 in interpreting "likelihood of serious harm," does not require evidence
33 of recent, overt acts, but does require evidence of danger of serious
34 physical harm or probable harmful consequences from failure to receive
35 care essential for health and safety. Evidence that an individual
36 would not receive such care as is essential for his or her health and
37 safety, resulting in a high probability of harmful consequences, can be
38 shown by a prior history or pattern of: (1) Decompensation and

1 discontinuation of treatment resulting in repeated hospitalizations; or
2 (2) law enforcement officer intervention resulting in a juvenile
3 offense, criminal charge, or diversion program.

4 **Sec. 22.** RCW 71.05.290 and 1986 c 67 s 4 are each amended to read
5 as follows:

6 (1) At any time during a person's fourteen day intensive treatment
7 period, the professional person in charge of a treatment facility or
8 his or her professional designee or the designated county mental health
9 professional may petition the superior court for an order requiring
10 such person to undergo an additional period of treatment. Such
11 petition must be based on one or more of the grounds set forth in RCW
12 71.05.280.

13 (2) The petition shall summarize the facts which support the need
14 for further confinement and shall be supported by affidavits signed by
15 two examining physicians, or by one examining physician and examining
16 mental health professional. The affidavits shall describe in detail
17 the behavior of the detained person which supports the petition and
18 shall explain what, if any, less restrictive treatments which are
19 alternatives to detention are available to such person, and shall state
20 the willingness of the affiant to testify to such facts in subsequent
21 judicial proceedings under this chapter.

22 (3) If a person has been determined to be incompetent pursuant to
23 RCW 10.77.090(3) (~~as now existing or hereafter amended~~), then the
24 professional person in charge of the treatment facility or his or her
25 professional designee or the county designated mental health
26 professional may directly file a petition for one hundred eighty day
27 treatment under RCW 71.05.280(3). No petition for initial detention or
28 fourteen day detention is required before such a petition may be filed.

29 **Sec. 23.** RCW 71.05.300 and 1989 c 420 s 14 are each amended to
30 read as follows:

31 The petition for ninety day treatment shall be filed with the clerk
32 of the superior court at least three days before expiration of the
33 fourteen-day period of intensive treatment. At the time of filing such
34 petition, the clerk shall set a time for the person to come before the
35 court on the next judicial day after the day of filing unless such
36 appearance is waived by the person's attorney, and the clerk shall
37 notify the designated county mental health professional. The

1 designated county mental health professional shall immediately notify
2 the person detained, his or her attorney, if any, and his or her
3 guardian or conservator, if any, and the prosecuting attorney, and
4 provide a copy of the petition to such persons as soon as possible.

5 At the time set for appearance the detained person shall be brought
6 before the court, unless such appearance has been waived and the court
7 shall advise him or her of his or her right to be represented by an
8 attorney and of his or her right to a jury trial. If the detained
9 person is not represented by an attorney, or is indigent or is
10 unwilling to retain an attorney, the court shall immediately appoint an
11 attorney to represent him or her. The court shall, if requested,
12 appoint a reasonably available licensed physician, psychologist, or
13 psychiatrist, designated by the detained person to examine and testify
14 on behalf of the detained person.

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

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

24 **Sec. 24.** RCW 71.05.320 and 1989 c 420 s 15 are each amended to
25 read as follows:

26 (1) If the court or jury finds that grounds set forth in RCW
27 71.05.280 have been proven and that the best interests of the person or
28 others will not be served by a less restrictive treatment which is an
29 alternative to detention, the court shall remand him or her to the
30 custody of the department (~~((of social and health services))~~) or to a
31 facility certified for ninety day treatment by the department (~~((of
32 social and health services))~~) for a further period of intensive
33 treatment not to exceed ninety days from the date of judgment:
34 PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the
35 basis of commitment, then the period of treatment may be up to but not
36 exceed one hundred eighty days from the date of judgment in a facility
37 certified for one hundred eighty day treatment by the department. If
38 the committed person is developmentally disabled and has been

1 determined incompetent pursuant to RCW 10.77.090(3), and the best
2 interests of the person or others will not be served by a less-
3 restrictive treatment which is an alternative to detention, the court
4 shall remand him or her to the custody of the department (~~(of social
5 and health services)~~) or to a facility certified for one hundred
6 eighty-day treatment by the department. When appropriate and subject
7 to available funds, treatment and training of such persons must be
8 provided in a program specifically reserved for the treatment and
9 training of developmentally disabled persons. A person so committed
10 shall receive habilitation services pursuant to an individualized
11 service plan specifically developed to treat the behavior which was the
12 subject of the criminal proceedings. (~~Said~~) The treatment program
13 shall be administered by developmental disabilities professionals and
14 others trained specifically in the needs of developmentally disabled
15 persons. The department may limit admissions to this specialized
16 program in order to ensure that expenditures for services do not exceed
17 amounts appropriated by the legislature and allocated by the department
18 for such services. The department may establish admission priorities
19 in the event that the number of eligible persons exceeds the limits set
20 by the department. An order for treatment less restrictive than
21 involuntary detention may include conditions, and if such conditions
22 are not adhered to, the designated mental health professional or
23 developmental disabilities professional may order the person
24 apprehended under the terms and conditions of RCW 71.05.340 (~~as now or
25 hereafter amended~~)).

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

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

1 professional person in charge of the facility in which he or she is
2 confined, or in the event of a less restrictive alternative, the
3 designated mental health professional or developmental disabilities
4 professional, files a new petition for involuntary treatment on the
5 grounds that the committed person;

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

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

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

20 (d) Continues to be gravely disabled.

21 If the conduct required to be proven in subsections (b) and (c) of
22 this section was found by a judge or jury in a prior trial under this
23 chapter, it shall not be necessary to reprove that element. Such new
24 petition for involuntary treatment shall be filed and heard in the
25 superior court of the county of the facility which is filing the new
26 petition for involuntary treatment unless good cause is shown for a
27 change of venue. The cost of the proceedings shall be borne by the
28 state.

29 The hearing shall be held as provided in RCW 71.05.310, and if the
30 court or jury finds that the grounds for additional confinement as set
31 forth in this subsection are present, the court may order the committed
32 person returned for an additional period of treatment not to exceed one
33 hundred eighty days from the date of judgment. At the end of the one
34 hundred eighty day period of commitment, the committed person shall be
35 released unless a petition for another one hundred eighty day period of
36 continued treatment is filed and heard in the same manner as provided
37 (~~herein above~~) in this subsection. Successive one hundred eighty day
38 commitments are permissible on the same grounds and pursuant to the
39 same procedures as the original one hundred eighty day commitment. No

1 person committed as ((herein)) provided in this subsection may be
2 detained unless a valid order of commitment is in effect. No order of
3 commitment can exceed one hundred eighty days in length.

4 **Sec. 25.** RCW 71.05.330 and 1986 c 67 s 1 are each amended to read
5 as follows:

6 (1) Nothing in this chapter shall prohibit the superintendent or
7 professional person in charge of the hospital or facility in which the
8 person is being involuntarily treated from releasing him or her prior
9 to the expiration of the commitment period when, in the opinion of the
10 superintendent or professional person in charge, the person being
11 involuntarily treated no longer presents a likelihood of serious harm
12 to others or to the property of others.

13 Whenever the superintendent or professional person in charge of a
14 hospital or facility providing involuntary treatment pursuant to this
15 chapter releases a person prior to the expiration of the period of
16 commitment, the superintendent or professional person in charge shall
17 in writing notify the court which committed the person for treatment.

18 (2) Before a person committed under grounds set forth in RCW
19 71.05.280(3) or 71.05.320(2)(c) is released under this section, the
20 superintendent or professional person in charge shall in writing notify
21 the prosecuting attorney of the county in which the criminal charges
22 against the committed person were dismissed, of the release date.
23 Notice shall be provided at least thirty days before the release date.
24 Within twenty days after receiving notice, the prosecuting attorney may
25 petition the court in the county in which the person is being
26 involuntarily treated for a hearing to determine whether the person is
27 to be released. The prosecuting attorney shall provide a copy of the
28 petition to the superintendent or professional person in charge of the
29 hospital or facility providing involuntary treatment, the attorney, if
30 any, and the guardian or conservator of the committed person. The
31 court shall conduct a hearing on the petition within ten days of filing
32 the petition. The committed person shall have the same rights with
33 respect to notice, hearing, and counsel as for an involuntary treatment
34 proceeding, except as set forth in this subsection and except that
35 there shall be no right to jury trial. The issue to be determined at
36 the hearing is whether or not the person may be released without
37 substantial danger to other persons, or substantial likelihood of
38 committing felonious acts jeopardizing public safety or security. If

1 the court disapproves of the release, it may do so only on the basis of
2 substantial evidence. Pursuant to the determination of the court upon
3 the hearing, the committed person shall be released or shall be
4 returned for involuntary treatment subject to release at the end of the
5 period for which he or she was committed, or otherwise in accordance
6 with the provisions of this chapter.

7 **Sec. 26.** RCW 71.05.340 and 1987 c 439 s 10 are each amended to
8 read as follows:

9 (1)(a) When, in the opinion of the superintendent or the
10 professional person in charge of the hospital or facility providing
11 involuntary treatment, the committed person can be appropriately served
12 by outpatient treatment prior to or at the expiration of the period of
13 commitment, then such outpatient care may be required as a condition
14 for early release for a period which, when added to the inpatient
15 treatment period, shall not exceed the period of commitment. If the
16 hospital or facility designated to provide outpatient treatment is
17 other than the facility providing involuntary treatment, the outpatient
18 facility so designated must agree in writing to assume such
19 responsibility. A copy of the conditions for early release shall be
20 given to the patient, the designated county mental health professional
21 in the county in which the patient is to receive outpatient treatment,
22 and to the court of original commitment.

23 (b) Before a person committed under grounds set forth in RCW
24 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of
25 this subsection, the superintendent or professional person in charge of
26 the hospital or facility providing involuntary treatment shall in
27 writing notify the prosecuting attorney of the county in which the
28 criminal charges against the committed person were dismissed, of the
29 decision to conditionally release the person. Notice and a copy of the
30 conditions for early release shall be provided at least thirty days
31 before the person is released from inpatient care. Within twenty days
32 after receiving notice, the prosecuting attorney may petition the court
33 in the county that issued the commitment order to hold a hearing to
34 determine whether the person may be conditionally released and the
35 terms of the conditional release. The prosecuting attorney shall
36 provide a copy of the petition to the superintendent or professional
37 person in charge of the hospital or facility providing involuntary
38 treatment, the attorney, if any, and guardian or conservator of the

1 committed person, and the court of original commitment. If the county
2 in which the committed person is to receive outpatient treatment is the
3 same county in which the criminal charges against the committed person
4 were dismissed, then the court shall, upon the motion of the
5 prosecuting attorney, transfer the proceeding to the court in that
6 county. The court shall conduct a hearing on the petition within ten
7 days of the filing of the petition. The committed person shall have
8 the same rights with respect to notice, hearing, and counsel as for an
9 involuntary treatment proceeding, except as set forth in this
10 subsection and except that there shall be no right to jury trial. The
11 issue to be determined at the hearing is whether or not the person may
12 be conditionally released without substantial danger to other persons,
13 or substantial likelihood of committing felonious acts jeopardizing
14 public safety or security. If the court disapproves of the conditional
15 release, it may do so only on the basis of substantial evidence.
16 Pursuant to the determination of the court upon the hearing, the
17 conditional release of the person shall be approved by the court on the
18 same or modified conditions or the person shall be returned for
19 involuntary treatment on an inpatient basis subject to release at the
20 end of the period for which he or she was committed, or otherwise in
21 accordance with the provisions of this chapter.

22 (2) The hospital or facility designated to provide outpatient care
23 or the secretary may modify the conditions for continued release when
24 such modification is in the best interest of the person. Notification
25 of such changes shall be sent to all persons receiving a copy of the
26 original conditions.

27 (3)(a) If the hospital or facility designated to provide outpatient
28 care, the designated county mental health professional or the secretary
29 determines that a conditionally released person is failing to adhere to
30 the terms and conditions of his or her release, or that substantial
31 deterioration in the person's functioning has occurred to the extent
32 that rehospitalization is a "medically necessary admission", then, upon
33 notification by the hospital or facility designated to provide
34 outpatient care, or on his or her own motion, the designated county
35 mental health professional or the secretary may order that the
36 conditionally released person be apprehended and taken into custody and
37 temporarily detained in an evaluation and treatment facility in or near
38 the county in which he or she is receiving outpatient treatment. The
39 person shall be detained until such time, not exceeding five days, as

1 a hearing can be scheduled to determine whether or not the person
2 should be returned to the hospital or facility from which he or she had
3 been conditionally released. The designated county mental health
4 professional or the secretary may modify or rescind such order at any
5 time prior to commencement of the court hearing.

6 (b) The court that originally ordered commitment shall be notified
7 within two judicial days of a person's detention under the provisions
8 of this section, and the designated county mental health professional
9 or the secretary shall file his or her petition and order of
10 apprehension and detention with the court and serve them upon the
11 person detained. His or her attorney, if any, and his or her guardian
12 or conservator, if any, shall receive a copy of such papers as soon as
13 possible. Such person shall have the same rights with respect to
14 notice, hearing, and counsel as for an involuntary treatment
15 proceeding, except as specifically set forth in this section and except
16 that there shall be no right to jury trial. The issues to be
17 determined shall be whether the conditionally released person did or
18 did not adhere to the terms and conditions of his or her release or
19 that substantial deterioration in the person's functioning has
20 occurred; and, if he or she failed to adhere to such terms and
21 conditions, or that substantial deterioration in the person's
22 functioning has occurred, whether the conditions of release should be
23 modified or the person should be returned to the facility.

24 (c) Pursuant to the determination of the court upon such hearing,
25 the conditionally released person shall either continue to be
26 conditionally released on the same or modified conditions or shall be
27 returned for involuntary treatment on an inpatient basis subject to
28 release at the end of the period for which he or she was committed for
29 involuntary treatment, or otherwise in accordance with the provisions
30 of this chapter. Such hearing may be waived by the person and his or
31 her counsel and his or her guardian or conservator, if any, but shall
32 not be waivable unless all such persons agree to waive, and upon such
33 waiver the person may be returned for involuntary treatment or
34 continued on conditional release on the same or modified conditions.

35 (4) The proceedings set forth in subsection (3) of this section may
36 be initiated by the designated county mental health professional or the
37 secretary on the same basis set forth therein without requiring or
38 ordering the apprehension and detention of the conditionally released
39 person, in which case the court hearing shall take place in not less

1 than five days from the date of service of the petition upon the
2 conditionally released person.

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

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

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

12 **Sec. 27.** RCW 71.05.350 and 1973 1st ex.s. c 142 s 40 are each
13 amended to read as follows:

14 No indigent patient shall be conditionally released or discharged
15 from involuntary treatment without suitable clothing, and the
16 superintendent of a state hospital shall furnish the same, together
17 with such sum of money as he (~~shall~~) or she deems necessary for the
18 immediate welfare of the patient. Such sum of money shall be the same
19 as the amount required by RCW 72.02.100 to be provided to persons in
20 need being released from correctional institutions. As funds are
21 available, the secretary may provide payment to indigent persons
22 conditionally released pursuant to this chapter consistent with the
23 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules
24 and regulations to do so.

25 **Sec. 28.** RCW 71.05.360 and 1974 ex.s. c 145 s 25 are each amended
26 to read as follows:

27 (1) Every person involuntarily detained or committed under the
28 provisions of this chapter shall be entitled to all the rights set
29 forth in this chapter and shall retain all rights not denied him or her
30 under this chapter.

31 (2) Each person involuntarily detained or committed pursuant to
32 this chapter shall have the right to adequate care and individualized
33 treatment.

34 **Sec. 29.** RCW 71.05.370 and 1991 c 105 s 5 are each amended to read
35 as follows:

1 Insofar as danger to the individual or others is not created, each
2 person involuntarily detained, treated in a less restrictive
3 alternative course of treatment, or committed for treatment and
4 evaluation pursuant to this chapter shall have, in addition to other
5 rights not specifically withheld by law, the following rights, a list
6 of which shall be prominently posted in all facilities, institutions,
7 and hospitals providing such services:

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

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

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

15 (4) To have visitors at reasonable times;

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

18 (6) To have ready access to letter writing materials, including
19 stamps, and to send and receive uncensored correspondence through the
20 mails;

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

26 (a) The administration of antipsychotic medication or
27 electroconvulsant therapy shall not be ordered unless the petitioning
28 party proves by clear, cogent, and convincing evidence that there
29 exists a compelling state interest that justifies overriding the
30 patient's lack of consent to the administration of antipsychotic
31 medications or electroconvulsant therapy, that the proposed treatment
32 is necessary and effective, and that medically acceptable alternative
33 forms of treatment are not available, have not been successful, or are
34 not likely to be effective.

35 (b) The court shall make specific findings of fact concerning: (i)
36 The existence of one or more compelling state interests; (ii) the
37 necessity and effectiveness of the treatment; and (iii) the person's
38 desires regarding the proposed treatment. If the patient is unable to
39 make a rational and informed decision about consenting to or refusing

1 the proposed treatment, the court shall make a substituted judgment for
2 the patient as if he or she were competent to make such a
3 determination.

4 (c) The person shall be present at any hearing on a request to
5 administer antipsychotic medication or electroconvulsant therapy filed
6 pursuant to this subsection. The person has the right: (i) To be
7 represented by an attorney; (ii) to present evidence; (iii) to cross-
8 examine witnesses; (iv) to have the rules of evidence enforced; (v) to
9 remain silent; (vi) to view and copy all petitions and reports in the
10 court file; and (vii) to be given reasonable notice and an opportunity
11 to prepare for the hearing. The court may appoint a psychiatrist,
12 psychologist within their scope of practice, or physician to examine
13 and testify on behalf of such person. The court shall appoint a
14 psychiatrist, psychologist within their scope of practice, or physician
15 designated by such person or the person's counsel to testify on behalf
16 of the person in cases where an order for electroconvulsant therapy is
17 sought.

18 (d) An order for the administration of antipsychotic medications
19 entered following a hearing conducted pursuant to this section shall be
20 effective for the period of the current involuntary treatment order,
21 and any interim period during which the person is awaiting trial or
22 hearing on a new petition for involuntary treatment or involuntary
23 medication.

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

27 (f) Antipsychotic medication may be administered to a nonconsenting
28 person detained or committed pursuant to this chapter without a court
29 order pursuant to RCW 71.05.215(2) or under the following
30 circumstances:

31 (i) A person presents an imminent likelihood of serious harm to
32 self or others or to the property of others;

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

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

1 If antipsychotic medications are administered over a person's lack
2 of consent pursuant to this subsection, a petition for an order
3 authorizing the administration of antipsychotic medications shall be
4 filed on the next judicial day. The hearing shall be held within two
5 judicial days. If deemed necessary by the physician with
6 responsibility for the treatment of the person, administration of
7 antipsychotic medications may continue until the hearing is held;

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

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

13 **Sec. 30.** RCW 71.05.410 and 1973 2nd ex.s. c 24 s 7 are each
14 amended to read as follows:

15 When a patient would otherwise be subject to the provisions of RCW
16 71.05.390 and disclosure is necessary for the protection of the patient
17 or others due to his or her unauthorized disappearance from the
18 facility, and his or her whereabouts is unknown, notice of such
19 disappearance, along with relevant information, may be made to
20 relatives and governmental law enforcement agencies designated by the
21 physician in charge of the patient or the professional person in charge
22 of the facility, or his or her professional designee.

23 **Sec. 31.** RCW 71.05.460 and 1973 1st ex.s. c 142 s 51 are each
24 amended to read as follows:

25 Every person involuntarily detained shall immediately be informed
26 of his or her right to a hearing to review the legality of his or her
27 detention and of his or her right to counsel, by the professional
28 person in charge of the facility providing evaluation and treatment, or
29 his or her designee, and, when appropriate, by the court. If the
30 person so elects, the court shall immediately appoint an attorney to
31 assist him or her.

32 **Sec. 32.** RCW 71.05.470 and 1973 1st ex.s. c 142 s 52 are each
33 amended to read as follows:

34 A person challenging his or her detention or his or her attorney,
35 shall have the right to designate and have the court appoint a
36 reasonably available independent physician or licensed mental health

1 professional to examine the person detained, the results of which
2 examination may be used in the proceeding. The person shall, if he or
3 she is financially able, bear the cost of such expert information,
4 otherwise such expert examination shall be at public expense.

5 **Sec. 33.** RCW 71.05.490 and 1973 1st ex.s. c 142 s 54 are each
6 amended to read as follows:

7 Nothing in this chapter shall prohibit a person committed on or
8 prior to January 1, 1974, from exercising a right available to him or
9 her at or prior to January 1, 1974, for obtaining release from
10 confinement.

11 **Sec. 34.** RCW 71.05.525 and 1975 1st ex.s. c 199 s 12 are each
12 amended to read as follows:

13 When, in the judgment of the department (~~of social and health~~
14 ~~services~~)), the welfare of any person committed to or confined in any
15 state juvenile correctional institution or facility necessitates that
16 such a person be transferred or moved for observation, diagnosis or
17 treatment to any state institution or facility for the care of mentally
18 ill juveniles the secretary, or his or her designee, is authorized to
19 order and effect such move or transfer: PROVIDED, HOWEVER, That the
20 secretary shall adopt and implement procedures to assure that persons
21 so transferred shall, while detained or confined in such institution or
22 facility for the care of mentally ill juveniles, be provided with
23 substantially similar opportunities for parole or early release
24 evaluation and determination as persons detained or confined in state
25 juvenile correctional institutions or facilities: PROVIDED, FURTHER,
26 That the secretary shall notify the original committing court of such
27 transfer.

28 **Sec. 35.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to
29 read as follows:

30 As used in this chapter:

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

33 (b) Also means any penetration of the vagina or anus however
34 slight, by an object, when committed on one person by another, whether
35 such persons are of the same or opposite sex, except when such

1 penetration is accomplished for medically recognized treatment or
2 diagnostic purposes, and

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

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

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

13 (4) "Mental incapacity" is that condition existing at the time of
14 the offense which prevents a person from understanding the nature or
15 consequences of the act of sexual intercourse whether that condition is
16 produced by illness, defect, the influence of a substance or from some
17 other cause.

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

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

25 (7) "Consent" means that at the time of the act of sexual
26 intercourse or sexual contact there are actual words or conduct
27 indicating freely given agreement to have sexual intercourse or sexual
28 contact.

29 (8) "Significant relationship" means a situation in which the
30 perpetrator is:

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

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

36 (9) "Abuse of a supervisory position" means a direct or indirect
37 threat or promise to use authority to the detriment or benefit of a
38 minor.

1 (10) "Developmentally disabled," for purposes of RCW
2 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
3 developmental disability as defined in RCW 71A.10.020.

4 (11) "Person with supervisory authority," for purposes of RCW
5 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
6 proprietor or employee of any public or private care or treatment
7 facility who directly supervises developmentally disabled, mentally
8 disordered, or chemically dependent persons at the facility.

9 (12) "Mentally disordered person" for the purposes of RCW
10 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
11 disorder" as defined in RCW 71.05.020(~~((+2))~~).

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

15 (14) "Health care provider" for purposes of RCW 9A.44.050 and
16 9A.44.100 means a person who is, holds himself or herself out to be, or
17 provides services as if he or she were: (a) A member of a health care
18 profession under chapter 18.130 RCW; or (b) registered or certified
19 under chapter 18.19 RCW, regardless of whether the health care provider
20 is licensed, certified, or registered by the state.

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

25 **Sec. 36.** RCW 71.24.025 and 1995 c 96 s 4 are each amended to read
26 as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

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

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

33 (b) Being gravely disabled as defined in RCW 71.05.020(~~((+1))~~) or,
34 in the case of a child, a gravely disabled minor as defined in RCW
35 71.34.020(~~((+8))~~); or

36 (c) Presenting a likelihood of serious harm as defined in RCW
37 71.05.020(~~((+3))~~) or, in the case of a child, as defined in RCW
38 71.34.020(~~((+11))~~).

1 (2) "Available resources" means those funds which shall be
2 appropriated under this chapter by the legislature during any biennium
3 for the purpose of providing community mental health programs under RCW
4 71.24.045. When regional support networks are established or after
5 July 1, 1995, "available resources" means federal funds, except those
6 provided according to Title XIX of the Social Security Act, and state
7 funds appropriated under this chapter or chapter 71.05 RCW by the
8 legislature during any biennium for the purpose of providing
9 residential services, resource management services, community support
10 services, and other mental health services. This does not include
11 funds appropriated for the purpose of operating and administering the
12 state psychiatric hospitals, except as negotiated according to RCW
13 71.24.300(1)(d).

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

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

20 (5) "Chronically mentally ill adult" means an adult who has a
21 mental disorder and meets at least one of the following criteria:

22 (a) Has undergone two or more episodes of hospital care for a
23 mental disorder within the preceding two years; or

24 (b) Has experienced a continuous psychiatric hospitalization or
25 residential treatment exceeding six months' duration within the
26 preceding year; or

27 (c) Has been unable to engage in any substantial gainful activity
28 by reason of any mental disorder which has lasted for a continuous
29 period of not less than twelve months. "Substantial gainful activity"
30 shall be defined by the department by rule consistent with Public Law
31 92-603, as amended.

32 (6) "Severely emotionally disturbed child" means an infant or child
33 who has been determined by the regional support network to be
34 experiencing a mental disorder as defined in chapter 71.34 RCW,
35 including those mental disorders that result in a behavioral or conduct
36 disorder, that is clearly interfering with the child's functioning in
37 family or school or with peers and who meets at least one of the
38 following criteria:

1 (a) Has undergone inpatient treatment or placement outside of the
2 home related to a mental disorder within the last two years;

3 (b) Has undergone involuntary treatment under chapter 71.34 RCW
4 within the last two years;

5 (c) Is currently served by at least one of the following child-
6 serving systems: Juvenile justice, child-protection/welfare, special
7 education, or developmental disabilities;

8 (d) Is at risk of escalating maladjustment due to:

9 (i) Chronic family dysfunction involving a mentally ill or
10 inadequate caretaker;

11 (ii) Changes in custodial adult;

12 (iii) Going to, residing in, or returning from any placement
13 outside of the home, for example, psychiatric hospital, short-term
14 inpatient, residential treatment, group or foster home, or a
15 correctional facility;

16 (iv) Subject to repeated physical abuse or neglect;

17 (v) Drug or alcohol abuse; or

18 (vi) Homelessness.

19 (7) "Community mental health service delivery system" means public
20 or private agencies that provide services specifically to persons with
21 mental disorders as defined under RCW 71.05.020 and receive funding
22 from various public sources including: (a) Federal medicare, medicaid,
23 or early periodic screening, diagnostic, and treatment programs; or (b)
24 state funds from the division of mental health, division of children
25 and family services, division of alcohol and substance abuse, or
26 division of vocational rehabilitation of the department of social and
27 health services.

28 (8) "Community mental health program" means all mental health
29 services established by a county authority. After July 1, 1995, or
30 when the regional support networks are established, "community mental
31 health program" means all activities or programs using available
32 resources.

33 (9) "Community support services" means services for acutely
34 mentally ill persons, chronically mentally ill adults, and severely
35 emotionally disturbed children and includes: (a) Discharge planning
36 for clients leaving state mental hospitals, other acute care inpatient
37 facilities, inpatient psychiatric facilities for persons under twenty-
38 one years of age, and other children's mental health residential
39 treatment facilities; (b) sufficient contacts with clients, families,

1 schools, or significant others to provide for an effective program of
2 community maintenance; and (c) medication monitoring. After July 1,
3 1995, or when regional support networks are established, for adults and
4 children "community support services" means services authorized,
5 planned, and coordinated through resource management services
6 including, at least, assessment, diagnosis, emergency crisis
7 intervention available twenty-four hours, seven days a week,
8 prescreening determinations for mentally ill persons being considered
9 for placement in nursing homes as required by federal law, screening
10 for patients being considered for admission to residential services,
11 diagnosis and treatment for acutely mentally ill and severely
12 emotionally disturbed children discovered under screening through the
13 federal Title XIX early and periodic screening, diagnosis, and
14 treatment program, investigation, legal, and other nonresidential
15 services under chapter 71.05 RCW, case management services, psychiatric
16 treatment including medication supervision, counseling, psychotherapy,
17 assuring transfer of relevant patient information between service
18 providers, other services determined by regional support networks, and
19 maintenance of a patient tracking system for chronically mentally ill
20 adults and severely emotionally disturbed children.

21 (10) "County authority" means the board of county commissioners,
22 county council, or county executive having authority to establish a
23 community mental health program, or two or more of the county
24 authorities specified in this subsection which have entered into an
25 agreement to provide a community mental health program.

26 (11) "Department" means the department of social and health
27 services.

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

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

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

1 (15) "Residential services" means a facility or distinct part
2 thereof which provides food and shelter, and may include treatment
3 services.

4 When regional support networks are established, or after July 1,
5 1995, for adults and children "residential services" means a complete
6 range of residences and supports authorized by resource management
7 services and which may involve a facility, a distinct part thereof, or
8 services which support community living, for acutely mentally ill
9 persons, chronically mentally ill adults, severely emotionally
10 disturbed children, or seriously disturbed adults determined by the
11 regional support network to be at risk of becoming acutely or
12 chronically mentally ill. The services shall include at least
13 evaluation and treatment services as defined in chapter 71.05 RCW,
14 acute crisis respite care, long-term adaptive and rehabilitative care,
15 and supervised and supported living services, and shall also include
16 any residential services developed to service mentally ill persons in
17 nursing homes. Residential services for children in out-of-home
18 placements related to their mental disorder shall not include the costs
19 of food and shelter, except for children's long-term residential
20 facilities existing prior to January 1, 1991.

21 (16) "Resource management services" mean the planning,
22 coordination, and authorization of residential services and community
23 support services administered pursuant to an individual service plan
24 for acutely mentally ill adults and children, chronically mentally ill
25 adults, severely emotionally disturbed children, or seriously disturbed
26 adults determined by the regional support network at their sole
27 discretion to be at risk of becoming acutely or chronically mentally
28 ill. Such planning, coordination, and authorization shall include
29 mental health screening for children eligible under the federal Title
30 XIX early and periodic screening, diagnosis, and treatment program.
31 Resource management services include seven day a week, twenty-four hour
32 a day availability of information regarding mentally ill adults' and
33 children's enrollment in services and their individual service plan to
34 county-designated mental health professionals, evaluation and treatment
35 facilities, and others as determined by the regional support network.

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

37 (a) Is gravely disabled or presents a likelihood of serious harm to
38 oneself or others or to the property of others as a result of a mental
39 disorder as defined in chapter 71.05 RCW;

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

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

6 (d) Exhibits suicidal preoccupation or attempts; or

7 (e) Is a child diagnosed by a mental health professional, as
8 defined in RCW 71.05.020, as experiencing a mental disorder which is
9 clearly interfering with the child's functioning in family or school or
10 with peers or is clearly interfering with the child's personality
11 development and learning.

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

13 (19) "State minimum standards" means: (a) Minimum requirements for
14 delivery of mental health services as established by departmental rules
15 and necessary to implement this chapter, including but not limited to
16 licensing service providers and services; (b) minimum service
17 requirements for licensed service providers for the provision of mental
18 health services as established by departmental rules pursuant to
19 chapter 34.05 RCW as necessary to implement this chapter, including,
20 but not limited to: Qualifications for staff providing services
21 directly to mentally ill persons; the intended result of each service;
22 and the rights and responsibilities of persons receiving mental health
23 services pursuant to this chapter; (c) minimum requirements for
24 residential services as established by the department in rule based on
25 clients' functional abilities and not solely on their diagnoses,
26 limited to health and safety, staff qualifications, and program
27 outcomes. Minimum requirements for residential services are those
28 developed in collaboration with consumers, families, counties,
29 regulators, and residential providers serving the mentally ill.
30 Minimum requirements encourage the development of broad-range
31 residential programs, including integrated housing and cross-systems
32 programs where appropriate, and do not unnecessarily restrict
33 programming flexibility; and (d) minimum standards for community
34 support services and resource management services, including at least
35 qualifications for resource management services, client tracking
36 systems, and the transfer of patient information between service
37 providers.

38 (20) "Tribal authority," for the purposes of this section and RCW
39 71.24.300 only, means: The federally recognized Indian tribes and the

1 major Indian organizations recognized by the secretary insofar as these
2 organizations do not have a financial relationship with any regional
3 support network that would present a conflict of interest.

4 NEW SECTION. **Sec. 37.** The joint legislative audit and review
5 committee shall perform an evaluation of the effect of this act upon
6 persons who have been repeatedly involuntarily committed and shall
7 measure the overall fiscal impact of this act. The committee shall
8 report its findings to the appropriate committees of the legislature by
9 January 1, 2000.

--- END ---