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**SUBSTITUTE HOUSE BILL 1450**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Jinkins, Rodne, Walkinshaw, Harris, Cody, Goodman, Senn, Walsh, Riccelli, Robinson, Orwall, Moeller, Gregerson, Van De Wege, Ormsby, Clibborn, McBride, Tharinger, Kagi, and Stanford)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to involuntary outpatient mental health  
2 treatment; amending RCW 71.05.150, 71.05.156, 71.05.212, 71.05.230,  
3 71.05.240, 71.05.245, 71.05.280, 71.05.290, 71.05.300, 71.05.320, and  
4 71.05.340; reenacting and amending RCW 71.05.020, 71.05.020, and  
5 71.05.300; adding a new section to chapter 71.05 RCW; providing an  
6 effective date; and providing an expiration date.

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

8 **Sec. 1.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are  
9 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

13 (7) "Custody" means involuntary detention under the provisions of  
14 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 (8) "Department" means the department of social and health  
18 services;

19 (9) "Designated chemical dependency specialist" means a person  
20 designated by the county alcoholism and other drug addiction program  
21 coordinator designated under RCW 70.96A.310 to perform the commitment  
22 duties described in chapters 70.96A and 70.96B RCW;

23 (10) "Designated crisis responder" means a mental health  
24 professional appointed by the county or the regional support network  
25 to perform the duties specified in this chapter;

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

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

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

38 (14) "Developmental disability" means that condition defined in  
39 RCW 71A.10.020(~~(+3)~~) (5);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (25) "Likelihood of serious harm" means:

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

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

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

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

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

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

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

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

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

1 (33) "Psychiatrist" means a person having a license as a  
2 physician and surgeon in this state who has in addition completed  
3 three years of graduate training in psychiatry in a program approved  
4 by the American medical association or the American osteopathic  
5 association and is certified or eligible to be certified by the  
6 American board of psychiatry and neurology;

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

9 (35) "Public agency" means any evaluation and treatment facility  
10 or institution, or hospital which is conducted for, or includes a  
11 department or ward conducted for, the care and treatment of persons  
12 with mental illness, if the agency is operated directly by, federal,  
13 state, county, or municipal government, or a combination of such  
14 governments;

15 (36) "Registration records" include all the records of the  
16 department, regional support networks, treatment facilities, and  
17 other persons providing services to the department, county  
18 departments, or facilities which identify persons who are receiving  
19 or who at any time have received services for mental illness;

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

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

24 (39) "Secretary" means the secretary of the department of social  
25 and health services, or his or her designee;

26 (40) "Serious violent offense" has the same meaning as provided  
27 in RCW 9.94A.030;

28 (41) "Social worker" means a person with a master's or further  
29 advanced degree from a social work educational program accredited and  
30 approved as provided in RCW 18.320.010;

31 (42) "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 (43) "Triage facility" means a short-term facility or a portion  
38 of a facility licensed by the department of health and certified by  
39 the department of social and health services under RCW 71.24.035,  
40 which is designed as a facility to assess and stabilize an individual

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

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

17 (45) "Violent act" means behavior that resulted in homicide,  
18 attempted suicide, nonfatal injuries, or substantial damage to  
19 property.

20 (46) "In need of assisted outpatient mental health treatment"  
21 means that a person, as a result of a mental disorder: (a) Has been  
22 committed by a court to detention for involuntary mental health  
23 treatment at least twice during the preceding thirty-six months, or,  
24 if the person is currently committed for involuntary mental health  
25 treatment, the person has been committed to detention for involuntary  
26 mental health treatment at least once during the thirty-six months  
27 preceding the date of initial detention of the current commitment  
28 cycle; (b) is unlikely to voluntarily participate in outpatient  
29 treatment without an order for assisted outpatient mental health  
30 treatment, in view of the person's treatment history or current  
31 behavior; and (c) requires outpatient treatment that would be  
32 provided under an assisted outpatient mental health treatment order  
33 to prevent a relapse, decompensation, or deterioration that is likely  
34 to result in the person presenting a likelihood of serious harm or  
35 the person becoming gravely disabled within a reasonably short period  
36 of time. For purposes of (a) of this subsection, time spent in a  
37 mental health facility or in confinement as a result of a criminal  
38 conviction is excluded from the thirty-six month calculation.

1       (47) "Assisted outpatient mental health treatment" means a  
2 program of individualized treatment in a less restrictive setting  
3 that:

4       (a) At a minimum, includes the following services:

5       (i) Assignment of a care coordinator;

6       (ii) An intake evaluation with the provider of the assisted  
7 outpatient mental health treatment;

8       (iii) A psychiatric evaluation;

9       (iv) Medication management;

10       (v) A schedule of regular contacts with the provider of the  
11 assisted outpatient mental health treatment services for the duration  
12 of the order;

13       (vi) A transition plan addressing access to continued services at  
14 the expiration of the order; and

15       (vii) An individual crisis plan; and

16       (b) May also include the following services:

17       (i) Psychotherapy;

18       (ii) Nursing;

19       (iii) Substance abuse counseling; and

20       (iv) Support for housing, benefits, education, and employment.

21       **Sec. 2.** RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and  
22 amended to read as follows:

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

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

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

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

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

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



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

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

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

14 (9) "Designated chemical dependency specialist" means a person  
15 designated by the county alcoholism and other drug addiction program  
16 coordinator designated under RCW 70.96A.310 to perform the commitment  
17 duties described in chapters 70.96A and 70.96B RCW;

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

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

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

26 (13) "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, psychologist, psychiatric advanced registered  
30 nurse practitioner, or social worker, and such other developmental  
31 disabilities professionals as may be defined by rules adopted by the  
32 secretary;

33 (14) "Developmental disability" means that condition defined in  
34 RCW 71A.10.020(~~(+4)~~) (5);

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

38 (16) "Evaluation and treatment facility" means any facility which  
39 can provide directly, or by direct arrangement with other public or  
40 private agencies, emergency evaluation and treatment, outpatient

1 care, and timely and appropriate inpatient care to persons suffering  
2 from a mental disorder, and which is certified as such by the  
3 department. A physically separate and separately operated portion of  
4 a state hospital may be designated as an evaluation and treatment  
5 facility. A facility which is part of, or operated by, the department  
6 or any federal agency will not require certification. No correctional  
7 institution or facility, or jail, shall be an evaluation and  
8 treatment facility within the meaning of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

13 (22) "Information related to mental health services" means all  
14 information and records compiled, obtained, or maintained in the  
15 course of providing services to either voluntary or involuntary  
16 recipients of services by a mental health service provider. This may  
17 include documents of legal proceedings under this chapter or chapter  
18 71.34 or 10.77 RCW, or somatic health care information;

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

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

25 (25) "Likelihood of serious harm" means:

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

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

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

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

6 (28) "Mental health service provider" means a public or private  
7 agency that provides mental health services to persons with mental  
8 disorders as defined under this section and receives funding from  
9 public sources. This includes, but is not limited to, hospitals  
10 licensed under chapter 70.41 RCW, evaluation and treatment facilities  
11 as defined in this section, community mental health service delivery  
12 systems or community mental health programs as defined in RCW  
13 71.24.025, facilities conducting competency evaluations and  
14 restoration under chapter 10.77 RCW, and correctional facilities  
15 operated by state and local governments;

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

20 (30) "Private agency" means any person, partnership, corporation,  
21 or association that is not a public agency, whether or not financed  
22 in whole or in part by public funds, which constitutes an evaluation  
23 and treatment facility or private institution, or hospital, which is  
24 conducted for, or includes a department or ward conducted for, the  
25 care and treatment of persons who are mentally ill;

26 (31) "Professional person" means a mental health professional and  
27 shall also mean a physician, psychiatric advanced registered nurse  
28 practitioner, registered nurse, and such others as may be defined by  
29 rules adopted by the secretary pursuant to the provisions of this  
30 chapter;

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

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

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

3 (35) "Public agency" means any evaluation and treatment facility  
4 or institution, or hospital which is conducted for, or includes a  
5 department or ward conducted for, the care and treatment of persons  
6 with mental illness, if the agency is operated directly by, federal,  
7 state, county, or municipal government, or a combination of such  
8 governments;

9 (36) "Registration records" include all the records of the  
10 department, behavioral health organizations, treatment facilities,  
11 and other persons providing services to the department, county  
12 departments, or facilities which identify persons who are receiving  
13 or who at any time have received services for mental illness;

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

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

18 (39) "Secretary" means the secretary of the department of social  
19 and health services, or his or her designee;

20 (40) "Serious violent offense" has the same meaning as provided  
21 in RCW 9.94A.030;

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

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

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

1 health organizations, or a treatment facility if the notes or records  
2 are not available to others;

3 (44) "Triage facility" means a short-term facility or a portion  
4 of a facility licensed by the department of health and certified by  
5 the department of social and health services under RCW 71.24.035,  
6 which is designed as a facility to assess and stabilize an individual  
7 or determine the need for involuntary commitment of an individual,  
8 and must meet department of health residential treatment facility  
9 standards. A triage facility may be structured as a voluntary or  
10 involuntary placement facility;

11 (45) "Violent act" means behavior that resulted in homicide,  
12 attempted suicide, nonfatal injuries, or substantial damage to  
13 property.

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

33 (47) "Assisted outpatient mental health treatment" means a  
34 program of individualized treatment in a less restrictive setting  
35 that:

36 (a) At a minimum, includes the following services:

37 (i) Assignment of a care coordinator;

38 (ii) An intake evaluation with the provider of the assisted  
39 outpatient mental health treatment;

40 (iii) A psychiatric evaluation;

1 (iv) Medication management;

2 (v) A schedule of regular contacts with the provider of the  
3 assisted outpatient mental health treatment services for the duration  
4 of the order;

5 (vi) A transition plan addressing access to continued services at  
6 the expiration of the order; and

7 (vii) An individual crisis plan; and

8 (b) May also include the following services:

9 (i) Psychotherapy;

10 (ii) Nursing;

11 (iii) Substance abuse counseling; and

12 (iv) Support for housing, benefits, education, and employment.

13 **Sec. 3.** RCW 71.05.150 and 2011 c 148 s 5 are each amended to  
14 read as follows:

15 (1)(a) When a designated mental health professional receives  
16 information alleging that a person, as a result of a mental disorder:  
17 (i) Presents a likelihood of serious harm; ~~((or))~~ (ii) is gravely  
18 disabled; or (iii) is in need of assisted outpatient mental health  
19 treatment; the designated mental health professional may, after  
20 investigation and evaluation of the specific facts alleged and of the  
21 reliability and credibility of any person providing information to  
22 initiate detention or outpatient evaluation, if satisfied that the  
23 allegations are true and that the person will not voluntarily seek  
24 appropriate treatment, file a petition for initial detention or  
25 outpatient evaluation. If the petition is filed solely on the grounds  
26 that the person is in need of assisted outpatient mental health  
27 treatment, the petition may only be for an outpatient evaluation.

28 (b) Before filing the petition, the designated mental health  
29 professional must personally interview the person, unless the person  
30 refuses an interview, and determine whether the person will  
31 voluntarily receive appropriate evaluation and treatment at an  
32 evaluation and treatment facility, crisis stabilization unit, ~~((or))~~  
33 triage facility, or assisted outpatient mental health treatment  
34 program.

35 (2)(a) An order to detain to a designated evaluation and  
36 treatment facility for not more than a seventy-two-hour evaluation  
37 and treatment period, or an order for an outpatient evaluation, may  
38 be issued by a judge of the superior court upon request of a

1 designated mental health professional, whenever it appears to the  
2 satisfaction of a judge of the superior court:

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

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

6 (b) The petition for initial detention or outpatient evaluation,  
7 signed under penalty of perjury, or sworn telephonic testimony may be  
8 considered by the court in determining whether there are sufficient  
9 grounds for issuing the order.

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

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

35 (4) The designated mental health professional may notify a peace  
36 officer to take such person or cause such person to be taken into  
37 custody and placed in an evaluation and treatment facility. At the  
38 time such person is taken into custody there shall commence to be  
39 served on such person, his or her guardian, and conservator, if any,



1 a copy of the original order together with a notice of rights and a  
2 petition for initial detention.

3 **Sec. 4.** RCW 71.05.156 and 2013 c 334 s 2 are each amended to  
4 read as follows:

5 A designated mental health professional who conducts an  
6 evaluation for imminent likelihood of serious harm or imminent danger  
7 because of being gravely disabled under RCW 71.05.153 must also  
8 evaluate the person under RCW 71.05.150 for likelihood of serious  
9 harm or grave disability that does not meet the imminent standard for  
10 emergency detention, and to determine whether the person is in need  
11 of assisted outpatient mental health treatment.

12 **Sec. 5.** RCW 71.05.212 and 2010 c 280 s 2 are each amended to  
13 read as follows:

14 (1) Whenever a designated mental health professional or  
15 professional person is conducting an evaluation under this chapter,  
16 consideration shall include all reasonably available information from  
17 credible witnesses and records regarding:

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

21 (b) Historical behavior, including history of one or more violent  
22 acts;

23 (c) Prior determinations of incompetency or insanity under  
24 chapter 10.77 RCW; and

25 (d) Prior commitments under this chapter.

26 (2) Credible witnesses may include family members, landlords,  
27 neighbors, or others with significant contact and history of  
28 involvement with the person. If the designated mental health  
29 professional relies upon information from a credible witness in  
30 reaching his or her decision to detain the individual, then he or she  
31 must provide contact information for any such witness to the  
32 prosecutor. The designated mental health professional or prosecutor  
33 shall provide notice of the date, time, and location of the probable  
34 cause hearing to such a witness.

35 (3) Symptoms and behavior of the respondent which standing alone  
36 would not justify civil commitment may support a finding of grave  
37 disability or likelihood of serious harm, or a finding that the

1 person is in need of assisted outpatient mental health treatment,  
2 when:

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

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

9 (c) Without treatment, the continued deterioration of the  
10 respondent is probable.

11 (4) When conducting an evaluation for offenders identified under  
12 RCW 72.09.370, the designated mental health professional or  
13 professional person shall consider an offender's history of  
14 judicially required or administratively ordered antipsychotic  
15 medication while in confinement.

16 **Sec. 6.** RCW 71.05.230 and 2011 c 343 s 9 are each amended to  
17 read as follows:

18 A person detained or committed for seventy-two hour evaluation  
19 and treatment may be ~~((detained))~~ committed for not more than  
20 fourteen additional days of involuntary intensive treatment ~~((or))~~,  
21 ninety additional days of a less restrictive alternative to  
22 involuntary intensive treatment, or ninety additional days of  
23 assisted outpatient mental health treatment. A petition may only be  
24 filed if the following conditions are met:

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

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

35 (3) The facility providing intensive treatment is certified to  
36 provide such treatment by the department; and

37 (4) The professional staff of the agency or facility or the  
38 designated mental health professional has filed a petition with the  
39 court for a fourteen day involuntary detention ~~((or))~~, a ninety day

1 less restrictive alternative (~~with the court~~), or a ninety-day  
2 period of assisted outpatient mental health treatment. The petition  
3 must be signed either by:

4 (a) Two physicians;

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

6 (c) Two psychiatric advanced registered nurse practitioners;

7 (d) One psychiatric advanced registered nurse practitioner and a  
8 mental health professional; or

9 (e) A physician and a psychiatric advanced registered nurse  
10 practitioner. The persons signing the petition must have examined the  
11 person. If involuntary detention is sought the petition shall state  
12 facts that support the finding that such person, as a result of  
13 mental disorder, presents a likelihood of serious harm, or is gravely  
14 disabled and that there are no less restrictive alternatives to  
15 detention in the best interest of such person or others. The petition  
16 shall state specifically that less restrictive alternative treatment  
17 was considered and specify why treatment less restrictive than  
18 detention is not appropriate. If an involuntary less restrictive  
19 alternative is sought, the petition shall state facts that support  
20 the finding that such person, as a result of mental disorder,  
21 presents a likelihood of serious harm, or is gravely disabled and  
22 shall set forth the less restrictive alternative proposed by the  
23 facility. If assisted outpatient mental health treatment is sought,  
24 the petition shall state facts that support the finding that such a  
25 person, as a result of mental disorder, is in need of assisted  
26 outpatient mental health treatment, and shall set forth a proposed  
27 assisted outpatient mental health treatment plan in accordance with  
28 RCW 71.05.020(47); and

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

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

35 (7) The petition reflects that the person was informed of the  
36 loss of firearm rights if involuntarily committed; and

37 (8) At the conclusion of the initial commitment period, the  
38 professional staff of the agency or facility or the designated mental  
39 health professional may petition for an additional period of  
40 (~~either~~) ninety days of less restrictive alternative treatment,

1 ninety days of assisted outpatient mental health treatment, or ninety  
2 days of involuntary intensive treatment as provided in RCW 71.05.290;  
3 and

4 (9) If the hospital or facility designated to provide less  
5 restrictive alternative treatment or assisted outpatient mental  
6 health treatment is other than the facility providing involuntary  
7 treatment, the outpatient facility so designated has agreed to assume  
8 such responsibility.

9 **Sec. 7.** RCW 71.05.240 and 2009 c 293 s 4 are each amended to  
10 read as follows:

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

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

28 (3) At the conclusion of the probable cause hearing ~~((, if the~~  
29 ~~court finds by a preponderance of the evidence that))~~:

30 (a) If the court finds by a preponderance of the evidence that  
31 such person, as the result of mental disorder, presents a likelihood  
32 of serious harm, or is gravely disabled, and, after considering less  
33 restrictive alternatives to involuntary detention and treatment,  
34 finds that no such alternatives are in the best interests of such  
35 person or others, the court shall order that such person be detained  
36 for involuntary treatment not to exceed fourteen days in a facility  
37 certified to provide treatment by the department. If the court finds  
38 that such person, as the result of a mental disorder, presents a  
39 likelihood of serious harm, or is gravely disabled, but that

1 treatment in a less restrictive setting than detention is in the best  
2 interest of such person or others, the court shall order an  
3 appropriate less restrictive course of treatment for not to exceed  
4 ninety days;

5 (b) If the court finds by a preponderance of the evidence that  
6 such person, as the result of a mental disorder, is in need of  
7 assisted outpatient mental health treatment, and that the person does  
8 not present a likelihood of serious harm or grave disability, the  
9 court shall order an appropriate course of assisted outpatient mental  
10 health treatment not to exceed ninety days, and may not order  
11 inpatient treatment. The order for assisted outpatient mental health  
12 treatment must identify the services the person found in need of  
13 assisted outpatient mental health treatment will receive, in  
14 accordance with RCW 71.05.020(47). If the petitioner did not set  
15 forth a proposed assisted outpatient mental health treatment plan,  
16 the court may postpone the issuance of the order for up to five  
17 judicial days and require the petitioner to submit a proposal for  
18 assisted outpatient mental health services. The court may order  
19 additional evaluation of the person if necessary to identify  
20 appropriate services.

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

31 **Sec. 8.** RCW 71.05.245 and 2010 c 280 s 3 are each amended to  
32 read as follows:

33 (1) In making a determination of whether a person is gravely  
34 disabled (~~(or)~~), presents a likelihood of serious harm, or is in need  
35 of assisted outpatient mental health treatment in a hearing conducted  
36 under RCW 71.05.240 or 71.05.320, the court must consider the  
37 symptoms and behavior of the respondent in light of all available  
38 evidence concerning the respondent's historical behavior.

1 (2) Symptoms or behavior which standing alone would not justify  
2 civil commitment may support a finding of grave disability or  
3 likelihood of serious harm, or a finding that the person is in need  
4 of assisted outpatient mental health treatment, when: (a) Such  
5 symptoms or behavior are closely associated with symptoms or behavior  
6 which preceded and led to a past incident of involuntary  
7 hospitalization, severe deterioration, or one or more violent acts;  
8 (b) these symptoms or behavior represent a marked and concerning  
9 change in the baseline behavior of the respondent; and (c) without  
10 treatment, the continued deterioration of the respondent is probable.

11 (3) In making a determination of whether there is a likelihood of  
12 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,  
13 the court shall give great weight to any evidence before the court  
14 regarding whether the person has: (a) A recent history of one or more  
15 violent acts; or (b) a recent history of one or more commitments  
16 under this chapter or its equivalent provisions under the laws of  
17 another state which were based on a likelihood of serious harm. The  
18 existence of prior violent acts or commitments under this chapter or  
19 its equivalent shall not be the sole basis for determining whether a  
20 person presents a likelihood of serious harm.

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

23 **Sec. 9.** RCW 71.05.280 and 2013 c 289 s 4 are each amended to  
24 read as follows:

25 At the expiration of the fourteen-day period of intensive  
26 treatment, a person may be confined for further treatment pursuant to  
27 RCW 71.05.320 if:

28 (1) Such person after having been taken into custody for  
29 evaluation and treatment has threatened, attempted, or inflicted: (a)  
30 Physical harm upon the person of another or himself or herself, or  
31 substantial damage upon the property of another, and (b) as a result  
32 of mental disorder presents a likelihood of serious harm; or

33 (2) Such person was taken into custody as a result of conduct in  
34 which he or she attempted or inflicted physical harm upon the person  
35 of another or himself or herself, or substantial damage upon the  
36 property of others, and continues to present, as a result of mental  
37 disorder, a likelihood of serious harm; or

38 (3) Such person has been determined to be incompetent and  
39 criminal charges have been dismissed pursuant to RCW 10.77.086(4),

1 and has committed acts constituting a felony, and as a result of a  
2 mental disorder, presents a substantial likelihood of repeating  
3 similar acts.

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

7 (b) For any person subject to commitment under this subsection  
8 where the charge underlying the finding of incompetence is for a  
9 felony classified as violent under RCW 9.94A.030, the court shall  
10 determine whether the acts the person committed constitute a violent  
11 offense under RCW 9.94A.030; or

12 (4) Such person is gravely disabled; or

13 (5) Such person is in need of assisted outpatient mental health  
14 treatment.

15 **Sec. 10.** RCW 71.05.290 and 2009 c 217 s 3 are each amended to  
16 read as follows:

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

24 (2) The petition shall summarize the facts which support the need  
25 for further confinement and shall be supported by affidavits signed  
26 by:

27 (a) Two examining physicians;

28 (b) One examining physician and examining mental health  
29 professional;

30 (c) Two psychiatric advanced registered nurse practitioners;

31 (d) One psychiatric advanced registered nurse practitioner and a  
32 mental health professional; or

33 (e) An examining physician and an examining psychiatric advanced  
34 registered nurse practitioner. The affidavits shall describe in  
35 detail the behavior of the detained person which supports the  
36 petition and shall explain what, if any, less restrictive treatments  
37 which are alternatives to detention are available to such person,  
38 including, if appropriate, assisted outpatient mental health  
39 treatment, and shall state the willingness of the affiant to testify

1 to such facts in subsequent judicial proceedings under this chapter.  
2 If assisted outpatient mental health treatment is sought, the  
3 petition shall set forth a proposed assisted outpatient mental health  
4 treatment plan in accordance with RCW 71.05.020(47).

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

12 **Sec. 11.** RCW 71.05.300 and 2009 c 293 s 5 and 2009 c 217 s 4 are  
13 each reenacted and amended to read as follows:

14 (1) The petition for ninety day treatment shall be filed with the  
15 clerk of the superior court at least three days before expiration of  
16 the fourteen-day period of intensive treatment. At the time of filing  
17 such petition, the clerk shall set a time for the person to come  
18 before the court on the next judicial day after the day of filing  
19 unless such appearance is waived by the person's attorney, and the  
20 clerk shall notify the designated mental health professional. The  
21 designated mental health professional shall immediately notify the  
22 person detained, his or her attorney, if any, and his or her guardian  
23 or conservator, if any, the prosecuting attorney, and the regional  
24 support network administrator, and provide a copy of the petition to  
25 such persons as soon as possible. The regional support network  
26 administrator or designee may review the petition and may appear and  
27 testify at the full hearing on the petition.

28 (2) At the time set for appearance the detained person shall be  
29 brought before the court, unless such appearance has been waived and  
30 the court shall advise him or her of his or her right to be  
31 represented by an attorney, his or her right to a jury trial, and his  
32 or her loss of firearm rights if involuntarily committed. If the  
33 detained person is not represented by an attorney, or is indigent or  
34 is unwilling to retain an attorney, the court shall immediately  
35 appoint an attorney to represent him or her. The court shall, if  
36 requested, appoint a reasonably available licensed physician,  
37 psychiatric advanced registered nurse practitioner, psychologist, or  
38 psychiatrist, designated by the detained person to examine and  
39 testify on behalf of the detained person.



1 (3) The court may, if requested, also appoint a professional  
2 person as defined in RCW 71.05.020 to seek less restrictive  
3 alternative courses of treatment, including, if appropriate, assisted  
4 outpatient mental health treatment, and to testify on behalf of the  
5 detained person. In the case of a person with a developmental  
6 disability who has been determined to be incompetent pursuant to RCW  
7 10.77.086(4), then the appointed professional person under this  
8 section shall be a developmental disabilities professional.

9 (4) The court shall also set a date for a full hearing on the  
10 petition as provided in RCW 71.05.310.

11 **Sec. 12.** RCW 71.05.300 and 2014 c 225 s 84 are each amended to  
12 read as follows:

13 (1) The petition for ninety day treatment shall be filed with the  
14 clerk of the superior court at least three days before expiration of  
15 the fourteen-day period of intensive treatment. At the time of filing  
16 such petition, the clerk shall set a time for the person to come  
17 before the court on the next judicial day after the day of filing  
18 unless such appearance is waived by the person's attorney, and the  
19 clerk shall notify the designated mental health professional. The  
20 designated mental health professional shall immediately notify the  
21 person detained, his or her attorney, if any, and his or her guardian  
22 or conservator, if any, the prosecuting attorney, and the behavioral  
23 health organization administrator, and provide a copy of the petition  
24 to such persons as soon as possible. The behavioral health  
25 organization administrator or designee may review the petition and  
26 may appear and testify at the full hearing on the petition.

27 (2) At the time set for appearance the detained person shall be  
28 brought before the court, unless such appearance has been waived and  
29 the court shall advise him or her of his or her right to be  
30 represented by an attorney, his or her right to a jury trial, and his  
31 or her loss of firearm rights if involuntarily committed. If the  
32 detained person is not represented by an attorney, or is indigent or  
33 is unwilling to retain an attorney, the court shall immediately  
34 appoint an attorney to represent him or her. The court shall, if  
35 requested, appoint a reasonably available licensed physician,  
36 psychiatric advanced registered nurse practitioner, psychologist, or  
37 psychiatrist, designated by the detained person to examine and  
38 testify on behalf of the detained person.

1 (3) The court may, if requested, also appoint a professional  
2 person as defined in RCW 71.05.020 to seek less restrictive  
3 alternative courses of treatment, including, if appropriate, assisted  
4 outpatient mental health treatment, and to testify on behalf of the  
5 detained person. In the case of a person with a developmental  
6 disability who has been determined to be incompetent pursuant to RCW  
7 10.77.086(4), then the appointed professional person under this  
8 section shall be a developmental disabilities professional.

9 (4) The court shall also set a date for a full hearing on the  
10 petition as provided in RCW 71.05.310.

11 **Sec. 13.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to  
12 read as follows:

13 (1) If the court or jury finds that grounds set forth in RCW  
14 71.05.280 have been proven and that the best interests of the person  
15 or others will not be served by a less restrictive treatment which is  
16 an alternative to detention, the court shall remand him or her to the  
17 custody of the department or to a facility certified for ninety day  
18 treatment by the department for a further period of intensive  
19 treatment not to exceed ninety days from the date of judgment. If the  
20 grounds set forth in RCW 71.05.280(3) are the basis of commitment,  
21 then the period of treatment may be up to but not exceed one hundred  
22 eighty days from the date of judgment in a facility certified for one  
23 hundred eighty day treatment by the department.

24 (2) If the court or jury finds that grounds set forth in RCW  
25 71.05.280 have been proven, but finds that treatment less restrictive  
26 than detention will be in the best interest of the person or others,  
27 then the court shall remand him or her to the custody of the  
28 department or to a facility certified for ninety day treatment by the  
29 department or to a less restrictive alternative for a further period  
30 of less restrictive treatment not to exceed ninety days from the date  
31 of judgment. If the grounds set forth in RCW 71.05.280(3) are the  
32 basis of commitment, then the period of treatment may be up to but  
33 not exceed one hundred eighty days from the date of judgment.

34 (3) If the court or jury finds that the grounds set forth in RCW  
35 71.05.280(5) have been proven, and provide the only basis for  
36 commitment, the court must enter an order for assisted outpatient  
37 mental health treatment for up to ninety days from the date of  
38 judgment and may not order inpatient treatment. The order for  
39 assisted outpatient mental health treatment must identify the

1 services the person found in need of assisted outpatient mental  
2 health treatment will receive, in accordance with RCW 71.05.020(47).  
3 If the petitioner did not set forth a proposed assisted outpatient  
4 mental health treatment plan, the court may postpone the issuance of  
5 the order for up to five judicial days and require the petitioner to  
6 submit a proposal for assisted outpatient mental health services. The  
7 court may order additional evaluation of the person if necessary to  
8 identify appropriate services.

9 (4) The person shall be released from involuntary treatment at  
10 the expiration of the period of commitment imposed under subsection  
11 (1) (~~(e)~~), (2), or (3) of this section unless the superintendent or  
12 professional person in charge of the facility in which he or she is  
13 confined, or in the event of a less restrictive alternative or  
14 assisted outpatient mental health treatment, the designated mental  
15 health professional, files a new petition for involuntary treatment  
16 on the grounds that the committed person:

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

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

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

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

1 of the person committing acts similar to the charged criminal  
2 behavior. The initial or additional commitment period may include  
3 transfer to a specialized program of intensive support and treatment,  
4 which may be initiated prior to or after discharge from the state  
5 hospital; or

6 (d) Continues to be gravely disabled; or

7 (e) Is in need of assisted outpatient mental health treatment.

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

11 ~~((4) For a person committed under subsection (2) of this section  
12 who has been remanded to a period of less restrictive treatment, in  
13 addition to the grounds specified in subsection (3) of this section,  
14 the designated mental health professional may file a new petition for  
15 continued less restrictive treatment if:~~

16 ~~(a) The person was previously committed by a court to detention  
17 for involuntary mental health treatment during the thirty-six months  
18 that preceded the person's initial detention date during the current  
19 involuntary commitment cycle, excluding any time spent in a mental  
20 health facility or in confinement as a result of a criminal  
21 conviction;~~

22 ~~(b) In view of the person's treatment history or current  
23 behavior, the person is unlikely to voluntarily participate in  
24 outpatient treatment without an order for less restrictive treatment;  
25 and~~

26 ~~(c) Outpatient treatment that would be provided under a less  
27 restrictive treatment order is necessary to prevent a relapse,  
28 decompensation, or deterioration that is likely to result in the  
29 person presenting a likelihood of serious harm or the person becoming  
30 gravely disabled within a reasonably short period of time.)) If  
31 assisted outpatient mental health treatment is sought, the petition  
32 shall set forth a proposed assisted outpatient mental health  
33 treatment plan in accordance with RCW 71.05.020(47).~~

34 (5) A new petition for involuntary treatment filed under  
35 subsection (3) or (4) of this section shall be filed and heard in the  
36 superior court of the county of the facility which is filing the new  
37 petition for involuntary treatment unless good cause is shown for a  
38 change of venue. The cost of the proceedings shall be borne by the  
39 state.

1       (6)(a) The hearing shall be held as provided in RCW 71.05.310,  
2 and if the court or jury finds that the grounds for additional  
3 confinement as set forth in this section are present, the court may  
4 order the committed person returned for an additional period of  
5 treatment not to exceed one hundred eighty days from the date of  
6 judgment. If the court's order is based solely on the grounds  
7 identified in subsection (4)(e) of this section, the court may enter  
8 an order for assisted outpatient mental health treatment not to  
9 exceed one hundred eighty days from the date of judgment, and may not  
10 enter an order for inpatient treatment. The order for assisted  
11 outpatient mental health treatment must identify the services the  
12 person found in need of assisted outpatient mental health treatment  
13 will receive, in accordance with RCW 71.05.020(47). If the petitioner  
14 did not set forth a proposed assisted outpatient mental health  
15 treatment plan, the court may postpone the issuance of the order for  
16 up to five judicial days and require the petitioner to submit a  
17 proposal for assisted outpatient services. The court may order  
18 additional evaluation of the person if necessary to identify  
19 appropriate services.

20       (b) At the end of the one hundred eighty day period of  
21 commitment, the committed person shall be released unless a petition  
22 for another one hundred eighty day period of continued treatment is  
23 filed and heard in the same manner as provided in this section.  
24 Successive one hundred eighty day commitments are permissible on the  
25 same grounds and pursuant to the same procedures as the original one  
26 hundred eighty day commitment. However, a commitment solely on the  
27 grounds identified in subsection (4)(e) of this section is not  
28 permissible under subsection (4) of this section if: (i) Thirty-six  
29 months have passed since the last date of discharge from detention  
30 for inpatient treatment that preceded the current ((less restrictive  
31 alternative)) commitment order, ((nor shall a commitment under  
32 subsection (4) of this section be permissible if)) or (ii) the  
33 likelihood of serious harm ((in subsection (4)(c) of this section))  
34 as described in RCW 71.05.020(46)(c) is based solely on harm to the  
35 property of others.

36       (7) No person committed as provided in this section may be  
37 detained unless a valid order of commitment is in effect. No order of  
38 commitment can exceed one hundred eighty days in length.

1       **Sec. 14.** RCW 71.05.340 and 2009 c 322 s 1 are each amended to  
2 read as follows:

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

18       (b) Before a person committed under grounds set forth in RCW  
19 71.05.280(3) or 71.05.320(~~(+3+)~~) (4)(c) is conditionally released  
20 under (a) of this subsection, the superintendent or professional  
21 person in charge of the hospital or facility providing involuntary  
22 treatment shall in writing notify the prosecuting attorney of the  
23 county in which the criminal charges against the committed person  
24 were dismissed, of the decision to conditionally release the person.  
25 Notice and a copy of the terms of conditional release shall be  
26 provided at least thirty days before the person is released from  
27 inpatient care. Within twenty days after receiving notice, the  
28 prosecuting attorney may petition the court in the county that issued  
29 the commitment order to hold a hearing to determine whether the  
30 person may be conditionally released and the terms of the conditional  
31 release. The prosecuting attorney shall provide a copy of the  
32 petition to the superintendent or professional person in charge of  
33 the hospital or facility providing involuntary treatment, the  
34 attorney, if any, and guardian or conservator of the committed  
35 person, and the court of original commitment. If the county in which  
36 the committed person is to receive outpatient treatment is the same  
37 county in which the criminal charges against the committed person  
38 were dismissed, then the court shall, upon the motion of the  
39 prosecuting attorney, transfer the proceeding to the court in that  
40 county. The court shall conduct a hearing on the petition within ten

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

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

22 (3)(a) If the hospital or facility designated to provide  
23 outpatient care, the designated mental health professional, or the  
24 secretary determines that:

25 (i) A conditionally released person is failing to adhere to the  
26 terms and conditions of his or her release;

27 (ii) Substantial deterioration in a conditionally released  
28 person's functioning has occurred;

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

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

33 Upon notification by the hospital or facility designated to  
34 provide outpatient care, or on his or her own motion, the designated  
35 mental health professional or the secretary may order that the  
36 conditionally released person be apprehended and taken into custody  
37 and temporarily detained in an evaluation and treatment facility in  
38 or near the county in which he or she is receiving outpatient  
39 treatment.

1 (b) The hospital or facility designated to provide outpatient  
2 treatment shall notify the secretary or designated mental health  
3 professional when a conditionally released person fails to adhere to  
4 terms and conditions of his or her conditional release or experiences  
5 substantial deterioration in his or her condition and, as a result,  
6 presents an increased likelihood of serious harm. The designated  
7 mental health professional or secretary shall order the person  
8 apprehended and temporarily detained in an evaluation and treatment  
9 facility in or near the county in which he or she is receiving  
10 outpatient treatment.

11 (c) A person detained under this subsection (3) shall be held  
12 until such time, not exceeding five days, as a hearing can be  
13 scheduled to determine whether or not the person should be returned  
14 to the hospital or facility from which he or she had been  
15 conditionally released. The designated mental health professional or  
16 the secretary may modify or rescind such order at any time prior to  
17 commencement of the court hearing.

18 (d) The court that originally ordered commitment shall be  
19 notified within two judicial days of a person's detention under the  
20 provisions of this section, and the designated mental health  
21 professional or the secretary shall file his or her petition and  
22 order of apprehension and detention with the court that originally  
23 ordered commitment or with the court in the county in which the  
24 person is detained and serve them upon the person detained. His or  
25 her attorney, if any, and his or her guardian or conservator, if any,  
26 shall receive a copy of such papers as soon as possible. Such person  
27 shall have the same rights with respect to notice, hearing, and  
28 counsel as for an involuntary treatment proceeding, except as  
29 specifically set forth in this section and except that there shall be  
30 no right to jury trial. The venue for proceedings regarding a  
31 petition for modification or revocation of an order for conditional  
32 release shall be in the county in which the petition was filed. The  
33 issues to be determined shall be: (i) Whether the conditionally  
34 released person did or did not adhere to the terms and conditions of  
35 his or her conditional release; (ii) that substantial deterioration  
36 in the person's functioning has occurred; (iii) there is evidence of  
37 substantial decompensation with a reasonable probability that the  
38 decompensation can be reversed by further inpatient treatment; or  
39 (iv) there is a likelihood of serious harm; and, if any of the  
40 conditions listed in this subsection (3)(d) have occurred, whether



1 the terms of conditional release should be modified or the person  
2 should be returned to the facility. If any of the conditions listed  
3 in this subsection (3)(d) have occurred and the person is committed  
4 to assisted outpatient mental health treatment, the court shall  
5 determine whether the terms of the order should be modified or if  
6 proceedings should be initiated under RCW 71.05.150.

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

19 (4) The proceedings set forth in subsection (3) of this section  
20 may be initiated by the designated mental health professional or the  
21 secretary on the same basis set forth therein without requiring or  
22 ordering the apprehension and detention of the conditionally released  
23 person, in which case the court hearing shall take place in not less  
24 than five days from the date of service of the petition upon the  
25 conditionally released person. The petition may be filed in the court  
26 that originally ordered commitment or with the court in the county in  
27 which the person is present. The venue for the proceedings regarding  
28 the petition for modification or revocation of an order for  
29 conditional release shall be in the county in which the petition was  
30 filed.

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

34 (5) The grounds and procedures for revocation of less restrictive  
35 alternative treatment and assisted outpatient mental health treatment  
36 shall be the same as those set forth in this section for conditional  
37 releases, except that if inpatient treatment is sought for a person  
38 committed to assisted outpatient mental health treatment, such  
39 treatment must be initiated under a new petition for involuntary  
40 treatment under RCW 71.05.150.

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

4           NEW SECTION.   **Sec. 15.**   A new section is added to chapter 71.05  
5 RCW to read as follows:

6           A court order for assisted outpatient mental health treatment  
7 entered under RCW 71.05.240 or 71.05.320 shall be terminated prior to  
8 the expiration of the order when, in the opinion of the professional  
9 person in charge of the assisted outpatient program, (1) the person  
10 is prepared to accept voluntary treatment, or (2) the outpatient  
11 treatment ordered is no longer necessary to prevent a relapse,  
12 decompensation, or deterioration that is likely to result in the  
13 person presenting a likelihood of serious harm or the person becoming  
14 gravely disabled within a reasonably short period of time.

15           NEW SECTION.   **Sec. 16.**   Sections 1 and 11 of this act expire  
16 April 1, 2016.

17           NEW SECTION.   **Sec. 17.**   Sections 2 and 12 of this act take effect  
18 April 1, 2016.

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