

ESHB 2099 - S COMM AMD

By Subcommittee on Behavioral Health

ADOPTED 03/05/2020

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

3 **"Sec. 1.** RCW 71.05.020 and 2019 c 446 s 2, 2019 c 444 s 16, and
4 2019 c 325 s 3001 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

29 (7) "Co-occurring disorder specialist" means an individual
30 possessing an enhancement granted by the department of health under
31 chapter 18.205 RCW that certifies the individual to provide substance

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

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

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

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

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

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

18 (13) "Designated crisis responder" means a mental health
19 professional appointed by the county or an entity appointed by the
20 county, to perform the duties specified in this chapter;

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

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

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

33 (17) "Director" means the director of the authority;

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

37 (19) "Drug addiction" means a disease, characterized by a
38 dependency on psychoactive chemicals, loss of control over the amount
39 and circumstances of use, symptoms of tolerance, physiological or
40 psychological withdrawal, or both, if use is reduced or discontinued,

1 and impairment of health or disruption of social or economic
2 functioning;

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

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

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

33 (23) "Hearing" means any proceeding conducted in open court. For
34 purposes of this chapter, at any hearing the petitioner, the
35 respondent, the witnesses, and the presiding judicial officer may be
36 present and participate either in person or by video, as determined
37 by the court. The term "video" as used herein shall include any
38 functional equivalent. At any hearing conducted by video, the
39 technology used must permit the judicial officer, counsel, all
40 parties, and the witnesses to be able to see, hear, and speak, when

1 authorized, during the hearing; to allow attorneys to use exhibits or
2 other materials during the hearing; and to allow respondent's counsel
3 to be in the same location as the respondent unless otherwise
4 requested by the respondent or the respondent's counsel. Witnesses in
5 a proceeding may also appear in court through other means, including
6 telephonically, pursuant to the requirements of superior court civil
7 rule 43. Notwithstanding the foregoing, the court, upon its own
8 motion or upon a motion for good cause by any party, may require all
9 parties and witnesses to participate in the hearing in person rather
10 than by video. In ruling on any such motion, the court may allow in-
11 person or video testimony; and the court may consider, among other
12 things, whether the respondent's alleged mental illness affects the
13 respondent's ability to perceive or participate in the proceeding by
14 video;

15 (24) "History of one or more violent acts" refers to the period
16 of time ten years prior to the filing of a petition under this
17 chapter, excluding any time spent, but not any violent acts
18 committed, in a mental health facility, a long-term alcoholism or
19 drug treatment facility, or in confinement as a result of a criminal
20 conviction;

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

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

36 (27) "Individualized service plan" means a plan prepared by a
37 developmental disabilities professional with other professionals as a
38 team, for a person with developmental disabilities, which shall
39 state:

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

3 (b) The conditions and strategies necessary to achieve the
4 purposes of habilitation;

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

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

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

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

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

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

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

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

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

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

35 (33) "Licensed physician" means a person licensed to practice
36 medicine or osteopathic medicine and surgery in the state of
37 Washington;

38 (34) "Likelihood of serious harm" means:

39 (a) A substantial risk that: (i) Physical harm will be inflicted
40 by a person upon his or her own person, as evidenced by threats or

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

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

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

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

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

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

35 (39) "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 (40) "Physician assistant" means a person licensed as a physician
40 assistant under chapter 18.57A or 18.71A RCW;

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

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

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

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

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

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

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

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

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

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

10 (a) Provide the following services:

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

13 (ii) Clinical stabilization services;

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

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

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

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

24 (51) "Serious violent offense" has the same meaning as provided
25 in RCW 9.94A.030;

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

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

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

38 (55) "Therapeutic court personnel" means the staff of a mental
39 health court or other therapeutic court which has jurisdiction over
40 defendants who are dually diagnosed with mental disorders, including

1 court personnel, probation officers, a court monitor, prosecuting
2 attorney, or defense counsel acting within the scope of therapeutic
3 court duties;

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

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

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

37 (59) "Violent act" means behavior that resulted in homicide,
38 attempted suicide, nonfatal injuries, or substantial damage to
39 property.

1 **Sec. 2.** RCW 71.05.150 and 2019 c 446 s 4 are each amended to
2 read as follows:

3 (1) When a designated crisis responder receives information
4 alleging that a person, as a result of a mental disorder, substance
5 use disorder, or both presents a likelihood of serious harm or is
6 gravely disabled, or that a person is in need of assisted outpatient
7 behavioral health treatment; the designated crisis responder may,
8 after investigation and evaluation of the specific facts alleged and
9 of the reliability and credibility of any person providing
10 information to initiate detention or involuntary outpatient
11 treatment, if satisfied that the allegations are true and that the
12 person will not voluntarily seek appropriate treatment, file a
13 petition for initial detention under this section or a petition for
14 involuntary outpatient behavioral health treatment under RCW
15 71.05.148. Before filing the petition, the designated crisis
16 responder must personally interview the person, unless the person
17 refuses an interview, and determine whether the person will
18 voluntarily receive appropriate evaluation and treatment at an
19 evaluation and treatment facility, crisis stabilization unit, triage
20 facility, or approved substance use disorder treatment program. The
21 interview performed by the designated crisis responder may be
22 conducted by video provided that a licensed health care professional
23 or professional person who can adequately and accurately assist with
24 obtaining any necessary information is present with the person at the
25 time of the interview.

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

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

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

38 (b) The petition for initial detention, signed under penalty of
39 perjury, or sworn telephonic testimony may be considered by the court

1 in determining whether there are sufficient grounds for issuing the
2 order.

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

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

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

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

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

5 **Sec. 3.** RCW 71.05.150 and 2019 c 446 s 5 are each amended to
6 read as follows:

7 (1) When a designated crisis responder receives information
8 alleging that a person, as a result of a mental disorder, substance
9 use disorder, or both presents a likelihood of serious harm or is
10 gravely disabled, or that a person is in need of assisted outpatient
11 behavioral health treatment; the designated crisis responder may,
12 after investigation and evaluation of the specific facts alleged and
13 of the reliability and credibility of any person providing
14 information to initiate detention or involuntary outpatient
15 treatment, if satisfied that the allegations are true and that the
16 person will not voluntarily seek appropriate treatment, file a
17 petition for initial detention under this section or a petition for
18 involuntary outpatient behavioral health treatment under RCW
19 71.05.148. Before filing the petition, the designated crisis
20 responder must personally interview the person, unless the person
21 refuses an interview, and determine whether the person will
22 voluntarily receive appropriate evaluation and treatment at an
23 evaluation and treatment facility, crisis stabilization unit, triage
24 facility, or approved substance use disorder treatment program. The
25 interview performed by the designated crisis responder may be
26 conducted by video provided that a licensed health care professional
27 or professional person who can adequately and accurately assist with
28 obtaining any necessary information is present with the person at the
29 time of the interview.

30 (2) (a) An order to detain a person with a mental disorder to a
31 designated evaluation and treatment facility, or to detain a person
32 with a substance use disorder to a secure withdrawal management and
33 stabilization facility or approved substance use disorder treatment
34 program, for not more than a seventy-two-hour evaluation and
35 treatment period may be issued by a judge of the superior court upon
36 request of a designated crisis responder whenever it appears to the
37 satisfaction of a judge of the superior court:

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

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

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

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

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

34 (4) The designated crisis responder may notify a peace officer to
35 take such person or cause such person to be taken into custody and
36 placed in an evaluation and treatment facility, secure withdrawal
37 management and stabilization facility, or approved substance use
38 disorder treatment program. At the time such person is taken into
39 custody there shall commence to be served on such person, his or her
40 guardian, and conservator, if any, a copy of the original order

1 together with a notice of rights and a petition for initial
2 detention.

3 **Sec. 4.** RCW 71.05.153 and 2019 c 446 s 6 are each amended to
4 read as follows:

5 (1) When a designated crisis responder receives information
6 alleging that a person, as the result of a mental disorder, presents
7 an imminent likelihood of serious harm, or is in imminent danger
8 because of being gravely disabled, after investigation and evaluation
9 of the specific facts alleged and of the reliability and credibility
10 of the person or persons providing the information if any, the
11 designated crisis responder may take such person, or cause by oral or
12 written order such person to be taken into emergency custody in an
13 evaluation and treatment facility for not more than seventy-two hours
14 as described in RCW 71.05.180.

15 (2) When a designated crisis responder receives information
16 alleging that a person, as the result of substance use disorder,
17 presents an imminent likelihood of serious harm, or is in imminent
18 danger because of being gravely disabled, after investigation and
19 evaluation of the specific facts alleged and of the reliability and
20 credibility of the person or persons providing the information if
21 any, the designated crisis responder may take the person, or cause by
22 oral or written order the person to be taken, into emergency custody
23 in a secure withdrawal management and stabilization facility or
24 approved substance use disorder treatment program for not more than
25 seventy-two hours as described in RCW 71.05.180, if a secure
26 withdrawal management and stabilization facility or approved
27 substance use disorder treatment program is available and has
28 adequate space for the person.

29 (3)(a) Subject to (b) of this subsection, a peace officer may
30 take or cause such person to be taken into custody and immediately
31 delivered to a triage facility, crisis stabilization unit, evaluation
32 and treatment facility, secure withdrawal management and
33 stabilization facility, approved substance use disorder treatment
34 program, or the emergency department of a local hospital under the
35 following circumstances:

- 36 (i) Pursuant to subsection (1) or (2) of this section; or
37 (ii) When he or she has reasonable cause to believe that such
38 person is suffering from a mental disorder or substance use disorder

1 and presents an imminent likelihood of serious harm or is in imminent
2 danger because of being gravely disabled.

3 (b) A peace officer's delivery of a person, based on a substance
4 use disorder, to a secure withdrawal management and stabilization
5 facility or approved substance use disorder treatment program is
6 subject to the availability of a secure withdrawal management and
7 stabilization facility or approved substance use disorder treatment
8 program with adequate space for the person.

9 (4) Persons delivered to a crisis stabilization unit, evaluation
10 and treatment facility, emergency department of a local hospital,
11 triage facility that has elected to operate as an involuntary
12 facility, secure withdrawal management and stabilization facility, or
13 approved substance use disorder treatment program by peace officers
14 pursuant to subsection (3) of this section may be held by the
15 facility for a period of up to twelve hours, not counting time
16 periods prior to medical clearance.

17 (5) Within three hours after arrival, not counting time periods
18 prior to medical clearance, the person must be examined by a mental
19 health professional. Within twelve hours of notice of the need for
20 evaluation, not counting time periods prior to medical clearance, the
21 designated crisis responder must determine whether the individual
22 meets detention criteria. The interview performed by the designated
23 crisis responder may be conducted by video provided that a licensed
24 health care professional or professional person who can adequately
25 and accurately assist with obtaining any necessary information is
26 present with the person at the time of the interview. If the
27 individual is detained, the designated crisis responder shall file a
28 petition for detention or a supplemental petition as appropriate and
29 commence service on the designated attorney for the detained person.
30 If the individual is released to the community, the mental health
31 service provider shall inform the peace officer of the release within
32 a reasonable period of time after the release if the peace officer
33 has specifically requested notification and provided contact
34 information to the provider.

35 (6) Dismissal of a commitment petition is not the appropriate
36 remedy for a violation of the timeliness requirements of this section
37 based on the intent of this chapter under RCW 71.05.010 except in the
38 few cases where the facility staff or designated mental health
39 professional has totally disregarded the requirements of this
40 section.

1 **Sec. 5.** RCW 71.05.153 and 2019 c 446 s 7 are each amended to
2 read as follows:

3 (1) When a designated crisis responder receives information
4 alleging that a person, as the result of a mental disorder, presents
5 an imminent likelihood of serious harm, or is in imminent danger
6 because of being gravely disabled, after investigation and evaluation
7 of the specific facts alleged and of the reliability and credibility
8 of the person or persons providing the information if any, the
9 designated crisis responder may take such person, or cause by oral or
10 written order such person to be taken into emergency custody in an
11 evaluation and treatment facility for not more than seventy-two hours
12 as described in RCW 71.05.180.

13 (2) When a designated crisis responder receives information
14 alleging that a person, as the result of substance use disorder,
15 presents an imminent likelihood of serious harm, or is in imminent
16 danger because of being gravely disabled, after investigation and
17 evaluation of the specific facts alleged and of the reliability and
18 credibility of the person or persons providing the information if
19 any, the designated crisis responder may take the person, or cause by
20 oral or written order the person to be taken, into emergency custody
21 in a secure withdrawal management and stabilization facility or
22 approved substance use disorder treatment program for not more than
23 seventy-two hours as described in RCW 71.05.180.

24 (3) A peace officer may take or cause such person to be taken
25 into custody and immediately delivered to a triage facility, crisis
26 stabilization unit, evaluation and treatment facility, secure
27 withdrawal management and stabilization facility, approved substance
28 use disorder treatment program, or the emergency department of a
29 local hospital under the following circumstances:

30 (a) Pursuant to subsection (1) or (2) of this section; or

31 (b) When he or she has reasonable cause to believe that such
32 person is suffering from a mental disorder or substance use disorder
33 and presents an imminent likelihood of serious harm or is in imminent
34 danger because of being gravely disabled.

35 (4) Persons delivered to a crisis stabilization unit, evaluation
36 and treatment facility, emergency department of a local hospital,
37 triage facility that has elected to operate as an involuntary
38 facility, secure withdrawal management and stabilization facility, or
39 approved substance use disorder treatment program by peace officers
40 pursuant to subsection (3) of this section may be held by the

1 facility for a period of up to twelve hours, not counting time
2 periods prior to medical clearance.

3 (5) Within three hours after arrival, not counting time periods
4 prior to medical clearance, the person must be examined by a mental
5 health professional. Within twelve hours of notice of the need for
6 evaluation, not counting time periods prior to medical clearance, the
7 designated crisis responder must determine whether the individual
8 meets detention criteria. The interview performed by the designated
9 crisis responder may be conducted by video provided that a licensed
10 health care professional or professional person who can adequately
11 and accurately assist with obtaining any necessary information is
12 present with the person at the time of the interview. If the
13 individual is detained, the designated crisis responder shall file a
14 petition for detention or a supplemental petition as appropriate and
15 commence service on the designated attorney for the detained person.
16 If the individual is released to the community, the mental health
17 service provider shall inform the peace officer of the release within
18 a reasonable period of time after the release if the peace officer
19 has specifically requested notification and provided contact
20 information to the provider.

21 (6) Dismissal of a commitment petition is not the appropriate
22 remedy for a violation of the timeliness requirements of this section
23 based on the intent of this chapter under RCW 71.05.010 except in the
24 few cases where the facility staff or designated mental health
25 professional has totally disregarded the requirements of this
26 section.

27 NEW SECTION. **Sec. 6.** Sections 2 and 4 of this act expire July
28 1, 2026.

29 NEW SECTION. **Sec. 7.** Sections 3 and 5 of this act take effect
30 July 1, 2026."

ESHB 2099 - S COMM AMD

By Subcommittee on Behavioral Health

ADOPTED 03/05/2020

31 On page 1, line 2 of the title, after "act;" strike the remainder
32 of the title and insert "amending RCW 71.05.150, 71.05.150,

1 71.05.153, and 71.05.153; reenacting and amending RCW 71.05.020;
2 providing an effective date; and providing an expiration date."

EFFECT: Clarifies the definition of video and the requirements for a designated crisis responder evaluation by video to consistently require a licensed health care professional or professional person to be present with the person during the evaluation. Removes sections duplicative of policy changes enacted in SSB 6124 (2018).

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