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SECOND SUBSTITUTE SENATE BILL 5649

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State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Darneille, Miloscia, Fraser, Keiser, Parlette, Benton, McCoy, and Dammeier)

READ FIRST TIME 02/27/15.

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, and 71.05.320; reenacting and  
4 amending RCW 71.05.020 and 71.05.020; creating a new section;  
5 providing an effective date; and providing an expiration date.

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

7 **Sec. 1.** RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are  
8 each reenacted and amended to read 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 or  
12 psychiatric advanced registered nurse practitioner that a person  
13 should be examined or treated as a patient in a hospital;

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

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

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

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

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

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

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

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

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

20       (6) "Crisis stabilization unit" means a short-term facility or a  
21 portion of a facility licensed by the department of health and  
22 certified by the department of social and health services under RCW  
23 71.24.035, such as an evaluation and treatment facility or a  
24 hospital, which has been designed to assess, diagnose, and treat  
25 individuals experiencing an acute crisis without the use of long-term  
26 hospitalization;

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

12 (21) "Individualized service plan" means a plan prepared by a  
13 developmental disabilities professional with other professionals as a  
14 team, for a person with developmental disabilities, which shall  
15 state:

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

18 (b) The conditions and strategies necessary to achieve the  
19 purposes of habilitation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (30) "Private agency" means any person, partnership, corporation,  
40 or association that is not a public agency, whether or not financed

1 in whole or in part by public funds, which constitutes an evaluation  
2 and treatment facility or private institution, or hospital, which is  
3 conducted for, or includes a department or ward conducted for, the  
4 care and treatment of persons who are mentally ill;

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

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

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

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

22 (35) "Public agency" means any evaluation and treatment facility  
23 or institution, or hospital which is conducted for, or includes a  
24 department or ward conducted for, the care and treatment of persons  
25 with mental illness, if the agency is operated directly by, federal,  
26 state, county, or municipal government, or a combination of such  
27 governments;

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

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

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

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

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

1 (41) "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 (42) "Therapeutic court personnel" means the staff of a mental  
5 health court or other therapeutic court which has jurisdiction over  
6 defendants who are dually diagnosed with mental disorders, including  
7 court personnel, probation officers, a court monitor, prosecuting  
8 attorney, or defense counsel acting within the scope of therapeutic  
9 court duties;

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

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

30 (45) "Violent act" means behavior that resulted in homicide,  
31 attempted suicide, nonfatal injuries, or substantial damage to  
32 property.

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

1 view of the person's treatment history or current behavior, the  
2 person is unlikely to voluntarily participate in outpatient treatment  
3 without an order for less restrictive treatment; and (c) outpatient  
4 treatment that would be provided under a less restrictive treatment  
5 order is necessary to prevent a relapse, decompensation, or  
6 deterioration that is likely to result in the person presenting a  
7 likelihood of serious harm or the person becoming gravely disabled  
8 within a reasonably short period of time. For purposes of (a) of this  
9 subsection, time spent in a mental health facility or in confinement  
10 as a result of a criminal conviction is excluded from the thirty-six  
11 month calculation.

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

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

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

37 (2)(a) An order to detain to a designated evaluation and  
38 treatment facility for not more than a seventy-two-hour evaluation  
39 and treatment period, or for an outpatient evaluation, may be issued

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

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

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

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

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

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

36 (4) The designated mental health professional may notify a peace  
37 officer to take such person or cause such person to be taken into  
38 custody and placed in an evaluation and treatment facility. At the  
39 time such person is taken into custody there shall commence to be  
40 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 determine whether the person is in need of  
11 assisted outpatient 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  
38 person is in need of assisted outpatient treatment, when:



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

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

7 (c) Without treatment, the continued deterioration of the  
8 respondent is probable.

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

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

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

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

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

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

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

38 (a) Two physicians;

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

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

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

- 38 (1) If a petition is filed for fourteen day involuntary treatment  
39 or ninety days of less restrictive alternative treatment, the court

1 shall hold a probable cause hearing within seventy-two hours of the  
2 initial detention of such person as determined in RCW 71.05.180. If  
3 requested by the detained person or his or her attorney, the hearing  
4 may be postponed for a period not to exceed forty-eight hours. The  
5 hearing may also be continued subject to the conditions set forth in  
6 RCW 71.05.210 or subject to the petitioner's showing of good cause  
7 for a period not to exceed twenty-four hours.

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

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

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

30 (b) If the court finds by a preponderance of the evidence that  
31 such person, as the result of a mental disorder, is in need of  
32 assisted outpatient treatment, and that the person does not present a  
33 likelihood of serious harm or grave disability, the court shall order  
34 an appropriate less restrictive course of treatment not to exceed  
35 ninety days, and may not order inpatient treatment.

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

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

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

7 (1) In making a determination of whether a person is gravely  
8 disabled (~~(or)~~), presents a likelihood of serious harm, or is in need  
9 of assisted outpatient treatment in a hearing conducted under RCW  
10 71.05.240 or 71.05.320, the court must consider the symptoms and  
11 behavior of the respondent in light of all available evidence  
12 concerning the respondent's historical behavior.

13 (2) Symptoms or behavior which standing alone would not justify  
14 civil commitment may support a finding of grave disability or  
15 likelihood of serious harm, or a finding that the person is in need  
16 of assisted outpatient treatment, when: (a) Such symptoms or behavior  
17 are closely associated with symptoms or behavior which preceded and  
18 led to a past incident of involuntary hospitalization, severe  
19 deterioration, or one or more violent acts; (b) these symptoms or  
20 behavior represent a marked and concerning change in the baseline  
21 behavior of the respondent; and (c) without treatment, the continued  
22 deterioration of the respondent is probable.

23 (3) In making a determination of whether there is a likelihood of  
24 serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320,  
25 the court shall give great weight to any evidence before the court  
26 regarding whether the person has: (a) A recent history of one or more  
27 violent acts; or (b) a recent history of one or more commitments  
28 under this chapter or its equivalent provisions under the laws of  
29 another state which were based on a likelihood of serious harm. The  
30 existence of prior violent acts or commitments under this chapter or  
31 its equivalent shall not be the sole basis for determining whether a  
32 person presents a likelihood of serious harm.

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

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

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

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

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

14 (3) Such person has been determined to be incompetent and  
15 criminal charges have been dismissed pursuant to RCW 10.77.086(4),  
16 and has committed acts constituting a felony, and as a result of a  
17 mental disorder, presents a substantial likelihood of repeating  
18 similar acts.

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

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

27 (4) Such person is gravely disabled; or

28 (5) Such person is in need of assisted outpatient treatment.

29 **Sec. 10.** RCW 71.05.320 and 2013 c 289 s 5 are each amended to  
30 read as follows:

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

1 eighty days from the date of judgment in a facility certified for one  
2 hundred eighty day treatment by the department.

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

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

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

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

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

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

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

13 (d) Continues to be gravely disabled; or

14 (e) Is in need of assisted outpatient treatment.

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

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

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

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

33 ~~(c) Outpatient treatment that would be provided under a less  
34 restrictive treatment order is necessary to prevent a relapse,  
35 decompensation, or deterioration that is likely to result in the  
36 person presenting a likelihood of serious harm or the person becoming  
37 gravely disabled within a reasonably short period of time.~~

38 ~~(5))~~ A new petition for involuntary treatment filed under  
39 subsection (3) ~~((or (4))~~) of this section shall be filed and heard in  
40 the superior court of the county of the facility which is filing the

1 new petition for involuntary treatment unless good cause is shown for  
2 a change of venue. The cost of the proceedings shall be borne by the  
3 state.

4 ~~((+6+))~~ (5) The hearing shall be held as provided in RCW  
5 71.05.310, and if the court or jury finds that the grounds for  
6 additional confinement as set forth in this section are present, the  
7 court may order the committed person returned for an additional  
8 period of treatment not to exceed one hundred eighty days from the  
9 date of judgment. If the court's order is based solely on the grounds  
10 identified in subsection (3)(e) of this section, the court may enter  
11 an order for less restrictive alternative treatment not to exceed one  
12 hundred eighty days, and may not enter an order for inpatient  
13 treatment. At the end of the one hundred eighty day period of  
14 commitment, the committed person shall be released unless a petition  
15 for another one hundred eighty day period of continued treatment is  
16 filed and heard in the same manner as provided in this section.  
17 Successive one hundred eighty day commitments are permissible on the  
18 same grounds and pursuant to the same procedures as the original one  
19 hundred eighty day commitment. However, a commitment solely on the  
20 grounds identified in subsection (3)(e) of this section is not  
21 permissible under subsection ~~((+4+))~~ (3) of this section if: (i)  
22 Thirty-six months have passed since the last date of discharge from  
23 detention for inpatient treatment that preceded the current less  
24 restrictive alternative order, ~~((nor shall a commitment under~~  
25 subsection (4) of this section be permissible if)) or (ii) the  
26 likelihood of serious harm ~~((in subsection (4)(c) of this section))~~  
27 as described in RCW 71.05.020(46)(c) is based solely on harm to the  
28 property of others.

29 ~~((+7+))~~ (6) No person committed as provided in this section may  
30 be detained unless a valid order of commitment is in effect. No order  
31 of commitment can exceed one hundred eighty days in length.

32 NEW SECTION. Sec. 11. Section 1 of this act expires April 1,  
33 2016.

34 NEW SECTION. Sec. 12. Section 2 of this act takes effect April  
35 1, 2016.

36 NEW SECTION. Sec. 13. If specific funding for the purposes of  
37 this act, referencing this act by bill or chapter number, is not



1 provided by June 30, 2015, in the omnibus appropriations act, this  
2 act is null and void.

--- END ---