

**2SSB 5071 - S AMD 303**  
By Senator Dhingra

**ADOPTED 03/01/2021**

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

3 **"Sec. 1.** RCW 10.77.150 and 2010 c 263 s 5 are each amended to  
4 read as follows:

5 (1) Persons examined pursuant to RCW 10.77.140 may make  
6 application to the secretary for conditional release. The secretary  
7 shall, after considering the reports of experts or professional  
8 persons conducting the examination pursuant to RCW 10.77.140, forward  
9 to the court of the county which ordered the person's commitment the  
10 person's application for conditional release as well as the  
11 secretary's recommendations concerning the application and any  
12 proposed terms and conditions upon which the secretary reasonably  
13 believes the person can be conditionally released. Conditional  
14 release may also contemplate partial release for work, training, or  
15 educational purposes.

16 (2) In instances in which persons examined pursuant to RCW  
17 10.77.140 have not made application to the secretary for conditional  
18 release, but the secretary, after considering the reports of experts  
19 or professional persons conducting the examination pursuant to RCW  
20 10.77.140, reasonably believes the person may be conditionally  
21 released, the secretary may submit a recommendation for release to  
22 the court of the county that ordered the person's commitment. The  
23 secretary's recommendation must include any proposed terms and  
24 conditions upon which the secretary reasonably believes the person  
25 may be conditionally released. Conditional release may also include  
26 partial release for work, training, or educational purposes. Notice  
27 of the secretary's recommendation under this subsection must be  
28 provided to the person for whom the secretary has made the  
29 recommendation for release and to his or her attorney.

30 (3) (a) The court of the county which ordered the person's  
31 commitment, upon receipt of an application or recommendation for  
32 conditional release with the secretary's recommendation for

1 conditional release terms and conditions, shall within thirty days  
2 schedule a hearing. The court may schedule a hearing on applications  
3 recommended for disapproval by the secretary.

4 (b) The prosecuting attorney shall represent the state at such  
5 hearings and shall have the right to have the ~~((patient))~~ person  
6 examined by an expert or professional person of the prosecuting  
7 attorney's choice. If the committed person is indigent, and he or she  
8 so requests, the court shall appoint a qualified expert or  
9 professional person to examine the person on his or her behalf.

10 (c) The issue to be determined at such a hearing is whether or  
11 not the person may be released conditionally to less restrictive  
12 alternative treatment under the supervision of a multidisciplinary  
13 transition team under conditions imposed by the court, including  
14 access to services under section 4 of this act without substantial  
15 danger to other persons, or substantial likelihood of committing  
16 criminal acts jeopardizing public safety or security.

17 ~~((The court, after the hearing, shall rule on the secretary's~~  
18 ~~recommendations, and if it disapproves of conditional release, may de~~  
19 ~~se))~~ In cases that come before the court under subsection (1) or (2)  
20 of this section, the court may deny conditional release to a less  
21 restrictive alternative only on the basis of substantial evidence.  
22 The court may modify the suggested terms and conditions on which the  
23 person is to be conditionally released. Pursuant to the determination  
24 of the court after hearing, the committed person shall thereupon be  
25 released on such conditions as the court determines to be necessary,  
26 or shall be remitted to the custody of the secretary.

27 (4) If the order of conditional release ~~((includes a))~~ provides  
28 for the conditional release of the person to a less restrictive  
29 alternative, including residential treatment or treatment in the  
30 community, the conditional release order must also include:

31 (a) A requirement for the committed person to ~~((report to a))~~ be  
32 supervised by a multidisciplinary transition team, including a  
33 specially trained community corrections officer, ~~((the order shall~~  
34 ~~also specify that the conditionally released person shall be under~~  
35 ~~the supervision of the secretary of corrections or such person as the~~  
36 ~~secretary of corrections may designate and shall follow explicitly~~  
37 ~~the instructions of the secretary of corrections including))~~ a  
38 representative of the department of social and health services, and a  
39 representative of the community behavioral health agency providing  
40 treatment to the person under section 4 of this act.

1 (i) The court may omit appointment of the representative of the  
2 community behavioral health agency if the conditional release order  
3 does not require participation in behavioral health treatment;

4 (ii) The court may omit the appointment of a community  
5 corrections officer if it makes a special finding that the  
6 appointment of a community corrections officer would not facilitate  
7 the success of the person, or the safety of the person and the  
8 community;

9 (b) A requirement for the person to comply with conditions of  
10 supervision established by the court which shall include at a minimum  
11 reporting as directed to a ((community corrections officer))  
12 designated member of the transition team, remaining within prescribed  
13 geographical boundaries, and notifying the ((community corrections  
14 officer)) transition team prior to making any change in the  
15 ((offender's)) person's address or employment. If the ((order of  
16 conditional release includes a requirement for the committed person  
17 to report to a community corrections officer, the community  
18 corrections officer shall notify the secretary or the secretary's  
19 designee, if the)) person is not in compliance with the court-ordered  
20 conditions of release((-)), the community corrections officer or  
21 another designated transition team member shall notify the secretary  
22 or the secretary's designee; and

23 ((4)) (c) If the court ((determines that receiving regular or  
24 periodic medication or other medical treatment shall be a condition  
25 of the committed person's release, then the court shall require him  
26 or her to report to a physician or other medical or mental health  
27 practitioner for the medication or treatment. In addition to  
28 submitting any report required by RCW 10.77.160, the physician or  
29 other medical or mental health practitioner shall immediately upon  
30 the released person's failure to appear for the)) requires  
31 participation in behavioral health treatment, the name of the  
32 licensed or certified behavioral health agency responsible for  
33 identifying the services the person will receive under section 4 of  
34 this act, and a requirement that the person cooperate with the  
35 services planned by the licensed or certified behavioral health  
36 agency. The licensed or certified behavioral health agency must  
37 comply with the reporting requirements of RCW 10.77.160, and must  
38 immediately report to the court, prosecutor, and defense counsel any  
39 substantial withdrawal or disengagement from medication or treatment,  
40 or ((upon a)) any change in the person's mental health condition that

1 renders (~~the patient~~) him or her a potential risk to the public  
2 (~~report to the court, to the prosecuting attorney of the county in~~  
3 ~~which the released person was committed, to the secretary, and to the~~  
4 ~~supervising community corrections officer~~)).

5 (5) The role of the transition team appointed under subsection  
6 (4) of this section shall be to facilitate the success of the person  
7 on the conditional release order by monitoring the person's progress  
8 in treatment, compliance with court-ordered conditions, and to  
9 problem solve around extra support the person may need or  
10 circumstances that may arise that threaten the safety of the person  
11 or the community. The transition team may develop a monitoring plan  
12 that may be carried out by any member of the team. The transition  
13 team shall meet according to a schedule developed by the team, and  
14 shall communicate as needed if issues arise that require the  
15 immediate attention of the team.

16 (6) The department of corrections shall collaborate with the  
17 department to develop specialized training for community corrections  
18 officers under this section. The lack of a trained community  
19 corrections officer must not be the cause of delay to entry of a  
20 conditional release order. Another community corrections officer may  
21 be appointed if no specially trained officer is available.

22 (7) Any person, whose application for conditional release has  
23 been denied, may reapply after a period of six months from the date  
24 of denial, or sooner with the support of the department.

25 (8) A person examined under RCW 10.77.140 or the department may  
26 make a motion for limited conditional release under this section, on  
27 the grounds that there is insufficient evidence that the person may  
28 be released conditionally to less restrictive alternative treatment  
29 under subsection (3)(c) of this section, but the person would benefit  
30 from the opportunity to exercise increased privileges while remaining  
31 under the custody and supervision of the department and with the  
32 supervision of the department these increased privileges can be  
33 exercised without substantial danger to other persons or substantial  
34 likelihood of committing criminal acts jeopardizing public safety or  
35 security. The department may respond to a person's application for  
36 conditional release by instead supporting limited conditional  
37 release.

38 **Sec. 2.** RCW 71.05.320 and 2020 c 302 s 45 are each amended to  
39 read as follows:

1 (1) (a) Subject to (b) of this subsection, if the court or jury  
2 finds that grounds set forth in RCW 71.05.280 have been proven and  
3 that the best interests of the person or others will not be served by  
4 a less restrictive treatment which is an alternative to detention,  
5 the court shall remand him or her to the custody of the department of  
6 social and health services or to a facility certified for ninety day  
7 treatment by the department for a further period of intensive  
8 treatment not to exceed ninety days from the date of judgment.

9 (b) If the order for inpatient treatment is based on a substance  
10 use disorder, treatment must take place at an approved substance use  
11 disorder treatment program. The court may only enter an order for  
12 commitment based on a substance use disorder if there is an available  
13 approved substance use disorder treatment program with adequate space  
14 for the person.

15 (c) If the grounds set forth in RCW 71.05.280(3) are the basis of  
16 commitment, then the period of treatment may be up to but not exceed  
17 one hundred eighty days from the date of judgment to the custody of  
18 the department of social and health services or to a facility  
19 certified for one hundred eighty-day treatment by the department or  
20 under RCW 71.05.745.

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 of social and health services or to a facility certified  
26 for ninety day treatment by the department or to a less restrictive  
27 alternative for a further period of less restrictive treatment not to  
28 exceed ninety days from the date of judgment. If the grounds set  
29 forth in RCW 71.05.280(3) are the basis of commitment, then the  
30 period of treatment may be up to but not exceed one hundred eighty  
31 days from the date of judgment. If the court has made an affirmative  
32 special finding under RCW 71.05.280(3)(b), the court shall appoint a  
33 multidisciplinary transition team as provided in subsection (6)(a)(i)  
34 of this section. If the court or jury finds that the grounds set  
35 forth in RCW 71.05.280(5) have been proven, and provide the only  
36 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.

39 (3) An order for less restrictive alternative treatment entered  
40 under subsection (2) of this section must name the behavioral health

1 service provider responsible for identifying the services the person  
2 will receive in accordance with RCW 71.05.585, and must include a  
3 requirement that the person cooperate with the services planned by  
4 the behavioral health service provider.

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

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

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

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

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

1 treatment, which may be initiated prior to or after discharge from  
2 the state hospital; or

3 (d) Continues to be gravely disabled; or

4 (e) Is in need of assisted outpatient behavioral health  
5 treatment.

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

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

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

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

34 (i) In cases where the court has ordered less restrictive  
35 alternative treatment and has previously made an affirmative special  
36 finding under RCW 71.05.280(3) (b), the court shall appoint a  
37 multidisciplinary transition team to supervise and assist the person  
38 on the order for less restrictive treatment, which shall include a  
39 representative of the community behavioral health agency providing  
40 treatment under RCW 71.05.585, and a specially trained supervising

1 community corrections officer. The court may omit the appointment of  
2 a community corrections officer if it makes a special finding that  
3 the appointment of a community corrections officer would not  
4 facilitate the success of the person, or the safety of the person and  
5 the community under (a)(ii) of this subsection.

6 (ii) The role of the transition team shall be to facilitate the  
7 success of the person on the less restrictive alternative order by  
8 monitoring the person's progress in treatment, compliance with court-  
9 ordered conditions, and to problem solve around extra support the  
10 person may need or circumstances which may arise that threaten the  
11 safety of the person or the community. The transition team may  
12 develop a monitoring plan which may be carried out by any member of  
13 the team. The transition team shall meet according to a schedule  
14 developed by the team, and shall communicate as needed if issues  
15 arise that require the immediate attention of the team.

16 (iii) The department of corrections shall collaborate with the  
17 department to develop specialized training for community corrections  
18 officers under this section. The lack of a trained community  
19 corrections officer must not be the cause of delay to entry of a less  
20 restrictive alternative order.

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

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

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

37 **Sec. 3.** RCW 71.05.320 and 2020 c 302 s 46 are each amended to  
38 read as follows:



1 (1) If the court or jury finds that grounds set forth in RCW  
2 71.05.280 have been proven and that the best interests of the person  
3 or others will not be served by a less restrictive treatment which is  
4 an alternative to detention, the court shall remand him or her to the  
5 custody of the department of social and health services or to a  
6 facility certified for ninety day treatment by the department for a  
7 further period of intensive treatment not to exceed ninety days from  
8 the date of judgment.

9 If the order for inpatient treatment is based on a substance use  
10 disorder, treatment must take place at an approved substance use  
11 disorder treatment program. If the grounds set forth in RCW  
12 71.05.280(3) are the basis of commitment, then the period of  
13 treatment may be up to but not exceed one hundred eighty days from  
14 the date of judgment to the custody of the department of social and  
15 health services or to a facility certified for one hundred eighty-day  
16 treatment by the department or under RCW 71.05.745.

17 (2) If the court or jury finds that grounds set forth in RCW  
18 71.05.280 have been proven, but finds that treatment less restrictive  
19 than detention will be in the best interest of the person or others,  
20 then the court shall remand him or her to the custody of the  
21 department of social and health services or to a facility certified  
22 for ninety day treatment by the department or to a less restrictive  
23 alternative for a further period of less restrictive treatment not to  
24 exceed ninety days from the date of judgment. If the grounds set  
25 forth in RCW 71.05.280(3) are the basis of commitment, then the  
26 period of treatment may be up to but not exceed one hundred eighty  
27 days from the date of judgment. If the court has made an affirmative  
28 special finding under RCW 71.05.280(3)(b), the court shall appoint a  
29 multidisciplinary transition team as provided in subsection (6)(a)(i)  
30 of this section. If the court or jury finds that the grounds set  
31 forth in RCW 71.05.280(5) have been proven, and provide the only  
32 basis for commitment, the court must enter an order for less  
33 restrictive alternative treatment for up to ninety days from the date  
34 of judgment and may not order inpatient treatment.

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

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

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

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

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

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

38 (d) Continues to be gravely disabled; or

39 (e) Is in need of assisted outpatient behavioral health  
40 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, the court may  
16 order the committed person returned for an additional period of  
17 treatment not to exceed one hundred eighty days from the date of  
18 judgment, except as provided in subsection (7) of this section. If  
19 the court's order is based solely on the grounds identified in  
20 subsection (4) (e) of this section, the court may enter an order for  
21 less restrictive alternative treatment not to exceed one hundred  
22 eighty days from the date of judgment, and may not enter an order for  
23 inpatient treatment. An order for less restrictive alternative  
24 treatment must name the behavioral health service provider  
25 responsible for identifying the services the person will receive in  
26 accordance with RCW 71.05.585, and must include a requirement that  
27 the person cooperate with the services planned by the behavioral  
28 health service provider.

29 (i) In cases where the court has ordered less restrictive  
30 alternative treatment and has previously made an affirmative special  
31 finding under RCW 71.05.280(3)(b), the court shall appoint a  
32 multidisciplinary transition team to supervise and assist the person  
33 on the order for less restrictive treatment, which shall include a  
34 representative of the community behavioral health agency providing  
35 treatment under RCW 71.05.585, and a specially trained supervising  
36 community corrections officer. The court may omit the appointment of  
37 a community corrections officer if it makes a special finding that  
38 the appointment of a community corrections officer would not  
39 facilitate the success of the person, or the safety of the person and  
40 the community under (a)(ii) of this subsection.

1        (ii) The role of the transition team shall be to facilitate the  
2 success of the person on the less restrictive alternative order by  
3 monitoring the person's progress in treatment, compliance with court-  
4 ordered conditions, and to problem solve around extra support the  
5 person may need or circumstances which may arise that threaten the  
6 safety of the person or the community. The transition team may  
7 develop a monitoring plan which may be carried out by any member of  
8 the team. The transition team shall meet according to a schedule  
9 developed by the team, and shall communicate as needed if issues  
10 arise that require the immediate attention of the team.

11        (iii) The department of corrections shall collaborate with the  
12 department to develop specialized training for community corrections  
13 officers under this section. The lack of a trained community  
14 corrections officer must not be the cause of delay to entry of a less  
15 restrictive alternative order.

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

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

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

32        NEW SECTION. Sec. 4. A new section is added to chapter 10.77  
33 RCW to read as follows:

34        (1) Conditional release planning should start at admission and  
35 proceed in coordination between the department and the person's  
36 managed care organization, or behavioral health administrative  
37 services organization if the person is not eligible for medical  
38 assistance under chapter 74.09 RCW. If needed, the department shall  
39 assist the person to enroll in medical assistance in suspense status

1 under RCW 74.09.670. The state hospital liaison for the managed care  
2 organization or behavioral health administrative services  
3 organization shall facilitate conditional release planning in  
4 collaboration with the department.

5 (2) Less restrictive alternative treatment pursuant to a  
6 conditional release order, at a minimum, includes the following  
7 services:

8 (a) Assignment of a care coordinator;

9 (b) An intake evaluation with the provider of the conditional  
10 treatment;

11 (c) A psychiatric evaluation or a substance use disorder  
12 evaluation, or both;

13 (d) A schedule of regular contacts with the provider of the less  
14 restrictive alternative treatment services for the duration of the  
15 order;

16 (e) A transition plan addressing access to continued services at  
17 the expiration of the order;

18 (f) An individual crisis plan;

19 (g) Consultation about the formation of a mental health advance  
20 directive under chapter 71.32 RCW; and

21 (h) Appointment of a transition team under RCW 10.77.150;

22 (i) Notification to the care coordinator assigned in (a) of this  
23 subsection and to the transition team as provided in RCW 10.77.150 if  
24 reasonable efforts to engage the client fail to produce substantial  
25 compliance with court-ordered treatment conditions.

26 (3) Less restrictive alternative treatment pursuant to a  
27 conditional release order may additionally include requirements to  
28 participate in the following services:

29 (a) Medication management;

30 (b) Psychotherapy;

31 (c) Nursing;

32 (d) Substance use disorder counseling;

33 (e) Residential treatment;

34 (f) Support for housing, benefits, education, and employment; and

35 (g) Periodic court review.

36 (4) Nothing in this section prohibits items in subsection (2) of  
37 this section from beginning before the conditional release of the  
38 individual.

39 (5) If the person was provided with involuntary medication under  
40 RCW 10.77.094 or pursuant to a judicial order during the involuntary

1 commitment period, the less restrictive alternative treatment  
2 pursuant to the conditional release order may authorize the less  
3 restrictive alternative treatment provider or its designee to  
4 administer involuntary antipsychotic medication to the person if the  
5 provider has attempted and failed to obtain the informed consent of  
6 the person and there is a concurring medical opinion approving the  
7 medication by a psychiatrist, physician assistant working with a  
8 supervising psychiatrist, psychiatric advanced registered nurse  
9 practitioner, or physician or physician assistant in consultation  
10 with an independent mental health professional with prescribing  
11 authority.

12 (6) Less restrictive alternative treatment pursuant to a  
13 conditional release order must be administered by a provider that is  
14 certified or licensed to provide or coordinate the full scope of  
15 services required under the less restrictive alternative order and  
16 that has agreed to assume this responsibility.

17 (7) The care coordinator assigned to a person ordered to less  
18 restrictive alternative treatment pursuant to a conditional release  
19 order must submit an individualized plan for the person's treatment  
20 services to the court that entered the order. An initial plan must be  
21 submitted as soon as possible following the intake evaluation and a  
22 revised plan must be submitted upon any subsequent modification in  
23 which a type of service is removed from or added to the treatment  
24 plan.

25 (8) A care coordinator may disclose information and records  
26 related to mental health treatment under RCW 70.02.230(2)(k) for  
27 purposes of implementing less restrictive alternative treatment  
28 pursuant to a conditional release order.

29 (9) For the purpose of this section, "care coordinator" means a  
30 clinical practitioner within the community behavioral health agency  
31 providing less restrictive alternative treatment who coordinates the  
32 activities of less restrictive alternative treatment pursuant to a  
33 conditional release order. The care coordinator coordinates  
34 activities with the person's transition team that are necessary for  
35 enforcement and continuation of the conditional release order and is  
36 responsible for coordinating service activities with other agencies  
37 and establishing and maintaining a therapeutic relationship with the  
38 individual on a continuing basis.

1       **Sec. 5.** RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each amended  
2 to 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 days from the time of admission to the facility.  
25 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~~) evaluated under this subsection (1), or when a party or  
7 the court determines at first appearance that an order for evaluation  
8 under this subsection will be requested or ordered if charges are  
9 pursued, the court may delay granting bail until the defendant has  
10 been evaluated for competency or sanity and appears before the court.  
11 Following the evaluation, in determining bail the court shall  
12 consider: (i) Recommendations of the evaluator regarding the  
13 defendant's competency, sanity, or diminished capacity; (ii) whether  
14 the defendant has a recent history of one or more violent acts; (iii)  
15 whether the defendant has previously been acquitted by reason of  
16 insanity or found incompetent; (iv) whether it is reasonably likely  
17 the defendant will fail to appear for a future court hearing; and (v)  
18 whether the defendant is a threat to public safety.

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

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

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

31 (b) A diagnosis or description of the current mental status of  
32 the defendant;

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

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



1 presents a substantial danger to other persons, or presents a  
2 substantial likelihood of committing criminal acts jeopardizing  
3 public safety or security, unless kept under further control by the  
4 court or other persons or institutions, provided that no opinion  
5 shall be rendered under this subsection (3)(d) unless the evaluator  
6 or court determines that the defendant is competent to stand trial;

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

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

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

18 **Sec. 6.** RCW 70.02.230 and 2020 c 256 s 402 are each amended to  
19 read as follows:

20 (1) (~~Except as provided in this section, RCW 70.02.050,~~  
21 ~~71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and~~  
22 ~~70.02.265, or pursuant to a valid authorization under RCW 70.02.030,~~  
23 ~~the~~) The fact of admission to a provider for mental health services  
24 and all information and records compiled, obtained, or maintained in  
25 the course of providing mental health services to either voluntary or  
26 involuntary recipients of services at public or private agencies  
27 ((must be confidential)) may not be disclosed except as provided in  
28 this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210,  
29 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a  
30 valid authorization under RCW 70.02.030.

31 (2) Information and records related to mental health services,  
32 other than those obtained through treatment under chapter 71.34 RCW,  
33 may be disclosed (~~only~~):

34 (a) In communications between qualified professional persons to  
35 meet the requirements of chapter 71.05 RCW, including Indian health  
36 care providers, in the provision of services or appropriate  
37 referrals, or in the course of guardianship proceedings if provided  
38 to a professional person:

39 (i) Employed by the facility;

1 (ii) Who has medical responsibility for the patient's care;  
2 (iii) Who is a designated crisis responder;  
3 (iv) Who is providing services under chapter 71.24 RCW;  
4 (v) Who is employed by a state or local correctional facility  
5 where the person is confined or supervised; or  
6 (vi) Who is providing evaluation, treatment, or follow-up  
7 services under chapter 10.77 RCW;

8 (b) When the communications regard the special needs of a patient  
9 and the necessary circumstances giving rise to such needs and the  
10 disclosure is made by a facility providing services to the operator  
11 of a facility in which the patient resides or will reside;

12 (c)(i) When the person receiving services, or his or her  
13 guardian, designates persons to whom information or records may be  
14 released, or if the person is a minor, when his or her parents make  
15 such a designation;

16 (ii) A public or private agency shall release to a person's next  
17 of kin, attorney, personal representative, guardian, or conservator,  
18 if any:

19 (A) The information that the person is presently a patient in the  
20 facility or that the person is seriously physically ill;

21 (B) A statement evaluating the mental and physical condition of  
22 the patient, and a statement of the probable duration of the  
23 patient's confinement, if such information is requested by the next  
24 of kin, attorney, personal representative, guardian, or conservator;  
25 and

26 (iii) Other information requested by the next of kin or attorney  
27 as may be necessary to decide whether or not proceedings should be  
28 instituted to appoint a guardian or conservator;

29 (d)(i) To the courts, including tribal courts, as necessary to  
30 the administration of chapter 71.05 RCW or to a court ordering an  
31 evaluation or treatment under chapter 10.77 RCW solely for the  
32 purpose of preventing the entry of any evaluation or treatment order  
33 that is inconsistent with any order entered under chapter 71.05 RCW.

34 (ii) To a court or its designee in which a motion under chapter  
35 10.77 RCW has been made for involuntary medication of a defendant for  
36 the purpose of competency restoration.

37 (iii) Disclosure under this subsection is mandatory for the  
38 purpose of the federal health insurance portability and  
39 accountability act;

1 (e) (i) When a mental health professional or designated crisis  
2 responder is requested by a representative of a law enforcement or  
3 corrections agency, including a police officer, sheriff, community  
4 corrections officer, a municipal attorney, or prosecuting attorney to  
5 undertake an investigation or provide treatment under RCW 71.05.150,  
6 10.31.110, or 71.05.153, the mental health professional or designated  
7 crisis responder shall, if requested to do so, advise the  
8 representative in writing of the results of the investigation  
9 including a statement of reasons for the decision to detain or  
10 release the person investigated. The written report must be submitted  
11 within seventy-two hours of the completion of the investigation or  
12 the request from the law enforcement or corrections representative,  
13 whichever occurs later.

14 (ii) Disclosure under this subsection is mandatory for the  
15 purposes of the federal health insurance portability and  
16 accountability act;

17 (f) To the attorney of the detained person;

18 (g) To the prosecuting attorney as necessary to carry out the  
19 responsibilities of the office under RCW 71.05.330(2),  
20 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
21 access to records regarding the committed person's treatment and  
22 prognosis, medication, behavior problems, and other records relevant  
23 to the issue of whether treatment less restrictive than inpatient  
24 treatment is in the best interest of the committed person or others.  
25 Information must be disclosed only after giving notice to the  
26 committed person and the person's counsel;

27 (h) (i) To appropriate law enforcement agencies and to a person,  
28 when the identity of the person is known to the public or private  
29 agency, whose health and safety has been threatened, or who is known  
30 to have been repeatedly harassed, by the patient. The person may  
31 designate a representative to receive the disclosure. The disclosure  
32 must be made by the professional person in charge of the public or  
33 private agency or his or her designee and must include the dates of  
34 commitment, admission, discharge, or release, authorized or  
35 unauthorized absence from the agency's facility, and only any other  
36 information that is pertinent to the threat or harassment. The agency  
37 or its employees are not civilly liable for the decision to disclose  
38 or not, so long as the decision was reached in good faith and without  
39 gross negligence.

1 (ii) Disclosure under this subsection is mandatory for the  
2 purposes of the federal health insurance portability and  
3 accountability act;

4 (i)(i) To appropriate corrections and law enforcement agencies  
5 all necessary and relevant information in the event of a crisis or  
6 emergent situation that poses a significant and imminent risk to the  
7 public. The mental health service agency or its employees are not  
8 civilly liable for the decision to disclose or not so long as the  
9 decision was reached in good faith and without gross negligence.

10 (ii) Disclosure under this subsection is mandatory for the  
11 purposes of the health insurance portability and accountability act;

12 (j) To the persons designated in RCW 71.05.425 for the purposes  
13 described in those sections;

14 (k) By a care coordinator under RCW 71.05.585 or section 4 of  
15 this act assigned to a person ordered to receive less restrictive  
16 alternative treatment for the purpose of sharing information to  
17 parties necessary for the implementation of proceedings under chapter  
18 71.05 or 10.77 RCW;

19 (l) Upon the death of a person. The person's next of kin,  
20 personal representative, guardian, or conservator, if any, must be  
21 notified. Next of kin who are of legal age and competent must be  
22 notified under this section in the following order: Spouse, parents,  
23 children, brothers and sisters, and other relatives according to the  
24 degree of relation. Access to all records and information compiled,  
25 obtained, or maintained in the course of providing services to a  
26 deceased patient are governed by RCW 70.02.140;

27 ~~((+l))~~ (m) To mark headstones or otherwise memorialize patients  
28 interred at state hospital cemeteries. The department of social and  
29 health services shall make available the name, date of birth, and  
30 date of death of patients buried in state hospital cemeteries fifty  
31 years after the death of a patient;

32 ~~((+m))~~ (n) To law enforcement officers and to prosecuting  
33 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The  
34 extent of information that may be released is limited as follows:

35 (i) Only the fact, place, and date of involuntary commitment, an  
36 official copy of any order or orders of commitment, and an official  
37 copy of any written or oral notice of ineligibility to possess a  
38 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
39 must be disclosed upon request;

1 (ii) The law enforcement and prosecuting attorneys may only  
2 release the information obtained to the person's attorney as required  
3 by court rule and to a jury or judge, if a jury is waived, that  
4 presides over any trial at which the person is charged with violating  
5 RCW 9.41.040(2)(a)(iv);

6 (iii) Disclosure under this subsection is mandatory for the  
7 purposes of the federal health insurance portability and  
8 accountability act;

9 ~~((n))~~ (o) When a patient would otherwise be subject to the  
10 provisions of this section and disclosure is necessary for the  
11 protection of the patient or others due to his or her unauthorized  
12 disappearance from the facility, and his or her whereabouts is  
13 unknown, notice of the disappearance, along with relevant  
14 information, may be made to relatives, the department of corrections  
15 when the person is under the supervision of the department, and  
16 governmental law enforcement agencies designated by the physician or  
17 psychiatric advanced registered nurse practitioner in charge of the  
18 patient or the professional person in charge of the facility, or his  
19 or her professional designee;

20 ~~((o))~~ (p) Pursuant to lawful order of a court, including a  
21 tribal court;

22 ~~((p))~~ (q) To qualified staff members of the department, to the  
23 authority, to behavioral health administrative services  
24 organizations, to managed care organizations, to resource management  
25 services responsible for serving a patient, or to service providers  
26 designated by resource management services as necessary to determine  
27 the progress and adequacy of treatment and to determine whether the  
28 person should be transferred to a less restrictive or more  
29 appropriate treatment modality or facility;

30 ~~((q))~~ (r) Within the mental health service agency or Indian  
31 health care provider facility where the patient is receiving  
32 treatment, confidential information may be disclosed to persons  
33 employed, serving in bona fide training programs, or participating in  
34 supervised volunteer programs, at the facility when it is necessary  
35 to perform their duties;

36 ~~((r))~~ (s) Within the department and the authority as necessary  
37 to coordinate treatment for mental illness, developmental  
38 disabilities, alcoholism, or substance use disorder of persons who  
39 are under the supervision of the department;

1        ~~((s))~~ (t) Between the department of social and health services,  
2 the department of children, youth, and families, and the health care  
3 authority as necessary to coordinate treatment for mental illness,  
4 developmental disabilities, alcoholism, or drug abuse of persons who  
5 are under the supervision of the department of social and health  
6 services or the department of children, youth, and families;

7        ~~((t))~~ (u) To a licensed physician or psychiatric advanced  
8 registered nurse practitioner who has determined that the life or  
9 health of the person is in danger and that treatment without the  
10 information and records related to mental health services could be  
11 injurious to the patient's health. Disclosure must be limited to the  
12 portions of the records necessary to meet the medical emergency;

13        ~~((u))~~ (v)(i) Consistent with the requirements of the federal  
14 health insurance portability and accountability act, to:

15        (A) A health care provider, including an Indian health care  
16 provider, who is providing care to a patient, or to whom a patient  
17 has been referred for evaluation or treatment; or

18        (B) Any other person who is working in a care coordinator role  
19 for a health care facility, health care provider, or Indian health  
20 care provider, or is under an agreement pursuant to the federal  
21 health insurance portability and accountability act with a health  
22 care facility or a health care provider and requires the information  
23 and records to assure coordinated care and treatment of that patient.

24        (ii) A person authorized to use or disclose information and  
25 records related to mental health services under this subsection (2)  
26 ~~((u))~~ (v) must take appropriate steps to protect the information  
27 and records relating to mental health services.

28        (iii) Psychotherapy notes may not be released without  
29 authorization of the patient who is the subject of the request for  
30 release of information;

31        ~~((v))~~ (w) To administrative and office support staff designated  
32 to obtain medical records for those licensed professionals listed in  
33 ~~((u))~~ (v) of this subsection;

34        ~~((w))~~ (x) To a facility that is to receive a person who is  
35 involuntarily committed under chapter 71.05 RCW, or upon transfer of  
36 the person from one evaluation and treatment facility to another. The  
37 release of records under this subsection is limited to the  
38 information and records related to mental health services required by  
39 law, a record or summary of all somatic treatments, and a discharge  
40 summary. The discharge summary may include a statement of the

1 patient's problem, the treatment goals, the type of treatment which  
2 has been provided, and recommendation for future treatment, but may  
3 not include the patient's complete treatment record;

4 ~~((x))~~ (y) To the person's counsel or guardian ad litem, without  
5 modification, at any time in order to prepare for involuntary  
6 commitment or recommitment proceedings, reexaminations, appeals, or  
7 other actions relating to detention, admission, commitment, or  
8 patient's rights under chapter 71.05 RCW;

9 ~~((y))~~ (z) To staff members of the protection and advocacy  
10 agency or to staff members of a private, nonprofit corporation for  
11 the purpose of protecting and advocating the rights of persons with  
12 mental disorders or developmental disabilities. Resource management  
13 services may limit the release of information to the name, birthdate,  
14 and county of residence of the patient, information regarding whether  
15 the patient was voluntarily admitted, or involuntarily committed, the  
16 date and place of admission, placement, or commitment, the name and  
17 address of a guardian of the patient, and the date and place of the  
18 guardian's appointment. Any staff member who wishes to obtain  
19 additional information must notify the patient's resource management  
20 services in writing of the request and of the resource management  
21 services' right to object. The staff member shall send the notice by  
22 mail to the guardian's address. If the guardian does not object in  
23 writing within fifteen days after the notice is mailed, the staff  
24 member may obtain the additional information. If the guardian objects  
25 in writing within fifteen days after the notice is mailed, the staff  
26 member may not obtain the additional information;

27 ~~((z))~~ (aa) To all current treating providers, including Indian  
28 health care providers, of the patient with prescriptive authority who  
29 have written a prescription for the patient within the last twelve  
30 months. For purposes of coordinating health care, the department or  
31 the authority may release without written authorization of the  
32 patient, information acquired for billing and collection purposes as  
33 described in RCW 70.02.050(1)(d). The department, or the authority,  
34 if applicable, shall notify the patient that billing and collection  
35 information has been released to named providers, and provide the  
36 substance of the information released and the dates of such release.  
37 Neither the department nor the authority may release counseling,  
38 inpatient psychiatric hospitalization, or drug and alcohol treatment  
39 information without a signed written release from the client;





1 (5) The fact of admission to a provider of mental health  
2 services, as well as all records, files, evidence, findings, or  
3 orders made, prepared, collected, or maintained pursuant to chapter  
4 71.05 RCW are not admissible as evidence in any legal proceeding  
5 outside that chapter without the written authorization of the person  
6 who was the subject of the proceeding except as provided in RCW  
7 70.02.260, in a subsequent criminal prosecution of a person committed  
8 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
9 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
10 trial, in a civil commitment proceeding pursuant to chapter 71.09  
11 RCW, or, in the case of a minor, a guardianship or dependency  
12 proceeding. The records and files maintained in any court proceeding  
13 pursuant to chapter 71.05 RCW must be confidential and available  
14 subsequent to such proceedings only to the person who was the subject  
15 of the proceeding or his or her attorney. In addition, the court may  
16 order the subsequent release or use of such records or files only  
17 upon good cause shown if the court finds that appropriate safeguards  
18 for strict confidentiality are and will be maintained.

19 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
20 an action against an individual who has willfully released  
21 confidential information or records concerning him or her in  
22 violation of the provisions of this section, for the greater of the  
23 following amounts:

24 (i) One thousand dollars; or

25 (ii) Three times the amount of actual damages sustained, if any.

26 (b) It is not a prerequisite to recovery under this subsection  
27 that the plaintiff suffered or was threatened with special, as  
28 contrasted with general, damages.

29 (c) Any person may bring an action to enjoin the release of  
30 confidential information or records concerning him or her or his or  
31 her ward, in violation of the provisions of this section, and may in  
32 the same action seek damages as provided in this subsection.

33 (d) The court may award to the plaintiff, should he or she  
34 prevail in any action authorized by this subsection, reasonable  
35 attorney fees in addition to those otherwise provided by law.

36 (e) If an action is brought under this subsection, no action may  
37 be brought under RCW 70.02.170.

38 **Sec. 7.** RCW 70.02.240 and 2019 c 381 s 20 are each amended to  
39 read as follows:

1 The fact of admission and all information and records related to  
2 mental health services obtained through inpatient or outpatient  
3 treatment of a minor under chapter 71.34 RCW must be kept  
4 confidential, except as authorized by this section or under RCW  
5 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.  
6 Confidential information under this section may be disclosed only:

7 (1) In communications between mental health professionals to meet  
8 the requirements of chapter 71.34 RCW, in the provision of services  
9 to the minor, or in making appropriate referrals;

10 (2) In the course of guardianship or dependency proceedings;

11 (3) To the minor, the minor's parent, including those acting as a  
12 parent as defined in RCW 71.34.020 for purposes of family-initiated  
13 treatment, and the minor's attorney, subject to RCW 13.50.100;

14 (4) To the courts as necessary to administer chapter 71.34 RCW;

15 (5) By a care coordinator under RCW 71.34.755 or section 4 of  
16 this act assigned to a person ordered to receive less restrictive  
17 alternative treatment for the purpose of sharing information to  
18 parties necessary for the implementation of proceedings under chapter  
19 71.34 or 10.77 RCW;

20 (6) To law enforcement officers or public health officers as  
21 necessary to carry out the responsibilities of their office. However,  
22 only the fact and date of admission, and the date of discharge, the  
23 name and address of the treatment provider, if any, and the last  
24 known address must be disclosed upon request;

25 ~~((+6))~~ (7) To law enforcement officers, public health officers,  
26 relatives, and other governmental law enforcement agencies, if a  
27 minor has escaped from custody, disappeared from an evaluation and  
28 treatment facility, violated conditions of a less restrictive  
29 treatment order, or failed to return from an authorized leave, and  
30 then only such information as may be necessary to provide for public  
31 safety or to assist in the apprehension of the minor. The officers  
32 are obligated to keep the information confidential in accordance with  
33 this chapter;

34 ~~((+7))~~ (8) To the secretary of social and health services and  
35 the director of the health care authority for assistance in data  
36 collection and program evaluation or research so long as the  
37 secretary or director, where applicable, adopts rules for the conduct  
38 of such evaluation and research. The rules must include, but need not  
39 be limited to, the requirement that all evaluators and researchers  
40 sign an oath of confidentiality substantially as follows:

1 "As a condition of conducting evaluation or research concerning  
2 persons who have received services from (fill in the facility,  
3 agency, or person) I, . . . . ., agree not to divulge, publish, or  
4 otherwise make known to unauthorized persons or the public any  
5 information obtained in the course of such evaluation or research  
6 regarding minors who have received services in a manner such that the  
7 minor is identifiable.

8 I recognize that unauthorized release of confidential information  
9 may subject me to civil liability under state law.

10 /s/ . . . . .";

11 ~~((8))~~ (9) To appropriate law enforcement agencies, upon  
12 request, all necessary and relevant information in the event of a  
13 crisis or emergent situation that poses a significant and imminent  
14 risk to the public. The mental health service agency or its employees  
15 are not civilly liable for the decision to disclose or not, so long  
16 as the decision was reached in good faith and without gross  
17 negligence;

18 ~~((9))~~ (10) To appropriate law enforcement agencies and to a  
19 person, when the identity of the person is known to the public or  
20 private agency, whose health and safety has been threatened, or who  
21 is known to have been repeatedly harassed, by the patient. The person  
22 may designate a representative to receive the disclosure. The  
23 disclosure must be made by the professional person in charge of the  
24 public or private agency or his or her designee and must include the  
25 dates of admission, discharge, authorized or unauthorized absence  
26 from the agency's facility, and only any other information that is  
27 pertinent to the threat or harassment. The agency or its employees  
28 are not civilly liable for the decision to disclose or not, so long  
29 as the decision was reached in good faith and without gross  
30 negligence;

31 ~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or  
32 conservator, if any, the information that the minor is presently in  
33 the facility or that the minor is seriously physically ill and a  
34 statement evaluating the mental and physical condition of the minor  
35 as well as a statement of the probable duration of the minor's  
36 confinement;

37 ~~((11))~~ (12) Upon the death of a minor, to the minor's next of  
38 kin;

1       (~~(12)~~) (13) To a facility in which the minor resides or will  
2 reside;

3       (~~(13)~~) (14) To law enforcement officers and to prosecuting  
4 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The  
5 extent of information that may be released is limited as follows:

6       (a) Only the fact, place, and date of involuntary commitment, an  
7 official copy of any order or orders of commitment, and an official  
8 copy of any written or oral notice of ineligibility to possess a  
9 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
10 must be disclosed upon request;

11       (b) The law enforcement and prosecuting attorneys may only  
12 release the information obtained to the person's attorney as required  
13 by court rule and to a jury or judge, if a jury is waived, that  
14 presides over any trial at which the person is charged with violating  
15 RCW 9.41.040(2)(a)(iv);

16       (c) Disclosure under this subsection is mandatory for the  
17 purposes of the federal health insurance portability and  
18 accountability act;

19       (~~(14)~~) (15) This section may not be construed to prohibit the  
20 compilation and publication of statistical data for use by government  
21 or researchers under standards, including standards to assure  
22 maintenance of confidentiality, set forth by the director of the  
23 health care authority or the secretary of the department of social  
24 and health services, where applicable. The fact of admission and all  
25 information obtained pursuant to chapter 71.34 RCW are not admissible  
26 as evidence in any legal proceeding outside chapter 71.34 RCW, except  
27 guardianship or dependency, without the written consent of the minor  
28 or the minor's parent;

29       (~~(15)~~) (16) For the purpose of a correctional facility  
30 participating in the postinstitutional medical assistance system  
31 supporting the expedited medical determinations and medical  
32 suspensions as provided in RCW 74.09.555 and 74.09.295;

33       (~~(16)~~) (17) Pursuant to a lawful order of a court.

34       **Sec. 8.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to  
35 read as follows:

36       (1) The authority is designated as the state behavioral health  
37 authority which includes recognition as the single state authority  
38 for substance use disorders and state mental health authority.

1 (2) The director shall provide for public, client, tribal, and  
2 licensed or certified behavioral health agency participation in  
3 developing the state behavioral health program, developing related  
4 contracts, and any waiver request to the federal government under  
5 medicaid.

6 (3) The director shall provide for participation in developing  
7 the state behavioral health program for children and other  
8 underserved populations, by including representatives on any  
9 committee established to provide oversight to the state behavioral  
10 health program.

11 (4) The authority shall be designated as the behavioral health  
12 administrative services organization for a regional service area if a  
13 behavioral health administrative services organization fails to meet  
14 the authority's contracting requirements or refuses to exercise the  
15 responsibilities under its contract or state law, until such time as  
16 a new behavioral health administrative services organization is  
17 designated.

18 (5) The director shall:

19 (a) Assure that any behavioral health administrative services  
20 organization, managed care organization, or community behavioral  
21 health program provides medically necessary services to medicaid  
22 recipients consistent with the state's medicaid state plan or federal  
23 waiver authorities, and nonmedicaid services consistent with  
24 priorities established by the authority;

25 (b) Develop contracts in a manner to ensure an adequate network  
26 of inpatient services, evaluation and treatment services, and  
27 facilities under chapter 71.05 RCW to ensure access to treatment,  
28 resource management services, and community support services;

29 (c) Make contracts necessary or incidental to the performance of  
30 its duties and the execution of its powers, including managed care  
31 contracts for behavioral health services, contracts entered into  
32 under RCW 74.09.522, and contracts with public and private agencies,  
33 organizations, and individuals to pay them for behavioral health  
34 services;

35 (d) Define administrative costs and ensure that the behavioral  
36 health administrative services organization does not exceed an  
37 administrative cost of ten percent of available funds;

38 (e) Establish, to the extent possible, a standardized auditing  
39 procedure which is designed to assure compliance with contractual  
40 agreements authorized by this chapter and minimizes paperwork

1 requirements. The audit procedure shall focus on the outcomes of  
2 service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

3 (f) Develop and maintain an information system to be used by the  
4 state and behavioral health administrative services organizations and  
5 managed care organizations that includes a tracking method which  
6 allows the authority to identify behavioral health clients'  
7 participation in any behavioral health service or public program on  
8 an immediate basis. The information system shall not include  
9 individual patient's case history files. Confidentiality of client  
10 information and records shall be maintained as provided in this  
11 chapter and chapter 70.02 RCW;

12 (g) Monitor and audit behavioral health administrative services  
13 organizations as needed to assure compliance with contractual  
14 agreements authorized by this chapter;

15 (h) Monitor and audit access to behavioral health services for  
16 individuals eligible for medicaid who are not enrolled in a managed  
17 care organization;

18 (i) Adopt such rules as are necessary to implement the  
19 authority's responsibilities under this chapter;

20 (j) Administer or supervise the administration of the provisions  
21 relating to persons with substance use disorders and intoxicated  
22 persons of any state plan submitted for federal funding pursuant to  
23 federal health, welfare, or treatment legislation;

24 (k) Require the behavioral health administrative services  
25 organizations and the managed care organizations to develop  
26 agreements with tribal, city, and county jails and the department of  
27 corrections to accept referrals for enrollment on behalf of a  
28 confined person, prior to the person's release;

29 (l) Require behavioral health administrative services  
30 organizations and managed care organizations, as applicable, to  
31 provide services as identified in RCW 71.05.585 and section 4 of this  
32 act to individuals committed for involuntary (~~commitment~~) treatment  
33 under less restrictive alternative court orders when:

34 (i) The individual is enrolled in the medicaid program; or

35 (ii) The individual is not enrolled in medicaid, does not have  
36 other insurance which can pay for the services, and the behavioral  
37 health administrative services organization has adequate available  
38 resources to provide the services; and

1 (m) Coordinate with the centers for medicare and medicaid  
2 services to provide that behavioral health aide services are eligible  
3 for federal funding of up to one hundred percent.

4 (6) The director shall use available resources only for  
5 behavioral health administrative services organizations and managed  
6 care organizations, except:

7 (a) To the extent authorized, and in accordance with any  
8 priorities or conditions specified, in the biennial appropriations  
9 act; or

10 (b) To incentivize improved performance with respect to the  
11 client outcomes established in RCW 71.24.435, 70.320.020, and  
12 71.36.025, integration of behavioral health and medical services at  
13 the clinical level, and improved care coordination for individuals  
14 with complex care needs.

15 (7) Each behavioral health administrative services organization,  
16 managed care organization, and licensed or certified behavioral  
17 health agency shall file with the secretary of the department of  
18 health or the director, on request, such data, statistics, schedules,  
19 and information as the secretary of the department of health or the  
20 director reasonably requires. A behavioral health administrative  
21 services organization, managed care organization, or licensed or  
22 certified behavioral health agency which, without good cause, fails  
23 to furnish any data, statistics, schedules, or information as  
24 requested, or files fraudulent reports thereof, may be subject to the  
25 contractual remedies in RCW 74.09.871 or may have its service  
26 provider certification or license revoked or suspended.

27 (8) The superior court may restrain any behavioral health  
28 administrative services organization, managed care organization, or  
29 service provider from operating without a contract, certification, or  
30 a license or any other violation of this section. The court may also  
31 review, pursuant to procedures contained in chapter 34.05 RCW, any  
32 denial, suspension, limitation, restriction, or revocation of  
33 certification or license, and grant other relief required to enforce  
34 the provisions of this chapter.

35 (9) Upon petition by the secretary of the department of health or  
36 the director, and after hearing held upon reasonable notice to the  
37 facility, the superior court may issue a warrant to an officer or  
38 employee of the secretary of the department of health or the director  
39 authorizing him or her to enter at reasonable times, and examine the  
40 records, books, and accounts of any behavioral health administrative

1 services organization, managed care organization, or service provider  
2 refusing to consent to inspection or examination by the authority.

3 (10) Notwithstanding the existence or pursuit of any other  
4 remedy, the secretary of the department of health or the director may  
5 file an action for an injunction or other process against any person  
6 or governmental unit to restrain or prevent the establishment,  
7 conduct, or operation of a behavioral health administrative services  
8 organization, managed care organization, or service provider without  
9 a contract, certification, or a license under this chapter.

10 (11) The authority shall distribute appropriated state and  
11 federal funds in accordance with any priorities, terms, or conditions  
12 specified in the appropriations act.

13 (12) The authority, in cooperation with the state congressional  
14 delegation, shall actively seek waivers of federal requirements and  
15 such modifications of federal regulations as are necessary to allow  
16 federal medicaid reimbursement for services provided by freestanding  
17 evaluation and treatment facilities licensed under chapter 71.12 RCW  
18 or certified under chapter 71.05 RCW. The authority shall  
19 periodically share the results of its efforts with the appropriate  
20 committees of the senate and the house of representatives.

21 (13) The authority may:

22 (a) Plan, establish, and maintain substance use disorder  
23 prevention and substance use disorder treatment programs as necessary  
24 or desirable;

25 (b) Coordinate its activities and cooperate with behavioral  
26 programs in this and other states, and make contracts and other joint  
27 or cooperative arrangements with state, tribal, local, or private  
28 agencies in this and other states for behavioral health services and  
29 for the common advancement of substance use disorder programs;

30 (c) Solicit and accept for use any gift of money or property made  
31 by will or otherwise, and any grant of money, services, or property  
32 from the federal government, the state, or any political subdivision  
33 thereof or any private source, and do all things necessary to  
34 cooperate with the federal government or any of its agencies in  
35 making an application for any grant;

36 (d) Keep records and engage in research and the gathering of  
37 relevant statistics; and

38 (e) Acquire, hold, or dispose of real property or any interest  
39 therein, and construct, lease, or otherwise provide substance use  
40 disorder treatment programs.



1       **Sec. 9.** RCW 10.77.010 and 2019 c 325 s 5005 are each amended to  
2 read as follows:

3       As used in this chapter:

4       (1) "Admission" means acceptance based on medical necessity, of a  
5 person as a patient.

6       (2) "Commitment" means the determination by a court that a person  
7 should be detained for a period of either evaluation or treatment, or  
8 both, in an inpatient or a less-restrictive setting.

9       (3) "Conditional release" means modification of a court-ordered  
10 commitment, which may be revoked upon violation of any of its terms.

11       (4) A "criminally insane" person means any person who has been  
12 acquitted of a crime charged by reason of insanity, and thereupon  
13 found to be a substantial danger to other persons or to present a  
14 substantial likelihood of committing criminal acts jeopardizing  
15 public safety or security unless kept under further control by the  
16 court or other persons or institutions.

17       (5) "Department" means the state department of social and health  
18 services.

19       (6) "Designated crisis responder" has the same meaning as  
20 provided in RCW 71.05.020.

21       (7) "Detention" or "detain" means the lawful confinement of a  
22 person, under the provisions of this chapter, pending evaluation.

23       (8) "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 or psychologist, or a social worker, and such other  
27 developmental disabilities professionals as may be defined by rules  
28 adopted by the secretary.

29       (9) "Developmental disability" means the condition as defined in  
30 RCW 71A.10.020(5).

31       (10) "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       (11) "Furlough" means an authorized leave of absence for a  
35 resident of a state institution operated by the department designated  
36 for the custody, care, and treatment of the criminally insane,  
37 consistent with an order of conditional release from the court under  
38 this chapter, without any requirement that the resident be  
39 accompanied by, or be in the custody of, any law enforcement or  
40 institutional staff, while on such unescorted leave.

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

9 (13) "History of one or more violent acts" means violent acts  
10 committed during: (a) The ten-year period of time prior to the filing  
11 of criminal charges; plus (b) the amount of time equal to time spent  
12 during the ten-year period in a mental health facility or in  
13 confinement as a result of a criminal conviction.

14 (14) "Immediate family member" means a spouse, child, stepchild,  
15 parent, stepparent, grandparent, sibling, or domestic partner.

16 (15) "Incompetency" means a person lacks the capacity to  
17 understand the nature of the proceedings against him or her or to  
18 assist in his or her own defense as a result of mental disease or  
19 defect.

20 (16) "Indigent" means any person who is financially unable to  
21 obtain counsel or other necessary expert or professional services  
22 without causing substantial hardship to the person or his or her  
23 family.

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

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

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

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

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

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

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

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

3 (18) "Professional person" means:

4 (a) A psychiatrist licensed as a physician and surgeon in this  
5 state who has, in addition, completed three years of graduate  
6 training in psychiatry in a program approved by the American medical  
7 association or the American osteopathic association and is certified  
8 or eligible to be certified by the American board of psychiatry and  
9 neurology or the American osteopathic board of neurology and  
10 psychiatry;

11 (b) A psychologist licensed as a psychologist pursuant to chapter  
12 18.83 RCW; or

13 (c) A social worker with a master's or further advanced degree  
14 from a social work educational program accredited and approved as  
15 provided in RCW 18.320.010.

16 (19) "Release" means legal termination of the court-ordered  
17 commitment under the provisions of this chapter.

18 (20) "Secretary" means the secretary of the department of social  
19 and health services or his or her designee.

20 (21) "Treatment" means any currently standardized medical or  
21 mental health procedure including medication.

22 (22) "Treatment records" include registration and all other  
23 records concerning persons who are receiving or who at any time have  
24 received services for mental illness, which are maintained by the  
25 department, by behavioral health administrative services  
26 organizations and their staffs, by managed care organizations and  
27 their staffs, and by treatment facilities. Treatment records do not  
28 include notes or records maintained for personal use by a person  
29 providing treatment services for the department, behavioral health  
30 administrative services organizations, managed care organizations, or  
31 a treatment facility if the notes or records are not available to  
32 others.

33 (23) "Violent act" means behavior that: (a) (i) Resulted in; (ii)  
34 if completed as intended would have resulted in; or (iii) was  
35 threatened to be carried out by a person who had the intent and  
36 opportunity to carry out the threat and would have resulted in,  
37 homicide, nonfatal injuries, or substantial damage to property; or  
38 (b) recklessly creates an immediate risk of serious physical injury  
39 to another person. As used in this subsection, "nonfatal injuries"  
40 means physical pain or injury, illness, or an impairment of physical

1 condition. "Nonfatal injuries" shall be construed to be consistent  
2 with the definition of "bodily injury," as defined in RCW 9A.04.110.

3 (24) "Community behavioral health agency" has the same meaning as  
4 "licensed or certified behavioral health agency" defined in RCW  
5 71.24.025.

6 **Sec. 10.** RCW 10.77.195 and 2010 c 263 s 9 are each amended to  
7 read as follows:

8 For persons who have received court approval for conditional  
9 release, the secretary or the secretary's designee shall supervise  
10 the person's compliance with the court-ordered conditions of release  
11 in coordination with the multidisciplinary transition team appointed  
12 under RCW 10.77.150. The level of supervision provided by the  
13 secretary shall correspond to the level of the person's public safety  
14 risk. In undertaking supervision of persons under this section, the  
15 secretary shall coordinate with any treatment providers (~~designated~~  
16 ~~pursuant to RCW 10.77.150(3), any~~) or department of corrections  
17 staff designated pursuant to RCW 10.77.150(~~(+2)~~), and local law  
18 enforcement, if appropriate. The secretary shall adopt rules to  
19 implement this section.

20 **Sec. 11.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and  
21 2020 c 5 s 1 are each reenacted and amended to read as follows:

22 The definitions in this section apply throughout this chapter  
23 unless the context clearly requires otherwise.

24 (1) "Admission" or "admit" means a decision by a physician,  
25 physician assistant, or psychiatric advanced registered nurse  
26 practitioner that a person should be examined or treated as a patient  
27 in a hospital;

28 (2) "Alcoholism" means a disease, characterized by a dependency  
29 on alcoholic beverages, loss of control over the amount and  
30 circumstances of use, symptoms of tolerance, physiological or  
31 psychological withdrawal, or both, if use is reduced or discontinued,  
32 and impairment of health or disruption of social or economic  
33 functioning;

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

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

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

8 (6) "Authority" means the Washington state health care authority;

9 (7) "Behavioral health disorder" means either a mental disorder  
10 as defined in this section, a substance use disorder as defined in  
11 this section, or a co-occurring mental disorder and substance use  
12 disorder;

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

26 (9) "Co-occurring disorder specialist" means an individual  
27 possessing an enhancement granted by the department of health under  
28 chapter 18.205 RCW that certifies the individual to provide substance  
29 use disorder counseling subject to the practice limitations under RCW  
30 18.205.105;

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

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

36 (12) "Crisis stabilization unit" means a short-term facility or a  
37 portion of a facility licensed or certified by the department, such  
38 as an evaluation and treatment facility or a hospital, which has been  
39 designed to assess, diagnose, and treat individuals experiencing an  
40 acute crisis without the use of long-term hospitalization;

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

5 (14) "Department" means the department of health;

6 (15) "Designated crisis responder" means a mental health  
7 professional appointed by the county, by an entity appointed by the  
8 county, or by the authority in consultation with a federally  
9 recognized Indian tribe or after meeting and conferring with an  
10 Indian health care provider, to perform the duties specified in this  
11 chapter;

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

14 (17) "Developmental disabilities professional" means a person who  
15 has specialized training and three years of experience in directly  
16 treating or working with persons with developmental disabilities and  
17 is a psychiatrist, physician assistant working with a supervising  
18 psychiatrist, psychologist, psychiatric advanced registered nurse  
19 practitioner, or social worker, and such other developmental  
20 disabilities professionals as may be defined by rules adopted by the  
21 secretary of the department of social and health services;

22 (18) "Developmental disability" means that condition defined in  
23 RCW 71A.10.020(5);

24 (19) "Director" means the director of the authority;

25 (20) "Discharge" means the termination of hospital medical  
26 authority. The commitment may remain in place, be terminated, or be  
27 amended by court order;

28 (21) "Drug addiction" means a disease, characterized by a  
29 dependency on psychoactive chemicals, loss of control over the amount  
30 and circumstances of use, symptoms of tolerance, physiological or  
31 psychological withdrawal, or both, if use is reduced or discontinued,  
32 and impairment of health or disruption of social or economic  
33 functioning;

34 (22) "Evaluation and treatment facility" means any facility which  
35 can provide directly, or by direct arrangement with other public or  
36 private agencies, emergency evaluation and treatment, outpatient  
37 care, and timely and appropriate inpatient care to persons suffering  
38 from a mental disorder, and which is licensed or certified as such by  
39 the department. The authority may certify single beds as temporary  
40 evaluation and treatment beds under RCW 71.05.745. A physically

1 separate and separately operated portion of a state hospital may be  
2 designated as an evaluation and treatment facility. A facility which  
3 is part of, or operated by, the department of social and health  
4 services or any federal agency will not require certification. No  
5 correctional institution or facility, or jail, shall be an evaluation  
6 and treatment facility within the meaning of this chapter;

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

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

23 (25) "Hearing" means any proceeding conducted in open court that  
24 conforms to the requirements of RCW 71.05.820;

25 (26) "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 behavioral health facility, or in confinement as a  
29 result of a criminal conviction;

30 (27) "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 (28) "In need of assisted outpatient behavioral health treatment"  
33 means that a person, as a result of a behavioral health disorder: (a)  
34 Has been committed by a court to detention for involuntary behavioral  
35 health treatment during the preceding thirty-six months; (b) is  
36 unlikely to voluntarily participate in outpatient treatment without  
37 an order for less restrictive alternative treatment, based on a  
38 history of nonadherence with treatment or in view of the person's  
39 current behavior; (c) is likely to benefit from less restrictive  
40 alternative treatment; and (d) requires less restrictive alternative

1 treatment to prevent a relapse, decompensation, or deterioration that  
2 is likely to result in the person presenting a likelihood of serious  
3 harm or the person becoming gravely disabled within a reasonably  
4 short period of time;

5 (29) "Individualized service plan" means a plan prepared by a  
6 developmental disabilities professional with other professionals as a  
7 team, for a person with developmental disabilities, which shall  
8 state:

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

11 (b) The conditions and strategies necessary to achieve the  
12 purposes of habilitation;

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

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

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

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

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

25 (30) "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 (31) "Judicial commitment" means a commitment by a court pursuant  
29 to the provisions of this chapter;

30 (32) "Legal counsel" means attorneys and staff employed by county  
31 prosecutor offices or the state attorney general acting in their  
32 capacity as legal representatives of public behavioral health service  
33 providers under RCW 71.05.130;

34 (33) "Less restrictive alternative treatment" means a program of  
35 individualized treatment in a less restrictive setting than inpatient  
36 treatment that includes the services described in RCW 71.05.585;

37 (34) "Licensed physician" means a person licensed to practice  
38 medicine or osteopathic medicine and surgery in the state of  
39 Washington;

40 (35) "Likelihood of serious harm" means:



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

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

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

15 (37) "Mental disorder" means any organic, mental, or emotional  
16 impairment which has substantial adverse effects on a person's  
17 cognitive or volitional functions;

18 (38) "Mental health professional" means a psychiatrist,  
19 psychologist, physician assistant working with a supervising  
20 psychiatrist, psychiatric advanced registered nurse practitioner,  
21 psychiatric nurse, or social worker, and such other mental health  
22 professionals as may be defined by rules adopted by the secretary  
23 pursuant to the provisions of this chapter;

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

28 (40) "Physician assistant" means a person licensed as a physician  
29 assistant under chapter 18.57A or 18.71A RCW;

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

37 (42) "Professional person" means a mental health professional,  
38 substance use disorder professional, or designated crisis responder  
39 and shall also mean a physician, physician assistant, psychiatric  
40 advanced registered nurse practitioner, registered nurse, and such

1 others as may be defined by rules adopted by the secretary pursuant  
2 to the provisions of this chapter;

3 (43) "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 (44) "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 (45) "Psychologist" means a person who has been licensed as a  
14 psychologist pursuant to chapter 18.83 RCW;

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

23 (47) "Release" means legal termination of the commitment under  
24 the provisions of this chapter;

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

27 (49) "Secretary" means the secretary of the department of health,  
28 or his or her designee;

29 (50) "Secure withdrawal management and stabilization facility"  
30 means a facility operated by either a public or private agency or by  
31 the program of an agency which provides care to voluntary individuals  
32 and individuals involuntarily detained and committed under this  
33 chapter for whom there is a likelihood of serious harm or who are  
34 gravely disabled due to the presence of a substance use disorder.  
35 Secure withdrawal management and stabilization facilities must:

36 (a) Provide the following services:

37 (i) Assessment and treatment, provided by certified substance use  
38 disorder professionals or co-occurring disorder specialists;

39 (ii) Clinical stabilization services;

1 (iii) Acute or subacute detoxification services for intoxicated  
2 individuals; and

3 (iv) Discharge assistance provided by certified substance use  
4 disorder professionals or co-occurring disorder specialists,  
5 including facilitating transitions to appropriate voluntary or  
6 involuntary inpatient services or to less restrictive alternatives as  
7 appropriate for the individual;

8 (b) Include security measures sufficient to protect the patients,  
9 staff, and community; and

10 (c) Be licensed or certified as such by the department of health;

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) "Substance use disorder professional" means a person  
21 certified as a substance use disorder professional by the department  
22 of health under chapter 18.205 RCW;

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

29 (55) "Treatment records" include registration and all other  
30 records concerning persons who are receiving or who at any time have  
31 received services for behavioral health disorders, which are  
32 maintained by the department of social and health services, the  
33 department, the authority, behavioral health administrative services  
34 organizations and their staffs, managed care organizations and their  
35 staffs, and by treatment facilities. Treatment records include mental  
36 health information contained in a medical bill including but not  
37 limited to mental health drugs, a mental health diagnosis, provider  
38 name, and dates of service stemming from a medical service. Treatment  
39 records do not include notes or records maintained for personal use  
40 by a person providing treatment services for the department of social

1 and health services, the department, the authority, behavioral health  
2 administrative services organizations, managed care organizations, or  
3 a treatment facility if the notes or records are not available to  
4 others;

5 (56) "Triage facility" means a short-term facility or a portion  
6 of a facility licensed or certified by the department, which is  
7 designed as a facility to assess and stabilize an individual or  
8 determine the need for involuntary commitment of an individual, and  
9 must meet department residential treatment facility standards. A  
10 triage facility may be structured as a voluntary or involuntary  
11 placement facility;

12 (57) "Video," unless the context clearly indicates otherwise,  
13 means the delivery of behavioral health services through the use of  
14 interactive audio and video technology, permitting real-time  
15 communication between a person and a designated crisis responder, for  
16 the purpose of evaluation. "Video" does not include the use of audio-  
17 only telephone, facsimile, email, or store and forward technology.  
18 "Store and forward technology" means use of an asynchronous  
19 transmission of a person's medical information from a mental health  
20 service provider to the designated crisis responder which results in  
21 medical diagnosis, consultation, or treatment;

22 (58) "Violent act" means behavior that resulted in homicide,  
23 attempted suicide, injury, or substantial loss or damage to property;

24 (59) "Written order of apprehension" means an order of the court  
25 for a peace officer to deliver the named person in the order to a  
26 facility or emergency room as determined by the designated crisis  
27 responder. Such orders shall be entered into the Washington crime  
28 information center database.

29 (60) "Community behavioral health agency" has the same meaning as  
30 "licensed or certified behavioral health agency" defined in RCW  
31 71.24.025.

32 **Sec. 12.** RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301,  
33 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and amended to  
34 read as follows:

35 The definitions in this section apply throughout this chapter  
36 unless the context clearly requires otherwise.

37 (1) "Admission" or "admit" means a decision by a physician,  
38 physician assistant, or psychiatric advanced registered nurse

1 practitioner that a person should be examined or treated as a patient  
2 in a hospital;

3 (2) "Alcoholism" means a disease, characterized by a dependency  
4 on alcoholic beverages, loss of control over the amount and  
5 circumstances of use, symptoms of tolerance, physiological or  
6 psychological withdrawal, or both, if use is reduced or discontinued,  
7 and impairment of health or disruption of social or economic  
8 functioning;

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

13 (4) "Approved substance use disorder treatment program" means a  
14 program for persons with a substance use disorder provided by a  
15 treatment program certified by the department as meeting standards  
16 adopted under chapter 71.24 RCW;

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

20 (6) "Authority" means the Washington state health care authority;

21 (7) "Behavioral health disorder" means either a mental disorder  
22 as defined in this section, a substance use disorder as defined in  
23 this section, or a co-occurring mental disorder and substance use  
24 disorder;

25 (8) "Behavioral health service provider" means a public or  
26 private agency that provides mental health, substance use disorder,  
27 or co-occurring disorder services to persons with behavioral health  
28 disorders as defined under this section and receives funding from  
29 public sources. This includes, but is not limited to, hospitals  
30 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
31 as defined in this section, community mental health service delivery  
32 systems or community behavioral health programs as defined in RCW  
33 71.24.025, facilities conducting competency evaluations and  
34 restoration under chapter 10.77 RCW, approved substance use disorder  
35 treatment programs as defined in this section, secure withdrawal  
36 management and stabilization facilities as defined in this section,  
37 and correctional facilities operated by state and local governments;

38 (9) "Co-occurring disorder specialist" means an individual  
39 possessing an enhancement granted by the department of health under  
40 chapter 18.205 RCW that certifies the individual to provide substance

1 use disorder counseling subject to the practice limitations under RCW  
2 18.205.105;

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

6 (11) "Conditional release" means a revocable modification of a  
7 commitment, which may be revoked upon violation of any of its terms;

8 (12) "Crisis stabilization unit" means a short-term facility or a  
9 portion of a facility licensed or certified by the department, such  
10 as an evaluation and treatment facility or a hospital, which has been  
11 designed to assess, diagnose, and treat individuals experiencing an  
12 acute crisis without the use of long-term hospitalization;

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

17 (14) "Department" means the department of health;

18 (15) "Designated crisis responder" means a mental health  
19 professional appointed by the county, by an entity appointed by the  
20 county, or by the authority in consultation with a federally  
21 recognized Indian tribe or after meeting and conferring with an  
22 Indian health care provider, to perform the duties specified in this  
23 chapter;

24 (16) "Detention" or "detain" means the lawful confinement of a  
25 person, under the provisions of this chapter;

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

34 (18) "Developmental disability" means that condition defined in  
35 RCW 71A.10.020(5);

36 (19) "Director" means the director of the authority;

37 (20) "Discharge" means the termination of hospital medical  
38 authority. The commitment may remain in place, be terminated, or be  
39 amended by court order;

1 (21) "Drug addiction" means a disease, characterized by a  
2 dependency on psychoactive chemicals, loss of control over the amount  
3 and circumstances of use, symptoms of tolerance, physiological or  
4 psychological withdrawal, or both, if use is reduced or discontinued,  
5 and impairment of health or disruption of social or economic  
6 functioning;

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

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

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

36 (25) "Hearing" means any proceeding conducted in open court that  
37 conforms to the requirements of RCW 71.05.820;

38 (26) "History of one or more violent acts" refers to the period  
39 of time ten years prior to the filing of a petition under this  
40 chapter, excluding any time spent, but not any violent acts

1 committed, in a behavioral health facility, or in confinement as a  
2 result of a criminal conviction;

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

5 (28) "In need of assisted outpatient behavioral health treatment"  
6 means that a person, as a result of a behavioral health disorder: (a)  
7 Has been committed by a court to detention for involuntary behavioral  
8 health treatment during the preceding thirty-six months; (b) is  
9 unlikely to voluntarily participate in outpatient treatment without  
10 an order for less restrictive alternative treatment, based on a  
11 history of nonadherence with treatment or in view of the person's  
12 current behavior; (c) is likely to benefit from less restrictive  
13 alternative treatment; and (d) requires less restrictive alternative  
14 treatment to prevent a relapse, decompensation, or deterioration that  
15 is likely to result in the person presenting a likelihood of serious  
16 harm or the person becoming gravely disabled within a reasonably  
17 short period of time;

18 (29) "Individualized service plan" means a plan prepared by a  
19 developmental disabilities professional with other professionals as a  
20 team, for a person with developmental disabilities, which shall  
21 state:

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

24 (b) The conditions and strategies necessary to achieve the  
25 purposes of habilitation;

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

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

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

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

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

38 (30) "Intoxicated person" means a person whose mental or physical  
39 functioning is substantially impaired as a result of the use of  
40 alcohol or other psychoactive chemicals;



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

3 (32) "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 behavioral health service  
6 providers under RCW 71.05.130;

7 (33) "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 (34) "Licensed physician" means a person licensed to practice  
11 medicine or osteopathic medicine and surgery in the state of  
12 Washington;

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

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

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

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

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

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

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

1 (40) "Physician assistant" means a person licensed as a physician  
2 assistant under chapter 18.71A RCW;

3 (41) "Private agency" means any person, partnership, corporation,  
4 or association that is not a public agency, whether or not financed  
5 in whole or in part by public funds, which constitutes an evaluation  
6 and treatment facility or private institution, or hospital, or  
7 approved substance use disorder treatment program, which is conducted  
8 for, or includes a department or ward conducted for, the care and  
9 treatment of persons with behavioral health disorders;

10 (42) "Professional person" means a mental health professional,  
11 substance use disorder professional, or designated crisis responder  
12 and shall also mean a physician, physician assistant, psychiatric  
13 advanced registered nurse practitioner, registered nurse, and such  
14 others as may be defined by rules adopted by the secretary pursuant  
15 to the provisions of this chapter;

16 (43) "Psychiatric advanced registered nurse practitioner" means a  
17 person who is licensed as an advanced registered nurse practitioner  
18 pursuant to chapter 18.79 RCW; and who is board certified in advanced  
19 practice psychiatric and mental health nursing;

20 (44) "Psychiatrist" means a person having a license as a  
21 physician and surgeon in this state who has in addition completed  
22 three years of graduate training in psychiatry in a program approved  
23 by the American medical association or the American osteopathic  
24 association and is certified or eligible to be certified by the  
25 American board of psychiatry and neurology;

26 (45) "Psychologist" means a person who has been licensed as a  
27 psychologist pursuant to chapter 18.83 RCW;

28 (46) "Public agency" means any evaluation and treatment facility  
29 or institution, secure withdrawal management and stabilization  
30 facility, approved substance use disorder treatment program, or  
31 hospital which is conducted for, or includes a department or ward  
32 conducted for, the care and treatment of persons with behavioral  
33 health disorders, if the agency is operated directly by federal,  
34 state, county, or municipal government, or a combination of such  
35 governments;

36 (47) "Release" means legal termination of the commitment under  
37 the provisions of this chapter;

38 (48) "Resource management services" has the meaning given in  
39 chapter 71.24 RCW;

1 (49) "Secretary" means the secretary of the department of health,  
2 or his or her designee;

3 (50) "Secure withdrawal management and stabilization facility"  
4 means a facility operated by either a public or private agency or by  
5 the program of an agency which provides care to voluntary individuals  
6 and individuals involuntarily detained and committed under this  
7 chapter for whom there is a likelihood of serious harm or who are  
8 gravely disabled due to the presence of a substance use disorder.  
9 Secure withdrawal management and stabilization facilities must:

10 (a) Provide the following services:

11 (i) Assessment and treatment, provided by certified substance use  
12 disorder professionals or co-occurring disorder specialists;

13 (ii) Clinical stabilization services;

14 (iii) Acute or subacute detoxification services for intoxicated  
15 individuals; and

16 (iv) Discharge assistance provided by certified substance use  
17 disorder professionals or co-occurring disorder specialists,  
18 including facilitating transitions to appropriate voluntary or  
19 involuntary inpatient services or to less restrictive alternatives as  
20 appropriate for the individual;

21 (b) Include security measures sufficient to protect the patients,  
22 staff, and community; and

23 (c) Be licensed or certified as such by the department of health;

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

27 (52) "Substance use disorder" means a cluster of cognitive,  
28 behavioral, and physiological symptoms indicating that an individual  
29 continues using the substance despite significant substance-related  
30 problems. The diagnosis of a substance use disorder is based on a  
31 pathological pattern of behaviors related to the use of the  
32 substances;

33 (53) "Substance use disorder professional" means a person  
34 certified as a substance use disorder professional by the department  
35 of health under chapter 18.205 RCW;

36 (54) "Therapeutic court personnel" means the staff of a mental  
37 health court or other therapeutic court which has jurisdiction over  
38 defendants who are dually diagnosed with mental disorders, including  
39 court personnel, probation officers, a court monitor, prosecuting

1 attorney, or defense counsel acting within the scope of therapeutic  
2 court duties;

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

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

26 (57) "Video," unless the context clearly indicates otherwise,  
27 means the delivery of behavioral health services through the use of  
28 interactive audio and video technology, permitting real-time  
29 communication between a person and a designated crisis responder, for  
30 the purpose of evaluation. "Video" does not include the use of audio-  
31 only telephone, facsimile, email, or store and forward technology.  
32 "Store and forward technology" means use of an asynchronous  
33 transmission of a person's medical information from a mental health  
34 service provider to the designated crisis responder which results in  
35 medical diagnosis, consultation, or treatment;

36 (58) "Violent act" means behavior that resulted in homicide,  
37 attempted suicide, injury, or substantial loss or damage to property;

38 (59) "Written order of apprehension" means an order of the court  
39 for a peace officer to deliver the named person in the order to a  
40 facility or emergency room as determined by the designated crisis

1 responder. Such orders shall be entered into the Washington crime  
2 information center database.

3 (60) "Community behavioral health agency" has the same meaning as  
4 "licensed or certified behavioral health agency" defined in RCW  
5 71.24.025.

6 **Sec. 13.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020  
7 c 256 s 301, and 2020 c 5 s 1 are each reenacted and amended to read  
8 as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

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

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

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

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

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

32 (6) "Authority" means the Washington state health care authority;

33 (7) "Behavioral health disorder" means either a mental disorder  
34 as defined in this section, a substance use disorder as defined in  
35 this section, or a co-occurring mental disorder and substance use  
36 disorder;

37 (8) "Behavioral health service provider" means a public or  
38 private agency that provides mental health, substance use disorder,  
39 or co-occurring disorder services to persons with behavioral health

1 disorders as defined under this section and receives funding from  
2 public sources. This includes, but is not limited to, hospitals  
3 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
4 as defined in this section, community mental health service delivery  
5 systems or community behavioral health programs as defined in RCW  
6 71.24.025, facilities conducting competency evaluations and  
7 restoration under chapter 10.77 RCW, approved substance use disorder  
8 treatment programs as defined in this section, secure withdrawal  
9 management and stabilization facilities as defined in this section,  
10 and correctional facilities operated by state and local governments;

11 (9) "Co-occurring disorder specialist" means an individual  
12 possessing an enhancement granted by the department of health under  
13 chapter 18.205 RCW that certifies the individual to provide substance  
14 use disorder counseling subject to the practice limitations under RCW  
15 18.205.105;

16 (10) "Commitment" means the determination by a court that a  
17 person should be detained for a period of either evaluation or  
18 treatment, or both, in an inpatient or a less restrictive setting;

19 (11) "Conditional release" means a revocable modification of a  
20 commitment, which may be revoked upon violation of any of its terms;

21 (12) "Crisis stabilization unit" means a short-term facility or a  
22 portion of a facility licensed or certified by the department, such  
23 as an evaluation and treatment facility or a hospital, which has been  
24 designed to assess, diagnose, and treat individuals experiencing an  
25 acute crisis without the use of long-term hospitalization;

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

30 (14) "Department" means the department of health;

31 (15) "Designated crisis responder" means a mental health  
32 professional appointed by the county, by an entity appointed by the  
33 county, or by the authority in consultation with a federally  
34 recognized Indian tribe or after meeting and conferring with an  
35 Indian health care provider, to perform the duties specified in this  
36 chapter;

37 (16) "Detention" or "detain" means the lawful confinement of a  
38 person, under the provisions of this chapter;

39 (17) "Developmental disabilities professional" means a person who  
40 has specialized training and three years of experience in directly

1 treating or working with persons with developmental disabilities and  
2 is a psychiatrist, physician assistant working with a supervising  
3 psychiatrist, psychologist, psychiatric advanced registered nurse  
4 practitioner, or social worker, and such other developmental  
5 disabilities professionals as may be defined by rules adopted by the  
6 secretary of the department of social and health services;

7 (18) "Developmental disability" means that condition defined in  
8 RCW 71A.10.020(5);

9 (19) "Director" means the director of the authority;

10 (20) "Discharge" means the termination of hospital medical  
11 authority. The commitment may remain in place, be terminated, or be  
12 amended by court order;

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

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

32 (23) "Gravely disabled" means a condition in which a person, as a  
33 result of a behavioral health disorder: (a) Is in danger of serious  
34 physical harm resulting from a failure to provide for his or her  
35 essential human needs of health or safety; or (b) manifests severe  
36 deterioration from safe behavior evidenced by repeated and escalating  
37 loss of cognitive or volitional control over his or her actions and  
38 is not receiving such care as is essential for his or her health or  
39 safety;

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

9 (25) "Hearing" means any proceeding conducted in open court that  
10 conforms to the requirements of RCW 71.05.820;

11 (26) "History of one or more violent acts" refers to the period  
12 of time ten years prior to the filing of a petition under this  
13 chapter, excluding any time spent, but not any violent acts  
14 committed, in a behavioral health facility, or in confinement as a  
15 result of a criminal conviction;

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

18 (28) "In need of assisted outpatient behavioral health treatment"  
19 means that a person, as a result of a behavioral health disorder: (a)  
20 Has been committed by a court to detention for involuntary behavioral  
21 health treatment during the preceding thirty-six months; (b) is  
22 unlikely to voluntarily participate in outpatient treatment without  
23 an order for less restrictive alternative treatment, based on a  
24 history of nonadherence with treatment or in view of the person's  
25 current behavior; (c) is likely to benefit from less restrictive  
26 alternative treatment; and (d) requires less restrictive alternative  
27 treatment to prevent a relapse, decompensation, or deterioration that  
28 is likely to result in the person presenting a likelihood of serious  
29 harm or the person becoming gravely disabled within a reasonably  
30 short period of time;

31 (29) "Individualized service plan" means a plan prepared by a  
32 developmental disabilities professional with other professionals as a  
33 team, for a person with developmental disabilities, which shall  
34 state:

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

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

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



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

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

4 (f) Where relevant in light of past criminal behavior and due  
5 consideration for public safety, the criteria for proposed movement  
6 to less-restrictive settings, criteria for proposed eventual  
7 discharge or release, and a projected possible date for discharge or  
8 release; and

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

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

14 (31) "Judicial commitment" means a commitment by a court pursuant  
15 to the provisions of this chapter;

16 (32) "Legal counsel" means attorneys and staff employed by county  
17 prosecutor offices or the state attorney general acting in their  
18 capacity as legal representatives of public behavioral health service  
19 providers under RCW 71.05.130;

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

23 (34) "Licensed physician" means a person licensed to practice  
24 medicine or osteopathic medicine and surgery in the state of  
25 Washington;

26 (35) "Likelihood of serious harm" means:

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

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

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

1 (37) "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 (38) "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 (39) "Peace officer" means a law enforcement official of a public  
11 agency or governmental unit, and includes persons specifically given  
12 peace officer powers by any state law, local ordinance, or judicial  
13 order of appointment;

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

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

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

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

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

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

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

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

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

13 (49) "Secretary" means the secretary of the department of health,  
14 or his or her designee;

15 (50) "Secure withdrawal management and stabilization facility"  
16 means a facility operated by either a public or private agency or by  
17 the program of an agency which provides care to voluntary individuals  
18 and individuals involuntarily detained and committed under this  
19 chapter for whom there is a likelihood of serious harm or who are  
20 gravely disabled due to the presence of a substance use disorder.  
21 Secure withdrawal management and stabilization facilities must:

22 (a) Provide the following services:

23 (i) Assessment and treatment, provided by certified substance use  
24 disorder professionals or co-occurring disorder specialists;

25 (ii) Clinical stabilization services;

26 (iii) Acute or subacute detoxification services for intoxicated  
27 individuals; and

28 (iv) Discharge assistance provided by certified substance use  
29 disorder professionals or co-occurring disorder specialists,  
30 including facilitating transitions to appropriate voluntary or  
31 involuntary inpatient services or to less restrictive alternatives as  
32 appropriate for the individual;

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

35 (c) Be licensed or certified as such by the department of health;

36 (51) "Severe deterioration from safe behavior" means that a  
37 person will, if not treated, suffer or continue to suffer severe and  
38 abnormal mental, emotional, or physical distress, and this distress  
39 is associated with significant impairment of judgment, reason, or  
40 behavior;

1 (52) "Social worker" means a person with a master's or further  
2 advanced degree from a social work educational program accredited and  
3 approved as provided in RCW 18.320.010;

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

10 (54) "Substance use disorder professional" means a person  
11 certified as a substance use disorder professional by the department  
12 of health under chapter 18.205 RCW;

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

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

35 (57) "Triage facility" means a short-term facility or a portion  
36 of a facility licensed or certified by the department, which is  
37 designed as a facility to assess and stabilize an individual or  
38 determine the need for involuntary commitment of an individual, and  
39 must meet department residential treatment facility standards. A

1 triage facility may be structured as a voluntary or involuntary  
2 placement facility;

3 (58) "Video," unless the context clearly indicates otherwise,  
4 means the delivery of behavioral health services through the use of  
5 interactive audio and video technology, permitting real-time  
6 communication between a person and a designated crisis responder, for  
7 the purpose of evaluation. "Video" does not include the use of audio-  
8 only telephone, facsimile, email, or store and forward technology.  
9 "Store and forward technology" means use of an asynchronous  
10 transmission of a person's medical information from a mental health  
11 service provider to the designated crisis responder which results in  
12 medical diagnosis, consultation, or treatment;

13 (59) "Violent act" means behavior that resulted in homicide,  
14 attempted suicide, injury, or substantial loss or damage to property;

15 (60) "Written order of apprehension" means an order of the court  
16 for a peace officer to deliver the named person in the order to a  
17 facility or emergency room as determined by the designated crisis  
18 responder. Such orders shall be entered into the Washington crime  
19 information center database.

20 (61) "Community behavioral health agency" has the same meaning as  
21 "licensed or certified behavioral health agency" defined in RCW  
22 71.24.025.

23 **Sec. 14.** RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020  
24 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 s 1 are each reenacted and  
25 amended to read as follows:

26 The definitions in this section apply throughout this chapter  
27 unless the context clearly requires otherwise.

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

32 (2) "Alcoholism" means a disease, characterized by a dependency  
33 on alcoholic beverages, loss of control over the amount and  
34 circumstances of use, symptoms of tolerance, physiological or  
35 psychological withdrawal, or both, if use is reduced or discontinued,  
36 and impairment of health or disruption of social or economic  
37 functioning;

38 (3) "Antipsychotic medications" means that class of drugs  
39 primarily used to treat serious manifestations of mental illness

1 associated with thought disorders, which includes, but is not limited  
2 to atypical antipsychotic medications;

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

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

10 (6) "Authority" means the Washington state health care authority;

11 (7) "Behavioral health disorder" means either a mental disorder  
12 as defined in this section, a substance use disorder as defined in  
13 this section, or a co-occurring mental disorder and substance use  
14 disorder;

15 (8) "Behavioral health service provider" means a public or  
16 private agency that provides mental health, substance use disorder,  
17 or co-occurring disorder services to persons with behavioral health  
18 disorders as defined under this section and receives funding from  
19 public sources. This includes, but is not limited to, hospitals  
20 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
21 as defined in this section, community mental health service delivery  
22 systems or community behavioral health programs as defined in RCW  
23 71.24.025, facilities conducting competency evaluations and  
24 restoration under chapter 10.77 RCW, approved substance use disorder  
25 treatment programs as defined in this section, secure withdrawal  
26 management and stabilization facilities as defined in this section,  
27 and correctional facilities operated by state and local governments;

28 (9) "Co-occurring disorder specialist" means an individual  
29 possessing an enhancement granted by the department of health under  
30 chapter 18.205 RCW that certifies the individual to provide substance  
31 use disorder counseling subject to the practice limitations under RCW  
32 18.205.105;

33 (10) "Commitment" means the determination by a court that a  
34 person should be detained for a period of either evaluation or  
35 treatment, or both, in an inpatient or a less restrictive setting;

36 (11) "Conditional release" means a revocable modification of a  
37 commitment, which may be revoked upon violation of any of its terms;

38 (12) "Crisis stabilization unit" means a short-term facility or a  
39 portion of a facility licensed or certified by the department, such  
40 as an evaluation and treatment facility or a hospital, which has been

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

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

7 (14) "Department" means the department of health;

8 (15) "Designated crisis responder" means a mental health  
9 professional appointed by the county, by an entity appointed by the  
10 county, or by the authority in consultation with a federally  
11 recognized Indian tribe or after meeting and conferring with an  
12 Indian health care provider, to perform the duties specified in this  
13 chapter;

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

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

24 (18) "Developmental disability" means that condition defined in  
25 RCW 71A.10.020(5);

26 (19) "Director" means the director of the authority;

27 (20) "Discharge" means the termination of hospital medical  
28 authority. The commitment may remain in place, be terminated, or be  
29 amended by court order;

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

36 (22) "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 licensed or certified as such by

1 the department. The authority 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 of social and health  
6 services or any federal agency will not require certification. No  
7 correctional institution or facility, or jail, shall be an evaluation  
8 and treatment facility within the meaning of this chapter;

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

17 (24) "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 (25) "Hearing" means any proceeding conducted in open court that  
26 conforms to the requirements of RCW 71.05.820;

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

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

34 (28) "In need of assisted outpatient behavioral health treatment"  
35 means that a person, as a result of a behavioral health disorder: (a)  
36 Has been committed by a court to detention for involuntary behavioral  
37 health treatment during the preceding thirty-six months; (b) is  
38 unlikely to voluntarily participate in outpatient treatment without  
39 an order for less restrictive alternative treatment, based on a  
40 history of nonadherence with treatment or in view of the person's



1 current behavior; (c) is likely to benefit from less restrictive  
2 alternative treatment; and (d) requires less restrictive alternative  
3 treatment to prevent a relapse, decompensation, or deterioration that  
4 is likely to result in the person presenting a likelihood of serious  
5 harm or the person becoming gravely disabled within a reasonably  
6 short period of time;

7 (29) "Individualized service plan" means a plan prepared by a  
8 developmental disabilities professional with other professionals as a  
9 team, for a person with developmental disabilities, which shall  
10 state:

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

13 (b) The conditions and strategies necessary to achieve the  
14 purposes of habilitation;

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

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

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

20 (f) Where relevant in light of past criminal behavior and due  
21 consideration for public safety, the criteria for proposed movement  
22 to less-restrictive settings, criteria for proposed eventual  
23 discharge or release, and a projected possible date for discharge or  
24 release; and

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

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

30 (31) "Judicial commitment" means a commitment by a court pursuant  
31 to the provisions of this chapter;

32 (32) "Legal counsel" means attorneys and staff employed by county  
33 prosecutor offices or the state attorney general acting in their  
34 capacity as legal representatives of public behavioral health service  
35 providers under RCW 71.05.130;

36 (33) "Less restrictive alternative treatment" means a program of  
37 individualized treatment in a less restrictive setting than inpatient  
38 treatment that includes the services described in RCW 71.05.585;

1 (34) "Licensed physician" means a person licensed to practice  
2 medicine or osteopathic medicine and surgery in the state of  
3 Washington;

4 (35) "Likelihood of serious harm" means:

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

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

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

19 (37) "Mental disorder" means any organic, mental, or emotional  
20 impairment which has substantial adverse effects on a person's  
21 cognitive or volitional functions;

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

28 (39) "Peace officer" means a law enforcement official of a public  
29 agency or governmental unit, and includes persons specifically given  
30 peace officer powers by any state law, local ordinance, or judicial  
31 order of appointment;

32 (40) "Physician assistant" means a person licensed as a physician  
33 assistant under chapter 18.71A RCW;

34 (41) "Private agency" means any person, partnership, corporation,  
35 or association that is not a public agency, whether or not financed  
36 in whole or in part by public funds, which constitutes an evaluation  
37 and treatment facility or private institution, or hospital, or  
38 approved substance use disorder treatment program, which is conducted  
39 for, or includes a department or ward conducted for, the care and  
40 treatment of persons with behavioral health disorders;

1 (42) "Professional person" means a mental health professional,  
2 substance use disorder professional, or designated crisis responder  
3 and shall also mean a physician, physician assistant, psychiatric  
4 advanced registered nurse practitioner, registered nurse, and such  
5 others as may be defined by rules adopted by the secretary pursuant  
6 to the provisions of this chapter;

7 (43) "Psychiatric advanced registered nurse practitioner" means a  
8 person who is licensed as an advanced registered nurse practitioner  
9 pursuant to chapter 18.79 RCW; and who is board certified in advanced  
10 practice psychiatric and mental health nursing;

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

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

19 (46) "Public agency" means any evaluation and treatment facility  
20 or institution, secure withdrawal management and stabilization  
21 facility, approved substance use disorder treatment program, or  
22 hospital which is conducted for, or includes a department or ward  
23 conducted for, the care and treatment of persons with behavioral  
24 health disorders, if the agency is operated directly by federal,  
25 state, county, or municipal government, or a combination of such  
26 governments;

27 (47) "Release" means legal termination of the commitment under  
28 the provisions of this chapter;

29 (48) "Resource management services" has the meaning given in  
30 chapter 71.24 RCW;

31 (49) "Secretary" means the secretary of the department of health,  
32 or his or her designee;

33 (50) "Secure withdrawal management and stabilization facility"  
34 means a facility operated by either a public or private agency or by  
35 the program of an agency which provides care to voluntary individuals  
36 and individuals involuntarily detained and committed under this  
37 chapter for whom there is a likelihood of serious harm or who are  
38 gravely disabled due to the presence of a substance use disorder.  
39 Secure withdrawal management and stabilization facilities must:

40 (a) Provide the following services:

1 (i) Assessment and treatment, provided by certified substance use  
2 disorder professionals or co-occurring disorder specialists;

3 (ii) Clinical stabilization services;

4 (iii) Acute or subacute detoxification services for intoxicated  
5 individuals; and

6 (iv) Discharge assistance provided by certified substance use  
7 disorder professionals or co-occurring disorder specialists,  
8 including facilitating transitions to appropriate voluntary or  
9 involuntary inpatient services or to less restrictive alternatives as  
10 appropriate for the individual;

11 (b) Include security measures sufficient to protect the patients,  
12 staff, and community; and

13 (c) Be licensed or certified as such by the department of health;

14 (51) "Severe deterioration from safe behavior" means that a  
15 person will, if not treated, suffer or continue to suffer severe and  
16 abnormal mental, emotional, or physical distress, and this distress  
17 is associated with significant impairment of judgment, reason, or  
18 behavior;

19 (52) "Social worker" means a person with a master's or further  
20 advanced degree from a social work educational program accredited and  
21 approved as provided in RCW 18.320.010;

22 (53) "Substance use disorder" means a cluster of cognitive,  
23 behavioral, and physiological symptoms indicating that an individual  
24 continues using the substance despite significant substance-related  
25 problems. The diagnosis of a substance use disorder is based on a  
26 pathological pattern of behaviors related to the use of the  
27 substances;

28 (54) "Substance use disorder professional" means a person  
29 certified as a substance use disorder professional by the department  
30 of health under chapter 18.205 RCW;

31 (55) "Therapeutic court personnel" means the staff of a mental  
32 health court or other therapeutic court which has jurisdiction over  
33 defendants who are dually diagnosed with mental disorders, including  
34 court personnel, probation officers, a court monitor, prosecuting  
35 attorney, or defense counsel acting within the scope of therapeutic  
36 court duties;

37 (56) "Treatment records" include registration and all other  
38 records concerning persons who are receiving or who at any time have  
39 received services for behavioral health disorders, which are  
40 maintained by the department of social and health services, the

1 department, the authority, behavioral health administrative services  
2 organizations and their staffs, managed care organizations and their  
3 staffs, and by treatment facilities. Treatment records include mental  
4 health information contained in a medical bill including but not  
5 limited to mental health drugs, a mental health diagnosis, provider  
6 name, and dates of service stemming from a medical service. Treatment  
7 records do not include notes or records maintained for personal use  
8 by a person providing treatment services for the department of social  
9 and health services, the department, the authority, behavioral health  
10 administrative services organizations, managed care organizations, or  
11 a treatment facility if the notes or records are not available to  
12 others;

13 (57) "Triage facility" means a short-term facility or a portion  
14 of a facility licensed or certified by the department, which is  
15 designed as a facility to assess and stabilize an individual or  
16 determine the need for involuntary commitment of an individual, and  
17 must meet department residential treatment facility standards. A  
18 triage facility may be structured as a voluntary or involuntary  
19 placement facility;

20 (58) "Video," unless the context clearly indicates otherwise,  
21 means the delivery of behavioral health services through the use of  
22 interactive audio and video technology, permitting real-time  
23 communication between a person and a designated crisis responder, for  
24 the purpose of evaluation. "Video" does not include the use of audio-  
25 only telephone, facsimile, email, or store and forward technology.  
26 "Store and forward technology" means use of an asynchronous  
27 transmission of a person's medical information from a mental health  
28 service provider to the designated crisis responder which results in  
29 medical diagnosis, consultation, or treatment;

30 (59) "Violent act" means behavior that resulted in homicide,  
31 attempted suicide, injury, or substantial loss or damage to property;

32 (60) "Written order of apprehension" means an order of the court  
33 for a peace officer to deliver the named person in the order to a  
34 facility or emergency room as determined by the designated crisis  
35 responder. Such orders shall be entered into the Washington crime  
36 information center database.

37 (61) "Community behavioral health agency" has the same meaning as  
38 "licensed or certified behavioral health agency" defined in RCW  
39 71.24.025.

1           **Sec. 15.** RCW 71.05.740 and 2020 c 302 s 58 are each amended to  
2 read as follows:

3           (1) All behavioral health administrative services organizations  
4 in the state of Washington must forward historical behavioral health  
5 involuntary commitment information retained by the organization,  
6 including identifying information and dates of commitment to the  
7 authority. As soon as feasible, the behavioral health administrative  
8 services organizations must arrange to report new commitment data to  
9 the authority within twenty-four hours. Commitment information under  
10 this section does not need to be resent if it is already in the  
11 possession of the authority. Behavioral health administrative  
12 services organizations and the authority shall be immune from  
13 liability related to the sharing of commitment information under this  
14 section.

15           (2) All superior courts must share hearing outcomes in all  
16 hearings under this chapter with the local behavioral health  
17 administrative services organization that serves the region where the  
18 superior court is located, including in cases in which the designated  
19 crisis responder investigation occurred outside the region. The  
20 hearing outcome data must include the name of the facility to which a  
21 person has been committed.

22           **Sec. 16.** RCW 71.24.035 and 2020 c 256 s 202 are each amended to  
23 read as follows:

24           (1) The authority is designated as the state behavioral health  
25 authority which includes recognition as the single state authority  
26 for substance use disorders and state mental health authority.

27           (2) The director shall provide for public, client, tribal, and  
28 licensed or certified behavioral health agency participation in  
29 developing the state behavioral health program, developing related  
30 contracts, and any waiver request to the federal government under  
31 medicaid.

32           (3) The director shall provide for participation in developing  
33 the state behavioral health program for children and other  
34 underserved populations, by including representatives on any  
35 committee established to provide oversight to the state behavioral  
36 health program.

37           (4) The authority shall be designated as the behavioral health  
38 administrative services organization for a regional service area if a  
39 behavioral health administrative services organization fails to meet

1 the authority's contracting requirements or refuses to exercise the  
2 responsibilities under its contract or state law, until such time as  
3 a new behavioral health administrative services organization is  
4 designated.

5 (5) The director shall:

6 (a) Assure that any behavioral health administrative services  
7 organization, managed care organization, or community behavioral  
8 health program provides medically necessary services to medicaid  
9 recipients consistent with the state's medicaid state plan or federal  
10 waiver authorities, and nonmedicaid services consistent with  
11 priorities established by the authority;

12 (b) Develop contracts in a manner to ensure an adequate network  
13 of inpatient services, evaluation and treatment services, and  
14 facilities under chapter 71.05 RCW to ensure access to treatment,  
15 resource management services, and community support services;

16 (c) Make contracts necessary or incidental to the performance of  
17 its duties and the execution of its powers, including managed care  
18 contracts for behavioral health services, contracts entered into  
19 under RCW 74.09.522, and contracts with public and private agencies,  
20 organizations, and individuals to pay them for behavioral health  
21 services;

22 (d) Define administrative costs and ensure that the behavioral  
23 health administrative services organization does not exceed an  
24 administrative cost of ten percent of available funds;

25 (e) Establish, to the extent possible, a standardized auditing  
26 procedure which is designed to assure compliance with contractual  
27 agreements authorized by this chapter and minimizes paperwork  
28 requirements. The audit procedure shall focus on the outcomes of  
29 service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

30 (f) Develop and maintain an information system to be used by the  
31 state and behavioral health administrative services organizations and  
32 managed care organizations that includes a tracking method which  
33 allows the authority to identify behavioral health clients'  
34 participation in any behavioral health service or public program on  
35 an immediate basis. The information system shall not include  
36 individual patient's case history files. Confidentiality of client  
37 information and records shall be maintained as provided in this  
38 chapter and chapter 70.02 RCW;

1 (g) Monitor and audit behavioral health administrative services  
2 organizations as needed to assure compliance with contractual  
3 agreements authorized by this chapter;

4 (h) Monitor and audit access to behavioral health services for  
5 individuals eligible for medicaid who are not enrolled in a managed  
6 care organization;

7 (i) Adopt such rules as are necessary to implement the  
8 authority's responsibilities under this chapter;

9 (j) Administer or supervise the administration of the provisions  
10 relating to persons with substance use disorders and intoxicated  
11 persons of any state plan submitted for federal funding pursuant to  
12 federal health, welfare, or treatment legislation;

13 (k) Require the behavioral health administrative services  
14 organizations and the managed care organizations to develop  
15 agreements with tribal, city, and county jails and the department of  
16 corrections to accept referrals for enrollment on behalf of a  
17 confined person, prior to the person's release;

18 (l) Require behavioral health administrative services  
19 organizations and managed care organizations, as applicable, to  
20 provide services as identified in RCW 71.05.585 to individuals  
21 committed for involuntary commitment under less restrictive  
22 alternative court orders when:

23 (i) The individual is enrolled in the medicaid program; or

24 (ii) The individual is not enrolled in medicaid((~~r~~)) and does not  
25 have other insurance which can pay for the services(~~(, and the~~  
26 ~~behavioral health administrative services organization has adequate~~  
27 ~~available resources to provide the services))); and~~

28 (m) Coordinate with the centers for medicare and medicaid  
29 services to provide that behavioral health aide services are eligible  
30 for federal funding of up to one hundred percent.

31 (6) The director shall use available resources only for  
32 behavioral health administrative services organizations and managed  
33 care organizations, except:

34 (a) To the extent authorized, and in accordance with any  
35 priorities or conditions specified, in the biennial appropriations  
36 act; or

37 (b) To incentivize improved performance with respect to the  
38 client outcomes established in RCW 71.24.435, 70.320.020, and  
39 71.36.025, integration of behavioral health and medical services at



1 the clinical level, and improved care coordination for individuals  
2 with complex care needs.

3 (7) Each behavioral health administrative services organization,  
4 managed care organization, and licensed or certified behavioral  
5 health agency shall file with the secretary of the department of  
6 health or the director, on request, such data, statistics, schedules,  
7 and information as the secretary of the department of health or the  
8 director reasonably requires. A behavioral health administrative  
9 services organization, managed care organization, or licensed or  
10 certified behavioral health agency which, without good cause, fails  
11 to furnish any data, statistics, schedules, or information as  
12 requested, or files fraudulent reports thereof, may be subject to the  
13 contractual remedies in RCW 74.09.871 or may have its service  
14 provider certification or license revoked or suspended.

15 (8) The superior court may restrain any behavioral health  
16 administrative services organization, managed care organization, or  
17 service provider from operating without a contract, certification, or  
18 a license or any other violation of this section. The court may also  
19 review, pursuant to procedures contained in chapter 34.05 RCW, any  
20 denial, suspension, limitation, restriction, or revocation of  
21 certification or license, and grant other relief required to enforce  
22 the provisions of this chapter.

23 (9) Upon petition by the secretary of the department of health or  
24 the director, and after hearing held upon reasonable notice to the  
25 facility, the superior court may issue a warrant to an officer or  
26 employee of the secretary of the department of health or the director  
27 authorizing him or her to enter at reasonable times, and examine the  
28 records, books, and accounts of any behavioral health administrative  
29 services organization, managed care organization, or service provider  
30 refusing to consent to inspection or examination by the authority.

31 (10) Notwithstanding the existence or pursuit of any other  
32 remedy, the secretary of the department of health or the director may  
33 file an action for an injunction or other process against any person  
34 or governmental unit to restrain or prevent the establishment,  
35 conduct, or operation of a behavioral health administrative services  
36 organization, managed care organization, or service provider without  
37 a contract, certification, or a license under this chapter.

38 (11) The authority shall distribute appropriated state and  
39 federal funds in accordance with any priorities, terms, or conditions  
40 specified in the appropriations act.

1 (12) The authority, in cooperation with the state congressional  
2 delegation, shall actively seek waivers of federal requirements and  
3 such modifications of federal regulations as are necessary to allow  
4 federal medicaid reimbursement for services provided by freestanding  
5 evaluation and treatment facilities licensed under chapter 71.12 RCW  
6 or certified under chapter 71.05 RCW. The authority shall  
7 periodically share the results of its efforts with the appropriate  
8 committees of the senate and the house of representatives.

9 (13) The authority may:

10 (a) Plan, establish, and maintain substance use disorder  
11 prevention and substance use disorder treatment programs as necessary  
12 or desirable;

13 (b) Coordinate its activities and cooperate with behavioral  
14 programs in this and other states, and make contracts and other joint  
15 or cooperative arrangements with state, tribal, local, or private  
16 agencies in this and other states for behavioral health services and  
17 for the common advancement of substance use disorder programs;

18 (c) Solicit and accept for use any gift of money or property made  
19 by will or otherwise, and any grant of money, services, or property  
20 from the federal government, the state, or any political subdivision  
21 thereof or any private source, and do all things necessary to  
22 cooperate with the federal government or any of its agencies in  
23 making an application for any grant;

24 (d) Keep records and engage in research and the gathering of  
25 relevant statistics; and

26 (e) Acquire, hold, or dispose of real property or any interest  
27 therein, and construct, lease, or otherwise provide substance use  
28 disorder treatment programs.

29 **Sec. 17.** RCW 71.24.045 and 2019 c 325 s 1008 are each amended to  
30 read as follows:

31 (1) The behavioral health administrative services organization  
32 contracted with the authority pursuant to RCW 71.24.381 shall:

33 (a) Administer crisis services for the assigned regional service  
34 area. Such services must include:

35 (i) A behavioral health crisis hotline for its assigned regional  
36 service area;

37 (ii) Crisis response services twenty-four hours a day, seven days  
38 a week, three hundred sixty-five days a year;

1 (iii) Services related to involuntary commitments under chapters  
2 71.05 and 71.34 RCW;

3 (iv) Tracking of less restrictive alternative orders issued  
4 within the region by superior courts, and providing notification to a  
5 managed care organization in the region when one of its enrollees  
6 receives a less restrictive alternative order so that the managed  
7 care organization may ensure that the person is connected to services  
8 and that the requirements of RCW 71.05.585 are complied with. If the  
9 person receives a less restrictive alternative order and is returning  
10 to another region, the behavioral health administrative services  
11 organization shall notify the behavioral health administrative  
12 services organization in the home region of the less restrictive  
13 alternative order so that the home behavioral health administrative  
14 services organization may notify the person's managed care  
15 organization or provide services if the person is not enrolled in  
16 medicaid and does not have other insurance which can pay for those  
17 services.

18 (v) Additional noncrisis behavioral health services, within  
19 available resources, to individuals who meet certain criteria set by  
20 the authority in its contracts with the behavioral health  
21 administrative services organization. These services may include  
22 services provided through federal grant funds, provisos, and general  
23 fund state appropriations;

24 (~~(v)~~) (vi) Care coordination, diversion services, and discharge  
25 planning for nonmedicaid individuals transitioning from state  
26 hospitals or inpatient settings to reduce rehospitalization and  
27 utilization of crisis services, as required by the authority in  
28 contract; and

29 (~~(vi)~~) (vii) Regional coordination, cross-system and cross-  
30 jurisdiction coordination with tribal governments, and capacity  
31 building efforts, such as supporting the behavioral health advisory  
32 board, the behavioral health ombuds, and efforts to support access to  
33 services or to improve the behavioral health system;

34 (b) Administer and provide for the availability of an adequate  
35 network of evaluation and treatment services to ensure access to  
36 treatment, investigation, transportation, court-related, and other  
37 services provided as required under chapter 71.05 RCW;

38 (c) Coordinate services for individuals under RCW 71.05.365;

1 (d) Administer and provide for the availability of resource  
2 management services, residential services, and community support  
3 services as required under its contract with the authority;

4 (e) Contract with a sufficient number, as determined by the  
5 authority, of licensed or certified providers for crisis services and  
6 other behavioral health services required by the authority;

7 (f) Maintain adequate reserves or secure a bond as required by  
8 its contract with the authority;

9 (g) Establish and maintain quality assurance processes;

10 (h) Meet established limitations on administrative costs for  
11 agencies that contract with the behavioral health administrative  
12 services organization; and

13 (i) Maintain patient tracking information as required by the  
14 authority.

15 (2) The behavioral health administrative services organization  
16 must collaborate with the authority and its contracted managed care  
17 organizations to develop and implement strategies to coordinate care  
18 with tribes and community behavioral health providers for individuals  
19 with a history of frequent crisis system utilization.

20 (3) The behavioral health administrative services organization  
21 shall:

22 (a) Assure that the special needs of minorities, older adults,  
23 individuals with disabilities, children, and low-income persons are  
24 met;

25 (b) Collaborate with local government entities to ensure that  
26 policies do not result in an adverse shift of persons with mental  
27 illness into state and local correctional facilities; and

28 (c) Work with the authority to expedite the enrollment or  
29 reenrollment of eligible persons leaving state or local correctional  
30 facilities and institutions for mental diseases.

31 NEW SECTION. **Sec. 18.** A new section is added to chapter 71.24  
32 RCW to read as follows:

33 The authority shall coordinate with the department of social and  
34 health services to offer contracts to community behavioral health  
35 agencies to support the nonmedicaid costs entailed in fulfilling the  
36 agencies' role as transition team members for a person recommended  
37 for conditional release to a less restrictive alternative under RCW  
38 10.77.150, or for a person who qualifies for multidisciplinary  
39 transition team services under RCW 71.05.320(6)(a)(i). The authority

1 may establish requirements, provide technical assistance, and provide  
2 training as appropriate and within available funding.

3 NEW SECTION. **Sec. 19.** The Washington state health care  
4 authority shall revise its behavioral health data system for tracking  
5 involuntary commitment orders to distinguish less restrictive  
6 alternative orders from other types of involuntary commitment orders,  
7 including being able to distinguish between initial orders and  
8 extensions.

9 NEW SECTION. **Sec. 20.** The provisions of this act apply to  
10 persons who are committed for inpatient treatment under chapter 10.77  
11 or 71.05 RCW as of the effective date of this section.

12 **Sec. 21.** 2020 c 302 s 110 (uncodified) is amended to read as  
13 follows:

14 (1) Sections 4 and 28 (~~of this act~~), chapter 302, Laws of 2020  
15 and sections 13 and 14 of this act take effect when monthly single-  
16 bed certifications authorized under RCW 71.05.745 fall below 200  
17 reports for 3 consecutive months.

18 (2) The health care authority must provide written notice of the  
19 effective date of sections 4 and 28 (~~of this act~~), chapter 302,  
20 Laws of 2020 and sections 13 and 14 of this act to affected parties,  
21 the chief clerk of the house of representatives, the secretary of the  
22 senate, the office of the code reviser, and others as deemed  
23 appropriate by the authority.

24 NEW SECTION. **Sec. 22.** Section 2 of this act expires July 1,  
25 2026.

26 NEW SECTION. **Sec. 23.** Section 3 of this act takes effect July  
27 1, 2026.

28 NEW SECTION. **Sec. 24.** Sections 11 and 13 of this act expire  
29 July 1, 2022.

30 NEW SECTION. **Sec. 25.** Sections 12 and 14 of this act take  
31 effect July 1, 2022."

**ADOPTED 03/01/2021**

1       On page 1, line 2 of the title, after "commitment;" strike the  
2 remainder of the title and insert "amending RCW 10.77.150, 71.05.320,  
3 71.05.320, 10.77.060, 70.02.230, 70.02.240, 71.24.035, 10.77.010,  
4 10.77.195, 71.05.740, 71.24.035, and 71.24.045; amending 2020 c 302 s  
5 110 (uncodified); reenacting and amending RCW 71.05.020, 71.05.020,  
6 71.05.020, and 71.05.020; adding a new section to chapter 10.77 RCW;  
7 adding a new section to chapter 71.24 RCW; creating new sections;  
8 providing effective dates; providing a contingent effective date; and  
9 providing expiration dates."

EFFECT: Allows a person committed under criminal insanity laws or the Department of Social and Health Services to apply for a limited conditional release if the person can exercise increased privileges safely under Department supervision but is not ready for conditional release to a less restrictive alternative. Makes technical corrections.

--- END ---