

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2541**

Chapter 45, Laws of 2016

64th Legislature  
2016 Regular Session

LESS RESTRICTIVE INVOLUNTARY TREATMENT ORDERS--REQUIREMENTS

EFFECTIVE DATE: 6/9/2016

Passed by the House February 11, 2016  
Yeas 97 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate March 3, 2016  
Yeas 49 Nays 0

BRAD OWEN

**President of the Senate**

Approved March 29, 2016 3:48 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2541** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

**Chief Clerk**

FILED

March 30, 2016

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2541**

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Passed Legislature - 2016 Regular Session

**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Frame, Rodne, Jinkins, Walkinshaw, Riccelli, Senn, Orwall, Muri, S. Hunt, Gregerson, Sawyer, Caldier, Goodman, Haler, Hansen, Kuderer, Appleton, Kilduff, Reykdal, Rossetti, Magendanz, Ormsby, Bergquist, and Stanford)

READ FIRST TIME 02/05/16.

1       AN ACT Relating to less restrictive involuntary treatment orders;  
2 and amending RCW 71.05.230, 71.05.240, 71.05.290, 71.05.320, and  
3 71.05.585.

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

5       **Sec. 1.** RCW 71.05.230 and 2015 c 250 s 6 are each amended to  
6 read as follows:

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

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

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

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

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

11 (a) Two physicians;

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

13 (c) Two psychiatric advanced registered nurse practitioners;

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

16 (e) A physician and a psychiatric advanced registered nurse  
17 practitioner. The persons signing the petition must have examined the  
18 person. If involuntary detention is sought the petition shall state  
19 facts that support the finding that such person, as a result of  
20 mental disorder, presents a likelihood of serious harm, or is gravely  
21 disabled and that there are no less restrictive alternatives to  
22 detention in the best interest of such person or others. The petition  
23 shall state specifically that less restrictive alternative treatment  
24 was considered and specify why treatment less restrictive than  
25 detention is not appropriate. If an involuntary less restrictive  
26 alternative is sought, the petition shall state facts that support  
27 the finding that such person, as a result of mental disorder,  
28 presents a likelihood of serious harm, is gravely disabled, or is in  
29 need of assisted outpatient mental health treatment, and shall set  
30 forth (~~a plan for the~~) any recommendations for less restrictive  
31 alternative treatment (~~proposed by the facility in accordance with~~  
32 ~~RCW 71.05.585~~) services; and

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

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

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

1 (8) At the conclusion of the initial commitment period, the  
2 professional staff of the agency or facility or the designated mental  
3 health professional may petition for an additional period of either  
4 ninety days of less restrictive alternative treatment or ninety days  
5 of involuntary intensive treatment as provided in RCW 71.05.290; and

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

11 **Sec. 2.** RCW 71.05.240 and 2015 c 250 s 7 are each amended to  
12 read as follows:

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

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

1 interest of such person or others, the court shall order an  
2 appropriate less restrictive alternative course of treatment for not  
3 to exceed ninety days;

4 (b) If the court finds by a preponderance of the evidence that  
5 such person, as the result of a mental disorder, is in need of  
6 assisted outpatient mental health treatment, and that the person does  
7 not present a likelihood of serious harm or grave disability, the  
8 court shall order an appropriate less restrictive alternative course  
9 of treatment not to exceed ninety days, and may not order inpatient  
10 treatment;

11 (c) An order for less restrictive alternative treatment must  
12 ~~((identify the))~~ name the mental health service provider responsible  
13 for identifying the services the person will receive~~((r))~~ in  
14 accordance with RCW 71.05.585, and must include a requirement that  
15 the person cooperate with the services planned by the mental health  
16 service provider. ~~((The court may order additional evaluation of the~~  
17 ~~person if necessary to identify appropriate services.))~~

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

27 **Sec. 3.** RCW 71.05.290 and 2015 c 250 s 10 are each amended to  
28 read as follows:

29 (1) At any time during a person's fourteen day intensive  
30 treatment period, the professional person in charge of a treatment  
31 facility or his or her professional designee or the designated mental  
32 health professional may petition the superior court for an order  
33 requiring such person to undergo an additional period of treatment.  
34 Such petition must be based on one or more of the grounds set forth  
35 in RCW 71.05.280.

36 (2) The petition shall summarize the facts which support the need  
37 for further commitment and shall be supported by affidavits signed  
38 by:

39 (a) Two examining physicians;

1 (b) One examining physician and examining mental health  
2 professional;

3 (c) Two psychiatric advanced registered nurse practitioners;

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

6 (e) An examining physician and an examining psychiatric advanced  
7 registered nurse practitioner. The affidavits shall describe in  
8 detail the behavior of the detained person which supports the  
9 petition and shall explain what, if any, less restrictive treatments  
10 which are alternatives to detention are available to such person, and  
11 shall state the willingness of the affiant to testify to such facts  
12 in subsequent judicial proceedings under this chapter. If less  
13 restrictive alternative treatment is sought, the petition shall set  
14 forth ((~~a proposed plan~~)) any recommendations for less restrictive  
15 alternative treatment ((~~in accordance with RCW 71.05.585~~)) services.

16 (3) If a person has been determined to be incompetent pursuant to  
17 RCW 10.77.086(4), then the professional person in charge of the  
18 treatment facility or his or her professional designee or the  
19 designated mental health professional may directly file a petition  
20 for one hundred eighty day treatment under RCW 71.05.280(3). No  
21 petition for initial detention or fourteen day detention is required  
22 before such a petition may be filed.

23 **Sec. 4.** RCW 71.05.320 and 2015 c 250 s 11 are each amended to  
24 read as follows:

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

36 (2) If the court or jury finds that grounds set forth in RCW  
37 71.05.280 have been proven, but finds that treatment less restrictive  
38 than detention will be in the best interest of the person or others,  
39 then the court shall remand him or her to the custody of the

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

12 (3) An order for less restrictive alternative treatment entered  
13 under subsection (2) of this section must ~~((identify))~~ name the  
14 mental health service provider responsible for identifying the  
15 services the person will receive((r)) in accordance with RCW  
16 71.05.585, and must include a requirement that the person cooperate  
17 with the services planned by the mental health service provider.  
18 ~~((The court may order additional evaluation of the person if~~  
19 ~~necessary to identify appropriate services.))~~

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

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

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

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

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

16 (d) Continues to be gravely disabled; or

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

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

21 If less restrictive alternative treatment is sought, the petition  
22 shall set forth (~~a proposed plan~~) any recommendations for less  
23 restrictive alternative treatment services (~~in accordance with RCW~~  
24 ~~71.05.585~~)).

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

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



1 inpatient treatment. An order for less restrictive alternative  
2 treatment must ~~((identify))~~ name the mental health service provider  
3 responsible for identifying the services the person will receive~~((7))~~  
4 in accordance with RCW 71.05.585, and must include a requirement that  
5 the person cooperate with the services planned by the mental health  
6 service provider. ~~((The court may order additional evaluation of the~~  
7 ~~person if necessary to identify appropriate services.))~~

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

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

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

24 **Sec. 5.** RCW 71.05.585 and 2015 c 250 s 16 are each amended to  
25 read as follows:

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

- 28 (a) Assignment of a care coordinator;
- 29 (b) An intake evaluation with the provider of the less  
30 restrictive alternative treatment;
- 31 (c) A psychiatric evaluation;
- 32 (d) Medication management;
- 33 (e) A schedule of regular contacts with the provider of the less  
34 restrictive alternative treatment services for the duration of the  
35 order;
- 36 (f) A transition plan addressing access to continued services at  
37 the expiration of the order; and
- 38 (g) An individual crisis plan.

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

3 (a) Psychotherapy;

4 (b) Nursing;

5 (c) Substance abuse counseling;

6 (d) Residential treatment; and

7 (e) Support for housing, benefits, education, and employment.

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

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

19 (5) For the purpose of this section, "care coordinator" means a  
20 clinical practitioner who coordinates the activities of less  
21 restrictive alternative treatment. The care coordinator coordinates  
22 activities with the designated mental health professionals necessary  
23 for enforcement and continuation of less restrictive alternative  
24 orders and is responsible for coordinating service activities with  
25 other agencies and establishing and maintaining a therapeutic  
26 relationship with the individual on a continuing basis.

Passed by the House February 11, 2016.

Passed by the Senate March 3, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

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