

ESSB 5106 - H COMM AMD

By Committee on Appropriations

ADOPTED AND ENGROSSED 4/11/17

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Part One - Joel's Law Amendments**

4 **Sec. 1.** RCW 71.05.201 and 2016 c 107 s 1 are each amended to
5 read as follows:

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

14 (2) A petition under this section must be filed within ten
15 calendar days following the designated mental health professional
16 investigation or the request for a designated mental health
17 professional investigation. If more than ten days have elapsed, the
18 immediate family member, guardian, or conservator may request a new
19 designated mental health professional investigation.

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

29 (b) The petition must contain:

30 (i) A description of the relationship between the petitioner and
31 the person; and

1 (ii) The date on which an investigation was requested from the
2 designated mental health professional.

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

12 ~~((4))~~ (5) Following the filing of the petition and before the
13 court reaches a decision, any person, including a mental health
14 professional, may submit a sworn declaration to the court in support
15 of or in opposition to initial detention.

16 ~~((5))~~ (6) The court shall dismiss the petition at any time if
17 it finds that a designated mental health professional has filed a
18 petition for the person's initial detention under RCW 71.05.150 or
19 71.05.153 or that the person has voluntarily accepted appropriate
20 treatment.

21 ~~((6))~~ (7) The court must issue a final ruling on the petition
22 within five judicial days after it is filed. After reviewing all of
23 the information provided to the court, the court may enter an order
24 for initial detention if the court finds that: (a) There is probable
25 cause to support a petition for detention; and (b) the person has
26 refused or failed to accept appropriate evaluation and treatment
27 voluntarily. The court shall transmit its final decision to the
28 petitioner.

29 ~~((7))~~ (8) If the court enters an order for initial detention,
30 it shall provide the order to the designated mental health
31 professional agency(~~(, which shall execute the order without delay)~~)
32 and issue a written order for apprehension of the person by a peace
33 officer for delivery of the person to a facility or emergency room
34 determined by the designated mental health professional. The
35 designated mental health agency serving the jurisdiction of the court
36 must collaborate and coordinate with law enforcement regarding
37 apprehensions and detentions under this subsection, including sharing
38 of information relating to risk and which would assist in locating
39 the person. A person may not be detained to jail pursuant to a
40 written order issued under this subsection. An order for detention

1 under this section should contain the advisement of rights which the
2 person would receive if the person were detained by a designated
3 mental health professional. An order for initial detention under this
4 section expires one hundred eighty days from issuance.

5 ((+8)) (9) Except as otherwise expressly stated in this chapter,
6 all procedures must be followed as if the order had been entered
7 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was
8 initiated under the process set forth in this section.

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

12 **Sec. 2.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107 s
13 1 are each reenacted and amended to read as follows:

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

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

27 (3)(a) The petition must be filed in the county in which the
28 designated ((mental—health—professional)) crisis responder
29 investigation occurred or was requested to occur and must be
30 submitted on forms developed by the administrative office of the
31 courts for this purpose. The petition must be accompanied by a sworn
32 declaration from the petitioner, and other witnesses if desired,
33 describing why the person should be detained for evaluation and
34 treatment. The description of why the person should be detained may
35 contain, but is not limited to, the information identified in RCW
36 71.05.212.

37 (b) The petition must contain:

38 (i) A description of the relationship between the petitioner and
39 the person; and

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

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

11 ((+4)) (5) Following the filing of the petition and before the
12 court reaches a decision, any person, including a mental health
13 professional, may submit a sworn declaration to the court in support
14 of or in opposition to initial detention.

15 ((+5)) (6) The court shall dismiss the petition at any time if
16 it finds that a designated crisis responder has filed a petition for
17 the person's initial detention under RCW 71.05.150 or 71.05.153 or
18 that the person has voluntarily accepted appropriate treatment.

19 ((+6)) (7) The court must issue a final ruling on the petition
20 within five judicial days after it is filed. After reviewing all of
21 the information provided to the court, the court may enter an order
22 for initial detention if the court finds that: (a) There is probable
23 cause to support a petition for detention; and (b) the person has
24 refused or failed to accept appropriate evaluation and treatment
25 voluntarily. The court shall transmit its final decision to the
26 petitioner.

27 ((+7)) (8) If the court enters an order for initial detention,
28 it shall provide the order to the designated crisis responder
29 agency(~~(, which shall execute the order without delay)~~) and issue a
30 written order for apprehension of the person by a peace officer for
31 delivery of the person to a facility or emergency room determined by
32 the designated crisis responder. The designated crisis responder
33 agency serving the jurisdiction of the court must collaborate and
34 coordinate with law enforcement regarding apprehensions and
35 detentions under this subsection, including sharing of information
36 relating to risk and which would assist in locating the person. A
37 person may not be detained to jail pursuant to a written order issued
38 under this subsection. An order for detention under this section
39 should contain the advisement of rights which the person would
40 receive if the person were detained by a designated crisis responder.

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

3 ~~((+8))~~ (9) Except as otherwise expressly stated in this chapter,
4 all procedures must be followed as if the order had been entered
5 under RCW 71.05.150. RCW 71.05.160 does not apply if detention was
6 initiated under the process set forth in this section.

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

10 **Sec. 3.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to
11 read as follows:

12 (1) The department and each ~~((regional—support—network))~~
13 behavioral health organization or agency employing designated mental
14 health professionals shall publish information in an easily
15 accessible format describing the process for an immediate family
16 member, guardian, or conservator to petition for court review of a
17 detention decision under RCW 71.05.201.

18 (2) A designated mental health professional or designated mental
19 health professional agency that receives a request for investigation
20 for possible detention under this chapter must inquire whether the
21 request comes from an immediate family member, guardian, or
22 conservator who would be eligible to petition under RCW 71.05.201. If
23 the designated mental health professional decides not to detain the
24 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
25 or forty-eight hours have elapsed since the request for investigation
26 was received and the designated mental health professional has not
27 taken action to have the person detained, the designated mental
28 health professional or designated mental health professional agency
29 must ~~((inform))~~ provide the immediate family member, guardian, or
30 conservator who made the request for investigation with written
31 information about the process to petition for court review under RCW
32 71.05.201 and document the date on which the written information was
33 provided to the immediate family member, guardian, or conservator.

34 (3) A designated mental health professional or designated mental
35 health professional agency must, upon request, disclose the date of a
36 designated mental health professional investigation under this
37 chapter to an immediate family member, guardian, or conservator of a
38 person to assist in the preparation of a petition under RCW
39 71.05.201.

1 **Sec. 4.** RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each amended
2 to read as follows:

3 (1) The department and each behavioral health organization or
4 agency employing designated crisis responders shall publish
5 information in an easily accessible format describing the process for
6 an immediate family member, guardian, or conservator to petition for
7 court review of a detention decision under RCW 71.05.201.

8 (2) A designated crisis responder or designated crisis responder
9 agency that receives a request for investigation for possible
10 detention under this chapter must inquire whether the request comes
11 from an immediate family member, guardian, or conservator who would
12 be eligible to petition under RCW 71.05.201. If the designated crisis
13 responder decides not to detain the person for evaluation and
14 treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have
15 elapsed since the request for investigation was received and the
16 designated crisis responder has not taken action to have the person
17 detained, the designated crisis responder or designated crisis
18 responder agency must (~~inform~~) provide the immediate family member,
19 guardian, or conservator who made the request for investigation with
20 written information about the process to petition for court review
21 under RCW 71.05.201 and document the date on which the written
22 information was provided to the immediate family member, guardian, or
23 conservator.

24 (3) A designated crisis responder or designated crisis responder
25 agency must, upon request, disclose the date of a designated crisis
26 responder investigation under this chapter to an immediate family
27 member, guardian, or conservator of a person to assist in the
28 preparation of a petition under RCW 71.05.201.

29 NEW SECTION. **Sec. 5.** By December 15, 2017, the administrative
30 office of the courts, in collaboration with stakeholders, including
31 but not limited to judges, prosecutors, defense attorneys, the
32 department of social and health services, behavioral health
33 advocates, and families, shall: (1) Develop a user's guide to assist
34 pro se litigants in the preparation and filing of a petition under
35 RCW 71.05.201; and (2) develop a model order of detention under RCW
36 71.05.201 which contains an advisement of rights for the detained
37 person.

1 NEW SECTION. **Sec. 6.** Sections 1 and 3 of this act expire April
2 1, 2018.

3 NEW SECTION. **Sec. 7.** Sections 2 and 4 of this act take effect
4 April 1, 2018.

5 **Part Two - Less Restrictive Alternative Revocations**

6 **Sec. 8.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to
7 read as follows:

8 (1) Either an agency or facility designated to monitor or provide
9 services under a less restrictive alternative order or conditional
10 release order, or a designated mental health professional, may take
11 action to enforce, modify, or revoke a less restrictive alternative
12 order or conditional release order ~~((if))~~. The agency, facility, or
13 designated mental health professional ~~((determines))~~ must determine
14 that:

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

17 (b) Substantial deterioration in the person's functioning has
18 occurred;

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

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

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

29 (a) To counsel~~((r))~~ or advise~~((, or admonish))~~ the person as to
30 their rights and responsibilities under the court order, and to offer
31 appropriate incentives to motivate compliance;

32 (b) To increase the intensity of outpatient services provided to
33 the person by increasing the frequency of contacts with the provider,
34 referring the person for an assessment for assertive community
35 services, or by other means;

36 (c) ~~((To request a court hearing for review and modification of
37 the court order. The request must be made to the court with~~

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

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

28 ((~~e~~)) (d) To initiate revocation or modification procedures
29 under ((~~subsection (4) of~~)) this section. This subsection does not
30 limit the inherent authority of a treatment provider to alter
31 conditions of treatment for clinical reasons, and is intended to be
32 used only when court intervention is necessary or advisable to secure
33 the person's compliance and prevent decompensation or deterioration.

34 (3) The facility or agency designated to provide outpatient
35 treatment shall notify the secretary or designated mental health
36 professional when a person fails to adhere to terms and conditions of
37 court ordered treatment or experiences substantial deterioration in
38 his or her condition and, as a result, presents an increased
39 likelihood of serious harm.

1 (4)(a) A designated mental health professional or the secretary
2 may upon their own motion or notification by the facility or agency
3 designated to provide outpatient care order a person subject to a
4 court order under this section to be apprehended and taken into
5 custody and temporary detention in an evaluation and treatment
6 facility in or near the county in which he or she is receiving
7 outpatient treatment, or initiate proceedings under ~~((this))~~
8 subsection ~~((4))~~ (5) of this section without ordering the
9 apprehension and detention of the person.

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

18 ~~((c))~~ (5)(a) The designated mental health professional or
19 secretary shall ~~((notify the court that originally ordered commitment~~
20 ~~within two judicial days of a person's detention and))~~ file a
21 petition for revocation ~~((petition))~~ or modification and an order of
22 apprehension and detention, if applicable, with the court ~~((and))~~ of
23 the county where the person is currently located or being detained.
24 The designated mental health professional shall serve the person and
25 their attorney, guardian, and conservator, if any. The person has the
26 same rights with respect to notice, hearing, and counsel as in any
27 involuntary treatment proceeding, except as specifically set forth in
28 this section. There is no right to jury trial. The venue for
29 proceedings ~~((regarding a petition for modification or revocation~~
30 ~~must be in))~~ is the county ~~((in which))~~ where the petition ~~((was))~~ is
31 filed. Notice of the filing must be provided to the court that
32 originally ordered commitment, if different from the court where the
33 petition for revocation or modification is filed, within two judicial
34 days of the person's detention.

35 ~~((d))~~ (b) The issues for the court to determine are whether:
36 (i) The person adhered to the terms and conditions of the court
37 order; (ii) substantial deterioration in the person's functioning has
38 occurred; (iii) there is evidence of substantial decompensation with
39 a reasonable probability that the decompensation can be reversed by
40 further inpatient treatment; or (iv) there is a likelihood of serious

1 harm; and, if any of the above conditions apply, whether the court
2 should reinstate or modify the person's less restrictive alternative
3 or conditional release order or order the person's detention for
4 inpatient treatment. The person may waive the court hearing and allow
5 the court to enter a stipulated order upon the agreement of all
6 parties. If the court orders detention for inpatient treatment, the
7 treatment period may be for no longer than the period authorized in
8 the original court order.

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

15 ~~((5))~~ (6) In determining whether or not to take action under
16 this section the designated mental health professional, agency, or
17 facility must consider the factors specified under RCW 71.05.212 and
18 the court must consider the factors specified under RCW 71.05.245 as
19 they apply to the question of whether to enforce, modify, or revoke a
20 court order for involuntary treatment.

21 **Sec. 9.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each amended
22 to read as follows:

23 (1) Either an agency or facility designated to monitor or provide
24 services under a less restrictive alternative order or conditional
25 release order, or a designated crisis responder, may take action to
26 enforce, modify, or revoke a less restrictive alternative order or
27 conditional release order ~~((if))~~. The agency, facility, or designated
28 crisis responder ~~((determines))~~ must determine that:

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

31 (b) Substantial deterioration in the person's functioning has
32 occurred;

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

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

37 (2) Actions taken under this section must include a flexible
38 range of responses of varying levels of intensity appropriate to the
39 circumstances and consistent with the interests of the individual and

1 the public in personal autonomy, safety, recovery, and compliance.
2 Available actions may include, but are not limited to, any of the
3 following:

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

7 (b) To increase the intensity of outpatient services provided to
8 the person by increasing the frequency of contacts with the provider,
9 referring the person for an assessment for assertive community
10 services, or by other means;

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

22 ~~(d))~~ To cause the person to be transported by a peace officer,
23 designated crisis responder, or other means to the agency or facility
24 monitoring or providing services under the court order, or to a
25 triage facility, crisis stabilization unit, emergency department, or
26 to an evaluation and treatment facility if the person is committed
27 for mental health treatment, or to a secure detoxification facility
28 with available space or an approved substance use disorder treatment
29 program with available space if the person is committed for substance
30 use disorder treatment. The person may be detained at the facility
31 for up to twelve hours for the purpose of an evaluation to determine
32 whether modification, revocation, or commitment proceedings are
33 necessary and appropriate to stabilize the person and prevent
34 decompensation, deterioration, or physical harm. Temporary detention
35 for evaluation under this subsection is intended to occur only
36 following a pattern of noncompliance or the failure of reasonable
37 attempts at outreach and engagement, and may occur only when in the
38 clinical judgment of a designated crisis responder or the
39 professional person in charge of an agency or facility designated to
40 monitor less restrictive alternative services temporary detention is

1 appropriate. This subsection does not limit the ability or obligation
2 to pursue revocation or modification procedures under ~~((subsection~~
3 ~~(4) of))~~ this section in appropriate circumstances; and

4 ~~((e))~~ (d) To initiate revocation or modification procedures
5 under ~~((subsection (4) of))~~ this section. This subsection does not
6 limit the inherent authority of a treatment provider to alter
7 conditions of treatment for clinical reasons, and is intended to be
8 used only when court intervention is necessary or advisable to secure
9 the person's compliance and prevent decompensation or deterioration.

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

16 (4)(a) A designated crisis responder or the secretary may upon
17 their own motion or notification by the facility or agency designated
18 to provide outpatient care order a person subject to a court order
19 under this chapter to be apprehended and taken into custody and
20 temporary detention in an evaluation and treatment facility in or
21 near the county in which he or she is receiving outpatient treatment
22 if the person is committed for mental health treatment, or, if the
23 person is committed for substance use disorder treatment, in a secure
24 detoxification facility or approved substance use disorder treatment
25 program if either is available in or near the county in which he or
26 she is receiving outpatient treatment and has adequate space.
27 Proceedings under ~~((this))~~ subsection ~~((4))~~ (5) of this section may
28 be initiated without ordering the apprehension and detention of the
29 person.

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

38 ~~((e))~~ (5)(a) The designated crisis responder or secretary shall
39 ~~((notify the court that originally ordered commitment within two~~
40 ~~judicial days of a person's detention and))~~ file a petition for

1 revocation (~~(petition)~~) or modification and an order of apprehension
2 and detention, if applicable, with the court (~~(and)~~) of the county
3 where the person is currently located or being detained. The
4 designated crisis responder shall serve the person and their
5 attorney, guardian, and conservator, if any. The person has the same
6 rights with respect to notice, hearing, and counsel as in any
7 involuntary treatment proceeding, except as specifically set forth in
8 this section. There is no right to jury trial. The venue for
9 proceedings (~~(regarding a petition for modification or revocation~~
10 ~~must be in)~~) is the county (~~(in which)~~) where the petition (~~(was)~~) is
11 filed. Notice of the filing must be provided to the court that
12 originally ordered commitment, if different from the court where the
13 petition for revocation or modification is filed, within two judicial
14 days of the person's detention.

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

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

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

7 **Sec. 10.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each
8 amended to read as follows:

9 (1) Either an agency or facility designated to monitor or provide
10 services under a less restrictive alternative order or conditional
11 release order, or a designated crisis responder, may take action to
12 enforce, modify, or revoke a less restrictive alternative order or
13 conditional release order ~~((if))~~. The agency, facility, or designated
14 crisis responder ~~((determines))~~ must determine that:

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

17 (b) Substantial deterioration in the person's functioning has
18 occurred;

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

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

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

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

32 (b) To increase the intensity of outpatient services provided to
33 the person by increasing the frequency of contacts with the provider,
34 referring the person for an assessment for assertive community
35 services, or by other means;

36 (c) ~~((To request a court hearing for review and modification of~~
37 ~~the court order. The request must be made to the court with~~
38 ~~jurisdiction over the order and specify the circumstances that give~~
39 ~~rise to the request and what modification is being sought. The county~~

1 ~~prosecutor shall assist the agency or facility in requesting this~~
2 ~~hearing and issuing an appropriate summons to the person. This~~
3 ~~subsection does not limit the inherent authority of a treatment~~
4 ~~provider to alter conditions of treatment for clinical reasons, and~~
5 ~~is intended to be used only when court intervention is necessary or~~
6 ~~advisable to secure the person's compliance and prevent~~
7 ~~decompensation or deterioration;~~

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

29 ~~((e))~~ (d) To initiate revocation or modification procedures
30 under ~~((subsection (4) of))~~ this section. This subsection does not
31 limit the inherent authority of a treatment provider to alter
32 conditions of treatment for clinical reasons, and is intended to be
33 used only when court intervention is necessary or advisable to secure
34 the person's compliance and prevent decompensation or deterioration.

35 (3) The facility or agency designated to provide outpatient
36 treatment shall notify the secretary or designated crisis responder
37 when a person fails to adhere to terms and conditions of court
38 ordered treatment or experiences substantial deterioration in his or
39 her condition and, as a result, presents an increased likelihood of
40 serious harm.

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

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

22 ~~((e))~~ (5)(a) The designated crisis responder or secretary shall
23 ~~((notify the court that originally ordered commitment within two~~
24 ~~judicial days of a person's detention and))~~ file a petition for
25 revocation ~~((petition))~~ or modification and an order of apprehension
26 and detention, if applicable, with the court ~~((and))~~ of the county
27 where the person is currently located or being detained. The
28 designated crisis responder shall serve the person and their
29 attorney, guardian, and conservator, if any. The person has the same
30 rights with respect to notice, hearing, and counsel as in any
31 involuntary treatment proceeding, except as specifically set forth in
32 this section. There is no right to jury trial. The venue for
33 proceedings ~~((regarding a petition for modification or revocation~~
34 ~~must be in))~~ is the county ~~((in which))~~ where the petition ~~((was))~~ is
35 filed. Notice of the filing must be provided to the court that
36 originally ordered commitment, if different from the court where the
37 petition for revocation or modification is filed, within two judicial
38 days of the person's detention.

39 ~~((d))~~ (b) The issues for the court to determine are whether:
40 (i) The person adhered to the terms and conditions of the court

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

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

19 ~~((5))~~ (6) In determining whether or not to take action under
20 this section the designated crisis responder, agency, or facility
21 must consider the factors specified under RCW 71.05.212 and the court
22 must consider the factors specified under RCW 71.05.245 as they apply
23 to the question of whether to enforce, modify, or revoke a court
24 order for involuntary treatment.

25 **Part Three - Initial Detention Investigations**

26 **Sec. 11.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to
27 read as follows:

28 ~~((A))~~ If a person subject to evaluation under RCW 71.05.150 or
29 71.05.153 is located in an emergency room at the time of evaluation,
30 the designated mental health professional conducting ~~((an))~~ the
31 evaluation ~~((of a person under RCW 71.05.150 or 71.05.153 must~~
32 ~~consult with any examining emergency room physician regarding the~~
33 ~~physician's observations and opinions relating to the person's~~
34 ~~condition, and whether, in the view of the physician, detention is~~
35 ~~appropriate. The designated mental health professional))~~ shall take
36 serious consideration of observations and opinions by an examining
37 emergency room physician~~((s))~~, advanced registered nurse
38 practitioner, or physician assistant in determining whether detention

1 under this chapter is appropriate. The designated mental health
2 professional must document ~~((the))~~ his or her consultation with ~~((an~~
3 ~~examining emergency room physician))~~ this professional, ~~((including))~~
4 if the professional is available, or his or her review of the
5 ~~((physician's))~~ professional's written observations or opinions
6 regarding whether detention of the person is appropriate.

7 **Sec. 12.** RCW 71.05.154 and 2016 sp.s. c 29 s 214 are each
8 amended to read as follows:

9 ((A)) If a person subject to evaluation under RCW 71.05.150 or
10 71.05.153 is located in an emergency room at the time of evaluation,
11 the designated crisis responder conducting ~~((an))~~ the evaluation ~~((of~~
12 a person under RCW 71.05.150 or 71.05.153 must consult with any
13 examining emergency room physician regarding the physician's
14 observations and opinions relating to the person's condition, and
15 whether, in the view of the physician, detention is appropriate. The
16 designated crisis responder)) shall take serious consideration of
17 observations and opinions by an examining emergency room
18 physician~~((s))~~, advanced registered nurse practitioner, or physician
19 assistant in determining whether detention under this chapter is
20 appropriate. The designated crisis responder must document ~~((the))~~
21 his or her consultation with ~~((an examining emergency room~~
22 ~~physician))~~ this professional, ~~((including))~~ if the professional is
23 available, or his or her review of the ~~((physician's))~~ professional's
24 written observations or opinions regarding whether detention of the
25 person is appropriate.

26 **Part Four - Evaluation and Petition by Chemical**
27 **Dependency Professionals**

28 **Sec. 13.** RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each
29 amended to read as follows:

30 (1)(a) When a designated chemical dependency specialist receives
31 information alleging that a person presents a likelihood of serious
32 harm or is gravely disabled as a result of ~~((chemical dependency))~~ a
33 substance use disorder, the designated chemical dependency
34 specialist, after investigation and evaluation of the specific facts
35 alleged and of the reliability and credibility of the information,
36 may file a petition for commitment of such person with the superior
37 court, district court, or in another court permitted by court rule.

1 If a petition for commitment is not filed in the case of a minor,
2 the parent, guardian, or custodian who has custody of the minor may
3 seek review of that decision made by the designated chemical
4 dependency specialist in superior or district court. The parent,
5 guardian, or custodian shall file notice with the court and provide a
6 copy of the designated chemical dependency specialist's report.

7 If the designated chemical dependency specialist finds that the
8 initial needs of such person would be better served by placement
9 within the mental health system, the person shall be referred to
10 either a designated mental health professional or an evaluation and
11 treatment facility as defined in RCW 71.05.020 or 71.34.020.

12 (b) If placement in a (~~chemical dependency~~) substance use
13 disorder treatment program is available and deemed appropriate, the
14 petition shall allege that: The person is chemically dependent and
15 presents a likelihood of serious harm or is gravely disabled by
16 alcohol or drug addiction, or that the person has twice before in the
17 preceding twelve months been admitted for withdrawal management,
18 sobering services, or (~~chemical dependency~~) substance use disorder
19 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of
20 a more sustained treatment program, or that the person (~~is~~
21 ~~chemically dependent~~) has a substance use disorder and has
22 threatened, attempted, or inflicted physical harm on another and is
23 likely to inflict physical harm on another unless committed. A
24 refusal to undergo treatment, by itself, does not constitute evidence
25 of lack of judgment as to the need for treatment.

26 (c) If involuntary detention is sought, the petition must state
27 facts that support a finding of the grounds identified in (b) of this
28 subsection and that there are no less restrictive alternatives to
29 detention in the best interest of such person or others. The petition
30 must state specifically that less restrictive alternative treatment
31 was considered and specify why treatment less restrictive than
32 detention is not appropriate. If an involuntary less restrictive
33 alternative is sought, the petition must state facts that support a
34 finding of the grounds for commitment identified in (b) of this
35 subsection and set forth the proposed less restrictive alternative.

36 (d)(i) The petition must be signed by:

37 (A) (~~Two physicians;~~) One physician, physician assistant, or
38 psychiatric advanced registered nurse practitioner; and

39 (B) (~~One physician and a mental health professional;~~

40 ~~(C) One physician assistant and a mental health professional; or~~

1 ~~(D) One psychiatric advanced registered nurse practitioner and a~~
2 ~~mental health professional.~~

3 ~~(ii) The persons signing the petition must have examined the~~
4 ~~person)) One physician, physician assistant, psychiatric advanced~~
5 ~~registered nurse practitioner, or designated chemical dependency~~
6 ~~specialist.~~

7 (2) Upon filing the petition, the court shall fix a date for a
8 hearing no less than two and no more than seven days after the date
9 the petition was filed unless the person petitioned against is
10 presently being detained in a program, pursuant to RCW 70.96A.120,
11 71.05.210, or 71.34.710, in which case the hearing shall be held
12 within seventy-two hours of the filing of the petition(~~(:PROVIDED,~~
13 ~~HOWEVER, That))~~). The ((above specified)) seventy-two hours shall be
14 computed by excluding Saturdays, Sundays, and holidays(~~(:PROVIDED~~
15 ~~FURTHER, That,))~~). The court may, upon motion of the person whose
16 commitment is sought, or upon motion of petitioner with written
17 permission of the person whose commitment is sought, or his or her
18 counsel and, upon good cause shown, extend the date for the hearing.
19 A copy of the petition and of the notice of the hearing, including
20 the date fixed by the court, shall be served (~~by the designated~~
21 ~~chemical dependency specialist))~~) on the person whose commitment is
22 sought, his or her next of kin, a parent or his or her legal guardian
23 if he or she is a minor, and any other person the court believes
24 advisable. A copy of the petition and certificate shall be delivered
25 to each person notified.

26 (3) At the hearing the court shall hear all relevant testimony
27 including, if possible, the testimony, which may be telephonic, of at
28 least one licensed physician, psychiatric advanced registered nurse
29 practitioner, physician assistant, or (~~mental health professional~~)
30 designated chemical dependency specialist who has examined the person
31 whose commitment is sought. Communications otherwise deemed
32 privileged under the laws of this state are deemed to be waived in
33 proceedings under this chapter when a court of competent jurisdiction
34 in its discretion determines that the waiver is necessary to protect
35 either the detained person or the public. The waiver of a privilege
36 under this section is limited to records or testimony relevant to
37 evaluation of the detained person for purposes of a proceeding under
38 this chapter. Upon motion by the detained person, or on its own
39 motion, the court shall examine a record or testimony sought by a
40 petitioner to determine whether it is within the scope of the waiver.

1 The record maker shall not be required to testify in order to
2 introduce medical, nursing, or psychological records of detained
3 persons so long as the requirements of RCW 5.45.020 are met, except
4 that portions of the record that contain opinions as to whether the
5 detained person (~~is chemically dependent~~) has a substance use
6 disorder shall be deleted from the records unless the person offering
7 the opinions is available for cross-examination. The person shall be
8 present unless the court believes that his or her presence is likely
9 to be injurious to him or her; in this event the court may deem it
10 appropriate to appoint a guardian ad litem to represent him or her
11 throughout the proceeding. If deemed advisable, the court may examine
12 the person out of courtroom. If the person has refused to be examined
13 by a licensed physician, psychiatric advanced registered nurse
14 practitioner, physician assistant, or (~~mental health professional~~)
15 designated chemical dependency specialist, he or she shall be given
16 an opportunity to be examined by a court appointed licensed
17 physician, psychiatric advanced registered nurse practitioner,
18 physician assistant, or other professional person qualified to
19 provide such services. If he or she refuses and there is sufficient
20 evidence to believe that the allegations of the petition are true, or
21 if the court believes that more medical evidence is necessary, the
22 court may make a temporary order committing him or her to the
23 department for a period of not more than five days for purposes of a
24 diagnostic examination.

25 (4)(a) If, after hearing all relevant evidence, including the
26 results of any diagnostic examination, the court finds that grounds
27 for involuntary commitment have been established by a preponderance
28 of the evidence and, after considering less restrictive alternatives
29 to involuntary detention and treatment, finds that no such
30 alternatives are in the best interest of the person or others, it
31 shall make an order of commitment to an approved substance use
32 disorder treatment program. It shall not order commitment of a person
33 unless it determines that an approved substance use disorder
34 treatment program is available and able to provide adequate and
35 appropriate treatment for him or her.

36 (b) If the court finds that the grounds for commitment have been
37 established by a preponderance of the evidence, but that treatment in
38 a less restrictive setting than detention is in the best interest of
39 such person or others, the court shall order an appropriate less
40 restrictive course of treatment. The less restrictive order may

1 impose treatment conditions and other conditions that are in the best
2 interest of the respondent and others. A copy of the less restrictive
3 order must be given to the respondent, the designated chemical
4 dependency specialist, and any program designated to provide less
5 restrictive treatment. If the program designated to provide the less
6 restrictive treatment is other than the program providing the initial
7 involuntary treatment, the program so designated must agree in
8 writing to assume such responsibility. The court may not order
9 commitment of a person to a less restrictive course of treatment
10 unless it determines that an approved substance use disorder
11 treatment program is available and able to provide adequate and
12 appropriate treatment for him or her.

13 (5) A person committed to inpatient treatment under this section
14 shall remain in the program for treatment for a period of fourteen
15 days unless sooner discharged. A person committed to a less
16 restrictive course of treatment under this section shall remain in
17 the program of treatment for a period of ninety days unless sooner
18 discharged. At the end of the fourteen-day period, or ninety-day
19 period in the case of a less restrictive alternative to inpatient
20 treatment, he or she shall be discharged automatically unless the
21 program or the designated chemical dependency specialist, before
22 expiration of the period, files a petition for his or her
23 recommitment upon the grounds set forth in subsection (1) of this
24 section for a further period of ninety days of inpatient treatment or
25 ninety days of less restrictive alternative treatment unless sooner
26 discharged. The petition for ninety-day inpatient or less restrictive
27 alternative treatment must be filed with the clerk of the court at
28 least three days before expiration of the fourteen-day period of
29 intensive treatment.

30 If a petition for recommitment is not filed in the case of a
31 minor, the parent, guardian, or custodian who has custody of the
32 minor may seek review of that decision made by the designated
33 chemical dependency specialist in superior or district court. The
34 parent, guardian, or custodian shall file notice with the court and
35 provide a copy of the treatment progress report.

36 If a person has been committed because he or she (~~is chemically~~
37 ~~dependent~~) has a substance use disorder and is likely to inflict
38 physical harm on another, the program or designated chemical
39 dependency specialist shall apply for recommitment if after
40 examination it is determined that the likelihood still exists.

1 (6) Upon the filing of a petition for recommitment under
2 subsection (5) of this section, the court shall fix a date for
3 hearing no less than two and no more than seven days after the date
4 the petition was filed(~~(; PROVIDED, That,)~~). The court may, upon
5 motion of the person whose commitment is sought and upon good cause
6 shown, extend the date for the hearing. A copy of the petition and of
7 the notice of hearing, including the date fixed by the court, shall
8 be served by the treatment program on the person whose commitment is
9 sought, his or her next of kin, the original petitioner under
10 subsection (1) of this section if different from the petitioner for
11 recommitment, one of his or her parents or his or her legal guardian
12 if he or she is a minor, and his or her attorney and any other person
13 the court believes advisable. At the hearing the court shall proceed
14 as provided in subsections (3) and (4) of this section, except that
15 the burden of proof upon a hearing for recommitment must be proof by
16 clear, cogent, and convincing evidence.

17 (7) The approved substance use disorder treatment program shall
18 provide for adequate and appropriate treatment of a person committed
19 to its custody on an inpatient or outpatient basis. A person
20 committed under this section may be transferred from one approved
21 public treatment program to another if transfer is medically
22 advisable.

23 (8) A person committed to a program for treatment shall be
24 discharged at any time before the end of the period for which he or
25 she has been committed and he or she shall be discharged by order of
26 the court if either of the following conditions are met:

27 (a) In case of a (~~(chemically dependent)~~) person with a substance
28 use disorder committed on the grounds of likelihood of infliction of
29 physical harm upon himself, herself, or another, the likelihood no
30 longer exists; or further treatment will not be likely to bring about
31 significant improvement in the person's condition, or treatment is no
32 longer adequate or appropriate.

33 (b) In case of a (~~(chemically dependent)~~) person with a substance
34 use disorder committed on the grounds of the need of treatment and
35 incapacity, that the incapacity no longer exists.

36 (9) The court shall inform the person whose commitment or
37 recommitment is sought of his or her right to contest the
38 application, be represented by counsel at every stage of any
39 proceedings relating to his or her commitment and recommitment, and
40 have counsel appointed by the court or provided by the court, if he

1 or she wants the assistance of counsel and is unable to obtain
2 counsel. If the court believes that the person needs the assistance
3 of counsel, the court shall require, by appointment if necessary,
4 counsel for him or her regardless of his or her wishes. The person
5 shall, if he or she is financially able, bear the costs of such legal
6 service; otherwise such legal service shall be at public expense. The
7 person whose commitment or recommitment is sought shall be informed
8 of his or her right to be examined by a licensed physician,
9 psychiatric advanced registered nurse practitioner, physician
10 assistant, designated chemical dependency specialist, or other
11 professional person of his or her choice who is qualified to provide
12 such services. If the person is unable to obtain a qualified person
13 and requests an examination, the court shall employ a licensed
14 physician, psychiatric advanced registered nurse practitioner,
15 physician assistant, designated chemical dependency specialist, or
16 other professional person to conduct an examination and testify on
17 behalf of the person.

18 (10) A person committed under this chapter may at any time seek
19 to be discharged from commitment by writ of habeas corpus in a court
20 of competent jurisdiction.

21 (11) The venue for proceedings under this section is the county
22 in which person to be committed resides or is present.

23 (12) When in the opinion of the professional person in charge of
24 the program providing involuntary inpatient treatment under this
25 chapter, the committed patient can be appropriately served by less
26 restrictive treatment before expiration of the period of commitment,
27 then the less restrictive care may be required as a condition for
28 early release for a period which, when added to the initial treatment
29 period, does not exceed the period of commitment. If the program
30 designated to provide the less restrictive treatment is other than
31 the program providing the initial involuntary treatment, the program
32 so designated must agree in writing to assume such responsibility. A
33 copy of the conditions for early release shall be given to the
34 patient, the designated chemical dependency specialist of original
35 commitment, and the court of original commitment. The program
36 designated to provide less restrictive care may modify the conditions
37 for continued release when the modifications are in the best
38 interests of the patient. If the program providing less restrictive
39 care and the designated chemical dependency specialist determine that
40 a conditionally released patient is failing to adhere to the terms

1 and conditions of his or her release, or that substantial
2 deterioration in the patient's functioning has occurred, then the
3 designated chemical dependency specialist shall notify the court of
4 original commitment and request a hearing to be held no less than two
5 and no more than seven days after the date of the request to
6 determine whether or not the person should be returned to more
7 restrictive care. The designated chemical dependency specialist shall
8 file a petition with the court stating the facts substantiating the
9 need for the hearing along with the treatment recommendations. The
10 patient shall have the same rights with respect to notice, hearing,
11 and counsel as for the original involuntary treatment proceedings.
12 The issues to be determined at the hearing are whether the
13 conditionally released patient did or did not adhere to the terms and
14 conditions of his or her release to less restrictive care or that
15 substantial deterioration of the patient's functioning has occurred
16 and whether the conditions of release should be modified or the
17 person should be returned to a more restrictive program. The hearing
18 may be waived by the patient and his or her counsel and his or her
19 guardian or conservator, if any, but may not be waived unless all
20 such persons agree to the waiver. Upon waiver, the person may be
21 returned for involuntary treatment or continued on conditional
22 release on the same or modified conditions. The grounds and
23 procedures for revocation of less restrictive alternative treatment
24 ordered by the court must be the same as those set forth in this
25 section for less restrictive care arranged by an approved substance
26 use disorder treatment program as a condition for early release.

27 **Sec. 14.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155
28 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

14 (6) "Chemical dependency" means:

15 (a) Alcoholism;

16 (b) Drug addiction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (20) "Gravely disabled" means a condition in which a person, as a
39 result of a mental disorder, or as a result of the use of alcohol or
40 other psychoactive chemicals: (a) Is in danger of serious physical

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

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

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

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

23 (24) "Individualized service plan" means a plan prepared by a
24 developmental disabilities professional with other professionals as a
25 team, for a person 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
30 purposes 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
38 to less-restrictive settings, criteria for proposed eventual
39 discharge or release, and a projected possible date for discharge or
40 release; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (a) Provides for intoxicated persons:

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

21 (ii) Acute or subacute detoxification services; and

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

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

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

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

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

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

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

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

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

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

30 **Sec. 15.** RCW 71.05.210 and 2016 sp.s. c 29 s 224 and 2016 c 155
31 s 2 are each reenacted and amended to read as follows:

32 (1) Each person involuntarily detained and accepted or admitted
33 at an evaluation and treatment facility, secure detoxification
34 facility, or approved substance use disorder treatment program:

35 (a) Shall, within twenty-four hours of his or her admission or
36 acceptance at the facility, not counting time periods prior to
37 medical clearance, be examined and evaluated by:

38 (i) One physician ((and a mental health professional)), physician
39 assistant, or psychiatric advanced registered nurse practitioner; and

1 (ii) One (~~physician assistant and a~~) mental health
2 professional(~~;~~~~or~~

3 ~~(iii) One advanced registered nurse practitioner and a mental~~
4 ~~health)). If the person is detained for substance use disorder
5 evaluation and treatment, the person may be examined by a chemical
6 dependency professional instead of a mental health professional; and~~

7 (b) Shall receive such treatment and care as his or her condition
8 requires including treatment on an outpatient basis for the period
9 that he or she is detained, except that, beginning twenty-four hours
10 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
11 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may
12 refuse psychiatric medications, but may not refuse: (i) Any other
13 medication previously prescribed by a person licensed under Title 18
14 RCW; or (ii) emergency lifesaving treatment, and the individual shall
15 be informed at an appropriate time of his or her right of such
16 refusal. The person shall be detained up to seventy-two hours, if, in
17 the opinion of the professional person in charge of the facility, or
18 his or her professional designee, the person presents a likelihood of
19 serious harm, or is gravely disabled. A person who has been detained
20 for seventy-two hours shall no later than the end of such period be
21 released, unless referred for further care on a voluntary basis, or
22 detained pursuant to court order for further treatment as provided in
23 this chapter.

24 (2) If, after examination and evaluation, the mental health
25 professional or chemical dependency professional and licensed
26 physician, physician assistant, or psychiatric advanced registered
27 nurse practitioner determine that the initial needs of the person, if
28 detained to an evaluation and treatment facility, would be better
29 served by placement in a substance use disorder treatment
30 (~~facility~~) program, or, if detained to a secure detoxification
31 facility or approved substance use disorder treatment program, would
32 be better served in an evaluation and treatment facility than the
33 person shall be referred to the more appropriate placement; however,
34 a person may only be referred to a secure detoxification facility or
35 approved substance use disorder treatment program if there is an
36 available secure detoxification facility or approved substance use
37 disorder treatment program with adequate space for the person.

38 (3) An evaluation and treatment center, secure detoxification
39 facility, or approved substance use disorder treatment program
40 admitting or accepting any person pursuant to this chapter whose

1 physical condition reveals the need for hospitalization shall assure
2 that such person is transferred to an appropriate hospital for
3 evaluation or admission for treatment. Notice of such fact shall be
4 given to the court, the designated attorney, and the designated
5 crisis responder and the court shall order such continuance in
6 proceedings under this chapter as may be necessary, but in no event
7 may this continuance be more than fourteen days.

8 **Sec. 16.** RCW 71.05.210 and 2016 sp.s. c 29 s 225 are each
9 amended to read as follows:

10 (1) Each person involuntarily detained and accepted or admitted
11 at an evaluation and treatment facility, secure detoxification
12 facility, or approved substance use disorder treatment program:

13 (a) Shall, within twenty-four hours of his or her admission or
14 acceptance at the facility, not counting time periods prior to
15 medical clearance, be examined and evaluated by:

16 (i) One physician (~~(and a mental health professional)~~), physician
17 assistant, or psychiatric advanced registered nurse practitioner; and

18 (ii) One (~~(physician assistant and a)~~) mental health
19 professional(~~(; or~~

20 ~~(iii) One advanced registered nurse practitioner and a mental~~
21 ~~health)). If the person is detained for substance use disorder
22 evaluation and treatment, the person may be examined by a chemical
23 dependency professional instead of a mental health professional; and~~

24 (b) Shall receive such treatment and care as his or her condition
25 requires including treatment on an outpatient basis for the period
26 that he or she is detained, except that, beginning twenty-four hours
27 prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
28 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may
29 refuse psychiatric medications, but may not refuse: (i) Any other
30 medication previously prescribed by a person licensed under Title 18
31 RCW; or (ii) emergency lifesaving treatment, and the individual shall
32 be informed at an appropriate time of his or her right of such
33 refusal. The person shall be detained up to seventy-two hours, if, in
34 the opinion of the professional person in charge of the facility, or
35 his or her professional designee, the person presents a likelihood of
36 serious harm, or is gravely disabled. A person who has been detained
37 for seventy-two hours shall no later than the end of such period be
38 released, unless referred for further care on a voluntary basis, or

1 detained pursuant to court order for further treatment as provided in
2 this chapter.

3 (2) If, after examination and evaluation, the mental health
4 professional or chemical dependency professional and licensed
5 physician, physician assistant, or psychiatric advanced registered
6 nurse practitioner determine that the initial needs of the person, if
7 detained to an evaluation and treatment facility, would be better
8 served by placement in a substance use disorder treatment
9 ((~~facility~~)) program, or, if detained to a secure detoxification
10 facility or approved substance use disorder treatment program, would
11 be better served in an evaluation and treatment facility than the
12 person shall be referred to the more appropriate placement.

13 (3) An evaluation and treatment center, secure detoxification
14 facility, or approved substance use disorder treatment program
15 admitting or accepting any person pursuant to this chapter whose
16 physical condition reveals the need for hospitalization shall assure
17 that such person is transferred to an appropriate hospital for
18 evaluation or admission for treatment. Notice of such fact shall be
19 given to the court, the designated attorney, and the designated
20 crisis responder and the court shall order such continuance in
21 proceedings under this chapter as may be necessary, but in no event
22 may this continuance be more than fourteen days.

23 **Sec. 17.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s
24 5, and 2016 c 45 s 1 are each reenacted and amended to read as
25 follows:

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

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

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

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

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

11 (a) (~~Two physicians~~) One physician, physician assistant, or
12 psychiatric advanced registered nurse practitioner; and

13 (b) One physician ((and a)), physician assistant, psychiatric
14 advanced registered nurse practitioner, or mental health
15 professional((+)

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

17 ~~(d) One psychiatric advanced registered nurse practitioner and a~~
18 ~~mental health professional)).~~

19 disorder treatment, the petition may be signed by a chemical
20 dependency professional instead of a mental health professional. The
21 persons signing the petition must have examined the person. If
22 involuntary detention is sought the petition shall state facts that
23 support the finding that such person, as a result of a mental
24 disorder or substance use disorder, presents a likelihood of serious
25 harm, or is gravely disabled and that there are no less restrictive
26 alternatives to detention in the best interest of such person or
27 others. The petition shall state specifically that less restrictive
28 alternative treatment was considered and specify why treatment less
29 restrictive than detention is not appropriate. If an involuntary less
30 restrictive alternative is sought, the petition shall state facts
31 that support the finding that such person, as a result of a mental
32 disorder or as a result of a substance use disorder, presents a
33 likelihood of serious harm, is gravely disabled, or is in need of
34 assisted outpatient mental health treatment, and shall set forth any
35 recommendations for less restrictive alternative treatment services;
36 and

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

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

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

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

12 (9) If the hospital or facility designated to provide less
13 restrictive alternative treatment is other than the facility
14 providing involuntary treatment, the outpatient facility so
15 designated to provide less restrictive alternative treatment has
16 agreed to assume such responsibility.

17 **Sec. 18.** RCW 71.05.290 and 2016 sp.s. c 29 s 235, 2016 c 155 s
18 6, and 2016 c 45 s 3 are each reenacted and amended to read as
19 follows:

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

27 (2) The petition shall summarize the facts which support the need
28 for further commitment and shall be supported by affidavits based on
29 an examination of the patient and signed by:

30 (a) ~~((Two physicians))~~ One physician, physician assistant, or
31 psychiatric advanced registered nurse practitioner; and

32 (b) One physician ((and a)), physician assistant, psychiatric
33 advanced registered nurse practitioner, or mental health
34 professional((+)

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

36 ~~(d) One psychiatric advanced registered nurse practitioner and a~~
37 mental health professional)). If the petition is for substance use
38 disorder treatment, the petition may be signed by a chemical
39 dependency professional instead of a mental health professional. The

1 affidavits shall describe in detail the behavior of the detained
2 person which supports the petition and shall explain what, if any,
3 less restrictive treatments which are alternatives to detention are
4 available to such person, and shall state the willingness of the
5 affiant to testify to such facts in subsequent judicial proceedings
6 under this chapter. If less restrictive alternative treatment is
7 sought, the petition shall set forth any recommendations for less
8 restrictive alternative treatment services.

9 (3) If a person has been determined to be incompetent pursuant to
10 RCW 10.77.086(4), then the professional person in charge of the
11 treatment facility or his or her professional designee or the
12 designated crisis responder may directly file a petition for one
13 hundred eighty day treatment under RCW 71.05.280(3). No petition for
14 initial detention or fourteen day detention is required before such a
15 petition may be filed.

16 **Sec. 19.** RCW 71.05.760 and 2016 sp.s. c 29 s 201 are each
17 amended to read as follows:

18 (1)(a) By April 1, 2018, the department, by rule, must combine
19 the functions of a designated mental health professional and
20 designated chemical dependency specialist by establishing a
21 designated crisis responder who is authorized to conduct
22 investigations, detain persons up to seventy-two hours to the proper
23 facility, and carry out the other functions identified in this
24 chapter and chapter 71.34 RCW. The behavioral health organizations
25 shall provide training to the designated crisis responders as
26 required by the department.

27 (b)(i) To qualify as a designated crisis responder, a person must
28 have received chemical dependency training as determined by the
29 department and be a:

30 (A) Psychiatrist, psychologist, physician assistant working with
31 a supervising psychiatrist, psychiatric advanced registered nurse
32 practitioner, or social worker;

33 (B) Person with a master's degree or further advanced degree in
34 counseling or one of the social sciences from an accredited college
35 or university and who have, in addition, at least two years of
36 experience in direct treatment of persons with mental illness or
37 emotional disturbance, such experience gained under the direction of
38 a mental health professional;

1 (C) Person who meets the waiver criteria of RCW 71.24.260, which
2 waiver was granted before 1986;

3 (D) Person who had an approved waiver to perform the duties of a
4 mental health professional that was requested by the regional support
5 network and granted by the department before July 1, 2001; or

6 (E) Person who has been granted an exception of the minimum
7 requirements of a mental health professional by the department
8 consistent with rules adopted by the secretary.

9 (ii) Training must include chemical dependency training specific
10 to the duties of a designated crisis responder, including diagnosis
11 of substance abuse and dependence and assessment of risk associated
12 with substance use.

13 (c) The department must develop a transition process for any
14 person who has been designated as a designated mental health
15 professional or a designated chemical dependency specialist before
16 April 1, 2018, to be converted to a designated crisis responder. The
17 behavioral health organizations shall provide training, as required
18 by the department, to persons converting to designated crisis
19 responders, which must include both mental health and chemical
20 dependency training applicable to the designated crisis responder
21 role.

22 (2)(a) The department must ensure that at least one sixteen-bed
23 secure detoxification facility is operational by April 1, 2018, and
24 that at least two sixteen-bed secure detoxification facilities are
25 operational by April 1, 2019. In addition, the department shall
26 ensure that an additional sixteen-bed secure detoxification facility
27 is operational by April 1st of each year beginning in 2020 until
28 there is adequate capacity to meet the involuntary treatment
29 requirements for substance use disorder clients.

30 (b) If, at any time during the implementation of secure
31 detoxification facility capacity, federal funding becomes unavailable
32 for federal match for services provided in secure detoxification
33 facilities, then the department must cease any expansion of secure
34 detoxification facilities until further direction is provided by the
35 legislature.

36 **Part Five - Technical**

37 NEW SECTION. **Sec. 20.** Section 13 of this act is necessary for
38 the immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,
2 and takes effect immediately.

3 NEW SECTION. **Sec. 21.** Sections 8, 11, and 13 of this act expire
4 April 1, 2018.

5 NEW SECTION. **Sec. 22.** Sections 9, 12, 14, 15, and 17 through 19
6 of this act take effect April 1, 2018.

7 NEW SECTION. **Sec. 23.** Sections 9 and 15 of this act expire July
8 1, 2026.

9 NEW SECTION. **Sec. 24.** Sections 10 and 16 of this act take
10 effect July 1, 2026."

11 Correct the title.

--- END ---