

ESSB 5894 - S AMD 297

By Senator O'Ban

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

3 "NEW SECTION. **Sec. 1.** This act establishes the path of reform
4 for the state behavioral health system over upcoming biennia
5 concerning provision of long-term psychiatric care. Over the ensuing
6 years Washington must transition purchasing of long-term involuntary
7 psychiatric care to a regionally based system under a managed care
8 framework which is responsive to the needs of the community and
9 accountable for quality and patient outcomes. During this time state
10 hospital practices must be modernized and state hospital resources
11 focused on service to forensic and higher acuity civil patients.
12 Treatment for patients under long-term civil commitment must be
13 transitioned into a managed care framework over a time frame
14 coinciding with the integration of physical and behavioral health
15 care, after which the state hospitals must provide civil commitment
16 services as part of a network of geographically diverse facilities
17 certified to provide long-term involuntary civil treatment. Many
18 components are required for the success of this vision. The state
19 must establish the foundation for growth of long-term involuntary
20 treatment capacity in the community and for performance measurement
21 and data collection which enables an acuity-informed comparison of
22 the costs and outcomes achieved in alternative certified community
23 facilities. New community placement options must be established for
24 persons with complex needs related to long-term care and
25 developmental disabilities. Other critical measures improve
26 availability and streamline filing procedures for assisted outpatient
27 mental health treatment, deploy crisis walk-in centers and
28 clubhouses, and expedite the movement of low-level, nonviolent
29 defendants with severe mental illness through the criminal justice
30 system.

31 **Part I**

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

NEW SECTION. **Sec. 101.** A new section is added to chapter 71.24 RCW to read as follows:

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

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

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

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

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

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

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

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

4 (ii) Providers of long-term civil treatment, including state
5 hospitals, accountable for performance, including consideration of
6 the interaction between performance conditions and collective
7 bargaining agreements; and

8 (e) The availability of options for incentives for the aging and
9 long-term support administration and developmental disability
10 administration to ensure that long-term involuntary treatment
11 patients with specialized needs move to the appropriate level of care
12 within a reasonable time period.

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

18 (5) The contracts for consultant services in this section are
19 exempt from the competitive solicitation requirements in RCW
20 39.26.125.

21 Part II

22 Development of Community Long-Term Involuntary Treatment Capacity

23 NEW SECTION. **Sec. 201.** A new section is added to chapter 71.24
24 RCW to read as follows:

25 (1) The state intends to develop new capacity for delivery of
26 long-term treatment in the community in diverse regions of the state
27 prior to the effective date of the integration of risk for long-term
28 involuntary treatment into managed care, and to study the cost and
29 outcomes associated with treatment in community facilities. In
30 furtherance of this goal, the department shall purchase a portion of
31 the state's long-term treatment capacity allocated to behavioral
32 health organizations under RCW 71.24.310 in willing community
33 facilities capable of providing alternatives to treatment in a state
34 hospital. The state shall increase its purchasing of long-term
35 involuntary treatment capacity in the community over time.

36 (2) The department shall:

37 (a) Work with willing community hospitals licensed under chapters
38 70.41 and 71.12 RCW and evaluation and treatment facilities certified

1 under chapter 71.05 RCW to assess their capacity to become certified
2 to provide long-term mental health placements and to meet the
3 requirements of this chapter; and

4 (b) Enter into contracts and payment arrangements with such
5 hospitals and evaluation and treatment facilities choosing to provide
6 long-term mental health placements, to the extent that willing
7 certified facilities are available. Nothing in this chapter requires
8 any community hospital or evaluation and treatment facility to be
9 certified to provide long-term mental health placements.

10 (3) The department must establish rules for the certification of
11 facilities interested in providing care under this section.

12 (4) Contracts developed by the department to implement this
13 section must be constructed to allow the department to obtain
14 complete identification information and admission and discharge dates
15 for patients served under this authority. Prior to requesting
16 identification information and admission and discharge dates or
17 reports from certified facilities, the department must determine that
18 this information cannot be identified or obtained from existing data
19 sources available to state agencies. In addition, until January 1,
20 2022, facilities certified by the department to provide community
21 long-term involuntary treatment to adults shall report to the
22 department:

23 (a) All instances where a patient on a ninety or one hundred
24 eighty-day involuntary commitment order experiences an adverse event
25 required to be reported to the department of health pursuant to
26 chapter 70.56 RCW; and

27 (b) All hospital-based inpatient psychiatric service core
28 measures reported to the joint commission or other accrediting body
29 occurring from psychiatric departments, in the format in which the
30 report was made to the joint commission.

31 **Sec. 202.** RCW 71.24.310 and 2017 c 222 s 1 are each amended to
32 read as follows:

33 The legislature finds that administration of chapter 71.05 RCW
34 and this chapter can be most efficiently and effectively implemented
35 as part of the behavioral health organization defined in RCW
36 71.24.025. For this reason, the legislature intends that the
37 department and the behavioral health organizations shall work
38 together to implement chapter 71.05 RCW as follows:

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

8 (2) If there is consensus among the behavioral health
9 organizations regarding the number of state hospital beds that should
10 be allocated for use by each behavioral health organization, the
11 department shall contract with each behavioral health organization
12 accordingly.

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

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

32 (5)(a) The department (~~(is encouraged to enter)~~) shall enter into
33 performance-based contracts with ((behavioral health organizations))
34 facilities certified by the department to provide treatment to adults
35 on a ninety or one hundred eighty-day inpatient involuntary
36 commitment order to provide some or all of the behavioral health
37 organization's allocated long-term inpatient treatment capacity in
38 the community, rather than in the state hospital, to the extent that
39 willing certified facilities and funding are available. The
40 performance contracts shall specify the number of patient days of

1 care available for use by the behavioral health organization in the
2 state hospital and the number of patient days of care available for
3 use by the behavioral health organization in a facility certified by
4 the department to provide treatment to adults on a ninety or one
5 hundred eighty-day inpatient involuntary commitment order, including
6 hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation
7 and treatment facilities certified under chapter 71.05 RCW.

8 (b) A hospital licensed under chapter 70.41 or 71.12 RCW is not
9 required to undergo certification to treat patients on ninety or one
10 hundred eighty-day involuntary commitment orders in order to treat
11 adults who are waiting for placement at either the state hospital or
12 in certified facilities that voluntarily contract to provide
13 treatment to patients on ninety or one hundred eighty-day involuntary
14 commitment orders.

15 (6) If a behavioral health organization uses more state hospital
16 patient days of care than it has been allocated under subsection (3)
17 or (4) of this section, or than it has contracted to use under
18 subsection (5) of this section, whichever is less, it shall reimburse
19 the department for that care. Reimbursements must be calculated using
20 quarterly average census data to determine an average number of days
21 used in excess of the bed allocation for the quarter. The
22 reimbursement rate per day shall be the hospital's total annual
23 budget for long-term inpatient care, divided by the total patient
24 days of care assumed in development of that budget.

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

35 **Sec. 203.** RCW 71.24.310 and 2017 3rd sp.s. c ... (Engrossed
36 Substitute House Bill No. 1388) s 4017 are each amended to read as
37 follows:

38 The legislature finds that administration of chapter 71.05 RCW
39 and this chapter can be most efficiently and effectively implemented

1 as part of the behavioral health organization defined in RCW
2 71.24.025. For this reason, the legislature intends that the
3 authority and the behavioral health organizations shall work together
4 to implement chapter 71.05 RCW as follows:

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

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

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

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

34 (5)(a) ~~The ((authority is encouraged to enter))~~ department of
35 social and health services shall enter into performance-based
36 contracts with ((behavioral health organizations)) facilities
37 certified by the department of social and health services to provide
38 treatment to adults on a ninety or one hundred eighty-day inpatient
39 involuntary commitment order to provide some or all of the behavioral
40 health organization's allocated long-term inpatient treatment

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

12 (b) A hospital licensed under chapter 70.41 or 71.12 RCW is not
13 required to undergo certification to treat patients on ninety or one
14 hundred eighty-day involuntary commitment orders in order to treat
15 adults who are waiting for placement at either the state hospital or
16 in certified facilities that voluntarily contract to provide
17 treatment to patients on ninety or one hundred eighty-day involuntary
18 commitment orders.

19 (6) If a behavioral health organization uses more state hospital
20 patient days of care than it has been allocated under subsection (3)
21 or (4) of this section, or than it has contracted to use under
22 subsection (5) of this section, whichever is less, it shall reimburse
23 the authority for that care. Reimbursements must be calculated using
24 quarterly average census data to determine an average number of days
25 used in excess of the bed allocation for the quarter. The
26 reimbursement rate per day shall be the hospital's total annual
27 budget for long-term inpatient care, divided by the total patient
28 days of care assumed in development of that budget.

29 (7) One-half of any reimbursements received pursuant to
30 subsection (6) of this section shall be used to support the cost of
31 operating the state hospital. The authority shall distribute the
32 remaining half of such reimbursements among behavioral health
33 organizations that have used less than their allocated or contracted
34 patient days of care at that hospital, proportional to the number of
35 patient days of care not used.

36 NEW SECTION. Sec. 204. A new section is added to chapter 71.05
37 RCW to read as follows:

38 Treatment under RCW 71.05.320 may be provided at a state hospital
39 or any willing and able facility certified to provide ninety-day or

1 one hundred eighty-day care. The order for such treatment must remand
2 the person to the custody of the department or designee. A prepaid
3 inpatient health plan, managed care organization, or the department,
4 when responsible for the cost of care, may designate where treatment
5 is to be provided, at a willing and able facility certified to
6 provide ninety-day or one hundred eighty-day care or a state
7 hospital, after consultation with the facility currently providing
8 treatment. The prepaid inpatient health plan, managed care
9 organization, or the department, when responsible for the cost of
10 care, may not require prior authorization for treatment under RCW
11 71.05.320. The designation of a treatment facility must not result in
12 a delay of the transfer of the person to a state hospital or facility
13 certified to provide ninety-day or one hundred eighty-day care if
14 there is an open bed available at either the state hospital or a
15 facility certified to provide ninety-day or one hundred eighty-day
16 care.

17 **Sec. 205.** RCW 71.05.320 and 2016 c 45 s 4 are each amended to
18 read as follows:

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

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

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

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

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

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

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

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

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

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

9 (d) Continues to be gravely disabled; or

10 (e) Is in need of assisted outpatient (~~mental~~) behavioral
11 health treatment.

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

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

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

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

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

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

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

17 **Sec. 206.** RCW 71.05.320 and 2017 3rd sp.s. c ... (Engrossed
18 Substitute House Bill No. 1388) s 3017 are each amended to read as
19 follows:

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

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

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

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

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

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

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

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

37 (ii) In cases under this subsection where the court has made an
38 affirmative special finding under RCW 71.05.280(3)(b), the commitment
39 shall continue for up to an additional one hundred eighty day period
40 whenever the petition presents prima facie evidence that the person

1 continues to suffer from a mental disorder or developmental
2 disability that results in a substantial likelihood of committing
3 acts similar to the charged criminal behavior, unless the person
4 presents proof through an admissible expert opinion that the person's
5 condition has so changed such that the mental disorder or
6 developmental disability no longer presents a substantial likelihood
7 of the person committing acts similar to the charged criminal
8 behavior. The initial or additional commitment period may include
9 transfer to a specialized program of intensive support and treatment,
10 which may be initiated prior to or after discharge (~~from the state~~
11 ~~hospital~~)); or

12 (d) Continues to be gravely disabled; or

13 (e) Is in need of assisted outpatient (~~mental~~) behavioral
14 health treatment.

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

18 If less restrictive alternative treatment is sought, the petition
19 shall set forth any recommendations for less restrictive alternative
20 treatment services.

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

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

1 cooperate with the services planned by the mental health service
2 provider.

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

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

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

19 **Sec. 207.** RCW 71.05.320 and 2016 sp.s. c 29 s 237 and 2016 c 45
20 s 4 are each reenacted and amended to read as follows:

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

29 (b) If the order for inpatient treatment is based on a substance
30 use disorder, treatment must take place at an approved substance use
31 disorder treatment program. The court may only enter an order for
32 commitment based on a substance use disorder if there is an available
33 approved substance use disorder treatment program with adequate space
34 for the person.

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

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

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

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

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

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

1 substance use disorder, or developmental disability a likelihood of
2 serious harm; or

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

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

23 (d) Continues to be gravely disabled; or

24 (e) Is in need of assisted outpatient (~~mental~~) behavioral
25 health treatment.

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

29 If less restrictive alternative treatment is sought, the petition
30 shall set forth any recommendations for less restrictive alternative
31 treatment services.

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

38 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
39 and if the court or jury finds that the grounds for additional
40 confinement as set forth in this section are present, subject to

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

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

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

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

30 **Sec. 208.** RCW 71.05.320 and 2017 3rd sp.s. c ... (Engrossed
31 Substitute House Bill No. 1388) s 3018 are each amended to read as
32 follows:

33 (1)(a) Subject to (b) of this subsection, if the court or jury
34 finds that grounds set forth in RCW 71.05.280 have been proven and
35 that the best interests of the person or others will not be served by
36 a less restrictive treatment which is an alternative to detention,
37 the court shall remand him or her (~~to the custody of the department~~
38 ~~of social and health services or to a facility certified for ninety~~

1 ~~day treatment by the department))~~ for a further period of intensive
2 treatment not to exceed ninety days from the date of judgment.

3 (b) If the order for inpatient treatment is based on a substance
4 use disorder, treatment must take place at an approved substance use
5 disorder treatment program. The court may only enter an order for
6 commitment based on a substance use disorder if there is an available
7 approved substance use disorder treatment program with adequate space
8 for the person.

9 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of
10 commitment, then the period of treatment may be up to but not exceed
11 one hundred eighty days from the date of judgment to the custody of
12 the department of social and health services or to a facility
13 certified for one hundred eighty day treatment by the department.

14 (2) If the court or jury finds that grounds set forth in RCW
15 71.05.280 have been proven, but finds that treatment less restrictive
16 than detention will be in the best interest of the person or others,
17 then the court (~~shall remand him or her to the custody of the~~
18 ~~department of social and health services or to a facility certified~~
19 ~~for ninety day treatment by the department)) must commit him or her
20 for a period of treatment of up to ninety days or to a less
21 restrictive alternative for a further period of less restrictive
22 treatment not to exceed ninety days from the date of judgment. If the
23 order for less restrictive treatment is based on a substance use
24 disorder, treatment must be provided by an approved substance use
25 disorder treatment program. If the grounds set forth in RCW
26 71.05.280(3) are the basis of commitment, then the period of
27 treatment may be up to but not exceed one hundred eighty days from
28 the date of judgment. If the court or jury finds that the grounds set
29 forth in RCW 71.05.280(5) have been proven, and provide the only
30 basis for commitment, the court must enter an order for less
31 restrictive alternative treatment for up to ninety days from the date
32 of judgment and may not order inpatient treatment.~~

33 (3) An order for less restrictive alternative treatment entered
34 under subsection (2) of this section must name the mental health
35 service provider responsible for identifying the services the person
36 will receive in accordance with RCW 71.05.585, and must include a
37 requirement that the person cooperate with the services planned by
38 the mental health service provider.

39 (4) The person shall be released from involuntary treatment at
40 the expiration of the period of commitment imposed under subsection

1 (1) or (2) of this section unless the superintendent or professional
2 person in charge of the facility in which he or she is confined, or
3 in the event of a less restrictive alternative, the designated crisis
4 responder, files a new petition for involuntary treatment on the
5 grounds that the committed person:

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

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

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

21 (ii) In cases under this subsection where the court has made an
22 affirmative special finding under RCW 71.05.280(3)(b), the commitment
23 shall continue for up to an additional one hundred eighty day period
24 whenever the petition presents prima facie evidence that the person
25 continues to suffer from a mental disorder or developmental
26 disability that results in a substantial likelihood of committing
27 acts similar to the charged criminal behavior, unless the person
28 presents proof through an admissible expert opinion that the person's
29 condition has so changed such that the mental disorder or
30 developmental disability no longer presents a substantial likelihood
31 of the person committing acts similar to the charged criminal
32 behavior. The initial or additional commitment period may include
33 transfer to a specialized program of intensive support and treatment,
34 which may be initiated prior to or after discharge (~~from the state~~
35 ~~hospital~~)); or

36 (d) Continues to be gravely disabled; or

37 (e) Is in need of assisted outpatient (~~mental~~) behavioral
38 health treatment.

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

4 If less restrictive alternative treatment is sought, the petition
5 shall set forth any recommendations for less restrictive alternative
6 treatment services.

7 (5) A new petition for involuntary treatment filed under
8 subsection (4) of this section shall be filed and heard in the
9 superior court of the county of the facility which is filing the new
10 petition for involuntary treatment unless good cause is shown for a
11 change of venue. The cost of the proceedings shall be borne by the
12 state.

13 (6)(a) The hearing shall be held as provided in RCW 71.05.310,
14 and if the court or jury finds that the grounds for additional
15 confinement as set forth in this section are present, subject to
16 subsection (1)(b) of this section, the court may order the committed
17 person returned for an additional period of treatment not to exceed
18 one hundred eighty days from the date of judgment, except as provided
19 in subsection (7) of this section. If the court's order is based
20 solely on the grounds identified in subsection (4)(e) of this
21 section, the court may enter an order for less restrictive
22 alternative treatment not to exceed one hundred eighty days from the
23 date of judgment, and may not enter an order for inpatient treatment.
24 An order for less restrictive alternative treatment must name the
25 mental health service provider responsible for identifying the
26 services the person will receive in accordance with RCW 71.05.585,
27 and must include a requirement that the person cooperate with the
28 services planned by the mental health service provider.

29 (b) At the end of the one hundred eighty day period of
30 commitment, or one-year period of commitment if subsection (7) of
31 this section applies, the committed person shall be released unless a
32 petition for an additional one hundred eighty day period of continued
33 treatment is filed and heard in the same manner as provided in this
34 section. Successive one hundred eighty day commitments are
35 permissible on the same grounds and pursuant to the same procedures
36 as the original one hundred eighty day commitment.

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

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

5 **Sec. 209.** RCW 71.05.320 and 2016 sp.s. c 29 s 238 are each
6 amended to read as follows:

7 (1)(a) If the court or jury finds that grounds set forth in RCW
8 71.05.280 have been proven and that the best interests of the person
9 or others will not be served by a less restrictive treatment which is
10 an alternative to detention, the court shall remand him or her (~~to~~
11 ~~the custody of the department or to a facility certified for ninety~~
12 ~~day treatment by the department)) for a further period of intensive
13 treatment not to exceed ninety days from the date of judgment.~~

14 (b) If the order for inpatient treatment is based on a substance
15 use disorder, treatment must take place at an approved substance use
16 disorder treatment program. If the grounds set forth in RCW
17 71.05.280(3) are the basis of commitment, then the period of
18 treatment may be up to but not exceed one hundred eighty days from
19 the date of judgment in a facility certified for one hundred eighty
20 day treatment by the department.

21 (2) If the court or jury finds that grounds set forth in RCW
22 71.05.280 have been proven, but finds that treatment less restrictive
23 than detention will be in the best interest of the person or others,
24 then the court (~~shall remand him or her to the custody of the~~
25 ~~department or to a facility certified for ninety day treatment by the~~
26 ~~department)) must commit him or her for a period of treatment of up
27 to ninety days or to a less restrictive alternative for a further
28 period of less restrictive treatment not to exceed ninety days from
29 the date of judgment. If the order for less restrictive treatment is
30 based on a substance use disorder, treatment must be provided by an
31 approved substance use disorder treatment program. If the grounds set
32 forth in RCW 71.05.280(3) are the basis of commitment, then the
33 period of treatment may be up to but not exceed one hundred eighty
34 days from the date of judgment. If the court or jury finds that the
35 grounds set forth in RCW 71.05.280(5) have been proven, and provide
36 the only basis for commitment, the court must enter an order for less
37 restrictive alternative treatment for up to ninety days from the date
38 of judgment and may not order inpatient treatment.~~

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

7 (4) The person shall be released from involuntary treatment at
8 the expiration of the period of commitment imposed under subsection
9 (1) or (2) of this section unless the superintendent or professional
10 person in charge of the facility in which he or she is confined, or
11 in the event of a less restrictive alternative, the designated crisis
12 responder, files a new petition for involuntary treatment on the
13 grounds that the committed person:

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

19 (b) Was taken into custody as a result of conduct in which he or
20 she attempted or inflicted serious physical harm upon the person of
21 another, and continues to present, as a result of mental disorder,
22 substance use disorder, or developmental disability a likelihood of
23 serious harm; or

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

29 (ii) In cases under this subsection where the court has made an
30 affirmative special finding under RCW 71.05.280(3)(b), the commitment
31 shall continue for up to an additional one hundred eighty day period
32 whenever the petition presents prima facie evidence that the person
33 continues to suffer from a mental disorder or developmental
34 disability that results in a substantial likelihood of committing
35 acts similar to the charged criminal behavior, unless the person
36 presents proof through an admissible expert opinion that the person's
37 condition has so changed such that the mental disorder or
38 developmental disability no longer presents a substantial likelihood
39 of the person committing acts similar to the charged criminal
40 behavior. The initial or additional commitment period may include

1 transfer to a specialized program of intensive support and treatment,
2 which may be initiated prior to or after discharge (~~(from the state~~
3 ~~hospital)~~); or

4 (d) Continues to be gravely disabled; or

5 (e) Is in need of assisted outpatient (~~(mental)~~) behavioral
6 health treatment.

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

10 If less restrictive alternative treatment is sought, the petition
11 shall set forth any recommendations for less restrictive alternative
12 treatment services.

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

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

35 (b) At the end of the one hundred eighty day period of
36 commitment, or one-year period of commitment if subsection (7) of
37 this section applies, the committed person shall be released unless a
38 petition for an additional one hundred eighty day period of continued
39 treatment is filed and heard in the same manner as provided in this
40 section. Successive one hundred eighty day commitments are

1 permissible on the same grounds and pursuant to the same procedures
2 as the original one hundred eighty day commitment.

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

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

11 **Sec. 210.** RCW 71.05.320 and 2017 3rd sp.s. c ... (Engrossed
12 Substitute House Bill No. 1388) s 3019 are each amended to read as
13 follows:

14 (1) If the court or jury finds that grounds set forth in RCW
15 71.05.280 have been proven and that the best interests of the person
16 or others will not be served by a less restrictive treatment which is
17 an alternative to detention, the court shall remand him or her (~~to~~
18 ~~the custody of the department of social and health services or to a~~
19 ~~facility certified for ninety day treatment by the department)) for a
20 further period of intensive treatment not to exceed ninety days from
21 the date of judgment.~~

22 If the order for inpatient treatment is based on a substance use
23 disorder, treatment must take place at an approved substance use
24 disorder treatment program. If the grounds set forth in RCW
25 71.05.280(3) are the basis of commitment, then the period of
26 treatment may be up to but not exceed one hundred eighty days from
27 the date of judgment to the custody of the department of social and
28 health services or to a facility certified for one hundred eighty day
29 treatment by the department.

30 (2) If the court or jury finds that grounds set forth in RCW
31 71.05.280 have been proven, but finds that treatment less restrictive
32 than detention will be in the best interest of the person or others,
33 then the court (~~shall remand him or her to the custody of the~~
34 ~~department of social and health services or to a facility certified~~
35 ~~for ninety day treatment by the department)) must commit him or her
36 for a period of treatment of up to ninety days or to a less
37 restrictive alternative for a further period of less restrictive
38 treatment not to exceed ninety days from the date of judgment. If the
39 order for less restrictive treatment is based on a substance use~~

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

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

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

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

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

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

38 (ii) In cases under this subsection where the court has made an
39 affirmative special finding under RCW 71.05.280(3)(b), the commitment
40 shall continue for up to an additional one hundred eighty day period

1 whenever the petition presents prima facie evidence that the person
2 continues to suffer from a mental disorder or developmental
3 disability that results in a substantial likelihood of committing
4 acts similar to the charged criminal behavior, unless the person
5 presents proof through an admissible expert opinion that the person's
6 condition has so changed such that the mental disorder or
7 developmental disability no longer presents a substantial likelihood
8 of the person committing acts similar to the charged criminal
9 behavior. The initial or additional commitment period may include
10 transfer to a specialized program of intensive support and treatment,
11 which may be initiated prior to or after discharge (~~from the state~~
12 ~~hospital~~); or

13 (d) Continues to be gravely disabled; or

14 (e) Is in need of assisted outpatient (~~mental~~) behavioral
15 health treatment.

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

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

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

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

1 with RCW 71.05.585, and must include a requirement that the person
2 cooperate with the services planned by the mental health service
3 provider.

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

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

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

20 NEW SECTION. **Sec. 211.** The department of social and health
21 services shall confer with the department of health and hospitals
22 licensed under chapters 70.41 and 71.12 RCW to review laws and
23 regulations and identify changes that may be necessary to address
24 care delivery and cost-effective treatment for adults on ninety or
25 one hundred eighty day commitment orders which may be different than
26 the requirements for short-term psychiatric hospitalization. The
27 department of social and health services shall report its findings to
28 the select committee on quality improvement in state hospitals by
29 November 1, 2017.

30 **Part III**
31 **State Hospital Short-Term Reforms**

32 NEW SECTION. **Sec. 301.** The legislature intends to expand
33 capacity in the upcoming biennia for enhanced community placements
34 for complex patients to decrease utilization of state hospitals and
35 increase community stability. Capacity must be provided in settings
36 such as nursing homes, assisted living facilities, adult family
37 homes, enhanced service facilities, state-operated living

1 alternatives, and supported housing for persons with developmental
2 disabilities or long-term care needs. The funding must be
3 administered by the department of social and health services.

4 NEW SECTION. **Sec. 302.** A new section is added to chapter 71.05
5 RCW to read as follows:

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

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

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

37 (3) State hospitals must screen patients upon admission for
38 medical necessity for substance use disorder treatment and provide
39 coordinated substance use disorder treatment services targeted to

1 reduce rehospitalization or recidivism to patients with an identified
2 need.

3 **Sec. 303.** RCW 71.05.365 and 2016 sp.s. c 37 s 15 are each
4 amended to read as follows:

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

21 (2) If the entity under subsection (1) of this section has not
22 fulfilled the obligation to establish an individualized discharge
23 plan for the patient, the entity must reimburse the department for
24 days of care provided after the fourteenth day following
25 determination that the person no longer requires active psychiatric
26 treatment at an inpatient level of care, until an individualized
27 discharge plan meeting the requirements of subsection (1) of this
28 section is established. The reimbursement rate per day shall be the
29 same reimbursement rate under RCW 71.24.310. Reimbursements charged
30 to an entity under this section must be credited against
31 reimbursements charged to the same entity under RCW 71.24.310 during
32 the same time period for using more state hospital patient days than
33 allocated to that entity.

34 (3) The department must establish a process for appeal to the
35 secretary or the secretary's designee when entities under subsection
36 (1) of this section and the state hospital are unable to mutually
37 agree within fourteen days about a specific patient's readiness for
38 discharge, whether readiness for discharge is asserted by the state
39 hospital or by the managed care entity. The managed care entity may

1 use this process to request relief from a reimbursement obligation
2 under subsection (2) of this section if the managed care entity is
3 unable to establish a discharge plan due to the action or inaction of
4 a third party outside its contracting authority or control, such as a
5 state agency division responsible for a portion of the costs related
6 to the community care needs of the person or the court.

7 (4) The requirements of this section are suspended when the risk
8 for state hospital treatment or state-contracted inpatient treatment
9 in a certified community long-term involuntary treatment facility is
10 integrated into managed care contracts as provided under section 101
11 of this act.

12 **Sec. 304.** RCW 71.05.365 and 2016 sp.s. c 37 s 15 are each
13 amended to read as follows:

14 (1) When a person has been involuntarily committed for treatment
15 to a state hospital for a period of ninety or one hundred eighty
16 days, and the superintendent or professional person in charge of the
17 state hospital determines that the person no longer requires active
18 psychiatric treatment at an inpatient level of care, the behavioral
19 health organization((~~r~~)) or full integration entity under RCW
20 71.24.380(~~(, or agency providing oversight of long term care or~~
21 developmental disability services that is responsible for resource
22 management services for the person must work with the hospital to
23 develop an individualized discharge plan and arrange for a transition
24 to the community in accordance with the person's individualized
25 discharge plan within fourteen days of the determination)) must
26 establish an individualized discharge plan arranging for transition
27 to an identified placement in the community within no more than
28 fourteen days of the determination. The individualized discharge plan
29 must provide for a date certain by which discharge must be completed.

30 (2) If the entity under subsection (1) of this section has not
31 fulfilled the obligation to establish an individualized discharge
32 plan for the patient, the entity must reimburse the authority for
33 days of care provided after the fourteenth day following
34 determination that the person no longer requires active psychiatric
35 treatment at an inpatient level of care, until an individualized
36 discharge plan meeting the requirements of subsection (1) of this
37 section is established. The reimbursement rate per day shall be the
38 same reimbursement rate under RCW 71.24.310. Reimbursements charged
39 to an entity under this section must be credited against

1 reimbursements charged to the same entity under RCW 71.24.310 during
2 the same time period for using more state hospital patient days than
3 allocated to that entity.

4 (3) The authority must establish a process for appeal to the
5 director or the director's designee when entities under subsection
6 (1) of this section and the state hospital are unable to mutually
7 agree within fourteen days about a specific patient's readiness for
8 discharge, whether readiness for discharge is asserted by the state
9 hospital or by the managed care entity. The managed care entity may
10 use this process to request relief from a reimbursement obligation
11 under subsection (2) of this section if the managed care entity is
12 unable to establish a discharge plan due to the action or inaction of
13 a third party outside its contracting authority or control, such as a
14 state agency division responsible for a portion of the costs related
15 to the community care needs of the person or the court.

16 (4) The requirements of this section are suspended when the risk
17 for state hospital treatment or state-contracted inpatient treatment
18 in a certified community long-term involuntary treatment facility is
19 integrated into managed care contracts as provided under section 101
20 of this act.

21 NEW SECTION. Sec. 305. A new section is added to chapter 72.23
22 RCW to read as follows:

23 (1) The legislature finds that qualified physician assistants
24 supervised by a psychiatrist and psychiatric advanced registered
25 nurse practitioners have a role in the provision of psychiatric
26 treatment at state psychiatric hospitals consistent with practice at
27 the top of their scope of education, training, and license, including
28 prescribing psychiatric medication and other tasks historically
29 performed by psychiatrists at the state hospitals. The department
30 should take reasonable steps available to employ these professionals
31 at state hospitals.

32 (2) The role of state hospital psychiatrists is expanded to
33 provide supervision to physician assistants specializing in
34 psychiatry necessary to allow these professionals to practice at the
35 top of their scope of education, training, and license.

36 (3) In order to increase the use of psychiatric advanced
37 registered nurse practitioners and physician assistants, the
38 department shall work with the University of Washington department of
39 psychiatry and behavioral sciences and the appropriate department of

1 Washington State University and with appropriate graduate schools of
2 nursing that provide psychiatric advanced registered nurse
3 practitioner training to conduct an analysis and develop a team model
4 plan at western and eastern state hospitals to facilitate the
5 integration of psychiatric advanced registered nurse practitioners
6 and physician assistants into the provision of psychiatric treatment
7 at western and eastern state hospitals. The plan shall include an
8 appraisal of risks, barriers, and benefits to implementation as well
9 as an implementation timeline. The department must report to the
10 office of financial management and relevant policy and fiscal
11 committees of the legislature on findings and recommendations by
12 December 15, 2017.

13 **Part IV**

14 **Improving Access to Assisted Outpatient Mental Health Treatment**

15 **Sec. 401.** RCW 71.05.020 and 2016 c 155 s 1 are each reenacted
16 and amended to read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

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

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

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

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

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

35 (6) "Crisis stabilization unit" means a short-term facility or a
36 portion of a facility licensed by the department of health and
37 certified by the department of social and health services under RCW
38 71.24.035, such as an evaluation and treatment facility or a

1 hospital, which has been designed to assess, diagnose, and treat
2 individuals experiencing an acute crisis without the use of long-term
3 hospitalization;

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

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

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

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

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

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

23 (13) "Developmental disabilities professional" means a person who
24 has specialized training and three years of experience in directly
25 treating or working with persons with developmental disabilities and
26 is a psychiatrist, physician assistant working with a supervising
27 psychiatrist, psychologist, psychiatric advanced registered nurse
28 practitioner, or social worker, and such other developmental
29 disabilities professionals as may be defined by rules adopted by the
30 secretary;

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

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

36 (16) "Evaluation and treatment facility" means any facility which
37 can provide directly, or by direct arrangement with other public or
38 private agencies, emergency evaluation and treatment, outpatient
39 care, and timely and appropriate inpatient care to persons suffering
40 from a mental disorder, and which is certified as such by the

1 department. The department may certify single beds as temporary
2 evaluation and treatment beds under RCW 71.05.745. A physically
3 separate and separately operated portion of a state hospital may be
4 designated as an evaluation and treatment facility. A facility which
5 is part of, or operated by, the department or any federal agency will
6 not require certification. No correctional institution or facility,
7 or jail, shall be an evaluation and treatment facility within the
8 meaning of this chapter;

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

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

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

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

32 (21) "In need of assisted outpatient mental health treatment"
33 means that a person, as a result of a mental disorder: (a) (~~Has been~~
34 ~~committed by a court to detention for involuntary mental health~~
35 ~~treatment at least twice during the preceding thirty six months, or,~~
36 ~~if the person is currently committed for involuntary mental health~~
37 ~~treatment, the person has been committed to detention for involuntary~~
38 ~~mental health treatment at least once during the thirty six months~~
39 ~~preceding the date of initial detention of the current commitment~~
40 ~~cycle; (b)) Is unlikely to voluntarily participate in outpatient~~

1 treatment without an order for less restrictive alternative
2 treatment, (~~in view of the person's treatment history or current~~
3 ~~behavior; (c) is unlikely to survive safely in the community without~~
4 ~~supervision; (d) is likely to benefit from less restrictive~~
5 ~~alternative treatment; and (e)) based on a history of nonadherence
6 with treatment or in view of the person's current behavior; (b) is
7 likely to benefit from less restrictive alternative treatment; and
8 (c) requires less restrictive alternative treatment to prevent a
9 relapse, decompensation, or deterioration that is likely to result in
10 the person presenting a likelihood of serious harm or the person
11 becoming gravely disabled within a reasonably short period of time((-
12 ~~For purposes of (a) of this subsection, time spent in a mental health~~
13 ~~facility or in confinement as a result of a criminal conviction is~~
14 ~~excluded from the thirty-six month calculation)));~~~~

15 (22) "Individualized service plan" means a plan prepared by a
16 developmental disabilities professional with other professionals as a
17 team, for a person with developmental disabilities, which shall
18 state:

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

21 (b) The conditions and strategies necessary to achieve the
22 purposes of habilitation;

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

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

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

28 (f) Where relevant in light of past criminal behavior and due
29 consideration for public safety, the criteria for proposed movement
30 to less-restrictive settings, criteria for proposed eventual
31 discharge or release, and a projected possible date for discharge or
32 release; and

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

35 (23) "Information related to mental health services" means all
36 information and records compiled, obtained, or maintained in the
37 course of providing services to either voluntary or involuntary
38 recipients of services by a mental health service provider. This may
39 include documents of legal proceedings under this chapter or chapter
40 71.34 or 10.77 RCW, or somatic health care information;

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

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

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

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

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

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

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

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

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

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

1 in RCW 71.24.025, facilities conducting competency evaluations and
2 restoration under chapter 10.77 RCW, and correctional facilities
3 operated by state and local governments;

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

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

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

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

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

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

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

33 (39) "Public agency" means any evaluation and treatment facility
34 or institution, or hospital which is conducted for, or includes a
35 department or ward conducted for, the care and treatment of persons
36 with mental illness, if the agency is operated directly by, federal,
37 state, county, or municipal government, or a combination of such
38 governments;

39 (40) "Registration records" include all the records of the
40 department, behavioral health organizations, treatment facilities,

1 and other persons providing services to the department, county
2 departments, or facilities which identify persons who are receiving
3 or who at any time have received services for mental illness;

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

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

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

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

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

15 (46) "Therapeutic court personnel" means the staff of a mental
16 health court or other therapeutic court which has jurisdiction over
17 defendants who are dually diagnosed with mental disorders, including
18 court personnel, probation officers, a court monitor, prosecuting
19 attorney, or defense counsel acting within the scope of therapeutic
20 court duties;

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

33 (48) "Triage facility" means a short-term facility or a portion
34 of a facility licensed by the department of health and certified by
35 the department of social and health services under RCW 71.24.035,
36 which is designed as a facility to assess and stabilize an individual
37 or determine the need for involuntary commitment of an individual,
38 and must meet department of health residential treatment facility
39 standards. A triage facility may be structured as a voluntary or
40 involuntary placement facility;

1 (49) "Violent act" means behavior that resulted in homicide,
2 attempted suicide, nonfatal injuries, or substantial damage to
3 property.

4 **Sec. 402.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155
5 s 1 are each reenacted and amended to read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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

12 (2) "Alcoholism" means a disease, characterized by a dependency
13 on alcoholic beverages, loss of control over the amount and
14 circumstances of use, symptoms of tolerance, physiological or
15 psychological withdrawal, or both, if use is reduced or discontinued,
16 and impairment of health or disruption of social or economic
17 functioning;

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

22 (4) "Approved substance use disorder treatment program" means a
23 program for persons with a substance use disorder provided by a
24 treatment program certified by the department as meeting standards
25 adopted under chapter 71.24 RCW;

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

29 (6) "Chemical dependency" means:

30 (a) Alcoholism;

31 (b) Drug addiction; or

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

34 (7) "Chemical dependency professional" means a person certified
35 as a chemical dependency professional by the department of health
36 under chapter 18.205 RCW;

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

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

3 (10) "Crisis stabilization unit" means a short-term facility or a
4 portion of a facility licensed by the department of health and
5 certified by the department of social and health services under RCW
6 71.24.035, such as an evaluation and treatment facility or a
7 hospital, which has been designed to assess, diagnose, and treat
8 individuals experiencing an acute crisis without the use of long-term
9 hospitalization;

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

14 (12) "Department" means the department of social and health
15 services;

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

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

21 (15) "Developmental disabilities professional" means a person who
22 has specialized training and three years of experience in directly
23 treating or working with persons with developmental disabilities and
24 is a psychiatrist, physician assistant working with a supervising
25 psychiatrist, psychologist, psychiatric advanced registered nurse
26 practitioner, or social worker, and such other developmental
27 disabilities professionals as may be defined by rules adopted by the
28 secretary;

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

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

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

1 (19) "Evaluation and treatment facility" means any facility which
2 can provide directly, or by direct arrangement with other public or
3 private agencies, emergency evaluation and treatment, outpatient
4 care, and timely and appropriate inpatient care to persons suffering
5 from a mental disorder, and which is certified as such by the
6 department. The department may certify single beds as temporary
7 evaluation and treatment beds under RCW 71.05.745. A physically
8 separate and separately operated portion of a state hospital may be
9 designated as an evaluation and treatment facility. A facility which
10 is part of, or operated by, the department or any federal agency will
11 not require certification. No correctional institution or facility,
12 or jail, shall be an evaluation and treatment facility within the
13 meaning of this chapter;

14 (20) "Gravely disabled" means a condition in which a person, as a
15 result of a mental disorder, or as a result of the use of alcohol or
16 other psychoactive chemicals: (a) Is in danger of serious physical
17 harm resulting from a failure to provide for his or her essential
18 human needs of health or safety; or (b) manifests severe
19 deterioration in routine functioning evidenced by repeated and
20 escalating loss of cognitive or volitional control over his or her
21 actions and is not receiving such care as is essential for his or her
22 health or safety;

23 (21) "Habilitative services" means those services provided by
24 program personnel to assist persons in acquiring and maintaining life
25 skills and in raising their levels of physical, mental, social, and
26 vocational functioning. Habilitative services include education,
27 training for employment, and therapy. The habilitative process shall
28 be undertaken with recognition of the risk to the public safety
29 presented by the person being assisted as manifested by prior charged
30 criminal conduct;

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

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

39 (24) "Individualized service plan" means a plan prepared by a
40 developmental disabilities professional with other professionals as a

1 team, for a person with developmental disabilities, which shall
2 state:

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

5 (b) The conditions and strategies necessary to achieve the
6 purposes of habilitation;

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

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

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

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

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

19 (25) "Information related to mental health services" means all
20 information and records compiled, obtained, or maintained in the
21 course of providing services to either voluntary or involuntary
22 recipients of services by a mental health service provider. This may
23 include documents of legal proceedings under this chapter or chapter
24 71.34 or 10.77 RCW, or somatic health care information;

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

28 (27) "In need of assisted outpatient (~~mental~~) behavioral health
29 treatment" means that a person, as a result of a mental disorder or
30 substance use disorder: (a) (~~Has been committed by a court to~~
31 ~~detention for involuntary mental health treatment at least twice~~
32 ~~during the preceding thirty six months, or, if the person is~~
33 ~~currently committed for involuntary mental health treatment, the~~
34 ~~person has been committed to detention for involuntary mental health~~
35 ~~treatment at least once during the thirty six months preceding the~~
36 ~~date of initial detention of the current commitment cycle;~~ (b)) Is
37 unlikely to voluntarily participate in outpatient treatment without
38 an order for less restrictive alternative treatment, (~~in view of the~~
39 ~~person's treatment history or current behavior;~~ (c) ~~is unlikely to~~
40 ~~survive safely in the community without supervision;~~ (d) ~~is likely to~~

1 ~~benefit from less restrictive alternative treatment; and (e))~~ based
2 on a history of nonadherence with treatment or in view of the
3 person's current behavior; (b) is likely to benefit from less
4 restrictive alternative treatment; and (c) requires less restrictive
5 alternative treatment to prevent a relapse, decompensation, or
6 deterioration that is likely to result in the person presenting a
7 likelihood of serious harm or the person becoming gravely disabled
8 within a reasonably short period of time(~~(. For purposes of (a) of~~
9 ~~this subsection, time spent in a mental health facility or in~~
10 ~~confinement as a result of a criminal conviction is excluded from the~~
11 ~~thirty six month calculation));~~

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

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

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

21 (31) "Licensed physician" means a person licensed to practice
22 medicine or osteopathic medicine and surgery in the state of
23 Washington;

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

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

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

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

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

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

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

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

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

28 (39) "Private agency" means any person, partnership, corporation,
29 or association that is not a public agency, whether or not financed
30 in whole or in part by public funds, which constitutes an evaluation
31 and treatment facility or private institution, or hospital, or
32 approved substance use disorder treatment program, which is conducted
33 for, or includes a department or ward conducted for, the care and
34 treatment of persons with mental illness, substance use disorders, or
35 both mental illness and substance use disorders;

36 (40) "Professional person" means a mental health professional or
37 designated crisis responder and shall also mean a physician,
38 physician assistant, psychiatric advanced registered nurse
39 practitioner, registered nurse, and such others as may be defined by

1 rules adopted by the secretary pursuant to the provisions of this
2 chapter;

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

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

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

15 (44) "Public agency" means any evaluation and treatment facility
16 or institution, secure detoxification facility, approved substance
17 use disorder treatment program, or hospital which is conducted for,
18 or includes a department or ward conducted for, the care and
19 treatment of persons with mental illness, substance use disorders, or
20 both mental illness and substance use disorders, if the agency is
21 operated directly by federal, state, county, or municipal government,
22 or a combination of such governments;

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

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

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

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

35 (49) "Secure detoxification facility" means a facility operated
36 by either a public or private agency or by the program of an agency
37 that:

38 (a) Provides for intoxicated persons:

39 (i) Evaluation and assessment, provided by certified chemical
40 dependency professionals;

1 (ii) Acute or subacute detoxification services; and
2 (iii) Discharge assistance provided by certified chemical
3 dependency professionals, including facilitating transitions to
4 appropriate voluntary or involuntary inpatient services or to less
5 restrictive alternatives as appropriate for the individual;

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

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

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

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

14 (52) "Substance use disorder" means a cluster of cognitive,
15 behavioral, and physiological symptoms indicating that an individual
16 continues using the substance despite significant substance-related
17 problems. The diagnosis of a substance use disorder is based on a
18 pathological pattern of behaviors related to the use of the
19 substances;

20 (53) "Therapeutic court personnel" means the staff of a mental
21 health court or other therapeutic court which has jurisdiction over
22 defendants who are dually diagnosed with mental disorders, including
23 court personnel, probation officers, a court monitor, prosecuting
24 attorney, or defense counsel acting within the scope of therapeutic
25 court duties;

26 (54) "Treatment records" include registration and all other
27 records concerning persons who are receiving or who at any time have
28 received services for mental illness, which are maintained by the
29 department, by behavioral health organizations and their staffs, and
30 by treatment facilities. Treatment records include mental health
31 information contained in a medical bill including but not limited to
32 mental health drugs, a mental health diagnosis, provider name, and
33 dates of service stemming from a medical service. Treatment records
34 do not include notes or records maintained for personal use by a
35 person providing treatment services for the department, behavioral
36 health organizations, or a treatment facility if the notes or records
37 are not available to others;

38 (55) "Triage facility" means a short-term facility or a portion
39 of a facility licensed by the department of health and certified by
40 the department of social and health services under RCW 71.24.035,

1 which is designed as a facility to assess and stabilize an individual
2 or determine the need for involuntary commitment of an individual,
3 and must meet department of health residential treatment facility
4 standards. A triage facility may be structured as a voluntary or
5 involuntary placement facility;

6 (56) "Violent act" means behavior that resulted in homicide,
7 attempted suicide, nonfatal injuries, or substantial damage to
8 property.

9 **Sec. 403.** RCW 71.05.585 and 2016 c 45 s 5 are each amended to
10 read as follows:

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

13 (a) Assignment of a care coordinator;

14 (b) An intake evaluation with the provider of the less
15 restrictive alternative treatment;

16 (c) A psychiatric evaluation;

17 (d) ~~((Medication management;~~

18 ~~(+e))~~ A schedule of regular contacts with the provider of the
19 less restrictive alternative treatment services for the duration of
20 the order;

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

23 ~~(+g))~~ (f) An individual crisis plan; and

24 (g) Notification to the designated mental health professional if
25 reasonable efforts to engage the client fail to produce substantial
26 compliance with court-ordered treatment conditions.

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

29 (a) Medication management;

30 (b) Psychotherapy;

31 ~~((+b))~~ (c) Nursing;

32 ~~((+e))~~ (d) Substance abuse counseling;

33 ~~((+d))~~ (e) Residential treatment; and

34 ~~((+e))~~ (f) Support for housing, benefits, education, and
35 employment.

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

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

8 (5) For the purpose of this section, "care coordinator" means a
9 clinical practitioner who coordinates the activities of less
10 restrictive alternative treatment. The care coordinator coordinates
11 activities with the designated mental health professionals necessary
12 for enforcement and continuation of less restrictive alternative
13 orders and is responsible for coordinating service activities with
14 other agencies and establishing and maintaining a therapeutic
15 relationship with the individual on a continuing basis.

16 **Sec. 404.** RCW 71.05.585 and 2016 sp.s. c 29 s 241 and 2016 c 45
17 s 5 are each reenacted and amended to read as follows:

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

20 (a) Assignment of a care coordinator;

21 (b) An intake evaluation with the provider of the less
22 restrictive alternative treatment;

23 (c) A psychiatric evaluation;

24 ~~((Medication management;~~

25 ~~(e))~~ A schedule of regular contacts with the provider of the
26 less restrictive alternative treatment services for the duration of
27 the order;

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

30 ~~(g))~~ (f) An individual crisis plan; and

31 (g) Notification to the designated crisis responder if reasonable
32 efforts to engage the client fail to produce substantial compliance
33 with court-ordered treatment conditions.

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

36 (a) Medication management;

37 (b) Psychotherapy;

38 ~~((b))~~ (c) Nursing;

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

1 ~~((d))~~ (e) Residential treatment; and
2 ~~((e))~~ (f) Support for housing, benefits, education, and
3 employment.

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

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

15 (5) For the purpose of this section, "care coordinator" means a
16 clinical practitioner who coordinates the activities of less
17 restrictive alternative treatment. The care coordinator coordinates
18 activities with the designated crisis responders that are necessary
19 for enforcement and continuation of less restrictive alternative
20 orders and is responsible for coordinating service activities with
21 other agencies and establishing and maintaining a therapeutic
22 relationship with the individual on a continuing basis.

23 NEW SECTION. **Sec. 405.** A new section is added to chapter 71.05
24 RCW to read as follows:

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

30 (1) The designated mental health professional must personally
31 interview the person, unless the person refuses an interview, and
32 determine whether the person will voluntarily receive appropriate
33 evaluation and treatment at a mental health facility.

34 (2) The designated mental health professional must investigate
35 and evaluate the specific facts alleged and the reliability or
36 credibility of any person providing information. The designated
37 mental health professional may spend up to forty-eight hours to
38 complete the investigation, provided that the person may not be held

1 for investigation for any period except as authorized by RCW
2 71.05.050 or 71.05.153.

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

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

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

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

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

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

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

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

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

1 circumstance, the time for hearing is shortened to three judicial
2 days after the filing of the petition.

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

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

8 NEW SECTION. **Sec. 406.** A new section is added to chapter 71.05
9 RCW to read as follows:

10 This section establishes a process for initial evaluation and
11 filing of a petition for assisted outpatient behavioral health
12 treatment, but however does not preclude the filing of a petition for
13 assisted outpatient behavioral health treatment following a period of
14 inpatient detention in appropriate circumstances:

15 (1) The designated crisis responder must personally interview the
16 person, unless the person refuses an interview, and determine whether
17 the person will voluntarily receive appropriate evaluation and
18 treatment at a mental health facility, secure detoxification
19 facility, or approved substance use disorder treatment program.

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

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

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

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

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

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

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

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

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

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

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

30 (6) A petition for assisted outpatient behavioral health
31 treatment filed under this section must be adjudicated under RCW
32 71.05.240.

33 **Sec. 407.** RCW 71.05.150 and 2015 c 250 s 3 are each amended to
34 read as follows:

35 (1)~~((a))~~ When a designated mental health professional receives
36 information alleging that a person, as a result of a mental disorder:
37 ~~((i))~~ (a) Presents a likelihood of serious harm; ~~((ii))~~ (b) is
38 gravely disabled; or ~~((iii))~~ (c) is in need of assisted outpatient
39 mental health treatment; the designated mental health professional

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

20 ~~(b))~~ under this section or a petition for involuntary outpatient
21 treatment under section 405 of this act. Before filing the petition,
22 the designated mental health professional must personally interview
23 the person, unless the person refuses an interview, and determine
24 whether the person will voluntarily receive appropriate evaluation
25 and treatment at an evaluation and treatment facility, crisis
26 stabilization unit, or triage facility.

27 (2)(a) An order to detain to a designated evaluation and
28 treatment facility for not more than a seventy-two-hour evaluation
29 and treatment period(~~, or an order for an involuntary outpatient~~
30 ~~evaluation,~~) may be issued by a judge of the superior court upon
31 request of a designated mental health professional, whenever it
32 appears to the satisfaction of a judge of the superior court:

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

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

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

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

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

33 **Sec. 408.** RCW 71.05.150 and 2016 sp.s. c 29 s 210 are each
34 amended to read as follows:

35 (1)(~~(a)~~) When a designated crisis responder receives
36 information alleging that a person, as a result of a mental disorder,
37 substance use disorder, or both presents a likelihood of serious harm
38 or is gravely disabled, or that a person is in need of assisted
39 outpatient (~~mental~~) behavioral health treatment; the designated

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

20 (b)) under this section or a petition for involuntary outpatient
21 behavioral health treatment under section 406 of this act. Before
22 filing the petition, the designated crisis responder must personally
23 interview the person, unless the person refuses an interview, and
24 determine whether the person will voluntarily receive appropriate
25 evaluation and treatment at an evaluation and treatment facility,
26 crisis stabilization unit, triage facility, or approved substance use
27 disorder treatment program.

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

- 37 (i) That there is probable cause to support the petition; and
38 (ii) That the person has refused or failed to accept appropriate
39 evaluation and treatment voluntarily.

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

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

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

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

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

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

5 **Sec. 409.** RCW 71.05.150 and 2016 sp.s. c 29 s 211 are each
6 amended to read as follows:

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

31 (~~b~~)) under this section or a petition for involuntary outpatient
32 behavioral health treatment under section 406 of this act. Before
33 filing the petition, the designated crisis responder must personally
34 interview the person, unless the person refuses an interview, and
35 determine whether the person will voluntarily receive appropriate
36 evaluation and treatment at an evaluation and treatment facility,
37 crisis stabilization unit, triage facility, or approved substance use
38 disorder treatment program.

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

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

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

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

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

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

1 present during the admission evaluation. The facility may exclude the
2 individual if his or her presence would present a safety risk, delay
3 the proceedings, or otherwise interfere with the evaluation.

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

12 **Sec. 410.** RCW 71.05.230 and 2016 c 155 s 5 and 2016 c 45 s 1 are
13 each reenacted and amended to read as follows:

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

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

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

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

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

39 (a) Two physicians;

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

1 **Sec. 411.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s
2 5, and 2016 c 45 s 1 are each reenacted and amended to read as
3 follows:

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

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

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

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

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

29 (a) Two physicians;

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

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

32 (d) One psychiatric advanced registered nurse practitioner and a
33 mental health professional. The persons signing the petition must
34 have examined the person. If involuntary detention is sought the
35 petition shall state facts that support the finding that such person,
36 as a result of a mental disorder or substance use disorder, presents
37 a likelihood of serious harm, or is gravely disabled and that there
38 are no less restrictive alternatives to detention in the best
39 interest of such person or others. The petition shall state
40 specifically that less restrictive alternative treatment was

1 considered and specify why treatment less restrictive than detention
2 is not appropriate. If an involuntary less restrictive alternative is
3 sought, the petition shall state facts that support the finding that
4 such person, as a result of a mental disorder or as a result of a
5 substance use disorder, presents a likelihood of serious harm, is
6 gravely disabled, or is in need of assisted outpatient (~~mental~~)
7 behavioral health treatment, and shall set forth any recommendations
8 for less restrictive alternative treatment services; and

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

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

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

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

23 (9) If the hospital or facility designated to provide less
24 restrictive alternative treatment is other than the facility
25 providing involuntary treatment, the outpatient facility so
26 designated to provide less restrictive alternative treatment has
27 agreed to assume such responsibility.

28 **Sec. 412.** RCW 71.05.240 and 2016 c 45 s 2 are each amended to
29 read as follows:

30 (1) If a petition is filed for fourteen day involuntary treatment
31 or ninety days of less restrictive alternative treatment, the court
32 shall hold a probable cause hearing within seventy-two hours of the
33 initial detention (~~or involuntary outpatient evaluation~~) of such
34 person as determined in RCW 71.05.180, or at a time determined under
35 section 405 of this act. If requested by the person or his or her
36 attorney, the hearing may be postponed for a period not to exceed
37 forty-eight hours. The hearing may also be continued subject to the
38 conditions set forth in RCW 71.05.210 or subject to the petitioner's
39 showing of good cause for a period not to exceed twenty-four hours.

1 (2) The court at the time of the probable cause hearing and
2 before an order of commitment is entered shall inform the person both
3 orally and in writing that the failure to make a good faith effort to
4 seek voluntary treatment as provided in RCW 71.05.230 will result in
5 the loss of his or her firearm rights if the person is subsequently
6 detained for involuntary treatment under this section.

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

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

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

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

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

1 that the person is barred from the possession of firearms and that
2 the prohibition remains in effect until a court restores his or her
3 right to possess a firearm under RCW 9.41.047.

4 **Sec. 413.** RCW 71.05.240 and 2016 sp.s. c 29 s 232 and 2016 c 45
5 s 2 are each reenacted and amended to read as follows:

6 (1) If a petition is filed for fourteen day involuntary treatment
7 or ninety days of less restrictive alternative treatment, the court
8 shall hold a probable cause hearing within seventy-two hours of the
9 initial detention (~~(or involuntary outpatient evaluation)~~) of such
10 person as determined in RCW 71.05.180, or at a time determined under
11 section 406 of this act. If requested by the person or his or her
12 attorney, the hearing may be postponed for a period not to exceed
13 forty-eight hours. The hearing may also be continued subject to the
14 conditions set forth in RCW 71.05.210 or subject to the petitioner's
15 showing of good cause for a period not to exceed twenty-four hours.

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

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

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

1 (c) At the conclusion of the probable cause hearing, if the court
2 finds by a preponderance of the evidence that such person, as the
3 result of a mental disorder or substance use disorder, presents a
4 likelihood of serious harm, or is gravely disabled, but that
5 treatment in a less restrictive setting than detention is in the best
6 interest of such person or others, the court shall order an
7 appropriate less restrictive alternative course of treatment for not
8 to exceed ninety days.

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

16 (~~(e)~~) (4) An order for less restrictive alternative treatment
17 must name the mental health service provider responsible for
18 identifying the services the person will receive in accordance with
19 RCW 71.05.585, and must include a requirement that the person
20 cooperate with the services planned by the mental health service
21 provider.

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

32 **Sec. 414.** RCW 71.05.240 and 2016 sp.s. c 29 s 233 are each
33 amended to read as follows:

34 (1) If a petition is filed for fourteen day involuntary treatment
35 or ninety days of less restrictive alternative treatment, the court
36 shall hold a probable cause hearing within seventy-two hours of the
37 initial detention (~~(or involuntary outpatient evaluation)~~) of such
38 person as determined in RCW 71.05.180, or at a time determined under
39 section 406 of this act. If requested by the person or his or her

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

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

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

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

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

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

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

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

17 **Sec. 415.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to
18 read as follows:

19 (1) An agency or facility designated to monitor or provide
20 services under a less restrictive alternative or conditional release
21 order or a designated mental health professional may take action to
22 enforce, modify, or revoke a less restrictive alternative or
23 conditional release order if the agency, facility, or designated
24 mental health professional determines that:

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

27 (b) Substantial deterioration in the person's functioning has
28 occurred;

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

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

33 (2) Actions taken under this section must include a flexible
34 range of responses of varying levels of intensity appropriate to the
35 circumstances and consistent with the interests of the individual and
36 the public in personal autonomy, safety, recovery, and compliance.
37 Available actions may include, but are not limited to, any of the
38 following:

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

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

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

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

36 (e) To initiate revocation procedures under subsection (4) of
37 this section.

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

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

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

13 (b) A person detained under this subsection (4) (~~must be held~~
14 ~~until such time, not exceeding five days, as a hearing can be~~
15 ~~scheduled to determine whether or not the person should be returned~~
16 ~~to the hospital or facility from which he or she had been released~~)
17 may be held for evaluation for up to seventy-two hours, excluding
18 weekends and holidays, pending a court hearing. If the person is not
19 detained, the hearing must be scheduled within five days of service
20 on the person. The designated mental health professional or the
21 secretary may modify or rescind the order at any time prior to
22 commencement of the court hearing.

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

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

1 detention of the person for inpatient treatment or 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~~). To continue detention after the seventy-two
5 hour period, the court must find that the person, as a result of a
6 mental disorder, presents a likelihood of serious harm or is gravely
7 disabled, and, after considering less restrictive alternatives to
8 involuntary detention and treatment, that no such alternatives are in
9 the best interest of the person or others. The person may waive the
10 court hearing and allow the court to enter a stipulated order upon
11 the agreement of all parties. If the court orders detention for
12 inpatient treatment, the treatment period may be for no longer than
13 the period authorized in the original court order.

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

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

26 **Sec. 416.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each
27 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (b) A person detained under this subsection (4) (~~must be held~~
33 ~~until such time, not exceeding five days, as a hearing can be~~
34 ~~scheduled to determine whether or not the person should be returned~~
35 ~~to the hospital or facility from which he or she had been released))
36 may be held for evaluation for up to seventy-two hours, excluding
37 weekends and holidays, pending a court hearing. If the person is not
38 detained, the hearing must be scheduled within five days of service
39 on the person. The designated crisis responder or the secretary may~~

1 modify or rescind the order at any time prior to commencement of the
2 court hearing.

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

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

39 (~~(e) Revocation proceedings under this subsection (4) are not~~
40 ~~allowable if the current commitment is solely based on the person~~

1 ~~being in need of assisted outpatient mental health treatment. In~~
2 ~~order to obtain a court order for detention for inpatient treatment~~
3 ~~under this circumstance, a petition must be filed under RCW 71.05.150~~
4 ~~or 71.05.153.)~~

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

11 **Sec. 417.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each
12 amended to read as follows:

13 (1) An agency or facility designated to monitor or provide
14 services under a less restrictive alternative or conditional release
15 order or a designated crisis responder may take action to enforce,
16 modify, or revoke a less restrictive alternative or conditional
17 release order if the agency, facility, or designated crisis responder
18 determines that:

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

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

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

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

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

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

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

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

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

32 (e) To initiate revocation procedures under subsection (4) of
33 this section.

34 (3) The facility or agency designated to provide outpatient
35 treatment shall notify the secretary or designated crisis responder
36 when a person fails to adhere to terms and conditions of court
37 ordered treatment or experiences substantial deterioration in his or
38 her condition and, as a result, presents an increased likelihood of
39 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 for inpatient evaluation in an evaluation and
6 treatment facility in or near the county in which he or she is
7 receiving outpatient treatment if the person is committed for mental
8 health treatment, or, if the person is committed for substance use
9 disorder treatment, in a secure detoxification facility or approved
10 substance use disorder treatment program if either is available in or
11 near the county in which he or she is receiving outpatient treatment.
12 Proceedings under this subsection (4) 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 may be held for evaluation for up to seventy-two hours, excluding
19 weekends and holidays, pending a court hearing. If the person is not
20 detained, the hearing must be scheduled within five days of service
21 on the person. The designated crisis responder or the secretary may
22 modify or rescind the order at any time prior to commencement of the
23 court hearing.

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

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

1 detention of the person for inpatient treatment or 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~~). To continue detention after the seventy-two
5 hour period, the court must find that the person, as a result of a
6 mental disorder or substance use disorder, presents a likelihood of
7 serious harm or is gravely disabled, and, after considering less
8 restrictive alternatives to involuntary detention and treatment, that
9 no such alternatives are in the best interest of the person or
10 others. The person may waive the court hearing and allow the court to
11 enter a stipulated order upon the agreement of all parties. If the
12 court orders detention for inpatient treatment, the treatment period
13 may be for no longer than the period authorized in the original court
14 order.

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

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

27 **Sec. 418.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107
28 s 1 are each reenacted and amended to read as follows:

29 (1) If a designated crisis responder decides not to detain a
30 person for evaluation and treatment under RCW 71.05.150 or 71.05.153
31 or forty-eight hours have elapsed since a designated crisis responder
32 received a request for investigation and the designated crisis
33 responder has not taken action to have the person detained, an
34 immediate family member or guardian or conservator of the person may
35 petition the superior court for the person's initial detention.

36 (2)(a) The petition must be filed in the county in which the
37 designated ~~((mental health professional))~~ crisis responder
38 investigation occurred or was requested to occur and must be
39 submitted on forms developed by the administrative office of the

1 courts for this purpose. The petition must be accompanied by a sworn
2 declaration from the petitioner, and other witnesses if desired,
3 describing why the person should be detained for evaluation and
4 treatment. The description of why the person should be detained may
5 contain, but is not limited to, the information identified in RCW
6 71.05.212.

7 (b) The petition must contain:

8 (i) A description of the relationship between the petitioner and
9 the person; and

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

12 (3) The court shall, within one judicial day, review the petition
13 to determine whether the petition raises sufficient evidence to
14 support the allegation. If the court so finds, it shall provide a
15 copy of the petition to the designated crisis responder agency with
16 an order for the agency to provide the court, within one judicial
17 day, with a written sworn statement describing the basis for the
18 decision not to seek initial detention and a copy of all information
19 material to the designated crisis responder's current decision.

20 (4) Following the filing of the petition and before the court
21 reaches a decision, any person, including a mental health
22 professional, may submit a sworn declaration to the court in support
23 of or in opposition to initial detention.

24 (5) The court shall dismiss the petition at any time if it finds
25 that a designated crisis responder has filed a petition for the
26 person's initial detention under RCW 71.05.150 or 71.05.153 or that
27 the person has voluntarily accepted appropriate treatment.

28 (6) The court must issue a final ruling on the petition within
29 five judicial days after it is filed. After reviewing all of the
30 information provided to the court, the court may enter an order for
31 initial detention or an order instructing the designated crisis
32 responder to file a petition for assisted outpatient behavioral
33 health treatment if the court finds that: (a) There is probable cause
34 to support a petition for detention or assisted outpatient behavioral
35 health treatment; and (b) the person has refused or failed to accept
36 appropriate evaluation and treatment voluntarily. The court shall
37 transmit its final decision to the petitioner.

38 (7) If the court enters an order for initial detention, it shall
39 provide the order to the designated crisis responder agency, which

1 shall execute the order without delay. An order for initial detention
2 under this section expires one hundred eighty days from issuance.

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

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

10 **Sec. 419.** RCW 71.05.156 and 2016 sp.s. c 29 s 215 are each
11 amended to read as follows:

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

19 **Sec. 420.** RCW 71.05.212 and 2016 sp.s. c 29 s 226 are each
20 amended to read as follows:

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

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

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

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

32 (d) Prior commitments under this chapter.

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

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

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

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

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

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

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

22 **Sec. 421.** RCW 71.05.245 and 2015 c 250 s 8 are each amended to
23 read as follows:

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

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

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

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

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

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

13 **Sec. 422.** RCW 71.05.280 and 2016 sp.s. c 29 s 234 are each
14 amended to read as follows:

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

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

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

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

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

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

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

3 (4) Such person is gravely disabled; or

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

6 **Sec. 423.** RCW 71.05.595 and 2015 c 250 s 17 are each amended to
7 read as follows:

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

19 Part V

20 Reducing Demand for Forensic Services

21 NEW SECTION. **Sec. 501.** (1) The legislature intends to expand
22 crisis triage, stabilization centers, or both, to be deployed in
23 high-need urban areas. The crisis centers allow individuals to self-
24 refer or be referred by emergency services or police and stay for
25 short periods under observation. Services generally include crisis
26 stabilization and intervention, general counseling, peer support,
27 medication management, education, and referral assistance. Studies
28 indicate that these centers reduce hospital admissions and increase
29 enrollment in community programs. The legislature intends for these
30 centers to be geographically distributed around the state.

31 (2) The legislature intends to expand availability of clubhouses
32 to provide community-based programs which promote rehabilitation,
33 recovery, and reintegration services to adults with persistent mental
34 illness. Clubhouses expanded under this section must show fidelity to
35 the evidence-based model and be credentialed through clubhouse
36 international.

1 **Sec. 502.** RCW 10.77.060 and 2012 c 256 s 3 are each amended to
2 read as follows:

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

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

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

26 (d) The court may commit the defendant for evaluation to a
27 hospital or secure mental health facility without an assessment if:
28 (i) The defendant is charged with murder in the first or second
29 degree; (ii) the court finds that it is more likely than not that an
30 evaluation in the jail will be inadequate to complete an accurate
31 evaluation; or (iii) the court finds that an evaluation outside the
32 jail setting is necessary for the health, safety, or welfare of the
33 defendant. The court shall not order an initial inpatient evaluation
34 for any purpose other than a competency evaluation.

35 (e) The order shall indicate whether, in the event the defendant
36 is committed to a hospital or secure mental health facility for
37 evaluation, all parties agree to waive the presence of the defendant
38 or to the defendant's remote participation at a subsequent competency
39 hearing or presentation of an agreed order if the recommendation of
40 the evaluator is for continuation of the stay of criminal

1 proceedings, or if the opinion of the evaluator is that the defendant
2 remains incompetent and there is no remaining restoration period, and
3 the hearing is held prior to the expiration of the authorized
4 commitment period.

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

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

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

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

29 (b) A diagnosis or description of the current mental status of
30 the defendant;

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

33 (d) If the defendant has indicated his or her intention to rely
34 on the defense of insanity pursuant to RCW 10.77.030, and an
35 evaluation and report by an expert or professional person has been
36 provided concluding that the defendant was criminally insane at the
37 time of the alleged offense, an opinion as to the defendant's sanity
38 at the time of the act, and an opinion as to whether the defendant
39 presents a substantial danger to other persons, or presents a
40 substantial likelihood of committing criminal acts jeopardizing

1 public safety or security, unless kept under further control by the
2 court or other persons or institutions, provided that no opinion
3 shall be rendered under this subsection (3)(d) unless the evaluator
4 or court determines that the defendant is competent to stand trial;

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

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

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

16 **Sec. 503.** RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each
17 amended to read as follows:

18 (1)(a) Whenever a defendant has pleaded not guilty by reason of
19 insanity, or there is reason to doubt his or her competency, the
20 court on its own motion or on the motion of any party shall either
21 appoint or request the secretary to designate a qualified expert or
22 professional person, who shall be approved by the prosecuting
23 attorney, to evaluate and report upon the mental condition of the
24 defendant.

25 (b) The signed order of the court shall serve as authority for
26 the evaluator to be given access to all records held by any mental
27 health, medical, educational, or correctional facility that relate to
28 the present or past mental, emotional, or physical condition of the
29 defendant. If the court is advised by any party that the defendant
30 may have a developmental disability, the evaluation must be performed
31 by a developmental disabilities professional.

32 (c) The evaluator shall assess the defendant in a jail, detention
33 facility, in the community, or in court to determine whether a period
34 of inpatient commitment will be necessary to complete an accurate
35 evaluation. If inpatient commitment is needed, the signed order of
36 the court shall serve as authority for the evaluator to request the
37 jail or detention facility to transport the defendant to a hospital
38 or secure mental health facility for a period of commitment not to

1 exceed (~~fifteen~~) eight days from the time of admission to the
2 facility. Otherwise, the evaluator shall complete the evaluation.

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

5 (i) The defendant is charged with murder in the first or second
6 degree; (ii) the court finds that it is more likely than not that an
7 evaluation in the jail will be inadequate to complete an accurate
8 evaluation; or (iii) the court finds that an evaluation outside the
9 jail setting is necessary for the health, safety, or welfare of the
10 defendant. The court shall not order an initial inpatient evaluation
11 for any purpose other than a competency evaluation.

12 (e) The order shall indicate whether, in the event the defendant
13 is committed to a hospital or secure mental health facility for
14 evaluation, all parties agree to waive the presence of the defendant
15 or to the defendant's remote participation at a subsequent competency
16 hearing or presentation of an agreed order if the recommendation of
17 the evaluator is for continuation of the stay of criminal
18 proceedings, or if the opinion of the evaluator is that the defendant
19 remains incompetent and there is no remaining restoration period, and
20 the hearing is held prior to the expiration of the authorized
21 commitment period.

22 (f) When a defendant is ordered to be committed for inpatient
23 evaluation under this subsection (1), the court may delay granting
24 bail until the defendant has been evaluated for competency or sanity
25 and appears before the court. Following the evaluation, in
26 determining bail the court shall consider: (i) Recommendations of the
27 evaluator regarding the defendant's competency, sanity, or diminished
28 capacity; (ii) whether the defendant has a recent history of one or
29 more violent acts; (iii) whether the defendant has previously been
30 acquitted by reason of insanity or found incompetent; (iv) whether it
31 is reasonably likely the defendant will fail to appear for a future
32 court hearing; and (v) whether the defendant is a threat to public
33 safety.

34 (2) The court may direct that a qualified expert or professional
35 person retained by or appointed for the defendant be permitted to
36 witness the evaluation authorized by subsection (1) of this section,
37 and that the defendant shall have access to all information obtained
38 by the court appointed experts or professional persons. The
39 defendant's expert or professional person shall have the right to
40 file his or her own report following the guidelines of subsection (3)

1 of this section. If the defendant is indigent, the court shall upon
2 the request of the defendant assist him or her in obtaining an expert
3 or professional person.

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

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

6 (b) A diagnosis or description of the current mental status of
7 the defendant;

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

10 (d) If the defendant has indicated his or her intention to rely
11 on the defense of insanity pursuant to RCW 10.77.030, and an
12 evaluation and report by an expert or professional person has been
13 provided concluding that the defendant was criminally insane at the
14 time of the alleged offense, an opinion as to the defendant's sanity
15 at the time of the act, and an opinion as to whether the defendant
16 presents a substantial danger to other persons, or presents a
17 substantial likelihood of committing criminal acts jeopardizing
18 public safety or security, unless kept under further control by the
19 court or other persons or institutions, provided that no opinion
20 shall be rendered under this subsection (3)(d) unless the evaluator
21 or court determines that the defendant is competent to stand trial;

22 (e) When directed by the court, if an evaluation and report by an
23 expert or professional person has been provided concluding that the
24 defendant lacked the capacity at the time of the offense to form the
25 mental state necessary to commit the charged offense, an opinion as
26 to the capacity of the defendant to have a particular state of mind
27 which is an element of the offense charged;

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

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

33 Part VI

34 Addressing Managed Care Entities to Provide Fully Integrated Care

35 NEW SECTION. **Sec. 601.** A new section is added to chapter 71.24
36 RCW to read as follows:

37 (1) The health care authority shall, upon the request of a county
38 authority or authorities within a regional service area, collaborate

1 with those counties to create an interlocal leadership structure that
2 includes representation from counties and the managed health care
3 systems serving that regional service area. The interlocal leadership
4 structure must include representation from physical and behavioral
5 health care providers, tribes, and may include other entities serving
6 the regional service area as necessary.

7 (2) The interlocal leadership structure must be chaired by the
8 counties and jointly administered by the health care authority,
9 managed health care systems, and counties. It must design and
10 implement the fully integrated managed care model for that regional
11 service area to assure clients are at the center of care delivery and
12 support integrated delivery of physical and behavioral health care at
13 the provider level.

14 (3) The interlocal leadership structure shall address, but is not
15 limited to addressing, the following topics:

16 (a) Alignment and standardization of contracting, administrative
17 functions, information technology, data sharing, and other processes
18 to minimize administrative burden at the provider level to achieve
19 outcomes;

20 (b) Monitoring implementation of fully integrated managed care in
21 the regional service area, including design of an early warning
22 system to monitor ongoing success to achieve better outcomes and to
23 make adjustments to the delivery system as necessary;

24 (c) Developing regional coordination processes for capital
25 infrastructure requests, local capacity building, and other community
26 investments;

27 (d) Identifying, using, and building on measures and data
28 consistent with, but not limited to, RCW 70.320.030 and 41.05.690,
29 for tracking and maintaining regional accountability for delivery
30 system performance; and

31 (e) Discussing whether the managed health care systems awarded
32 the contract by the authority for a regional service area should
33 subcontract with a county-based administrative service organization
34 or other local organization, which may include and determine, in
35 partnership with that organization, which value-added services will
36 best support a bidirectional system of care.

37 (4) To ensure an optimal transition, regional service areas that
38 enter as mid-adopters must be allowed a transition period of up to
39 one year during which the interlocal leadership structure develops
40 and implements a local plan, including measurable milestones, to

1 transition to fully integrated managed care. The transition plan may
2 include provisions for the counties to maintain existing contracts
3 during some or all of the transition period if the managed care
4 design begins during 2017 to 2018, with the mid-adopter transition
5 year occurring in 2019.

6 (5) Nothing in this section may be used to compel contracts
7 between a provider, integrated managed health care system, or
8 administrative service organization.

9 (6) This section sets forth the minimum level of involvement,
10 authority, and oversight by counties within regional service areas.
11 Nothing in this section precludes greater involvement, authority, and
12 oversight by counties in a regional service area.

13 (7) The interlocal leadership structure expires December 1, 2021,
14 unless the interlocal leadership structure decides locally to extend
15 it.

16 NEW SECTION. **Sec. 602.** The health care authority and department
17 of social and health services shall work with the committees and
18 processes established under RCW 70.320.020 and 41.05.690 to define
19 which measures will be used to define value in integrated managed
20 care contracts and how the process of clinical integration will be
21 measured. These processes must ensure that adequate value and
22 accountability terms are employed to align integrated managed care
23 objectives with public policy objectives historically served by
24 behavioral health organizations and to detect and provide
25 disincentives against cost shifting onto crisis systems and jails.

26 **Part VII**

27 **Data Measurement**

28 NEW SECTION. **Sec. 701.** A new section is added to chapter 71.24
29 RCW to read as follows:

30 The Washington state institute for public policy shall evaluate
31 changes and the effectiveness of specific investments within the
32 adult behavioral health system. The goal for the effort is to provide
33 policymakers with additional information to aid in decision making on
34 an ongoing basis. Therefore, the institute shall consult with the
35 relevant legislative and agency staff when identifying research
36 questions and establishing evaluation timelines. The institute shall

1 provide a report to the appropriate committees of the legislature
2 upon completion of each evaluation.

3 **Part VIII**

4 **Miscellaneous Provisions**

5 NEW SECTION. **Sec. 801.** Sections 402, 404, 406, 408, 411, 413,
6 416, 418 through 423, and 503 of this act take effect April 1, 2018.

7 NEW SECTION. **Sec. 802.** Sections 205, 206, 401, 403, 405, 407,
8 410, 412, 415, and 502 of this act expire April 1, 2018.

9 NEW SECTION. **Sec. 803.** Sections 409, 414, and 417 of this act
10 take effect July 1, 2026.

11 NEW SECTION. **Sec. 804.** Sections 207, 208, 408, 413, and 416 of
12 this act expire July 1, 2026.

13 NEW SECTION. **Sec. 805.** (1) The condition referenced in
14 subsection (2) of this section is satisfied only if neither Engrossed
15 Substitute House Bill No. 1388 (including any later amendments or
16 substitutes) nor Substitute Senate Bill No. 5259 (including any later
17 amendments or substitutes) is signed into law by the governor by the
18 effective date of this section.

19 (2)(a) Sections 202 and 205 of this act take effect only if the
20 condition in subsection (1) of this section is satisfied.

21 (b) Section 207 of this act takes effect April 1, 2018, but only
22 if the condition in subsection (1) of this section is satisfied.

23 (c) Section 209 of this act takes effect July 1, 2026, but only
24 if the condition in subsection (1) of this section is satisfied.

25 (d) Section 303 of this act takes effect July 1, 2018, but only
26 if the condition in subsection (1) of this section is satisfied.

27 NEW SECTION. **Sec. 806.** (1) The condition referenced in
28 subsection (2) of this section is satisfied only if Engrossed
29 Substitute House Bill No. 1388 (including any later amendments or
30 substitutes) or Substitute Senate Bill No. 5259 (including any later
31 amendments or substitutes) is signed into law by the governor by the
32 effective date of this section.

1 (2)(a) Sections 203 and 206 of this act take effect only if the
2 condition in subsection (1) of this section is satisfied.

3 (b) Section 208 of this act takes effect April 1, 2018, but only
4 if the condition in subsection (1) of this section is satisfied.

5 (c) Section 210 of this act takes effect July 1, 2026, but only
6 if the condition in subsection (1) of this section is satisfied.

7 (d) Section 304 of this act takes effect July 1, 2018, but only
8 if the condition in subsection (1) of this section is satisfied."

9 On page 1, line 1 of the title, after "reform;" strike the
10 remainder of the title and insert "amending RCW 71.24.310, 71.24.310,
11 71.05.320, 71.05.320, 71.05.320, 71.05.320, 71.05.320, 71.05.365,
12 71.05.365, 71.05.585, 71.05.150, 71.05.150, 71.05.150, 71.05.240,
13 71.05.240, 71.05.590, 71.05.590, 71.05.590, 71.05.156, 71.05.212,
14 71.05.245, 71.05.280, 71.05.595, 10.77.060, and 10.77.060; reenacting
15 and amending RCW 71.05.320, 71.05.020, 71.05.020, 71.05.585,
16 71.05.230, 71.05.230, 71.05.240, and 71.05.201; adding new sections
17 to chapter 71.24 RCW; adding new sections to chapter 71.05 RCW;
18 adding a new section to chapter 72.23 RCW; creating new sections;
19 providing effective dates; providing contingent effective dates; and
20 providing expiration dates."

EFFECT: Eliminates direction to the Health Care Authority (HCA) to establish a work group including Legislative members to examine options for the structuring of integration of physical and behavioral health services by 2020.

Requires HCA to, upon request, collaborate with a county authority or authorities to create an Interlocal Leadership Structure (ILS) that includes representation from counties and the managed health care system serving a regional service area. The ILS must be chaired by counties and must address specified topics related to implementation of fully integrated managed care in the region. HCA must allow regional service areas which enter as mid-adopters a transition period of one year for the ILS to develop and implement a local plan, including measurable milestones, to transition to fully integrated managed care. These provisions do not preclude greater involvement, authority, and oversight by counties in a regional service area.

Updates language relating to the role of psychiatric advanced registered nurse practitioners (psychiatric ARNPs) and physician assistants in providing psychiatric treatment at state hospitals. Eliminates language requiring psychiatric ARNPs to be supervised by a psychiatrist and specifying that state hospital psychiatrists must provide mentorship to psychiatric ARNPs.

Expands minimum required services under less restrictive alternative treatment to include notification to the designated mental health professional or designated crisis responder if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

Requires DSHS to credit reimbursements charged to an entity for state hospital days of care provided after the patient no longer requires active psychiatric treatment at an inpatient level of care against any reimbursements charged to the same entity during the same time period for using more state hospital patient days than allocated to that entity.

Modifies detention options for revocation of a less restrictive order to allow a designated mental health professional, designated crisis responder, or DSHS to detain a person for inpatient evaluation for up to 72 hours, excluding weekends and holidays. To continue detention after the 72-hour period, the court must find that the person, as the result of a mental health disorder or, after April 1, 2018, as the result of a substance use disorder, presents a likelihood of serious harm or is gravely disabled and no less restrictive alternative exists which is in the best interest of the person or others.

--- END ---